

DC Instruction: 06-02
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MEMORANDUM TO: Division of Contracts Staff
Regional Procurement Staff

FROM: Stephen M. Pool, Team Leader **/RA/**
Procurement Policy Team
Division of Contracts
Office of Administration

SUBJECT: WHISTLEBLOWER PROTECTION FOR NRC CONTRACTOR AND
SUBCONTRACTOR EMPLOYEES

Background

On August 8, 2005, the Energy Policy Act of 2005 was signed into law by President George W. Bush. The provisions of Section 629 of the Energy Policy Act of 2005 provided the U.S. Nuclear Regulatory Commission (NRC)'s contractor and subcontractor employees with protections from employer discharge or other discrimination practices in compensation, terms, conditions, or privileges of employment because the employee engaged in protected whistleblower activities relating to alleged violations of the Atomic Energy Act of 1954 (as amended) and the Energy Reorganization Act of 1974 (as amended). Accordingly, the following "Whistleblower Protection for NRC Contractor and Subcontractor Employees" clause provides NRC contractors and subcontractors with notice of the application of this law.

Policy

In accordance with Section 629 of the Energy Policy Act of 2005 NRC contractor and subcontractor employees are protected from discharge or other employment discrimination practices by their employer with respect to compensation, terms, conditions, or privileges of employment because the contractor or subcontractor employee has provided notice to the employer, refused to engage in unlawful practices, assisted in proceedings, or testified on activities concerning alleged violations of the Atomic Energy Act of 1954 (as amended) and the Energy Reorganization Act of 1974 (as amended).

Applicability

This policy guidance is effective immediately. The Contract Specialist shall insert the following clause in all new solicitations and contracts that result from existing solicitations, as well as delivery order and task orders awarded under the General Services Administration's (GSA) Federal Supply Schedule (FSS).

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For existing active contracts and delivery order and task orders awarded under GSA's FSS, with the exception of exercising an option, the Contract Specialist should issue a bilateral modification that incorporates the clause the next time the contract is modified.

This instruction has been stored under S:\DC Instructions\whistleblower protection for contractors 06-02 dtd 7-13-06.wpd. It will be added to AAMS/ProDoc.

Should you have any questions, please contact Mona C. Selden (mcs1@nrc.gov) on (301) 415-7907.

NRC LOCAL CLAUSE

H Clause: Whistleblower Protection for NRC Contractor and Subcontractor Employees.

a) The U.S. Nuclear Regulatory Commission (NRC) contractor and its subcontractor are subject to the Whistleblower Employee Protection public law provisions as codified at 42 U.S.C. 5851. NRC contractor(s) and subcontractor(s) shall comply with the requirements of this Whistleblower Employee Protection law, and the implementing regulations of the NRC and the Department of Labor (DOL). See, for example, DOL Procedures on Handling Complaints at 29 C.F.R. Part 24 concerning the employer obligations, prohibited acts, DOL procedures and the requirement for prominent posting of notice of Employee Rights at Appendix A to Part 24.

b) Under this Whistleblower Employee Protection law, as implemented by regulations, NRC contractor and subcontractor employees are protected from discharge, reprisal, threats, intimidation, coercion, blacklisting or other employment discrimination practices with respect to compensation, terms, conditions or privileges of their employment because the contractor or subcontractor employee(s) has provided notice to the employer, refused to engage in unlawful practices, assisted in proceedings or testified on activities concerning alleged violations of the Atomic Energy Act of 1954 (as amended) and the Energy Reorganization Act of 1974 (as amended).

c) The contractor shall insert this or the substance of this clause in any subcontracts involving work performed under this contract.

(End of Clause)

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