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Constellation system may be shut down by NASA budget move

CAPE CANAVERAL, Fla. -- In a surprise move, NASA has told the major contractors working on its troubled Constellation moon rocket program that they are in violation of federal spending rules -- and must immediately cut back work by almost \$1 billion to get into compliance.

As many as 5,000 jobs from Utah to Florida are expected to be lost over the next month. The effect of the directive, which went out to contractors earlier this week and which Congress was told about on Wednesday, may accomplish something that President Barack Obama has sought since February: killing Constellation's system of rockets, capsules and lunar landers that already has cost at least \$9 billion to date.

The decision caps a bitter, three-month behind-the-scenes battle between aerospace giants and NASA managers over who is responsible for covering the costs of dismantling the Constellation program. The fight has dragged in members of Congress and the White House -- and has dramatically raised the stakes in the struggle over the future of the country's human spaceflight program.

At issue is the federal Anti-Deficiency Act that requires all federal contractors to set aside a portion of their payments to cover costs in case the project is ever cancelled.

New NASA calculations say contractors are \$991 million short of what they must withhold -- and the agency has ordered the companies to find that money from the roughly \$3.5 billion they're budgeted to get for Constellation projects this year.

In a letter to Congress released Wednesday, NASA Administrator Charlie Bolden said: "Given this estimated shortfall, the Constellation program cannot continue all of its planned ... program activities (this year) within the resources available. Under the Anti-Deficiency Act (ADA), NASA has no choice but to correct this situation."

The biggest loser is Utah-based Alliant Techsystems Inc., or ATK, which is building the first stage of the Ares I rocket -- Constellation's centerpiece that was supposed to take astronauts to the International Space Station and ultimately the moon.

According to NASA, the company's termination costs total \$500 million -- the most for any contractor working on the program -- and will result in the immediate cutoff of any funds going to Ares I.

Other large companies affected include Lockheed Martin (\$350 million); Pratt Whitney Rocketdyne (\$48 million); and Boeing (\$81 million). "Many of these reductions will be implemented via reductions in work force ... primarily affecting Texas, Alabama, Colorado, Utah, and Florida," NASA told Congress, but it did not include a breakdown by state of job losses.

"It is the responsibility of the contractor, not the government, to ensure its costs and obligations are managed appropriately," said NASA spokesman Bob Jacobs. "NASA has no choice but to take this corrective action."

Contractors, especially ATK, have maintained to NASA and to members of Congress that historically NASA has not required them to withhold termination money and that therefore they should not be forced to cover the shortfall.

Members of Congress from states that will be hardest hit, including Utah and Alabama, support ATK and other contractors. They accuse the administration of using the federal spending rules to undermine a congressional prohibition -- passed last year -- that blocks NASA from holding back any contract payments for Constellation in this fiscal year.

"This latest attempt by the administration to force an early termination of the Constellation program is nothing more than a disingenuous legal maneuver to circumvent statutory language that was put in place to prevent this very type of action," said U.S. Rep. Rob Bishop, R-Utah. "Hurting our national defense capabilities and industrial base are examples of the long-term collateral damage that will come as a result of this administration's destructive and dangerous political agenda."

NASA spokesman Jacobs rejected charges that the decision was a backdoor effort to cancel Constellation, saying that the agency is legally compelled to cut back spending now, no matter what happens to the program.

The Obama administration has wanted to cancel most of Constellation since last fall, when a White House blue-ribbon commission concluded the program was "unsustainable," well over budget and as much as a decade behind schedule.

The administration seeks instead to outsource rides to the space station to private rocket companies while revamping NASA to focus on longer-term technology development. Following Obama's budget proposal in February, the agency ordered the program's main contractors to show proof they had had set aside termination costs as required under law.

According to NASA officials, Bolden has prioritized the areas of the program that should not be cut. These include advanced technology work on the Orion space capsule, the J2X rocket engine that was to power the Ares I second stage and any hardware that could be used for other programs.

NASA chief financial officer Beth Robinson told members of Congress that contractors

had "erroneously assumed" that they didn't have to set aside any funds to cover the program's cancellation and instead put everything they had into production of the various systems. But she also admitted that NASA did not manage the contractors properly.

Privately officials are pointing fingers at former NASA administrator Michael Griffin, the architect of the Constellation program, for turning a blind eye to termination liability requirements in order to try to sink as much money as possible into the program to make it harder to cancel.

NASA officials say they assume there will be investigations ordered by Congress in coming months.