

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.

FOR FURTHER INFORMATION CONTACT: Joseph Le Cren, NASA, Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546-0001, (202) 358-0431, e-mail: joseph.f.lecren@nasa.gov.

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.

(c) Cooperative agreement renewals provide for the continuation of research beyond the original scope, period of performance and funding levels; therefore, new proposals, certifications, and technical evaluations are required prior to the execution of a cooperative agreement renewal. Renewals will be awarded as new cooperative agreements. Continued performance within a period specified under a multiple year cooperative agreement provision does not constitute a renewal.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08-03-009]

RIN 1625-AA09

Drawbridge Operation Regulation; Illinois Waterway, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the McDonough Street Bridge, mile 287.3; Jefferson Street Bridge, mile 287.9; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7, Illinois Waterway. The drawbridges, with the exception of the Ruby Street Bridge, will be allowed to remain closed to navigation from 7:30 a.m. to 9 a.m. and 4 p.m. to 5:30 p.m., Monday through Saturday. The Ruby Street Bridge will remain in the open to navigation position while unscheduled structural steel repairs are made. This temporary rule is issued to facilitate vehicle traffic management and structural steel repairs to the Ruby Street Bridge.

DATES: This temporary rule is effective from March 12, 2003 until 7:30 a.m. on July 18, 2003.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832, between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays. The telephone number is (314) 539-3900, extension 2378. The Bridge Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Structural steel deficiencies were discovered on the Ruby Street Bridge that require immediate repair to keep the bridge in operation. Until such time as the Ruby Street Bridge is repaired, vehicular traffic in the City of Joliet, Illinois must be diverted to other bridges in the area resulting in greater congestion and an increased likelihood of vehicular accidents and injuries. Since the repairs will take approximately five months to complete, it is important that the other bridges in the area immediately modify their hours to allow rush hour traffic to flow efficiently, reducing the likelihood of accident or injury.

Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same safety reasons cited in the preceding paragraph, the rule should become effective immediately upon publication.

Background and Purpose

Due to routine maintenance to the Ruby Street Bridge, mile 288.7, Illinois Waterway, the bridge must remain in the open to navigation (closed to motor vehicle traffic) position at all times. As a result, the Illinois Department of Transportation requested a temporary change to the current regulations for the remaining four bascule leaf drawbridges within the City of Joliet that carry vehicular traffic across the Illinois Waterway. Increasing the hours that the four remaining bridges are closed to navigation and available for vehicle use during peak traffic periods will reduce traffic jams in the City of Joliet while having minimal impact on vessel traffic on the Illinois Waterway. Repairs to the Ruby Street Bridge are expected to be complete by July 18, 2003.

The current regulations permit the bridges to remain closed to navigation during the commuter hours of 7:30 a.m. to 8:30 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Saturday. By increasing the time the remaining bridges may remain closed to navigation

by thirty minutes in the morning and afternoon, traffic buildup in the city will be greatly alleviated. This regulation will result in these bridges, with the exception of the Ruby Street Bridge, being closed to navigation from 7:30 a.m. to 9 a.m. and from 4 p.m. to 5:30 p.m., Monday through Saturday. The Ruby Street Bridge will remain in the open to navigation position for structural steel repairs. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary drawbridge operation regulation has been coordinated with commercial waterway operators. No objections to the proposed temporary rule were raised.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

The Coast Guard expects the economic impact of the temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The temporary rule will have a negligible impact on vessel traffic. The primary users of the Illinois Waterway in Joliet, IL are commercial towboat operators. On average, eight vessels per day transit the affected bridges. Of these, one or two may have to adjust their speed and schedules to arrive at the affected bridges prior to, or after, the times the bridges are closed to navigation.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement