

**AWARD/CONTRACT**

THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 350)

CLASSIFYING

PAGE OF PAGES

A

1

2. CONTRACT NO. (Proc. Inst. Ident.) <b>NRC-38-00-282</b>		3. EFFECTIVE DATE <b>12-30-1999</b>	4. REQUISITION/PURCHASE REQUEST/PROJECT NO.
5. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts and Property Mgt. Attn: T-7-I-2 Contract Management Branch Washington DC 20555	CODE	6. ADMINISTERED BY (If other than Item 5)	CODE

7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code)  Encore Real Time Computing, Inc. ATTN: Mr. David Dunn Real Time Market Manager 10607 Canterbury Road Fairfax Station VA 22039		8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)
9. DISCOUNT FOR PROMPT PAYMENT  N/A		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN:  ITEM
CODE	FACILITY CODE	

11. SHIP TO/MARK FOR U.S. Nuclear Regulatory Commission ATTN: Mr. James Griffin NRC Technical Training Center 5746 Marlin Road, Suite 200 Chattanooga TN 37411-5677	CODE	12. PAYMENT WILL BE MADE BY U.S. Nuclear Regulatory Commission Office of the Chief Financial Officer Attn: GOV/COM Acctng. Section T-9H4 Washington DC 20555	CODE
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13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input checked="" type="checkbox"/> 41 U.S.C. 253(c) 1	14. ACCOUNTING AND APPROPRIATION DATA 31X0200 084-15-107-120 R8470 Amount Obligated: \$46,858 252A
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15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
	(SEE SECTION B.4 FOR SCHEDULE OF SUPPLIES/SERVICES ALL INCLUDED UNDER GSA SCHEDULE NO. GS-35F-5138H)  Project Title: "Encore Computer Systems Software Update Service (SUS)" Contract Type: Firm Fixed Price Period of Performance: One (1) Yr with Four (4) Option Yrs				
15G. TOTAL AMOUNT OF CONTRACT					<b>\$46,858.00</b>

**16. TABLE OF CONTENTS** See Attached Table of Contents

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFER	
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					

**CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE**

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>2</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)	18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number <u>RS-HR-00-282</u> , including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.
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19A. NAME AND TITLE OF SIGNER (Type or print)	20A. NAME OF CONTRACTING OFFICER <i>Mary Mace</i> Mary Mace, Contracting Officer
19B. NAME OF CONTRACTOR BY _____ (Signature of person authorized to sign)	20B. UNITED STATES OF AMERICA BY <i>[Signature]</i> (Signature of Contracting Officer)
19C. DATE SIGNED	20C. DATE SIGNED <i>12/29/99</i>

TABLE OF CONTENTS

PAGE

PART I - THE SCHEDULE. . . . . A-1

SECTION A - SOLICITATION/CONTRACT FORM . . . . . A-1

    SF 26    AWARD/CONTRACT . . . . . A-1

SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS . . . . . B-1

    B.1    PROJECT TITLE . . . . . B-1

    B.2    BRIEF DESCRIPTION OF WORK (MAR 1987): . . . . . B-1

    B.3    CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE (JUN 1988) . . . . . B-1

    B.4    SUPPLIES OF SERVICES AND PRICES/COSTS. . . . . B-2

    B.5    INCORPORATION OF TECHNICAL AND COST PROPOSALS . . . . . B-3

SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK . . . . . C-1

    C.1    STATEMENT OF WORK. . . . . C-1

        C.1.1    BACKGROUND. . . . . C-1

        C.1.2    SCOPE OF WORK . . . . . C-1

        C.1.3    SUS for 32/6780 Computer. . . . . C-1

        C.1.4    SUS for Shoreham Simulator. . . . . C-2

        C.1.5    SUS for Trojan Simulator. . . . . C-3

        C.1.6    SUS for B&W Simulator . . . . . C-4

        C.1.7    Deliverables. . . . . C-4

SECTION D - PACKAGING AND MARKING. . . . . D-1

    D.1    PACKAGING AND MARKING (MAR 1987). . . . . D-1

SECTION E - INSPECTION AND ACCEPTANCE. . . . . E-1

    E.1    NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE . . . . . E-1

    E.2    PLACE OF INSPECTION AND ACCEPTANCE (MAR 1987) . . . . . E-1

    E.3    STANDARD OF PERFORMANCE AND ACCEPTANCE OF ADP EQUIPMENT . . . . . E-1

            (JUN 1988)

SECTION F - DELIVERIES OR PERFORMANCE. . . . . F-1

    F.1    NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE . . . . . F-1

    F.2    DURATION OF CONTRACT PERIOD (MAR 1987). . . . . F-1

            ALTERNATE 2 (MAR 1987)

SECTION G - CONTRACT ADMINISTRATION DATA . . . . . G-1

    G.1    2052.215-73 PROJECT OFFICER AUTHORITY-ALTERNATE 2. . . . . G-1

    G.2    ELECTRONIC PAYMENT. . . . . G-1

SECTION H - SPECIAL CONTRACT REQUIREMENTS. . . . . H-1

    H.1    2052.209-73 CONTRACTOR ORGANIZATIONAL CONFLICTS. . . . . H-1

            OF INTEREST

    H.2    GOVERNMENT FURNISHED EQUIPMENT/PROPERTY - NONE PROVIDED . . . . . H-4

            (JUN 1988)

    H.3    GLOSSARY OF ADP TERMS (JUN 1988). . . . . H-4

    H.4    FIPS PUBS AND STANDARDS COMPLIANCE (MAR 1987) . . . . . H-6

    H.5    SEAT BELTS. . . . . H-6

    H.6    Year 2000 Warranty--Non-Commercial Supply Items . . . . . H-6

## PART I - THE SCHEDULE

## SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

**B.1 PROJECT TITLE**

The title of this project is as follows:

"SIMULATOR COMPUTER SYSTEM SOFTWARE UPDATE SERVICE (SUS)"

**B.2 BRIEF DESCRIPTION OF WORK (MAR 1987)**

The Contractor shall provide NRC with the latest revisions to the computer systems software for four Government-owned Encore computer systems located at the NRC Technical Training Center (TTC) in Chattanooga, TN.

**B.3 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE (JUN 1988)**

The firm fixed price of this contract is \$46,858.00.

**B.4 SUPPLIES OF SERVICES AND PRICES/COSTS**

ITEMS AND PRICES (UNDER ENCORE'S AUTHORIZED INFORMATION TECHNOLOGY SCHEDULE PRICE LIST (GSA CONTRACT NO. GS-35F-5138H)):

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	EXTENDED PRICE
FIRST BASE YEAR				
0001.	Software Update Service for one model 32/6780 computer	1	lot	\$10,711
0002.	Software Update Service for Shoreham Simulator	1	lot	\$ 9,340
0003.	Software Update Service for Trojan Simulator	1	lot	\$14,797
0004.	Software Update Service for B&W Simulator	1	lot	\$12,010
				-----
				\$46,858
SECOND BASE YEAR				
0005.	Software Update Service for one model 32/6780 computer	1	lot	\$10,711
0006.	Software Update Service for Shoreham Simulator	1	lot	\$ 9,340
0007.	Software Update Service for Trojan Simulator	1	lot	\$14,797
0008.	Software Update Service for B&W Simulator	1	lot	\$12,010
				-----
				\$46,858
THIRD BASE YEAR				
0009.	Software Update Service for one model 32/6780 computer	1	lot	\$10,711
0010.	Software Update Service for Shoreham Simulator	1	lot	\$ 9,340
0011.	Software Update	1	lot	\$14,797

				Service for Trojan Simulator
0012.	Software Update Service for B&W Simulator	1	lot	\$12,010
				-----
				\$46,858
OPTION YEAR ONE				
0013.	Software Update Service for one model 32/6780 computer	1	lot	\$10,711
0014.	Software Update Service for Shoreham Simulator	1	lot	\$ 9,340
0015.	Software Update Service for Trojan Simulator	1	lot	\$14,797
0016.	Software Update Service for B&W Simulator	1	lot	\$12,010
				-----
				\$46,858
OPTION YEAR TWO				
0017.	Software Update Service for one model 32/6780 computer	1	lot	\$10,711
0018.	Software Update Service for Shoreham Simulator	1	lot	\$ 9,340
0019.	Software Update Service for Trojan Simulator	1	lot	\$14,797
0020.	Software Update Service for B&W Simulator	1	lot	\$12,010
				-----
				\$46,858

FIRM FIXED PRICE GRAND TOTAL: \$234,290

#### B.5 INCORPORATION OF TECHNICAL AND COST PROPOSALS

The Contractor's technical and cost proposals in response to RS-HR-00-282 dated 11/13/99 and 11/15/99, respectively, copies of which are in the possession of both parties to this contract, are incorporated by reference with the same force and effect as if set forth in full text.

In the event of an inconsistency between the terms and conditions of this contract and the technical and cost proposal, the inconsistency shall be resolved by giving precedence in the following order:

- (1) the contract (excluding the technical and cost proposal)
- (2) the technical proposal and cost proposal

**SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK****C.1 STATEMENT OF WORK****C.1.1 BACKGROUND**

Nuclear Regulatory Commission (NRC) technical training programs have involved full-scope reactor simulator training from their inception. Initially, all simulator training was provided by contracting for time on industry simulators. Over the past several years, in order to ensure availability of adequate simulator training time and to allow integration of simulator training into classroom courses, the NRC has contracted to procure and relocate to the Technical Training Center (TTC) in Chattanooga, TN, simulators replicating the Babcock & Wilcox (B&W), General Electric (GE), and Westinghouse (Trojan) reactor designs.

The simulator software for these simulators is executed on computer systems supplied by the Encore Real Time Computing, Inc. (formerly Encore Computer Corporation), specifically models 32/6780 and RSX. These computer systems include operating systems and development software, compilers and programming languages, etc., to execute the simulation modeling software and to allow modification and upgrading of the simulation modeling software. The computer vendor periodically updates these operating systems and supporting software to correct identified deficiencies, increase capabilities and functionality, and improve efficiency and ease of use. Due to the small NRC simulator maintenance staff and the extensive simulation software modeling upgrade programs for NRC simulators, it is essential that the computer systems' software be maintained at the latest revision level available from the computer vendor.

**C.1.2 SCOPE OF WORK**

The Contractor shall provide Software Update Service (hereinafter referred to as "SUS") for the computer systems described in C.1.3, C.1.4, C.1.5, and C.1.6 below to maintain them at current revision levels. Updates shall be provided within 60 days after they are released by the computer vendor.

**C.1.3 SUS for 32/6780 Computer**

The Contractor shall provide SUS for the following Encore Real Time Computing software products for one Encore 32/6780 computer system with System ID 4854010084. All software shall be distributed on 9-track, 1600 bpi magnetic tape.

Item	Model	Description
1	FU-1401-3303	SUS: MPX-32 Operating System - Binary
2	FU-1401-3393	SUS: MPX-32 Operating System - Source
3	FU-1407-0303	SUS: MPX-32 Utilities - Binary
4	FU-1407-0393	SUS: MPX-32 Utilities - Source
5	FU-1724-0303	SUS: MPX Toolkit
6	FU-1413-4303	SUS: FORTRAN-77+ Compiler
7	FU-1411-3303	SUS: Scientific Run-Time Library
8	FU-1113-0303	SUS: Ethernet Handler
9	FU-1417-0303	SUS: AID Debugger
10	FU-1149A-0303	SUS: Comm-32 DoD Architecture
11	FU-1012-3303	SUS: MPX-32 C Compiler

#### C.1.4 SUS for Shoreham Simulator

The Contractor shall provide SUS and/or Software Node Service (SNS) and/or Layered Product Support (LPS) for the following Encore software products for the computer system associated with the Shoreham simulator, with System ID number 494300101. Software shall be distributed on quarter-inch cartridge tape or CD-ROM.

Item	Model	Description
1	FU-1401-6307	MPX-32 Operating System - Binary
2	FU-1407-5307	MPX-32 Utilities - Binary
3	FU-1413-8307	FORTTRAN-77 Compiler
4	FU-1411-3307	Scientific Runtime Library
5	FU-1113-0307	Comm-32 Ethernet Handler
6	FU-1149A-0307	Comm-32 DoD Architecture
7	FU-70-003-340111	DRTX for RSX
8	FU-70-003-760113	DRTX for Alpha
9	QT-MT4AE-NM#	Digital Unix SUS
10	QT-MT7AM-DD#	DLPS: Digital Unix, 4 Conc. Users

11	ET-RTASW-LB	Encore Real-Time Software
12	QT-MT5AE-L9#	DLPS: C Developers Extension
13	QT-MV2AE-L9#	DLPS: Fortran
14	FU-CM-1104-0007	Terminal Server Software

### C.1.5 SUS for Trojan Simulator

The Contractor shall provide SUS and/or Software Support Service (SSS) and/or Layered Product Support (LPS) for the following Encore software products for the computer system associated with the Trojan simulator. Software shall be distributed on quarter-inch cartridge magnetic tape or CD-ROM.

Item	Model	Description
1	FU-1401-6307	MPX-32 Operating System - Binary
2	FU-1405-3307	Reflective Memory Software
3	FU-1407-5307	MPX-32 Utilities - Binary
4	FU-1411-3307	Scientific Run-Time Library
5	FU-1413-8307	Fortran 77 Compiler
6	FU-1113-0307	Ethernet Handler
7	FU-1149A-0307	Comm-32 DoD Architecture
8	FU-70-003-340111	DRTX for RSX
9	FU-70-003-760113	for Alpha
10	QT-MT4AA-E8#	MDDS: Media, Digital Unix
11	QT-MT4AE-AA#	SSS: Digital Unix
12	QT-MT7AM-DD#	DLPS: Digital Unix
13	ET-RTASW-E8	MDDS: Encore Real-Time Software
14	ET-RTASW-L8	Encore Real-Time Software
15	QT-O54AA-C8#	Digital Layered Products
16	QT-MT5AE-L9#	DLPS: C Developers Extension
17	QT-MV2AE-L9#	DLPS: Fortran

**C.1.6 SUS for B&W Simulator**

The Contractor shall provide SUS and/or Software Node Service (SNS) and/or Layered Product Support (LPS) for the following Encore software products for the computer system associated with the B&W simulator. Software shall be distributed on quarter-inch cartridge magnetic tape or CD-ROM.

Item	Model	Description
1	FU-1731-6307	MPX-32 Development System
2	FU-1405-3307	Reflective Memory Software
3	FU-1411-3307	Scientific Run-Time Library
4	FU-1413-8307	Fortran 77 Compiler
5	FU-1113-0307	Ethernet Handler
6	FU-1149A-0307	Comm-32 DoD Architecture
7	FU-70-003-340111	DRTX for RSX
8	FU-70-003-760113	DRTX for Alpha
9	QT-MT4AE-NM#	SNS: Digital Unix
10	QT-MT7AM-DD#	DLPS: Digital Unix
11	ET-RTASW-L8	Encore Real-Time Software
12	QT-MT5AE-L9#	DLPS: C Developers Extension
13	QT-MV2AE-L9#	DLPS: Fortran

**C.1.7 Deliverables**

1. Software updates to maintain all software for computer systems listed in C.1.3, C.1.4, C.1.5, and C.1.6 current with the latest updates released by the vendor (Encore Real Time Computing) throughout the term of the contract. These updates are to be provided within 60 days of release by the vendor.
2. Vendor documentation for all hardware and software delivered in C.1.3 through C.1.6.

**SECTION D - PACKAGING AND MARKING****D.1 PACKAGING AND MARKING (MAR 1987)**

The Contractor shall package material for shipment to the NRC in such a manner that will ensure acceptance by common carrier and safe delivery at destination. Containers and closures shall comply with the Interstate Commerce Commission Regulations, Uniform Freight Classification Rules, or regulations of other carriers as applicable to the mode of transportation. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

**SECTION E - INSPECTION AND ACCEPTANCE****E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
52.246-2	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
	INSPECTION OF SUPPLIES--FIXED-PRICE	AUG 1996
52.246-16	RESPONSIBILITY FOR SUPPLIES	APR 1984

**E.2 PLACE OF INSPECTION AND ACCEPTANCE (MAR 1987)**

Inspection and acceptance of the deliverable items to be furnished hereunder shall be made by the Project Officer at the destination.

**E.3 STANDARD OF PERFORMANCE AND ACCEPTANCE OF ADP EQUIPMENT (JUN 1988)**

(a) General. This clause establishes a standard of performance which must be met before any ADP equipment delivered under this contract is accepted by the Government. This also includes replacement machines, substitute machines, and machines which are added or field modified (modifications of a machine from one model to another) after a successful performance period.

(b) Performance Period and Effectiveness Level. The performance period shall begin on the installation date and shall end when the equipment has met the standard of performance for a period of 30 consecutive days by operating in conformance with the Contractor's technical specifications and functional descriptions, or as quoted in the Contractor's proposal, which must satisfy the requirements of this contract at an effectiveness level of 90 percent or more.

(c) Continuance of Performance Period. If the equipment does not meet the standard of performance during the initial 30 consecutive days, the performance period shall continue on a day-by-day basis until the standard of performance is met for a total of 30 consecutive days.

(d) Failure to Meet Standard Performance. If the equipment fails to meet the standard of performance after 90 calendar days from the installation date or start of the performance period, whichever is later, the Government may at its option request a replacement or terminate the contract and request the immediate removal of the equipment.

(e) Effectiveness Level Computations. The effectiveness level for a system is

computed by dividing the operational use time by the sum of the operational use time plus system failure downtime.

(f) Changes in Equipment. The effectiveness level for machines added, field-modified, or substituted, or for a replacement machine is a percentage figure determined by dividing the operational use time of the machine by the sum of that time plus downtime resulting from equipment failure or the machine being tested.

(g) Operational Use Time for System. Operational use time for performance testing for a system is the accumulated time during which the Central Processing Unit is in actual operation, including any intervals of time between the start and stop of the processing of the programs.

(h) Operational Use Time for Equipment. Operational use time for performance testing for a machine added, field-modified, or substituted or for a replacement machine is defined as the accumulated time during which the machine is in actual use.

(i) System Failure Downtime. System failure downtime is that period of time during which the scheduled productive workload, or simulated workload, being used for acceptance testing cannot be continued on the system due to machine(s) failure. If simulated workload is being used for acceptance testing, it must be consistent with the data processing requirements set forth elsewhere in this contract.

(j) Start of Downtime. Downtime for each incident shall start from the time the Government contacts the Contractor's designated representative at the rearranged contact point until the system(s) or machine(s) is (are) returned to the Government in proper operating condition, exclusive of actual travel time required by the Contractor's maintenance personnel but not in excess of one hour on each day such services were requested. However, at the request of the Contractor, the Government shall make available not only the failed equipment, but also those machines which must be used by the Contractor to accomplish such repairs. The Contractor shall provide an answering service or other continuous telephone coverage to permit the Government to make such contact.

(k) Equipment Use During System Downtime. During a period of system failure downtime, the Government may use operable equipment when such action does not interfere with maintenance of the inoperable equipment. The entire system will be considered down during such periods of use. Whenever the operable equipment is not released to the Contractor upon request, all such usage periods shall be considered system operational use time in computing the effectiveness level.

(l) Machine Failure Downtime. Machine failure downtime for a machine added, field-modified, or substituted, or for a replacement machine after the system has completed a successful performance period is that period of time when such machine is inoperable due to its failure.

(m) Minimum of Use Time. During the performance period for a system/machine, a minimum of 100 hours of operational use time with scheduled productive or simulated work will be required as a basis for computation of the effectiveness level. However, in computing the effectiveness level, the actual number of operational use hours shall be used when that number exceeds the minimum of 100 hours. Machines added, field modified and substitute machines are subject to the 100 hours minimum use time requirement. However, the Government shall accept

such machine(s) without the addition of simulated work solely to achieve the minimum of 100 hours use time, provided the average effectiveness for the 30 day acceptance period is equal to or better than the level specified in paragraph b above.

(n) Date of Acceptance. The Government shall not accept equipment and shall not pay charges until the standard of performance is met. The date of acceptance shall be the first day of the successful performance period.

(o) Daily Records. The Government shall maintain appropriate daily records to satisfy the requirements of this clause and shall notify the Contractor in writing of the date of the first day of the successful performance period.

(p) Measurement of Operational Use Time. Operational use time and downtime shall be measured in hours and whole minutes.

(q) Delay of Start of Performance Period. If necessary, the Government may delay the start of the performance period, but such delay shall not exceed 14 consecutive days; therefore, the performance period must start not later than the 14 day after the installation date. Should the Government delay the start of the performance period, rental charges shall accrue for that period of time between the installation date and the start of the performance period and shall be paid only upon completion of the successful performance period.

(r) Remote Devices. For remote devices the standard of performance shall be determined in accordance with paragraph m, above. A remote device is defined as any contractor-supplied device which is connected to the Central Processing Unit by way of data transmission lines rather than contractor-supplied direct cable connection. The effectiveness level for equipment supplied by the Contractor shall be computed in accordance with paragraph f, above, and shall exclude downtime attributable to related equipment, cables, transmission lines, wires, etc., not supplied by the Contractor.

**SECTION F - DELIVERIES OR PERFORMANCE****F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
52.242-15	STOP-WORK ORDER	AUG 1989
52.242-17	GOVERNMENT DELAY OF WORK	APR 1984
52.247-34	F.O.B. DESTINATION	NOV 1991

**F.2 DURATION OF CONTRACT PERIOD (MAR 1987)  
ALTERNATE 2 (MAR 1987)**

This contract shall commence on the effective date of the contract and will expire one year after the effective date of the contract. The term of this contract may be extended at the option of the Government for an additional four (4) one-year options.

**SECTION G - CONTRACT ADMINISTRATION DATA****G.1 2052.215-73 PROJECT OFFICER AUTHORITY-ALTERNATE 2**

(a) The contracting officer's authorized representative, hereinafter referred to as the project officer for this contract is:

Name: James Griffin

Address: U.S. Nuclear Regulatory Commission  
Technical Training Center  
5746 Marlin Road, Suite 200  
Chattanooga, TN 37411-5677

Telephone Number: (423) 855-6518

(b) The project officer shall:

(1) Place delivery orders for items required under this contract.

(2) Monitor contractor performance and recommend to the contracting officer changes in requirements.

(3) Inspect and accept products/services provided under the contract.

(4) Review all contractor invoices/vouchers requesting payment for products/services provided under the contract and make recommendations for approval, disapproval, or suspension.

(c) The project officer may not make changes to the express terms and conditions of this contract.

**G.2 ELECTRONIC PAYMENT**

The Debt Collection Improvement Act of 1996 requires that all payments except IRS tax refunds be made by Electronic Funds Transfer. It is the policy of the Nuclear Regulatory Commission to pay vendors by the Automated Clearing House (ACH) electronic funds transfer payment system. The electronic system is known as Vendor Express. Payment shall be made in accordance with FAR 52.232-33, entitled "Mandatory Information for Electronic Funds Transfer Payment".

To receive payment, the contractor shall complete the "Company Information" portion of the Standard Form 3881, entitled "ACH Vendor/Miscellaneous Payment Enrollment Form" found as an attachment to this document. The contractor shall take the form to the ACH

Coordinator at the financial institution that maintains its company's bank account. The contractor shall discuss with the ACH Coordinator how the payment identification information (addendum record) will be passed to them once the payment is received by the financial institution. Further information concerning the addendum is provided at Attachment 3. The ACN Coordinator should fill out the "Financial Institution Information" portion of the form and return it to the Office of the Controller at the following address: Nuclear Regulatory Commission, Division of Accounting and Finance, Financial Operations Section, Mail Stop T-9-H-4, Washington, DC 20555, ATTN: ACH/Vendor Express. It is the responsibility of the contractor to ensure that the financial institution returns the completed form to the above cited NRC address. If the contractor can provide the financial information, signature of the financial institutions ACH Coordinator is not required. The NRC is under no obligation to send reminders. Only after the Office of the Controller has processed the contractor's sign-up form will the contractor be eligible to receive payments.

Once electronic funds transfer is established for payments authorized by NRC, the contractor needs to submit an additional SF 3881 only to report changes to the information supplied.

Questions concerning ACH/Vendor Express should be directed to the Financial Operations staff at (301) 415-7520."

**SECTION H - SPECIAL CONTRACT REQUIREMENTS****H.1 2052.209-73 CONTRACTOR ORGANIZATIONAL CONFLICTS  
OF INTEREST**

(a) Purpose. The primary purpose of this clause is to aid in ensuring that the contractor:

(1) Is not placed in a conflicting role because of current or planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract; and

(2) Does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described apply to performance or participation by the contractor, as defined in 48 CFR 2009.570- 2 in the activities covered by this clause.

(c) Work for others.

(1) Notwithstanding any other provision of this contract, during the term of this contract the contractor agrees to forgo entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees under this contract abide by the provision of this clause. If the contractor has reason to believe with respect to itself or any employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the contractor shall obtain the written approval of the contracting officer before the execution of such contractual arrangement.

(2) The contractor may not represent, assist, or otherwise support an NRC licensee or applicant undergoing an NRC audit, inspection, or review where the activities that are the subject of the audit, inspection or review are the same as or substantially similar to the services within the scope of this contract (or task order as appropriate), except where the NRC licensee or applicant requires the contractor's support to explain or defend the contractor's prior work for the utility or other entity which NRC questions.

(3) When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site, the contractor shall neither solicit nor perform work in the same or similar technical area for that licensee or applicant organization for a period commencing with the award of the task order or beginning of work on the site (if not a task order contract) and ending one year after completion of all work under the associated task order, or last time at the site (if not a task order contract).

(4) When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site,

(i) The contractor may not solicit work at that site for that licensee or applicant during the period of performance of the task order or the contract, as appropriate.

(ii) The contractor may not perform work at that site for that licensee or applicant during the period of performance of the task order or the contract, as appropriate, and for one year thereafter.

(iii) Notwithstanding the foregoing, the contracting officer may authorize the contractor to solicit or perform this type of work (except work in the same or similar technical area) if the contracting officer determines that the situation will not pose a potential for technical bias or unfair competitive advantage.

(d) Disclosure after award.

(1) The contractor warrants that to the best of its knowledge and belief, and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest as defined in 48 CFR 2009.570-2.

(2) The contractor agrees that, if after award, it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract if termination is in the best interest of the government.

(3) It is recognized that the scope of work of a task-order-type contract necessarily encompasses a broad spectrum of activities. Consequently, if this is a task-order-type contract, the contractor agrees that it will disclose all proposed new work involving NRC licensees or applicants which comes within the scope of work of the underlying contract. Further, if this contract involves work at a licensee or applicant site, the contractor agrees to exercise diligence to discover and disclose any new work at that licensee or applicant site. This disclosure must be made before the submission of a bid or proposal to the utility or other regulated entity and must be received by the NRC at least 15 days before the proposed award date in any event, unless a written justification demonstrating urgency and due diligence to discover and disclose is provided by the contractor and approved by the contracting officer. The disclosure must include the statement of work, the dollar value of the proposed contract, and any other documents that are needed to fully describe the proposed work for the regulated utility or other regulated entity. NRC may deny approval of the disclosed work only when the NRC has issued a task order which includes the technical area and, if site-specific, the site, or has plans to issue a task order which includes the technical area and, if site-specific, the site, or when the work violates paragraphs (c)(2), (c)(3) or (c)(4)

of this section.

(e) Access to and use of information.

(1) If in the performance of this contract, the contractor obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. Section 552a (1988)), or the Freedom of Information Act (5 U.S.C. Section 552 (1986)), the contractor agrees not to:

(i) Use this information for any private purpose until the information has been released to the public;

(ii) Compete for work for the Commission based on the information for a period of six months after either the completion of this contract or the release of the information to the public, whichever is first;

(iii) Submit an unsolicited proposal to the Government based on the information until one year after the release of the information to the public; or

(iv) Release the information without prior written approval by the contracting officer unless the information has previously been released to the public by the NRC.

(2) In addition, the contractor agrees that, to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. section 552a (1988)), or the Freedom of Information Act (5 U.S.C. section 552 (1986)), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat the information in accordance with restrictions placed on use of the information.

(3) Subject to patent and security provisions of this contract, the contractor shall have the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) Subcontracts. Except as provided in 48 CFR 2009.570-2, the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms contract, contractor, and contracting officer, must be appropriately modified to preserve the Government's rights.

(g) Remedies. For breach of any of the above restrictions, or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract or for such erroneous representations that necessarily imply bad faith, the Government may terminate the contract for default, disqualify the contractor from subsequent contractual efforts, and pursue other remedies permitted by law or this contract.

(h) Waiver. A request for waiver under this clause must be directed

in writing to the contracting officer in accordance with the procedures outlined in 48 CFR 2009.570-9.

(i) Follow-on effort. The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefor (solicited or unsolicited), which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor may not perform any technical consulting or management support services work or evaluation activities under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of the products or services.

(1) If the contractor, under this contract, prepares a complete or essentially complete statement of work or specifications, the contractor is not eligible to perform or participate in the initial contractual effort which is based on the statement of work or specifications. The contractor may not incorporate its products or services in the statement of work or specifications unless so directed in writing by the contracting officer, in which case the restrictions in this paragraph do not apply.

(2) Nothing in this paragraph precludes the contractor from offering or selling its standard commercial items to the Government.

## **H.2 GOVERNMENT FURNISHED EQUIPMENT/PROPERTY - NONE PROVIDED (JUN 1988)**

The Government will not provide any equipment/property under this contract.

## **H.3 GLOSSARY OF ADP TERMS (JUN 1988)**

The definitions and explanations set forth in this glossary are an integral part of the terms and conditions of this contract.

(a) Data Processing Equipment System and/or Subsystem. The complement of individual machines and operating software furnished by the Contractor and acquired to operate as an integrated group.

(b) Equipment. An all inclusive term which refers either to an individual machine or to the total complement of machines required to operate as an integrated group.

(c) Equipment and/or Operating Software Failure. A malfunction in the contractor-supplied equipment and/or operating software, excluding all external factors, which prevents the accomplishment of the job.

(d) Installation Date. The date by which the Contractor must have the ordered equipment ready for use by the Government.

(e) Machine. An individual unit, including features installed thereon, of a data processing system, or subsystem, identified by a type and/or model number, such as a central processing unit, additional memory module, a tape unit, a card reader, etc.

(f) Mechanical Replacement. The replacement of one machine for another occasioned by the mechanical condition of the equipment being replaced.

(g) Operating Software. Those routines that interface directly with hardware (including peripheral devices), the computer operations, applications and utility programs.

(h) Operational Use Time. The time during which equipment is in actual operation, exclusive of idle time, standby time, or maintenance time due to machine failure; not synonymous with "power-off" time.

(i) Preventive Maintenance. That maintenance performed by the Contractor which is designed to keep the equipment in proper operating condition. It is performed on a scheduled basis.

(j) Principal Period of Maintenance. Any 9 consecutive hours per day, including an official meal period not to exceed 1 hour per day, between the hours of and , Monday through Friday, excluding holidays observed at the NRC installation.

(k) Extended Maintenance Period Option. Option to require maintenance service during any extension of the Principal Period of Maintenance at a fixed price for such period, regardless of the number of calls requested during such period.

(l) Remedial Maintenance. That maintenance performed by the Contractor which results from Contractor supplied equipment or operating software failure. It is performed as required and is therefore on an unscheduled basis.

(m) Total Monthly Charges.

(1) Rental. All monthly charges for the use (rental) of equipment and software and for maintenance thereof.

(2) Maintenance of Government-owned. All monthly charges for the maintenance of equipment and software supplied under this contract.

(n) Alteration. An alteration is defined as any change to a machine which deviates from the physical, mechanical, or electrical machine design (including microcode), whether or not additional devices or parts are required.

(o) Attachment. An attachment is defined as the mechanical, electrical, or electronic interconnection of equipment manufactured by other than the original equipment manufacturer and connected to the machine or system.

(p) Principal Period of Maintenance. Any nine consecutive hours per day, including an official meal period not to exceed one hour per day, between the hours of 7:00 AM - 6:00 PM, Monday through Friday, excluding holidays observed at the installation.

(q) Software Release. A software release is a modification (update) of the software which may contain additional function and incorporate all program fixes made to the software since issuance of the prior release. A software release does not change the name or number of the program and is provided by the Contractor at no increase in price. Normally, program support services for the prior release are discontinued by the Contractor after a specified period of time following availability of the new release.

(r) Software Version. A software version is a separate (new) software product which contains significantly more code and/or function than its earlier version. A software version has its own name, product number, terms and conditions and price.

#### **H.4 FIPS PUBS AND STANDARDS COMPLIANCE (MAR 1987)**

In no case shall the Contractor or any subcontractor take any action or use any replacement parts that would result in equipment that is not in compliance with applicable FIPS PUBS and Standards (See Section J for List of Attachments) without written approval of the Contracting Officer.

#### **H.5 SEAT BELTS**

Contractors, subcontractors, and grantees, are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

#### **H.6 Year 2000 Warranty--Non-Commercial Supply Items**

The contractor warrants that each non-commercial item of hardware, software, and firmware delivered or developed under this contract and listed below shall be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, and leap year calculations, to the extent that other information technology, when used in combination with the information technology being acquired, properly exchange date/time data with it, when used in accordance with the product documentation provided by the contractor. If the contract requires that the specific listed products must perform as a system in accordance with the foregoing warranty, then that warranty shall

apply to those listed products as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the terms and limitations of contractor's standard commercial warranty or warranties contained in this contract, provided that notwithstanding any provision to the contrary in such commercial warranty or warranties, the remedies available to the Government under this warranty shall include repair or replacement of any listed product whose non-compliance is discovered and made known to the contractor in writing within ninety (90) days after acceptance. Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

Items: latest revisions to SUS for NRC's 4 Encore computer systems

**PART II - CONTRACT CLAUSES****SECTION I - CONTRACT CLAUSES****I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
52.202-1	DEFINITIONS	OCT 1995
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUL 1995
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 1997
52.204-4	PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER	JUN 1996
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL 1995
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 1999
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.215-14	INTEGRITY OF UNIT PRICES ALTERNATE I (OCT 1997)	OCT 1997
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	OCT 1999
52.222-20	WALSH-HEALEY PUBLIC CONTRACTS ACT	DEC 1996
52.222-26	EQUAL OPPORTUNITY	FEB 1999
52.222-35	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	APR 1998
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	JUN 1998
52.222-37	EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	JAN 1999
52.223-2	CLEAN AIR AND WATER	APR 1984
52.223-6	DRUG-FREE WORKPLACE	JAN 1997
52.225-11	RESTRICTIONS ON CERTAIN FOREIGN	AUG 1998

PURCHASES		
52.225-21	BUY AMERICAN ACT--NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT-- BALANCE OF PAYMENTS PROGRAM	JAN 1997
52.227-1	AUTHORIZATION AND CONSENT	JUL 1995
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	AUG 1996
52.229-4	FEDERAL, STATE, AND LOCAL TAXES (NONCOMPETITIVE CONTRACT)	JAN 1991
52.229-5	TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO	APR 1984
52.232-1	PAYMENTS	APR 1984
52.232-8	DISCOUNTS FOR PROMPT PAYMENT	MAY 1997
52.232-11	EXTRAS	APR 1984
52.232-17	INTEREST	JUN 1996
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-33	PAYMENT BY ELECTRONIC FUNDS--CENTRAL CONTRACTOR REGISTRATION	MAY 1999
52.233-1	DISPUTES	DEC 1998
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.243-1	CHANGES--FIXED-PRICE	AUG 1987
52.244-2	SUBCONTRACTS	AUG 1998
52.244-5	COMPETITION IN SUBCONTRACTING	DEC 1996
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS	OCT 1998
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)	SEP 1996
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

**I.2 52.217-7 OPTION FOR INCREASED QUANTITY--SEPARATELY  
PRICED LINE ITEM (MAR 1989)**

The Government may require the delivery of the numbered line item, identified in the Schedule for Option Years One and Two as optional items, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within sixty (60) days. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

**I.3 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT  
(NOV 1999)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 60 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years.

#### **I.4 52.232-25 PROMPT PAYMENT (JUN 1997)**

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments (1) Due Date. (i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraph (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to

the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request

from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) Additional interest penalty. (i) a penalty amount, calculated in accordance with paragraph (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii) (A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in paragraph (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments--(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30th day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

#### **I.5 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This Solicitation incorporates one or more clauses by reference, with the same force and effect as if they were given in full text.

Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

[www.arnet.gov/far/](http://www.arnet.gov/far/)

## PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

## SECTION J - LIST OF ATTACHMENTS

- 1 Billing Instructions (Fixed Price)
- 2 NRC Contractor Organizational Conflicts of Interest
- 3 ACH Vendor Enrollment Form
- 4 FEDERAL INFORMATION PROCESSING STANDARDS (FIPS)  
(STANDARDS CHECKLIST AS OF 04/01/91)

CHECK APPROPRIATE COLUMN

STD APPLIES	STD DOES NOT APPLY	STD BUT WAS WAIVED	STANDARDS TITLES
---	---	---	FIPS 1-2, Code for Information Interchange, Its Representations, Subsets, and Extensions
---	---	---	FIPS 2-1, Perforated Tape Code for Information Interchange
---	---	---	FIPS 3-1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI)
---	---	---	FIPS 4-1, Calendar Date
---	---	---	FIPS 5-2, Codes for the Identification of the States, District of Columbia, and the Outlying Areas of the United States, and Associated Areas
---	---	---	FIPS 6-4, Counties and County Equivalents of the States of the United States and the District of Columbia
---	---	---	FIPS 8-5, Standard Metropolitan Statistical Areas
---	---	---	FIPS 9-1, Congressional Districts of the United States
---	---	---	FIPS 10-3, Countries, dependencies and areas of Special Sovereignty
---	---	---	FIPS 13, Rectangular Holes in Twelve-row Punched Cards
---	---	---	FIPS 14-1, Hollerith Punched Card Code
---	---	---	FIPS 16-1, Bit Sequencing of the Code for Information Interchange in Serial-by-Bit Data Transmission
---	---	---	FIPS 17-1, Character Structure and Character Parity Sense for Serial-by-Bit Data Communication in the Code for Information Interchange
---	---	---	FIPS 18-1, Character Structure and Character Parity Sense for Parallel-by-Bit Data Communication in the Code for Information Interchange
---	---	---	FIPS 21-3, COBOL

CHECK APPROPRIATE COLUMN

STD APPLIES	STD DOES NOT APPLY	STD APPLIES BUT WAS WAIVED	STANDARDS TITLES
---	---	---	FIPS 22-1, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment
---	---	---	FIPS 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase-Encoded)
---	---	---	FIPS 26, One-inch Perforated Paper Tape for Information Interchange
---	---	---	FIPS 27, Take-Up Reels for One-Inch Perforated Tape for Information Interchange
---	---	---	FIPS 30, Software Summary for Describing Computer Programs and Automated Data Systems
---	---	---	FIPS 32-1, Optical Character Recognition Character Sets
---	---	---	FIPS 33-1, Character Set for Handprinting
---	---	---	FIPS 46-1, Data Encryption Standard (DES)
---	---	---	FIPS 50, Recorded Magnetic Tape for Information Interchange 6250 CPI (246 CPMM), Group-Coded Recording
---	---	---	FIPS 51, Magnetic Tape Cassettes for Information Interchange, 3.810 mm (0.150-in.), Tape at 32 bpm (800 bpi), Phase Encoded
---	---	---	FIPS 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250-Inch), 63 bpm (1600 bpi), Phase Encoded
---	---	---	FIPS 53, Transmittal Form for Describing Computer Magnetic Tape File Properties
---	---	---	FIPS 54-1, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm
---	---	---	FIPS 58-1, Representations of Local Time of the Day for Information Interchange
---	---	---	FIPS 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange
---	---	---	FIPS 66, Standard Industrial Classification (SIC) Codes
---	---	---	FIPS 68-2, BASIC
---	---	---	FIPS 69-1, FORTRAN
---	---	---	FIPS 70-1, Representation of Geographic Point Locations for Information Interchange
---	---	---	FIPS 71, Advanced Data Communications Control Procedures (ADCCP)
---	---	---	FIPS 79, Magnetic Tape Labels and File Structure for Information Interchange
---	---	---	FIPS 81, Data Encryption Standard (DES) Mode of Operation

## STANDARDS CHECKLIST AS OF 04/01/91 - CONTINUED

CHECK APPROPRIATE COLUMN

STD APPLIES	STD DOES NOT APPLY	STD APPLIES BUT WAS WAIVED	STANDARDS TITLES
---	---	---	FIPS 84, Microfilm Readers
---	---	---	FIPS 85, Optical Character Recognition (OCR) Inks
---	---	---	FIPS 86, Additional Controls for Use with American National Standard Code for Information Interchange
---	---	---	FIPS 89, Federal Standard for Optical Character Recognition (OCR) Character Positioning
---	---	---	FIPS 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track 6.30 mm (0.250 inch), 63 bpm (1600 bpi), Phase encoded
---	---	---	FIPS 95, Code for the Identification of Federal and Federally-Assisted Organizations
---	---	---	FIPS 100-1, Interface between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communication Networks (PSDN) or Between Two DTEs by Dedicated Circuits
---	---	---	FIPS 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas
---	---	---	FIPS 104-1, ANS Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange
---	---	---	FIPS 107, Local Area Networks: Baseband Carrier Sense Multiple Access with Collision Detection Access Method and Physical Layer Specification and Link Layer Protocol
---	---	---	FIPS 108, Alphanumeric Computer Output Microform Quality Test Slide
---	---	---	FIPS 109, PASCAL
---	---	---	FIPS 111, Storage Module Interfaces (with Extensions for Enhanced Storage Module Interfaces)
---	---	---	FIPS 112, Password Usage
---	---	---	FIPS 113, Computer Data Authentication
---	---	---	FIPS 114, 200mm (8 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 6631 bpm on One Side - 1.9 tpm (48 tpi) for Information Interchange
---	---	---	FIPS 115, 200mm (8 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 13262 bpm on Two Sides - 1.9 tpm (48 tpi) for Information Interchange

## STANDARDS CHECKLIST AS OF 04/01/91 - CONTINUED

CHECK APPROPRIATE COLUMN

STD APPLIES	STD DOES NOT APPLY	STD APPLIES BUT WAIVER	STANDARDS TITLES
---	---	---	FIPS 116, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 3979 bprad on One Side - 1.9 tpm (48 tpi) for Information Interchange
---	---	---	FIPS 117, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Modified Frequency Recording at 7958 bprad on Two Sides - 1.9 tpm (48 tpi) for Information Interchange
---	---	---	FIPS 118, Flexible Disk Cartridge Labelling and File Structure for Information Interchange
---	---	---	FIPS 119, Ada
---	---	---	FIPS 120-1, Graphical Kernel System (GKS)
---	---	---	FIPS 121, Videotext/Teletext Presentation Level Protocol (North American PLPS).
---	---	---	FIPS 123, Specification for a Data Descriptive File for Information Interchange (DDF)
---	---	---	FIPS 125, MUMPS Programming Language
---	---	---	FIPS 126, Database Language ND
---	---	---	FIPS 127, Database Language SQL
---	---	---	FIPS 128, Computer Graphics Metafile (CGM)
---	---	---	FIPS 129, Optical Character Recognition (OCR) Dot Matrix character sets for OCR-MA
---	---	---	FIPS 133, Coding and Modulation Requirements for Non-Diversity 2400 Bit per/Second Modems
---	---	---	FIPS 134-1, Coding and Modulation Requirements for Non-diversity 4800 Bits/Second Modems
---	---	---	FIPS 135, Coding and Modulation Requirements for Duplex 9600 Bits/Second Modems
---	---	---	FIPS 136, Coding and Modulation Requirements for Duplex 600 and 1200 Bits/Second Modems
---	---	---	FIPS 137, Analog to Digital Conversion of Voice by 2400 Bits/Second Linear Predictive Coding
---	---	---	FIPS 138, Electrical Characteristics of Balanced Voltage Digital Interface Circuits
---	---	---	FIPS 139, Interoperability and Security Requirements for Use of the Data Encryption Standard in the Physical Layer of Data Communications
---	---	---	FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard

## STANDARDS CHECKLIST AS OF 04/01/91 - CONTINUED

CHECK APPROPRIATE COLUMN

STD APPLIES	STD DOES NOT APPLY	STD APPLIES BUT WAIVER	STANDARDS TITLES
---	---	---	FIPS 141, Interoperability and Security Requirements for Use of the Data Encryption Standard with CCITT Group 3 Facsimile Equipment
---	---	---	FIPS 142, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits
---	---	---	FIPS 143, General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit-Terminating Equipment
---	---	---	FIPS 144, Data Communications Systems and Service-user Oriented Performance Parameters
---	---	---	FIPS 146, GOSIP: Government Open System Interconnection Profile
---	---	---	FIPS 147, Group 3 Facsimile Apparatus of Document Transmission
---	---	---	FIPS 148, Procedures for Document Facsimile Transmission
---	---	---	FIPS 149, General Aspects of Group 4 Facsimile Apparatus
---	---	---	FIPS 150, Facsimile Coding Schemes and Coding Control Functions for Group 4 Facsimile Apparatus
---	---	---	FIPS 151, Portable Operating System Interface for Computer Environments POSIX
---	---	---	FIPS 152, Standard Generalized Markup Language (SGML)
---	---	---	FIPS 153, Programmer's Hierarchical Interactive Graphics System (PHIGS)
---	---	---	FIPS 154, High Speed 25-position for Data Terminal Equipment and Data Circuit-terminating Equipment
---	---	---	FIPS 155, Data Communication Systems and Services User-oriented Performance Measurement Methods
---	---	---	FIPS 156, Information Resource Dictionary System (IRDS)
---	---	---	FIPS 159, Detail Specifications for 62.5 uM Core Diameter/125 uM Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fiber

CHECK APPROPRIATE COLUMN

STD	STD	STD	STANDARDS TITLES
APPLIES	DOES	APPLIES	
	NOT	BUT WAIVER	
	APPLY		

FEDERAL TELECOMMUNICATIONS STANDARDS (FED-STD)

---	---	---	FED-STD 1002, Telecommunications: Time and Frequency Reference Information in Telecommunications Systems
---	---	---	FED-STD 1016, Telecommunications: Analog to Digital Conversion of Radio Voice by 4,800 Bit/second Code Excited Linear Prediction (CELP)
---	---	---	FED-STD 1023, Telecommunications: Interoperability Requirements for Encrypted Digitized Voice Utilized with 25 KHz Channel FM Radios Operating Above 30 MHZ
---	---	---	FED-STD 1035, Telecommunications: Coding Modulations and Transmission Requirements for Single Channel Medium and High Frequency Radio Telegraph Systems Used in Government Maritime Mobil Telecommunications
---	---	---	FED-STD 1037A, Telecommunications: Glossary of Telecommunications Terms

(MARCH 1996)  
Page 1 of 3

BILLING INSTRUCTIONS FOR  
FIXED PRICE CONTRACTS

General: The contractor shall prepare vouchers or invoices as prescribed herein. FAILURE TO SUBMIT VOUCHERS/INVOICES IN ACCORDANCE WITH THESE INSTRUCTIONS WILL RESULT IN REJECTION OF THE VOUCHER/INVOICES AS IMPROPER.

Form: Claims shall be submitted on the payee's letterhead, voucher/invoices, or on the Government's Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," and Standard Form 1035, "Public Voucher for Purchases Other than Personal--Continuation Sheet." These forms are available from the U.S. Government Printing Office, 710 North Capitol Street, Washington, DC 20401.

Number of Copies: An original and three copies shall be submitted. Failure to submit all the required copies will result in rejection of the voucher/invoice as improper.

Designated Agency Billing Office: Vouchers/Invoices shall be submitted to the following address:

U.S. Nuclear Regulatory Commission  
Division of Contracts - T-7-I-2  
Washington, DC 20555-0001

A copy of any invoice which includes a purchase of property valued at the time of purchase at \$5000 or more, shall additionally be sent to:

Chief, Property Management Branch  
Division of Facilities and Property Management  
Mail Stop - T-7-D-27  
Washington, DC 20555-0001

HAND-DELIVERY OF VOUCHERS/INVOICES IS DISCOURAGED AND WILL NOT EXPEDITE PROCESSING BY THE NRC. However, should you choose to deliver vouchers/invoices by hand, including delivery by any express mail service or special delivery service which uses a courier or other person to deliver the vouchers/invoices in person to the NRC, such vouchers/invoices must be addressed to the above Designated Agency Billing Office and will only be accepted at the following location:

U.S. Nuclear Regulatory Commission  
One White Flint North - Mail Room  
11555 Rockville Pike  
Rockville, MD 20852

HAND-CARRIED SUBMISSIONS WILL NOT BE ACCEPTED AT OTHER THAN THE ABOVE ADDRESS

(BILLING INSTRUCTIONS FOR FIXED PRICE CONTRACTS - Page 2 of 3)

Note that the official receipt date for hand-delivered vouchers/invoices will be the date it is received by the official agency billing office in the Division of Contracts.

Agency Payment Office: Payment will continue to be made by the office designated in the contract in Block 12 of the Standard Form 26 or Block 25 of the Standard Form 33, whichever is applicable.

Frequency: The contractor shall submit a voucher or invoice only after the NRC's final acceptance of services rendered or products delivered in performance of the contract unless otherwise specified in the contract.

Preparation and Itemization of the Voucher/Invoice: The voucher/invoice shall be prepared in ink or by typewriter (without strike-overs). Corrections or erasures must be initialed. To be considered a proper voucher/invoice, all of the following elements must be included:

1. Contract number.
2. Sequential voucher/invoice number.
3. Date of voucher/invoice.
4. Payee's name and address. (Show the name of the contractor and its correct address. In addition, when an assignment of funds has been made by the contractor, or a different payee has been designated, include the name and address of the payee). Indicate the name and telephone number of the individual responsible for answering questions which the NRC may have regarding the voucher/invoice.
5. Description of articles or services, quantity, unit price, and total amount.
6. For contractor acquired property list each item purchased costing \$50,000 or more and having a life expectancy of more than 1 year and provide: (1) an item description, (2) manufacturer, (3) model number, (4) serial number, (5) acquisition cost, (6) date of purchase, and (7) a copy of the purchasing document.
7. Weight and zone of shipment, if shipped by parcel post.
8. Charges for freight or express shipments. Attach prepaid bill if shipped by freight or express.
9. Instructions to consignee to notify the Contracting Officer of receipt of shipment.

10. For Indefinite Delivery contracts or contracts under which progress payments are authorized, the final voucher/invoice shall be marked "FINAL VOUCHER" OR "FINAL INVOICE."

Currency: Billings may be expressed in the currency normally used by the contractor in maintaining his accounting records and payments will be made in that currency. However, the U.S. dollar equivalent for all vouchers/invoices paid under the contract may not exceed the total U.S. dollars authorized in the contract.

Supersession: These instructions supersede any previous billing instructions.

R:\BILLING.396

## NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

## 2009.570 NRC organizational conflicts of interest.

## §2009.570-1 Scope of policy.

(a) It is the policy of NRC to avoid, eliminate, or neutralize contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons (including those regulated by the NRC) which may give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely. The application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations which might arise. However, examples are provided in these regulations to guide application of this policy guidance. The ultimate test is as follows: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased, or where it may have an unfair competitive advantage?

(c) The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with the NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment process, NRC agreements with other Government agencies, international organizations, or state, local, or foreign Governments. Separate procedures for avoiding conflicts of interest will be employed in these agreements, as appropriate.

## §2009.570-2 Definitions.

As used in §2009.570:

Affiliates means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

Contract means any contractual agreement or other arrangement with the NRC except as provided in §2009.570-1(c).

Contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their successors in interest, including their chief executives, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which are a party to a contract with the NRC.

Evaluation activities means any effort involving the appraisal of a technology, process, product, or policy.

Offeror or prospective contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, or their affiliates or successors in interest, including their chief executives, directors, key personnel, proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

Organizational conflicts of interest means that a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which:

(1) May diminish its capacity to give impartial, technically sound, objective assistance and advice, or may otherwise result in a biased work product; or

(2) May result in its being given an unfair competitive advantage.

Potential conflict of interest means that a factual situation exists that suggests that an actual conflict of interest may arise from award of a proposed contract. The term potential conflict of interest is used to signify those situations that-

(1) Merit investigation before contract award to ascertain whether award would give rise to an actual conflict; or

(2) Must be reported to the contracting officer for investigation if they arise during contract performance.

Research means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

Subcontractor means any subcontractor of any tier who performs work under a contract with the NRC except subcontracts for supplies and subcontracts in amounts not exceeding the small purchase threshold.

Technical consulting and management support services means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally require that the contractor be given access to proprietary information or to information that has not been made available to the public. These services typically include assistance in the preparation of program plans, preliminary designs, specifications, or statements of work.

§2009.570-3 Criteria for recognizing contractor organizational conflicts of interest.

(a) General.

(1) Two questions will be asked in determining whether actual or potential organizational conflicts of interest exist:

(i) Are there conflicting roles which might bias an offeror's or contractor's judgment in relation to its work for the NRC?

(ii) May the offeror or contractor be given an unfair competitive advantage based on the performance of the contract?

(2) NRC's ultimate determination that organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships that might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements that call for the rendering of advice, consultation or evaluation activities, or similar activities that directly lay the groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs. Any work performed at an applicant or licensee site will also be closely scrutinized by the NRC staff.

(b) Situations or relationships. The following situations or relationships may give rise to organizational conflicts of interest:

(1) The offeror or contractor shall disclose information, that may give rise to organizational conflicts of interest under the following circumstances. The information may include the scope of work or specification for the requirement, being performed, the period of performance, and the name and telephone number for a point of contact at the organization knowledgeable about the commercial contract.

(i) Where the offeror or contractor provides advice and recommendations to the NRC in the same technical area where it is also providing consulting assistance to any organization regulated by the NRC.

(ii) Where the offeror or contractor provides advice to the NRC on the same or similar matter on which it is also providing assistance to any organization regulated by the NRC.

(iii) Where the offeror or contractor evaluates its own products or services, or has been substantially involved in the development or marketing of the products or services of another entity.

(iv) Where the award of a contract would result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC, or would result in an unfair competitive advantage for the offeror or contractor.

(v) Where the offeror or contractor solicits or performs work at an applicant or licensee site while performing work in the same technical area for the NRC at the same site.

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract clauses such as provided in §2009.570-5(b) in the following circumstances:

(i) Where the offeror or contractor prepares specifications that are to be used in competitive procurements of products or services covered by the specifications.

(ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using the approaches or methodologies.

(iii) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs that could form the basis for a later procurement action.

(iv) Where the offeror or contractor is granted access to proprietary information of its competitors.

(v) Where the award of a contract might result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or might result in an unfair competitive advantage for the offeror or contractor.

(c) Policy application guidance. The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations.

(1) (i) Example. The ABC Corp., in response to a Request For Proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The ABC Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the ABC Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

(ii) Guidance. An NRC contract for that particular work normally would not be awarded to the ABC Corp. because the company would be placed in a position in which its judgment could be biased in relationship to its work for the NRC. Because there are other well-qualified companies available, there would be no reason for considering a waiver of the policy.

(2) (i) Example. The ABC Corp., in response to an RFP, proposes to perform certain analyses of a reactor component that is unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.

(ii) Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which

could motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work with the private sector that could create a conflict during the performance of the NRC contract. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3) (i) Example. The ABC Corp., in response to a competitive RFP, submits a proposal to assist the NRC in revising NRC's guidance documents on the respiratory protection requirements of 10 CFR Part 20. ABC Corp. is the only firm determined to be technically acceptable. ABC Corp. has performed substantial work for regulated utilities in the past and is expected to continue similar efforts in the future. The work has and will cover the writing, implementation, and administration of compliance respiratory protection programs for nuclear power plants.

(ii) Guidance. This situation would place the firm in a role where its judgment could be biased in relationship to its work for the NRC. Because the nature of the required work is vitally important in terms of the NRC's responsibilities and no reasonable alternative exists, a waiver of the policy, in accordance with §2009.570-9 may be warranted. Any waiver must be fully documented in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4) (i) Example. The ABC Corp. submits a proposal for a new system to evaluate a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Corp. has advised the NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

(ii) Guidance. A contract could be awarded to the ABC Corp. if the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless this information has been reported to the NRC. Data on how the reactor component performs, which is reported to the NRC by contractors, will normally be disseminated by the NRC to others to preclude an unfair competitive advantage. When the NRC furnishes information about the reactor component to the contractor for the performance of contracted work, the information may not be used in the contractor's private activities unless the information is generally available to others. Further, the contract will stipulate that the contractor will inform the NRC contracting officer of all situations in which the information, developed about the performance of the reactor component under the contract, is proposed to be used.

(5) (i) Example. The ABC Corp., in response to a RFP, proposes to assemble a map showing certain seismological features

of the Appalachian fold belt. In accordance with the representation in the RFP and §2009.570-3(b)(1)(i), ABC Corp. informs the NRC that it is presently doing seismological studies for several utilities in the eastern United States, but none of the sites are within the geographic area contemplated by the NRC study.

(ii) Guidance. The contracting officer would normally conclude that award of a contract would not place ABC Corp. in a conflicting role where its judgment might be biased. Section 2052.209-73(c) Work for Others, would preclude ABC Corp. from accepting work which could create a conflict of interest during the term of the NRC contract.

(6) (i) Example. AD Division of ABC Corp., in response to a RFP, submits a proposal to assist the NRC in the safety and environmental review of applications for licenses for the construction, operation, and decommissioning of fuel cycle facilities. ABC Corp. is divided into two separate and distinct divisions, AD and BC. The BC Division performs the same or similar services for industry. The BC Division is currently providing the same or similar services required under the NRC's contract for an applicant or licensee.

(ii) Guidance. An NRC contract for that particular work would not be awarded to the ABC Corp. The AD Division could be placed in a position to pass judgment on work performed by the BC Division, which could bias its work for NRC. Further, the Conflict of Interest provisions apply to ABC Corp. and not to separate or distinct divisions within the company. If no reasonable alternative exists, a waiver of the policy could be sought in accordance with §2009.570-9.

7(i) EXAMPLE The ABC Corp. completes an analysis for NRC of steam generator tube leaks at one of a utility's six sites. Three months later, ABC Corp. is asked by this utility to perform the same analysis at another of its sites.

(ii) GUIDANCE §2052.290-73(c)(3) would prohibit the contractor from beginning this work for the utility until one year after completion of the NRC work at the first site.

8(i) EXAMPLE ABC Corp. is assisting NRC in a major on-site analysis of a utility's redesign of the common areas between its twin reactors. The contract is for two years with an estimated value of \$5 million. Near the completion of the NRC work, ABC Corp. requests authority to solicit for a \$100K contract with the same utility to transport spent fuel to a disposal site. ABC Corp. is performing no other work for the utility.

(ii) GUIDANCE The Contracting Officer, would allow the contractor to proceed with the solicitation because A) it is not in the same technical area as the NRC work and B) the potential for technical bias by the contractor because of financial ties to

the utility is slight due to the relative value of the two contracts.

9(i) EXAMPLE The ABC Corp. is constructing a turbine building and installing new turbines at a reactor site. The contract with the utility is for five years and has a total value of \$100 million. ABC Corp. has responded to an NRC Request For Proposal requiring the contractor to participate in a major team inspection unrelated to the turbine work at the same site. The estimated value of the contract is \$75K.

(ii) GUIDANCE An NRC contract would not normally be awarded to ABC Corp. since these factors create the potential for financial loyalty to the utility that may bias the technical judgment of the contractor.

(d) Other considerations.

(1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising from the performance of a contract is not relevant to a determination of the existence of conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

**§2009.570-4 Representation.**

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor. The procedures apply to small purchases meeting the criteria stated in the following paragraph (b) of this section.

(b) The organizational conflicts of interest representation provision at §2052.209-72 must be included in solicitations and unsolicited proposals, (including those for task orders and modifications for new work) for:

- (1) Evaluation services or activities;
- (2) Technical consulting and management support services;
- (3) Research; and

(4) Other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement also applies to all modifications for additional effort under the contract except those issued under the "Changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest representation provisions has previously been submitted with regard to the contract being modified, only an updating of the statement is required.

(c) The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work contained in a RFP unless the RFP specifically prohibits the exclusion. Any such proposed exclusion by an offeror will be considered by the NRC in the evaluation of proposals. If the NRC considers the proposed excluded work to be an essential or integral part of the required work and its exclusion would be to the detriment of the competitive posture of the other offerors, the NRC shall reject the proposal as unacceptable.

(d) The offeror's failure to execute the representation required by paragraph (b) of this section with respect to an invitation for bids is considered to be a minor informality. The offeror will be permitted to correct the omission.

#### §2009.570-5 Contract clauses.

(a) General contract clause. All contracts and small purchases of the types set forth in §2009.570-4(b) must include the clause entitled, "Contractor Organizational Conflicts of Interest," set forth in §2052.209-73.

(b) Other special contract clauses. If it is determined from the nature of the proposed contract that an organizational conflict of interest exists, the contracting officer may determine that the conflict can be avoided, or, after obtaining a waiver in accordance with §2009.570-9, neutralized through the use of an appropriate special contract clause. If appropriate, the offeror may negotiate the terms and conditions of these clauses, including the extent and time period of any restriction. These clauses include but are not limited to:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related non-production contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of its key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for protection of confidential data and guard against its unauthorized use.

#### §2009.570-6 Evaluation, findings, and contract award.

The contracting officer shall evaluate all relevant facts submitted by an offeror and other relevant information. After evaluating this information against the criteria of §2009.570-3, the contracting officer shall make a finding of whether organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that real or potential conflicts of interest exist, the contracting officer shall:

(a) Disqualify the offeror from award;

(b) Avoid or eliminate such conflicts by appropriate measures; or

(c) Award the contract under the waiver provision of §2009.570-9.

**§2009.570-7 Conflicts identified after award.**

If potential organizational conflicts of interest are identified after award with respect to a particular contractor, and the contracting officer determines that conflicts do exist and that it would not be in the best interest of the Government to terminate the contract, as provided in the clauses required by §2009.570-5, the contracting officer shall take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with §2009.570-9, neutralize the effects of the identified conflict.

**§2009.570-8 Subcontracts.**

The contracting officer shall require offerors and contractors to submit a representation statement from all subcontractors (other than a supply subcontractor) and consultants performing services in excess of \$10,000 in accordance with §2009.570-4(b). The contracting officer shall require the contractor to include contract clauses in accordance with §2009.570-5 in consultant agreements or subcontracts involving performance of work under a prime contract.

**§2009.570-9 Waiver.**

(a) The contracting officer determines the need to seek a waiver for specific contract awards, with the advice and concurrence of the program office director and legal counsel. Upon the recommendation of the Procurement Executive, and after consultation with legal counsel, the Executive Director for Operations may waive the policy in specific cases if he determines that it is in the best interest of the United States to do so.

(b) Waiver action is strictly limited to those situations in which:

(1) The work to be performed under contract is vital to the NRC program.

(2) The work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest.

(3) Contractual and/or technical review and surveillance methods can be employed by the NRC to neutralize the conflict.

(c) For any waivers, the justification and approval documents must be placed in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**§2009.570-10 Remedies.**

In addition to other remedies permitted by law or contract for a breach of the restrictions in this subpart or for any intentional misrepresentation or intentional nondisclosure of any relevant interest required to be provided for this section, the NRC may debar the contractor from subsequent NRC contracts.

# ACH VENDOR/MISCELLANEOUS PAYMENT ENROLLMENT FORM

OMB No. 1510-0056  
Expiration Date 06/30/93

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion.

### PRIVACY ACT STATEMENT

The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means, to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

### AGENCY INFORMATION

FEDERAL PROGRAM AGENCY

U.S. NUCLEAR REGULATORY COMMISSION

AGENCY IDENTIFIER

NRC

AGENCY LOCATION CODE (ALC):

31000001

ACH FORMAT:

 CCD+     CTX     CTP

ADDRESS

DIVISION OF ACCOUNTING AND FINANCE, MAIL STOP T-9 H4

WASHINGTON, DC 20555-0001

CONTACT PERSON NAME

FINANCIAL OPERATIONS SECTION

TELEPHONE NUMBER

( 301 ) 415 - 7520

### PAYEE/COMPANY INFORMATION

NAME

SSN NO. OR TAXPAYER ID NO.

ADDRESS

CONTACT PERSON NAME:

TELEPHONE NUMBER:

(      )

### FINANCIAL INSTITUTION INFORMATION

NAME

ADDRESS

ACH COORDINATOR NAME:

TELEPHONE NUMBER:

(      )

NINE-DIGIT ROUTING TRANSIT NUMBER:

DEPOSITOR ACCOUNT TITLE:

DEPOSITOR ACCOUNT NUMBER:

LOCK BOX NUMBER:

ACH FORMAT:

 CHECKING     SAVINGS     LOCK BOX

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL:

TELEPHONE NUMBER:

(      )

### **Instructions for Completing SF 3881 Form**

1. Agency Information Section -- Federal agency prints or types the name and address of the Federal Program agency originating the vendor/miscellaneous payment, agency identifier, agency location code, contact person name and telephone number of the agency. Also, the appropriate box for ACH format is checked.
2. Payee/Company Information Section -- Payee prints or types the name of the payee/company and address that will receive ACH vendor/miscellaneous payments, social security or taxpayer ID number, and contact person name and telephone number of the payee/company. Payee also verifies depositor account number, account title, and type of account entered by your financial institution in the Financial Institution Information Section.
3. Financial Institution Information Section -- Financial institution prints or types the name and address of the payee/company's financial institution who will receive the ACH payment, ACH coordinator name and telephone number, nine-digit routing transit number, depositor (payee/company) account title and account number. Also, the box for type of account is checked, and the signature, title, and telephone number of the appropriate financial institution official are included.

### **Burden Estimate Statement**

The estimated average burden associated with this collection of Information is 15 minutes per respondent or record keeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Financial Management Service, Facilities Management Division, Property and Supply Branch, Room B-101, 3700 East-West Highway, Hyattsville, MD 20782, and the Office of Management and Budget, Paperwork Reduction Project (1510-0056), Washington, DC 20503.