

DRAFT SUPPORTING STATEMENT
FOR
GRANT AND COOPERATIVE AGREEMENT PROVISIONS
(3150-0107)
Extension Request

Description of Information Collection

The information collected ensures that the Division of Contracts (DC) uses these provisions to adhere to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

The Nuclear Regulatory Commission provides funds for financial assistance for research as well as to support professional meetings, symposia, conferences, national and international commissions and publications to stimulate research. DC is responsible for the awarding of grants and cooperative agreements for the Agency. These financial assistance instruments fund these programs for a public purpose.

Incorporation of the grant/cooperative agreement provisions in NRC's awards ensures that public laws are adhered to, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

2. Agency Use of Information

- Dispute Review Procedure

This provision clearly establishes the mechanism to be used by the NRC should the recipient/cooperator request a review of an adverse action taken by the Commission against the recipient or cooperator. Seeking fairness and equity, the provision calls for a committee to review the facts and, where appropriate, provide a forum for the recipient/cooperator and program personnel to discuss the issues. The recipient/cooperator is required to submit to the Grants Officer a copy of a request to review a Grants Officer decision. The committee reviews the merits of the request and prepares a recommendation to the Director, Office of Administration, who decides the particular matter. No other method exists to secure the recipient/cooperator request.

- Reporting Program Technical Performance

In order to be apprized of the recipient's/cooperator's progress under the grant or cooperative agreement, technical performance reports must be submitted. Should the report indicate problems, remedial steps can be initiated. Further, this provision allows the Commission to review the final draft of a journal article before publication. The recipient is required to submit a report in letter format within 30 calendar days after the end of every second calendar quarter of the performance period and a final report no

later than the expiration date of the award. One copy of the letter report is submitted to DC and three copies to the NRC Program Office.

- Patent Rights (Small Business Firms or Non-Profit Organizations, July, 1981)

The recipient/cooperator must submit information for the Government to determine on any invention or discovery which may be patentable whether or not the public interest and the equities of the recipient/cooperator are served in deciding whether or not to file a patent application. The Government must also obtain information concerning title and rights that may result under a patent application, when determining the disposition of an invention or discovery.

Further, this provision is required to protect against public disclosure of information related to inventions or discoveries that would adversely affect the patent interests of the NRC or the recipient. Recipients are to send one copy of the information to the Grants Officer who reviews the material to make the above determinations in consultation with the cognizant NRC attorney. There is no other method of securing this information from recipients.

- Reporting of Royalties

The requirements of this provision make clear that the Government may contest the enforceability, validity and title to any patent under which a royalty or payment is made. The provision is also necessary in that it allows the Commission thorough review of recipient/cooperator supplied information to ascertain the patents or basis on which royalties are to be paid. The recipient agrees to report in writing (one copy) to the NRC Patent Counsel stipulating the amount of royalties or other payments made in connection with performance under the award or cooperative agreement. No other method exists to secure the information required under this provision.

- Changes in Principal Investigator or Technical Objectives

This provision ensures that the stated objective of the award/cooperative agreement research effort, the principal investigator or the phenomenon under study will not unilaterally be changed by the recipient. NRC Grants Officer approval is required for any such changes under the award/cooperative agreement. The recipient must submit one copy of the request to the Grants Officer who reviews the request in consultation with the Project officer before approving or disapproving the proposed change. There is no other method of obtaining the requested information other than following the instructions in this provision.

- Notice and Assistance Regarding Patent and Copyright Infringement

This provision requires the recipient to provide the Commission with all evidence and information known should any claim or suit arise against the Government of any alleged patent or copyright infringement under grant/cooperative agreement performance. This requirement is important since it protects the rights and interests of the Government. The recipient shall provide this evidence and information in one copy to the Grants Officer who in consultation with NRC patent counsel reviews the material to decide the best course of action to protect the Government's interests. No other method exists to secure the required information.

- Procurement Standards

This provision sets rules for the recipient to follow if the recipient/cooperator awards a contract(s) under the award of cooperative agreement. The Government seeks to ensure that these contracts are awarded competitively where possible and that negotiated prices are reasonable. The clause stipulates circumstances when the recipient must submit requests (one copy) to the Grants Officer for approval. The Grants Officer reviews each request and decides which course of action is in the Government's best interest. No other method exists to secure these requests.

- Suspension or Termination for Cause

This provision protects the Government by stating that it has the unilateral right to terminate or suspend the grant/cooperative agreement when the recipient fails to comply with the grant/cooperative agreement terms and conditions. The provision requires an accounting of funds expended so that the Government can ascertain what monies, if any, should be deobligated from the grant/cooperative agreement and returned to the Government. The recipient must respond to the Grants Officer (one copy) within 30 days of the Government's letter identifying deficiencies in grant/cooperative agreement performance. The recipient shall also send one copy to the Principal Investigator and one copy to the NRC Project Officer. The Grants Officer must decide the course of action to follow in consultation with the Project Officer (suspend, terminate or continue grant/cooperative agreement performance). No other method exists outside the aegis of this provision to collect the needed information.

- Termination for Convenience

This provision requires the recipient to document a request to terminate the grant/cooperative agreement and submit the request and one copy to the NRC Grants Officer and one copy to the Project Officer and Principal Investigator. The Commission then has a written record to respond to and challenge if it is in its best interest. The Grants Officer, in consultation with the Project Officer and Principal Investigator will come to an understanding with the recipient as to whether to terminate the grant/cooperative agreement or not. No other method exists to secure this needed information.

- Travel

This provision requires explicit approval by the Grants Officer prior to foreign travel, regardless of its inclusion in the approved award budget. No other method exists to secure this needed information.

The reporting/recordkeeping requirements imposed by the above grant provisions annually affect from approximately 1 to 60 recipients depending upon the particular provision. Table 1 shows the number of respondents for each provision. The information collection requirements do not involve surveys. Recipients send reports and information to the NRC per award requirements. All information is collected under the above cited provisions. As indicated previously, the information is submitted to the Grants Officer with copies going to the NRC Project Officer and legal counsel in some instances. In all cases, it is the responsibility of the Grants Officer to review the

information and decide on the best course of action to follow.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58691), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. However, because these information collections do not readily lend themselves to the use of information technology because of the varied types of information and the infrequency of submissions, there currently are no electronic submissions for this clearance.

4. Effort to Identify Duplication and to Use Similar Information

The Information Requirements Control Automated System (IRCAS) was searched to determine duplication and none was found. The nature of the collections do not lend themselves to duplication. These provisions are not used in any other legal instrument for agency use other than for grants and cooperative agreements.

5. Effort to Reduce Small Business Burden

The agency grant/cooperative agreement program is not extended to profit making concerns, including small businesses. Program participants only include: nonprofit concerns, universities and other institutions of higher learning, professional societies and State and local governments.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

If the requested information is not collected or is collected less frequently, the agency could not adequately track recipient progress or ascertain if the work being performed is within the general scope of the award or cooperative agreement.

Most provisions (Dispute Review Procedure, Patent Rights, Reporting of Royalties, Changes in Principal Investigator or Technical Objectives, Notice and Assistance Regarding Patent and Copyright Infringement, Suspension or Termination for Cause, Termination for Convenience and Audits) require information only in specific, limited circumstances defined in the provision. The information is necessary to protect the rights of the parties under the grant or cooperative agreement in those situations. Less frequent reporting of technical progress and financial status removes an effective mechanism needed to monitor grant/cooperative agreement performance and initiate appropriate remedial action to protect the interests of the Government.

7. Circumstances Which Justify Variation From OMB Guidelines

The numbers of copies required by the provisions are within OMB guidelines for all provisions except for Reporting Program Technical Performance. In order to apprise concerned agency personnel of the progress or lack thereof, to facilitate simultaneous assessment of recipient performance and to permit timely initiation of remedial action, one copy of the final report is sent to DC, and three copies are sent to the cognizant technical Program Office. Direct submission by the recipient standardizes dissemination of progress information thus allowing actions to be undertaken to protect the interest of the government without delay. Reports are often large bound books which cannot be reasonably copied and disseminated by the NRC. Therefore, four copies are required to be submitted by the recipient. However, electronic copies are accepted where feasible.

8. Consultation Outside the NRC

The opportunity for public comment has been published in the Federal Register.

9. Payment or Gifts to Respondents

None.

10. Confidentiality of the Information

NRC provides no pledge of confidentiality for the collection. To the extent information is business confidential, procedures are in place to protect the information from improper disclosures.

11. Justification for Sensitive Questions

Information related to litigation, claims, patent or copyright infringement, inventions, award/cooperative agreement disputes or termination would be sensitive from a legal perspective. Certain cost information, (e.g., salaries, indirect cost rates and fee) would be sensitive from a corporate perspective. All sensitive information is properly filed and safeguarded against improper disclosure. This is the Grant Officer's responsibility. No sensitive personal information is required or requested.

12. Estimated Burden and Burden Hour Cost

Table 1 represents the reporting burden and Table 2 represents the recordkeeping burden estimates for each provision. Such burden estimates were derived from experience as to the approximate number of recipients/cooperators affected by each particular provision and the approximate number of hours each would have to expend to comply with the requirements of the provision. Estimated burden is estimated to be 1,160 hours at a cost of \$182,120 (1,160 hours X \$157/HR) (See attached Tables 1 and 2).

13. Estimate of Other Additional Costs

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the recordkeeping storage cost has been determined to be equal to .0004 percent of the recordkeeping burden. Therefore, the recordkeeping storage cost is estimated to be \$6.59 (105 recordkeeping

hours x \$157 x .0004).

14. Estimated Annualized Cost to Federal Government

The cost to the Agency attributable to the provisions discussed in this supporting statement is \$37,131. Table 3 presents such cost by provision. The cost to the Government for each provision was derived from experience as to the approximate number of hours the grant specialist expends in ensuring that recipients/cooperators comply with a particular provision. The hours were then multiplied by \$157/hour (standard fee recoverable rate for materials licensees) to arrive at the approximate cost to the Government.

15. Reason for Change in Burden or Cost

The overall burden has increased by 105 hours, from 1,055 hours to 1,160 hours. The total hours are based on the actual number of grant/cooperative agreement responses received during the past three years and the projected grant/cooperative agreement responses to be received during this upcoming three year period. The additional 105 hours are due to the capture of recordkeeping burden. There also has been an increase in cost due to the increase in the NRC's standard fee recoverable rate for materials licensees from \$144 per hour to \$157 per hour.

16. Publication for Statistical use

Not applicable.

17. Reason for Not Displaying the Expiration Date

The OMB clearance expiration date is displayed.

18. Exceptions to the Certification Statement

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

TABLE 1
ESTIMATED ANNUAL REPORTING BURDEN TABLE
GRANT/COOPERATIVE AGREEMENT PROVISIONS

| Section | No. of Respondents | Responses per Respondent | Total Number of Responses | Burden Hours per Response | Total Annual Burden Hours | Total Annual Cost @\$157/HR |
|---|--------------------|--------------------------|---------------------------|---------------------------|---------------------------|-----------------------------|
| Dispute Review Procedure | 1 | 1 | 1 | 15 | 15 | \$2,355 |
| Reporting Program Tech. Performance | 60 | 1 | 60 | 15 | 900 | \$141,300 |
| Patent Rights | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Reporting of Royalties | 1 | 1 | 1 | 5 | 5 | \$785 |
| Changes in Principal Investigator or Technical Objectives | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Notice and Assistance Regarding Patent and Copyright Infringement | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Procurement Standards | 20 | 1 | 20 | 3 | 60 | \$9,420 |
| Suspension or Termination for Cause | 1 | 1 | 1 | 20 | 20 | \$3,140 |
| Termination for Convenience | 1 | 1 | 1 | 20 | 20 | \$3,140 |
| Travel | 1 | 1 | 1 | 5 | 5 | \$785 |
| TOTAL | 60 | | 88 | | 1,055 | \$165,635 |

*The term grantee/cooperator represents those nonprofit organizations, universities, other institutions of higher education, professional societies and state and local governments to which the Agency has awarded grants and cooperative agreements.

TABLE 2
ESTIMATED ANNUAL RECORDKEEPING BURDEN TABLE
GRANT/COOPERATIVE AGREEMENT PROVISIONS

| Section | No. of Recordkeepers | Burden Hours per Recordkeeper | Total Annual Burden Hours | Cost @\$157/HR |
|---|----------------------|-------------------------------|---------------------------|-----------------|
| Dispute Review Procedure | 1 | 1 | 1 | \$157 |
| Reporting Program Tech. Performance | 60 | 1.5 | 90 | \$14,130 |
| Patent Rights | 1 | 1 | 1 | \$157 |
| Reporting of Royalties ** | | | | 0 |
| Changes in Principal Investigator or Technical Objectives | 1 | 1 | 1 | \$157 |
| Notice and Assistance Regarding Patent and Copyright Infringement | 1 | 1 | 1 | \$157 |
| Procurement Standards | 20 | .3 | 6 | \$942 |
| Suspension or Termination for Cause | 1 | 2 | 2 | \$314 |
| Termination for Convenience | 1 | 2 | 2 | \$314 |
| Travel | 1 | .5 | .5 | \$79 |
| TOTAL | 60 | | 104.5 | \$16,407 |

** Grantees maintain royalty and financial records as a part of the normal course of doing business.

TOTAL BURDEN/COST: 1,160 hours (1,055 hrs reporting plus 105 hrs recordkeeping/\$182,042

TOTAL RESPONDENTS: 60

TOTAL RESPONSES 148 (88 responses + 60 recordkeepers)

TABLE 3
GRANT/COOPERATIVE AGREEMENT PROVISIONS GOVERNMENT COST

| Section | No. of Respondents | Responses per Respondent | Number of Responses | Burden Hours per Response | Total Annual Burden Hours | Total Annual Cost @\$157/HR |
|---|--------------------|--------------------------|---------------------|---------------------------|---------------------------|-----------------------------|
| Dispute Review Procedure | 1 | 1 | 1 | 25 | 25 | \$3,925 |
| Reporting Program Tech. Performance | 60 | 1 | 60 | 2 | 120 | \$18,280 |
| Patent Rights | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Reporting of Royalties | 1 | 1 | 1 | 3 | 3 | \$471 |
| Changes in Principal Investigator or Technical Objectives | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Notice and Assistance Regarding Patent and Copyright Infringement | 1 | 1 | 1 | 10 | 10 | \$1,570 |
| Procurement Standards | 20 | 1 | 20 | .9 | 18 | \$2,826 |
| Suspension or Termination for Cause | 1 | 1 | 1 | 20 | 20 | \$3,140 |
| Termination for Convenience | 1 | 1 | 1 | 20 | 20 | \$3,140 |
| Travel | 1 | 1 | 1 | .5 | .5 | \$79 |
| TOTAL | 60 | | 88 | | 236.5 | \$37,131 |