1. As stated above, we have been supporting the Division of License Renewal by performing on-site technical reviews of the Pilgrim, Wolf Creek, Susquehanna and TMI 1 license renewal applications, among others. Is there any potential conflict of interest if we provide our services to utility owners for the development of other license renewal applications in the future that are not related to the plants we have already audited or are contracted to audit in the future?

Response: Yes, there is potential for organizational conflict of interest (OCOI) based upon this representation. In this regard, ATL may not perform work in the same or similar technical area for both NRC (at e.g., Pilgrim, Wolf Creek) and that licensee or applicant organization (utility owner or holding company such as Exelon) during the period of performance of the contract and one year thereafter. (NRC-03-06-050, Section D [c](3)). Therefore, ATL may not perform concurrent work in the same or similar technical area for other sites of organizations owning Pilgrim, Wolf Creek, Susquehanna, TMI 1, etc. "Same technical area" is governed by the entire scope of work identified in the contract Statement of Work. Even if proposed work for the licensee or applicant organization is considered technically dissimilar (note the agency determines circumstances giving rise to an OCOI on a case-by-case basis), there may still be potential for OCOI in light of financial ties to an organization. Please see attached listing of the five common "situations or relationships," in 48 CFR 2009.570-3 (b) (1) particularly subsection (iv).

2. Our strong technical capabilities come from a good technical staff supplemented with outstanding expert consultants. These expert consultants also are sought after by the commercial nuclear industry. Therefore, they may have provided consulting services to the industry in the past on some generic issues, but not on any plant-specific reviews. Can we use them to support the NRC for review of license renewal applications and/or new reactor applications for which they never had any industry involvement?

Response: Yes, provided the contractors or consultants are not placed in a position where they must review or evaluate their own products or services. Please see attached listing of the five common "situations or relationships," in 48 CFR 2009.570-3 (b) (1) particularly subsection (iii).

3. Similarly, if ATL provides consulting services to the NRC for review of a certain new reactor application, can we also provide services (e.g., peer reviews) to support utility owners for the development of new reactor applications in areas of technical analysis for particular issues or to generate responses to NRC's requests for additional information?

Response: There is potential for organizational conflict of interest (OCOI) based upon this representation. Please see attached listing of the five common "situations or relationships," in 48 CFR 2009.570-3 (b) (1) particularly subsection (ii). A certain new reactor application is a matter. If supporting NRC on a new reactor application, ATL may not perform, work (technically similar or dissimilar [e.g., peer reviews]) on the same or similar matter. Another new reactor application could be interpreted as a "similar matter," depending on the scope of commercial work proposed. There are some issues, e.g., in the environmental area, which will cross cut across other the other design centers – therefore during a case-by case analysis of the contractor's proposed work, the agency might conclude that "similar matter" includes another

design center/application. Also, as noted in the response to No. 1 above, ATL may not perform work in the same or similar technical area for both NRC and an organization regulated by NRC.

4. ATL has hired SES NRC retirees. We understand that these retirees cannot represent ATL by soliciting new work from NRC for at least a year after they have retired. However, can these retirees participate in the on-site technical audits for supporting the NRC's review of license renewal applications, new reactor applications, or other technical work with which they were not involved when employed by the NRC?

Response: Almost all former SES NRC employees are subject to the 1-year post-employment prohibition on representing any private party before the NRC on any particular NRC matter. It does not prohibit behind-the-scenes advice or other work that does not involve representation to NRC (meaning communications to, or appearances before the NRC). Based on our understanding of the information provided, the one-year bar would allow these former SES retirees to participate in the on-site technical audits, but they could not interact in any way with any NRC employee.

In addition, if any of the retirees had personally and substantially participated in any of these audits while at the NRC, that former retiree can not ever represent ATL (or any other private party) before any federal employee/agency. Also, if any of these audits were under that retiree's official responsibility during the last year of NRC service, that retiree could not represent any private party to the government on that audit for two years.

Do they have to wait for one year after retiring to be able to work on any of our contracts with NRC?

Response: As noted above, these retirees are not prohibited from working on your contracts with NRC as long as they are not representing your company to the NRC until after the conclusion of the one-year period, assuming that these retirees did not work on your contracts while at the NRC nor were your contracts under their official responsibility during their NRC tenure.

5. Can ATL use a retiree's resume in its proposal to NRC within the one-year ban period of his or her retirement with the knowledge that the actual work will not start until after one year of his or her retirement? There is no objection under the post-employment law to ATL's use of a retiree's resume in its proposal to NRC within the one-year bar period, assuming that the actual work will not start until termination of this on-year period. However, if the retiree proposed is concurrently a reemployed annuitant at NRC, this may constitute an OCOI under the agency's OCOI rules and regulations. As noted earlier, these types of circumstances are determined by the agency on a case-by-case basis.

Standards for Evaluation of Potential OCOI

48 C.F.R. 2009.570-3 (b) (1)

The Nuclear Regulatory Commission Acquisition Regulation (NRCAR) expressly provides that among other situations, there may be an organizational conflict of interest:

(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 NRC.

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

A financial tie alone may create an organizational COI:

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 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.

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. .

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