

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700-AC53

NASA Grant and Cooperative Agreement Handbook—Approvals and Reviews

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule revises the NASA Grant and Cooperative Agreement Handbook by establishing a requirement for the prior approval of the Assistant Administrator for Procurement for the award of all grants and cooperative agreements that will exceed both \$5 million and 5 years. This final rule also clarifies the requirement to obtain new proposals, certifications, and technical evaluations for the renewal of cooperative agreements with commercial firms consistent with the current requirement for agreements with nonprofits and educational institutions. This final rule results from NASA's plans for reviews and recompetitions of contracts and partnerships identified in inventories submitted as a result of an agreement entered into with OMB on an action plan regarding the President's Management Agenda Competitive Sourcing element. These changes will establish greater consistency in the approval requirements for contracts, grants, and cooperative agreements with anticipated periods of performance exceeding 5 years, and the procedures used for renewals of grants and cooperative agreements with nonprofits and educational institutions and cooperative agreements with commercial firms.

EFFECTIVE DATE: March 26, 2003.

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SUPPLEMENTARY INFORMATION:

A. Background

OMB and NASA entered into an agreement on an action plan regarding the President's Management Agenda Competitive Sourcing element. That agreement called for NASA to put in place plans for reviews and recompetitions of contracts and partnerships identified in inventories submitted to OMB in September 2002. NASA's partnerships are primarily established through grants and

cooperative agreements with nonprofit organizations, educational institutions, and commercial firms. In developing NASA's plan for reviews and recompetitions, existing guidance pertaining to grants and cooperative agreements was reviewed and areas requiring revision or coverage were identified.

Contracts that are planned to exceed 5 years, inclusive of options, generally require the prior approval of the Assistant Administrator for Procurement. Grants and cooperative agreements are generally limited to 3 years; however, it is not a firm limit as is the case for contracts. This final rule establishes a similar requirement for grants and cooperative agreements that have a significant dollar value.

NASA grants and cooperative agreements with nonprofit organizations and educational institutions currently have a requirement for new proposals, certifications, and technical evaluations for renewals. Renewals provide for continuation of research beyond the original scope, period of performance, and funding levels. While the same requirements are understood to apply to renewals of cooperative agreements with commercial firms, they have not been explicitly stated. This final rule eliminates any possible ambiguity by specifying the requirement to obtain new proposals, certifications, and technical evaluations for renewals of cooperative agreements with commercial firms. This will ensure that consistent treatment is provided for these awards as is done for grants and cooperative agreements with nonprofits and educational institutions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it only makes changes to internal approval requirements, clarifies existing requirements, and does not impose any new requirements on contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any recordkeeping or information collection requirements that require the approval of the Office of

Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 14 CFR Parts 1260 and 1274

Grant Programs—Science and Technology.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 14 CFR Parts 1260 and 1274 are amended as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97-258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A-110.

2. In 1260.13, add the following after the last sentence of paragraph (a)(2) to read as follows:

§ 1260.13 Award procedures.

(a)(1) * * *

(2) * * *. However, grants that will exceed \$5 million and have a period of performance in excess of 5 years shall require the approval of the Assistant Administrator for Procurement (Code HS) prior to award. Requests for approval shall include a justification for exceeding 5 years and evidence that the extended years can be reasonably estimated. Requests for approval are not required when the 5-year limitation is exceeded due to a no cost extension.

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PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

3. The authority citation for Part 1274 continues to read as follows:

Authority: 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451 *et seq.*

4. Amend § 1274.207 by redesignating paragraph (b) as paragraph (d), and adding new paragraphs (b) and (c) to read as follows:

§ 1274.207 Extended agreements.

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(b) Cooperative agreements that will exceed \$5 million and have a period of performance in excess of 5 years shall require the approval of the Assistant Administrator for Procurement prior to award. Requests for approval shall include a justification for exceeding 5 years and evidence that the extended years can be reasonably priced. Requests for approval are not required when the 5-year limitation is exceeded due to a no cost extension.