

approval of this information collection. They will also become a matter of public record.

Cheryl Parker,

Federal Register Liaison Officer.

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 22-092]

### Requirement for NASA Recipients of Financial Assistance Awards To Obtain a Quotation From Small and/or Minority Businesses, Women's Business Enterprises and Labor Surplus Area Firms

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final notice of a new NASA term and condition.

**SUMMARY:** NASA has published, in final form in its *Grant and Cooperative Agreement Manual* (GCAM), a new term and condition regarding requirements for NASA recipients of financial assistance awards to obtain quotation from a small and/or minority business, women's business enterprise, or labor surplus area firm.

**FOR FURTHER INFORMATION CONTACT:** For any questions, comments, or concerns regarding this term and condition, please contact Christiane S. Diallo, email: [Christiane.diallo@nasa.gov](mailto:Christiane.diallo@nasa.gov), telephone (202) 358-5179.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 25, 2021, President Biden issued Executive Order (E.O.) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, outlining a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Given that advancing equity requires a systematic approach to embedding fairness in the decision-making process, the E.O. instructs agencies to recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

In response to E.O. 13985, NASA has taken a few actions, including implementing a new term and condition, that ensure entities funded by NASA are compliant with the procurement standards in the uniform guidance 2 CFR 200.321, *Contracting*

*with small and minority businesses, women's business enterprises, and labor surplus area firms.*

#### Public Comments Discussion

NASA published a request for public comment in the **Federal Register** at 87 FR 10257 on February 23, 2022, on proposed implementation of a new term and condition that requires recipients of NASA financial assistance to obtain a quotation from a small and/or minority business, women's business enterprise, or labor surplus area firm when the acquisition of goods or services exceeds the simplified acquisition threshold. NASA received 36 comments from individual citizens, large and small businesses, colleges and universities, and other non-profit organizations. All comments were carefully reviewed and considered prior to finalizing the term and condition.

NASA received five comments in support of the term and condition where commenters commended NASA for their effort to diversify, promote equality and social responsibility associated with NASA, while inspiring future generations to pursue their passions in Science, Technology, Engineering and Math research. *Response:* NASA recognizes and supports the importance of diversity in its policies and programs and continues to work to identify and overcome barriers that hinder equitable, inclusive access by individuals or communities to the resources and opportunities that make all of NASA's work possible.

NASA received six comments/questions, including one duplicate, regarding applicability and waivers for businesses who may not be able to meet this new requirement. *Response:* The new term and condition applies to ALL NASA grant and cooperative agreement award recipients, regardless of the business types. Furthermore, NASA will not extend waivers for this requirement. Recipients are required to maintain documentation on file indicating why it is impossible to obtain a quote from a small/minority owned business, women's business enterprise, or labor surplus area firm. NASA received two comments/questions regarding partnership and contracting with NASA. *Response:* The NASA Office of Small Business programs (<https://www.nasa.gov/osbp>) provides resource information on how to do business with NASA. Also, NASA's notice of funding opportunities are accessible on the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES) (<https://nspires.nasaprs.com/external/>) and [www.grants.gov](http://www.grants.gov). NASA received 15

comments from commenters who are opposed to the implementation of the term and condition, citing that this new requirement would place an administrative burden on NASA grant recipients and an unfair advantage to certain business owners. *Response:* NASA's proposed term and condition aligns with 2 CFR 200.321, Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, which requires non-federal entities to take all necessary steps to ensure the use of minority businesses, women's business enterprises, and labor surplus area firms. Furthermore, 2 CFR 200.318(i), General procurement standards, requires non-Federal entities "to maintain records sufficient to detail the history of their procurements. The records include but are not limited to the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price". NASA received four comments with proposed recommendations for ensuring that the new term and condition is effectively implemented. *Response:* NASA will consider the proposed recommendations as it develops its advanced monitoring plan, which is intended to provide an oversight of NASA grants as well as ensure recipients' compliance with NASA grant policy requirements. NASA received four comments from commenters expressing views outside of the proposed term and condition. *Response:* These comments are outside the scope of the **Federal Register** Notice and do not relate to the proposed term and condition.

The full text of the new term and condition is provided below:

#### Requirement To Obtain a Quotation From Small and/or Minority Businesses, Women's Business Enterprises or Labor Surplus Area Firms

Pursuant to the requirements in 2 CFR 200.321, Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, grant and cooperative agreement recipients shall, to the extent practicable, obtain at least one quotation in response to a recipient-issued Request for Quotation (RFQ) from a small and/or minority business, women's business enterprise or labor surplus area firms when the acquisition of goods or services exceeds the simplified acquisition threshold (SAT) as defined in the Federal Acquisition Regulation (FAR) part 2.101, Definitions (currently the SAT is \$250,000). In the

event that recipients are unable to obtain at least one quote from a small and/or minority business women's business enterprise or labor surplus area firm, a written justification indicating why this was not possible must be maintained in the recipient's records.

#### **End of Term and Condition Implementation**

NASA has implemented the new term and condition through revision of the NASA GCAM, which became effective on October 31, 2022, and is accessible at <https://www.nasa.gov/centers/nssc/grants>. The new term and condition will be applied to all new NASA awards and funding amendments to existing awards made on or after the effective date.

**Cheryl Parker,**

*Federal Register Liaison Officer.*

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## **NATIONAL SCIENCE FOUNDATION**

### **Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978**

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 19, 2022. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or [ACApermits@nsf.gov](mailto:ACApermits@nsf.gov).

**FOR FURTHER INFORMATION CONTACT:** Andrew Titmus, ACA Permit Officer, at the above address, 703-292-4479.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541, 45 CFR 670, as amended by the Antarctic Science, Tourism and Conservation Act

of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

#### **Application Details**

##### *Permit Application: 2023-020*

1. *Applicant:* Lyndsey Lewis, Quark Expeditions, Seattle, WA 98121. [permits@quarkexpeditions.com](https://permits@quarkexpeditions.com)

##### *Activity for Which Permit Is Requested*

**Waste Management.** The applicant seeks an Antarctic Conservation Permit for waste management activities associated with the operation of tour vessels in the Antarctic Peninsula region. Activities include helicopter flights and helicopter based shore activities at select locations, short overnight stays (camping) at select locations, and the use of remotely piloted aircrafts (RPAs) in Antarctica. For helicopter operations, the applicant would bring ashore cooking fuel and batteries to be used in emergency situations only. All materials brought shore during helicopter-based activities would be removed from the continent following each activity and measures would be taken to minimize environmental impact in the event of a release. Helicopters would only be refueled aboard the operator's vessel and measures will be in place to prevent accidental discharge. For short overnight stays (camping), the applicant seeks permission for no more than 60 campers and expedition staff to camp overnight at select locations for a maximum of 10 hours ashore. Camping would be away from vegetated sites and at least 150m from wildlife concentrations or lakes, protected areas, historical sites, and scientific stations. Tents would be pitched on snow, ice, or bare smooth rock, at least 15m from the high-water line. No food, other than emergency rations, would be brought onshore and all wastes, including human waste, would be collected and returned to the ship for proper disposal. For remotely piloted aircraft systems (RPAS) operation, the applicant proposes to operate small, battery-operated RPAS consisting, in part, of a quadcopter equipped with cameras to collect commercial and educational footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would

only be operated by pilots with extensive experience, who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the quadcopter including painting them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life, a flotation device if operated over water, and an "auto go home" feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and quadcopter does not exceed an operational range of 500 meters.

##### *Location*

Andvord Bay, Argentine Islands, Damoy Point/Dorian Bay, Danco Island, Errera Channel, Horseshoe Island, Hovgaard Island, Leith Cove, Lefevre-Utile Point, The Naze, Orne Harbor, Paradise Bay, Pleneau Island, Portal Point, Prospect Point, Ronge Island, Skontorp Cove, Stony Point, Antarctic Peninsula region.

##### *Dates of Permitted Activities*

November 1, 2022–March 31, 2027.

##### *Permit Application: 2023-021*

2. *Applicant:* John Dennis, Albatros Expeditions, 4770 Biscayne Blvd. PHR, Miami, FL 33137

##### *Activity for Which Permit Is Requested*

**Waste Management.** The applicant seeks an Antarctic Conservation Act permit for waste management activities associated with the use of Remotely piloted aircrafts (RPAs) and all-terrain vehicles (ATVs) in Antarctica. RPAS will be flown by experienced, pre-approved pilots for educational, commercial, or marketing purposes. Aircrafts will not be flown over any concentrations of wildlife, or any Antarctic Specially Protected or Specially Managed Areas or Historic Sites and Monuments without appropriate authorization. Operators will maintain visual line of sight with the aircraft during all flight operations, and measures will be in place to prevent loss of aircraft during operations. Observers will be present to observe for any wildlife or other potential hazards. ATVs will be used to support onshore activities and will be refueled once daily. Refueling of ATVs will be done by experienced staff and precautions will be taken to prevent any accidental release of fuel. Supplies will be on hand to assist in cleanup of any fuel spilled during operations. The applicant seeks a waste management permit to cover