

STANDARD FORM 26, JULY 1966 GENERAL SERVICES ADMINISTRATION FED. PROC. REG. (41CFR) 1-16.101		AWARD/CONTRACT		PAGE	OF
1. CONTRACT (Proc. Inst. Ident.) NO. NRC-10-79-395		2. EFFECTIVE DATE 10/1/79	3. REQUISITION/PURCHASE REQUEST/PROJECT NO. RFPA No. ADM-79-395	4. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2 AND/OR DMS REG. 1. RATING:	
5. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555		6. ADMINISTERED BY (If other than block 5)	7. DELIVERY FOB DESTI- NATION <input type="checkbox"/> OTHER (See below)		
8. CONTRACTOR NAME AND ADDRESS  Computer Systems Support Corporation 9112 Gaither Road Gaithersburg, MD 20760		9. DISCOUNT FOR PROM'T PAYMENT  1% - 10 Days 1/2% - 20 Days NET - 30 Days	10. SUBMIT INVOICES (4 copies unless other- wise specified) TO ADDRESS SHOWN IN BLOCK 12 See Subsection K.4		
11. SHIP TO/MARK FOR U.S. Nuclear Regulatory Commission Attn: Charles R. Johnson, ADPS Washington, DC 20555		12. PAYMENT WILL BE MADE BY U. S. Nuclear Regulatory Commission Office of the Controller, Division of Accounting Washington, DC 20555			
13. THIS PROCUREMENT WAS <input type="checkbox"/> ADVERTISED, <input checked="" type="checkbox"/> NEGOTIATED, PURSUANT TO: <input type="checkbox"/> 10 U.S.C. 2304 (a)(1) <input checked="" type="checkbox"/> 41 U.S.C. 252 (c)(1)					
14. ACCOUNTING AND APPROPRIATION DATA APPROPRIATION SYMBOL 31 X 0200.409		B&R SYMBOL 43-20-25-406		AMOUNT \$15,000.00	
15. ITEM NO.	16. SUPPLIES/SERVICES	17. QUANTITY	18. UNIT	19. UNIT PRICE	20. AMOUNT
	The Government accepts your offer for On-Call Maintenance for NRC Computer Peripheral Equipment as set forth in Computer Systems Support Corporation's Proposal dated July 18, 1979 incorporated herein by reference and Computer Systems Support Corporation's letter dated September 7, 1979 incorporated herein and attached hereto as page 6 for Item No. 1 for the BASIC PERIOD OF PERFORMANCE (Award - September 30, 1980) with a Ceiling Amount as set forth in Block 21.  SECTION E - SUPPLIES/SERVICES AND PRICES is revised as follows:  7909240845				
21. CEILING AMOUNT		\$15,000.00			
CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE					
22. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ 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.)			26. <input checked="" type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number <u>RS-ADM-79-395</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.		
23. NAME OF CONTRACTOR BY _____ (Signature of person authorized to sign)			27. UNITED STATES OF AMERICA BY <u>M. J. Mattia</u> (Signature of Contracting Officer)		
24. NAME AND TITLE OF SIGNER (Type or print)		25. DATE SIGNED	28. NAME OF CONTRACTING OFFICER (Type or print)		29. DATE SIGNED
			MARY JO MATTIA		9/11/79

POOR ORIGINAL

CONTINUATION SHEET

NAME OF OFFEROR OR CONTRACTOR

Computer Systems Support Corporation

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
PART II - THE SCHEDULE					
SECTION E - SUPPLIES/SERVICES AND PRICES					
1	The Contractor shall provide On-Call Maintenance for the U.S. Nuclear Regulatory Commission Computer Peripheral Equipment as specified and in accordance with SECTION F.				
	BASIC PERIOD OF PERFORMANCE (Award - September 30, 1980)				
	On-Call Maintenance Charges:	Est. No. of Hours			
	8:00 AM to 5:00 PM - Monday through Friday Estimate <sup>2</sup> number of calls 120 - 2 hrs. per call	240	hr	\$ 35.00 per hour	\$ 8,400.00
	5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ 40.00 per hour	\$ 160.00
	12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ 45.00 per hour	\$ 180.00
	Saturdays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ 50.00 per hour	\$ 200.00
	Sundays and Holidays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ 50.00 per hour	\$ 200.00
	Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ 25.00 per hour	\$ 100.00
	Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00 Overheads= 12 % \$6,000.00				\$ 6,720.00
	Contractor shall provide on-call services from the Contractor's Gaithersburg, Maryland Service Center at the designated rates with charges applying portal to portal, minimum two (2) hours per call, plus \$.20 per mile, plus parts. Charges shall be computed to the nearest one-half hour.				
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CONTINUATION SHEET

Contract No. NRC-10-79-395

NAME OF OFFEROR OR CONTRACTOR

Computer Systems Support Corporation

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	OPTION PERIOD NO. 1 (October 1, 1980 - September 30, 1981)				
	On-Call Maintenance Charges:	Est. No. of Hours			
	8:00 AM to 5:00 PM - Monday through Friday Estimated number of calls 120 - 2 hrs. per call	240	hr	\$ <u>37.50</u> per hour	\$ <u>9,000.00</u>
	5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>42.50</u> per hour	\$ <u>170.00</u>
	12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>47.50</u> per hour	\$ <u>190.00</u>
	Saturdays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>52.50</u> per hour	\$ <u>210.00</u>
	Sundays and Holidays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>52.50</u> per hour	\$ <u>210.00</u>
	Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>27.50</u> per hour	\$ <u>110.00</u>
	Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00 Overheads = 12 %			\$6,000.00	\$ <u>6,720.00</u>
	Contractor shall provide on-call services from the Contractor's Gaithersburg, Maryland Service Center at the designated rates with charges applying portal to portal, minimum two (2) hours per call, plus \$.20 per mile, plus parts. Charges shall be computed to the nearest one-half hour.				

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CONTINUATION SHEET

Contract No. NRC-10-79-395

NAME OF OFFEROR OR CONTRACTOR

Computer Systems Support Corporation

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	OPTION PERIOD NO. 2 (October 1, 1981 - September 30, 1982)				
	On-Call Maintenance Charges:	Est. No. of Hours			
	8:00 AM to 5:00 PM - Monday through Friday Estimated number of calls 120 - 2 hrs. per call	240	hr	\$ <u>40.00</u> per hour	\$ <u>9,600.00</u>
	5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>45.00</u> per hour	\$ <u>180.00</u>
	12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>50.00</u> per hour	\$ <u>200.00</u>
	Saturdays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>55.00</u> per hour	\$ <u>220.00</u>
	Sundays and Holidays Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>55.00</u> per hour	\$ <u>220.00</u>
	Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ <u>30.00</u> per hour	\$ <u>120.00</u>
	Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00    Overheads = 12 %			\$6,000.00	\$ <u>6,720.00</u>
	Contractor shall provide on-call services from the Contractor's Gaithersburg, Maryland Service Center at the designated rates with charges applying portal to portal, minimum two (2) hours per call, plus \$.20 per mile, plus parts. Charges shall be computed to the nearest one-half hour.				

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Under SECTION F - DESCRIPTION/SPECIFICATIONS,

Subsection F.1 is revised to read as follows:

"F.1 The Contractor shall provide on-call maintenance which shall include all necessary maintenance labor, documentation, repair parts, maintenance supplies, tools, test equipment, transportation, and their related services at the prices shown in the Schedule for the equipment listed below. Any subsequent deletions of equipment will be at the discretion of the Government. All subsequent additions of equipment to be maintained shall be by mutual agreement of the Contractor's personnel authorized to consent to such additions and the Government."

Under SECTION J - SPECIAL PROVISIONS,

Subjection J.2 PAYMENTS, Paragraph (a)(2) is deleted in its entirety.

# COMPUTER SYSTEMS SUPPORT CORP.

SPECIALIZING IN SERVICE TO DATA GENERAL COMPUTER SYSTEMS

9112 GAITHER ROAD • GAITHERSBURG, MD. 20760  
(301) 424-7870

September 7, 1979

Mrs. Lee Medrow  
U.S. Nuclear Regulatory  
Commission  
Division of Contracts  
Washington, D.C. 20555

Dear Mrs. Medrow:

Computer Systems Support Corporation is pleased to submit the following revisions on our offer which responds to NRC's RFP RS-ADM-79-395.

Section E revised as:

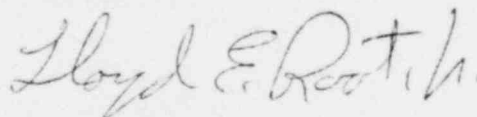
Contractor shall provide On-Call services from Contractor's Gaithersburg, Maryland service center at the designated rates with charges applying portal-to-portal, minimum two (2) hours per call, plus 20¢ per mile plus parts. Charges shall be computed to the nearest one half hour.

Subsection F.1, first paragraph, last line revised as:

Any subsequent deletions of equipment will be at the discretion of the Government. All subsequent additions of equipment to be maintained shall be by mutual agreement of the Government and Contractor's authorized personnel to consent to such additions.

Thank you for your interest Computer Systems Support Corporation's services, should you require further information please do not hesitate to contact me.

Sincerely,



Lloyd E. Root, Jr.  
President

LER:vs

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SOLICITATION, OFFER AND AWARD

3 CERTIFIED FOR NATIONAL DEFENSE UNDER DOLA REG. 1 AND 2 RATING PAGE 1 OF 39

1 CONTRACT (Proc. Inst. 10001) NO. 2 SOLICITATION NO. RS-ADM-79-395 3 DATE ISSUED 6/18/79 4 REQUISITION PURCHASE REQUEST NO. RPPA No. ADM-79-395

7 ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555 8 ADDRESS OFFER TO (if other than block 7) U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555

In advertised procurement offer and offeror shall be construed to mean bid and order.

SOLICITATION

9. Sealed offers in original and 3 copies for furnishing the supplies or services in the Schedule will be received at the place specified in block 8 or if handcarried, in the depository located in Rm 286, 7915 Eastern Avenue, Silver Spring, MD 20910 until 2:00 PM local time 7/18/79

CAUTION - LATE OFFERS: See pars. 7 and 8 of Solicitation Instructions and Conditions. All offers are subject to the following:

- 1. The Solicitation Instructions and Conditions, SF 33 A, 1-78 edition which is attached or incorporated herein by reference.
2. The General Provisions, SF 32, 2-15-78 edition which is attached or incorporated herein by reference.
3. The Schedule included herein and/or attached hereto.
4. Such other provisions, representations, certifications, and specifications as are attached or incorporated herein by reference. (Attachments are listed in schedule.)

FOR INFORMATION CALL (Name & telephone no.) (No collect calls) Mrs. Lee Medrow, Area Code 301 427-4420

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Table with 4 columns: (X) SEC, PAGE, (X) SEC, PAGE. Includes sections like PART I - GENERAL INSTRUCTIONS, PART II - THE SCHEDULE, and PART III - LIST OF DOCUMENTS AND ATTACHMENTS.

OFFER (pags 2 and 3 must also be fully completed by offeror)

In compliance with the above, the undersigned agrees, if this offer is accepted within 90 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

16. DISCOUNT FOR PROMPT PAYMENT (See par. 7, SF 33 A): 1/10 CALENDAR DAYS, 1/2/20 CALENDAR DAYS, NET 4/30 CALENDAR DAYS

17. OFFEROR: Dunns Establishment No. Computer Systems Support Corporation, 9112 Gaither Road, Gaithersburg, Maryland 20760. Principal Place of Performance: 301/424-7870. 18 NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER: W. Ron Ames - Vice President. 19 SIGNATURE: [Signature] 20 OFFER DATE: 7/18/79

AWARD (To be completed by Government)

21 ACCEPTED AS TO ITEMS NUMBERED 22 AMOUNT 23 ACCOUNTING AND APPROPRIATION DATA 24 SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK 25 NEGOTIATED PURSUANT TO 26 ADMINISTERED BY 27 PAYMENT WILL BE MADE BY 999 245 28 NAME OF CONTRACTING OFFICER 29 UNITED STATES OF AMERICA BY (Signature of contracting officer) 30 AWARD DATE

REPRESENTATIONS (Check or complete all applicable boxes or blocks.)

The offeror represents as part of his offer that:

1. SMALL BUSINESS (See par. 14 on SF 33-A.)

He  is,  is not, a small business concern. If offeror is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder  will,  will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

2. MINORITY BUSINESS ENTERPRISE

He  is,  is not, a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American-Aleuts.

3. REGULAR DEALER - MANUFACTURER (Applicable only to supply contracts exceeding \$10,000.)

He is a  regular dealer in  manufacturer of, the supplies offered.

4. CONTINGENT FEE (See par. 15 on SF 33-A.)

(a) He  has,  has not, employed or retained any company or persons (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, and (b) he  has,  has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer. (Interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1-1.5.)

5. TYPE OF BUSINESS ORGANIZATION

He operates as  an individual,  a partnership,  a nonprofit organization,  a corporation, incorporated under the laws of the State of Maryland.

6. AFFILIATION AND IDENTIFYING DATA (Applicable only to advertised solicitations.)

Each offeror shall complete (a) and (b) if applicable, and (c) below:

(a) He  is,  is not, owned or controlled by a parent company. (See par. 16 on SF 33-A.)

(b) If the offeror is owned or controlled by a parent company, he shall enter in the blocks below the name and main office address of the parent company:

N/A

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (Include ZIP code)

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(c) EMPLOYER'S IDENTIFICATION NUMBER (SEE PAR. 17 ON SF 33-A.)

52-0997829

OFFEROR'S E.I. NO.

PARENT COMPANY'S E.I. NO.

7. EQUAL OPPORTUNITY

(a) He  has,  has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; that he  has,  has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)

(b) The bidder (or offeror) represents that (1) he  has developed and has on file,  has not developed and does not have on file, at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or (2) he  has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (The above representation shall be completed by each bidder (or offeror) whose bid (offer) is \$50,000 or more and who has 50 or more employees.)

CERTIFICATIONS (Check or complete all applicable boxes or blocks)

1. BUY AMERICAN CERTIFICATE

The offeror certifies as part of his offer, that: each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

EXCLUDED END PRODUCTS

N/A

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2. **CLEAN AIR AND WATER** (Applicable if the bid or offer exceeds \$100,000, or the contracting officer has determined that orders under an indefinite quantity contract in any year will exceed \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-3(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract  has,  has not, been listed on the Environmental Protection Agency List of Violating Facilities.

(b) He will promptly notify the contracting officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities.

(c) He will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

3. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION** (See par. 18 on SF 33-A)

(a) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for that purpose of restricting competition.

(b) Each person signing this offer certifies that:

(1) He is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3), above; or

(2) (i) He is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

4. **CERTIFICATION OF NONSEGREGATED FACILITIES** (Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.**

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). *NOTE: The penalty for making false offers is prescribed in 18 U.S.C. 1001.*

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ACKNOWLEDGMENT OF AMENDMENTS The offeror acknowledges receipt of amendments to the Solicitation for offers and related documents numbered and dated as follows:	AMENDMENT NO	DATE	AMENDMENT NO	DATE

*NOTE: Offers must set forth full, accurate and complete information as required by this Solicitation (including attachments). The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.*

## SECTION B - CONTRACT FORM &amp; REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR (Continued)

## B. 5 WOMAN-OWNED BUSINESS

(FPR 1-1.340)

Concern is  is not  a woman-owned business. The business is publicly owned, a joint stock association, or a business trust yes no. The business is  certified  not certified.

A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, woman-owned if this information is available.

## B. 6 PERCENT OF FOREIGN CONTENT

(FPR 1-6.106)

The offeror/contractor will represent (as an estimate), immediately after the award of a contract, the percent of the foreign content of the item or service being procured expressed as a percent of the contract award price (accuracy within plus or minus 5 percent is acceptable).

## B. 7 NON-DISCRIMINATION BECAUSE OF AGE CERTIFICATION (1-12.1001)

The offeror hereby certifies as follows:

- (a) In the performance of Federal Contracts, he and his subcontractors shall not in connection with the employment, advancement, or discharge of employees or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational retirement plan, or statutory requirement, and
- (b) That contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts a maximum age limit for such employment unless the specified maximum age limit is based on a bona fide occupational qualification, retirement plan, or statutory requirement.

B. 8 Utilization of Minority Business Enterprises (1-1.1310-2)

- a. The Utilization of Minority Business Enterprises clause shall be included in all contracts in amounts which may exceed \$10,000 except (1) contracts which, including all subcontracts thereof, are to be performed entirely outside the United States, its possessions, and Puerto Rico, and (2) contracts for services which are personal in nature.

1. It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government Contracts.

2. The Contractor agrees to use his best effort to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

Minority Business Enterprises Subcontracting Program (1-1.1310-2)

- b. The Minority Business Enterprise Subcontracting Program clause shall be included in all contracts which may exceed \$500,000 and which in the opinion of the procuring activity, offer substantial subcontracting possibilities.

1. The Contractor agrees to establish and conduct a program which will enable minority businesses (as defined in the clause entitled "Utilization of Minority Business Enterprise") to be considered fairly as subcontractors and suppliers under this contract. In this connection, the contractor shall:

(a) Designate a liaison officer who will administer the Contractor's minority business enterprises program.

(b) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.

(c) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises.

(d) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

(e) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer substantial minority business enterprises subcontracting opportunities.

B.9 Utilization of Small Business Concerns (1-1.710-3)

- a. The Utilization of Small Business Concerns clause shall be included in all contracts in amounts which may exceed \$10,000 except (1) contracts which, including all subcontracts there under, are performed entirely outside the United States, its possessions, and Puerto Rico, and (2) contracts for services which are personal in nature.

1. It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with Small Business Concerns.

2. The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

Small Business Subcontracting Program

- b. The Small Business Subcontracting Program clause shall be included in all contracts which may exceed \$500,000 and which in the opinion of the procuring activity offer substantial subcontracting possibilities.

1. The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall:

(a) Designate a liaison officer who will (i) maintain liaison with the Government on small business matters, (ii) supervise compliance with the Utilization of Small Business Concerns clause, and (iii) administer the Contractor's "Small Business Subcontracting Program."

(b) Provide adequate and timely consideration of the potentialities of small business concerns in all "make-or-buy" decisions.

(c) Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly

by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of small business concerns. Where the Contractor's lists of potential small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(d) Maintain records showing (i) whether each prospective subcontractor is a small business concern, (ii) procedures which have been adopted to comply with the policies set forth in this clause, and (iii) with respect to the letting of any subcontract (including purchase orders) exceeding \$10,000, informations substantially as follows:

- (1) Whether the award went to large or small business.
- (2) Whether less than three or more than two small business firms were solicited.
- (3) The reason for nonsolicitation of small business if such was the case.
- (4) The reason for small business failure to receive the award if such was the case when small business was solicited.

The records maintained in accordance with (iii) above may be in such form as the Contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the purchasing department of each individual plant or division to the Contractor's cognizant small business liaison officer. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(e) Notify the Contracting Officer before soliciting bids or quotations on any subcontract (including purchase orders) in excess of \$10,000 if (i) no small business concern is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notice will state the Contractor's reasons for nonsolicitation of small business concerns, and will be given as early in the procurement cycle as possible so that the Contracting Officer may give SBA timely notice to permit SBA a reasonable period to suggest potentially qualified small business concerns through the Contracting Officer. In no case will the procurement action be held up when to do so would, in the Contractor's judgement, delay performance under the contract.

(f) Include the Utilization of Small Business Concerns clause in subcontracts which offer substantial small business subcontracting opportunities.

(g) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's subcontracting procedures and practices that the Contracting Officer may from time to time conduct.

(h) Submit quarterly reports of subcontracting to small business concerns on either Optional Form 61, Small Business Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, or such other form as may be specified in the contract. Except as otherwise provided in this contract, the reporting requirements of this subparagraph (8) do not apply to small business contractors, small business subcontractors, educational and non-profit institutions, and contractors or subcontractors for standard commercial items.

SECTION B - CONTRACT FORMS & REPRESENTATIONS, CERTIFICATIONS, AND OTHER  
STATEMENTS OF OFFEROR (Continued)

B.10 PREFERENCE FOR LABOR SURPLUS AREA CONCERNS (1978 JUN) ASPR 7-2003.13

This procurement is not set aside for labor surplus area concerns. However, the offeror's status as such a concern may affect entitlement to award in case of tie offers or offer evaluation in accordance with the Buy American clause of this solicitation. In order to have his entitlement to a preference determined if those circumstances should apply, the offeror must identify below the persistent or substantial labor surplus area in which the costs he will incur on account of manufacturing or production (by himself or his first-tier subcontractors) amount to more than fifty percent (50%) of the contract price.

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Failure to identify the locations as specified above will preclude consideration of the offeror as a labor surplus area concern. Offeror agrees that if, as a labor surplus area concern, he is awarded a contract for which he would not have been qualified in the absence of such status, he will perform the contract or cause it to be performed, in accordance with the obligations which such status entails.

B.11 AUTHORIZED NEGOTIATORS

Offeror shall furnish names and telephone numbers of personnel authorized to conduct negotiations and hold technical discussions under this solicitation:

LLOYD E. ROOT, JR. 301/424-7870/71  
(Name - Contractual Matters) Telephone No.

W. RON AMES 301/424-7870/71  
(Name - Contractual Matters) Telephone No.

\_\_\_\_\_  
(Name - Technical Matters) Telephone No.

TELECOPIER Number \_\_\_\_\_

B.12 MAILING ADDRESS FOR PAYMENT

Offeror shall indicate below the address to which payment should be mailed, if such address is different from that shown for the offeror/contractor.

Office SAME Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

B. 13 CONTRACTOR ORGANIZATIONAL CONFLICTS OF INTEREST

I represent to the best of my knowledge and belief that:

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The award to Computer Systems Support Corporation of a contract or the modification of an existing contract does ( ) or does not (X) involve situations or relationships of the type set forth in 41 CFR paragraph 20-1.5403(b)(1).

If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR 20-1.5403(b)(1) are involved or the Contracting Officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the Contracting Officer. If the Contracting Officer determines that organizational conflicts exist, the following actions may be taken:

- (i) Impose appropriate conditions which avoid such conflicts,
- (ii) disqualify the offeror, or
- (iii) determine that it is otherwise in the best interest of the United States to seek award of the contract under the waiver provisions of § 20-1.5411.

The refusal to provide the representation required by § 20-1.5404(b) or upon request of the Contracting Officer the facts required by § 20-1.5404(c), shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for awards; or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. The offeror may also be disqualified from subsequent related NRC contracts and be subject to such other remedial actions provided by law or the resulting contract.

The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work from the statements of work contained in a RFP unless the RFP specifically prohibits such 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 work to the detriment of the competitive posture of the other offerors, the proposal must be rejected as unacceptable.

The offeror's failure to execute the representation required herein with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct the omission.

Any contract resulting from a solicitation requirement shall include general clauses (41 CFR 20-1.5404-1) prohibiting contractors from engaging in relationships which may give rise to an actual or apparent conflict of interest. NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20) is included as Attachment M.1.1.



SECTION C

SOLICITATION INSTRUCTIONS AND CONDITIONS

1. DEFINITIONS.

As used herein:

(a) The term "solicitation" means Invitation for Bids (IFB) where the procurement is advertised, and Request for Proposal (RFP) where the procurement is negotiated.

(b) The term "offer" means bid where the procurement is advertised, and proposal where the procurement is negotiated.

(c) For purposes of this solicitation and Block 2 of Standard Form 33, the term "advertised" includes Small Business Restricted Advertising and other types of restricted advertising.

2. PREPARATION OF OFFERS.

(a) Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his name on the Schedule and each Continuation Sheet thereof on which he makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the issuing office.

(c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the Amount column of the Schedule for each item offered. In case of discrepancy between a unit price and extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Offeror must state a definite time for delivery of supplies or for performance of services unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays and holidays.

(g) Code boxes are for Government use only.

3. EXPLANATION TO OFFERORS. Any explanation desired by an offeror regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., must be requested in writing and with sufficient time allowed for a reply to reach offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished to all prospective offerors as an amendment of the solicitation, if such information is necessary to offerors in submitting offers on the solicitation or if the lack of such information would be prejudicial to uninformed offerors.

4. ACKNOWLEDGMENT OF AMENDMENTS TO SOLICITATIONS.

Receipt of an amendment to a solicitation by an offeror must be acknowledged (a) by signing and returning the amendment, (b) on page three of Standard Form 33, or (c) by letter or telegram. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

5. SUBMISSION OF OFFERS.

(a) Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt. (However, see paragraphs 7 and 8.)

(c) Samples of items, when required, must be submitted within the time specified, and unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at offeror's request and expense, unless otherwise specified by the solicitation.

6. FAILURE TO SUBMIT OFFER. If no offer is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future solicitations for the type of supplies or services covered by this solicitation are desired. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, may result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

7. LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS.

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); or

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in (a), above. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

Note: The term "telegram" includes mailgrams.

8. LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS.

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) It is the only proposal received.

(b) Any modification of a proposal, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in (a)(1) and (a)(2) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

(d) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding (a), (b), and (c), of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

Note: The term "telegram" includes mailgrams.

Note: The alternate late proposals, modifications of proposals and withdrawals of proposals provision prescribed by 41 CFR 1-3.802-2(b) shall be used in lieu of provision 8, if specified by the contract.

**9. DISCOUNTS.**

(a) Notwithstanding the fact that a blank is provided for a ten (10) day discount, prompt payment discounts offered for payment within less than twenty (20) calendar days will not be considered in evaluating offers for award, unless otherwise specified in the solicitation. However, offered discounts of less than 20 days will be taken if payment is made within the discount period, even though not considered in the evaluation of offers.

(b) In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of those points, or from the date correct invoice or voucher is received in the office specified by the Government, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

**10. AWARD OF CONTRACT.**

(a) The contract will be awarded to that responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered.

(b) The Government reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

(c) The Government may accept any item or group of items of any offer, unless the offeror qualifies his offer by specific limitations. **UNLESS OTHERWISE PROVIDED IN THE SCHEDULE, OFFERS MAY BE SUBMITTED FOR ANY QUANTITIES LESS THAN THOSE SPECIFIED; AND THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD ON ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY OFFERED AT THE UNIT PRICES OFFERED UNLESS THE OFFEROR SPECIFIES OTHERWISE IN HIS OFFER.**

(d) A written award (or Acceptance of Offer) mailed (or otherwise furnished) to the successful offeror within the time for acceptance specified in the offer shall be deemed to result in a binding contract without further action by either party.

The following paragraphs (e) through (h) apply only to negotiated solicitations:

(e) The Government may accept within the time specified therein, any offer (or part thereof, as provided in (c) above), whether or not there are negotiations subsequent to its receipt, unless the offer is withdrawn by written notice received by the Government prior to award. If subsequent negotiations are conducted, they shall not constitute a rejection or counter offer on the part of the Government.

(f) The right is reserved to accept other than the lowest offer and to reject any or all offers.

(g) The Government may award a contract, based on initial offers received, without discussion of such offers. Accordingly, each initial offer should be submitted on the most favorable terms from a price and technical standpoint which the offeror can submit to the Government.

(h) Any financial data submitted with any offer hereunder or any representation concerning facilities or financing will not form a part of any resulting contract; provided, however, that if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished hereunder is incomplete, inaccurate, or not current.

**11. GOVERNMENT-FURNISHED PROPERTY.** No material, labor, or facilities will be furnished by the Government unless otherwise provided for in the solicitation.

**12. LABOR INFORMATION.** General information regarding the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C.

79-45), the Contract Work Hours Standards Act (40 U.S.C. 327-330), and the Service Contract Act of 1965 (41 U.S.C. 351-357) may be obtained from the Department of Labor, Washington, D.C. 20210, or from any regional office of that agency. Requests for information should include the solicitation number, the name and address of the issuing agency, and a description of the supplies or services.

**13. SELLER'S INVOICES.** Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified. Invoices shall contain the following information: Contract and order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices, and extended totals. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading.

**14. SMALL BUSINESS CONCERN.** A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting offers on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

**15. CONTINGENT FEE.** If the offeror, by checking the appropriate box provided therefor, has represented that he has employed or retained a company or person (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, or that he has paid or agreed to pay any fee, commission, percentage, or brokerage fee to any company or person contingent upon or resulting from the award of this contract, he shall furnish, in duplicate, a complete Standard Form 119, Contractor's Statement of Contingent or Other Fees. If offeror has previously furnished a completed Standard Form 119 to the office issuing this solicitation, he may accompany his offer with a signed statement (a) indicating when such completed form was previously furnished, (b) identifying by number the previous solicitation or contract, if any, in connection with which such form was submitted, and (c) representing that the statement in such form is applicable to this offer.

**16. PARENT COMPANY.** A parent company for the purpose of this offer is a company which either owns or controls the activities and basic business policies of the offeror. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the offeror, such other company is considered the parent company of the offeror. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

**17. EMPLOYER'S IDENTIFICATION NUMBER.** (Applicable only to advertised solicitations.) The offeror shall insert in the applicable space on the offer form, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Number used on Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941), or, if he has a parent company, the Employer's Identification Number of his parent company.

**18. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION.**

(a) This certification on the offer form is not applicable to a foreign offeror submitting an offer for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

(b) An offer will not be considered for award where (a) (1), (a) (2), or (b) of the certification has been deleted or modified. Where (a) (2) of the certification has been deleted or modified, the offer will not be considered for award unless the offeror furnishes with the offer a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

**19. ORDER OF PRECEDENCE.** In the event of an inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Schedule; (b) Solicitation Instructions and Conditions; (c) General Provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and (e) the specifications.

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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.20 NOTICE OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

Bidders and offerors are cautioned as follows: By signing this bid or offer, the bidder or offeror will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this solicitation. The certification provides that the bidder or offeror does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that he will not maintain such segregated facilities. Failure of a bidder or offeror to agree to the Certification of Nonsegregated Facilities will render his bid or offer nonresponsive to the terms of solicitations involving awards of contracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.

C.21 Pursuant to the provisions contained in Clause C.5, Paragraph (b), telegraphic bids are not authorized.

C.22 NONDISCRIMINATION BECAUSE OF AGE (FPR 1-12.1001)

It is the policy of the Executive Branch of the Government that (a) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees or in connection with the terms, conditions, or privileges of their employment discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement, and (b) that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.

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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.23 WARRANTY EXCLUSION AND LIMITATION OF DAMAGES

Except as expressly set forth in writing in this agreement, or except as provided in the clause entitled, "Commitments, Warranties and Representations" and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the Contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, Section 2-715 in effect in the District of Columbia as of January 1, 1973, i.e.:

Consequential damages resulting from the seller's breach include:

- (a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and
- (b) Injury to person or property approximately resulting from any breach of warranty.

C.24 CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any written commitment by the Contractor within the scope of this contract shall be binding upon the Contractor. Failure of the Contractor to fulfill any such commitment shall render the Contractor liable for liquidated or other damages due to the Government under the terms of this contract. For the purpose of this contract, a written commitment by the Contractor is further defined as including (1) any warranty or representation made by the Contractor in a proposal as to hardware performance, and total systems performance, (2) any warranty or representation made by the contractor concerning the characteristics or items described in (1) above made in any publications, drawings or specifications accompanying or referred to in a modification of or affirmation or representation as to the above which is made by the Contractor in or during the course of negotiations, whether or not incorporated into a formal amendment to the proposal.

C.25 LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to Government personnel or damage to Government property arising from the use of equipment maintained by the Contractor unless such injury or damage is due to the fault or negligence of the Contractor.

SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.26 LISTING OF EMPLOYMENT OPENINGS

(FPR 1-12.1102-2)

Bidders and offerors should note that this solicitation includes a provision requiring the listing of employment openings with the local office of the Federal-State employment service system where a contract award is for \$2,500 or more.

C.27 SCOPE OF CONTRACT

This solicitation provides for the maintenance requirements of the Government-owned automated data processing equipment (ADPE) as set forth herein and shown in the schedule. The Contractor shall be obligated to perform maintenance service in accordance with all terms and conditions specified herein at the prices awarded, during the term of the contract.

C.28 TYPE OF CONTRACT

It is anticipated that a Time and Material Type Contract will be awarded as a result of this solicitation. The contract will include all applicable terms and conditions as prescribed by the Federal Procurement Regulations, Standard Form 32, General Provisions (April 1975 Edition), and FPR Changes and NRC Additions to Standard Form 32 (June 1976 Edition), attached hereto and will form a part of any resultant contract.

C.29 ADVERTISING OF AWARD

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

C.30 UNNECESSARILY ELABORATE OFFEROR'S PROPOSAL

Unnecessarily elaborate brochures beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Legibility, clarity, and completeness are important.

C.31 DISPOSITION OF PROPOSALS

After award of contract, two (2) copies of each unsuccessful proposal will be retained by NRC, Division of Contracts; and, unless otherwise notified by the offeror, all other copies will be destroyed.

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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.3 2 ACCEPTANCE PERIOD

Because of the time required by the Government to evaluate proposals adequately, offerors are to specify a proposal acceptance period of not less than 90 days.

C.3 3 COST OF PROPOSAL PREPARATION

This solicitation does not commit the Government to pay any costs incurred by the offeror for the preparation of proposals or for necessary studies or designs for the preparation thereof, nor to procure or contract for the articles or services shown. Additionally, the offeror is advised that the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed procurement.

C.34 SITE INSPECTION

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost and performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

C. 35 SITE VISIT

A site visit may be arranged by contacting Lee Medrow, Area Code 301, 427-4420.

Any costs connected with the site visit will be borne by the offeror.

The Government reserves the right to award a contract without any written or oral discussions with any offeror.

C.36 SMALL BUSINESS SIZE STANDARDS AND PRODUCT CLASSIFICATION

It has been determined that the material or services described herein is classified under the Standard Industrial Classification Manual as No. 7379 and a concern whose average annual receipts for its preceding 3 fiscal years do not exceed \$4 million is considered as a small business concern.

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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
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C.37 PROPOSAL PRESENTATION AND FORMAT

- a. Proposals will be typewritten or reproduced on letter-size paper and will be legible in all required copies. Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art works, expensive paper and binding, expensive visual and other presentation aids are neither necessary nor desired.
- b. In order to conduct the evaluation as expeditiously and as comprehensively as possible, the Government desires that offerors respond in accordance with the guidelines set forth below:

Proposals submitted in response to this Request for Proposal shall be in two (2) parts:

A "Technical Proposal" and a "Cost Proposal." Submit four (4) copies of each. Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of the evaluation of the other. All documents submitted shall have a cover page with the identifying RFP title, the solicitation number, and name of the offeror.

- (1) TECHNICAL PROPOSAL - (See the following paragraph No. C.38 for specific content requirements.) The "Technical Proposal" shall not contain any reference to cost. Resource information such as data concerning labor hours, and categories, materials, subcontracts, travel, computer time, etc., shall be included in the "Technical Proposal" so that offeror's understanding of the scope of work may be evaluated.
- (2) COST PROPOSAL - The contractor shall utilize the Optional Form 59, Contracting Pricing Proposal in submitting his cost proposal. Offerors may, however, submit the necessary information in a different format where the offeror's accounting system makes the use of the form impractical, or when required for a more effective and efficient presentation of cost information. In either instance, the information furnished shall include pertinent details sufficient to show the elements of cost upon which the total cost is predicated.

Cost will be evaluated on reasonableness, validity and reliability.

If your records are currently under audit cognizance of a Government audit agency, the address and telephone of that office should be furnished.

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SECTION C- SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.38 TECHNICAL PROPOSAL CONTENT

The offeror shall submit with his technical proposal full and complete information in the order set forth below to permit the Government to make a thorough evaluation and a sound determination that the proposed approach will have a reasonable likelihood of meeting the requirements and objectives of this procurement in accordance with the evaluation criteria set forth in SECTION D.

Statements which paraphrase the scope of work without communicating the specific innovation proposed by the offeror or statements to the effect that the offeror's understanding can or will comply with the scope of work may be construed as an indication of the offeror's lack of understanding of the scope of work and objectives.

The technical proposal shall set forth as a minimum the following:

1. Discussion of the requirements of the scope of work to substantiate the offeror's understanding of the effort.
2. Discussion of anticipated major difficulties and problem areas, together with potential or recommended approaches for their resolution.
3. Statements of any interpretations, requirements, or assumptions made by the offeror.
4. Qualifications, experience and availability of service personnel to be utilized in the performance of any resulting contract. Also discuss availability or ability to obtain in-depth technical assistance.
5. Discuss ability to maintain an adequate supply of spare parts.
6. List essential equipment and its availability to allow for timely commencement and contract performance.
7. List the name and address of the offeror's Plant/Service Facility and the number of years engaged in ADPE maintenance and repair business.
8. List the Government and/or Commercial ADPE installations where similar or like systems have been installed and are being maintained by the offeror. Offeror shall list four (4) installations, stating the name and address of the installation, the telephone number of the installation manager, and the types and models of ADPE currently installed and maintained at each of the installations which are the same as the types and models of ADPE listed in SECTION F.



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## SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS (Continued)

### C.38 TECHNICAL PROPOSAL CONTENT (Continued)

9. A description and explanation of that portion of work intended to be subcontracted, if any, identifying probable sources.
10. Discuss Management Organization and Structure delineating areas of responsibility and authority under the proposed effort. Discuss the functions and authorities of the project manager.
11. Discuss procedures for project management and for coordinating with the NRC Contracting Officer's Authorized Representative.

### C.39 COST PROPOSAL CONTENT

- A. The Cost/Pricing Section - Shall be submitted on Optional Form 59 or similar format, supported by necessary schedules and documentation, including but not limited to the following:
- Material - A detail listing of items including the quantity, basis of cost estimate, unit cost and sources of cost.
  - Labor - The basis for the estimated hours broken down by category, and the source of labor rates.
  - Indirect - The source and basis of determination of all indirect costs.
  - Travel - A breakdown of all travel by trips, segregating all transportation and per diem costs. A copy of the official Government approval of the offeror's travel policy if granted, or in lieu thereof, a copy of the offeror's travel policy.
  - Other - The offer's fiscal accounting period (Fiscal Year) and the name, address, and the telephone number of the offeror's cognizant Government Audit Agency.
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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.39 COST PROPOSAL COMMENT (Continued)

B. Offeror's cost proposal also shall include the following information:

ADDITIONAL FACILITIES

In the event the offeror contemplates acquiring additional facilities in the performance of this work, such facilities shall be separately identified.

COMMITMENTS

The offeror shall list commitments with the Government relating to the specified work or services and indicate whether these commitments will or will not interfere with the completion of work and services contemplated under this proposal.

MANPOWER AVAILABILITY

Describe the source of personnel required for performance of the work described herein and not presently employed by the offeror. If any of the personnel noted earlier are under tentative commitment, describe the terms of the commitment(s). Note specifically the personnel that will be on board expecting a contract award.

MANPOWER STABILITY

Furnish an attrition record for supervisory personnel and for professional/technical non-supervisory personnel, within the proposing entity for the following years:

1976, 1977, 1978

The attrition rate may be expressed in a percent, providing the offeror explains the method used to compute the percentage figure.

CONSULTANTS

Explain need for services. List proposed principal consultants if known by name. For each list show (a) nature of services, (b) name of employer, (c) fee rate, and (d) total consultant fee and any other allowable related costs which may be involved, such as travel and per diem. Such fees may not be paid to employees of the contractor or to employees of the U.S. Government.

C. In addition to the price proposal required above, offeror's are required to complete the unit price schedule set forth in SECTION E.

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SECTION C - SOLICITATION INSTRUCTIONS AND CONDITIONS AND NOTICES TO OFFERORS  
(Continued)

C.40 NOTICE OF PROPRIETARY INFORMATION

In cases where an offeror wants technical data included in the proposal to be used only for purpose of evaluation, he must specifically identify the data by marking the title page with the following restrictive legend:

The data, described below, contained in th's proposal shall be used, duplicated, or disclosed only for NRC -- evaluation purposes and this notice shall be applied to any reproduction or abstract of such data. This restriction does not apply to data if the data: (1) is generally available to the public, (2) is already available to the Government on an unrestricted basis, (3) becomes available to the Government from another source, including the proposer, without restriction, or (4) is required to be publically disclosed pursuant to the Freedom of Information Act (5 U.S.C. 522). This notice covers the following data: (Here described in detail the location of the material claimed to be proprietary - list specific pages or paragraphs, as appropriate, - general statements will not be acceptable.)

The submitter must also mark each sheet of data which he wishes to restrict with the following legend:

Use or disclosure of the technical data on this page is subject to the restriction of the title page of this proposal.

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SECTION D - EVALUATION FACTORS FOR AWARD

D.1 CONTRACT AWARD AND EVALUATION

By use of numerical and narrative scoring techniques, proposals will be evaluated against the evaluation factors specified in Subsection D.2. Award will be made to the offeror (1) whose proposal is technically acceptable and (2) whose technical/cost relationship is the most advantageous to the Government; and who is considered to be responsible within the meaning of Federal Procurement Regulation 1-1.12.

Inselection of a contractor, technical merit and cost will bear equal significance. To be selected for an award, the proposed cost must be realistically and reasonably priced.

Offers which do not include fixed contract life prices cannot be evaluated for the total requirement and may be rejected.

The Government reserves the right without qualification, to accept or reject any or all proposals, to negotiate with any and all proposers regardless of the terms of the original proposal, and to request additional clarifying information either through written information or through conference with the proposers. All proposers are notified that award may be made without discussion of proposals and, therefore, proposals should be submitted initially on the most favorable terms, from a cost and technical standpoint.

D.2 EVALUATION FACTORS

The criteria and their relative weights to be applied in the evaluation of proposals are set forth below in descending order of importance:

- |   |            |
|---|------------|
| 1. Demonstrated ability and experience to maintain similar or like ADPE equipment                     | 25 Points  |
| 2. Qualifications of Personnel  | 25 Points  |
| 3. Demonstrated ability to maintain adequate supply of spare parts                                    | 20 Points  |
| 4. Does the proposal reflect an adequate interpretation of the work requirements                      | 10 Points  |
| 5. Availability of or ability to obtain in-depth technical assistance                                 | 10 Points  |
| 6. Validity and feasibility of proposed approach to manage, control, and perform required maintenance | 10 Points  |
| Total Weight of all Weighted Factors -  | 100 Points |

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SECTION D - EVALUATION FACTORS FOR AWARD (Continued)

D.3 OTHER FACTORS

Also to be considered in the evaluation will be other such factors, without numerical weight, as may be deemed necessary in the best interest of the Commission in making a Contractor selection. These include but are not limited to: (1) proposed cost, (2) ability to meet required schedule, (3) the offeror's willingness to accept NRC contract provisions in principle, (4) the proposer's financial status, (5) contractual and organization relationships of the offeror, its employees, or expected subcontractors on this contract, with industry associations, NRC licensees, permittees, or applicants (e.g., utilities, etc.) and suppliers thereof (e.g., architect engineers and reactor manufacturers, etc.) which might give rise to an apparent or actual conflict of interest in the event of a contract award to an offeror, and (6) such other factors as may be deemed to be necessary in the best interest of the Commission in making a Contractor selection.

D.4 FIXED PRICE OPTIONS

- (a) This solicitation is being conducted on the basis that the known requirements exceed the basic contract period to be awarded, but due to the unavailability of funds, the option(s) cannot be exercised at the time of award of the basic contract (although there is a reasonable certainty that funds will be available thereafter to permit exercise of the options); realistic competition for the option periods is impracticable once the initial contract is awarded; and it is in the best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in." Therefore, to safeguard the integrity of the Government's evaluation and because the Government is required to procure ADPE and related items on the basis of fulfilling system specifications at the lowest overall cost, subsequent (or additional) as well as initial requirements must be satisfied on a fixed price basis. Since the systems or items to be procured under this solicitation have an expected life of 60 months (hereafter referred to as "systems life," or "items life," as appropriate), and since lowest systems (items) life costs are synonymous with lowest overall costs, the contract resulting from this solicitation must contain options for renewals for subsequent fiscal years throughout the projected systems (items) life at fixed prices, and, if applicable, at fixed prices for all stated optional quantities of supplies or services not included in the initial requirement. Despite the foregoing, offerors are reminded that although the evaluation which will lead to contract award will be based on systems (items) life costs, the exercise of the option(s) is dependent not only on the continued existence of the requirement and the availability of funds, but also on an affirmative determination that such exercise is in the best interest of the Government. Options included in offers submitted in response to this solicitation will be evaluated as follows:

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SECTION D - EVALUATION FACTORS FOR AWARD (Continued)

D. 4 FIXED PRICE OPTIONS (Continued)

- (1) To be considered responsive to this solicitation, vendors must offer fixed prices for the initial contract period for the initial systems or items being procured. Fixed prices, or prices which can be finitely determined, must be quoted for each ~~separate~~ option renewal period and must remain in effect throughout that period. Where optional quantities are offered, prices must be fixed or finitely determinable.
  - (2) Offers will be evaluated for purposes of award by adding the total price of all optional periods and, if applicable, all stated optional quantities to the total price for the initial contract period, covering the initial system or items. These prices will be adjusted by the appropriate discount factors.
- (b) Evaluation of options will not obligate the Government to exercise the options. Offers which do not include fixed or determinable systems (items) life prices cannot be evaluated for the total requirement and will be rejected as nonresponsive. Offers which meet the mandatory requirements will be evaluated on the basis of lowest overall cost to the Government, including all stated options. The above, notwithstanding, award will be made subject to the type of funds available.

D.5 SEPARATE CHARGES

Separate charges, in any form, are not solicited. Offers containing any charges for discontinuance, termination or failure to exercise any option are not solicited and will be rejected.

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
PART II - THE SCHEDULE					
SECTION E - SUPPLIES/SERVICES AND PRICES					
1	The Contractor shall provide On-Call Maintenance for the U.S. Nuclear Regulatory Computer Peripheral Equipment as specified and in accordance with SECTION F.				
BASIC PERIOD OF PERFORMANCE (Award - September 30, 1980)					
On-Call Maintenance Charges:		Est. No. of Hours			
8:00 AM to 5:00 PM - Monday through Friday Estimated number of calls 120 - 2 hrs. per call	240		hr	\$ _____ per hour	\$ _____
5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____	
12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____	
Saturdays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____	
Sundays and Holidays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____	
Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ _____ per hour	\$ _____	
Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00 Overheads= _____			\$ 6,000.00	\$ _____	
The On-Call Maintenance Hourly Charges shall include travel costs to and from the site. Charges shall be computed to the nearest one-half hour. The hourly charges shall commence when the Contractor's service employee arrives at the designated NRC service point and ends upon completion of the repair effort at the designated NRC service point.					
SEE COST PROPOSAL					
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CONTINUATION SHEET

NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	OPTION PERIOD NO. 1 (October 1, 1980 - September 30, 1981)				
	On-Call Maintenance Charges:	Est. No. of Hours			
	8:00 AM to 5:00 PM - Monday through Friday Estimated number of calls 120 - 2 hrs. per call		240	hr	\$ _____ per hour
	5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Saturdays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Sundays and Holidays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ _____ per hour	\$ _____
	Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00 Overheads= _____ \$ \$6,000.00 \$ _____				
	The On-Call Maintenance Hourly Charges shall include travel costs to and from the site. Charges shall be computed to the nearest one-half hour. The hourly charges shall commence when the Contractor's service employee arrives at the designated NRC service point and ends upon completion of the repair effort at the designated NRC service point.				
	SEE COST PROPOSAL				
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CONTINUATION SHEET

NAME OF OFFICE OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	OPTION PERIOD NO. 2 (October 1, 1981 - September 30, 1982)				
	On-Call Maintenance Charges:	Est. No. of Hours			
	8:00 AM to 5:00 PM - Monday through Friday Estimated number of calls 120 - 2 hrs. per call	240	hr	\$ _____ per hour	\$ _____
	5:00 PM to 12:00 PM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	12:00 PM to 8:00 AM - Monday through Friday Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Saturdays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Sundays and Holidays Estimated number of calls 2 - 1 hr. per call	2	hr	\$ _____ per hour	\$ _____
	Depot Rates Estimated number of calls 2 - 2 hrs. per call	4	hr	\$ _____ per hour	\$ _____
	Materials at cost plus applicable overheads Estimated cost of materials \$6,000.00    Overheads= _____			\$6,000.00	\$ _____
	<p>The On-Call Maintenance Hourly Charges shall include travel costs to and from the site. Charges shall be computed to the nearest one-half hour. The hourly charges shall commence when the Contractor's service employee arrives at the designated NRC service point and ends upon completion of the repair effort at the designated NRC service point.</p>				
	SEE COST PROPOSAL				

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## SECTION F - DESCRIPTIONS/SPECIFICATIONS

F.1 The Contractor shall provide on-call amintenance which shall include all necessary maintenance labor, documentation, repair parts, maintenance supplies, tools, test equipment, transportation, and their related services at the prices shown in the Schedule for the equipment listed below and any subsequent additions or deletions:

<u>UNIT NO.</u>	<u>DESCRIPTION</u>
1	Texas Instruments - Model 735
2	Texas Instruments - Model 745
3	Texas Instruments - Model 733
4	Omron - Model 8025G
5	Omron - Model 8025AG
6	Delta Data 4000
7	Hazeltine 2000 and Printer
8	CDI 1132
9	Dec Writer II
10	NRC 260-5
11	A/J - Model 832
12	A/J -- Model 30
13	A/J - Model 630
14	Tektronix - Model 4006
15	Tektronix - Model 4051
16	Tektronix - Model 4631
17	Tektronix - Model 4924
18	Tektronix - Model 4923
19	Tektronix - Model 4014
20	Wang with CRT and Teleprinter
21	Centronix Printer
22	GE Terminet

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SECTION - DESCRIPTIONS/SPECIFICATIONS (Continued)

F.1 (Continued)

<u>UNIT NO.</u>	<u>DESCRIPTION</u>
23	Bell & Howell TD 2903-4B - Auto Tape Degausser
24	Computer Transceiver Corp - EXECUPORT 3000
25	CCI - 30
26	CCI - 40
27	GEN-COM Computer Terminals, Model 300Q with Feed Platen
28	Data Devices Mark IV Tape Cleaner

F.2 LOCATION OF EQUIPMENT

Bethesda, Rockville, and Silver Spring, Maryland and Washington, DC.

F.3 PRINCIPAL PERIOD OF MAINTENANCE

8:00 AM to 5:00 PM - Monday through Friday

F.4 PERIOD OF LIFE ON EQUIPMENT

Five (5) years

F.5 TURN-AROUND TIME

Eight (8) hours - Turn-around time may be extended on a case-by-case basis upon mutual agreement of the Contractor and the Contracting Officer's Authorized Representative (COAR).

F.6 ESTIMATED NUMBER OF CALLS AND RESPONSE TIME

Ten (10) per month. Response time within eight (8) hours.

The estimated number of calls above are estimated only and may not reflect the actual quantities which may be required pursuant to the foregoing. Such estimated quantities will depend entirely upon the Commission's requirements and the Commission will be obligated to pay for work actually ordered and satisfactorily performed at the rates specified. If the above requirements fail to materialize in the quantities estimated, such failure shall not constitute grounds for equitable adjustments. If the above requirements exceed the estimated quantities, additional funds will be provided by unilateral modification to the contract at the rates specified.

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SECTION F - DESCRIPTIONS/SPECIFICATIONS (Continued)

- F.7 All services under this contract are to be performed by competent personnel, experienced and highly qualified to provide required services in accordance with the best commercial practices, without unnecessary delays or interference with Government functions.
- F.8 All documentation, software manuals, diagnostic routines and any other aids (hereinafter called documentation) necessary to perform maintenance under this contract, shall be furnished by the Contractor whose property it shall remain. The Government, as a party to the contract, shall not be required to aid in the acquisition of documentation necessary to perform under the contract for the term of the contract.

SECTION H - DELIVERIES OR PERFORMANCE

- H.1 The period of performance hereunder shall be from the effective date of the contract through September 30, 1980.

SECTION I - INSPECTION AND ACCEPTANCE

- I.1 Inspection and acceptance of the services to be performed shall be made in strict accordance with SECTION F by the Contracting Officer's Authorized Representative (COAR).

SECTION J - SPECIAL PROVISIONS

J.1 SUBCONTRACTS FOR WORK OR SERVICES

No contract shall be made by the Contractor with any other party for furnishing any of the work or service herein contracted for without approval of the Contracting Officer or his Authorized Representative, but this provision will not be taken as requiring the approval of contracts of employment between the Contractor and personnel assigned for services hereunder.

J.2 PAYMENTS

Payments shall be made in accordance with Clause 7 of the General Provisions entitled "Payments" and as follows upon the submission of property certified invoices or vouchers approved by the Contracting Officer or his Authorized Representative:

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## SECTION J - SPECIAL PROVISIONS (Continued)

## J. 2 PAYMENTS (Continued)

## (a) Hourly Rate

(1) The amounts computed by multiplying the appropriate hourly rate, or rates, set forth in the Schedule by the number of direct labor hours performed, which rates shall include wages, overhead, general and administrative expense and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer), to the Contracting Officer or his designee. The Contractor will substantiate vouchers by evidence of actual payment and by individual daily job timecards, or such other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in the contract, and subject to the provisions of (e) below, make payment thereon as approved by the Contracting Officer.

(2) Unless otherwise set forth in the Schedule, five percent (5%) of the amount due under this paragraph (a) shall be withheld from each payment by the Contracting Officer but the total amount withheld shall not exceed \$50,000. Such amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) hereof.

(3) Unless provisions of the Schedule hereof otherwise specify, the hourly rate or rates set forth in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates will be negotiated. Failure to agree upon these overtime rates will be treated as a dispute under the "Disputes" clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

## (b) Materials and Subcontracts

(1) Allowable costs of direct materials shall be determined by the Contracting Officer in accordance with Section 1-15 of the Federal Procurement Regulations in effect on the date of this contract. Reasonable and allocable material handling costs may be included in the charge for material to the extent they are clearly excluded from the hourly rate. Material handling costs are comprised of indirect costs, including, when appropriate, General and Administrative expense, allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with Section 1-15 of the Federal Procurement Regulations. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or other forms of actual payment has been made for such purchased items or services. Direct materials, as referenced by this clause, are defined as those materials which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of such product.

(2) The cost of subcontracts which are authorized pursuant to the "Subcontracts" clause hereof shall be reimbursable costs hereunder, provided such costs are consistent with subparagraph (3) below. Reimbursable cost in connection with subcontracts shall be limited to the amounts paid to the subcontractor in the same manner as for items and services purchased directly for the contract under subparagraph (1) above. The requirement of payment for reimbursement shall not apply to the Contractor who is a small business concern. Reimbursable costs shall not include any costs arising from the letting, administration, or supervision of performance of the subcontract, which costs are included in the hourly rate or rates payable under (a)(1) above.

## SECTION J - SPECIAL PROVISIONS (Continued)

## J.2 PAYMENTS (Continued)

(3) The Contractor shall, to the extent of his ability, procure materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of such benefits, it shall promptly notify the Contracting Officer to that effect, and give the reason therefor. Credit shall be given to the Government for cash and trade discounts, rebates, allowances, credits, salvage, the value of resulting scrap when the amount of such scrap is appreciable, commissions, and other amounts which have been accrued to the benefit of the Contractor, or would have so accrued except for the fault or neglect of the Contractor. Such benefits lost through no fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

(c) It is estimated that the total cost to the Government for the performance of this contract will not exceed the ceiling price set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs which will accrue in the performance of this contract in the next succeeding thirty (30) days, when added to all other payments and costs previously accrued, will exceed eighty-five percent (85%) of the ceiling price then set forth in the Schedule, the Contractor shall notify the Contracting Officer to that effect giving his revised estimate of the total price to the Government for the performance of this contract, together with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for the performance of this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving his revised estimate of the total price for the performance of this contract, together with supporting reasons and documentation. If at any time during the performance of this contract, the Government has reason to believe that the work to be required in the performance of this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(d) The Government shall not be obligated to pay the Contractor any amount in excess of the ceiling price set forth in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such ceiling price has been increased and shall have specified in such notice a revised ceiling which shall thereupon constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price prior to the increase shall be allowable to the same extent as if such hours expended and materials costs had been incurred after such increase in the ceiling price.

SECTION J - SPECIAL PROVISIONS (Continued)

J. 2 PAYMENTS (Continued)

(e) At any time or times prior to final payment under this contract the Contracting Officer may cause to be made such audit of the invoices or vouchers and substantiating material as shall be deemed necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts which are found by the Contracting Officer not to have been properly payable, and shall also be subject to reduction for overpayments, or to increase for underpayments, on preceding invoices or vouchers. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all provisions of this contract (including, without limitation, provisions relating to patents and the provisions of (f) and (g) below), the Government shall as promptly as may be practicable pay any balance due and owing the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as may be practicable following completion of the work under this contract, but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion.

(f) The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

- (i) specified claims in stated amounts, or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;
- (ii) claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of this contract, which are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and
- (iii) claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(g) The Contractor agrees that any refunds, rebates, or credits (including any interest thereon) accruing to or received by the Contractor or any assignee, which arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest thereon) in form and substance satisfactory to the Contracting Officer.

## SECTION J - SPECIAL PROVISIONS (Continued)

## J. 2 PAYMENTS (Continued)

(h) Cost Information

The Contractor shall maintain current cost information adequate to reflect the cost of performing the work under this contract at all times while the work is in progress, and shall prepare and furnish to the Government such written estimates of cost and information in support thereof as the Contracting Officer may request.

(i) Records

The Contractor shall keep and maintain records and books of account which show accurately, and in an adequate manner, the basis for receiving compensation under this contract. The Contractor shall preserve said records and books of account for a period of three (3) years after the date of final payment under this contract. The Commission shall at all reasonable times, prior to and after the date of final payment under this contract, have the right to examine and make copies of such records and books.

## J. 3 CONTRACT CEILING

The contract cost ceiling for performance of work under this contract has been established at \$15,000.00. Such ceiling may be increased by the Contracting Officer at his discretion from time to time by notice to the Contractor in writing. The Contractor shall promptly notify the Contracting Officer in writing whenever it believes that the cost ceiling is insufficient. When and if the amount(s) paid and payable to the Contractor under the contract shall equal the contract cost ceiling, the Contractor shall not be expected to perform further unless the Contracting Officer increases such ceiling in an amount sufficient to cover additional work thereunder. The Government shall not be obliged to pay the Contractor any amount in excess of such ceiling. If and to the extent that such ceiling has been increased, any cost incurred by the Contractor in performance in excess of the ceiling prior to its increase shall be allowable to the same extent as if such costs had been incurred after such increase in the ceiling.



SECTION J - SPECIAL PROVISIONS (Continued)

J.4 OPTION TO EXTEND THE TERM OF THE CONTRACT (FPR 1-4.1108-4)

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor thirty (30) days before the contract is to expire; provided, that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least sixty (60) days before this contract is to expire. Such a preliminary notice will not be deemed to commit the Government to renewals. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed thirty-six (36) months.

POOR ORIGINAL

SECTION K - CONTRACT ADMINISTRATION DATA

K.1 CONTRACTING OFFICER'S AUTHORIZED REPRESENTATIVE (COAR)

The Contracting Officer may designate an Authorized Representative (COAR) for the purpose of assuring that services required under this contract are ordered and delivered in accordance therewith. Such representative as may be appointed will be specifically designated in writing to the Contractor from the Contracting Officer, including the extent of such designee's authority.

K.2 ORDERING

(a) The Contractor shall accept oral orders under this contract placed by the Contracting Officer or the Contracting Officer's Authorized Representative. Orders may be issued under this contract from the effective date of contract through September 30, 1980.

(b) All orders issued hereunder are subject to the terms and conditions of this contract. The contract shall control in the event of conflict with any order.

(c) When an oral order is placed, a repair order shall be "issued" for purposes of this contract at the time the Government telephonically contacts the Contractor.

K.3 ORDERING PROCEDURES

(a) Unless otherwise authorized by this contract, orders will be placed telephonically to the contractor specifying the contract number, make, model and serial number of equipment, manufacturer and description of problem, if known.

(b) The Contractor shall prepare his regular commercial repair orders and invoices in such manner and form as to eliminate the need for Government written orders and other documentation.

(c) Invoices shall be submitted in quadruplicate monthly for each order covering amounts claimed to be due for services rendered and costs incurred hereunder. There shall be a lapse of no more than ninety days between performance and submission of invoices. Each such invoice shall be accompanied by a copy of the repair order signed and certified by the Contracting Officer or his duly authorized representative.

(d) Invoices covering items provided at cost will be subject to audit by the cognizant audit agency and payment will be made in such amount as is determined to be due and owing.

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SECTION K - CONTRACT ADMINISTRATION DATA (Continued)

K.4 Billing Instructions

General. The contractor shall submit vouchers or invoices as prescribed herein.

Form. Claims shall be submitted on the payee's letterhead, invoice 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 Government Printing Office, 710 North Capitol Street, Washington, DC 20801.

Number of Copies and Mailing Address. An original and six copies shall be submitted to NRC offices identified below.

Frequency. The Contractor may submit monthly invoices or vouchers in fixed amounts to be agreed upon by the Contractor and the Contracting Officer prior to award of a contract hereunder.

Preparation and Itemization of the Voucher. The voucher shall be prepared in ink or typewriter (without strikeouts) and corrections or erasures must be initialed. It must include the following:

- (a) Payor's name and address. (i) Address the original voucher (with 4 copies) to: U.S. Nuclear Regulatory Commission, Division of Accounting, Office of the Controller, ATTN: GOV/CCM Accounts Sections, Washington, DC 20555. (ii) Address 2 copies to: U.S. Nuclear Regulatory Commission, ATTN: E. L. Halman, Director, Division of Contracts, Washington, DC 20555. (iii) The original copy of the voucher should indicate that (2) copies have been forwarded to the Contracting Officer.
- (b) Voucher number.
- (c) Date of voucher.
- (d) Contract number and date.
- (e) Payee's name and address. (Show the name of the contractor and its correct address, except when an assignment has been made by the contractor or a different payee has been designated, then insert the name and address of the payee.)
- (f) Description of articles or services, total amount.

Final invoice marked: "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 invoices paid under the contract may not exceed the total U.S. dollars authorized in the contract.

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## SECTION L - GENERAL PROVISIONS

L.1 This contract is subject to the provisions of the Standard Form 32, "General Provisions (Supply Contract) (REV 4-75)" and FPR and NRC Additions to Standard Form 32 General Provisions (Supply Contract) (2/15/78), attached hereto and by reference made a part hereof except as follows:

- L.1.1 Clause 2 entitled "Changes" is deleted in its entirety.
- L.1.2 Clause 32 entitled "Minority Business Enterprises Subcontracting Program" is deleted in its entirety.
- L.1.3 Clause 33 entitled "Preference for U. S. Flag Air Carriers" is deleted in its entirety.
- L.1.4 Clause 44 entitled "Changes" is added.

## PART III - LIST OF DOCUMENTS AND ATTACHMENTS

### SECTION M - LIST OF DOCUMENTS AND ATTACHMENTS

- M.1 This solicitation contains the following attachments:
  - M.1.1 NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20)
  - M.1.2 General Provisions Fixed Price Supply Contract (REV 4-75) and FPR and NRC Additions to Standard Form 32 General Provisions (Supply Contract) (2/15/78).
  - M.1.3 Optional Form 59, Contract Pricing Proposal

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## 44. CHANGES

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The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor or the notification of change, provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

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PART 20-1 -- GENERAL

Subpart 20-1.54--Contractor Organizational Conflicts of Interest

Sec.

- 20-1.5401 Scope and policy.
- 20-1.5402 Definitions.
- 20-1.5403 Criteria for recognizing contractor organizational conflicts of interest.
- 20-1.5404 Representation.
- 20-1.5405 Contract clauses.
- 20-1.5405-1 General contract clause.
- 20-1.5405-2 Special contract provisions.
- 20-1.5406 Evaluation, findings, and contract award.
- 20-1.5407 Conflicts identified after award.
- 20-1.5408 (Reserved)
- 20-1.5409 (Reserved)
- 20-1.5410 Subcontractors.
- 20-1.5411 Waiver.
- 20-1.5412 Remedies.

AUTHORITY: Sec. 8, Pub. L. 95-601, adding Sec. 170A to Pub. L. 83-703, 68 Stat. 919, as amended (42 U.S.C. ch. 14)

§20-1.5401 Scope and Policy

(a) It is the policy of the U.S. Nuclear Regulatory Commission (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 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 so as 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 the policy. NRC contracting and program officials must be alert to other situations which may warrant application of this policy guidance. The ultimate test is: 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 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 such agreements, as appropriate.

#### §20-1.5402 Definitions

(a) "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.

(b) "Research" means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

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

(d) "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 the contractor to be given access to information which has not been made available to the public or proprietary information. Such services typically include assistance in the preparation of program plans; and preparation of preliminary designs, specifications, or statements of work.

(e) "Contract" means any contract, agreement, or other arrangement with the NRC except as provided in Section 20-1.5401(c).

(f) "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 is a party to a contract with the NRC.

(g) "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 (41 CFR §1-1.606-1(e)).

(h) "Subcontractor" means any subcontractor of any tier which performs work under a contract with the NRC except subcontracts for supplies and subcontracts in amounts of \$10,000 or less.

(i) "Prospective contractor" or "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the proposal), proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

(j) "Potential conflict of interest" means that a factual situation exists that suggests (indicates) 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 which merit investigation prior to contract award in order to ascertain whether award would give rise to an actual conflict or which must be reported to the contracting officer for investigation if they arise during contract performance.

§ 20-1.5403 Criteria for recognizing contractor organizational conflicts of interest

(a) General. Two questions will be asked in determining whether actual or potential organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the NRC? (2) May the contractor be given an unfair competitive advantage based on the performance of the contract? The ultimate determination by NRC as to whether organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts disclosed and the work to be performed. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships which might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation activities, or similar activities that lay direct groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs.

(b) Situations or relationships which may give rise to organizational conflicts of interest. (1) The offeror or contractor shall disclose information concerning relationships which may give rise to organizational conflicts of interest under the following circumstances:

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

(ii) Where the offeror or contractor provides advice to the NRC on the same or similar matter in 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 the products or services of another entity where the offeror or contractor has been substantially involved in their development or marketing.

(iv) Where the award of a contract would otherwise 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 may otherwise result in an unfair competitive advantage for the offeror or contractor.



(2) The contracting officer may request specific information from an offeror or contractor or may require special contract provisions such as provided in §20-1.5405-2 in the following circumstances:

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

(ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using such 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 which 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 otherwise 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 may otherwise 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) Example. The XYZ 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 XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

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

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are 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.

Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which would 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 during the performance of the NRC contract with the private sector which could create a conflict. 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) Example. As a result of operating problems in a certain type of commercial nuclear facility, it is imperative that NRC secure specific data on various operational aspects of that type of plant so as to assure adequate safety protection of the public. Only one manufacturer has extensive experience with that type of plant. Consequently, that company is the only one with whom NRC can contract which can develop and conduct the testing programs required to obtain the data in reasonable time. That company has a definite interest in any NRC decisions that might result from the data produced because those decisions affect the reactor's design and thus the company's costs.

Guidance. This situation would place the manufacturer in a role in which its judgment could be biased in relationship to its work for NRC. Since the nature of the work required is vitally important in terms of NRC's responsibilities and no reasonable alternative exists, a waiver of the policy may be warranted. Any such waiver shall be fully documented and coordinated in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4) Example. The ABC Co. submits a proposal for a new system for evaluating a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Co. has advised 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.

Guidance. A contract could be awarded to the ABC Co. provided that the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless such information has been reported to NRC. Information which is reported to NRC by contractors will normally be disseminated by NRC to others so as to preclude an unfair competitive advantage that might otherwise accrue. When NRC furnishes information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities unless such 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 under the contract is proposed to be used.

(5) 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 §20-1.5403(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.

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. The work for others clause of §20-1.5405-1(c) would preclude ABC Corp. from accepting work during the term of the NRC contract which could create a conflict of interest.

(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 such 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.

#### §20-1.5404 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.

(b) Representation procedure. The following organizational conflicts of interest representation provision shall be included in all solicitations and unsolicited proposals 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 shall also apply 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 provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

## ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

I represent to the best of my knowledge and belief that:

The award to \_\_\_\_\_ of a contract or the modification of an existing contract does ( ) or does not ( ) involve situations or relationships of the type set forth in 41 CFR § 20-1.5403(b)(1).

(c) Instructions to offerors. The following shall be included in all NRC solicitations: (1) If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR § 20-1.5403(b)(1) are involved, or the contracting officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the contracting officer. If the contracting officer determines that organizational conflicts exist, the following actions may be taken: (i) Impose appropriate conditions which avoid such conflicts, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interest of the United States to seek award of the contract under the waiver provisions of § 20-1.5411.

(2) The refusal to provide the representation required by § 20-1.5404(b) or upon request of the contracting officer the facts required by § 20-1.5404(c), shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for award; or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. The offeror may also be disqualified from subsequent related NRC contracts and be subject to such other remedial actions provided by law or the resulting contract.

(d) The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work from the statements of work contained in a RFP unless the RFP specifically prohibits such 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 work to the detriment of the competitive posture of the other offerors, the proposal must be rejected as unacceptable.

(e) The offeror's failure to execute the representation required by subsection (b) above with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct the omission.

§ 20-1.5405 Contract clauses

195 § 20-1.5405-1 General contract clause

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All contracts of the types set forth in § 20-1.5404(b) shall include the following clauses:

(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 interest (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 herein shall apply to performance or participation by the contractor as defined in 41 CFR § 20-1.5402(f) in the activities covered by this clause.

(c) Work for others. Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego 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 who are employed full time under this contract and employees designated as key personnel, if any, under this contract abide by the provision of this clause. If the contractor believes with respect to itself or any such 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 prior to execution of such contractual arrangement.

(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 41 CFR § 20-1.5402(a).

(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 shall 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 for convenience if it deems such termination to be in the best interests of the government.

(e) Access to and use of information. (1) If the contractor in the performance of this contract obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the public, the contractor agrees not to: (i) Use such information for any private purpose until the information has been released to the public; (ii) compete for work for the Commission based

on such information for a period of six (6) months after either the completion of this contract or the release of such information to the public, whichever is first, (iii) submit an unsolicited proposal to the government based on such information until one year after the release of such information to the public, or (iv) release the information without prior written approval by the contracting officer unless such 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 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat such information in accordance with restrictions placed on use of the information.

(3) The contractor shall have, subject to patent and security provisions of this contract, 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 41 CFR §20-1.5402(h), the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "contractor," and "contracting officer," shall be appropriately modified to preserve the government's rights.

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

(h) Waiver. A request for waiver under this clause shall be directed in writing through the contracting officer to the Executive Director for Operations (EDO) in accordance with the procedures outlined in §20-1.5411.

§20-1.5405-2 Special contract provisions.

(a) If it is determined from the nature of the proposed contract that organizational conflicts of interest exist, the contracting officer may determine that such conflict can be avoided or after obtaining a waiver in accordance with §20-1.5411, neutralized through the use of an appropriate special contract provision. If appropriate, the offeror may negotiate the terms and conditions of these clauses, including the extent and time period of any such restriction. These provisions include but are not limited to:

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

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of his 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.

(b) The following additional contract clause may be included as section (i) in the clause set forth in § 20-1.5405-1 when it is determined that award of a follow-on contract would constitute an organizational conflict of interest.

(i) Follow-on effort. (1) 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 shall 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 such products or services.

(2) If the contractor under this contract prepares a complete or essentially complete statement of work or specifications, the contractor shall be ineligible to perform or participate in the initial contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.

(3) Nothing in this paragraph shall preclude the contractor from offering or selling its standard commercial items to the government.

#### § 20-1.5406 Evaluation, findings, and contract award

The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the representation requirements of §20-1.5404(b) and other relevant information. After evaluating this information against the criteria of § 20-1.5403, a finding will be made by the contracting officer whether organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that conflicts of interest exist, then the contracting officer shall either:

(a) Disqualify the offeror from award,

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

(c) Award the contract under the waiver provision of § 20-1.5411.

§ 20-1.5407 Conflicts identified after award.

If potential organizational conflicts of interest are identified after award with respect to a particular contractor, the contracting officer determines that such conflicts do, in fact, exist and that it would not be in the best interests of the government to terminate the contract as provided in the clauses required by § 20-1.5405, the contracting officer will take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with § 20-1.5411, neutralize the effects of the identified conflict.

§ 20-1.5408 (Reserved)

§ 20-1.5409 (Reserved)

§ 20-1.5410 Subcontracts

The contracting officer shall require offerors and contractors to submit a representation statement in accordance with § 20-1.5404(b) from subcontractors and consultants. The contracting officer shall require the contractor to include contract clauses in accordance with § 20-1.5405 in consultant agreements or subcontracts involving performance of work under a prime contract covered by this subsection.

§ 20-1.5411 Waiver

In the first instance, determination with respect to the need to seek a waiver for specific contract awards shall be made by the contracting officer with the advice and concurrence of the program office director and the Office of Executive Legal Director. Upon the recommendation of the contracting officer, and after consultation with the Office of the General Counsel, the EDO may waive the policy in specific cases if he determines that it is in the best interest of the United States to do so.

Such action shall be 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; and (3)

contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

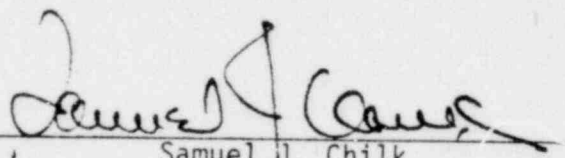


§20-1.5412 Remedies

In addition to such other remedies as may be 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.

Dated at Washington, D.C. this 27th day of March 1979.

For the Nuclear Regulatory Commission

  
Samuel J. Chilk  
Secretary of the Commission

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APS

**POOR ORIGINAL**GENERAL PROVISION  
FIXED PRICE SUPPLY CONTRACTTABLE OF CONTENTS

Standard Form 32, General Provisions (Supply Contract) Containing the following listed Articles on pages 1 through 5 of the form plus additional Articles on pages 6 through 20 attached thereto.

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GENERAL PROVISION  
FIXED PRICE SUPPLY CONTRACT

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GENERAL PROVISIONS  
(Supply Contract)

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1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- (a) The term "head of the agency" or "Secretary" as used herein means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.
- (b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.
- (c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

2. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

3. EXTRAS

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

4. VARIATION IN QUANTITY

No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

5. INSPECTION

- (a) All supplies (which term throughout this clause includes

without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

(b) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by and at the expense of the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed, or promptly to replace or correct such supplies or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby, or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default." Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If Government inspection or test is made at a point other than the premises of the Contractor or a subcontractor, it shall be at the expense of the Government except as otherwise provided in this contract: *Provided*, That in case of rejection the Government shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by the Government shall be performed in such a manner as not to unduly delay the work. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during

the performance of this contract and for such longer period as may be specified elsewhere in this contract.

#### 6. RESPONSIBILITY FOR SUPPLIES

Except as otherwise provided in this contract, (i) the Contractor shall be responsible for the supplies covered by this contract until they are delivered at the designated delivery point, regardless of the point of inspection; (ii) after delivery to the Government at the designated point and prior to acceptance by the Government or rejection and giving notice thereof by the Government, the Government shall be responsible for the loss or destruction of or damage to the supplies only if such loss, destruction, or damage results from the negligence of officers, agents, or employees of the Government acting within the scope of their employment; and (iii) the Contractor shall bear all risks as to rejected supplies after notice of rejection, except that the Government shall be responsible for the loss, or destruction of, or damage to the supplies only if such loss, destruction or damage results from the gross negligence of officers, agents, or employees of the Government acting within the scope of their employment.

#### 7. PAYMENTS

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either \$1,000 or 50 percent of the total amount of this contract.

#### 8. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Energy Research and Development Administration, the National Aeronautics and Space Administration, the Federal Aviation Administration, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

#### 9. ADDITIONAL BOND SECURITY

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Government or if any such

surety fails to furnish reports as to his financial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons applying labor or materials in the prosecution of the work contemplated by this contract.

#### 10. EXAMINATION OF RECORDS BY COMPTROLLER GENERAL

(a) This clause is applicable if the amount of this contract exceeds \$10,000 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c), above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

#### 11. DEFAULT

(a) The Government may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Government for any excess costs for such similar supplies or services: *Provided*, That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the

Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Government, in the manner and to the extent directed by the Contracting Officer: (i) any completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Government has an interest. Payment for completed supplies delivered to and accepted by the Government shall be at the contract price. Payment for manufacturing materials delivered to and accepted by the Government and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." The Government may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (c) of this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

## 12. DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contract-

ing Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed ~~diligently with the performance of the contract and in accordance with the Contracting Officer's decision.~~

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

## 13. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

The provisions of this clause shall be applicable only if the amount of this contract exceeds \$10,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

## 14. BUY AMERICAN ACT

(a) In acquiring end products, the Buy American Act (41 U.S. Code 10 a-d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a) (iii) (B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that these will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Secretary determines the domestic preference to be inconsistent with the public interest; or

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(iv) As to which the Secretary determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10382, dated December 17, 1954.)

#### 15. CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor except as provided by Public Law 89-178, September 10, 1965 (18 U.S.C. 4032(c)(2)) and Executive Order 11755, December 29, 1973.

#### 16. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT— OVERTIME COMPENSATION

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any laborer, mechanic, apprentice, trainee, watchman, or guard in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer, mechanic, apprentice, trainee, watchman, or guard receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman, or guard employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract.

#### 17. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. Code 55-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and

interpretations of the Secretary of Labor which are now or may hereafter be in effect.

#### 18. EQUAL OPPORTUNITY

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; *Provided, however*, That in the event the Contractor becomes involved in,

or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### 19. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

#### 20. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### 21. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

#### 22. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (1) Certified-eligible concerns with a first preference which are also

small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified-eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second preference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

#### 23. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means ~~any business enterprise~~ 50 percent of which is owned by minority group members or, in case of publicly-owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

#### 24. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other provision of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 1-1 of the Federal Procurement Regulations (41 CFR 1-15) or Section XV of the Armed Services Procurement Regulation, as applicable, which are in effect on the date of this contract.

#### 25. PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

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FPR CHANGES AND NRC ADDITIONS TO STANDARD FORM 32 (1-16.101(c))  
GENERAL PROVISIONS (SUPPLY CONTRACT)  
(June 1976)

ADDITIONS CONSIST OF ARTICLES \_\_\_\_\_ THROUGH \_\_\_\_\_.

26. ALTERATIONS

The following alterations to the provisions of Standard Form 32, General Provisions, of this contract were made prior to execution of the contract by the parties:

1. DEFINITIONS

a. The following paragraph (d) is added to this clause:

(d) The term "Commission" or "NRC" means the United States Nuclear Regulatory Commission or any duly authorized representative thereof, including the Contracting Officer except for the purpose of deciding an appeal under the Article "Disputes."

27. LISTING OF EMPLOYMENT OPENINGS (FPR Temp. Reg. 39)

(Applicable to Contracts Involving \$10,000 or More)

DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

- a. The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans for the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

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- c. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.
- d. The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.
- e. Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.
- f. This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.
- g. The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

h. As used in this clause:

- (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
  - (2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
  - (3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.
  - (4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.
- i. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
  - j. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
  - k. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ

and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

- l. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.
- m. The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

28. EMPLOYMENT OF THE HANDICAPPED (FPR Temp. Reg. 38)

- a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973 as amended
- c. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, office of Federal Contract Compliance Programs, Department of Labor provided by or through the Contracting Officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of section 503 of the Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

- f. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

29. CLEAR AIR AND WATER (1-1.2302)

(Applicable only if the contract exceeds \$100,000, or the Contracting Officer has determined that orders under an indefinite quantity contract in any one year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clear Air Act (42 U.S.C. 1957c-8(c) (1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or the contract is not otherwise exempt.)

a. The Contractor agrees as follows:

- (1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Pub. L. 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 95-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of the contract.
- (2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.
- (3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.
- (4) To insert the substance of the provisions of this clause into any nonexempt subcontract, including this paragraph (a)(4).

b. The terms used in this clause have the following meanings:

- (1) The term "Air-Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et. seq., as amended by Pub. L. 91-604).
- (2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq., as amended by Pub. L. 92-500).

- (3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).
- (4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).
- (5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.
- (6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

30. FEDERAL, STATE, AND LOCAL TAXES (1-11.401-1(c))

- (a) Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.
- (b) Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and--
  1. Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the contract price shall be increased by the amount of such tax or duty or rate increase: Provided, that the Contractor is requested

by the Contracting Officer, warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price as a contingency reserve or otherwise; or

(2) Results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or the amount shall be paid to Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such Federal excise tax or duty.

c. No adjustment pursuant to paragraph (b) above will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over \$100.

d. As used in paragraph (b) above, the term "contract date" means the date set for the bid opening, or if this is a negotiated contract, the date of this contract. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

e. Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the discretion of the Contracting Officer.

f. The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price, and shall take action with respect thereto as directed by the Contracting Officer.

### 31. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1-8.701)

a. The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

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- b. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:
- (1) Stop work under the contract on the date and to the extent specified in the Notice of Termination;
  - (2) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as ~~is not terminated~~;
  - (3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
  - (4) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - (5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;
  - (6) Transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (ii) the completed or partially completed plans, drawings, information and other property which, if the contract had been completed, would have been required to be furnished to the Government;
  - (7) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (6) above: *Provided, however,* That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;
  - (8) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and



- (9) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in Subpart 1-8.1 of the Federal Procurement Regulations (41 CFR 1-8.1), as the definition may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided*, That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or, if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

- c. After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- d. Subject to the provisions of paragraph (c), and subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided*, That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to

be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

- e. In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him the amount if any due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined as follows:
- (1) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b) (7) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;
  - (2) The total of--
    - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e) (1) hereof;
    - (ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (5) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (i) above); and
    - (iii) A sum, as profit on (i), above, determined by the contracting officer pursuant to § 1-8.303 of the Federal Procurement Regulations (41 CFR 1-8.303), in effect as of the date of execution of this contract, to be fair and reasonable: *Provided, however,* That if it appears that the contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
  - (3) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the

contract and for the termination and settlement of subcontracts the reunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under (1) and (2) of this paragraph (e) shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for ~~normal~~ spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (e) (1) and (2) (i) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b) (7).

- f. Costs claimed, agreed to, or determined pursuant to paragraphs (c), (d), and (e) of this clause shall be in accordance with the applicable contract cost principles and procedures in Part 1-15 of the Federal Procurement Regulations (41 CFR 1-15) in effect on the date of this contract.
- g. The Contractor shall have the right to appeal, under the clause of this contract entitled "Dispute," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that, if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (1) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or (2) if an appeal has been taken, the amount finally determined on such appeal.
- h. In arriving at the amount due the Contractor under this clause there shall be deducted (1) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract; (2) any claim which the Government may have against the Contractor in connection with this contract; and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.
- i. If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

- j. The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.
- k. Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

32.-- MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM (1-1.1310.2(b))

- a. The Contractor agrees to establish and conduct a program which will enable minority business enterprises (as defined in the clause entitled "Utilization of Minority Business Enterprises") to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall--
- (1) Designate a liaison officer who will administer the Contractor's minority business enterprises program.
  - (2) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.
  - (3) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises.
  - (4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

- (5) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer substantial minority business enterprises subcontracting opportunities.
- (6) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct.
- (7) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (4), above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

b. The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

33. PREFERENCE FOR U.S. FLAG AIR CARRIERS (1-1.323-2)

- a. Pub. L. 93-623 requires that all Federal agencies and Government contractors and subcontractors will use U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available. It further provides that the Comptroller General of the United States shall disallow any expenditure from appropriate funds for international air transportation on other than a U.S. flag air carrier in the absence of satisfactory proof of the necessity therefor.
- b. The contractor agrees to utilize U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available.
- c. In the event that the contractor selects a carrier other than a U.S. flag air carrier for international air transportation; he will include a certification on vouchers involving such transportation which is essentially as follows:

CERTIFICATION OF UNAVAILABILITY OF U.S. FLAG  
AIR CARRIERS

I hereby certify that transportation service for personnel (and their personal effects) or property by certificated air carrier was unavailable for the following reasons:<sup>1</sup> (state reasons)

34. NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (1-7.203-3)

- a. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this

<sup>1</sup> See Federal Procurement Regulations (41 CFR 1-1.323-3) or section 1-336.2 of the Armed Services Procurement Regulations, as applicable.

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contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

- b. The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by an actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the Prime Contractor, as the case may be, of all relevant information with respect to such disputes.

35. PERMITS (9-7.5006-48)

Except as otherwise directed by the Contracting Officer, the contractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the work under this contract is performed.

36. RENEGOTIATION (9-7.5004-20)

If this contract is subject to the Renegotiation Act of 1951, as amended, the following provisions shall apply:

- a. This contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et. seq.), as amended, and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.
- b. The contractor agrees to insert the provisions of this clause, including this paragraph (b), in all subcontracts, as that term is defined in section 103 g. of the Renegotiation Act of 1951, as amended.

37. PATENT INDEMNITY (9-9.5009(c))

The Contractor agrees to indemnify the Government, its officers, agents, servants, and employees against liability of any kind (including costs and expenses incurred) for the use of any invention or discovery and for the infringement of any Letters Patent (not including liability, arising pursuant to Section 183, Title 35, (1952) U.S. Code, prior to the issuance of Letters Patent) occurring in the performance of this contract or arising by reason of the use of disposal by or for the account of the Government of items manufactured or supplied under this contract.

8. REPORTING OF ROYALTIES (9-9.5011)

If this contract is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to the Government, the Contractor agrees to report in writing to the Commission (Patent Counsel, Office of the Executive Legal Director) during the performance of this contract and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which the royalties are to be paid. The approval of the Commission of any individual payments or royalties shall not estop the Government at any time from contesting the enforceability, validity or scope of, or title, to, any patent under which a royalty or payments are made.

39. NOTICE REGARDING LATE DELIVERY (1-7.204-4)

In the event the Contractor encounters difficulty in meeting performance requirements, or anticipates difficulty in complying with the contract delivery schedule or date, the Contractor shall immediately notify the Contracting Officer thereof in writing, giving pertinent details, including the date by which it expects to complete performance or make delivery: *Provided, however,* That this data shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule or date, or any rights or remedies provided by law or under this contract.

40. STOP WORK ORDER

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period at which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:

- (i) cancel the stop work order, or
- (ii) terminate the work covered by such order as provided in the "Default" or the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is cancelled or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if:

- (i) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and
- (ii) the Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

(d) If a stop work order is not canceled and the work covered by such order is terminated for default, the reasonable costs resulting from the stop work order shall be allowed by equitable adjustment or otherwise.

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41. PUBLICATION AND PUBLICITY

Unless otherwise specified in this contract, the Contractor is encouraged to publish and make available through accepted channels the results of its work under this contract. The Contractor shall submit a copy of each article or other information to the Project Officer prior to publication or dissemination for public use. If the article or other information is subsequently modified or altered in any manner, the Contractor shall promptly notify the Project Officer and ~~furnish him a~~ furnish him a copy of the article or other information as finally submitted for publication or dissemination.

The Contractor shall acknowledge the support of the U. S. Nuclear Regulatory Commission whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgement substantially as follows:

"The work upon which this publication is based was performed pursuant to Contract (insert number) with the (insert name of constituent agency), U. S. Nuclear Regulatory Commission."

Either Clause No. 42, entitled "Dissemination of Contract Information" or Clause No. 41 is for application but not both. In the absence of a clear delineation, Clause No. 41 applies.

42. DISSEMINATION OF CONTRACT INFORMATION

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results of conclusions made pursuant to the performance of this contract, without the prior written consent of the Contracting Officer. (Two copies of any material proposed to be published or distributed shall be submitted to the Contracting Officer.) Failure to comply with this clause shall be grounds for termination of this contract.

43. WORK FOR OTHERS

Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to an actual or apparent conflict of interest with respect to the work being performed under this contract. The contractor shall insure that all employees designated as key personnel if any, under this contract abide by the provisions of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a possible conflict of interest, the contractor shall obtain the written approval of the Contracting Officer prior to execution of such contractual arrangement.