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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1833 and 1852

#### RIN 2700-AC33

### Approval Authority for Contract Actions Pending Resolution of an Agency Protest

**AGENCY:** National Aeronautics And  
Space Administration.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the  
NASA FAR Supplement (NFS) to  
specify the approval authority to award  
a contract or continue contract  
performance when a protest is filed  
directly with the agency. It also makes  
administrative changes to specify  
internal NASA distribution  
requirements for protest notifications  
and to correct a position title.

**EFFECTIVE DATE:** October 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Tom  
O'Toole, NASA, Office of Procurement,  
Contract Management Division (Code  
HK); (202) 358-0478; e-mail:  
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#### SUPPLEMENTARY INFORMATION:

##### A. Background

FAR 33.103 and 33.104 address  
protests to the agency and the General

Accounting Office (GAO), respectively.  
Both FAR sections allow an agency to  
establish an approval authority for  
awarding a contract when a protest is  
received prior to contract award and for  
continuing contract performance when a  
protest is received after award. NFS  
1833.104(b)(1) and (c)(2) already specify  
that the Assistant Administrator for  
Procurement is the approval authority  
for those actions when a protest is filed  
with GAO, but no authority is specified  
relative to agency protests. To ensure  
the same degree of review and approval  
regardless of the forum where the  
protest is filed, this change to the NFS  
establishes the Assistant Administrator  
for Procurement as the approval  
authority for contract award and  
continuing contract performance for  
agency protests.

##### B. Regulatory Flexibility Act

This final rule does not constitute a  
significant revision within the meaning  
of FAR 1.501 and Public Law 98-577,  
and publication for public comment is  
not required. However, NASA will  
consider comments from small entities  
concerning the affected NFS Parts 1833  
and 1852 in accordance with 5 U.S.C.  
610.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does  
not apply because the changes do not  
impose recordkeeping or information  
collection requirements which require  
the approval of the Office of  
Management and Budget under 44  
U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 1833 and 1852

Government Procurement.

**Tom Luedtke,**

*Assistant Administrator for Procurement.*

Accordingly, 48 CFR parts 1833 and  
1852 are amended as follows:

1. The authority citation for 48 CFR  
parts 1833 and 1852 continues to read  
as follows:

**Authority:** 42 U.S.C. 2473(c)(1).

### PART 1833—PROTEST, DISPUTES, AND APPEALS

2. Amend section 1833.103 by  
deleting the word "Deputy" in  
paragraph (c), and by revising paragraph  
(f) to read as follows:

#### 1833.103 Protests to the agency.

\* \* \* \* \*

(f) Protests received at NASA offices  
or locations other than that of the  
cognizant contracting officer shall be  
immediately referred to the contracting  
officer for disposition (see 1833.106(a)).  
The contracting officer shall advise the

Headquarters Offices of Procurement  
(Code HS) and the General Counsel  
(Code GK) of the receipt of the protest  
and the planned and actual disposition.  
This paragraph does not apply when the  
protester has requested an independent  
review under the provision at 1852.233-  
70.

(1) The Assistant Administrator for  
Procurement (Code HS) is the approval  
authority for contract award.

(3) The Assistant Administrator for  
Procurement (Code HS) is the approval  
authority for authorizing continued  
contract performance.

## PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 1852.233-70 [Amended]

3. Amend section 1852.233-70 by  
revising the date of the provision to read  
"Oct. 2002" and by deleting the word  
"Deputy" each time it appears.

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1852 and 1872

#### RIN 2700-AC33

### Broad Agency Announcements

**AGENCY:** National Aeronautics and  
Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts with  
changes the proposed rule published in  
the **Federal Register** on August 31,  
2001. This final rule amends the NASA  
FAR Supplement (NFS) to require,  
when relevant, consideration of safety  
and risk-based acquisition management  
in NASA's broad agency  
announcements. This change will  
ensure consistency in the way safety  
and risk based acquisition management  
are treated in all NASA acquisitions.

**EFFECTIVE DATE:** October 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Paul  
Brundage, NASA, Office of  
Procurement, Analysis Division (Code  
HC), (202) 358-0481, or e-mail:  
paul.brundage@hq.nasa.gov.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

NASA recently made several changes  
to the NFS to address safety and risk  
based acquisition management (RBAM)  
in the acquisition planning processes for