

Oracle, Arizona, to accommodate the Florence allotment and modification, and the license of Desert West for Station KLQB(FM), Oracle, is modified accordingly. Additionally, Channel *275A is substituted for vacant Channel *276A at Comobabi, Arizona, as requested by Desert West. Although a proposal to allot a second Class A channel to Oro Valley, Arizona, initiated this proceeding in response to a petition filed by Rita Bonilla (RM-8676), it will be addressed in the context of a Second Report and Order, pending concurrence of the Mexican government thereto. Coordinates used for Channel 276C1 at Florence, Arizona, are 33-03-30 and 110-47-00; coordinates used for Channel 292A at Oracle, Arizona, are 32-37-07 and 110-47-20; coordinates used for Channel *275A at Comobabi, Arizona, are 32-07-30 and 111-53-00. As Florence, Oracle and Comobabi are located within 320 kilometers (199 miles) of the Mexican border, the Commission obtained concurrence of the Mexican government to the allotment proposals at each of those communities. With this action, the proceeding is terminated with regard to RM-8726.

EFFECTIVE DATE: March 10, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's First Report and Order, MM Docket No. 95-127, adopted January 21, 1997, and released January 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. § 73.202(b), the Table of FM Allotments under Arizona, is amended

by removing Channel *276A and adding Channel *275A at Comobabi.

3. § 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Florence, Channel 276C1.

4. § 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 279A and adding Channel 292A at Oracle.

5. § 73.202(b), the Table of FM Allotments under Arizona, is amended by removing San Carlos, Channel 276C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-2144 Filed 1-29-97; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1805, 1815, 1831, 1834, 1835, 1836, 1837, 1839, 1841, 1852, 1870, 1871, and 1872

Rewrite of the NASA FAR Supplement (NFS)

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: As part of the National Performance Review initiative to streamline and clarify regulations, NASA is revising its regulations in 48 CFR part 1834, Major System Acquisitions; part 1835, Research and Development Contracting; part 1836, Construction and Architect-Engineer Contracts; part 1837, Service Contracting; part 1839, Acquisition of Information Technology; and part 1841, Acquisition of Utility Services. This rule also adds a new part 1872 on Acquisitions of Investigations and amends part 1815, Contracting by Negotiation, to reflect these other regulatory changes.

This rule restores some sections in part 1831, Contract Cost Principles and Procedures, and in part 1852, Solicitation Provisions and Contract Clauses, that were inadvertently removed in a final rule published October 28, 1996 (61 FR 55753).

This rule amends part 1871, Midrange Procurement Procedures, in order to conform its provisions to those of recently established FAR regulations on a test program for certain commercial items. Also in this rule, the numbering of regulatory sections has been changed to indicate the exact section of the FAR being implemented or supplemented.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Toole, (202) 358-0478; Mr. Bruce King, (202) 358-0461.

SUPPLEMENTARY INFORMATION:

Background

The National Performance Review urged agencies to streamline and clarify their regulations. The NFS rewrite initiative was established to pursue these goals by conducting a section by section review of the NFS to verify its accuracy, relevancy, and validity. The NFS will be rewritten in blocks of parts and issued through Procurement Notices (PNs). Upon completion of all parts, the NFS will be reissued in a new edition.

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 rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1805, 1815, 1831, 1834, 1835, 1836, 1837, 1839, 1841, 1852, 1870, 1871, and 1872

Government Procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1805, 1815, 1831, 1834, 1835, 1836, 1837, 1839, 1841, 1852, 1870, 1871 and 1872 are amended as follows:

1. The authority citation for 48 CFR Part 1805 continues to read as follows:

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

PART 1805—PUBLICIZING CONTRACT ACTIONS

1805.303-71 [Amended]

2. In section 1805.303-71, the section heading and paragraphs (a) introductory text and (a)(3) are revised to read as follows:

1805.303-71 Administrator's notice of significant contract actions (ANOSCs).

(a) In addition to the public announcement requirements described in 1805.303-70, contracting officers shall notify the Administrator of the following significant actions at least five (5) workdays prior to planned public announcement of the actions:

* * * * *

(3) Planned award of other actions, to include cooperative agreements resulting from a Cooperative Agreement Notice (CAN), at any dollar value

thought to be of significant interest to Headquarters.

* * * * *

PART 1815—CONTRACTING BY NEGOTIATION

1815.807 [Amended]

3.–6. In section 1815.807, paragraph (b)(ii) is revised to read as follows:

1815.807 Prenegotiation objectives.

(b)(i) * * *

(ii) A prenegotiation position memorandum is not required for contracts awarded under the competitive negotiated procedures of FAR 15.6 and 1815.6.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

1831.205–670, 1831.205–671 [Added]

7. Sections 1831.205–670 and 1831.205–671 are added to read as follows:

1831.205–670 Evaluation of contractor and subcontractor compensation for service contracts.

(a) The contracting officer shall evaluate the reasonableness of compensation for service contracts:

(1) Prior to the award of a cost reimbursement or non-competitive fixed-price type contract which has a total potential value in excess of \$500,000, and

(2) Periodically after award for cost reimbursement contracts, but at least every three years.

(b) The contracting officer shall ensure the reasonableness of compensation is evaluated for cost reimbursement or non-competitive fixed-price type service subcontracts under a prime contract meeting the criteria in paragraph (a)(1) of this section where:

(1) The subcontract has a total potential value in excess of \$500,000; and

(2) The cumulative value of all of a subcontractor's service subcontracts under the prime contract is in excess of 10 percent of the prime contract's total potential value.

(c)(1) Offerors shall be required to submit as part of their proposals a compensation plan addressing all proposed labor categories. Offerors also shall demonstrate in writing that their proposed compensation is reasonable.

(2) Subcontractors meeting the criteria in paragraph (b) of this section shall be required to comply with paragraph (c)(1).

(d) The contracting officer's preaward evaluation of each offeror's and their subcontractors' compensation should be

done as part of, or in addition to DCAA audits, price analyses, or any other means deemed to be necessary.

(e) The results of the contracting officer's evaluation, including any excessive compensation found and its planned resolution, shall be addressed in the prenegotiation position memorandum, with the final resolution discussed in the price negotiation memorandum.

(f) The contracting officer shall ensure that the reasonableness of compensation for cost reimbursement subcontracts meeting the criteria in paragraphs (b) (1) and (2) of this section is periodically reviewed after award, but at least every three years.

(g) The results of the periodic evaluations of contractor and subcontractor compensation after contract award shall be documented in the contract file.

1831.205–671 Solicitation provision.

The contracting officer shall insert a provision substantially the same as the provision at 1852.231–71, Determination of Compensation, in solicitations for services which contemplate the award of a cost reimbursement or non-competitive fixed-price type service contract having a total potential value in excess of \$500,000.

8. Part 1834 is revised to read as follows:

PART 1834—MAJOR SYSTEM ACQUISITION

Subpart 1834.0—General

Sec.

1834.003 Responsibilities.

Subpart 1834.70—Acquisition of Major Systems

1834.7001 Definitions.

1834.7002 Phased acquisitions

1834.7003 Down selections in phased acquisitions.

1834.7003–1 Pre-solicitation planning.

1834.7003–2 Evaluation factors.

1834.7003–3 Down selection milestones.

1834.7003–4 Synopsis.

1834.7003–5 Progressive competition.

1834.7004 Contract clauses.

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

Subpart 1834.0—General

1834.003 Responsibilities. (NASA supplements paragraph (a))

(a) NASA's implementation of OMB Circular No. A–109, Major Systems Acquisitions, and FAR part 34 is contained in this part and in NASA Policy Directive (NPD) 7120.4, "Program/Project Management," and NASA Procedures and Guidance (NPG)

7120.5, "Program/Project Management Guide".

Subpart 1834.70—Acquisition of Major Systems

1834.7001 Definitions.

(a) Down-selection. In a phased acquisition, the process of selecting contractors for phases subsequent to the initial phase from among the preceding phase contractors.

(b) Major system. For NASA, "major system" is a program fitting the criteria of FAR 34.003(c) in lieu of the definition provided in FAR 2.101.

(c) Phased acquisition. A program comprised of several distinct steps or phases where the realization of program objectives requires a planned, sequential acquisition of each step or phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(d) Progressive competition. A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of this program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

1834.7002 Phased acquisitions.

(a) In acquisitions subject to the provisions of OMB Circular No. A–109 and NPD 7120.4 and NPG 7120.5, or other similar phased acquisitions, it is NASA policy to ensure competition in the selection of contractors for award in each phase of the process not performed in-house.

(b) There are five phases in the life cycle of a NASA major system acquisition:

(1) Phase A, Preliminary Analysis, involves the analysis of alternate overall project concepts for accomplishing a proposed agency technical objective or mission.

(2) Phase 3, Definition, involves the detailed study, comparative analysis, and preliminary system design of selected Phase A concepts.

(3) Phase C, Design, involves the detailed system design (with mock-ups and test articles of critical systems and

subsystems) of the systems design concept determined to provide the best overall system for the Government.

(4) Phase D, Development, involves final detailed design, fabrication, delivery of an operational system that meets program requirements.

(5) Phase E, Operations, involves operation and use of the system in its intended environment, continuing until the system leaves the agency inventory. This phase includes any system modifications and upgrades.

(c) The preferred approach in NASA for the acquisition of the phases of a Major System is the following:

(1) Phase A is accomplished primarily through in-house studies.

(2) Phases B, C, and D are acquired through a phased acquisition process in which two or more Phase B contracts are awarded competitively and then a down-selection is made among these contractors to determine the single combined Phase C/D awardee.

(3) Phase E is normally acquired separately.

(d) Each phase of a major system acquisition not performed in-house must be synopsisized in accordance with FAR 5.201 and must include all the information required by FAR 5.207.

(e) Whether or not down-selection procedures are used, contracts awarded in phased acquisitions shall not include requirements for submission of subsequent phase proposals. Instead, proposals shall be requested through a solicitation or other appropriate mechanism (e.g., by letter when using the progressive competition technique). Priced options for preparation of subsequent phase proposals are prohibited.

(f) Time gaps between phases should be minimized in all major system phased acquisitions. Accordingly, early synopsis of subsequent phase competition is encouraged. Also, when sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. When appropriate, these activities should commence as early as practicable during the period of performance of a phase to ensure the expeditious award of the succeeding phase.

1834.7003 Down-selections in phased acquisitions.

1834.7003-1 Pre-solicitation planning.

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the Phase B solicitation will also lead to

Phase C/D award, the decision to use a down-selection strategy must be made prior to initiation of the Phase B acquisition. Accordingly, both phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or ASM minutes.

(b) If there is no direct link between successful performance in the preceding phase and successful performance in the subsequent phase, down-selection is inappropriate. In this case, the major system acquisition phases should be contracted for separately without a down-selection between phases.

(c) With one exception, both the initial and subsequent phase(s) of a major system acquisition down-selection process are considered to be full and open competition if the procedures in 1834.7003-4 and 1834.7003-5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205, when appropriate.

1834.7003-2 Evaluation factors.

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that one of the Phase B contractors will also be the Phase C/D contractor, the Phase B offerors must clearly demonstrate the ability to perform the subsequent phases. The evaluation factors for Phase B award must specifically include the evaluation of the Phase B offerors' abilities to perform Phase C/D as well as Phase B.

1834.7003-3 Down-selection milestones.

The Phase B contracts should be structured to allow for down-selection at a discrete performance milestone such as a significant design review or at contract completion. This will avoid time gaps between phases and eliminate unnecessary duplication of effort and the need to terminate the remaining Phase B efforts of an unsuccessful Phase C/D offeror. However, the appropriate contract structure must reflect program technical objectives as well as schedule considerations. For example, if the acquisition strategy calls for formal completion of Phase B effort at Preliminary Design Review (PDR), but it is not financially practical or technically necessary for Phase C/D award and

performance to carry all Phase B contractors through PDR, the Phase B contracts should be structured with a basic period of performance through a significant, discrete milestone before PDR with a priced option for effort from that milestone to PDR. The down-selection would occur at the earlier milestone, the PDR option exercised only for the down-selection winner, and Phase C/D performance begun at the completion of the PDR option. Any down-selection milestone must ensure that sufficient design maturity exists to allow for an informed selection decision leading to a successful completion of Phase C/D.

1834.7003-4 Synopsis.

(a) When the phased acquisition process identified in 1834.7002(c)(2) is used, the synopsis for the initial competitive phase, normally Phase B, should also state the following:

(1) The Government plans to conduct a phased acquisition involving a competitive down-selection process. (Include a description of the process and the phases involved).

(2) Subsequent competitions for identified follow-on phases will build on the results of previous phases.

(3) The award criteria for subsequent phases will include demonstrated completion of specified previous phase requirements.

(4) The Government expects that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s). Proposals for the subsequent phase(s) will be automatically requested from these contractors.

(5) The Government intends to issue (or not issue) a new, formal solicitation(s) for subsequent phase(s). If new solicitations are not planned, the acquisition must be identified as a "progressive competition" (see 1834.7003-5), and the mechanism for providing pertinent subsequent phase proposal information (e.g., statements of work, specifications, proposal preparation instructions, and evaluation factors for award) must be described.

(6) Each subsequent phase of the acquisition will be synopsisized.

(7) Notwithstanding the expectation that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s), proposals from all responsible sources submitted by the specified due date will be considered by the agency. In order to contend for subsequent phase awards, however, such prospective offerors must demonstrate a design maturity equivalent to that of the prior phase contractors. Failure to fully and

completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(b) In addition to the information in paragraph (a) of this section, the synopsis for the subsequent phases, normally a combined C/D, must identify the current phase contractors.

1834.7003-5 Progressive competition.

(a) To streamline the major system acquisition process, the preferred approach for NASA phased acquisitions is the "progressive competition" down-selection technique in which new, formal solicitations are not issued for phases subsequent to the initial phase. Subsequent phase proposals are requested by less formal means, normally by a letter accompanied by the appropriate proposal preparation and evaluation information.

(b) When using the progressive competition technique, if a prospective offeror other than one of the preceding phase contractors responds to the synopsis for a subsequent phase and indicates an intention to submit a proposal, the contracting officer shall provide to that offeror all the material furnished to the preceding phase contractors necessary to submit a proposal. This information includes the preceding phase solicitation, contracts, and system performance and design requirements, as well as all proposal preparation instructions and evaluation factors. In addition, the prospective offerors must be advised of all requirements necessary for demonstration of a design maturity equivalent to that to the preceding phase contractors.

(c) Although a key feature of the progressive competition technique is that a formal solicitation is issued for the initial phase only, a new, formal solicitation may nonetheless be required for subsequent phases. When the Government requirements or evaluation procedures change so significantly after release of the initial phase solicitation that a substantial portion of the information provided in the initial phase synopsis, solicitation, or contract is invalidated, a new solicitation shall be issued for the next phase.

(d) Phase C/D proposals should be requested by a letter including the following:

(1) A specified due date for the proposals along with a statement that FAR 52.215-10, Late Submissions, Modifications, and Withdrawals of Proposals, applies to this proposal due date.

(2) Complete instructions for proposal preparation, including page limitations, if any.

(3) Final evaluation factors.

(4) Any statement of work, specifications, or other contract requirements that have changed since the Phase B solicitation.

(5) All required clause changes applicable to new work effective since Phase B contract award.

(6) Any representations or certifications, if required.

(7) Any other required contract updates (e.g., Phase C/D small and small disadvantaged business goals).

(e) Certain factors may clearly dictate that the progressive competition techniques should not be used. For example, if it is likely that NASA may introduce a design concept independent of those explored by the Phase B contractors, it is also likely that a new, formal solicitation is necessary for Phase C/D and all potential offerors should be solicited. In this circumstance, progressive competition is inappropriate.

1834.7004 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.234-70, Phased Acquisition Using Down-Selection Procedures, in solicitations and contracts for phased acquisitions using down-selection procedures other than the progressive competition technique described in 1834.7003-5. The clause shall be included in the solicitation for each phase and in all contracts except that for the final phase.

(b) The contracting officer shall insert the clause at 1852.234-71, Phased Acquisition Using Progressive Competition Down-Selection Procedures, in solicitations and contracts for phased acquisitions using the progressive competition technique described in 1834.7003-5. The clause shall be included in the initial phase solicitation and all contracts except that for the final phase.

9. Part 1835 is revised to read as follows:

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.003 Policy.

1835.015 Contracts for research with educational institutions and nonprofit organizations.

1835.016 Broad agency announcements.

1835.016-70 NASA Research Announcements.

1835.070 NASA contract clauses and solicitation provision.

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

1835.003 Policy.

See NPG 5800.1, Grant and Cooperative Agreement Handbook, for policy regarding the use of grants and cooperative agreements.

1835.015 Contracts for research with educational institutions and nonprofit organizations. (NASA supplements paragraph (a))

(a)(1)(iv) The research contract shall include a requirement that the contractor obtain the contracting officer's approval when it plans to continue the research work during a continuous period in excess of 3 months without the participation of an approved principal investigator or project leader.

1835.016 Broad agency announcements. (NASA supplements paragraphs (a) and (c))

(a)(i) The following forms of broad agency announcements (BAAs) are authorized for use:

(A) Announcements of Opportunity (see 1872).

(B) NASA Research Announcements (see 1835.016-70).

(C) Other forms of announcements approved by the Associate Administrator for Procurement (Code HS).

(ii) Other program announcements, notices, and letters not authorized by paragraph (a)(i) of this section shall not be used to solicit proposals that may result in contracts.

(c) BAAs may not preclude the participation of any offeror capable of satisfying the Government's needs unless a justification for other than full and open competition is approved under FAR 6.304.

1835.016-70 NASA Research Announcements

(a) Scope. An NRA is used to announce research interests in support of NASA's programs, and, after peer or scientific review using factors in the NRA, select proposals for funding. Unlike an RFP containing a statement of work or specification to which offerors are to respond, an NRA provides for the submission of competitive project ideas, conceived by the offerors, in one or more program areas of interest. An NRA shall not be used when the requirement is sufficiently defined to specify an end product or service.

(b) Issuance. (1) Before issuance, each field-generated NRA shall be approved by the installation director or designee, with the concurrence of the

procurement officer, and each Headquarters-generated NRA shall be approved by the cognizant Program Associate Administrator or designee, with the concurrence of the Headquarters Offices of General Counsel (Code GK) and Procurement (Code HS). The NRA approval authority shall designate the selection official.

(2) The selecting official shall assure that the NRA is synopsisized prior to issuance in accordance with FAR 5.201 and 1815.201. The synopsis shall be brief, and the technical section describing the area of interest should not exceed 50 words.

(3) If a Headquarters-generated NRA may result in awards by a NASA field installation, the issuing office shall notify the installation procurement officer and provide a copy of the NRA.

(4) The selecting official is responsible for the preparation and distribution of the NRA.

(5) NRAs normally shall remain open for at least 90 days.

(c) Content. The NRA shall consist of the following sections and items. The entire package shall be provided in response to requests.

(1) Cover. The cover shall display:

(i) "OMB Approval Number 2700-0087" in the upper right corner.

(ii) Title.

(iii) "NASA Research Announcement Soliciting Research Proposals for the Period Ending _____".

(iv) NRA number.

(v) Official address for the office issuing the NRA.

(2) Summary and Supplemental Information. (i) The Summary and Supplemental Information should not exceed two pages and shall include:

(A) Title and NRA number.

(B) Introductory paragraphs describing the purpose of the NRA and the period for receipt of proposals.

(C) Address for submitting proposals.

(D) Number of copies required.

(E) Selecting official's title.

(F) Names, addresses, and telephone numbers for the technical and contracting points of contact.

(G) The following statement when the NRA is to be issued before funds are available:

Funds are not currently available for awards under this NRA. The Government's obligation to make award(s) is contingent upon the availability of appropriated funds from which payment can be made and the receipt of proposals that NASA determines are acceptable for award under this NRA.

(ii) The Summary and Supplemental Information may include estimates of the amount of funds that will be

available and the number of anticipated awards. A breakdown of the estimates by research area may also be shown.

(3) Technical Description. The first page shall contain the NRA number and title at the top. A brief description not exceeding two pages is preferable, but it should be detailed enough to enable ready comprehension of the research areas of interest. Specifications containing detailed statements of work should be avoided. Any program management information included must be limited to matters that are essential for proposal preparation.

(4) Instructions for Responding to NASA Research Announcements. The NRA shall contain instructions as stated in 1852.235-72 (see 1835.070(c)).

(d) Receipt of proposals, evaluation, and selection. (1) Proposals shall be protected as provided in 1815.508-70 and 1815.509-70.

(2) Late proposals and modifications shall be treated in accordance with 1815.412-70.

(3) The selection decision shall be made following peer or scientific review of a proposal. Peer or scientific review shall involve evaluation by an in-house specialist, a specialist outside NASA, or both. Evaluation by specialists outside NASA shall be conducted subject to the conditions in FAR 15.413-2(f) and 1815.413-2. After receipt of a proposal and before selection, scientific or engineering personnel shall communicate with an offeror only for the purpose of clarification (as defined in FAR 15.601), or to understand the meaning of some aspect of the proposal that is not clear, or to obtain confirmation or substantiation of a proposed approach, solution, or cost estimate.

(4) Competitive range determinations shall not be made, and best and final offers shall not be requested.

(5) Part of a proposal may be selected unless the offeror requests otherwise. In addition, changes to a selected proposal may be sought if (i) the ideas or other aspects of the proposal on which selection is based are contained in the proposal as originally submitted, and are not introduced by the changes; and (ii) the changes sought would not involve a material alteration to the requirements stated in the NRA.

Changes that would affect a proposal's selection shall not be sought. When changes are desired, the selecting official may request revisions from the offeror or request the contracting officer to implement them during negotiations with the successful offeror(s). The changes shall not transfer information from one offeror's proposal to another offeror (see FAR 15.610(e)(1)). When

collaboration between offerors would improve proposed research programs, collaboration may be suggested to the offerors.

(6) The basis for selection of a proposal shall be documented in a selection statement applying the evaluation factors in the NRA. The selection statement represents the conclusions of the selecting official and must be self-contained. It shall not incorporate by reference the evaluations of the reviewers.

(7) The selecting official shall notify each offeror whose proposal was not selected for award and explain generally why the proposal was not selected. If requested, the selecting official shall arrange a debriefing under FAR 15.1004, with the participation of a contracting officer.

(8) The selecting official shall forward to the contracting officer the following information:

(i) A copy of the NRA;

(ii) The results of the technical evaluation, including the total number of proposals received, the selection statement, and the proposal(s) selected for funding;

(iii) A description of any changes desired in any offeror's statement of work, including the reasons for the changes and any effect on level of funding;

(iv) If a contract will be used to fund the proposal, a description of deliverables, including technical reports, and delivery dates, consistent with the requirements of the NRA;

(v) A procurement request;

(vi) Comments on the offeror's cost proposal (either the selecting official's comments, which may be based on the reviewer's comments, or copies of the reviewers' comments with any different conclusions of the selecting official); these comments shall address the need for and reasonableness of travel, computer time, materials, equipment, subcontracted items, publication costs, labor hours, labor mix, and other costs; and

(vii) A copy of the selected proposal as originally submitted, any revisions, and any correspondence from the successful offeror.

(9) The selecting official may provide to the contracting officer copies of the reviewers' evaluations. Reviewers' names and institutions may be omitted.

(10) The selecting official may provide each offeror whose proposal was selected for negotiation a notification stating:

(i) The proposal has been selected for negotiation;

(ii) The offeror's business office will be contacted by a contracting officer,

who is the only official authorized to obligate the Government; and

(iii) Any costs incurred by the offeror in anticipation of an award are at the offeror's risk.

(e) Award. The contracting officer shall choose the appropriate award instrument. If a contract is selected, the contracting officer shall—

(1) Advise the offeror that the Government contemplates entering into negotiations; the type of contract contemplated; and the estimated award date, anticipated effort, and delivery schedule;

(2) Send the offeror a model contract, if necessary, including modifications contemplated in the offeror's statement of work, and request agreement or identification of any exceptions (the contract statement of work may summarize the proposed research, state that the research shall be conducted in accordance with certain technical sections of the proposal (which shall be identified by incorporating them into the contract by reference), and identify any changes to the proposed research);

(3) Request the offeror to complete and return certifications and representations and Standard Form 33, Solicitation, Offer, and Award, or other appropriate forms;

(4) Conduct negotiations in accordance with FAR subparts 15.8 and 15.9, as applicable;

(5) Award a contract; and

(6) Comply with FAR subparts 4.6 and 5.3 on contract reporting and synopses of contract awards.

(f) Cancellation of an NRA. when program changes, program funding, or any other reasons require cancellation of an NRA, the office issuing the NRA shall notify potential offerors by using the mailing list of the NRA.

1835.070 NASA contract clauses and solicitation provision.

(a) The contracting officer shall insert the clause at 1852.235-70, Center for AeroSpace Information, in all research and development contracts and in cost-reimbursement supply contracts involving research and development work.

(b) The contracting officer shall insert the clause at 1852.235-71, Key Personnel and Facilities, in contracts when source selection has been substantially predicated upon the possession by a given offer or of special capabilities, as represented by key personnel or facilities.

(c) The contracting officer shall ensure that the provision at 1852.235-72, Instructions for Responding to NASA Research Announcements, is inserted in all NRAs. The instructions

may be supplemented, but only to the minimum extent necessary.

10. Part 1836 is revised to read as follows:

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1836.2—Special Aspects of Contracting for construction

Sec.

1836.203 Government estimate of construction costs.

1836.209 Construction contracts with architect-engineer firms.

Subpart 1836.3—Special Aspects Sealed Bidding in Construction Contracts

1836.303 Invitations for bids.

1836.303-70 Additive and deductive items.

1836.304 Notice of Award.

Subpart 1836.5—Contract Clauses

1836.570 NASA solicitation provisions and contract clause.

Subpart 1836.6—Architect-Engineer Services

1836.602 Selection of firms for architect-engineer contracts.

1836.602-1 Selection criteria.

1836.602-2 Evaluation boards.

1836.602-4 Selection authority.

1836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

1836.602-70 Selection of architect-engineers for master planning.

1836.603 Collecting data on and appraising firms' qualifications.

1836.605 Government cost estimate for architect-engineer work.

Subpart 1836.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

1836.702 Forms for use in contracting for architect-engineer services.

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

Subpart 1836.2—Special Aspects of Contracting for Construction

1836.203 Government estimate of construction costs. (NASA supplements paragraph (c))

(c)(i) If the acquisition is by sealed bidding, the contracting officer shall file a sealed copy of the detailed Government estimate with the bids until bid opening. After the bids are read and recorded, the contracting officer shall read the estimate, and record it in the same detail as the bids.

(ii) If the acquisition is by negotiation, the contracting officer may disclose the overall amount of the Government estimate after award upon request of offerors.

1836.209 Construction contracts with architect-engineer firms.

(1) Except as indicated in paragraph (2) of this section, the Associate Administrator for Procurement (Code HS) is the approval authority.

(2) A construction contract may be awarded to the firm that designed the project (or its subsidiaries or affiliates) if the contract is awarded on the basis of performance specifications for the construction of a facility, and it requires the contractor to furnish construction drawings, specifications, or site adaptation drawings of the facility.

(3) In no case shall the firm that prepared the drawings and specifications supervise and inspect, on behalf of the Government, the construction of the facility involved.

Subpart 1836.3—Special Aspects of Sealed Bidding in Construction Contracts

1836.303 Invitations for bids.

1836.303-70 Additive and deductive items.

When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for bids for a first or base bid item covering the work generally as specified and one or more additive or deductive bid items progressively adding or omitting specified features of the work in a stated order of priority. In such case, the contracting officer, before the opening of bids, shall record in the contract file the amount of funds available for the project and determine the low bidder and the items to be awarded in accordance with the provision at 1852.236-71, Additive or Deductive Items.

1836.304 Notice of Award (NASA supplements paragraph (e))

(e) Contract delivery or performance schedules, commencement of work, or notices to proceed shall not be expressed in terms of a notice of award (See 1814.408-1).

Subpart 1836.5—Contract Clauses

1836.570 NASA solicitation provisions and contract clause.

(a) The contracting officer shall insert the provision at 1852.236-71, Additive or Deductive Items, in invitations for bids for construction when it is desired to add or deduct bid items to meet available funding.

(b) The contracting officer shall insert the provision at 1852.236-72, Bids with Unit Prices, in invitations for bids for construction when the invitation contemplates unit prices of items.

(c) The contracting officer shall insert the clause at 1852.236-73, Hurricane Plan, in solicitations and contracts for construction at sites that experience hurricanes.

(d) The contracting officer shall insert the provision at 1852.236-74, Magnitude of Requirement, in solicitations for construction. Insert the appropriate estimated dollar range in accordance with FAR 36.204.

Subpart 1836.6—Architect-Engineer Services

1836.602 Selection of firms for architect-engineer contracts.

1836.602-1 Selection criteria. (NASA supplements paragraph (a))

(a)(2) The evaluation of specialized experience and technical competence shall be limited to the immediately preceding ten years.

(4) The evaluation of past performance shall be limited to the immediately preceding ten years.

(7) The architect-engineer selection board may also establish evaluation criteria regarding the volume of work previously awarded to the firm by NASA, with the object of effecting an equitable distribution of contracts among qualified architect-engineer firms, including minority-owned firms and firms that have not had prior NASA contracts.

1836.602-2 Evaluation boards. (NASA supplements paragraph (a))

(a) Installations shall establish an architect-engineer selection board to be composed of the selection authority and at least three voting members. Membership shall at least include: one currently registered architect or professional engineer, who shall serve as the board chairperson; an official from the requiring office; if appropriate, a technical official familiar with any unique subject matter critical to the requirement; and a procurement official (a contracting officer, if feasible) as an ad hoc advisor to the board. Where appropriate, the procurement official may serve as a voting member. Non-Government employees shall not be appointed as voting members.

1836.602-4 Selection authority. (NASA supplements paragraph (a))

(a) The selection authority shall be appointed in accordance with installation procedures.

1836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

The procedures at FAR 36.602-5 (a) or (b) may be used at the discretion of the selection authority.

1836.602-70 Selection of architect-engineers for master planning. (NASA supplements paragraphs (a) and (b))

(a) *Definition of master plan.* A master plan is an integrated series of documents presenting in graphic, narrative, and tabular form the present composition of the installation and the plan for its orderly and comprehensive development to perform its various missions in the most efficient and economical manner.

(b) Selection.

(1) Selection of an Architect-Engineer for the development of a master plan in connection with the establishment of a new NASA activity or installation shall be made by the Associate Administrator having institutional responsibility. The report of the architect-engineer selection board will be concurred in at NASA Headquarters by the Associate Administrator for Management Systems and Facilities, the Associate Administrator for Procurement, the Chief Financial Officer, and the General Counsel.

(2) The Associate Administrator for Management Systems and Facilities shall be responsible for the architect-engineer selection board report required by FAR 36.602-3(d) before presentation to the Associate Administrator having institutional responsibility.

1836.603 Collecting data on and appraising firms' qualifications.

The architect-engineer selection boards (see 1836.602-2) are designated as NASA's evaluation boards for the purposes of FAR 36.603.

1836.605 Government cost estimate for architect-engineer work. (NASA supplements paragraph (b))

(b) The contracting officer may disclose the overall amount of the Government estimate after award upon request of offerors.

Subpart 1836.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

1836.702 Forms for use in contracting for architect-engineer services. (NASA supplements paragraph (a))

(a)(i) Instructions for completing Standard Form 252, Architect-Engineer Contract, are as follows:

(a) Block 5-Project Title and Location. Include a short description of the

construction project and the estimated cost of constructing the facilities for the project. If the space provided is insufficient, include a more detailed description in the contract's specification/work statement and identify the location of the more detailed description in Block 10.

(b) Block 6-Contract For (General description of services to be provided). Include a brief description of the services and state that the are fully set out in the specification/work statement. Clearly specify the date by which design services must be completed. If supervision and inspection services during construction are to be acquired, clearly specify the date by which they must be completed and add a statement that the Government may extend the period for their performance as provided in the Changes clause of the contract.

(c) Block 7-Contract Amount. If the contract is for both design and supervision and inspection services, set out the amounts for each effort separately.

(ii) The services to be furnished by an architect-engineer should be carefully defined during negotiation of the contract and a statement of them inserted in the contract's specification/work statement. The statement should clearly and concisely set forth the nature and extent of the services and include any special services, such as the nature and extent of subsurface exploration prior to designing foundations. A similar statement of supervision and inspection services should be inserted in the specification/work statement if supervision and inspection services are to be acquired.

11. Part 1837 is revised to read as follows:

PART 1837—SERVICE CONTRACTING

Subpart 1837.1—Service Contracts—General

Sec.

1837.101 Definitions.

1837.102 Policy.

1837.102-70 NASA policy.

1837.104 Personal services contracts.

1837.110 Solicitation provisions and contract clauses.

1837.110-70 NASA solicitation provision and contract clauses.

1837.170 Pension portability.

Subpart 1837.2—Advisory and Assistance Services

1837.203 Policy.

1837.204 Guidelines for determining availability of personnel.

Subpart 1837.70—Acquisition of Training

1837.7000 Acquisition of off-the-shelf training courses.

1837.7001 Acquisition of new training courses.

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

Subpart 1837.1—Service Contracts—General**1837.101 Definitions.**

Pension portability means the recognition and continuation in a successor service contract of the predecessor service contract employees' pension rights and benefits.

1837.102 Policy.**1837.102–70 NASA Policy.**

To the maximum extent practicable, contracting officers shall acquire services on a performance based contracting basis.

1837.104 Personal services contracts.
(NASA supplements paragraph (b))

(b) Section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)) authorizes NASA "to obtain services as authorized by Section 3109 of Title 5, United States Code." It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities, and procedures pertaining to the appointment of experts and consultants are in NMI 3304.1G.

1837.110 Solicitation provisions and contract clauses.**1837.110–70 NASA solicitation provision and contract clauses.**

(a) The contracting officer shall insert the clause at 1852.237–70, Emergency Evacuation Procedures, in solicitations and contracts for on-site support services where emergency evacuations of the NASA installation may occur, e.g., snow, hurricanes, tornadoes, earthquakes, or other emergencies.

(b) The contracting officer shall insert the clause at 1852.237–71, Pension Portability, in solicitations, contracts or negotiated contract modifications for additional work when the procurement officer makes the determination in 1837.170(a)(2).

(c) The contracting officer shall insert the provision at 1852.237–72, Identification of Uncompensated Overtime, in cost reimbursement level-of-effort contracts expected to exceed \$1,000,000.

1837.170 Pension portability.

(a) It is NASA's policy not to require pension portability in service contracts. However, pension portability requirements may be included in solicitations, contracts, or contract modifications for additional work under the following conditions:

(1)(i) There is a continuing need for the same or similar services for a minimum of five years (inclusive of options), and, if the contractor changes, a high percentage of the predecessor contractor's employees are expected to remain with the program; or

(ii) The employees under a predecessor contract were covered by a portable pension plan, a follow-on contract or a contract consolidating existing services is awarded, and the total contract period covered by the plan covers a minimum of five years (including both the predecessor and successor contracts); and

(2) The procurement officer determines in writing, with full supporting rationale, that such a requirement is in the Government's best interest. The procurement officer shall maintain a record of all such determinations.

(b) When pension portability is required, the plan shall comply with the requirements of the clause at 1852.237–71, Pension Portability, (see 1837.110–70(b)), and the contract shall also include a clear description of the plan, including service, pay, liabilities, vesting, termination, and benefits from prior contracts.

Subpart 1837.2—Advisory and Assistance Services**1837.203 Policy.** (NASA supplements paragraph (c))

(c) Advisory and assistance services of individual experts and consultants shall normally be obtained by appointment rather than by contract (see NMI 3304.1, Employment of Experts and Consultants).

1837.204 Guidelines for determining availability of personnel. (NASA supplements paragraphs (a), (b), (c), and (e))

(a)(i) Outside peer review evaluators may be used to evaluate SBIR, STTR, NRA, AO, and unsolicited proposals without making the determination of non-availability.

(ii) For all other actions, the NASA official one level above the NASA program official responsible for the evaluation shall make the determination, with the concurrence of the legal office. The contracting officer shall ensure that a copy of the

determination is in the contract file prior to issuance of a solicitation.

(b) The official designated in paragraph (a)(ii) of this section is responsible for the actions required in FAR 37.204(b).

(c) The agreement shall be made by the program official responsible for the evaluation and the contracting officer.

(e) The Associate Administrator for Procurement (Code HS) is the approval authority for class determinations. The class determination request shall include the assessment required by FAR 37.204(b).

Subpart 1837.70—Acquisition of Training**1837.7000 Acquisition of off-the-shelf training courses.**

The Training Act of 1958 (5 U.S.C. 4101 et seq.) may be used as the authority for training of NASA employees by, in, or through non-Government off-the-shelf training courses which are available to the public. These include established university catalog courses or commercial course offerings that are offered to the general public at catalog or market prices.

1837.7001 Acquisition of new training courses.

The acquisition of a new training course that must be developed to fulfill a specific NASA need shall be conducted in accordance with the FAR and the NFS.

12. Part 1839 is revised to read as follows:

PART 1839—ACQUISITION OF INFORMATION TECHNOLOGY**Subpart 1829.1—General**

Sec.

1839.105 Privacy.

1839.106 Contract clause.

1839.106–70 NASA contract clause.

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

Subpart 1839.1—General.**1839.105 Privacy.**

See 1804.470.

1839.106 Contract clause.**1839.106–70 NASA contract clause.**

(a)(1) The contracting officer shall insert the clause substantially as stated at 1852.239–70, Alternate Delivery Points, in solicitations and contracts for information technology when:

(i) An indefinite delivery/indefinite quantity contract will be used or when the contract will include options for additional quantities; and

(ii) Delivery is F.O.B. destination to the contracting activity.

(2) When delivery is F.O.B. origin and Government bills of lading (GBL) are used, the contracting officer shall use the clause with its Alternate I.

13. Part 1841 is revised to read as follows:

PART 1841—ACQUISITION OF UTILITY SERVICES

Subpart 1841.2—Acquiring Utility Services

Sec.

1841.203 GSA assistance.

1841.205 Separate contracts.

1841.205–70 Authorization for acquisition of wellhead natural gas.

Subpart 1841.3—Requests for Assistance

1841.301 Requirements.

Subpart 1841.4—Administration

1841.402 Rate changes and regulatory intervention.

Subpart 1841.5—Solicitation Provision and Contract Clauses

1841.501 Solicitation provision and contract clauses.

1841.501–70 NASA contract clause. Authority: 42 U.S.C. 2473(c)(1).

Subpart 1841.2—Acquiring Utility Services

1841.203 GSA assistance. (NASA supplements paragraph (a))

(a) Before soliciting technical assistance, technical personnel shall contact the Headquarters Environmental Management Division (Code JE).

1841.205 Separate contracts.

1841.205–70 Authorization for acquisition of wellhead natural gas.

(a) Acquisition of wellhead natural gas and interstate transportation of the natural gas to locally franchised distribution utility companies' receipt points (city gate) is considered the acquisition of supplies rather than the acquisition of public utility services described in FAR Part 41. Therefore, wellhead natural gas and interstate transportation of such gas should be obtained directly by NASA under applicable authorities and FAR procedures governing the acquisition of supplies. Redelivery of the gas from the city gate to the NASA facility is considered a utility service since it is provided only by the locally franchised utility. GSA is responsible for obtaining an appropriate contract for the

redelivery service in accordance with FAR 41.204.

(b) GSA provides assistance to Federal agencies in the acquisition of natural gas wellhead supplies. Contracting officers may obtain assistance from GSA in the acquisition of wellhead natural gas by contacting GSA at the address specified in FAR 41.301(a).

Subpart 1841.3—Requests for Assistance

1841.301 Requirements. (NASA supplements paragraph (a))

(a) Procurement officers shall submit requests for delegation of contracting authority directly to the cognizant GSA regional office after coordinating with the cognizant center technical office.

Subpart 1841.4—Administration

1841.402 Rate changes and regulatory intervention. (NASA supplements paragraph (b))

(b) A copy of all correspondence with GSA shall be provided to the Headquarters Office of Procurement (Code HS) at the time of its submittal to the GSA regional office.

Subpart 1841.5—Solicitation Provision and Contract Clauses

1841.501 Solicitation provision and contract clauses.

1841.501–70 NASA contract clause.

The contracting officer shall insert the clause at 1852.241–70, Renewal of Contract, in solicitations and contracts for utility services if it is desirable that the utility service be provided under the same terms and conditions for more than 1 year.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.231–71 [Added]

14.–15. Section 1852.231–71 is added to read as follows:

1852.231–71 Determination of Compensation Reasonableness.

As prescribed at 1831.205–671, insert the following provision.

Determination of Compensation Reasonableness (March 1994)

(a) The proposal shall include a total compensation plan. This plan shall address all proposed labor categories, including those personnel subject to union agreements, the Service Contract Act, and those exempt from both of the above. The total compensation plan shall include the salaries/wages, fringe

benefits and leave programs proposed for each of these categories of labor. The plan also shall include a discussion of the consistency of the plan among the categories of labor being proposed. Differences between benefits offered professional and non-professional employees shall be highlighted. The requirements of this plan may be combined with that required by the clause at FAR 52.222–46, "Evaluation of Compensation for Professional Employees."

(b) The offeror shall provide written support to demonstrate that its proposed compensation is reasonable.

(c) The offeror shall include the rationale for any conformance procedures used or those Service Contract Act employees proposed that do not fall within the scope of any classification listed in the applicable wage determination.

(d) The offeror shall require all service subcontractors (1) with proposed cost reimbursement or non-competitive fixed-price type subcontracts having a total potential value in excess of \$500,000 and (2) the cumulative value of all their service subcontracts under the proposed prime contract in excess of 10 percent of the prime contract's total potential value, provide as part of their proposals the information identified in (a) through (c) of this provision.

(End of provision)

1852.234–70 [Amended]

16. In section 1852.234–70, the section heading and clause title "Phased Procurement Using Down-Selection Procedures" is revised to read "Phased Acquisition Using Down-Selection Procedures".

17. In the introductory text to section 1852.234–70, the citation "1834.005–170 (a)" is revised to read "1834.7004(a)" and the word "procurements" is revised to read "acquisitions".

1852.234–71 [Amended]

18. In section 1852.234–71, the section heading and clause title "Phased Procurement Using Progressive Competition Down-Selection Procedures" is revised to read "Phased Acquisition Using Progressive Competition Down-Selection Procedures".

19. In the introductory text to section 1852.234–71, the citation "1834.005–170 (b)" is revised to read "1834.7004(b)" and the word "procurements" is revised to read "acquisitions".

1852.235-72 [Amended]

20. Section 1852.235-72 is revised to read as follows:

1852.235-72 Instructions for responding to NASA Research Announcements.

As prescribed in 1835.070(c), insert the following provision:

Instructions for Responding to NASA Research Announcements (January 1997)**(a) General.**

(1) Proposals received in response to a NASA Research Announcement (NRA) will be used only for evaluation purposes. NASA does not allow a proposal, the contents of which are not available without restriction from another source, or any unique ideas submitted in response to an NRA to be used as the basis of a solicitation or in negotiation with other organizations, nor is a pre-award synopsis published for individual proposals.

(2) A solicited proposal that results in a NASA award becomes part of the record of that transaction and may be available to the public on specific request; however, information or material that NASA and the awardee mutually agree to be of a privileged nature will be held in confidence to the extent permitted by law, including the Freedom of Information Act.

(3) NRAs contain programmatic information and certain requirements which apply only to proposals prepared in response to that particular announcement. These instructions contain the general proposal preparation information which applies to responses to all NRAs.

(4) A contract, grant, cooperative agreement, or other agreement may be used to accomplish an effort funded in response to an NRA. NASA will determine the appropriate instrument. Contracts resulting from NRAs are subject to the Federal Acquisition Regulation and the NASA FAR Supplement. Any resultant grants or cooperative agreements will be awarded and administered in accordance with the NASA Grant and Cooperative Agreement Handbook (NPG 5800.1).

(5) NASA does not have mandatory forms or formats for responses to NRAs; however, it is requested that proposals conform to the guidelines in these instructions. NASA may accept proposals without discussion; hence, proposals should initially be as complete as possible and be submitted on the proposers' most favorable terms.

(6) To be considered for award, a submission must, at a minimum, present a specific project within the areas delineated by the NRA; contain sufficient technical and cost information to permit a meaningful evaluation; be signed by an official authorized to legally bind the submitting organization; not merely offer to perform standard services or to just provide computer facilities or services; and not significantly duplicate a more specific current or pending NASA solicitation.

(b) **NRA-Specific Items.** Several proposal submission items appear in the NRA itself: the unique NRA identifier; when to submit proposals; where to send proposals; number of copies required; and sources for more information. Items included in these

instructions may be supplemented by the NRA.

(c) The following information is needed to permit consideration in an objective manner. NRAs will generally specify topics for which additional information or greater detail is desirable. Each proposal copy shall contain all submitted material, including a copy of the transmittal letter if it contains substantive information.

(1) Transmittal Letter or Prefatory Material.

(i) The legal name and address of the organization and specific division or campus identification if part of a larger organization;

(ii) A brief, scientifically valid project title intelligible to a scientifically literate reader and suitable for use in the public press;

(iii) Type of organization: e.g., profit, nonprofit, educational, small business, minority, women-owned, etc;

(iv) Name and telephone number of the principal investigator and business personnel who may be contacted during evaluation or negotiation;

(v) Identification of other organizations that are currently evaluating a proposal for the same efforts;

(vi) Identification of the NRA, by number and title, to which the proposal is responding;

(vii) Dollar amount requested, desired starting date, and duration of project;

(viii) Date of submission; and

(ix) Signature of a responsible official or authorized representative of the organization, or any other person authorized to legally bind the organization (unless the signature appears on the proposal itself).

(2) **Restriction on Use and Disclosure of Proposal Information.** Information contained in proposals is used for evaluation purposes only. Offerors or quoters should, in order to maximize protection of trade secrets or other information that is confidential or privileged, place the following notice on the title page of the proposal and specify the information subject to the notice by inserting an appropriate identification in the notice. In any event, information contained in proposals will be protected to the extent permitted by law, but NASA assumes no liability for use and disclosure of information not made subject to the notice.

Notice—Restriction on Use and Disclosure of Proposal Information

The information (data) contained in [insert page numbers or other identification] of this proposal constitutes a trade secret and/or information that is commercial or financial and confidential or privileged. It is furnished to the Government in confidence with the understanding that it will not, without permission of the offeror, be used or disclosed other than for evaluation purposes; provided, however, that in the event a contract (or other agreement) is awarded on the basis of this proposal the Government shall have the right to use and disclose this information (data) to the extent provided in the contract (or other agreement). This restriction does not limit the Government's right to use or disclose this information (data) if obtained from another source without restriction.

(3) **Abstract.** Include a concise (200–300 word if not otherwise specified in the NRA)

abstract describing the objective and the method of approach.

(4) Project Description.

(i) The main body of the proposal shall be a detailed statement of the work to be undertaken and should include objectives and expected significance; relation to the present state of knowledge; and relation to previous work done on the project and to related work in progress elsewhere. The statement should outline the plan of work, including the broad design of experiments to be undertaken and a description of experimental methods and procedures. The project description should address the evaluation factors in these instructions and any specific factors in the NRA. Any substantial collaboration with individuals not referred to in the budget or use of consultants should be described. Subcontracting significant portions of a research project is discouraged.

(ii) When it is expected that the effort will require more than one year, the proposal should cover the complete project to the extent that it can be reasonably anticipated. Principal emphasis should be on the first year of work, and the description should distinguish clearly between the first year's work and work planned for subsequent years.

(5) **Management Approach.** For large or complex efforts involving interactions among numerous individuals or other organizations, plans for distribution of responsibilities and arrangements for ensuring a coordinated effort should be described.

(6) **Personnel.** The principal investigator is responsible for supervision of the work and participates in the conduct of the research regardless of whether or not compensated under the award. A short biographical sketch of the principal investigator, a list of principal publications and any exceptional qualifications should be included. Omit social security number and other personal items which do not merit consideration in evaluation of the proposal. Give similar biographical information on other senior professional personnel who will be directly associated with the project. Give the names and titles of any other scientists and technical personnel associated substantially with the project in an advisory capacity. Universities should list the approximate number of students or other assistants, together with information as to their level of academic attainment. Any special industry-university cooperative arrangements should be described.

(7) Facilities and Equipment.

(i) Describe available facilities and major items of equipment especially adapted or suited to the proposed project, and any additional major equipment that will be required. Identify any Government-owned facilities, industrial plant equipment, or special tooling that are proposed for use. Include evidence of its availability and the cognizant Government points of contact.

(ii) Before requesting a major item of capital equipment, the proposer should determine if sharing or loan of equipment already within the organization is a feasible alternative. Where such arrangements cannot be made, the proposal should so state. The need for items that typically can be used for

research and non-research purposes should be explained.

(8) Proposed Costs

(i) Proposals should contain cost and technical parts in one volume; do not use separate "confidential" salary pages. As applicable, include separate cost estimates for salaries and wages; fringe benefits; equipment; expendable materials and supplies; services; domestic and foreign travel; ADP expenses; publication or page charges; consultants; subcontracts; other miscellaneous identifiable direct costs; and indirect costs. List salaries and wages in appropriate organizational categories (e.g., principal investigator, other scientific and engineering professionals, graduate students, research assistants, and technicians and other non-professional personnel). Estimate all staffing data in terms of staff-months or fractions of full-time.

(ii) Explanatory notes should accompany the cost proposal to provide identification and estimated cost of major capital equipment items to be acquired; purpose and estimated number and lengths of trips planned; basis for indirect cost computation (including date of most recent negotiation and cognizant agency); and clarification of other items in the cost proposal that are not self-evident. List estimated expenses as yearly requirements by major work phases.

(iii) Allowable costs are governed by FAR Part 31 and the NASA FAR Supplement Part 1831 (and OMB Circulars A-21 for educational institutions and A-122 for nonprofit organizations).

(9) Security. Proposals should not contain security classified material. If the research requires access to or may generate security classified information, the submitter will be required to comply with Government security regulations.

(10) Current Support. For other current projects being conducted by the principal investigator, provide title of project, sponsoring agency, and ending date.

(11) Special Matters.

(i) Include any required statements of environmental impact of the research, human subject or animal care provisions, conflict of interest, or on such other topics as may be required by the nature of the effort and current statutes, executive orders, or other current Government-wide guidelines.

(ii) Proposers should include a brief description of the organization, its facilities, and previous work experience in the field of the proposal. Identify the cognizant Government audit agency, inspection agency, and administrative contracting officer, when applicable.

(d) Renewal Proposals.

(1) Renewal proposals for existing awards will be considered in the same manner as proposals for new endeavors. A renewal proposal should not repeat all of the information that was in the original proposal. The renewal proposal should refer to its predecessor, update the parts that are no longer current, and indicate what elements of the research are expected to be covered during the period for which support is desired. A description of any significant findings since the most recent progress report should be included. The renewal proposal

should treat, in reasonable detail, the plans for the next period, contain a cost estimate, and otherwise adhere to these instructions.

(2) NASA may renew an effort either through amendment of an existing contract or by a new award.

(e) Length. Unless otherwise specified in the NRA, effort should be made to keep proposals as brief as possible, concentrating on substantive material. Few proposals need exceed 15-20 pages. Necessary detailed information, such as reprints, should be included as attachments. A complete set of attachments is necessary for each copy of the proposal. As proposals are not returned, avoid use of "one-of-a-kind" attachments.

(f) Joint Proposals.

(1) Where multiple organizations are involved, the proposal may be submitted by only one of them. It should clearly describe the role to be played by the other organizations and indicate the legal and managerial arrangements contemplated. In other instances, simultaneous submission of related proposals from each organization might be appropriate, in which case parallel awards would be made.

(2) Where a project of a cooperative nature with NASA is contemplated, describe the contributions expected from any participating NASA investigator and agency facilities or equipment which may be required. The proposal must be confined only to that which the proposing organization can commit itself. "Joint" proposals which specify the internal arrangements NASA will actually make are not acceptable as a means of establishing an agency commitment.

(g) Late Proposals. A proposal or modification received after the date or dates specified in an NRA may be considered if doing so is in the best interests of the Government.

(h) Withdrawal. Proposals may be withdrawn by the proposer at any time before award. Offerors are requested to notify NASA if the proposal is funded by another organization or of other changed circumstances which dictate termination of evaluation.

(i) Evaluation Factors

(1) Unless otherwise specified in the NRA, the principal elements (of approximately equal weight) considered in evaluating a proposal are its relevance to NASA's objectives, intrinsic merit, and cost.

(2) Evaluation of a proposal's relevance to NASA's objectives includes the consideration of the potential contribution of the effort to NASA's mission.

(3) Evaluation of its intrinsic merit includes the consideration of the following factors of equal importance:

(i) Overall scientific or technical merit of the proposal or unique and innovative methods, approaches, or concepts demonstrated by the proposal.

(ii) Offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(iii) The qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel critical in achieving the proposal objectives.

(iv) Overall standing among similar proposals and/or evaluation against the state-of-the-art.

(4) Evaluation of the cost of a proposed effort may include the realism and reasonableness of the proposed cost and available funds.

(j) Evaluation Techniques. Selection decisions will be made following peer and/or scientific review of the proposals. Several evaluation techniques are regularly used within NASA. In all cases proposals are subject to scientific review by discipline specialists in the area of the proposal. Some proposals are reviewed entirely in-house, others are evaluated by a combination of in-house and selected external reviewers, while yet others are subject to the full external peer review technique (with due regard for conflict-of-interest and protection of proposal information), such as by mail or through assembled panels. The final decisions are made by a NASA selecting official. A proposal which is scientifically and programmatically meritorious, but not selected for award during its initial review, may be included in subsequent reviews unless the proposer requests otherwise.

(k) Selection for Award.

(1) When a proposal is not selected for award, the proposer will be notified. NASA will explain generally why the proposal was not selected. Proposers desiring additional information may contact the selecting official who will arrange a debriefing.

(2) When a proposal is selected for award, negotiation and award will be handled by the procurement office in the funding installation. The proposal is used as the basis for negotiation. The contracting officer may request certain business data and may forward a model award instrument and other information pertinent to negotiation.

(l) Cancellation of NRA. NASA reserves the right to make no awards under this NRA and to cancel this NRA. NASA assumes no liability for canceling the NRA or for anyone's failure to receive actual notice of cancellation.

1852.236-71 [Amended]

21. In the introductory text to section 1852.236-71, the citation "1836.370(a)" is revised to read "1836.570(a)".

1852.236-72 [Amended]

22. In the introductory text to section 1852.236-72, the citation "1836.370(b)" is revised to read "1836.570(b)".

1852.236-73 [Amended]

23. In the introductory text to section 1852.236-73, the citation "1836.570-1" is revised to read "1836.570(c)".

1852.236-74 [Amended]

24. In the introductory text to section 1852.236-74, the citation "1836.570-2" is revised to read "1836.570(d)".

1852.237-70 [Amended]

25. In the introductory text to section 1852.237-70, the citation "1837.110-70" is revised to read "1837.110-70(a)".

1852.237-71, 1852.237-72 [Amended]

26. Sections 1852.237-71 and 1852.237-72 are revised to read as follows:

1852.237-71 Pension Portability.

As prescribed at 1837.110-70(b), insert the following clause:

Pension Portability, January 1997

(a) In order for pension costs attributable to employees assigned to this contract to be allowable costs under this contract, the plans covering such employees must:

(1) Comply with all applicable Government laws and regulations;

(2) Be a defined contribution plan, or a multiparty defined benefit plan operated under a collective bargaining agreement. In either case, the plan must be portable, i.e., the plan follows the employee, not the employer;

(3) Provide for 100 percent employee vesting at the earlier of one year of continuous employee service or contract termination; and

(4) Not be modified, terminated, or a new plan adopted without the prior written approval of the cognizant NASA Contracting Officer.

(b) The Contractor shall include paragraph (a) of this clause in subcontracts for continuing services under a service contract if:

(1) The prime contract requires pension portability;

(2) The subcontracted labor dollars (excluding any burdens or profit/fee) exceed \$2,500,000 and ten percent of the total prime contract labor dollars (excluding any burdens or profit/fee); and

(3) Either of the following conditions exists:

(i) There is a continuing need for the same or similar subcontract services for a minimum of five years (inclusive of options), and if the subcontractor changes, a high percentage of the predecessor subcontractor's employees are expected to remain with the program; or

(ii) The employees under a predecessor subcontract were covered by a portable pension plan, a follow-on subcontract or a subcontract consolidating existing services is awarded, and the total subcontract period covered by the plan covers a minimum of five years (including both the predecessor and successor subcontracts).

(End of clause)

1852.237-72 Identification of Uncompensated Overtime.

As prescribed in 1837.110-70(c), insert the following provision:

Identification of Uncompensated Overtime, January 1997

The use of uncompensated overtime is neither encouraged nor discouraged. When the proposed uncompensated overtime is consistent with an officer's written policies and practices, NASA will consider it in proposal evaluation, including the evaluation of cost and of professional compensation.

(a) Definitions. As used in this provision:

"Uncompensated overtime" means the hours worked in excess of an average of 40 hours per week, by direct charge employees who are exempt from the Fair Labor Standards Act (FLSA) without additional compensation. Compensated personal absences, such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

"Effective hourly rate" is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week. For example, 45 hours proposed on a 40-hour work week basis at \$20.00 per hour would be converted to an effective hourly rate of \$17.78 per hour [(\$20.00×40) divided by 45=\$17.78].

(b) For any hours proposed against which an effective hourly rate is applied, the Offeror shall identify in its proposal the hours in excess of an average of 40 hours per week, at the same level of detail as compensated hours, and the effective hourly rate, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct. The proposal shall include the rationale and methodology used to estimate the proposed amount of uncompensated overtime.

(c) The Offeror's accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours.

(d) The Offeror shall include with its proposal a copy of its policy addressing uncompensated overtime, a description of the timekeeping and accounting systems used to record all hours worked by FLSA-exempt employees, and the historical basis for the uncompensated overtime hours proposed.

(End of provision)

1852.239-70 [Amended]

27. In the introductory text to section 1852.239-70, the citation "1839.7008(a)" is revised to read "1836.106(a)(1)".

28. In the introductory text to Alternate I of section 1852.239-70, the citation "1839.7008(b)" is revised to read "1839.106-70(a)(2)".

1852.241-70 [Amended]

29. In the introductory text to section 1852.241-70, the citation "1841.501(b)" is revised to read "1841.501-70".

PART 1870—NASA SUPPLEMENTARY REGULATIONS**Subpart 1870.2—[Removed]**

30. Subpart 1870.2 is removed.

Subpart 1870.5—[Removed]

31. Subpart 1870.5 is removed.

PART 1871—MIDDRANGE PROCUREMENT PROCEDURES**1871.406-1 [Amended]**

32. In section 1871.401-6, paragraph (a)(2) is revised and a new paragraph (a)(3) is added to read as follows:

1871.401-6 Commercial Items.

(a) * * *

(2) MidRange procedures shall also be used, to the extent applicable, for commercial item acquisitions accomplished under FAR subpart 13.6, Test Program for Certain Commercial Items.

(3) Contract type shall be in accordance with FAR 12.207.

PART 1872—[ADDED]

33. Part 1872 is added to read as follows:

PART 1872—ACQUISITIONS OF INVESTIGATIONS

Sec.

1872.000 Scope of part.

Subpart 1872.1—The Investigation Acquisition System

1872.101 General.

1872.102 Key features of the system.

1872.103 Management responsibilities.

Subpart 1872.2—Applicability of the Process

1872.201 General.

1872.202 Criteria for determining applicability.

1872.203 Applicable programs and activities.

1872.204 Approval.

Subpart 1872.3—The Announcement of Opportunity

1872.301 General.

1872.302 Preparatory effort.

1872.303 Responsibilities.

1872.304 Proposal opportunity period.

1872.305 Guidelines for announcement of opportunity.

1872.306 Announcement of opportunity soliciting foreign participation.

1872.307 Guidelines for proposal preparation.

Subpart 1872.4—Evaluation of Proposals

1872.401 General.

1872.402 Criteria for evaluation.

1872.403 Methods of evaluation.

1872.403-1 Advisory subcommittee evaluation process.

1872.403-2 Contractor evaluation process.

1872.403-3 Government evaluation process.

1872.404 Engineering, integration, and management evaluation.

1872.405 Program office evaluation.

1872.406 Steering committee review.

1872.407 Principles to apply.

Subpart 1872.5—The Selection Process

- 1872.501 General.
- 1872.502 Decisions to be made.
- 1872.503 The selection statement.
- 1872.504 Notification of proposers.
- 1872.505 Debriefing.

Subpart 1872.6—Payload Formulation

- 1872.601 Payload formulation.

Subpart 1872.7—Acquisition and Other Considerations

- 1872.701 Early involvement essential.
- 1872.702 Negotiation, discussions and contract award.
- 1872.703 Applications of the Federal Acquisition Regulation (FAR) and the NASA FAR Supplement.
- 1872.704 Other administrative and functional requirements.
- 1872.705 Format of announcement of opportunity.
- 1872.705-1 Appendix A: General instructions and provisions.
- 1872.705-2 Appendix B: Guidelines for proposal preparation.
- 1872.705-3 Appendix C: Glossary of terms and abbreviations associated with investigations.

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

1872.000 Scope of part.

This part prescribes policies and procedures for the acquisition of investigations.

Subpart 1872.1—The Investigation Acquisition System**1872.101 General.**

The investigation acquisition system encourages the participation of investigators and the selection of investigations which contribute most effectively to the advancement of NASA's scientific and technological objectives. It is a system separate from the acquisition process, but requiring the same management and discipline to assure compliance with statutory requirements and considerations of equity.

1872.102 Key features of the system.

(a)(1) Use of the system commences with a Program Associate Administrator's determination that the investigation acquisition process is appropriate for a program. An Announcement of Opportunity (AO) is disseminated to the interested scientific and technical communities. This solicitation does not specify the investigations to be proposed but solicits investigative ideas which contribute to broad objectives. In order to determine which of the proposals should be selected, a formal competitive evaluation process is utilized. The evaluation for merit is normally made by experts in the fields represented by

the proposals. Care should be taken to avoid conflicts of interest. These evaluators may be from NASA, other Government agencies, universities, or the commercial sector. Along with or subsequent to the evaluation for merit, the other factors of the proposals, such as engineering, cost, and integration aspects, are reviewed by specialists in those areas. The evaluation conclusions as well as considerations of budget and other factors are used to formulate a complement of recommended investigations. A steering committee serving as staff to the Program Associate Administrator (Program AA), or designee when source selection authority is delegated, reviews the proposed payload or program of investigation, the iterative process, and the selection recommendations. The steering committee serves as a forum where different interests, such as flight program, discipline management, and administration, can be weighed.

(2) The Program AA, or designee, selects the proposals that will participate in the program. Once selected, an investigator is assigned appropriate responsibilities relating to the investigation through a contract with the institution. For foreign investigators, these responsibilities will usually be outlined in an agreement between NASA and the sponsoring governmental agency in the investigator's country.

(b) The AO process provides a disciplined approach to investigation acquisition. The following major steps must be followed in each case:

(1) The AO shall be signed by the Program AA and shall be widely distributed to the scientific, technological, and applications user communities, as appropriate.

(2) An evaluation team shall be formed including recognized peers of the investigators.

(3) A project office will be assigned to assess the engineering, cost, integration, and management aspects of the proposals.

(4) A program office will be responsible to formulate a complement of investigations consistent with the objectives stated in the AO, cost, and schedule constraints.

(5) A steering committee appointed by the appropriate Program AA shall review the proposed investigations for relevance and merit, will assure compliance with the system as described in this Handbook, and make selection recommendations.

(6) The Source Selection Official shall be the Program AA or the Program AA's designee.

(c) Payloads will be formulated consisting of investigations selected through the AO process and/or other authorized methods.

1872.103 Management responsibilities.

(a) Program AAs are responsible for overseeing the process and for making key decisions essential to the process including:

(1) Determination to use the investigation acquisition system.

(2) Appointment of the steering committee members.

(3) Designation of a staff to assure uniformity in the issuance of the AO and conformity with the required procedures in the evaluation and selection.

(4) Reuse, to the maximum extent practicable, of space hardware and support equipment.

(5) Determination to use advisory subcommittees, contractor, or full-time Government employees only in the evaluation process.

(6) Issuance of the AO.

(7) Selection of investigations and investigators, determination of need of a definition phase, determination of the role of the investigator with regard to providing essential investigation hardware and services, and determination of the need for payload specialists.

(8) Assure consideration is given to minorities in the establishment of peer groups, distribution of the AO and in the selection of investigations.

(9) Provide a framework for cooperative foreign participation in Space Shuttle, Spacelab, and Space Station missions.

(b) The Program AA should call upon any required experts throughout the process.

Subpart 1872.2—Applicability of the Process**1872.201 General.**

The system used for acquisition of investigations is separate from the agency procedures for acquisition of known requirements. A decision to use this special acquisition process will be based on a determination that it is the most suitable to meet program needs. The decision-making official will consider the criteria for use of the system. The project plan or other documentation should discuss the proposed mode of investigations selection.

1872.202 Criteria for determining applicability.

(a) The decision to use the investigations acquisition process as an alternative to the normal planning and acquisition process can only be made after consideration of the conditions which require its use. All of the following conditions should exist before deciding that the system is applicable:

(1) NASA has a general objective which can be furthered through novel experimental approaches. To develop such approaches, NASA wishes to draw upon the broadest possible reservoir of ideas.

(2) Choices must be made among competing ideas in expanding knowledge.

(3) Individual participation of an investigator is essential to exploitation of the opportunity.

(b) The investigations acquisition process shall not be used when any of the following characteristics are present:

(1) The requiring office can define a requirement sufficiently to allow for normal acquisition.

(2) The program is extremely complex, requiring specialized integration, coordination, or other special handling, or extending over a lengthy period wherein individual participation is not essential.

1872.203 Applicable programs and activities.

The investigation acquisition process is most suitable for investigations aimed at exploration requiring several unique sensors or instruments, but it has been used successfully in the following types of activities:

(a) Exploration and space research flights. (1) Examples include Space Transportation System (STS) flights with attached payloads, generally Spacelab payloads; and free-flying spacecraft, such as Explorers, Pioneers, Space Telescope, Landsats, and Long Duration Exposure Facilities.

(2) Types of opportunity include:

(i) Participation as a Principal Investigator (PI) responsible for conceiving and conducting a space investigation (This may involve a major piece of instrumentation. In the case of a "facility" or "multiuser" payload, each PI's responsibilities would ordinarily involve a relatively minor portion of the total instrument.);

(ii) An opportunity to serve on a PI's team as a member or Co-Investigator;

(iii) An opportunity that generally involves the use of data from another investigator's instrument as a guest investigator or guest observer (Guest investigators usually participate after the primary objectives have been

satisfied for the investigations involved.); and

(iv) A team formed from selected investigators to assist in defining planned mission objectives and/or to determine, in a general manner, the most meaningful instruments to accomplish the mission objectives.

(3) The investigation acquisition process may be applicable to all types of opportunities. The supposition common in these opportunities is that the best ideas and approaches are likely to result from the broadest possible involvement of the scientific, technological or applications user communities.

(b) Minor missions. (1) Examples include research aircraft, sounding rockets, balloons, and minor missions that are generally of short duration, small in size, often single purpose, and subject to repetition. Many investigations are follow-on to past-flight investigations.

(2) Types of opportunity include:

(i) PIs responsible for investigation; and

(ii) Data use or analysis.

(3) Opportunities for participation on minor missions are generally suitable for normal acquisition procedures. The use of an announcement describing the general nature and schedule of flights may be appropriate when considered necessary to broaden participation by requesting investigator-initiated research proposals. Normal acquisition procedures shall be used for follow-on repeat flights. Although NASA seeks unique, innovative ideas for these missions, the prospect of reflight and the latitude in determining number and schedule of flights argue against the need for the use of the investigations acquisition process to force dissimilar proposals into an annual or periodic competitive structure. On the other hand, there are some minor missions addressed to specific limited opportunities; for example, a solar eclipse. When such limitations indicate that the special competitive structure is needed, it should be authorized.

(c) Operational and operational prototype spacecraft. (1) Examples include spacecraft built for NASA and other agencies' missions.

(2) The user agency can be expected to specify performance parameters. Payload definition will be the responsibility of the user agency and NASA. Specifications sufficient for normal acquisition procedures can be produced. Use of data from the mission is the responsibility of the user agency. Thus, the investigation acquisition process is not required.

(d) Supporting Research and Technology (SR&T). (1) Examples include studies, minor developments, instrument conceptualization, ground-based observations, laboratory and theoretical supporting research, and data reduction and analysis which is unconstrained by a specific opportunity.

(2) Programs in these areas tend to go forward on a continuing basis, rather than exploiting unique opportunities. Normal acquisition procedures should be used. A general announcement of area of interest could be made when greater participation is deemed advisable.

1872.204 Approval.

The Program AA is responsible for determining whether or not to use the investigations acquisition process. Normally on major projects, or when a project plan is required, use of the investigation acquisition system will be justified and recommended in the project planning documentation and will be coordinated with staff offices and discussed in the planning presentation to the Deputy Administrator or designee.

Subpart 1872.3—The Announcement of Opportunity**1872.301 General.**

An announcement of opportunity (AO) is characterized by its generality. However, it is essential that the AO contains sufficient data in order to obtain meaningful proposals. To a considerable extent, the detail and depth of the AO will depend on the objective. The purpose is to get adequate information to assess the relevance, merit, cost, and management requirements without overburdening the proposer.

1872.302 Preparatory effort.

(a) Headquarters offices and the responsible project installation must consult prior to release of the AO.

(b) The program office shall:

(1) Synopses the AO in the Commerce Business Daily prior to the time of release;

(2) Determine if there is instrumentation or support equipment available which may be appropriate to the AO with all necessary background data considered essential for use by a proposer;

(3) Determine mailing lists, including the mailing list maintained by the International Affairs Division, Office of External Relations, for broad dissemination of the AO; and

(4) Assure mandatory provisions are contained in the AO.

(c) Other methods of dissemination of the AO may also be used, such as the use of press releases, etc. When possible, the AO should be widely publicized through publications of appropriate professional societies; however, NASA policy does not allow payment for the placement of advertisements.

1872.303 Responsibilities.

(a) The program office originator is responsible for the content of the AO and coordination with concerned Headquarters offices and field installations. All personnel involved in the evaluation of proposals are responsible for familiarizing themselves and complying with this part and other applicable regulations. To this end, they are expected to seek the advice and guidance of appropriate Headquarters program and staff offices, and Project Installation management.

(b) The Program Office is also responsible for coordinating the AO with the International Affairs, Educational Affairs, Management Support Divisions, Office of External Relations, Office of General Counsel, and Office of Acquisition prior to issuance (see NMI 1362.1, Initiation and Development of International Cooperation in Space and Aeronautical Programs).

(c) Concurrence of the Office of Acquisition is required before issuance of an AO.

1872.304 Proposal opportunity period.

(a) The AO must accommodate to the maximum extent practicable opportunities afforded by the Shuttle/Spacelab flights. The following methods may be used to enable an AO to be open for an extended period of time and/or to cover a series or range of flight possibilities or disciplines:

(1) The AO may be issued establishing a number of proposal submission dates. Normally, no more than three proposal submission dates should be established. The submittal dates may be spread over the number of months most compatible with the possible flight opportunities and the availability of resources necessary to evaluate and fund the proposals.

(2) The AO may be issued establishing a single proposal submission date. However, the AO could provide that NASA amend the AO to provide for subsequent dates for submission of proposals, if additional investigations are desired within the AO objectives.

(3) The AO may provide for an initial submission date with the AO to remain open for submission of additional proposals up to a final cutoff date. This

final date should be related to the availability of resources necessary to evaluate the continuous flow of proposals, the time remaining prior to the flight opportunity(s) contemplated by the AO, and payload funding and availability.

(b) Generally, a core payload of investigations would be selected from the initial submission of proposals under the above methods of open-ended AOs. These selections could be final or tentative recognizing the need for further definition. Proposals received by subsequent submission dates would be considered in the scope of the original AO but would be subject to the opportunities and resources remaining available or the progress being made by prior selected investigations.

(c) Any proposal, whether received on the initial submission or subsequent submission, requires notification to the investigator and the investigator's institution of the proposal disposition. Some of the proposals will be rejected completely and the investigators immediately notified. The remaining unselected proposals may, if agreeable with the proposers, be held for later consideration and funding and the investigator so notified. However, if an investigator's proposal is considered at a later date, the investigator must be given an opportunity to validate the proposal with the investigator's institution and for updating the cost and other data contained in the original submission prior to a final selection. In summary, NASA may retain proposals, receiving Category I, II, or III classifications (see 1872.403-1(e)), for possible later sponsorship until no longer feasible to consider the proposal. When this final stage is reached, the investigator must be promptly notified. Proposing investigators not desiring their proposals be held for later consideration should be given the opportunity to so indicate in their original submissions.

1872.305 Guidelines for Announcement of Opportunity.

(a) The AO should be tailored to the particular needs of the contemplated investigations and be complete in itself. Each AO will identify the originating program office and be numbered consecutively by calendar year, e.g., OA-1-95, OA-2-95; OLMSA-1-95; OSS-1-95; etc. The required format and detailed instructions regarding the contents of the AO are contained in 1872.705.

(b) The General Instructions and Provisions, Appendix A (see 1872.705-1) are necessary to accommodate the unique aspects of the AO process.

Therefore, they must be appended to each AO.

(c) At the time of issuance, copies of the AO must be furnished to Headquarters, Office of Acquisition (Code HS) and Office of General Counsel (Code GK).

(d) Proposers should be informed of significant departures from scheduled dates for activities related in the AO.

1872.306 Announcement of Opportunity soliciting foreign participation.

Proposals for participation by individuals outside the U.S. shall be submitted in the same format (excluding cost plans) as U.S. proposals, typewritten in English, and reviewed and endorsed by the appropriate foreign governmental agency. If letters of "Notice of Intent" are required, the AO should indicate that they be sent to Headquarters, Office of External Relations, International Relations Division (Code IR). Should a foreign proposal be selected, NASA will arrange with the sponsoring foreign agency for the proposed participation on a no-exchange-of-funds basis, in which NASA and the sponsoring agency will each bear the cost of discharging its respective responsibilities. Note that additional guidelines applicable to foreign proposers are contained in the Management Plan Section of Appendix B (see 1872.705-2) and must be included in any Guidelines for Proposal Preparation or otherwise furnished to foreign proposers.

1872.307 Guidelines for proposal preparation.

While not all of the guidelines outlined in Appendix B will be applicable in response to every AO, the investigator should be informed of the relevant information required. The proposal may be submitted on a form supplied by the Program Office. However, the proposal should be submitted in at least two sections:

(a) Investigation and Technical Section; and (b) Management and Cost Section as described in Appendix B.

Subpart 1872.4—Evaluation of Proposals

1872.401 General.

(a) The evaluation process considers the aspects of each proposal by the following progressive sorting:

(1) A review resulting in a categorization is performed by using one of the methods or combination of the methods outlined in 1872.403. The purpose of this initial review is to determine the scientific and/or technological merit of the proposals in the context of the AO objectives.

(2) Those proposals which are considered to have the greatest scientific or technological merit are then reviewed in detail for the engineering, management, and cost aspects, usually by the project office at the installation responsible for the project.

(3) Final reviews are performed by the program office and the steering committee and are aimed at developing a group of investigations which represent an integrated payload or a well-balanced program of investigation which has the best possibility for meeting the AO's objectives within programmatic constraints.

(b) The importance of considering the interrelationship of the several aspects of the proposals to be reviewed in the process and the need for carefully planning their treatment should not be overlooked. An evaluation plan should be developed before issuance of the AO. It should cover the recommended staffing for any subcommittee or contractor support, review guidelines as well as the procedural flow and schedule of the evaluation. While not mandatory, such a plan should be considered for each AO. A fuller discussion of the evaluation and selection process is included in the following sections of this subpart.

1872.402 Criteria for evaluation.

(a) Each AO must indicate those criteria which the evaluators will apply in evaluating a proposal. The relative importance of each criterion must also be stated. This information will allow investigators to make informed judgments in formulating proposals that best meet the stated objectives.

(b) Following is a list of general evaluation criteria appropriate for inclusion in most AOs:

(1) The scientific, applications, and/or technological merit of the investigation.

(2) The relevance of the proposed investigation to the AO's stated scientific, applications, and/or technological objectives.

(3) The competence and experience of the investigator and any investigative team.

(4) Adequacy of whatever apparatus may be proposed with particular regard to its ability to supply the data needed for the investigation.

(5) The reputation and interest of the investigator's institution, as measured by the willingness of the institution to provide the support necessary to ensure that the investigation can be completed satisfactorily.

(6) Cost and management aspects will be considered in all selections.

(7) Other or additional criteria may be used, but the evaluation criteria must be

germane to the accomplishment of the stated objectives.

(c) Once the AO is issued, it is essential that the evaluation criteria be applied in a uniform manner. If it becomes apparent, before the date set for receipt of proposals, that the criteria or their relative importance should be changed, the AO will be amended, and all known recipients will be informed of the change and given an adequate opportunity to consider it in submission of their proposals. Evaluation criteria and/or their relative importance will not be changed after the date set for receipt of proposals.

1872.403 Methods of evaluation.

Alternative methods are available to initiate the evaluation of proposals received in response to an AO. These are referred to as the Advisory Subcommittee Evaluation Process, the Contractor Evaluation Process, and the Government Evaluation Process. In all processes, a subcommittee of the appropriate Program Office Steering Committee will be formed to categorize the proposals. Following categorization, those proposals still in consideration will be processed to the selection official.

1872.403-1 Advisory subcommittee evaluation process.

(a) Evaluation of scientific and/or technological merit of proposed investigations is the responsibility of an advisory subcommittee of the Steering Committee. The subcommittee constitutes a peer group qualified to judge the scientific and technological aspects of all investigation proposals. One or more subcommittees may be established depending on the breadth of the technical or scientific disciplines inherent in the AO's objectives. Each subcommittee represents a discipline or grouping of closely related disciplines. To maximize the quality of the subcommittee evaluation and categorization, the following conditions of selection and appointment should be considered.

(1) The subcommittee normally should be established on an ad hoc basis.

(2) Qualifications and acknowledgment of the professional abilities of the subcommittee members are of primary importance. Institutional affiliations are not sufficient qualifications.

(3) The executive secretary of the subcommittee must be a full-time NASA employee.

(4) Subcommittee members should normally be appointed as early as

possible and prior to receipt of proposals.

(5) Care must be taken to avoid conflicts of interest. These include financial interests, institutional affiliations, professional biases and associations, as well as familiar relationships. Conflicts could further occur as a result of imbalance between Government and non-Government appointees or membership from institutions representing a singular school of thought in discipline areas involving competitive theories in approach to an investigation.

(6) The subcommittee should convene as a group in closed sessions for proposal evaluation to protect the proposer's proprietary ideas and to allow frank discussion of the proposer's qualifications and the merit of the proposer's ideas. Lead review responsibility for each proposal may be assigned to members most qualified in the involved discipline. It is important that each proposal be considered by the entire subcommittee.

(b) It may not be possible to select a subcommittee fully satisfying all of the conditions described in paragraph (a) of this section. It is the responsibility of the nominating and appointing officials to make trade-offs, where necessary, among the criteria in paragraph (a) of this section. This latitude permits flexibility in making decisions in accord with circumstances of each application. In so doing, however, it is emphasized that recognized expertise in evaluating dissimilar proposals is essential to the continued workability of the investigation acquisition process.

(c) Candidate subcommittee members should be nominated by the office having responsibility for the evaluation. Nominations should be approved in accordance with NMI 1150.2, "Establishment, Operation, and Duration of NASA Advisory Committees." The notification of appointment should specify the duration of assignment on the subcommittee, provisions concerning conflicts of interest, and arrangements regarding honoraria, per diem, and travel when actually employed.

(d) It is important that members of the subcommittee be formally instructed as to their responsibilities with respect to the investigation acquisition process, even where several or all of the members have served previously. This briefing of subcommittee members should include:

(1) Instruction of subcommittee members on agency policies and procedures pertinent to acquisition of investigations.

(2) Review of the program goals, AO objectives, and evaluation criteria, including relative importance, which provide the basis for evaluation.

(3) Instruction on the use of preliminary proposal evaluation data furnished by the Installation Project Office. The subcommittee should examine these data to gain a better understanding of the proposed investigations, any associated problems, and to consider cost in relation to the value of the investigations' objectives.

(4) Definition of responsibility of the subcommittee for evaluation and categorization with respect to scientific and/or technical merit in accordance with the evaluation criteria.

(5) Instruction for documentation of deliberations and categorizations of the subcommittee.

(6) Inform the chairperson of the subcommittee and all members that they should familiarize themselves with the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and the Supplemental Standards of Ethical Conduct for employees of the National Aeronautics and Space Administration, 5 CFR part 6901, regarding conflicts of interest. Members should inform the appointing authority if their participation presents a real or apparent conflict of interest situation. In addition, all participants should inform the selection official in the event they are subjected to pressure or improper contacts.

(7) Inform members that prior to the selection and announcement of the successful investigators and investigations, subcommittee members and NASA personnel shall not reveal any information concerning the evaluation to anyone who is not also participating in the same evaluation proceedings, and then only to the extent that such information is required in connection with such proceedings.

Also, inform members that subsequent to selection of an investigation and announcement of negotiations with the investigator's institution, information concerning the proceedings of the subcommittee and data developed by the subcommittee will be made available to others within NASA only when the requestor demonstrates a need to know for a NASA purpose. Such information will be made available to persons outside NASA including other Government agencies, only when such disclosure is concurred in by the Office of General Counsel. In this connection, reference is made to 18 U.S.C. 1905 which provides criminal sanctions if any officer or employee (including special employees) of the United States

discloses or divulges certain kinds of business confidential and trade secret information unless authorized by law.

(e) The product of an advisory subcommittee is the classification of proposals into four categories. The categories are:

(1) Category I—Well conceived and scientifically and technically sound investigations pertinent to the goals of the program and the AO's objectives and offered by a competent investigator from an institution capable of supplying the necessary support to ensure that any essential flight hardware or other support can be delivered on time and that data can be properly reduced, analyzed, interpreted, and published in a reasonable time. Investigations in Category I are recommended for acceptance and normally will be displaced only by other Category I investigations.

(2) Category II—Well conceived and scientifically or technically sound investigations which are recommended for acceptance, but at a lower priority than Category I.

(3) Category III—Scientifically and technically sound investigations which require further development. Category III investigations may be funded for development and may be reconsidered at a later time for the same or other opportunities.

(4) Category IV—Proposed investigations which are recommended for rejection for the particular opportunity under consideration, whatever the reason.

(f) A record of the deliberations of the subcommittee shall be prepared by the assigned executive secretary and shall be signed by the Chairperson. The minutes shall contain the categorizations with basic rationale for such ratings and the significant strengths and weaknesses of the proposals evaluated.

1872.403-2 Contractor evaluation process.

(a) The use of the contractor method for obtaining support for evaluation purposes of proposals received in response to an AO requires the approval of the Program AA. Prior to the use of this method, discussion should be held with the Office of Acquisition.

(b) It is NASA policy to avoid situations in the acquisition process where, by virtue of the work or services performed for NASA, or as a result of data acquired from NASA or from other entities, a particular company:

(1) Is given an unfair competitive advantage over other companies with respect to future NASA business;

(2) Is placed in position to affect Government actions under

circumstances in which there is potential that the company's judgment may be biased; or

(3) Otherwise finds that a conflict exists between the performance of work or services for the Government in an impartial manner and the company's own self-interest.

(c) To reduce the possibility of an organizational conflict of interest problem arising, the following minimum restrictions will be incorporated into the contract:

(1) No employee of the contractor will be permitted to propose in response to the AO;

(2) The "Limitation on Future Contracting" clause contained in 1852.209-71 and the conditions set forth in 1815.413-2 Alternate II will be included in all such contracts; and

(3) Unless authorized by the NASA contracting officer, the contractor shall not contact the originator of any proposal concerning its contents.

(d) The scope of work for the selected contractor will provide for an identification of strengths and weaknesses and a summary of the proposals. The contractor will not make selections nor recommend investigations.

(e) The steps to be taken in establishing evaluation panels and the responsibilities of NASA and the contractor in relation to the panels will be as follows:

(1) The contractor will be required to establish and provide support to panels of experts for review of proposals to evaluate their scientific and technical merit;

(2) These panels will be composed of scientists and specialists qualified to evaluate the proposals;

(3) The agency may provide to the contractor lists of scientist(s) and specialist(s) in the various disciplines it believes are qualified to serve on the panels;

(4) The contractor will report each panel's membership to NASA for approval; and

(5) The contractor must make all the necessary arrangements with the panel members.

(f) The evaluation support by the contractor's panels of experts will be accomplished as follows:

(1) The panels will review the scientific and technical merit of the proposals in accordance with the evaluation criteria in the AO and will record their strengths and weaknesses;

(2) The contractor will make records of each panel's deliberations which will form the basis for a report summarizing the results of the evaluations. Upon

request, the contractor shall provide all such records to NASA;

(3) The chairperson of each panel shall certify that the evaluation report correctly represents the findings of the review panel; and

(4) A final report will be submitted as provided in the contract.

(g) A subcommittee of the Program Office Steering Committee will be established on an ad hoc basis. Utilizing furnished data, the subcommittee will classify the proposals into the four categories enumerated in 1872.403-1(e)(1), Advisory Subcommittee Evaluation Process. A record of the deliberations of the subcommittee should be prepared by an assigned executive secretary and signed by the chairperson. The minutes should contain the categorizations with the basic rationale for such ratings and the significant strengths and weaknesses of the proposals evaluated.

1872.403-3 Government evaluation process.

(a) The Program AA may, in accordance with NMI 1150.2, appoint one or more full-time Government employees as subcommittee members of the Program Office Steering Committee to evaluate and categorize the proposals.

(b) Each subcommittee member should be qualified and competent to evaluate the proposals in accordance with the AO evaluation criteria. It is important that a subcommittee's evaluation not be influenced by others either within or outside of NASA.

(c) The subcommittee members will not contact the proposers for additional information.

(d) The subcommittee members will classify the proposals in accordance with the four categories indicated in 1872.403-1(e)(1). Each categorization will be supported by an appropriate rationale including a narrative of each proposal's strengths and weaknesses.

1872.404 Engineering, integration, and management evaluation.

(a) The subcommittee responsible for categorization of each proposal in terms of its scientific applications, or technical merit should receive information on probable cost, technical status, developmental risk, integration and safety problems, and management arrangements in time for their deliberations.

(b) This information should be provided at the discretion of the Headquarters Program Office by the Project Office at the installation. This information can be in general terms and should reflect what insights the Project Office can provide without requesting

additional details from the proposers. This limited Project Office review will not normally give the subcommittees information of significant precision. The purpose is to give the subcommittee sufficient information so it can review the proposals in conjunction with available cost, integration, and management considerations to gain an impression of each investigator's understanding of the problems of the experiment and to permit gross trade-offs of cost versus value of the investigation objective.

(c) Following categorization, the Project Office shall evaluate proposals in contention, in depth, including a thorough review of each proposal's engineering, integration, management, and cost aspects. This review should be accomplished by qualified engineering, cost, and business analysts at the project center.

(d) In assessing proposed costs, the evaluation must consider:

(1) The investigation objective.

(2) Comparable, similar or related investigations.

(3) Whether NASA or the investigator should procure the necessary supporting instrumentation or services and the relative cost of each mode.

(4) Total overall or probable costs to the Government including integration and data reduction and analysis. In the case of investigations proposed by Government investigators, this includes all associated direct and indirect cost. With respect to cooperative investigations, integration, and other applicable costs should be considered.

(e) The Project Office, as part of the in-depth evaluation of proposals that require instrumentation or support equipment, will survey all potential sources for Government-owned instrumentation or support equipment that may be made available, with or without modifications, to the potential investigator. Such items contributed by foreign cooperating groups which are still available under cooperative project agreements will also be considered for use under the terms and conditions specified in the agreements. As part of the evaluation report to the Program Office, the availability or nonavailability of instrumentation or support equipment will be indicated.

(f) Proposals which require instrumentation should be evaluated by project personnel. This evaluation should cover the inter-faces and the assessment of development risks. This evaluation should furnish the selection official with sufficient data to contribute to the instrument determinations. Important among these are:

(1) Whether the instrument requires further definition;

(2) Whether studies and designs are necessary to provide a reasonably accurate appreciation of the cost;

(3) Whether the investigation can be carried out without incurring undue cost, schedule, or risk of failure penalties; and

(4) Whether integration of the instrument is feasible.

(g) In reviewing an investigator's management plan, the Project Office should evaluate the investigator's approach for efficiently managing the work, the recognition of essential management functions, and the effective overall integration of these functions. Evaluation of the proposals under final consideration should include, but not be limited to: workload—present and future related to capacity and capability; past experience; management approach and organization; e.g.:

(1) With respect to workload and its relationship to capacity and capability, it is important to ascertain the extent to which the investigator is capable of providing facilities and personnel skills necessary to perform the required effort on a timely basis. This review should reveal the need for additional facilities or people, and provide some indication of the Government support the investigator will require.

(2) A review should be made of the investigator, the investigator's institution, and any supporting contractor's performance on prior investigations. This should assist in arriving at an assessment of the investigator and the institution's ability to perform the effort within the proposed cost and time constraints.

(3) The proposed investigator's management arrangements should be reviewed, including make or buy choices, support of any co-investigator, and preselected subcontractors or other instrument fabricators to determine whether such arrangements are justified. The review should determine if the proposed management arrangements enhance the investigator's ability to devote more time to the proposed experiment objectives and still effectively employ the technical and administrative support required for a successful investigation. In making these evaluations, the Project Office should draw on the installation's engineering, business, legal, and other staff resources, as necessary, as well as its scientific resources. If further information is needed from the proposers, it should be obtained through the proper contacts.

1872.405 Program office evaluation.

(a) A Program Office responsible for the project or program at Headquarters will receive the evaluation of the proposals, and weigh the evaluative data to determine an optimum payload or program of investigation. This determination will involve recommendations concerning individual investigations; but, more importantly, should result in a payload or program which is judged to optimize total mission return within schedule, engineering, and budgetary constraints. The recommendations should facilitate sound selection decisions by the Program AA. Three sets of recommendations result from the Program Office evaluation:

(1) Optimum payload or program of investigations, or options for alternative payloads or programs.

(2) Recommendation for final or tentative selection based on a determination of the degree of uncertainty associated with individual investigations. A tentative selection may be considered step one of a two-step selection technique.

(3) Upon consideration of the guidelines contained in 1872.502(a)(3), recommending responsibility for instrument development.

(b) The Installation Project Office evaluation is principally concerned with ensuring that the proposed investigation can be managed, developed, integrated, and executed with an appropriate probability of technical success within the estimated probable cost. The Headquarters Program Director, drawing upon these inputs, should be mainly concerned with determining a payload or program from the point of view of programmatic goals and budgetary constraints. Discipline and cost trade-offs are considered at this level. The Headquarters Program Office should focus on the potential contribution to program objectives that can be achieved under alternative feasible payload integration options.

(c) It may be to NASA's advantage to consider certain investigations for tentative selection pending resolution of uncertainties in their development. Tentative selections should be reconsidered after a period of time for final selection in a payload or program of investigations. This two-step selection process should be considered when:

(1) The potential return from the investigation is sufficient, relative to that of the other investigations under consideration, and that its further development appears to be warranted before final selection.

(2) The investigation potential is of such high priority to the program that the investigation should be developed for flight if at all possible.

(3) The investigative area is critical to the program and competitive approaches need to be developed further to allow selection of the optimum course.

(d) Based on evaluation of these considerations associated with the investigations requiring further development of hardware, the following information should be provided to the Steering Committee and the Program AA responsible for selection:

(1) The expected gain in potential return associated with the eventual incorporation of tentatively recommended investigations in the payload(s) or program.

(2) The expected costs required to develop instrumentation to the point of "demonstrated capability."

(3) The risk involved in added cost, probability of successfully developing the required instrument capability, and the possibility of schedule impact.

(4) Identification of opportunities, if any, for inclusion of such investigations in later missions.

(e) In those cases where investigations are tentatively selected, an explicit statement should be made of the process to be followed in determining the final payload or program of investigations and the proposers so informed. The two-phase selection approach provides the opportunity for additional assurance of development potential and probable cost prior to a final commitment to the investigation.

(f) As instruments used in investigations become increasingly complex and costly, the need for greater control of their development by the responsible Headquarters Program Office also grows. Accordingly, as an integral part of the evaluation process, a deliberate decision should be made regarding the role of the Principal Investigator with respect to the provision of the major hardware associated with that person's investigation. The guidelines for the hardware acquisition determination are discussed in 1872.502(a)(3).

(g) The range of options for responsibility for the instrumentation consists of:

(1) Assignment of full responsibility to the Principal Investigator. The responsibility includes all in-house or contracted activity to provide the instrumentation for integration.

(2) Retention of developmental responsibility by the Government with participation by the Principal Investigator in key events defined for

the program. In all cases the right of the Principal Investigator to counsel and recommend is paramount. Such involvement of the Principal Investigator may include:

(i) Provision of instrument specifications.

(ii) Approval of specifications.

(iii) Independent monitorship of the development and advice to the Government on optimization of the instrumentation for the investigation.

(iv) Participation in design reviews and other appropriate reviews.

(v) Review and concurrence in changes resulting from design reviews.

(vi) Participation in configuration control board actions.

(vii) Advice in definition of test program.

(viii) Review and approval of test program and changes thereto.

(ix) Participation in conduct of the test program.

(x) Participation in calibration of instrument.

(xi) Participation in final inspection and acceptance of the instrument.

(xii) Participation in subsequent test and evaluation processes incident to integration and flight preparation.

(xiii) Participation in the development and support of the operations plan.

(xiv) Analysis and interpretation of data.

(h) The Principal Investigator should as a minimum:

(1) Approve the instrument specification.

(2) Advise the project manager in development and fabrication.

(3) Participate in final calibration.

(4) Develop and support the operations plan.

(5) Analyze and interpret the data.

(i) The Project Installation is responsible for implementing the program or project and should make recommendations concerning the role for the Principal Investigators. The Program AA will determine the role, acting upon the advice of the Headquarters Program Office and the Steering Committee. The Principal Investigator's desires will be respected in the negotiation of the person's role allowing an appeal to the Program AA and the right to withdraw from participation.

(j) The Program Office should make a presentation to the Steering Committee with supporting documentation on the decisions to be made by the responsible Program AA.

1872.406 Steering committee review.

(a) The most important role of the Steering Committee is to provide a substantive review of a potential

payload or program of investigations and to recommend a selection to the Program AA. The Steering Committee applies the collective experience of representatives from the program and discipline communities and offers a forum for discussing the selection from those points of view. In addition to this mission-specific evaluation function, the Steering Committee provides guidance to subcommittee chairpersons and serves as a clearinghouse for problems and complaints regarding the process. The Steering Committee is responsible for assuring adherence to required procedures. Lastly, it is the forum where discipline objectives are weighed against program objectives and constraints.

(b) The Steering Committee represents the means for exercising three responsibilities in the process of selecting investigations to:

(1) Review compliance with procedures governing application of the AO process.

(2) Ensure that adequate documentation has been made of the steps in the evaluation process.

(3) Review the results of the evaluation by the subcommittee, Project, and Program Offices and prepare an assessment or endorsement of a recommended payload or program of investigations to the Program AA.

(c) The Purpose in exercising the first of the responsibilities in paragraph (b) of this section is to ensure equity and consistency in the application of the process. The Steering Committee is

intended to provide the necessary reviews and coordination inherent in conventional acquisition practices.

(d) The second and third responsibilities of the Steering Committee in paragraph (b) are technical. They require that the Steering Committee review the evaluations by subcommittee, the Project Office, and the Program Office for completeness and appropriateness before forwarding to the Program AA. Most important in this review are:

(1) Degree to which results of evaluations and recommendations follow logically from the criteria in the AO.

(2) Consistency with objectives and policies generally beyond the scope of Project/Program Offices.

(3) Sufficiency of reasons stated for tentative recommendations of those investigations requiring further instrument research and development.

(4) Sufficiency of reasons stated for determining responsibilities for instrument development.

(5) Sufficiency of consideration of reusable space flight hardware and support equipment for the recommended investigations.

(6) Sufficiency of reasons for classifying proposed investigations in their respective categories.

(7) Fair treatment of all proposals.

(e) The Steering Committee makes recommendations to the selection official on the payload or program of investigations and notes caveats or

provisions important for consideration of the selection official.

1872.407 Principles to apply.

(a) 1872.406 contains a description of the evaluation function appropriate for a major payload or very significant program of investigation. The levels of review, evaluation, and refinement described should be applied in those selections where warranted but could be varied for less significant selection situations. It is essential to consider the principles of the several evaluative steps, but it may not be essential to consider the principles of the several evaluative steps, but it may not be essential to maintain strict adherence to the sequence and structure of the evaluation system described. The selection official is responsible for determining the evaluation process most appropriate for the selection situation using this subpart 1872.4 as a guide.

(b) Significant deviations from the provisions of this part 1872 must be fully documented and be approved by the Program AA after concurrence by the Office of General Counsel and Office of Acquisition.

Subpart 1872.5—The Selection Process

1872.501 General.

The Program AA is responsible for selecting investigations for contract negotiation. This decision culminates the evaluations and processes that can be summarized as follows:

Evaluation stage	Principal emphasis	Results
Contractor (when authorized).	Summary evaluation (strengths and weaknesses)	Report to Subcommittee.
Subcommittee individual	Science and technological relevance, value, and feasibility	Categorization of proposals.
Project Office	Engineering/cost/integration/management assessment	Reports to Subcommittee and Program Office.
Program Office	Consistency with Announcement and program objectives, and cost and schedule constraints.	Recommendations to Steering Committee of payload or program of investigations.
Steering Committee	Logic of proposed selections and compliance with proper procedures	Recommendations to Program Associate Administrator.

1872.502 Decisions to be made.

(a) The selection decisions by the Program AA constitute management judgments balancing individual and aggregate scientific or technological merit, the contribution of the recommended investigations to the AO's objectives, and their consonance with budget constraints to make the following decisions:

(1) Determination of the adequacy of scientific/technical analysis supporting the recommended selections. This

supporting rationale should involve considerations including:

(i) Assurance that the expected return contributes substantially to program objectives and is likely to be realized.

(ii) Assurance that the evaluation criteria were applied consistently to all proposed investigations.

(iii) Assurance that the set of recommended investigations constitutes the optimum program or payload considering potential value and constraints.

(iv) Assurance that only one investigator is assigned as the Principal

Investigator to each investigation and that the Principal Investigator will assume the associated responsibilities and be the single point of contact and leader of any other investigators selected for the same investigation.

(2) Determination as to whether available returned space hardware or support equipment, with or without modification, would be adequate to meet or support investigation objectives.

(3) Determination as to whether the proposed instrument fabricator qualifies and should be accepted as a sole source

or whether the requirement should be competitively procured. The following guidelines apply:

(i) The hardware required should be subjected to competitive solicitation where it is clear that the capability is not sufficiently unique to justify sole source acquisition.

(ii) The hardware requirement should be purchased from the fabricator proposed by the investigator, which may be the investigator's own institution.

(A) When the fabricator's proposal contains technical data that are not available from another source, and it is not feasible or practicable to define the fabrication requirement in such a way as to avoid the necessity of using the technical data contained in the proposal:

(B) When the fabricator offers unique capabilities that are not available from another source;

(C) When the selection official determines that the proposed hardware contributes so significantly to the value of the investigator's proposal as to be an integral part of it.

(iii) If a producer other than the one proposed by the investigator offers unique capabilities to produce the hardware requirement, NASA may buy the hardware from the qualified fabricator.

(iv) If a NASA employee submits a proposal as a principal investigator, any requirement for hardware necessary to perform the investigation must either be competed by the installation acquisition office or a justification must be written, synopsized, and approved in accordance with the requirements of FAR and the NASA FAR Supplement.

(4) Determination of the desirability for tentative selection of investigations. This determination involves considerations including:

(i) Assessment of the state of development of the investigative hardware, the cost and schedule for development in relation to the gain in potential benefits at the time of final selection.

(ii) Assurance that there is adequate definition of investigation hardware to allow parallel design of other project hardware.

(iii) Assurance that appropriate management procedures are contained in the project plan for reevaluation and final selection (or rejection) on an appropriate time scale.

(5) Determination of the acceptability of the proposer's management plan, including the proposed hardware development plan, and the necessity, if any, of negotiating modifications to that plan.

(b) In the process of making the determinations described in paragraph (a) (1) of this section, the Program AA may request additional information or evaluations. In most instances, this information can be provided by the Program Office responsible for the mission, project, or program. However, the Program AA may reconvene the subcommittee or poll the members individually or provide for additional analysis or require additional data from evaluators or proposers as considered necessary to facilitate the Program AA's decision.

1872.503 The selection statement.

Upon completion of deliberations, the responsible Program AA shall issue a selection statement. Ordinarily this statement will, upon request, be releasable to the public. As a minimum, the selection statement should include:

(a) The general and specific evaluation criteria and relative importance used for the selection.

(b) The categorizations provided by the subcommittee and the rationale for accepting or not accepting each Category I proposal and a succinct statement concerning the nonacceptance of all other proposals.

(c) A concise description of each investigation accepted including an indication as to whether the selection is a partial acceptance of a proposal and/or a combination with other investigators.

(d) The role of the Principal Investigator with regard to hardware essential to the investigation and whether the Principal Investigator will be responsible for hardware acquisition and the basis therefor.

(e) An indication of the plan and acquisition using the regular acquisition processes, if the Principal Investigator is not to acquire the hardware.

(f) A statement indicating whether the selection is final or tentative, recognizing the need for better definition of the investigation and its cost.

(g) A statement indicating use of Government-owned space flight hardware and/or support equipment.

1872.504 Notification of proposers.

(a) It is essential that investigators whose proposals have no reasonable chance for selection be so apprised as soon as practicable. The responsible Program Office will, upon such determination, notify investigators of that fact with the major reason(s) why the proposals were so considered. The notification letter should also inform such investigators that they may obtain

a detailed oral debriefing provided they request it in writing.

(b) Letters of notification will be sent to those Principal Investigators selected to participate. This letter should not commit the agency to more than negotiations for the selected investigation, but it should indicate the decision made and contain:

(1) A concise description of the Principal Investigator's investigation as selected, noting substantive changes, if any, from the investigation originally proposed by the Principal Investigator.

(2) The nature of the selection, i.e., whether it should be considered final or tentative requiring additional hardware or cost definition.

(3) A description of the role of the Principal Investigator including the responsibility for the provision of instruments for flight experiments.

(3) Identification of the principal technical and management points to be treated in subsequent negotiations.

(5) Any rights to be granted on use of data, publishing of data, and duration of use of the data.

(6) Where applicable, indication that a foreign selectee's participation in the program will be arranged between the International Affairs Division, Office of External Relations, and the foreign government agency which endorsed the proposal.

(c) In conjunction with the notification of successful foreign proposers, the Program Office shall forward a letter to the responsible International Affairs Division, Office of External Relations, addressing the following:

(1) The scientific technological objective of the effort.

(2) The period of time for the effort.

(3) The responsibilities of NASA and of the sponsoring governmental agency; these may include:

(i) Provision and disposition of hardware and software.

(ii) Responsibilities for reporting, reduction and dissemination of data.

(iii) Responsibilities for transportation of hardware.

(4) Any additional information pertinent to the conduct of the experiment.

(d) Using the information provided above, the International Affairs Division, Office of External Relations will negotiate an agreement with the sponsoring foreign agency.

(e) Notices shall also be sent to those proposers not notified pursuant to paragraphs (a) through (d) of this section, and, as applicable, a copy to the sponsoring foreign government agency. It is important that these remaining proposers be informed at the same time

as those selected. Other agency notifications and press release procedures will apply, as appropriate.

1872.505 Debriefing.

It is the policy to debrief, if requested, unsuccessful proposers of investigations in accordance with FAR 15.1004. The following shall be considered in arranging and conducting debriefings:

(a) Debriefing shall be done by an official designated by the responsible Program AA. Any other personnel receiving requests for information concerning the rejection of a proposal shall refer to the designated official.

(b) Debriefing of unsuccessful offerors shall be made at the earliest possible time; debriefing will generally be scheduled subsequent to selection but prior to award of contracts to the successful proposers.

(c) Material discussed in debriefing shall be factual and consonant with the documented findings of several stages of the evaluation process and the selection statement.

(d) The debriefing official shall advise of weak or deficient areas in the proposal, indicate whether those weaknesses were factors in the selection, and advise of the major considerations in selecting the competing successful proposer where appropriate.

(e) The debriefing official shall not discuss other unsuccessful proposals, rankings, votes of members, or attempt to make a point-by-point comparison with successful proposals.

(f) A memorandum of record of the debriefing shall be provided the Chairperson of the Steering Committee.

Subpart 1872.6—Payload Formulation

1872.601 Payroll formulation.

(a) Payload elements for Space Transportation System (STS) missions can come from many sources. These include those selected through AOs, those generated by in-house research, unsolicited proposals and those derived from agreements between NASA and external entities. However, it is anticipated that the primary source of NASA payload elements will be the AO process. Generally, proposals for payload elements submitted outside the AO process will not be selected if they would have been responsive to an AO objective.

(b) Payload elements for STS flights fall into two major categories. "NASA or NASA-related" payload elements are those which are developed by a NASA Program Office or by another party with which NASA has a shared interest. "Non-NASA" payload elements are

those which require only STS operation services from NASA and interface with NASA through the Office of Space Flight.

(c) In general, a Program Office will be designated responsibility for formulating the "NASA or NASA-related" portion of an STS payload. The Office of Space Flight will be responsible for formulating the "non-NASA" portion of an STS payload. Flights may, of course, consist wholly of payload elements of either type. Resource allocation for mixed missions will be determined by the Program Office and the Office of Space Flight.

Subpart 1872.7—Acquisition and Other Considerations

1872.701 Early involvement essential.

(a) The distinctive feature of the AO process is that it is both a program planning system and an acquisition system in one procedure. The choice of what aeronautical and space phenomena to investigate is program planning. Acquisition is involved with the purchase of property and services to carry out the selected investigations.

(b) Because of both the programmatic and multi-functional aspects of the AO process, early involvement of external program office elements is essential. Success of the process requires that it proceed in a manner that meets program goals and complies with statutory requirements and acquisition policy.

(c) The planning, preparation and selection schedule for the investigation should commence early enough to meet statutory and regulatory requirements. Chief of these are the requirements for soliciting maximum feasible competition and for conducting discussions with offerors within the competitive range by the Project Office and/or any other evaluation group or office authorized by the selection official.

1872.702 Negotiation, discussions, and contract award.

(a) The AO shall be synopsisized in the Commerce Business Daily. Responses to the synopsis must be added to the AO mailing list. Every effort should be made to publish opportunities far enough in advance to encourage a broad response. (In no case less than 45 days before the date set for receipt of proposals).

(b) Significant items for consideration after receipt of proposals:

(1) Late proposals—The policy on late proposals contained in 1815.412 is applicable. Potential investigators should be informed of this policy. In the AO context, the selection official or designee will determine whether a late proposal will be considered.

(2) Competitive considerations. (i) The proposals submitted in response to the AOs are not necessarily fully comparable. However, all proposals within the scope of an opportunity must be evaluated in accordance with the criteria in the AO.

(ii) Cost must be considered in the evaluation if costs are involved in the investigation. General cost information should be given to the subcommittee by the Installation Project Office for use in determining the categories into which the subcommittee places proposals.

(iii) Further information should be obtained, as necessary, by the Installation Project Office and/or any other evaluation group authorized by the selection official and from the investigators whose proposals are being considered. This is similar to the acquisition procedure for conducting written and oral discussions. A major consideration during discussions is to avoid unfairness and unequal treatment. Good judgment is required by in the extent and content of the discussions. There should be no reluctance in obtaining the advice and guidance of management and staff offices during the discussion phase. A summary should be prepared of the primary points covered in the written and oral discussions and show the effect of the discussions on the evaluation of proposals. This summary should also contain general information about the questions submitted to the investigators, the amount of time spent in oral discussion, and revisions in proposals, if any, resulting from the discussions.

(iv) During the conduct of discussions, all proposers being considered shall be offered an equitable opportunity to submit cost, technical, or other revisions in their proposals as may result from the discussions. All proposers shall be informed that any revisions to their proposals must be submitted by a common cut-off date in order to be considered. The record should note compliance of the investigators with that cut-off date.

(c) Significant items for consideration before award:

(1) Issuance of a Request for Proposal (RFP)—A formal RFP should not be issued to obtain additional information on proposals accepted under the AO process. Additional technical, cost, or other data received should be considered as a supplement to the original proposal.

(2) Selection of Investigator/Contractor—The selection decision of the Program AA approves the selected investigators and their institutions as the only satisfactory sources for the investigations. The selection of the

investigator does not constitute the selection of that person's proposed supporting hardware fabricator unless the selection official specifically incorporates the fabricator in the selection decision.

1872.703 Application of the Federal Acquisition Regulation (FAR) and the NASA FAR Supplement.

The AO process supplants normal acquisition procedures only to the extent necessary to meet the distinctive features of the process. This process is not intended to conflict with any established statutory requirements.

1872.704 Other administrative and functional requirements.

After selection, all other applicable administrative and functional requirements will be complied with or incorporated in any resultant contract.

1872.705 Format of Announcement of Opportunity (AO).

Use the following format instructions when drafting AOs:

OMB Approval Number 2700-0085

National Aeronautics and Space Administration

Washington, DC 20546

Announcement of Opportunity

AO No. _____ (Issuance Date)

(Descriptive Heading)

I. Description of the Opportunity

This section should set forth the basic purpose of the AO and describe the opportunity in terms of NASA's desire to obtain proposals which will meet the stated scientific, applications and/or technological objectives. These objectives may be directed to the generation of proposals for investigations and/or they may pertain to the acquisition of dissimilar ideas leading to selection of investigators, guest observers, guest investigators, or theorists. In those instances where proposals for investigations are sought, this section should describe the requirement, if any, for selected investigators to serve on advisory or working groups. In those instances where the project or program has not yet been approved, a qualifying statement should be included to indicate that this AO does not constitute an obligation for the Government to carry the effort to completion.

II. AO Objectives

This section will give a succinct statement of the specific scientific, applications, and/or technological objective(s) for the opportunity(s) for which proposals are sought.

III. Background

This section should provide an explanation of the context of the opportunity, i.e., information which will help the reader understand the relevance of the opportunity.

IV. Proposal Opportunity Period

This section should provide the proposal opportunity period(s). The following methods may be used individually or in conjunction for establishing the proposal opportunity period(s):

(a) The AO may be issued establishing a single date by which proposals may be received. However, the AO could provide that the agency may amend the AO to provide for subsequent dates for submission of proposals, if additional investigations are desired.

(b) The AO may be issued to provide for an initial submission date with the AO to remain open for submission of additional proposals up to a final cutoff date. This final date should be related to the availability of resources necessary to evaluate the continuous flow of proposals and the time remaining prior to the flight opportunities contemplated by the AO.

(c) The AO may be issued establishing a number of dates by which proposals may be received. Normally no more than three proposal submission dates should be established. The submittal dates may be spread over the number of months most compatible with the possible flight opportunities and the availability of resources necessary to evaluate and fund the proposal. If desired, this section should further inform the reader that if a proposal receives a Category I, II, or III rating but is not selected for immediate support, the proposal may, if desired by the proposer, be held by NASA for later consideration within the ground rules set forth in paragraphs 1 and 2. The section should inform the reader that if the person wishes the proposal to be so treated, it should be indicated in the proposal. This section should further indicate that offerors whose proposals are to be considered at a later time will be given the opportunity to revalidate their proposals with their institution and update cost data.

V. Requirements and Constraints

(a) This section will include technical, programmatic, cost, and schedule requirements or constraints, as applicable, and will specify performance limits such as lifetime, flight environment, safety, reliability, and quality assurance provisions for flight-worthiness. It will specify the requirements and constraints related to the flight crew and the ground support. It will also include requirements for data analysis, estimated schedule of data shipment to user for observer, need for preliminary or raw data analysis and interim reports. It will specify the planned period (time) for data analysis to be used for budgeting. It will provide any additional information necessary for a meaningful proposal.

(b) When NASA determines that instrumentation, ground support equipment, or NASA supporting effort will be required or may be expected to be required by the contemplated investigations, the AO should indicate to the potential investigators that they must submit specific information regarding this requirement to allow an in-depth evaluation of the technical aspects, cost, management, and other factors by the Installation Project Office.

VI. Proposal Submission Information

(a) Preproposal Activities—In this section, the AO will indicate requirements and activities such as the following:

(1) Submittal of "Notice of Intent" to propose (if desired), date for submission, and any additional required data to be submitted. Indicate whether there are information packages which will only be sent to those who submit "Notice of Intent."

(2) Attendance at the preproposal conference (if held). Information should be provided as to time, place, whether attendance will be restricted in number from each institution, and whether prior notice of intention to attend is required. If desired, a request may be included that questions be submitted in writing several days before the conference in order to prepare replies.

(3) The name and address of the scientific or technical contact for questions or inquiries.

(4) Any other preproposal data considered necessary.

(b) Format of Proposals—This section should provide the investigator with the information necessary to enable an effective evaluation of the proposal. The information is as follows:

(1) Proposal—The AO should indicate how the proposal should be submitted to facilitate evaluation. The proposal should be submitted in at least two sections: (i) Investigation and Technical Section; and (ii) Management and Cost Section.

(2) Signatory—The proposal must be signed by an institutional official authorized to ensure institutional support, sponsorship of the investigation, management, and financial aspects of the proposal.

(3) Quantity—The number of copies of the proposal should be specified. One copy should be clear black and white, and on white paper of quality suitable for reproduction.

(4) Submittal Address—Proposals from domestic sources should be mailed to arrive not later than the time indicated for receipt of proposals to:

National Aeronautics and Space Administration, Office of (Program)

Code _____

AO No. _____

Washington, DC 20546

(5) Format—To aid in proposal evaluation, and to facilitate comparative analysis, a uniform proposal format will be required for each AO. The number of pages, page size, and restriction on photo reduction, etc., may be included. The format contained in Appendix C can be used as a guide. Proposers may be requested to respond to all of the items or the AO may indicate that only selected items need be addressed. Using the Appendix format as a guide, specific guidelines may be prepared for the AO or an appropriate form developed.

(c) Additional Information—This section may be used to request or furnish data necessary to obtain clear proposals that should not require further discussions with the proposer by the evaluators. Other pertinent data could also be included, such as significant milestones.

(d) Foreign Proposals—The procedures for submission of proposals from outside the U.S. are contained in Appendix B, "General Instructions and Provisions." This section will describe any additional requirements, for example, if information copies of proposals are required to be furnished by the proposer to other organizations at the same time the proposal is submitted.

(e) Cost Proposals (U.S. Investigators Only)—This section defines any special requirements regarding cost proposals of domestic investigators. Reference than should be made to the cost proposal certifications indicated in Appendix B, "General Instructions and Provisions."

VII. Proposal Evaluation, Selection, and Implementation

(a) Evaluation and Selection Procedure.

(1) This section should notify the proposers of the evaluation process.

(2) For example, a statement similar to the following should be included:

"Proposals received in response to this AO will be reviewed by a subcommittee appointed by the (appropriate Program AA). The purpose of the review is to determine the scientific/technical merit of the proposals in the context of this AO and so categorize the proposals. Those proposals with are considered to have the greatest scientific/technical merit are further reviewed for engineering, integration, management, and cost aspects by the Project Office at the installation responsible for the project. On the basis of these reviews, and the reviews of the responsible Program Office and the Steering Committee, the (appropriate Program Associate Administrator) will appoint/select the investigators/ investigations."

(b) Evaluation Criteria.

(1) This section should indicate that the selection proposals which best meet the specific scientific, applications, and/or technological objectives, stated in the AO, is the aim of the solicitation. This section should list the criteria to be used in the evaluation of proposals and indicate their relative importance. See NASA FAR Supplement 1872.402 for a listing of criteria generally appropriate.

(2) This section will also inform the proposers that cost and management factors, e.g., proposed small business participation in instrumentation fabrication or investigation support, will be separately considered.

VIII. Schedule

This section should include the following, as applicable:

- (a) Preproposal conference date.
- (b) Notice of Intent submittal date.
- (c) Proposal submittal date(s).
- (d) Target date for announcement of selections.

IX. Appendices

(a) General Instructions and Provisions (must be attached to each AO).

(b) Other Pertinent Data, e.g., Spacelab Accommodations Data.

/s/ Associate Administrator
for (Program)

1872.705-1 Appendix A: General Instructions and Provisions

Include the following in all Announcements of Opportunity:

I. Instrumentation and/or Ground Equipment

By submitting a proposal, the investigator and institution agree that NASA has the option to accept all or part of the offeror's plan to provide the instrumentation or ground support equipment required for the investigation or NASA may furnish or obtain such instrumentation or equipment from any other source as determined by the selecting official. In addition, NASA reserves the right to require use, by the selected investigator, of Government instrumentation or property that becomes available, with or without modification, that will meet the investigative objectives.

II. Tentative Selections, Phased Development, Partial Selections, and Participation With Others

By submitting a proposal, the investigator and the organization agree that NASA has the option to make a tentative selection pending a successful feasibility or definition effort. NASA has the option to contract in phases for a proposed experiment, and to discontinue the investigative effort at the completion of any phase. The investigator should also understand that NASA may desire to select only a portion of the proposed investigation and/or that NASA may desire the individual's participation with other investigators in a joint investigation, in which case the investigator will be given the opportunity to accept or decline such partial acceptance or participation with other investigators prior to a selection. Where participation with other investigators as a team is agreed to, one of the team members will normally be designated as its team leader or contact point.

III. Selection Without Discussion

The Government reserves the right to reject any or all proposals received in response to this AO when such action shall be considered in the best interest of the Government. Notice is also given of the possibility that any selection may be made without discussion (other than discussions conducted for the purpose of minor clarification). It is therefore emphasized that all proposals should be submitted initially on the most favorable terms that the offeror can submit.

IV. Foreign Proposals

See Appendix B, Management Plan and Cost Plan, paragraph (a)(3).

V. Treatment of Proposal Data

It is NASA policy to use information contained in proposals and quotations for evaluation purposes only. While this policy does not require that the proposal or quotation bear a restrictive notice, offerors or quoters should place the following notice on the title page of the proposal or quotation and specify the information, subject to the notice by inserting appropriate identification, such as page numbers, in the notice. Information

(data) contained in proposals and quotations will be protected to the extent permitted by law, but NASA assumes no liability for use and disclosure of information not made subject to the notice. To prevent inadvertent disclosure, proposal data shall not be included in submissions (e.g. final reports) that are routinely released to the public.

Restriction on Use and Disclosure of Proposal and Quotation Information (Data)

The information (data) contained in [insert page numbers or other identification] of this proposal or quotation constitutes a trade secret and/or information that is commercial or financial and confidential or privileged. It is furnished to the Government in confidence with the understanding that it will not, without permission of the offeror, be used or disclosed for other than evaluation purposes; provided, however, that in the event a contract is awarded on the basis of this proposal or quotation the Government shall have the right to use and disclose this information (data) to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose this information (data) if obtained from another source without restriction.

VI. Status of Cost Proposals (U.S. Proposals Only)

The investigator's institution agrees that the cost proposal is for proposal evaluation and selection purposes, and that following selection and during negotiations leading to a definitive contract, the institution may be required to resubmit cost information in accordance with FAR 15.8.

VII. Late Proposals

The Government reserves the right to consider proposals or modifications thereof received after the date indicated, should such action be in the interest of the Government.

VIII. Source of Space Transportation System Investigations

Investigators are advised that candidate investigations for Space Transportation System (STS) missions can come from many sources.

IX. Disclosure of Proposals Outside Government

NASA may find it necessary to obtain proposal evaluation assistance outside the Government. Where NASA determines it is necessary to disclose a proposal outside the Government for evaluation purposes, arrangements will be made with the evaluator for appropriate handling of the proposal information. Therefore, by submitting a proposal the investigator and institution agree that NASA may have the proposal evaluated outside the Government. If the investigator or institution desire to preclude NASA from using an outside evaluation, the investigator or institution should so indicate on the cover. However, notice is given that if NASA is precluded from using outside evaluation, it may be unable to consider the proposal.

X. Equal Opportunity (U.S. Proposals Only)

By submitting a proposal, the investigator and institution agree to accept the following clause in any resulting contract:

Equal Opportunity

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding the notice to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(h) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(i) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, the contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and

remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(j) The Contractor shall include the terms and conditions of subparagraph 1 through 9 of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(k) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for non-compliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

XI. Patent Rights

(a) For any contract resulting from this solicitation awarded to other than a small business firm or nonprofit organization, the clause at 1852.227-70, "New Technology," shall apply. Such contractor may, in advance of contract, request waiver of rights as set forth in the provision at 1852.227-71, "Request for Waiver of Rights to Inventions."

(b) For any contract resulting from this solicitation awarded to a small business firm or nonprofit organization, the clause at FAR 52.227-11, "Patent Rights—Retention by the Contractor (Short Form)" (as modified by 1852.227-11), shall apply.

1872.705-2 Appendix B: Guidelines for Proposal Preparation

The following guidelines apply to the preparation of proposals in response to an AO. The material is a guide for the proposer and not intended to be encompassing or directly applicable to the various types of proposals which can be submitted. The proposer should provide information relative to those items applicable or as required by the AO.

I. Cover Letter

A letter or cover page should be forwarded with the proposal signed by the investigator and an official by title of the investigator's organization who is authorized to commit the organization responsible for the proposal.

II. Table of Contents

The proposal should contain a table of contents.

III. Identifying Information

The proposal should contain a short descriptive title for the investigation, the names of all investigators, the name of the organization or institution and the full name, address, and telephone number of the Principal Investigator.

Investigation and Technical Plan**(a) Investigation and Technical Plan**

The investigation and technical plan generally will contain the following:

(1) Summary. A concise statement about the investigation, its conduct, and the anticipated results.

(2) Objective and Significant Aspects. A brief definition of the objectives, their value, and their relationships to past, current, and future effort. The history and basis for the proposal and a demonstration of the need for such an investigation. A statement of present development in the discipline field.

(3) Investigation Approach.

(i) Fully describe the concept of the investigation.

(ii) Detail the method and procedure for carrying out the investigation.

(b) Instrumentation

This section should describe all information necessary to plan for experiment development, integration, ground operations, and flight operations. This section must be complete in itself without need to request additional data. Failure to furnish complete data may preclude evaluation of the proposal.

(1) Instrument Description—This section should fully describe the instrument and indicate items which are proposed to be developed as well as any existing instrumentation. Performance characteristics should be related to the experiment objectives as stated in the proposal.

(2) Instrument Integration—This section should describe all parameters of the instrument pertinent to the accommodation of the instrument in the spacecraft, Spacelab, Shuttle Orbiter, Space Station, etc. These include, but are not limited to, volumetric envelope; weight; power requirements; thermal requirements; telemetry requirement; sensitivity to or generation of contamination (e.g., EMI gaseous effluent); data processing requirements.

(3) Ground Operations—This section should identify requirements for pre-launch or post-launch ground operations support.

(4) Flight Operations—This section should identify any requirements for flight operations support including mission planning. Operational constraints, viewing requirements, and pointing requirements should also be identified. Details of communications needs, tracking needs, and special techniques, such as extravehicular activity or restrictions in the use of control thrusters at stated times should be delineated. Special communications facilities that are needed must be described. Any special orbital requirements, such as time of month, of day, phase of moon, and lighting conditions are to be given in detail. Describe real-time ground support requirements and indicate any special equipment or skills required of ground personnel.

(c) Data Reduction and Analysis

A discussion of the data reduction and analysis plan including the method and format. A section of the plan should include a schedule for the submission of reduced data to the receiving point. In the case of Space Science programs, the National Space

Science Data Center, Greenbelt, MD, will be the repository for such data and the Department of Interior, Sioux Falls, SD, for earth observations data.

(d) Orbiter Crew and/or Payload Specialist Training Requirement

A description of the tasks required of each crew member (Commander, Pilot, Mission Specialist) or payload specialist should be provided, including the task duration and equipment involved. Indicate special training necessary to provide the crew members or payload specialist(s) with the capability for performing the aforementioned tasks.

Management Plan and Cost Plan

(a) Management Plan

The management plan should summarize the management approach and the facilities and equipment required. Additional guidelines applicable to non-U.S. proposers are contained herein:

(1) Management

(i) The management plan sets forth the approach for managing the work, the recognition of essential management functions, and the overall integration of these functions.

(ii) The management plan gives insight into the organization proposed for the work, including the internal operations and lines of authority with delegations, together with internal interfaces and relationships with the NASA major subcontractors and associated investigators. Likewise, the management plan usually reflects various schedules necessary for the logical and timely pursuit of the work accompanied by a description of the investigator's work plan and the responsibilities of the co-investigators.

(iii) The plan should describe the proposed method of instrument acquisition. It should include the following, as applicable.

(A) Rationale for the investigator to obtain the instrument through or by the investigator's institution.

(B) Method and basis for the selection of the instrument fabricator.

(C) Unique capabilities of the instrument fabricator that are not available from any other source.

(D) Characteristics of the proposed fabricator's instrument that make it an inseparable part of the investigation.

(E) Availability of personnel to administer the instrument contract and technically monitor the fabrication.

(F) Status of development of the instrument.

(G) Method by which the investigator proposes to:

- (a) Prepare instrument specifications.
- (b) Review development progress.
- (c) Review design and fabrication changes.
- (d) Participate in testing program.
- (e) Participate in final checkout and calibration.
- (f) Provide for integration of instrument.
- (g) Support the flight operations.
- (h) Coordinate with co-investigators, other related investigations, and the payload integrator.
- (i) Assure safety, reliability, and quality.
- (j) Provide required support for Payload Specialist(s), if applicable.

(H) Planned participation by small and/or minority business in any subcontracting for instrument fabrication or investigative support functions.

(2) Facilities and Equipment

All major facilities, laboratory equipment, and ground-support equipment (GSE) (including those of the investigator's proposed contractors and those of NASA and other U.S. Government agencies) essential to the experiment in terms of its system and subsystems are to be indicated, distinguishing insofar as possible between those already in existence and those that will be developed in order to execute the investigation. The outline of new facilities and equipment should also indicate the lead time involved and the planned schedule for construction, modification, and/or acquisition of the facilities.

(3) Additional Guidelines Applicable to Non-U.S. Proposers Only

The following guidelines are established for foreign responses to NASA's AO. Unless otherwise indicated in a specific announcement, these guidelines indicate the appropriate measures to be taken by foreign proposers, prospective foreign sponsoring agencies, and NASA leading to the selection of a proposal and execution of appropriate arrangements. They include the following:

(i) Where a "Notice of Intent" to propose is requested, prospective foreign proposers should write directly to the NASA official designated in the AO and send a copy of this letter to the International Relations Division, Office of External Relations, Code IR, NASA, Washington, DC 20546, U.S.A.

(ii) Unless otherwise indicated in the AO, proposals will be submitted in accordance with this Appendix excluding cost plans. Proposals should be typewritten and written in English.

(iii) Persons planning to submit a proposal should arrange with an appropriate foreign governmental agency for a review and endorsement of the proposed activity. Such endorsement by a foreign organization indicates that the proposal merits careful consideration by NASA and that, if the proposal is selected, sufficient funds will be available to undertake the activity envisioned.

(iv) Proposals including the requested number of copies and letters of endorsement from the foreign governmental agency must be forwarded to NASA in time to arrive before the deadline established for each AO. These documents should be sent to:

National Aeronautics and Space Administration, International Relations Division, Code IR, Office of External Relations, Washington, DC 20546, U.S.A.

(v) Those proposals received after the closing date will be treated in accordance with NASA's provisions for late proposals. Sponsoring foreign government agencies may, in exceptional situations, forward a proposal directly to the above address if review and endorsement is not possible before the announced closing date. In such cases, NASA should be advised when a decision on endorsement can be expected.

(vi) Shortly after the deadline for each AO, NASA's International Relations Division will

be advised the appropriate sponsoring agency which proposals have been received and when the selection process should be completed. A copy of this acknowledgment will be provided to each proposer.

(vii) Successful and unsuccessful proposers will be contacted directly by the NASA Program Officer coordinating the AO. Copies of these letters will be sent to the sponsoring Government agency.

(viii) NASA's International Relations Division will then begin making the arrangements to provide for the selectee's participation in the appropriate NASA program. Depending on the nature and extent of the proposed cooperation, these arrangements may entail:

(A) A letter of notification by NASA.

(B) An exchange of letters between NASA and the sponsoring foreign governmental agency.

(C) An agreement or Memorandum of Understanding between NASA and the sponsoring foreign governmental agency.

(b) Cost Plan (U.S. Investigations Only)

The cost plan should summarize the total investigation cost by major categories of cost as well as by function.

(1) The categories of cost should include the following:

(i) Director Labor—List by labor category, with labor hours and rates for each. Provide actual salaries of all personnel and the percentage of time each individual will devote to the effort.

(ii) Overhead—Include indirect costs. Usually this is in the form of a percentage of the direct labor costs.

(iii) Materials—This should give the total cost of the bill of materials including estimated cost of each major item. Include lead time of critical items.

(iv) Subcontracts—List those over \$25,000, specify the vendor and the basis for estimated costs. Include any baseline or supporting studies.

(v) Special Equipment—Include a list of special equipment with lead and/or development time.

(vi) Travel—List estimated number of trips, destinations, duration, purpose, number of travelers, and anticipated dates.

(vii) Other Costs—Costs not covered elsewhere.

(viii) General and Administrative Expense—This includes the expenses of the institution's general and executive offices and other miscellaneous expenses related to the overall business.

(ix) Fee (if applicable).

(2) Separate schedules, in the above format, should be attached to show total cost allocable to the following:

(i) Principal Investigator and other Investigators' costs.

(ii) Instrument costs.

(iii) Integration costs.

(iv) Data reduction and analysis including the amount and cost of computer time.

(e) If the effort is sufficiently known and defined, a funding obligation plan should provide the proposed funding requirements of the investigations by quarter and/or annum keyed to the work schedule.

1872.705-3 Appendix C: Glossary of Terms and Abbreviations Associated with Investigations.

Advisory Committee Subcommittee—Any committee, board, commission, council, conference, panel, task force; or other similar group, or any subcommittee or other subgroup thereof, that is not wholly composed of full-time Federal Government employees, and that is established or utilized by NASA in the interest of obtaining advice or recommendations.

Announcement of Opportunity (AO)—A document used to announce opportunities to participate in NASA programs.

AO Process—A term used to describe the program planning and acquisition procedure used to acquire investigative effort, initiated by an AO.

Categorization—The process whereby proposed investigations are classified into four categories: synopsisized here as Category I—recommended for immediate acceptance; Category II—recommended for acceptance but at a lower priority than Category I proposals; Category III—sound investigations requiring further development; Category IV—rejected.

Co-Investigator (Co-I)—Associate of a Principal Investigator, responsible to the Principal Investigator for discrete portions or tasks of the investigation. A NASA employee can participate as a Co-I on an investigation proposed by a private organization.

Data Users—Participants in NASA programs, selected to perform investigations utilizing data from NASA payloads or facilities.

Experiments—Activities or effort aimed at the generation of data. NASA-sponsored experiments generally concern generation of data obtained through measurement of aeronautical and space phenomena or use of space to observe earth phenomena.

Federal Acquisition Regulation (FAR)—The regulations governing the conduct of acquisition.

Flight—That portion of the mission encompassing the period from launch to landing or launch to termination of the active life of spacecraft. The term shuttle "flight" means a single shuttle round trip—its launch, orbital activity, and return; one flight might deliver more than one payload. More than one flight might be required to accomplish one mission.

Flight Investigator—Investigation conducted utilizing aeronautical or space instrumentation.

Flight Opportunity—A flight mission designed to accommodate one or more experiments or investigations.

Guest Investigators—Investigators selected to conduct observations and obtain data within the capability of a NASA mission, which are additional to the mission's primary objectives. Sometimes referred to as Guest Observers

Investigator—Used interchangeably with "Experiments."

Investigation Team—A group of investigators collaborating on a single investigation.

Investigator—A participant in an investigation. May refer to the Principal Investigator, Co-Investigator, or member of an investigation team.

Mission—The performance of a coherent set of investigations or operations in space to achieve program goals. (Example: Measure detailed structure of Sun's chromosphere; survey mineral resources of North America.)

NASA FAR Supplement—Acquisition regulations promulgated by NASA in addition to the FAR.

NMI—NASA Management Instruction.

Notice of Intent—A notice or letter submitted by a potential investigator indicating the intent to submit a proposal in response to an AO.

Payload—A specific complement of instruments, space equipment, and support hardware carried to space to accomplish a mission or discrete activity in space.

Peer Group—A gathering of experts in related disciplinary areas convened as a subcommittee of the Program Office Steering Committee to review proposals for flight investigations.

Peer Review—The process of proposal review utilizing a group of peers in accordance with the categorization criteria as outlined in this Handbook.

Principal Investigator (PI)—A person who conceives an investigation and is responsible for carrying it out and reporting its results. A NASA employee can participate as a PI only on a government-proposed investigation.

Program—An activity involving human resources, materials, funding, and scheduling necessary to achieve desired goals.

Project—Within a program, an undertaking with a scheduled beginning and ending, which normally involves the design, construction, and operation of one or more aeronautical or space vehicles and necessary ground support in order to accomplish a scientific or technical objective.

Project Office—An office generally established at a NASA field installation to manage a project.

Selection Official—The NASA official designated to determine the source for award of a contract or grant.

Space Facility—An instrument or series of instruments in space provided by NASA to satisfy a general objective or need.

Steering Committee—A standing NASA sponsored committee providing advice to the Program Associate Administrators and providing procedural review over the investigation selection process. Composed wholly of full-time Federal Government employees.

Study Office—An office established at a NASA field installation to manage a potential undertaking which has not yet developed into project status.

Subcommittee—An arm of the Program Office Steering Committee consisting of experts in relevant disciplines to review and categorize proposals for investigations submitted in response to an AO.

Supporting Research and Technology (SR&T)—The programs devoted to the conduct of research and development necessary to support and sustain NASA programs.

Team—A group of investigators responsible for carrying out and reporting the results of an investigation or group of investigations.

Team Leader—The person appointed to manage and be the point of contact for the team and who is responsible for assigning respective roles and privileges to the team members and reporting the results of the investigation.

Team Member—A person appointed to a team who is an associate of the other members of the team and is responsible to the team leader for assigned tasks or portions of the investigation.

[FR Doc. 97-1864 Filed 1-29-97; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1166

[STB Ex Parte No. 620]

Removal of Obsolete Regulations Concerning Extension of Operations by Water Carriers

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the Code of Federal Regulations obsolete regulations concerning the extension of operations by water carriers over newly completed sections of waterways.

EFFECTIVE DATE: January 30, 1997.