RAPID III DRAFT RFP NNG09207304J QUESTIONS AND RESPONSES
QUESTIONS 122-159

Topic Area	Quest #	RIII Doc	Sect.	Page	Question - Issue	GSFC Action Items and Response
Proposal non-compliances	122	RFP	General	n/a	Will there be a process for the contractor to address any issues of non-compliance or weaknesses prior to notification of selection?	Failure to meet Technical Acceptability Standards will be a deficiency in accordance with L.22.2(c). If discussions are necessary, weaknesses will be addressed.
Patent Infringement	123	RFP	I.44	39	Given the potential for R&D work at the Delivery Order level, will the Government include NGAS Contract Clause 52.227-1, Authorization and Consent, Alternate I to protect against potential patent infringement liability? Contractor Recommendation: Request addition of Contract Clause 52.227-1, Authorization and Consent, Alternate I to final RFP.	Given the fixed price supply inspection clause utilized in this procurement, Clause 52.227-1 will remain as is.
Page limitation	124	RFP	L.22.2(7)(8)(9)	88	The proposal instructions indicate a limitation of 20 pages for the technical description, however the instructions also require a Small Business Subcontracting Master Plan, a Safety and Health Plan, and Small Disadvantaged Business Participation targets. Will these items count against the 20 page limitation?	See response to Question 98.
EVM	125	Cover Letter	N/A	1	In the event the RSDO office does not obtain approval to deviate from NFS 1834.2., Earned Value Management System (EVMS) for a Firm-Fixed –Price (FFP) Contract; if a contractor does not have a "certified" earned value at the time of the release of the Rapid III request for proposal, is the contractor deemed as "non-compliant" with the NFS 1834.2 requirement? If a contractor's certification is not current and if no exceptions may be taken in our proposal submittal, how is a contractor able to submit a proposal without the fear of it being returned as non-compliant due to this single deficiency? Should the Contractor assume that the waivers to NFS 1834.2 "EVMS" will be approved?	Yes, all offerors should assume that the EVMS waiver will be approved.
Performance Incentive	126	RFP	B.2	5	1852.216-88 Performance Incentive paragraph (f). The section seems to indicate a percentage of the performance incentive could be paid ("the Contractor will be paid (TBD) of the maximum incentive") If this is true how would the Government determine a percentage lower than 100%	Performance Incentives will be defined at the delivery order level in the Request for Offer (RFO) when applicable. This is where the specific details for calculating incentives will be spelled out.

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Non-Standard Services credit	127	RFP	B.5	6	The section provides the Government an entitlement to credit when work authorized by a non-standard services order replaces or makes unnecessary work performed as a standard requirement – it further provides that the Government can make a unilateral determination the amount of the credit. This statement conflicts with the Changes Clause 52-243-1 and 52-243-7. Suggest this wording be removed or reworded to be complaint with the changes clause(s).	See response to Question 101.
SC Acceptance	128	RFP	E.7 I.87	13	Paragraph (a) of Section E.7 states: "Title to the spacecraft furnished under this contract shall pass to the Government upon final acceptance, in accordance with Clause I.87, regardless of when or where the Government takes physical possession . . ." Consider the case where a Delivery Order is place for an Observatory with a high casualty debris area which requires a controlled deorbit to mitigate the risk of human injury. If the observatory is launched into orbit and becomes disabled prior to government acceptance and therefore, title remains with the contractor, is the contractor liable for damages resulting from the observatory debris reaching the Earth's surface when it re-enters the Earth's atmosphere years later?	Please refer to the last sentence in the third paragraph of Clause I.87.
Employment Eligibility Verification	129	RFP	I.38	39	Employment Eligibility Verification (Jan. 2009) : It is our understanding that executive order 13465 has been put on hold by the Obama Administration pending further review. We suggest the Government remove this requirement until such time as it is fully implemented.	This clause is will remain in the final RFP as it became effective September 8, 2009.

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SBD OCI S&H Plans	130	RFP	J.1, L.22	69, 84 86- 91	The Table appearing on page 69 of the RFP calls for the following documents to be delivered with the contractor's proposal: • Small Business Subcontracting Plan • Organizational Conflicts of Interest (OCI) Avoidance Plan (which is defined on the top of Page 84 as "a preliminary analysis of possible organizational conflicts of interest that might flow from the award of this contract.) • Safety and Health Plan The Organizational Conflicts of Interest Avoidance Data (preliminary analysis) appears in the proposal instructions as a required subsection in the Offer Volume (Volume I) on Page 84 item 5. Further in the RFP, on Page 88; numbers (7) and (8) under Section L.22 Proposal Instructions for the Technical Volume, the Small Business Subcontracting Plan and the Safety and Health Plan appear as items in the list of "Technical Acceptability Standards". However, these two documents are not mentioned anywhere else in the proposal instructions in Sections L.21, 22 or 23. They also do not appear in the Table on the top of Page 81 (which outlines the top level proposal contents) nor do the documents appear in the descriptions of Appendices A, B, C or D appearing on Pages 89-91.	The documents have been mentioned. Specifically, the preliminary analysis for the OCI is in Section L.21(c)(5); and both the Safety and Health Plan and the Small Business Subcontracting Plan are specified in L.22.2(c)(7 & 8). For clarity the table at the top of page 81 will be revised to include these additional items. The Safety and Health Plan will not be identified as a CDRL.

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					Continuation from previous page: We recommend the Government revise Section(s) L.21, 22 or 23 of the RFP to specify where the Small Business Subcontracting Plan and the Safety and Health Plan should be placed in the proposal. We recommend the Small Business Subcontracting Plan be placed in a new Appendix E and the Safety and Health Plan be placed as a separate document under Appendix C. We further recommend the Safety and Health Plan be identified as a CDRL in the Statement of Work and that a 1-2 page Data Item Description be created for the CDRL rather than having the contractor wade through NPR 8715.3 titled: NASA General Safety Program Requirements which is 180 pages in length to determine the appropriate response and content of the Safety and Health Plan.	
SDB targets	131	RFP	L.22	88	(9) Small Disadvantaged Business (SDB) Participation—Contract Targets; The offeror shall provide SDB targets in accordance with Clause H.13. The contractor assumes the appropriate place for this information to be provided in the proposal is in the Small Business Subcontracting Plan. Please confirm this assumption.	The final RFP will be revised to have SDB Targets provided at the delivery order level.
CO notification	132	CDRL	1.2.e	4	We assume that written notification via "e-mail" satisfies "shall notify the Government Contracting Officer (CO) and Government Project Management in writing, when mailing or transmitting each CDRL Data Item." We suggest the wording be altered to include e-mails as a satisfactory method of notification.	We agree that email notification will be a satisfactory method of notification of transmittals. The language in CDRL 1.2.e will be modified in the final RFP.

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EVM Deviation	133	Cover Letter	N/A	1	In the event the RSDO office does not obtain approval to deviate from NFS 1834.2., Earned Value Management System (EVMS) for a Firm-Fixed –Price (FFP) Contract; if a contractor does not have a "certified" earned value at the time of the release of the Rapid III request for proposal, is the contractor deemed as "non-compliant" with the NFS 1834.2 requirement? If a contractor's certification is not current and if no exceptions may be taken in our proposal submittal, how is a contractor able to submit a proposal without the fear of it being returned as non-compliant due to this single deficiency? Should the Contractor assume that the waivers to NFS 1834.2 "EVMS" will be approved?	See response to Question 125**.**
Performance Incentive	134	Draft RFP	B.3	4	Entirety of B.3. Comment or Question: What is the scale of the incentives contemplated as a percentage or dollar amount? Can the Government say more about what will be incentivized?	Technical performance incentives will be invoked at the discretion of the Government. These performance incentives will be applicable on delivery orders only. If incentives are applicable to a specific mission, all details will be identified in the RFO for that delivery order.
G.2 ORDERING PROCEDURES	135	Draft RFP	G.2	18	Generally, offers responding to RFOs will be due within four weeks after the RFO issue date. Comment or Question: Corporate review requirements for satellite hardware contracts typically require more than four weeks. We recommend extending the Final RFP to Proposal submission interval to at least six weeks.	The Government does not intend to change this wording in the RFP, Clause G.2, "Ordering Procedures". However, it refers to a "general" plan that can be changed when an RFO is released if the Government determines it is appropriate for the mission. In addition, offerors could request additional time for responding if required.
52.215-17 , Waiver of Facilities Capital Cost Of Money	136	Draft RFP	I.21	38	Prescribed by 15.408(i): Waiver of Facilities Capital Cost of Money. If the prospective contractor does not propose facilities capital cost of money in its offer, the contracting officer shall insert the clause at 52.215-17, Waiver of Facilities Capital Cost of Money, in the resulting contract. Comment or Question: FAR 52.215-17 is for a contract resulting from a solicitation. We recommend it be deleted from the Rapid III RFP.	See response to Question 203.

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OFFER VOLUME	137	Draft RFP	L.21	82	**NO EXCEPTIONS WILL BE ALLOWED** Include a statement of acceptance of the anticipated contract provisions and proposed contract schedule, or list all specific exceptions to the terms, conditions, and requirements of Sections A through J of this solicitation, to the Representations and Certifications (Section K) or to the information requested in Section L. Include the reason for the exception, or refer to where the reason is addressed in the proposal. This list must include all exceptions, both "business" and "technical Comment or Question: The bolded statement appears to contradict the following statement. Can the Government clarify what is intended?	This statement in final RFP, L.21(b) will be revised for clarification. The revision is as follows: *(b) SUMMARY OF **ACCEPTANCE*** *Include a statement of acceptance of the anticipated contract provisions and proposed contract schedule.* *NO EXCEPTIONS WILL BE ALLOWED* *THE GOVERNMENT WILL NOT ACCEPT PROPOSALS WITH ALTERNATE TERMS AND CONDITIONS.*
OFFER VOLUME No alternate terms	138	Draft RFP	L.21	83	Include any new terms, conditions or clauses proposed by the Offeror which are of benefit to the Government. Discuss the benefit to the Government in Volume I, II, or III as appropriate. Offerors are cautioned that exceptions or new terms, conditions, or clauses may result in a determination of proposal unacceptability (NFS 1815.305-70), may preclude award to an Offeror if award is made without discussions, or may otherwise affect an Offeror's competitive standing. **THE GOVERNMENT WILL NOT ACCEPT PROPOSALS WITH ALTERNATE TERMS AND CONDITIONS.** Comment or Question: The bolded statement appears to contradict the preceding statement. Can the Government provide clarification on what is intended?	This statement in L.21(b) will be revised in final RFP for clarification. See response to Question 137.
S&H Plan	139	RFP	L.14		The offeror shall submit a detailed safety and occupational health plan as part of its proposal Question: Is the Safety and Health Plan to be part of the Core Proposal or the Delivery Order Proposal? Rationale: The Tech volume for the Core Proposal does not currently call out the need for a Safety and Health Plan.	Yes, this is part of the "Core Proposal." The requirement for the Safety and Health Plan is included in the RFP, Section L.22.2(c)(8) of the Technical Volume.

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core system requirements	140	RFP	Section B.1		Supplies and/or Services to be provided – Contract Line Items 7, 9, 11, 12, 13, 14 and 16 specify a deliverable per clauses or SOW items, but also include Delivery Order requirements. Possible changes due to Delivery Order requirements should be deleted from these line items if they are to be priced within the NTE price (cannot include the effect of undefined changes in the NTE price).	These items must be included for the baseline price (NTE) for the master contracts. Any adjustments due to delivery order requirements would be considered mission specific price adjustments (+ or -).
RFP	141	RFP	Section L.21 D		States that the Small Business Subcontracting Plan will be submitted and evaluated at the Delivery Order level only (no Core Proposal submittal). Section L.22 (7) seems to contradict this, stating that a Small Business Subcontracting Master Plan needs to be submitted with the Core Proposal. Please provide clarification.	In accordance with the RFP, Section L.21 D, a Small Business Subcontracting Plan will be requested for submittal and evaluated for each Delivery Order. However, the Contractor's Small Business Subcontracting Master Plan needs to be submitted with the Core Proposal as defined in Section L.22 (7).
RFP	142	RFP	Section L.22(9)		"The offeror shall provide SDB targets in accordance with Clause H.13." Is this a Core Proposal submittal? If so, where should this information go?	See response to Question 131.
RFP	143	RFP	Section L.23(2)		Requests labor rates for Non-Standard services for a period six years into the future. Will there be a mechanism in place to amend projected labor rates to actuals at some future point?	No. The labor rates for Non-Standard services will remain in effect for the entire Rapid III contract.
Evaluation	144	RFP	Section M.3(7)		States that the Small Business Subcontracting Plan will be evaluated with the Core Proposal. Per comments above, we are unclear whether the Small Business Subcontracting Plan is to be submitted with the Core Proposal.	The Contractor's Small Business Subcontracting Master Plan needs to be submitted with the Core Proposal as defined in Section L.22 (7). The RFP, Section M.3(7), has been revised to read: "Small Business Subcontracting Master Plan"

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programmatic risk issues	145		Section B.2		States that the total FFP of this contract is to be negotiated. This appears to be in conflict with Sections F.5 and G.3: • Section F.5 which states that the Government reserves the right to order a specific core system identified in Clause B.1 (which has a price associated with it) and is therefore not a negotiated FFP. • Section G.3 which states that when the Contractor receives a sole source order, it aggress to enter into good faith negotiations for purposes of establishing a FFP. • Section G.2, however, seems to agree with Section B.2 by stating that the Government may award delivery orders based on examination of existing information. • Therefore, the Draft RFP includes two clauses that state the contract will be negotiated and as well as two clauses that specify the government can order a system identified in Clause B.1 (which has a price associated with it). Please clarify.	RFP, Clause B.2 states that the total FFP of this contract is to be negotiated on each individual delivery order issued under this contract. The price of any core system ordered cannot exceed the NTE identified for that core system in Clause B.1. However, there could be mission specific requirements that would necessitate changes and adjusted prices (additions or deletions) beyond the NTE. Any "mission specific" price adjustments would be identified and priced separately by the offeror and negotiated with the Government. The Government intends to release RFOs for delivery orders to all Rapid III master contractors. However in accordance with the FAR, the Government reserves the right to solicit to a vendor based on examination of existing information in cases where a sole source is justified in accordance with Clause G.3, Additional Ordering Procedures.
	146		G.3		Will this statement, "enter into good faith negotiations for purposes of establishing a FFP for the order," be applicable for any and all sole-source/direct buy orders? Can the contractor no-bid the direct buy order if a FFP is not agreed to?	Yes. The vendors can no-bid any RFO released under Rapid III. Any sole-source order would be negotiated based on the NTE price.
	147		I.89		We suggest that the language of this clause allow for possible use of our internal practices for handling sensitive information following government review of our practices.	RFP Clause I.89, Access to Sensitive Information, is a NFS clause that is used in all applicable contracts. The wording will not be changed. However, the clause does not preclude an offeror from using their internal practices as long as they meet the clause requirements. You may submit your internal practices in the Organization Conflicts of Interest Avoidance Plan, which will be reviewed and approved by the Government.
CAS	148	Contract	K		It is noted that FAR 52.230-1 Cost Accounting Standards (CAS) Notices and Certification was not in Section K of the Rapid III RFP. Is the Rapid Spacecraft Acquisition III IDIQ subject to CAS?	No, CAS does not apply to FFP contracts awarded on the basis of adequate price competition.

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52.245-16 Gov Property	149	Contract	I.64		Under I.64 FAR 52.245-1 Government Property clause, does the government limit the Spacecraft contractor of liability for transit and pre-launch risk of loss for all government property including but not limited to the payload instruments, ground support equipment (GSE) and special test equipment (STE)?	No, as Government acceptance has not occurred.
OCI	150	RFP	L.21 (c)(5)	85	Second sentence calls out delivery of an Organizational Conflict of Interest Avoidance Plan 30 days after contract award. Does this apply to the baseline contract or just to the delivery orders?	Yes, the Organizational Conflict of Interest Avoidance Plan is required for the baseline contract. A mission specific plan maybe required for each delivery order, if applicable.
	151	RFP	L.21 Para. D	84	It's not clear where this paragraph goes in the outline of this section since it is identified with a capital "D" and there are no other paragraphs identified with capital letters. Should this section be labeled "(d) Delivery Order Information"?	Yes. Section L.21, Paragraph “d”, will be corrected in the final RFP.
SBD	152	RFP	L.21 Para. D	84	The table of contract values has a "Total Small Business Contracting" line of 13%, but the numbers in the table only add up to 8.5%. Which number is correct?	The numbers in the table in the RFP, Section L.21(d) do not necessarily add up to the “Total Small Business Contracting” goal of 13% as there can be duplication among the individual categories.
Page limit	153	RFP	L.22, Para. 2(a),	86	The parenthetical statement in item 2 of this paragraph appears to limit the compliance matrix to the MAIP and not all of the items identified in the Technical Acceptability Standards. Is this correct or should the paragraph reference be "(2)(c)" instead of "(c)(2)"?	Yes, that is correct.
Page limit	154	RFP	L.22, para. 2(c)	86	The parenthetical statement excludes the MAR parts (Item (c)(2)) of the Technical Acceptability Standards from the page count. It is assumed that it also excludes subparagraphs (a., b., and c.) of this section as well, is that correct?	No. Subparagraphs a & b are excluded from the page count. Only (c)(2), (c)(7), (c)(8) and (c)(9) of subparagraph “c” are excluded from the page count limitation.

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Page limit	155	RFP	L.22, para. 2(c)	86	The 20 page limit seems to apply to all other sections of the "Technical Acceptability Standards" except (c)(2). These include some fairly lengthy plans (i.e. item (7) SDB Master Plan, item (8) Safety and Health Plan). Is it correct to assume these Plans are **not** included in the 20 page limit?	See response to Question 98.
Tech Vol Appendices	156		L.22, para. (d),	88	Does bidder need to include copies of the Appendices listed on this page in Section J-1 of the submitted Offer Volume as well as in the Technical Volume or can they be included by reference to the Technical Volume Appendices?	No, they should be submitted in the Technical Volume.
Performance Incentive 1852.216-88	157	RFP	B.3		**B.3 NFS 1852.216-88 Performance Incentive (JAN 1997)** Performance incentives should be objective and measurable. Will NASA/GSFC complete the TBDs and blanks set forth in this clause, or will Contractor be allowed to propose a formula for performance? We also assume that the positive incentives for exceeding performance are over and above the contract price, while negative incentives for underperformance would be in the form of refunds or reductions to contract price.	No. They will be defined at the DO level. See response to Question 126.

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FAR 52.215-21 Requirement for Cost or Pricing Data or Information Other Than Cost and Pricing Data - Modifications (OCT 1997)	158	RFP	L.23		There seems to be a conflict and/or a typographical error in Section L.23 which identifies the Clause as 52.215.20 instead of 52.215.21. Also, in Section L.23, it indicates that Alternative IV is the prevailing alternative clause. We think Clause 52.215.21, Alternative IV, should be the cited clause because if the price of a item being offered is set by law or regulation, or if it is a commercial item, the Contractor can submit a written request for an exception to the requirement to submit cost or pricing data. We consider our standard core bus offerings for the RAPID III catalog to be commercial items and that an exception should be granted which would allow offerors to submit other than cost or pricing data that still would permit an adequate evaluation of the proposed price by the Government. If no exception applies, and cost or pricing data are required, we request the provision with Alternate I, which permits the Offeror to submit cost or pricing data in a format other than that prescribed by Table 15-2 "Instructions for Submitting Cost/Price Proposals When Cost or Pricing Data Are Required" (FAR 15.408) and, before contract award, offeror shall submit a Certificate of Current Cost or Pricing Data, as set forth in FAR 15.406-2 "Certificate of Current Cost or Pricing Data".	No Certified Cost or Pricing Data is required for the Master Contract, based on adequate competition. Rapid III is not a commercial contract. The contract will be awarded on a competitive fixed-price basis, and does not require application of the cost principles discussed in 48 CFR 9904.414 and FAR 31.205-10.
52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)	159	RFP	I.32		We note that Contracting officers shall not include the new clause 52.222-54, Employment Eligibility Verification, in any solicitation or contract prior to the applicability date of September 8, 2009.	See response to Question 129.