PART 1812—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

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Subpart 1812.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services

1812.301 Solicitation provisions and contract clauses for the acquisition of Commercial Products and Commercial Services.

Subpart 1812.70—Commercial Space Hardware or Services

1812.7000 Anchor tenancy contracts.

Parent topic: SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

Subpart 1812.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services

1812.301 Solicitation provisions and contract clauses for the acquisition of Commercial Products and Commercial Services.

(f)(i) The following clauses are authorized for use in acquisitions of Commercial Products and Commercial Services when required by the clause prescription:

(A) 1852.204-75, Security Classification Requirements.

(B) 1852.204-76, Security Requirements for Unclassified Information Technology Resources.

(C) 1852.215-84, Ombudsman.

(D) 1852.216-80, Task Order Procedures (Alternate I).

(E) 1852.216-88, Performance Incentive.

(F) 1852.219-73, Small Business Subcontracting Plan.

(G) 1852.219-75, Individual Subcontracting Reports.

(H) 1852.223-70, Safety and Health.

(I) 1852.223-71, Frequency Authorization.

(J) 1852.223-72, Safety and Health (Short Form).

(K) 1852.223-73, Safety and Health Plan.

(L) 1852.223-75, Major Breach of Safety and Security (Alternate I).

(M) 1852.225-70, Export Licenses.

(N) 1852.228-76, Cross-Waiver of Liability for International Space Station Activities.

(O) 1852.228-78, Cross-Waiver of Liability for Science or Space Exploration Activities Unrelated to the International Space Station.

(P) 1852.237-70, Emergency Evacuation Procedures.

(Q) 1852.237-72, Access to Sensitive Information.

(R) 1852.237-73, Release of Sensitive Information.

(S) 1852.246-72, Material Inspection and Receiving Report.

(T) 1852.246-74, Counterfeit Electronic Part Detection and Avoidance.

(U) 1852.247.71, Protection of the Florida Manatee.

Subpart 1812.70—Commercial Space Hardware or Services

1812.7000 Anchor tenancy contracts.

(a) The term “anchor tenancy” means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.

(b) Subject to receiving an appropriation that:

(1) Authorizes a multi-year anchor tenancy contract; and

(2) Specifies the commercial space product or service to be developed or used, NASA may enter into a multi-year anchor tenancy contract only if Administrator determines—

(i) The good or service meets the mission requirements of the National Aeronautics and Space Administration;

(ii) The commercially procured good or service is cost effective;

(iii) The good or service is procured through a competitive process;

(iv) Existing or potential customers for the good or service other than the United States Government have been specifically identified;

(v) The long-term viability of the venture is not dependent upon a continued Government market or

other nonreimbursable Government support; and

(vi) Private capital is at risk in the venture.

(c) Contracts entered into under such authority may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(1) Contracts that provide for this payment of termination liability shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(2) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(d) *Limitations.*

(1) Contracts entered into under such authority shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.