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PART 1823

ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

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PART 1823

ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 1823.1—Sustainable Acquisition Policy

1823.103 Sustainable acquisitions.

(a) In order to meet the 95% sustainable acquisition goal, every NASA procurement must be screened for the applicability of the Federal environmental programs listed in this Part. This screening starts with the request originator, particularly for direct purchases of supplies. For service contracts and more complex acquisitions, this screening may be performed by the acquisition planning team. Request originators or the acquisition planning team, as appropriate, are also

responsible for ensuring their procurement requirements comply with their center or facility's environmental management system as prescribed in NPR 8553.1, NASA Environmental Management System.

1823.103-70 Screening Procurement Requirements.

NASA Form (NF) 1707, Special Approvals and Affirmations for Requisitions, Section 2, requires request originators to review the Federal environmental programs and document if they apply to the procurement, if they will be met, or if a waiver is provided. As specified in [NPR 8530.1](#), the center environmental organization is also available to provide support to both the CO and request originator on the applicability of environmental programs. Using the NF 1707 as a guide, COs shall screen procurement requirements to determine if any of the environmental programs apply, to place the appropriate FAR provisions and clauses in solicitations and contracts, and accurately record sustainable acquisition activity in the Federal Procurement Data System (FPDS).

1823.103-72 Sustainable Acquisition Reporting.

The Recovered Materials/Sustainability FPDS Data Element Choices must be thoughtfully and properly selected so that there is adequate data to gauge the progress and performance in the various environmental programs. The data in FPDS will be used to determine if NASA is meeting the 95% goal. Centers are encouraged to use this data to measure their progress on a regular basis as part of their self-assessments, and to make any corrections necessary to improve performance. The FPDS data will be used for semiannual reports to the Office of Management and Budget (OMB) on NASA's sustainable acquisition performance.

Subpart 1823.2--Energy and Water Efficiency and Renewable Energy

1823.202 Policy.

(a) [NPR 8570.1](#), Energy Efficiency and Water Conservation, provides procedural requirements for evaluating and implementing cost-effective energy efficiency, renewable energy, and water conservation measures in NASA facilities and operations. Both these NASA requirements and Federal environmental programs apply to the direct purchase of energy-or water-using products, e.g., appliances, computers, faucets, and to contracts where these products will be used by the contractor in performance of the contract, such facilities operations and maintenance (O&M) and construction contracts.

1823.204 Procurement exemptions.

The center or Component facility environmental manager is delegated authority to make the exemption determination at FAR 23.204.

1823.271 NASA Solicitation provision and contract clause.

Insert the clause at [1852.223-76](#), Federal Automotive Statistical Tool Reporting, in solicitations and contracts requiring contractor operation of Government-owned or leased motor vehicles, including, but not limited to, interagency fleet management system (IFMS) vehicles authorized in accordance with FAR 51.2.

Subpart 1823.4--Use of Recovered Materials

1823.404 Agency affirmative procurement programs.

NASA's affirmative procurement program is described in the [NPR 8530.1](#), Affirmative Procurement Plan for Environmentally Preferable Products.

1823.406 Solicitation provisions and contract clauses.

(b) When using FAR clause 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, insert the website at <http://www.biopREFERRED.gov/BioPreferred/faces/pages/ContractorReporting.xhtml> which is specifically designed to track Federal contractors' purchases of biobased products.

Subpart 1823.5--Drug-Free Workplace

1823.570 Drug-and alcohol-free workforce.

This section sets forth NASA requirements for mandatory drug and alcohol testing of certain contractor personnel under section 203, National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2473, 72 Stat. 429; and Civil Space Employee Testing Act of 1991, Public Law 102-195, sec. 21, 105 Stat. 1616 to 1619.

1823.570-1 Definitions.

"*Employee in a sensitive position*" means a contractor or subcontractor employee who has been granted access to classified information; a contractor or subcontractor employee in other positions that the contractor or subcontractor determines could reasonably be expected to affect safety, security, National security, or functions other than the foregoing requiring a high degree of trust and confidence; and includes any employee performing in a position designated mission critical or performing mission-critical duties. The term also includes any applicant who is tentatively selected for a position described in this paragraph.

"*Mission Critical Space Systems*" means the collection of all space-based and ground-based systems used to conduct space missions or support activity in space, including, but not limited to, the crewed space system, space-based communication and navigation systems, launch systems, and mission/launch control.

Mission Critical Positions/Duties means positions or duties which, if performed in a faulty, negligent, or malicious manner, could jeopardize mission critical space systems and/or delay a mission.

"*Use, in violation of applicable law or Federal regulation, of alcohol*" includes having, while on duty or during a preemployment interview, an alcohol concentration of 0.04 percent by weight or more in the blood, as measured by chemical test of the individual's breath or blood. An individual's refusal to submit to such test is presumptive evidence of use, in violation of applicable law or Federal regulation, of alcohol.

1823.570-2 Contract clause.

The contracting officer shall insert the clause at 1852.223-74, "Drug- and Alcohol-Free Workforce," in all solicitations and contracts exceeding \$5 million in which work is performed by an employee in a sensitive position. However, the contracting officer shall not insert the clause at 1852.223-74 in solicitations and contracts for commercial.

1823.570-3 Suspension of payments, termination of contract, and debarment and suspension actions.

The contracting officer shall comply with the procedures of [FAR 23.506](#) regarding the suspension of contract payments, the termination of the contract for default, and debarment and suspension of a contractor relative to failure to comply with the clause at [1852.223-74](#). Causes for suspension of contract payments, termination of the contract for default, and debarment and suspension of the contractor are the following:

(a) The contractor fails to comply with paragraph (b), (c), or (d) of the clause at 1852.223-74; or

(b) Such a number of contractor employees in sensitive positions having been convicted of violations of criminal drug statutes or substantial evidence of drug or alcohol abuse or misuse occurring in the workplace, as to indicate that the contractor has failed to make a good faith effort to provide a drug- and alcohol-free workforce.

Subpart 1823.7—Contracting for Environmentally Preferable Products and Services

1823.703 Policy.

Responsibility, policy and procedures for NASA's implementation of [FAR 23.703](#) is described in the following directives:

- (i) [NPR 1800.1](#), NASA Occupational Health Program Procedures
- (ii) [NPD 8500.1](#), NASA Environmental Management;
- (iii) [NPR 8510.1](#), NASA Cultural Resources Management;
- (iv) [NPR 8530.1](#), Affirmative Procurement Program and Plan for Environmentally Preferable Products;
- (v) NPR 8553.1, NASA Environmental Management System;
- (vi) NPR 8570.1, Energy Efficiency and Water Conservation;
- (vii) NPR 8580.1, NASA National Environmental Policy Act Management Requirements; and
- (viii) NPR 8590.1A, Environmental Compliance and Restoration Program.

1823.704 Electronic products environmental assessment tool.

(c) Exceptions to FAR 23.704(a) may be granted by the NASA Chief Information Officer (CIO).

Subpart 1823.70—Safety and Health

1823.7001 NASA solicitation provisions and contract clauses.

(a) Insert the clause at [1852.223-70](#), Safety and Health Measures and Mishap Reporting, in solicitations and contracts above the simplified acquisition threshold when the work will be conducted completely or partly on federally-controlled facilities.

(b) The clause prescribed in paragraph (a) of this section may be excluded, with the approval of the installation official(s) responsible for matters of safety and occupational health.

(c) The contracting officer shall insert the clause at [1852.223-73](#), Safety and Health Plan, in solicitations above the simplified acquisition threshold when the work will be conducted completely or partly on a Federally-controlled facility and the safety and health plan will be evaluated in source selection as approved by the source selection authority. This clause may be modified to identify specific information that is to be included in the plan. After receiving the concurrence of the center safety and occupational health official(s), the contracting officer shall incorporate the plan as an attachment into any resulting contract. The contracting officer shall insert the clause, with its Alternate I, in Invitations for Bid.

(d)(1) The contracting officer shall insert FAR clause at 52.236-13 with its Alternate I in

solicitations and contracts when the work will be conducted completely or partly on a Federally-controlled facility and a Safety and Health Plan will be reviewed after award as a contract deliverable. The contracting officer may modify the wording in paragraph (f) of Alternate I to specify:

- (i) When the proposed plan is due and
 - (ii) Whether the contractor may commence work prior to approval of the plan; or
 - (iii) To what extent the contractor may commence work before the plan is approved.
- (2) The requiring activity, in consultation with the cognizant health and safety official(s), will identify the data deliverable requirements for the safety and health plan. After receiving the concurrence of the center safety and occupational health official(s), the contracting officer shall incorporate the plan as an attachment into the contract.

(e)(1) The contracting officer shall insert the clause at [1852.223-75](#), Major Breach of Safety or Security, in all solicitations and contracts with estimated values of \$500,000 or more, unless waived at a level above the contracting officer with the concurrence of the project manager and the installation official(s) responsible for matters of security, export control, safety, and occupational health.

(2) Insert the clause with its Alternate I if -

- (i) The solicitation or contract is with an educational or other nonprofit institution and contains the termination clause at [FAR 52.249-5](#); or
- (ii) The solicitation or contract is for commercial items and contains the clause at [FAR 52.212-4](#).

(3) For contracts with estimated values below \$500,000, use of the clause is optional.

(f) The contracting officer shall insert the clause at [1852.223-72](#), Safety and Health (Short Form) in solicitations and contracts above the simplified acquisition threshold when work will be conducted completely or partly on Federally-controlled facilities and that do not contain the clause at [1852.223-73](#) or the FAR clause at 52.236-13 with its Alternate I.

Subpart 1823.71—Frequency Authorization

1823.7101 Contract clause.

The contracting officer shall insert the clause at [1852.223-71](#), Authorization for Radio Frequency Use, in solicitations and contracts calling for developing, producing, constructing, testing, or operating a device for which a radio frequency equipment authorization is required.

1823.7102 Procedures.

NPD 2570.5, NASA Electromagnetic Spectrum Management, requires the submission of a request for spectrum certification to Center Spectrum Manager (SM) for all activities using the Electromagnetic Spectrum. The procurement request originator must submit the request for spectrum certification as early in the acquisition and procurement cycles as possible. NPR 2570.1, NASA Radio Frequency (RF) Spectrum Management Manual, sets forth the procedures for the management requirements for establishing and governing the use of radio frequencies. Contractors,

providing or operating RF equipment for NASA use, shall obtain RF spectrum authorization from the Center/Facility Spectrum Manager in accordance the procedures set forth in the NPR from the installation's spectrum manager.