

§ 25.405 Prohibition of collusion.

Upon the deadline for filing the supplemental information required by § 25.403, all applicants are prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements, with other applicants until after the high bidder makes the required down payment.

§ 25.406 License Grant, Denial, Default, and Disqualification.

(a) Unless otherwise specified in these rules, auction winners are required to pay the balance of their winning bids in a lump sum within ten (10) business days following public notice by the Commission that it is prepared to award the licenses. Grant of the license will be conditioned on full and timely payment of the winning bid.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in § 1.2104(g)(2). In such event, the Commission may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment obligations set forth in § 25.404(b) will apply.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted and will be liable for the penalty set forth in § 1.2104(g)(2). In such event, the Commission will conduct another auction for the license, affording new parties an opportunity to file an application for the license.

(d) Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture their up front payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

PART 87—AVIATION SERVICES

1. The authority citation in Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Paragraph (d)(1) of § 87.303 is revised to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2390 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major components. The band 1525–1535 MHz is also available for these purposes on a secondary basis. In the band 2320–2345 MHz, the mobile and radiolocation services are allocated on a primary basis until a Broadcast-Satellite (sound) service has been brought into use in such a manner as to affect or be affected by the mobile and radiolocation services in those service areas. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned or unmanned objects undergoing flight tests. In the 1435–1530 MHz band, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the 2320–2345 MHz and 2360–2390 MHz bands, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles whether or not such operations involve flight testing: 2332.5, 2364.5, 2370.5 and 2382.5 MHz. In the 2360–2390 MHz band, all other telemetry and telecommand uses are secondary to the above stated launch vehicle uses.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**48 CFR Part 1833 and 1852****NASA FAR Supplement; Protests to the agency**

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Interim rule; request for comments.

SUMMARY: The Federal Acquisition Regulation (FAR) was amended to revise procedures for submission of protests to Federal agencies. In order to implement the changes made to the FAR, this rule provides for a solicitation provision that informs offerors to whom protests may be submitted as an alternative to submission to the NASA contracting officer. The effect of the changes is to give prospective NASA contractors an additional means for submitting protests in order to resolve their concerns about a contract or solicitation.

DATES: This interim rule is effective March 11, 1997. NASA will accept written comments until May 12, 1997.

ADDRESSES: Comments regarding this rule should be addressed as follows: National Aeronautics and Space Administration, Contract Management Division (Code HK/Beck), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dave Beck, (202) 358–0482.

SUPPLEMENTARY INFORMATION:**Availability of NASA FAR Supplement**

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, telephone number (202) 512–1800. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, either in whole or in part, directly by NASA.

Background

Section 33.103 of the Federal Acquisition Regulation (FAR), 48 CFR 33.103, was amended to revise procedures for submission of protests to Federal agencies (62 FR 270, January 2, 1997). In order to implement the changes made to the FAR, this rule provides for a solicitation provision that informs offerors to whom protests may be submitted as an alternative to submission to the contracting officer.

Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule implements previously adopted Federal-wide regulations by simply providing for a solicitation provision that informs offerors to whom protests may be submitted as an alternative to submission to the contracting officer. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small

entities concerning the affected NASA FAR Supplement subparts will be considered in accordance with 5 U.S.C. 601. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the NASA FAR Supplement does not impose any new recordkeeping or information collection requirements, or new collections of information from offerors contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1833 and 1852

Government procurement.

Tom Luedtke

Deputy Associate 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—PROTESTS, DISPUTES, AND APPEALS

Subpart 1833.1—Protests

2. Section 1833.103 is revised to read as follows:

1833.103 Protests to the agency. (NASA supplements paragraph (b))

(b) 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 Office of 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.

3. Section 1833.106–70 is added to read as follows:

1833.106–70 Solicitation provision.

Contracting officers shall insert the provision at 1852.233–70 in all solicitations.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 1852.233–70 is added to read as follows:

1852.233–70 Protests to NASA.

As prescribed in 1833.106–70, insert the following provision:

Protests to NASA (March 1997)

Potential bidders or offerors may submit a protest under 48 CFR part 33 (FAR Part 33) directly to the Contracting Officer. As an alternative to the Contracting Officer's consideration of a protest, a potential bidder or offeror may submit the protest to the Deputy Associate Administrator for Procurement, who will serve as or designate the official responsible for conducting an independent review. Protests requesting an independent review shall be addressed to Deputy Associate Administrator for Procurement, NASA Code H, Washington, DC 20546–0001.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346–7035–02; I.D. 030497A]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Maine has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Maine for the remainder of calendar year 1997, unless additional quota becomes available through a transfer. This announcement is in accordance with the regulations governing the summer flounder fishery. **EFFECTIVE DATE:** March 5, 1997 through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Management Specialist, 508–281–9280.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percentage allocated to each state are described in § 648.100.

The total commercial quota for summer flounder for the 1997 calendar year is set equal to 11,111,298 lb

(5,040,000 kg), effective March 5, 1997. The percentage allocated to vessels landing summer flounder in Maine is 0.04756 percent, or 5,284 lb (2,397 kg).

Section 648.100(d)(2) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In calendar year 1996, a total of 8,226 lb (3,731 kg) were landed in Maine. The amount allocated for Maine landings in 1996 was 5,284 lb (2,397 kg), creating a 2,942 lb (1,334 kg) overage that was deducted from the amount allocated for landings in that state during 1997, effective March 5, 1997. The resulting quota for Maine is 2,342 lb (1,062 kg).

Section 648.101(b) requires the Regional Administrator to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish an announcement in the Federal Register advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that the State of Maine has attained its quota for 1997, the Regional Administrator has determined based on dealer reports and other available information, that the State's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours March 5, 1997, further landings of summer flounder in Maine by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1997 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Maine for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*