

## § 1274.101

- 1274.929 Restrictions on lobbying.
- 1274.930 Travel and transportation.
- 1274.931 Electronic funds transfer payment methods.
- 1274.932 Retention and examination of records.
- 1274.933 Summary of recipient reporting responsibilities.
- 1274.934 Safety.

### APPENDIX TO PART 1274—LISTING OF EXHIBITS

AUTHORITY: 31 U.S.C. 6301 to 6208; 42 U.S.C. 2451 *et seq.*

SOURCE: 65 FR 62934, Oct. 19, 2000, unless otherwise noted.

## Subpart A—General

### § 1274.101 Purpose.

(a) This part establishes uniform administrative requirements for NASA cooperative agreements awarded to commercial firms. Cooperative agreements are ordinarily entered into with commercial firms to—

- (1) Support research and development;
- (2) Provide technology transfer from the Government to the recipient; or
- (3) Develop a capability among U.S. firms to potentially enhance U.S. competitiveness.

(b) An award may not be made to a foreign government. Award to foreign firms is not precluded. The approval of the Associate Administrator for Procurement is required to exclude foreign firms from submitting proposals.

### § 1274.102 Definitions.

*Administrator.* The Administrator or Deputy Administrator of NASA.

*Associate Administrator for Procurement.* The head of the Office of Procurement, NASA Headquarters (Code H).

*Cash contributions.* The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

*Closeout.* The process by which NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

*Commercial item.* The definition in FAR 2.101 is applicable.

*Cooperative agreement.* As defined by 31 U.S.C. 6305, cooperative agreements are financial assistance instruments used to stimulate or support activities

## 14 CFR Ch. V (1–1–01 Edition)

for authorized purposes and in which the Government participates substantially in the performance of the effort. This part covers only cooperative agreements with commercial firms. Cooperative agreements with universities and non-profit organizations are covered by 14 CFR part 1260.

*Cost sharing or matching.* That portion of project or program costs not borne by the Federal Government except that the recipient's contribution may be reimbursable under other Government awards as allowable IR&D costs pursuant to 48 CFR (NFS) 1831.205–18.

*Date of completion.* The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

*Days.* Calendar days, unless otherwise indicated.

*Government furnished equipment.* Equipment in the possession of, or acquired directly by, the Government and subsequently delivered, or otherwise made available, to a recipient and equipment procured by the recipient with Government funds under a cooperative agreement.

*Grant Officer.* A Government employee who has been delegated the authority to negotiate, award, or administer grants or cooperative agreements. A Contracting Officer may serve as a Grant Officer if authorized by installation procurement regulations.

*Incremental funding.* A method of funding a cooperative agreement where the funds initially allotted to the cooperative agreement are less than the award amount. Additional funding is added as described in §1274.918.

*Recipient.* An organization receiving financial assistance under a cooperative agreement to carry out a project or program. A recipient may be an individual firm, a consortium, a partnership, etc.

*Resource contribution.* The total value of resources provided by either party to the cooperative agreement including both cash and non-cash contributions.

*Support contractor.* A NASA contractor performing part or all of the NASA responsibilities under a cooperative agreement.

*Suspension.* An action by NASA or the recipient that temporarily discontinues efforts under an award, pending corrective action or pending a decision to terminate the award. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 and 12689, “Debarment and Suspension.”

*Technical officer.* The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a cooperative agreement. A Contracting Officer’s Technical Representative may serve as a Technical Officer.

*Termination.* The cancellation of a cooperative agreement in whole or in part, by either party at any time prior to the date of completion.

**§ 1274.103 Effect on other issuances.**

For awards subject to this subpart, the requirements of this subpart apply, except to the extent that any administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials are required by statute, or are authorized in accordance with the deviations provision in 1274.104.

**§ 1274.104 Deviations.**

(a) The Associate Administrator for Procurement may grant exceptions for classes of or individual cooperative agreements from the requirements of this part when exceptions are not prohibited by statute.

(b) A deviation is required for any of the following:

(1) When a prescribed provision set forth in this part for use verbatim is modified or omitted.

(2) When a provision is set forth in this part, but not prescribed for use verbatim, and the installation substitutes a provision which is inconsistent with the intent, principle, and substance of the prescribed provision.

(3) When a NASA form or other form is prescribed by this part, and that form is altered or another form is used in its place.

(4) When limitations, imposed by this part upon the use of a provision, form, procedure, or any other action, are not adhered to.

(c) Requests for authority to deviate from this part will be forwarded to Headquarters, Program Operations Division (Code HS). Such requests, signed by the Procurement Officer, shall contain as a minimum:

(1) A full description of the deviation and identification of the regulatory requirement from which a deviation is sought.

(2) Detailed rationale for the request, including any pertinent background information.

(3) The name of the recipient and identification of the cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request(s).

(5) A copy of legal counsel’s concurrence or comments.

**§ 1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.**

(a) As soon as possible after the initial decision is made by a Headquarters program office or Center procurement personnel to use the CAN process, the cognizant program office or procurement office shall notify the Associate Administrator for Procurement (Code HS) of the intent to use a CAN in all cases where the total Government funds to be awarded in response to CAN proposals is expected to equal or exceed \$10 million. All such notifications, as described in this section, shall be concurred in by the Procurement Officer. This requirement also applies in those cases where an unsolicited proposal is received and a decision is made to award a cooperative agreement in which the recipient (or one or more members of a “team” of recipients) is a commercial firm and the total Government funds are expected to equal or exceed \$10 million.

(b) The required notification is to be accomplished by sending an electronic mail (e-mail) message to the following address at NASA Headquarters: [can@hq.nasa.gov](mailto:can@hq.nasa.gov). The notification must include the following information, as a minimum:

(1) Identification of the cognizant center and program office,

## § 1274.201

(2) Description of the proposed program for which proposals are to be solicited,

(3) Rationale for decision to use a CAN rather than other types of solicitations,

(4) The amount of Government funding to be available for awards,

(5) Estimate of the number of cooperative agreements to be awarded as a result of the CAN,

(6) The percentage of cost-sharing to be required,

(7) Tentative schedule for release of CAN and award of cooperative agreements,

(8) If the term of the cooperative agreement is anticipated to exceed 3 years and/or if the Government cash contribution is expected to exceed \$20M, address anticipated changes, if any, to the provisions (see 1274.202(f)), and

(9) If the cooperative agreement is for programs/projects that provide aerospace products or capabilities, (*i.e.*, provide space and aeronautics, flight and ground systems, technologies and operations), a statement that the requirements of NASA Policy Directive (NPD) 7120.4 and NASA Policy Guidance (NPG) 7120.5 have been met. This affirmative statement will include a specific reference to the signed Program Commitment Agreement.

(c) Code HS will respond by e-mail message to the sender, with a copy of the message to the Procurement Officer and the Office of Small and Disadvantaged Business Utilization, within 5 working days of receipt of this initial notification. The response will address the following:

(1) Whether Code HS agrees or disagrees with the appropriateness for using a CAN for the effort described,

(2) Whether Code HS will require review and approval of the CAN before its issuance,

(3) Whether Code HS will require review and approval of the selected offeror's cost sharing arrangement (*e.g.*, cost sharing percentage; type of contribution (cash, labor, etc.)), and

(4) Whether Code HS will require review and approval of the resulting cooperative agreement(s).

(d) If a response from Code HS is not received within 5 working days of noti-

## 14 CFR Ch. V (1-1-01 Edition)

fication, the program office or center may proceed with release of the CAN and award of the cooperative agreements as described.

### Subpart B—Pre-Award Requirements

#### § 1274.201 Purpose.

Sections 1274.202 through 1274.207 prescribe forms and instructions and address other pre-award matters.

#### § 1274.202 Solicitations and proposals.

(a) *Competition.* Consistent with 31 U.S.C. 6301(3), NASA uses competitive procedures to award cooperative agreements whenever possible. An award will normally be made as a result of a Cooperative Agreement Notice (CAN) which envisions a cooperative agreement as the award instrument. A Commerce Business Daily synopsis or a synopsis on the NASA Acquisition Internet Service will be used to publicize the CAN.

(b) *Unsolicited proposals.* (1) An award may be made as a result of an unsolicited proposal. The unsolicited proposal must evidence a unique and innovative idea or approach which is not the subject of a current or anticipated solicitation. When a cooperative agreement is awarded as a result of an unsolicited proposal, a Commerce Business Daily synopsis and a synopsis on the NASA Acquisition Internet Service will be used to provide an opportunity for other firms/consortia to express an interest in the agreement unless the exception in 48 CFR (FAR) 5.202(a)(8) applies. Respondents should be given a minimum of thirty days to respond. If interest is expressed, a decision must be made to proceed with the award or to issue a solicitation for competitive proposals.

(2) Prior to an award made as the result of an unsolicited proposal, the award must be approved by the Procurement Officer if NASA's total resource contribution is below \$5 million. Center Director approval is required if NASA's total resource contribution is \$5 million or more. For Headquarters cooperative agreements, approval by the Associate Administrator for Procurement is required if NASA's total