PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

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Parent topic: SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Subpart 1823.2—Energy and Water Efficiency and Renewable Energy

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 1823.5—Drug-Free Workplace

1823.570 Drug- and alcohol-free workforce.

This section sets 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 Products and Commercial Services.

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 1823.70—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 provision 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 provision 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 provision, 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 Products and Commercial Services 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—Authorization for Radio Frequency Use

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.