

PART 1801

FEDERAL ACQUISITION REGULATIONS SYSTEM

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PART 1801

FEDERAL ACQUISITION REGULATIONS SYSTEM

1801.000 Scope of part.

This part sets forth general information about the National Aeronautics and Space Administration (NASA) Federal Acquisition Regulation (FAR) Supplement, also referred to as the NFS.

Subpart 1801.1—Purpose, Authority, Issuance

1801.103 Authority.

(a) Under the following authorities, the Administrator has delegated to the Assistant Administrator for Procurement authority to prepare, issue, and maintain the NFS:

(i) The [National Aeronautics and Space Act of 1958](#) (Pub. L. 11-314; 51 U.S.C. 20113 et seq.).

(ii) 10 U.S.C. chapter 137.

(iii) Other statutory authority.

(iv) FAR subpart 1.3.

1801.104 Applicability.

The NFS applies to all acquisitions as defined in FAR Part 2 except those expressly excluded by the FAR or this regulation.

1801.105 Issuance.

1801.105-1 Publication and code arrangement.

(b)(i) The NFS is an integrated document that contains both acquisition regulations that require public comment and internal Agency guidance and procedures that do not require public comment. NASA personnel must comply with all regulatory and internal guidance and procedures contained in the NFS.

(ii) NFS regulations that require public comment are issued as Chapter 18 of Title 48, CFR.

(iii) The single official NASA-maintained version of the NFS is on the Internet (<http://www.hq.nasa.gov/office/procurement/regs/NFS.pdf>).

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1801.105-2 Arrangement of regulations.

(b)(1)(A) Numbering of NFS text implementing the FAR shall be the same as that of the related FAR text, except when the NFS coverage exceeds one paragraph. In such case the NFS text is numbered by skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence. For example, two paragraphs implementing FAR 1.105-2(b)(1) are numbered 1801.105-2(b)(1)(A) and (B), rather than (1)(i) and (ii). Further subdivision of the NFS implementing paragraphs would follow the prescribed sequence in FAR 1.105(b)(2).

(B) NFS text that supplements the FAR part is numbered the same as its FAR counterpart with the addition of a number 70 and up. For example, NFS supplement of FAR subsection 1.105-3 is numbered 1801.105-370. Supplemental text exceeding one paragraph is numbered using the FAR 1.105-2(b)(2) prescribed numbering sequence without skipping a unit.

(2) Subdivision numbering below the fourth level repeats the numbering sequence using italicized letters and numbers.

1801.106 OMB approval under the Paperwork Reduction Act.

The following OMB control numbers apply:

NFS Segment	OMB Control Number
1823	2700-0089
1827	2700-0052

1852.223-70	2700-0160
NF 533	2700-0003
NF 1018	2700-0017

Subpart 1801.2—Administration

1801.270 Amendment of the NFS.

(a) Changes to the NFS require rulemaking and publication in the Federal Register when a change may have an effect on the public. Changes to internal guidance and procedures are controlled, processed, and approved internally and are not required to be published in the Federal Register. All changes are then incorporated into the single, official NASA-maintained Internet version of the NFS through the issuance of [Procurement Notices](#) (PNs). PNs are numbered consecutively, prefixed by the last two digits of the calendar year of issuance.

(b) For guidance on application of NFS changes to solicitations and contracts, see FAR 1.108(d).

1801.271 NASA procedures for FAR and NFS changes.

(a) Recommended administrative changes to the NFS, such as corrections to misspelled words, omitted words or lines, and errors in format or in links to referenced documents shall be emailed to the [NFS Manager](#).

(b) Requests for proposed revisions to the FAR or NFS shall be submitted in writing and shall contain the following information: (i) a description of the issue or concern the suggested revision is designed to correct, (ii) the revision in the form of a marked-up copy of the current FAR or NFS language and/or the text of any proposed language to be added, (iii) a brief explanation of the consequences of not making a change and the benefits to be expected from making a change, and (iv) any other information necessary for a clear understanding of the issue or concern, such as the relationship between the FAR and NFS coverage, legal opinions and/or concurrences, inputs and/or concurrences from other cognizant offices, and any existing agreements. All requests for proposed revisions to the FAR and NFS shall be emailed to the [NFS Manager](#). Requests from Headquarters offices shall originate at the division level or higher, while requests from the centers shall be from the Procurement Officer or a higher level official. The sender's email address will suffice as the official signature for requests for proposed revisions to the FAR or NFS; the email shall include the supporting information that is emailed to the [NFS Manager](#).

1801.272 Procurement Information Circulars.

(a) The [Procurement Information Circular](#) (PIC) is used for internal dissemination of procurement-related information that clarifies existing policy, is temporary in nature or episodic and generally not suitable for inclusion in the NFS. PICs should be used very carefully and their duration shall not exceed one year, unless a longer period of time is approved by the Director, Headquarters Office of Procurement, Policy, Training, and Pricing Division. Any PIC that has a duration greater than

one year shall be reviewed, updated as required, and revalidated, not later than on its anniversary date. The Headquarters Office of Procurement, Policy, Training, and Pricing Division is responsible for the control, processing, vetting, and approval of PICs.

(b) PICs are numbered on a calendar year basis, beginning with number 1, prefixed by the last two digits of the year.

(c) PICs are posted on the online Procurement Library.

1801.273 Procurement Class Deviations.

(a) [The Procurement Class Deviation](#) (PCD) is used to deviate from FAR and/or NFS requirements in cases where the deviation affects more than one contract action and is temporary in nature. Since PCDs are processed and issued without public comment, PCDs shall be used very carefully and with a specified duration that is sufficient to allow for the formal processing of the change to the FAR and/or NFS. The Headquarters Office of Procurement, Policy, Training, and Pricing Division is responsible for the control, processing, and vetting of PCDs. Approval of PCDs are in accordance with FAR 1.404(c).

(b) PCDs are numbered on a calendar year basis, beginning with number 1, prefixed by the last two digits of the year.

(c) PCDs are posted on the online Procurement Library.

Subpart 1801.3—Agency Acquisition Regulations

1801.301 Policy.

(a)(2) Heads of NASA field installations may prescribe policies and procedures that do not have a significant effect beyond the internal operating procedures of their installations. All other policies, procedures, and solicitation and contract provisions and clauses must be forwarded to the Headquarters Office of Procurement, Policy, Training, and Pricing Division for approval in accordance with 1801.271.

(b)(i) Title 41 U.S.C. 1707 requires publication of NFS changes for public comment where there will be a significant effect beyond the internal operating procedures of the Agency or a significant cost or administrative impact on contractors or offerors. However, it does not define "significant effect beyond the internal operating procedures" or "significant cost or administrative impact." Examples of policies or procedures that fall in either of these categories are:

(A) A contract clause requiring contractors to take precautions to avoid injury to Florida manatees, which have been designated as an endangered species, has a significant cost impact for contractors who must obtain protective devices for boat propellers and take other safety actions.

(B) A contract clause requiring contractors to follow the Government's holiday schedule, thereby disallowing premium pay for work on contractor-designated holidays, will have an effect outside the internal operating procedures of the agency.

(C) A contract clause requiring contractors to segregate costs by appropriations will affect the contractor's internal accounting system and have a significant impact.

(D) Requiring contractor compliance with NASA's Space Transportation System Personnel Reliability Program will have an effect outside the internal operating procedures of the agency.

(ii) In contrast, the following would not have to be publicized for public comment:

(A) Security procedures for identifying and badging contractor personnel to obtain access at a NASA installation.

(B) A one-time requirement in a construction contract for the contractor to develop a placement plan and for inspection prior to any concrete being placed. (This is part of the specification or statement of work.)

(C) A policy that requires the NASA installation to maintain copies of unsuccessful offers.

1801.303 Publication and codification.

(a) Part, subpart, and section numbers 70 through 89 are reserved for NFS supplementary material for which there is no FAR counterpart.

Subpart 1801.4—Deviations from the FAR

1801.400 Scope of subpart.

This subpart prescribes the policies and procedures for authorizing deviations from the FAR and the NFS.

1801.471 Procedure for requesting deviations.

(a) Requests for authority to deviate from the FAR or the NFS shall be submitted by the Procurement Officer to the Headquarters Office of Procurement, Program Operations Division.

(b) Each request for a deviation shall contain, as a minimum—

(1) Identification of the FAR or the NFS requirement from which a deviation is sought;

(2) A full description of the deviation, the circumstances in which it will be used, and the specific contract action(s) to which it applies;

(3) A description of its intended effect;

(4) A statement as to whether the deviation has been requested previously and, if so, the circumstances of the previous request;

- (5) Identification of the contractor(s) and the contract(s) affected, including dollar value(s);
- (6) Detailed reasons supporting the request, including any pertinent background information; and
- (7) A copy of counsel's concurrence or comments.

(c) In addition to the information required by 1801.471(b), requests for individual deviations from FAR cost principles under FAR 31.101 should include a copy of the contractor's request for cost allowance.

Subpart 1801.6—Career Development, Contracting Authority, and Responsibilities

1801.601 General.

Pursuant to NPD 5101.32, the authority to enter into and take other actions for FAR-based purchases, contracts, and for financial assistance instruments is delegated to the Assistant Administrator for Procurement, who redelegates this authority to the appropriate contracting activity personnel in accordance with applicable laws and regulations.

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1801.602 Contracting Officers.

1801.602-2 Responsibilities.

(d)(i) A Contracting Officer's Representative (COR) delegation may be made only by the contracting officer cognizant of that contract at the time the delegation is made. If the cognizant contracting officer is absent, the delegation letter may be signed by a warranted contracting officer at any level above the cognizant contracting officer. An individual COR may have only the duties specifically identified in a written delegation to him or her by name (i.e., COR duties may not be delegated to a position) and has no authority to exceed them. CORs should be informed that they may be personally liable for unauthorized commitments. Contracting officer authority to sign or authorize contractual instruments shall not be delegated through a COR designation or by any means other than a contracting officer warrant.

(ii) The cognizant contracting officer may appoint a qualified Government employee to act as their representative in managing the technical aspects of a particular contract. A COR may be a NASA or Federal agency civil servant or a member of the military. A COR may also be an Intergovernmental Personnel Act (IPA) appointed detailee (5 U.S.C. 3374 authorizes the temporary assignment of employees of universities, state/local/tribal governments, and certain non-profit organizations); but shall not be delegated inherently governmental functions (FAR 7.503). In appointing an IPA as a COR, contracting officers shall seek center counsel for conflict of interest determination related to their duties; confirm completion of Standards of Ethical Conduct for Employees of the Executive Branch training; and ensure the [NF 1634](#) does not delegate inherently governmental functions. Technical organizations are responsible for ensuring that the individual they recommend to the contracting officer possesses training, qualifications and experience commensurate with the duties and responsibilities to be delegated and the nature of the contract.

(iii) The COR may be authorized to provide technical direction in accordance with the Statement of Work and the [NF 1634](#), Contracting Officer's Representative (COR)/Alternate COR Delegation. Technical direction encompasses written direction from the COR to provide clarification of the contract's general description of the scope of work to include approaches, solutions, designs, refinements or shifts within tasks, or inquiries related to the general tasks and requirements in the SOW.

(iv) If necessary, the contracting officer may appoint an alternate COR to act during short absences of the COR, such as when the COR is on leave or travel. When approved by the Procurement Officer and in limited circumstances, warranted by contract scope, workload, and the need to provide adequate oversight, the contracting officer may appoint more than one alternate COR on a contract. If more than one alternate COR is appointed, the contracting officer shall provide the COR, the alternate COR (s), and the contractor written guidance specifying how the line of succession works to clearly ensure each party knows who is acting as the COR at any given time.

(v) [NASA Form 1634](#), Contracting Officer Representative's (COR) Delegation, shall be used to appoint CORs. The contracting officer will modify the form to address the specific contract functions delegated to the COR or retained by the contracting officer. CORs cannot redelegate their duties and responsibilities and the COR may be held personally liable for unauthorized acts. However, this does not prohibit the COR from receiving assistance for the purpose of monitoring contractor progress and gathering information. When one individual is appointed as a COR on more than one contract, separate delegations shall be issued for each contract. A separate [NF 1634](#) shall be used to appoint the alternate COR (s).

(vi) A COR delegation remains in effect throughout the life of the contract unless canceled in writing by the cognizant contracting officer or at any level above that contracting officer. The contracting officer may modify the delegation only by issuance of a new delegation canceling and superseding the existing delegation. The COR and his or her immediate supervisor are responsible for promptly notifying the contracting officer when the COR has a change in station, duty assignment, or leaves Government service.

(vii) With the exception of delegations made to construction contract CORs to issue emergency on-site change orders, [NF 1634](#) shall not be used to authorize a COR to initiate procurement actions or in any way cause a change to the contract or increase the Government's financial obligations. When delegating the COR authority to issue emergency on-site change orders, the contracting officers shall specify in [NF 1634](#) a not to exceed limitation on this authority. In no event shall the limitation exceed \$25,000.

(viii) Each COR shall acknowledge receipt and accept the delegation by signing the original delegation letter and returning it to the contracting officer. The contracting officer shall file original of the COTR delegation letter in the applicable contract file. Copies of the signed COR delegation letter shall be distributed to the COR, the contractor, and each cognizant contract administration office. Acknowledgment and distribution for terminations of COR delegations and COR delegations which revise authority, duties and responsibilities shall follow the same rules.

1801.602-3 Ratification of unauthorized commitments.

(b) Policy. Individuals making unauthorized commitments may be subject to disciplinary action, and the issue may be referred to the Office of Inspector General.

(c)(7) The authority in FAR 1.602-3 may be exercised only when--

(A) The Government employee who made the unauthorized commitment, or his/her supervisor, if appropriate, initiates a procurement request in accordance with 1804.7301.

(B) The procurement request and/or accompanying documentation identifies the individual who made the unauthorized commitment, and includes a statement signed by the individual that explains why normal acquisition procedures were not followed, explains why the firm was selected, lists other sources considered, describes the work, and estimates or states the agreed price. If the Government representative who made the unauthorized commitment is no longer available, appropriate program personnel shall provide the information described in this paragraph.

(C) The procurement request is submitted through the director of the cognizant program office at the contracting activity, or comparable official. In the procurement request, the director shall describe measures taken to prevent the recurrence of the unauthorized commitment.

1801.603 Selection, appointment, and termination of appointment.

1801.603-1 General.

Pursuant to NPD 5101.32, the authority to appoint source selection officials, contracting officers, contracting officer representatives, and other procurement officials is delegated to the Assistant Administrator for Procurement, who redelegates this authority to the procurement officer unless otherwise retained by the Head of Contracting Activity. However, for a procurement action that is subject to Master Buy Procedures (see 1807.7101) and the "selection" milestone for the procurement action is selected for headquarters review and approval, the Assistant Administrator for Procurement retains the authority to appoint the source selection official.

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1801.603-2 Selection.

Normally, only GS-1102 and GS-1105 personnel with the requisite training and experience may be appointed contracting officers and only when a valid organizational need can be demonstrated.

1801.603-3 Appointment.

(b) Delegations of procurement authority to other than GS-1102 and GS-1105 personnel shall be in accordance with the [NASA Procurement Career Development and Training Policy](#).

1801.604 Contracting Officer's Representative (COR).

1801.604-70 Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) Requirements.

(1) These requirements apply to all individuals appointed as CORs and alternate CORs on NASA contracts, including Phase II and Phase III awards made under NASA's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. These requirements do not apply to CORs on Phase I SBIR or Phase I STTR awards.

(2) FAC-COR certificates from any civilian agency are equivalent to NASA FAC-COR certificates. The following certificates, from NASA or any civilian agency, are equivalent to a NASA FAC-COR certificate:

(i) Federal Acquisition Certification in Contracting (FAC-C) Level I or above; or

(ii) Federal Acquisition Certification for Program and Project Managers (FAC-P/PM) Mid-Level/Journeyman.

(3) An individual with a FAC-COR certificate does not necessarily meet the requirements for the FAC-C Level I or the FAC-P/PM mid-level/journeyman.

(4) For recordkeeping purposes, individuals with equivalent certificates who will be appointed as CORs must submit a copy of their equivalent certificate to the Acquisition Career Manager (ACM) in the Headquarters Office of Procurement, Program Operations Division to be recorded as meeting NASA FAC-COR requirements.

(5) Basic COR Training. To earn a NASA FAC-COR certificate, individuals must complete 40 hours of basic COR training approved by the ACM. ACM approved training is available under the NASA Shared Service Center's Agency-wide COR Training Blanket Purchase Agreement (BPA).

(6) Continuing Education. CORs must maintain their skills currency through continuing education. To maintain a FAC-COR, CORs are required to earn 40 continuous learning points (CLPs) of skills currency training every two years. The two-year continuous learning cycle is set for all civilian agencies for the following timeframes: October 01, 2011 until September 30, 2013, October 01, 2013 until September 2015, and so forth.

(7) Supervisors remain responsible for working with CORs to identify those activities and opportunities of greatest benefit to the professional development of an individual. The training, professional activities, education and experience that are used to meet the continuing education requirements must be job related.

(i) ACM approved training is available under NASA Shared Service Center's Agency-wide COR Training BPA.

(ii) The [FAI FAC-COR website](#) provides additional guidance on training that will meet CLP training requirements.

(8) A FAC-COR will expire if the continuing education requirements are not met and the individual will no longer be eligible to be a COR.

(9) FAC-COR training, both basic and continuous, will be tracked in SATERN. CORs are responsible for ensuring their SATERN learning history is accurate.

(h) The contracting officer shall verify that the proposed COR has a FAC-COR before signing [NF 1634](#). The Procurement Officer (PO) may defer, for a period not to exceed six months, all or part of the FAC-COR requirements in writing, on a case-by-case basis, if granting the deferment is in the best interest of the Agency. This authority shall be used only when necessary. A written justification shall

specify the reasons for and conditions of the deferment. A copy of the justification shall be furnished to the ACM and documented in the contract file(s).

(1) If the proposed COR has not completed basic COR training, the PO shall ensure the proposed COR receives appropriate interim training until the required COR basic training is completed. Interim training is a stop gap measure to ensure the COR understands his or her authority and responsibilities. It may include a briefing or on-line training. Completion of the interim training shall be documented in the applicable contracts file(s).

Subpart 1801.7—Determinations and Findings

1801.707 Signatory authority.

Signatory authority for determinations and findings (D&Fs) is specified in the FAR or the NFS text for the associated subject matter. The NASA Administrator may make any of the D&Fs that may be made by the Senior Procurement Executive or by a contracting officer.

1801.770 Legal review.

Each D&F, including class D&Fs, shall be reviewed by counsel for form and legality before signature by the approving authority.