



**Mary W. Jackson NASA Headquarters**  
Washington, DC 20546-0001

September 23, 2022

## MEMORANDUM FOR NASA ACQUISITION WORKFORCE

SUBJECT: Managing the Effects of Inflation with Existing Contracts

As the NASA Headquarters Office of Procurement (HQ OP) continues to evaluate inflation and its effects on the Aerospace Industry and contractors' ability to perform under existing firm-fixed price contracts, this memorandum provides additional guidance to Contracting Officers (COs) when considering the evaluation of inflation in extraordinary circumstances.

On July 15, 2022, HQ OP released a memorandum entitled "[NASA Guidance on Current Inflation and Economic Price Adjustments](#)" which emphasized existing Federal Acquisition Regulation (FAR) and NASA FAR Supplement (NFS) guidance that may be considered to recognize cost increases due to inflation. The guidance is largely dependent on contract type. FAR 16.203-1, for example, provides guidance on the use of a fixed-price contract with economic price adjustment, shifting the price upward or downward depending on the certain circumstances. However, in addition to the situations discussed in the previous memorandum, there may be extraordinary circumstances where an accommodation can be reached by mutual agreement of the contracting parties, perhaps to address acute impacts on small business and other suppliers.

For extraordinary circumstances that will facilitate national defense, where contractors have sought or may seek an upward adjustment to the price of an existing firm-fixed-price contract to account for current economic conditions, COs may have authority under Public Law 85-804, and as implemented by FAR Part 50 and the NFS 1850.103, to afford Extraordinary Contractual Relief. While the law and regulation have established stringent criteria, NASA may consider contractor requests to employ this authority, subject, of course, to available funding. Note per FAR Part 50.103-1: The fact that losses occur under a contract is not sufficient basis for exercising the authority conferred by Pub. L. 85-804.... Even if all of the factors in any of the examples are present, other considerations may warrant denying a contractor's request for contract adjustment.

Best Practice Guidance for COs: As stated in FAR 50.102-3(b), Limitations on exercise of authority, no contract, amendment, or modification shall be made under Pub. L. 85-804's authority (1) Unless the approving authority finds that the action will facilitate the national defense, (2) Unless other legal authority within the agency concerned is deemed to be lacking or inadequate, (3) Except within the limits of the amounts appropriated and the statutory contract authorization, and (4) That will obligate the Government for any amount over \$35 million unless the Senate and House Committees on Armed Services are notified in writing of the proposed obligation and 60 days of continuous session of Congress have passed since the transmittal of such notification.

COs shall take the following steps as needed:

- 1) Ensure that the contractor's request include the required information in accordance with FAR 50.103-3(a) and that all facts surrounding the case are examined in accordance with FAR 50.103-4.
- 2) Request specific guidance from the NASA HQ OP, Procurement Management and Policy Division when evaluating cases of inflation in extraordinary circumstances. This office will consult the Enterprise Pricing Office as to the validity of the case presented.
- 3) After investigating the facts and issues relevant to the contractor's request, forward the request to the Associate General Counsel for Contracts and Procurement Law in accordance with, NFS 1850.103-570 Submission of Request to the Contract Adjustment Board.

I appreciate your cooperation and continued commitment to supporting NASA's mission. If you have any questions, please contact Edgar Lee, Senior Procurement Analyst, Procurement Management and Policy Division at [edgar.e.lee@nasa.gov](mailto:edgar.e.lee@nasa.gov).

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