

Shoohy\_1 (as modified)

MCC26209 67Y

S.L.C.  
*Tim Shoohy*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide for contracting flexibility and transparency.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

**S. 933**

To authorize programs for the National Aeronautics and Space Administration for fiscal year 2025, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SHOOHY

Viz:

1 Strike section 720 and insert the following:

2 **SEC. 720. CONTRACTING FLEXIBILITY AND TRANS-**  
3 **PARENCY.**

4 (a) IN GENERAL.—In carrying out acquisition activi-  
5 ties, the Administrator shall ensure the use of contract  
6 types that are appropriate to the technical maturity, risk,  
7 and development stage of the system, subsystem, or serv-  
8 ice being procured.

9 (b) DEVELOPMENTAL PROGRAMS.—In the case of a  
10 program or project that involves significant technical un-  
11 certainty, technology development, or first-of-a-kind sys-

1 tem design, the Administrator may consider the use of a  
2 cost-reimbursement or other appropriate contract type, in-  
3 cluding a cost-plus contract, if the Administrator deter-  
4 mines—

5 (1) the program or project requirements are not  
6 suitable for a fixed-price contract;

7 (2) associated technical risks exceed reasonable  
8 levels for a contractor; or

9 (3) use of an alternative contract type would  
10 likely increase total program cost or risk to mission  
11 success.

12 (c) FIXED-PRICE CONTRACTS.—

13 (1) IN GENERAL.—In the case of a fixed-price  
14 or firm-fixed-price contract, the Administrator shall  
15 continue to ensure appropriate transparency,  
16 auditability, and cost visibility, consistent with appli-  
17 cable law and the Federal Acquisition Regulation,  
18 including—

19 (A) maintenance of adequate cost or prie-  
20 ing data, as required;

21 (B) access for audit by the Inspector Gen-  
22 eral of NASA, the Comptroller General of the  
23 United States, and any other authorized over-  
24 sight entity; and

1 (C) documentation sufficient to evaluate  
2 contract performance, pricing, and value to the  
3 Federal Government.

4 (2) ADDITIONAL REQUIREMENTS.—In addition  
5 to the requirement under paragraph (1), for any  
6 contract entered into by NASA on or after the date  
7 of the enactment of this Act, in which the contract  
8 is structured as a firm-fixed-price contract with a  
9 value exceeding \$100,000,000, the Administrator  
10 shall ensure the following:

11 (A) REQUIREMENTS VISIBILITY.—Changes  
12 to contract requirements after initial contract  
13 award that could materially affect cost, sched-  
14 ule, and performance contract outcomes shall be  
15 documented and transparent to the contractor  
16 and subject to congressional oversight con-  
17 sistent with subparagraph (E).

18 (B) NASA SAFETY STANDARDS COMPLI-  
19 ANCE.—The contract awardee and all sub-  
20 contractors and suppliers shall comply with all  
21 safety standards that are applicable and re-  
22 quired by NASA under the contract.

23 (C) REASONABLE PRICE DATA.—Current  
24 laws and regulations governing the determina-  
25 tion of a fair and reasonable price shall be fol-

1           lowed in accordance with chapter 35 of title 41,  
2           United States Code.

3           (D) SCHEDULE AND PERFORMANCE RE-  
4           PORTING.—The contract awardee shall provide  
5           NASA with quarterly performance updates on  
6           schedule progress, technical performance  
7           metrics, and key risk assessments, as deter-  
8           mined by the Administrator.

9           (E) CONGRESSIONAL OVERSIGHT.—Upon  
10          request, NASA shall make available to the ap-  
11          propriate committees of Congress relevant docu-  
12          mentation, with applicable markings, for fixed-  
13          price contracts exceeding the applicable thresh-  
14          old, including executed contracts, milestone  
15          schedules, and payment records to support con-  
16          gressional oversight responsibilities.

17          (3) IMPLEMENTATION GUIDANCE.—Not later  
18          than 180 days after the date of the enactment of  
19          this Act, the Administrator shall issue guidance nec-  
20          essary to implement this section.

21          (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
22          tion may be construed—

23                 (1) to alter or waive any requirement under  
24                 procurement law or regulation governing fixed-price  
25                 or cost-reimbursement contracts;

1           (2) to require the use of any specific contract  
2           type for a program; or

3           (3) to limit the authority of the Administrator  
4           to select the contract type that best supports mission  
5           assurance, cost effectiveness, and timely execution.