

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE D0-C9	PAGE OF PAGES 1 1
2. AMENDMENT/MODIFICATION NO. 00009	3. EFFECTIVE DATE 06/25/2013	4. REQUISITION/PURCHASE REQ. NO. NND12374119R	5. PROJECT NO. (If applicable)
6. ISSUED BY NASA / Dryden Flight Research Center P.O. Box 273 M/S 1422 Edwards, CA, 93523-0273	CODE DFRC	7. ADMINISTERED BY (If other than Item 6) CODE	

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) ALL PROSPECTIVE OFFERORS	<input checked="" type="checkbox"/> 9A. AMENDMENT OF SOLICITATION NO. NND12374119R <input checked="" type="checkbox"/> 9B. DATED (SEE ITEM 11) 05/15/2012 <input type="checkbox"/> 10A. MODIFICATION OF CONTRACT/ORDER NO. <input type="checkbox"/> 10B. DATED (SEE ITEM 13)
CODE	FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
(a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

**13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS.
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
<input type="checkbox"/>	
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this amendment is to respond to a late question received and to provide clarification regarding the solicitation. The proposal due date is not extended and no changes are made to the solicitation as a result of this amendment.

End of Amendment 9

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Robert Medina, Contracting Officer		
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
_____ (Signature of person authorized to sign)		_____ (Signature of Contracting Officer)	

NND12374119R
Questions and Responses
Reference Amendment 9
June 25, 2013

Q1:

With respect to the Questions and Answers distributed with the referenced RFP amendment, Q30 pointed out that it is unlikely that any small business that meets the \$25.5M size standard for NAICS 541513 is likely to have a Government approved Purchasing System, i.e. a purchasing system that has passed a formal Contract Purchasing System Review (CPSR) conducted by DCMA. The response per R30 was the introduction of H-12 and H-13 that allows a small business to provide a ten page plan as to how it will achieve an approved Purchasing System by 90 days after contract award (DAC). Frankly, clauses H-12 and H-13 provide no relief to a small business bidder who does not already have an approved purchasing system. The FAR provision [applicable to the CPSR requirement](#) is as follows:

44.302 Requirements.

(a) The ACO shall determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (**excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial items pursuant to [Part 12](#)**) are expected to exceed \$25 million during the next 12 months, perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. **Generally, a CPSR is not performed for a specific contract.** The head of the agency responsible for contract administration may raise or lower the \$25 million review level if it is considered to be in the Government's best interest.

(b) Once an initial determination has been made under paragraph (a) of this section, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

Regarding FAR 44.302, any small business that meets the \$25.5M size criteria will have substantially less than \$25M of Government sales excluding competitive FFP awards and sales of commercial items. We have discussed this problem with our ACO who has indicated the following:

- a) The DCMA CPSR Center will not conduct a CPSR until the 44.302 requirement is met.
- b) Even if the DCMA CPSR Center will conduct a review after contract award, it cannot be committed to do so within 90 DAC.
- c) Our ACO views our procurement system as not having any problems, i.e. suitable and not in need of a CPSR. Because our procurement system has a good record, it is not eligible for an expedited review.
- d) Please note, the ACO determines the need for a CPSR, not the procuring agency. Per FAR 44.302, "Generally, a CPSR is not performed for a specific contract."

Based on the info provided by our ACO and our status as a qualified small business, we hereby request the elimination of the CPSR requirement as it is impossible for a fully qualified small business bidder to

meet that requirement. The inclusion of a requirement for an approved Purchasing System is simply incompatible with the \$25.5M size standard for NAICS 541513. Further, evidence of an existing approved purchasing system per RFP Section M.3 A(9) should not be evaluated as a strength as the inclusion of the requirement is prejudicial to most small business bidders. We highly recommend that the Government substitute a requirement whereby a bidder provides its ACO's contact information and the evaluation team verifies with the ACO that the bidder has a satisfactory procurement system history. We believe such a change is mandatory as otherwise we are disadvantaged as a small business bidder and can only consider an immediate formal protest.

R1:

A Government Approved Purchasing System is a requirement for this effort and will not be eliminated. Clauses H.12 and H.13 require that the contractor have a Government Approved Purchasing System. This government approval is not limited exclusively to DCMA; NASA, pursuant to NASA FAR Supplement (NFS) 1844.302-71, or another federal agency may authorize approval. Pursuant to Clause H.12, if the successful offeror does not have a Government Approved Purchasing System at proposal submission, the contractor must submit their Purchasing System to the Government (NASA) for approval within 90 days after the contract effective date.