

TO :  
FROM : E/E

PHONE NO. : 1-800-441-1111

TELETYPE NO. : 1-800-441-1111  
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**ENGINEERING & MANAGEMENT EXECUTIVES, INCORPORATED**  
6462 LITTLE RIVER TURNPIKE  
ALEXANDRIA, VIRGINIA 22312  
(703) 642-6400 FAX: (703) 642-6405

December 6, 1994

Mr Donald T King  
Manager, Contracts  
Nuclear Metals, Inc  
2729 Main Street  
Concord, MA 01742

Dear Mr. King

We have studied both your consolidated facilities contract DAAA09-90-E-0013 with the U S Army Armaments, Munitions and Chemical Command and subcontract No F45452 with Olin Corporation to determine the Government's obligation to clean, restore and rehabilitate NMI and Government owned facilities and equipment which have been contaminated in the manufacture of depleted Uranium products for the Government. Our review was restricted to the post production period. It is our conclusion that the Government is obligated by contract, policy and long standing practice to clean, restore and rehabilitate the facilities and equipment, to include special tooling and test equipment. Furthermore, the Government has the flexibility to use either the consolidated facilities contract or the Olin purchase order or both to accomplish the work.

The Consolidated Facilities Contract is a contractual vehicle for physical accountability and use of Government - Owned Test and Inspection Equipment, Industrial Plant Equipment, Other Equipment and Special Tools and Test Equipment. The contract provides for maintenance, surveillance, accountability and use of Government owned equipment and tooling in your possession at the Concord facility and is the most likely vehicle to use for clean up.

The contract is a five year task order contract which can accommodate both fixed price and cost type tasks, as the need arises. Funds are not provided in advance of possible future actions as the Government budgets it's requirements annually. The contract runs to January 1996, however, since the Government needs an accountability vehicle they will extend or replace the contract with a similar instrument before expiration. Enclosure 1 contains a synopsis of the contract.

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The Olin subcontract contains the mandatory Government Flow-down clause at FAR 52.245-2, which has provisions for restoration and rehabilitation costs. A synopsis of the Olin subcontract is at enclosure 2.

The Army is the Single Manager and Executive Agent for the Department of Defense for munitions and the responsible Agency for these contracts. They have an admirable record of facilities and equipment clean-up, restoration and rehabilitation for over forty years. It is an intrinsic part of the maintenance of a viable ammunition base to support the U S Armed Forces. Army Regulation (AR) 700-90, Army Industrial Base Program and AR 37-100-94, Army Financial Management, contain specific guidance for the programming, budgeting and use of funds for these purposes.

This effort was completed by Executive Consultants, John R. Jury and Darold L. Griffin, whose credentials have been provided in earlier correspondence.

Very truly yours,



Darold L. Griffin

encl: 2

TO :  
FROM : EME

PHONE NO. : 1508369444581

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PHONE NO. : 703 642 6400

**Subject. AMCCOM Consolidated Facilities Contract DAAA09-90-E-0013**

- A. AMCCOM placed a Consolidated Facilities contract with NMI in January of 1991 replacing the former Consolidated Facilities contract. A Consolidated Facilities contract establishes a contractual vehicle for the physical accountability and use of Government - Owned Test and Inspection Equipment, Industrial Plant Equipment, Other Plant Equipment, Special Tooling and Special Test Equipment. The contract provides for the Maintenance, Surveillance, Accountability and use of all Government Owned Equipment purchased with government funds or provided by the Government at NMI's Concord, Massachusetts facility.
- B. The contract is effective for 5 years from the effective date (10 January 1991) Page 2 of the contract states, in part, that "Firm Fixed price and Cost Reimbursable actions will be accomplished under this facilities contract by contract modification." Funding is provided as the need arises. It is not provided in advance of possible future actions such as removal of equipment and facilities restoration which are covered by the contract.
- C. Since inception of the contract, it has been modified five (5) times. The contract is currently funded to \$2,490,530.00. \$240,000 of these funds were specifically authorized for clean up and removal of Government IPE which was no longer required for production.
- D. The contract contains the FAR clause at 52.245-7, Government Property (Consolidated Facilities). Reference of this provision is on page 19 of the contract.
- E. Section I, Contract Clause #42 obligates the Government to fund the restoration or rehabilitation of NMI's facilities as a result of the removal of the facilities. This clause provides a mechanism whereby the action to terminate the use of the facilities can be initiated by either the Government or the contractor.

Enclosure 1

TO :  
FROM : BME

PHONE NO. : 1508369-24581

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PHONE NO. : 703 642 6400

**Subject: Olin Subcontract number P45452**

**A Olin has a subcontract in place with NMI for the production of 12,467 each M829A2 Depleted Uranium penetrators. The \$5.5 Million subcontract calls for the supply of 375,000 pounds of Depleted Uranium Hexafluoride as Government Furnished Materials for the fabrication activities involved in subcontract performance. The subcontract also provides for NMI to use Government Owned Equipment in the performance of the effort**

**B The Olin subcontract contains the mandatory Government Flow - Down clause at FAR 52-245-2 (Government Property, Fixed Price Contracts).**

**C This FAR clause is contained on OLIN form FP03, Special Terms and Conditions Applicable to Purchase Orders Under Government Contracts and is located in section 28, Special Government Provisions.**

**D The FAR provision authorizes the Government to provide funding for facilities restoration in the event that the Government furnished property listed in the Schedule is withdrawn. This funding is added at the time of contract action/termination.**

**E The Government may not unilaterally abandon facilities and equipment in-place that have become contaminated with hazardous materials. It must provide for the cleaning and restoration of the facilities**

**Enclosure 2**

*MR. JOHN R. JURY*

Mr. John R. Jury is currently self employed as consultant to both industry and government and has associate relationships with several major consulting firms. Mr. Jury specializes in solving acquisition and contracting problems as well as conducting research and study efforts leading to the formulation of effective and efficient corporate and government acquisition policies.

Prior to his retirement from government service in March 1988, Mr. Jury served with the U.S. Army Material Command from 1972, in various senior executive procurement positions. His last assignment was as the Deputy Chief of Staff for Procurement. This position is a general officer of SES Level 4 position. In this assignment he was responsible for establishing procurement policy and exercising staff surveillance for the total AMC multi billion dollar procurement mission. He provided staff direction to AMC's major subordinate commands and served as Head of Contracting Activity for those procurement activities assigned to AMC. In addition, he served as the Army's Functional Career Representative for Procurement responsible for maintaining a viable career program for approximately 7000 army careerists world wide. He further served as AMC's competition advocate.

Mr. Jury is a native of York, PA and graduated from Gettysburg College, Gettysburg, PA with a Bachelor of Science Degree in Business Administration in 1955. Following college, he served two years with the U.S. Navy.

Upon returning from the service, Mr. Jury held various marketing and sales positions with industry before entering federal civil service with the U.S. Air Force in 1962. Since that time, Mr. Jury has held various operational and staff positions in the procurement field as a contract negotiator, contract specialist, contracting officer and procurement analyst. He has held procurement positions with the U.S. Air Force at Olmstead AFB, Middletown, PA and Robins AFB, procurement positions with the U.S. Naval Air Systems Command and U.S. Naval Supply Systems Command.

MR. DAROLD L. GRIFFIN

Mr. Griffin is President and CEO of Engineering & Management Executives, Inc., Alexandria, Virginia, and a Senior Fellow of Potomac Foundation, McLean, Virginia.

He is a former member of the Federal Senior Executive Service and Senior Civilian, U.S. Army Material Command, with responsibility for Research, Development and Acquisition. During his last year of Federal service, Mr. Griffin was the Executive Director of the Department of Defense Specifications and Standards Task Force which developed the innovative "Blue Print for Change" plan for reform of military specifications and standards for the Secretary of Defense.

After a year in private industry, Mr. Griffin began his career with the Army in 1955 when he was assigned to Picatinny Arsenal, New Jersey, as a Scientific and Engineering Specialist. Upon leaving the military in 1957, Mr. Griffin was asked to remain at Picatinny in the Industrial Engineering Division. During his distinguished career Mr. Griffin has held successively more demanding positions including Deputy Laboratory Director for Bombs and Fuzes, Assistant Director for Engineering and Production Base Modernization; and Deputy Project Manager and Project Manager, Munitions Production Base Modernization. In 1979, Mr. Griffin was selected as Chief of the Manufacturing Technology Office, Headquarters, Army Material Command, and subsequently promoted to positions as the Associate Director for Systems Development; Assistant Deputy Chief of Staff for Development, Engineering and Acquisition; Deputy Chief of Staff for Production; and Principal Assistant Deputy for Research, Development and Acquisition, and in his last assignment, Principal Deputy for Acquisition. In his last two positions, Mr. Griffin was responsible for the professional development and career progression of all civilian, non-construction Scientists and Engineers in the Army.

Mr. Griffin's activities and contributions have earned him the Department of Defense Distinguished Service Medal, six Meritorious Civilian Awards, three Presidential Awards of Meritorious Senior Executive, a listing in Who's Who in Finance and Industry, and numerous other awards and honors.

DAROLD L. ORIFFIN

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DEPUTY CHIEF OF STAFF FOR PRODUCTION

1985-1992

Complete responsibility for producibility, transition to production, manufacturing technology, capital investment, industrial base and value engineering. Organized and developed highly successful organization.

- o Created manufacturing centers of excellence in soldering, composites and flexible computer integrated manufacturing.
- o Re-engineered Army policies, introducing concepts of integrated engineering, concurrent product and process design, continuous process improvement and process control.
- o Initiated actions to reduce barriers with industry and decrease costs. Personal efforts led to savings of well over \$100 million.

DEPUTY DIRECTOR, RESEARCH, DEVELOPMENT AND ACQUISITION

1981-1985

Responsible for technical content and execution of \$5 Billion annual Research, Development, Test and Engineering Program. Improved program and budget reviews greatly reducing false starts, reprogramming and marginal programs. Improved efficiency through modernization and organizational streamlining. Led the Army team in the successful NDI acquisition of the 120 MM Mortar Weapon System. Technical initiatives led to the world's first autonomous "shoot and scoot" howitzer and safe disposal techniques for lithium batteries.

CHIEF, MANUFACTURING TECHNOLOGY

1979-1981

Responsible for Army-wide manufacturing technology program. Grew program from \$50 million to over \$90 million per year, eliminated unproductive projects and improved management of continuing programs.

DIRECTOR, DEPUTY PROJECT MANAGER/PROJECT MANAGER  
PRODUCTION BASE MODERNIZATION PROGRAM

1969-1979

\$5 Billion Munitions Industrial Facilities Modernization Program. Managed supporting technologies; facility design, construction and start-up. Established engineering programs for processes, environmental control, and occupational and explosive safety. Directed major successful cost reduction initiatives.

COMMAND-WIDE VALUE ENGINEERING MANAGER

1966-1969

Total responsibility for value engineering. Achieved record savings, Developed first industrial base sector study leading to major development, facilities and inventory investments. Acquired assets of three private companies to sustain industrial base.

DEPUTY LABORATORY DIRECTOR, BOMB AND BOMB FUZE LABORATORY

1965-1966

Updated bomb and fuze designs for high performance aircraft. Successfully transitioned these products to production for Vietnam War.

DIVISION CHIEF, NUCLEAR WEAPONS

1962-1965

Directed design and production of safing and arming systems for nuclear munitions. Fielded first atomic demolition munitions.

PROJECT MANAGER, NUCLEAR WEAPONS

1958-1962

Total responsibility for production engineering and production of two tactical missile warhead sections. Accelerated programs were executed on schedule, within budget and with exceptional stockpile reliability. Developed an integrated engineering training film, "The Second Look First," which won national honors.

MILITARY SERVICE

1955-1957

Served in AMC as a production engineering team leader.

DOW CHEMICAL

1954-1955

Research engineer for magnesium heat treating processes; patent holder.

**EDUCATION**

BS, Metallurgical Engineering,  
University of Cincinnati -  
Law Studies - LaSalle University

**AFFILIATION**

ADPA  
American Society of Metals  
Alpha Chi Sigma Professional Division  
Center for Strategic and International  
Studies  
Potomac Foundation

**AWARDS**

Army Distinguished Service Award  
Three Meritorious Presidential Rank Awards  
Six Meritorious Civilian Service Awards  
Ten Performance Awards  
ADPA Gold Medal  
ADPA Fire Power Hall of Fame  
Listed in Marquis' Who's Who in Industry and Finance  
Numerous other awards and honors

**REFERENCES:**

Ms. Colleen Preston

Deputy Assistant Secretary of Defense  
(Acquisition Reform)

General William O. T. Tuttle

President, American Logistics Management  
Institute, McLean, Virginia

Dr. J. Fred Bucy

Former Chairman, Texas Instruments  
Dallas, Texas

Dr. Joseph Braddock

Trustee, Potomac Foundation  
McLean, Virginia