

PART 1843

CONTRACT MODIFICATIONS

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PART 1843

CONTRACT MODIFICATIONS

Subpart 1843.2—Change Orders

1843.205 Contract clauses.

As authorized in the prefaces of clauses FAR 52.243-1, Changes- Fixed Price; FAR 52.243-2, Changes-Cost Reimbursement; and FAR 52.243-4, Changes, and in the prescription at 43.205(c) for FAR 52.243-3, Changes-Time-and-Material or Labor-Hours, the period within which a contractor must assert its right to an equitable adjustment may be varied not to exceed 60 calendar days.

1843.205-70 NASA contract clauses.

The contracting officer may insert a clause substantially as stated at [1852.243-72](#), Equitable Adjustments, in solicitations and contracts for—

(1) Dismantling, demolishing, or removing improvements; or

(2) Construction, when the contract amount is expected to exceed the simplified acquisition threshold and a fixed-price contract is contemplated.

## Subpart 1843.70—Undefinitized Contract Actions

### 1843.7001 Definitions.

"Undefinitized contract action (UCA)" means a unilateral or bilateral contract modification, or a delivery/task order in which the final price or estimated cost and fee have not been negotiated and mutually agreed to by NASA and the contractor. For purposes of tracking definitization schedules of UCAs, letter contracts are considered to be UCAs and will be tracked as such by the Program Operations Division within the Office of Procurement. Otherwise, the specific requirements, policies, and procedures for letter contracts are in FAR 16.603 and NFS 1816.603.

### 1843.7002 Policy.

(a) The contracting officer may issue undefinitized contract actions only on an exception basis, and must ensure that NASA liabilities and commitments are minimized. When an undefinitized contract action is justified and program requirements can be severed into smaller, discrete efforts, the contracting officer shall limit work authorized by the undefinitized contract action to the minimum severable effort required to satisfy the urgent program requirements. The contracting officer must acquire any remaining requirements through a separate, fully priced and definitized contract action.

(b) The contracting officer shall document the contract file for each UCA to justify issuance and include a Government estimate for the changed requirements.

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### 1843.7003 Procedures.

(a)(1) Undefinitized contract actions with a Government estimated cost or price above the simplified acquisition threshold shall be approved in writing by the head of the contracting activity.

(2) All other undefinitized contract actions shall be approved in writing by the procurement officer.

(3) In emergency situations, approval may be given orally and subsequently confirmed in writing.

(4) The approval authorities in paragraphs (a)(1) and (2) of this section are not delegable.

(b)(1) The contracting officer shall issue undefinitized contract actions above the simplified acquisition threshold as bilateral agreements setting forth a ceiling or "not to exceed" (NTE) price for the changed contractual requirements. For fixed price contracts the negotiated price for the changed contract requirements shall not exceed the established ceiling price. In the case of cost type contracts any costs eventually negotiated for the changed requirements in excess of the NTE shall be non-fee bearing. The contracting officer shall identify the ceiling price or NTE estimated cost in the undefinitized contract action separately from the pricing structure of the basic contract.

(2) The head of the contracting activity may waive the ceiling NTE price and bilateral agreement requirements prior to UCA issuance on the basis of urgency. This waiver authority is not delegable. The contracting officer shall document this waiver in the contract file.

(c) The contracting officer shall clearly define the changed contractual requirements in the UCA and shall limit the requirements to the minimum effort required to satisfy urgent program requirements while a cost proposal is prepared, analyzed, and negotiated.

(d) For undefinitized contract actions with a Government estimate greater than \$1,000,000, and not excepted under subpart 1843.7004, the contracting officer shall obtain a 180 day funding profile from the contractor prior to execution of the undefinitized contract action.

(e) For undefinitized contract actions with a Government estimated cost or price greater than \$1,000,000, the contracting officer shall include a requirement that the change be separately accounted for by the contractor to the degree necessary to provide the contracting officer visibility into actual costs incurred pending definitization. The contracting officer may waive this requirement for individual actions, if the contracting officer determines that such accounting procedures would not be cost effective. Any such waiver shall not affect existing [NASA Form 533](#) or other financial reporting requirements set forth in the contract.

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#### 1843.7004 Exceptions.

(a) Exceptions to the requirement for head of the contracting activity or procurement officer approval of undefinitized contract actions are—

- (1) Modifications to facilities contracts;
- (2) Modifications to construction contracts using Construction of Facilities funding; or
- (3) Modifications to decrease the contract value.

(b) For any of the modifications in paragraph (a) of this section, the contracting officer shall cite the exception and include complete supporting rationale for its applicability in the contract file.

#### 1843.7005 Definitization.

(a) The contracting officer should ensure undefinitized contract actions are sufficiently complete and detailed as to enable the contractor to begin immediate preparation of a cost proposal for the changed requirement. The NASA goal is to definitize UCAs within 180 days from date of issuance.

(b) The contracting officer shall document definitization negotiations in the contract file, clearly showing how the definitized price was determined and specifically documenting any variance between the original NTE price and the final definitized price.