

National Aeronautics and Space Administration

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achieved from its use are expected to be greater than the costs.

(b) In determining whether the benefits of partnering are greater than the costs, the following factors should be considered:

(1) The estimated dollar value of the contract;

(2) The complexity of the work to be performed;

(3) The contemplated length of the contract; and

(4) The estimated costs to be incurred in conducting the partnership development and team building initial and follow-up workshops.

1836.7004 NASA solicitation provision and contract clause.

The contracting officer may insert a clause substantially the same as stated at 1852.236-75, Partnering for Construction Contracts, in solicitations and contracts for construction, when it has been determined in accordance with 1836.7003 that the benefits to be derived from partnering exceed the costs.

PART 1837—SERVICE CONTRACTING

Subpart 1837.1—Service Contracts—General

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

SOURCE: 62 FR 4472, Jan. 30, 1997, unless otherwise noted.

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.

1837.104 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 NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants.

[62 FR 4472, Jan. 30, 1997, as amended at 64 FR 12485, Mar. 9, 2000; 66 FR 53548, Oct. 23, 2001]

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).

[62 FR 4472, Jan. 30, 1997, as amended at 62 FR 36721, July 9, 1997; 62 FR 58688, Oct. 30, 1997]

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:

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(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 NPG 3300.1, Appointment of Personnel To/From NASA, Chapter 4, Employment of Experts and Consultants).

[62 FR 4472, Jan. 30, 1997, as amended at 64 FR 51079, Sept. 21, 1999; 66 FR 53548, Oct. 23, 2001]

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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 Assistant 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).

PART 1839—ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 1829.1—General

Sec.

1839.105 Privacy.

1839.107 Contract clause.

1839.107-70 NASA contract clause.

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

SOURCE: 62 FR 4473, Jan. 30, 1997, unless otherwise noted.