

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. AMENDMENT/MODIFICATION NO. TNO (2)		2. EFFECTIVE DATE MAY 01 1980		3. REQUISITION/PURCHASE REQUEST NO.		4. PROJECT NO. (If applicable)	
5. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555				6. ADMINISTERED BY (If other than block 5)			

7. CONTRACTOR NAME AND ADDRESS Dames & Moore 20 Harlem Avenue White Plains, NY 10603		8. AMENDMENT OF SOLICITATION NO. _____ DATED _____ (See block 9)	
FACILITY CODE _____		MODIFICATION OF CONTRACT/ORDER NO. <u>NRC-02-79-025</u> DATED <u>9/19/79</u> (See block 11)	

9. THIS BLOCK APPLIES ONLY TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in block 12. The hour and date specified for receipt of Offers is extended, is not extended.

Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation, or as amended, by one of the following methods:

(a) By signing and returning _____ copies of this amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE ISSUING OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If, by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided such telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

10. ACCOUNTING AND APPROPRIATION DATA (If required)

B&R No. 50-19-03-02 FIN No. B-6420-0 Increase \$172,805

11. THIS BLOCK APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS

(a) This Change Order is issued pursuant to _____
The Changes set forth in block 12 are made to the above numbered contract/order.

(b) The above numbered contract/order is modified to reflect the administrative changes (such as changes in paying office, appropriation data, etc.) set forth in block 12.

(c) This Supplemental Agreement is entered into pursuant to ~~XXXXXX~~ the "Changes" clause of the General Provisions
It modifies the above numbered contract as set forth in block 12.

12. DESCRIPTION OF AMENDMENT/MODIFICATION

1. Article I - DESCRIPTION OF WORK. Delete in entirety and substitute the following revised article.

(continue on next page)

Except as provided herein, all terms and conditions of the document referenced in block 8, as heretofore changed, remain unchanged and in full force and effect.

3. CONTRACTOR/OFFEROR IS NOT REQUIRED TO SIGN THIS DOCUMENT CONTRACTOR/OFFEROR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 3 COPIES TO ISSUING OFFICE

4. SIGNATURE OF CONTRACTOR/OFFEROR <u>Fredrick M. Kessler</u> (Signature of person authorized to sign)		17. UNITED STATES OF AMERICA <u>D.J. Dougherty</u> (Signature of Contracting Officer)	
5. NAME AND TITLE OF SIGNER (Type or print) Fredrick M. Kessler, Ph.D. Partner	16. DATE SIGNED 5/1/80	18. NAME OF CONTRACTING OFFICER (Type or print) D.J. Dougherty	19. DATE SIGNED MAY 01 1980

ARTICLE I. DESCRIPTION OF WORK

The contractor shall furnish all the necessary qualified personnel, facilities, materials and services and perform the specific tasks delineated below:

1.0 Task Descriptions

Task 1: Definition of Options Task

This task will result in the definition of the alternatives to be analyzed and considered in the DEIS. The task will also produce a number of documents which will support the DEIS. The task is composed of three major subtasks:

Subtask 1.1: Waste Source Options Subtask

The contractor shall perform the work outlined in subtasks 1.1(a) through 1.1(f) subject to scheduling identified in Section 2.0, task 1. The preliminary draft Subtask 1.1 Report and the draft Subtask 1.1 Report shall contain a complete discussion of the contractor's findings, relevant observations about the progress of the work and any pertinent recommendations concerning the project.

1.1(a) NRC has contracted for a study entitled "A Study to Determine the Country's Waste Management Needs Through the Year 2000" (Waste Projection Study). The currently available results and data from this study will be used by the contractor in developing a characterization of the physical, chemical, radiological and other characteristics of individual waste streams provided by NRC in Subtask 1.1(b) under various waste management scenarios. This information, together with information on waste volumes to be supplied by the NRC will be used by the contractor for evaluation of LLW disposal alternatives and considered during preparation of the draft regulatory guide on classification by source.

- 1.1(b) The contractor shall review lists provided by NRC of radioactive waste streams generated by various sources to insure that the lists are complete. These lists will include operating reactor waste, medical waste, industrial waste, research waste, waste from decommissioning operations, contaminated tools and equipment, spent fuel, "high-level waste," and other fuel and non fuel-cycle waste.
- 1.1(c) The contractor shall classify the waste streams identified in Subtask 1.1(b) according to various waste management scenarios (e.g., reprocessing spent light water reactor fuel, deferment of licensing of new waste disposal facilities) and waste classification (disposal) alternatives. The contractor shall also define and quantify the parameters (including parameters associated with pre-disposal operations at the waste disposal facilities) that should be considered in determining the costs of disposing of the waste as classified according to the scenarios and alternatives. The contractor shall use output from this subtask in evaluating alternatives as part of his preparation of the DEIS (Task 3).
- 1.1(d) The contractor shall document the characteristics of the waste which are pertinent to applying the waste classification methodology (isotopic content, volumes, waste forms, etc.) as a function of operating parameters at the source of generation (e.g., rate of leakage from the primary to secondary coolant system of a reactor).
- 1.1(e) As approved by the Project Officer and based on characteristics and parameters identified in Task 1.1(d) the contractor shall prepare a draft regulatory guide(s) providing assistance to waste generators in complying with the proposed waste classification requirement. The guide(s) shall recommend and illustrate methods by which individual waste generating licensees

may correlate and document facility operating parameters with characteristics of waste streams for classifying waste being prepared for shipment, storage or disposal. The contractor may develop individual guides for individual categories of waste generators rather than one single guide applicable to all waste generators.

1.1(f) NRC will provide the contractor with data on specific Three Mile Island (TMI) wastes. Such data will include waste volumes, isotopic content, activity, processing options, and physical and chemical characteristics. Based on this supplied information, the contractor will input this data into their methodology to determine the various quantifiable environmental impacts of disposing of these wastes by alternative disposal methods (e.g., shallow land burial, intermediate land burial, engineered structure disposal, and mined cavity disposal). The contractor shall complete this effort and submit a Task Report on the work prior to June 16, 1980.

Subtask 1.2: Disposal Technology Options Subtask

The contractor shall initiate a review and evaluation of existing information on the management and disposal of LLW, federal and state regulatory requirements, existing sites and research reports, and ongoing studies, to be involved in the EIS. As part of this effort, the contractor shall also review and analyze shallow land burial and other alternative disposal methods identified through NRC's alternatives study, their uncertainties and acceptability. In addition, the contractor shall review and evaluate currently effective or promulgated regulations (and documents intended to support or supplement the regulations) for disposal of non-radioactive solid and chemically-hazardous waste; for applicability to the DEIS. This subtask shall include and consider all the viable disposal site parameters with quantifiable bounds.

Subtask 1.3: Site Operations Subtask

The contractor shall initiate a review and evaluation of existing information on the LLW disposal site operations, federal and state regulatory requirements, existing sites and research reports, and ongoing studies, to be involved in the EIS. As part of this effort, the contractor shall review disposal site parameters without quantifiable bounds such as site operations, record keeping procedures, audits, quality assurance, health physics, training procedures, emergency programs, etc.

This task will result in the analyses of the environmental impacts resulting from the viable options defined in Task 1 for inclusion in the DEIS and produce supporting documents.

Subtask 2.1: Waste Classification Methodology

The contractor shall review the considerations, assumptions and criteria used in developing and documenting the waste classification methodology and data base. The contractor shall identify gaps or deficiencies in the methodology and data base of the waste classification system and recommend areas of change, refinement or correction. Identification of needed changes, refinements, or corrections to the waste classification methodology and data base (e.g., criteria, pathway models, dose conversion factors, etc.) are also to be expected as a result of public comments and governmental agency reviews of the waste classification system as well as the contractor's review. The contractor shall incorporate and document changes, refinements, or corrections to the waste classification methodology and data base as approved by the Project Officer.

The contractor shall systematically address and document all reasonable potential exposure scenarios and pathways that should be considered in the methodology and reduce the number of these potential scenarios and pathways to a manageable number by means of references, data, numerical calculations and reasonable argument. (For example, some potential exposure scenarios may not be appropriate for consideration in the waste classification methodology or may be bounded by other scenarios). The contractor shall document and reference the assumptions and parameters used in the methodology and perform a detailed sensitivity analysis on the assumed parameters. The contractor shall use material prepared under this subtask in the development of the DEIS (see Task 3).

Using the calculational methodology and data base developed in Subtask 2.1, the contractor shall analyze the environmental impacts from the disposal of the low-level radioactive waste analyzed and quantified in Subtask 1.1 at the disposal methodology options defined in Subtasks 1.2 and 1.3. The contractor shall incorporate and document changes, refinements, or corrections to the impact assessment methodology and data base as approved by the Project Officer.

The contractor shall systematically address and document all reasonable environmental impact measures such as costs, occupational and population radiation exposures, and land use. The contractor shall document and reference the assumptions and parameters used in the analyses. The contractor shall use material prepared under this subtask in the development of the DEIS (see Task 3).

Task 3: DEIS Preparation

As approved by the Project Officer (based on input received in response to the Federal Register scoping notice) prepare a chapter outline and description of the methodology to be employed in preparation of the EIS, and schedule for completion of a draft EIS. This subtask shall be completed after meeting with the Project Officer and within 3 weeks after the contract award date.

The contractor shall prepare a draft EIS to guide and support development of the 10 CFR Part 61 regulation following currently effective guidelines promulgated by the Council on Environmental Quality, NRC guidance, and 10 CFR Part 51. The DEIS shall cover the topics identified under Task 1 and shall include the following:

1. Review the purpose, need, format and proposed content of the regulation;

2. Review the issues, factors and technical bases that should be applied in the development of overall criteria for the disposal of LLW, particularly for land-based disposal methods;
3. Assess alternative criteria for the regulation of LLW disposal through analysis, environmental impact assessment, and argument;
4. Identify the selected alternative overall criteria for LLW disposal and assess their relationships to current standards and criteria;
5. Present findings based on the analysis of LLW disposal in the context of alternative disposal methods;
6. Apply the overall criteria for LLW disposal to the various alternative disposal methods identified by the NRC, and identify and assess alternatives to establish additional criteria, standards and limitations for specific disposal methods;
7. Present findings based on the analysis of item 6 above. Recommend areas where further research is needed prior to specifying more specific standards, criteria and limitations for individual disposal methods; and
8. Provide background information including that on waste sources and management (Subtask 1.1), description of the sites (Subtask 1.2), operation of the sites (Subtask 1.3), and analysis of the environmental impacts of the sites (Task 2.0) in appendices.

Technical criteria shall include consideration of waste form/container performance; site selection and suitability; design and operation of sites; monitoring during and after site operations; closure (decommissioning), long-term care and funding; waste classification; and shall include any available information from NRC.

Task 4: Advisory Panel Review

To obtain an independent assessment of the completeness, accuracy and validity of the work performed under this contract, the contractor shall organize and host a meeting of an independent technical review group (Technical Advisory Panel) consisting of qualified representatives of concerned Federal and State agencies, public interest groups, universities and industry. The review group meeting should be scheduled to follow contractor preparation the preliminary DEIS (see Section 4.0, Task 3: Draft Environmental Impact Statement).

Note: The NRC staff estimates that four (4) to five (5) months may elapse between the completion of Task 3 and the commencement of Task 5. During this period, which will be required for consideration and resolution of comments, some contractor effort will ordinarily be required, for example, in preparing responses to comments on materials for which the contractor is responsible and in obtaining and resolving any Project Officer comments on these responses.

Task 5: FEIS Preparation

Subject to approval of the Project Officer, the contractor shall prepare the final EIS document. The contractor shall also be responsible, under NRC direction, for responding to comments filed on the DEIS relating to work which the contractor performs under this statement of work.

Task 6: Testimony

Option: The contractor shall prepare for and participate in any meetings and hearings requiring the presentation and defense of work which the contractor performs under this statement of work. This task will be required through the exercise of an option (in the form of a modification to the contract by the Contracting Officer) at the sole discretion of the Government.

2.0 Task Reports

For task and final reports prepared under the provisions of this contract, the format shall be in accordance with the provisions as stated in NRC Manual Appendix 3202 for either "Formal Contractor Documents" or "Interim Contractor Documents" as appropriate.

Task 1.0

The contractor shall furnish ten (10) copies to the Project Officer, one (1) copy to the Officer of the Director, NMSS, Attention: Program Support Branch, one (1) copy to the Director of the NRC Division of Waste Management, and one (1) copy to the Contracting Officer of a formal report for each of the subtasks in this task in accordance with the project schedule listed in Attachments I & II. The final drafts of each of the Waste Source Options Report (subtask 1.1 Report), Disposal Options Reports, and Site Operational Procedures Report shall include one (1) camera-ready copy. The report for subtask 1.1(f) shall contain the following information as a minimum: (1) description or documentation of the methodology used; (2) documentation of the data used; (3) presentation of the quantifiable environmental impacts for disposing of each input waste stream; and (4) classification of the wastes with respect to alternative disposal methods.

During the course of reviewing existing information, the contractor shall notify the Project Officer of any information gaps or deficiencies in existing information that must be corrected to complete the DEIS. Gaps or deficiencies in information shall be summarized in writing in the progress letter reports. It is anticipated that any major data deficiencies that may be identified will be identified during preparation of the DEIS.

Task 2.0

The contractor shall furnish ten (10) copies to the Project Officer, one (1) copy to the Officer of the Director, NMSS, ATTN: Program Support Branch, one (1) copy to the Director of the Division of Waste Management, and one (1) copy to the Contracting Officer of a formal report on waste classification methodology in accordance with the project schedule listed in Attachments I & II.

The Final Waste classification methodology report will include one (1) camera-ready copy.

The contractor shall have available records of changes, refinements or corrections to the waste classification methodology and data base as well as other calculations performed during the progress of this contract. This material shall be made available to the Project Officer upon his request.

Task 3: DEIS

The contractor shall furnish a preliminary DEIS, of which ten (10) copies shall be furnished to the Project Officer, one copy (1) to the Contracting Officer, one (1) copy to the Director of the Division of Waste Management, and one (1) copy to the Office of the Director, NMSS, Attention: Program Support Branch, in accordance with the project schedule listed in Attachment I & II.

The Project Officer will furnish comments on the preliminary DEIS to the contractor within five (5) weeks after receipt of the draft. Based on these comments and continued work, the contractor shall furnish a revised DEIS. Within eight (8) weeks after receipt of NRC comments, ten (10) copies shall be furnished to the Project Officer, one (1) copy to the Director of the Division of Waste Management, one (1) copy to the Office of the Director, NMSS, Attention: Program Support Branch and one copy to the Contracting Officer.

The Project Officer will furnish comments on the revised DEIS to the contractor within four (4) weeks after receipt of the draft. Based on these comments and continued work, the contractor shall revise the DEIS and within four (4) weeks furnish the Project Officer ten (10) copies (including one camera ready copy) of the final DEIS. The Contracting Officer, the Director of the Division of Waste Management, and the Program Support Branch shall also receive one copy (1) each. All revisions of the DEIS will be coordinated with the Project Officer prior to final preparation of the camera-ready copy and the 13 conformed copies.

Task 4: Advisory Panel Review

The contractor shall document the minutes of the Technical Advisory Panel meeting in a report which presents a summary of the meeting and the consensus (including any recommendations) of the Panel. Any minority viewpoints shall also be presented in the report. The report shall be submitted within forty-five (45) days after the completion of the meeting. Distribution shall be as follows:

Project Officer - ten (10) copies (including one camera-ready copy);
Director, Division of Waste Management, NMSS- one (1) copy; Contracting
Officer - one (1) copy; Office of the Director, NMSS: Attention:
Program Support - one (1) copy.

Task 5: FEIS

The contractor shall prepare and provide to the NRC a draft final environmental impact statement (draft FEIS). Staff estimates that the draft FEIS should be completed within two (2) months after close of the DEIS public comment period. Distribution of the draft FEIS shall be as follows: ten (10) copies to the Project Officer, one (1) copy to the Director of the NRC Division of Waste Management, one (1) copy to the Office of the Director, NMSS, Attention: Program Support Branch and one (1) copy to the Contracting Officer.

The Project Officer will provide comments on the draft FEIS to the contractor within four (4) weeks after receipt of the draft. Based on these comments and continued work, the contractor shall prepare a FEIS document and furnish it to the NRC within three (3) weeks of receipt of comments on the draft. Distribution of the FEIS shall be as follows: seven (7) copies, including one (1) camera-ready copy, to the Project Officer, one (1) copy to the Director of the NRC Division of Waste Management, one (1) copy to the Contracting Officer, and one (1) copy to the Office of the Director, NMSS, Attention: Program Support Branch.

For purposes of this contract, the FEIS shall serve in lieu of a final contractor report. All revisions to the revised FEIS will be coordinated with the Project Officer prior to final preparation of the camera-ready copy and the 9 conformed copies.

3.0 Progress Reports

Each month, the contractor shall submit 4 copies of a brief progress report in letter format which summarizes: (1) the work performed during the previous period, (2) personnel time expenditures during the previous period; and (3) costs: (i) current period, (ii) cumulative to date, and (iii) cost projection by period to completion of the effort. (The first progress report shall provide the initial cost projection and subsequent reports shall either provide revised projections or indicate "no change in the cost projection.") The reports shall be due by the 15th day following each reporting period with distribution as follows: Project Officer (1 copy); Office of the Director, NMSS (Attention: Program Support (1 copy)); Mr. Dennis Dougherty, Contracting Officer (1 copy); Director, Division of Waste Management, NMSS (1 copy).

4.0 Meetings

The contractor shall meet with the Project Officer after award of the contract, at the conclusion of Tasks 1.0 and 2.0 to review and discuss NRC comments and after NRC's review of each draft EIS. The Contractor shall also meet with the Project Officer after the effective date of modification no. 2 to the contract to discuss Task 1.1(f). Other meetings with the Project Officer will be scheduled, as needed, to review progress. The contractor shall also meet with the Project Officer at the conclusion of the public comments period. These meetings shall be of one to two days duration and shall generally be held at the NRC office in Silver Spring, Maryland. Additional meetings with the Project Officer and legal staff at the NRC Silver Spring Offices to prepare for hearings are also anticipated. The contractor shall also meet with other appropriate Federal and State agencies and others to review their programs and information on disposal of LLW. The contractor shall identify Federal and State agencies and others they plan to meet with.

5.0 NRC Furnished Material

The Project Officer shall furnish to the contractor information on the development of NRC's waste classification system, alternative study, and current results of other NRC supported work. The Project Officer shall furnish to the contractor present NRC criteria and regulations regarding shallow land burial and LLW management. The Project Officer shall also furnish access to NRC LLW files for review of background information. In December 1979, the Project Officer shall furnish the contractor information on waste volumes for use in Task 1.1(a). The Project Officer will also provide the contractor the Waste Stream lists in Task 1.1(b). Supplementary information may also be provided at later times.

The Project Officer will furnish to the Contractor data on TMI wastes which will include waste volumes, isotopic content, activity, processing options, and physical and chemical characteristics. This NRC supplied information will be provided to the contractor within one (1) week following the effective date of modification no. 2 of the contract.

If the Government-furnished property, suitable for its intended use, is not so delivered to the contractor, the Contracting Officer shall, upon timely written request made by the contractor, and if the facts warrant such action, equitably adjust any affected provision of the contract pursuant to the procedures of the "Changes" clause hereof.

6.0 Project Schedule

The milestones and deliverables of the project in accordance with the task descriptions given in Section 3.0 shall be accomplished and delivered in accordance with Attachments I and II.

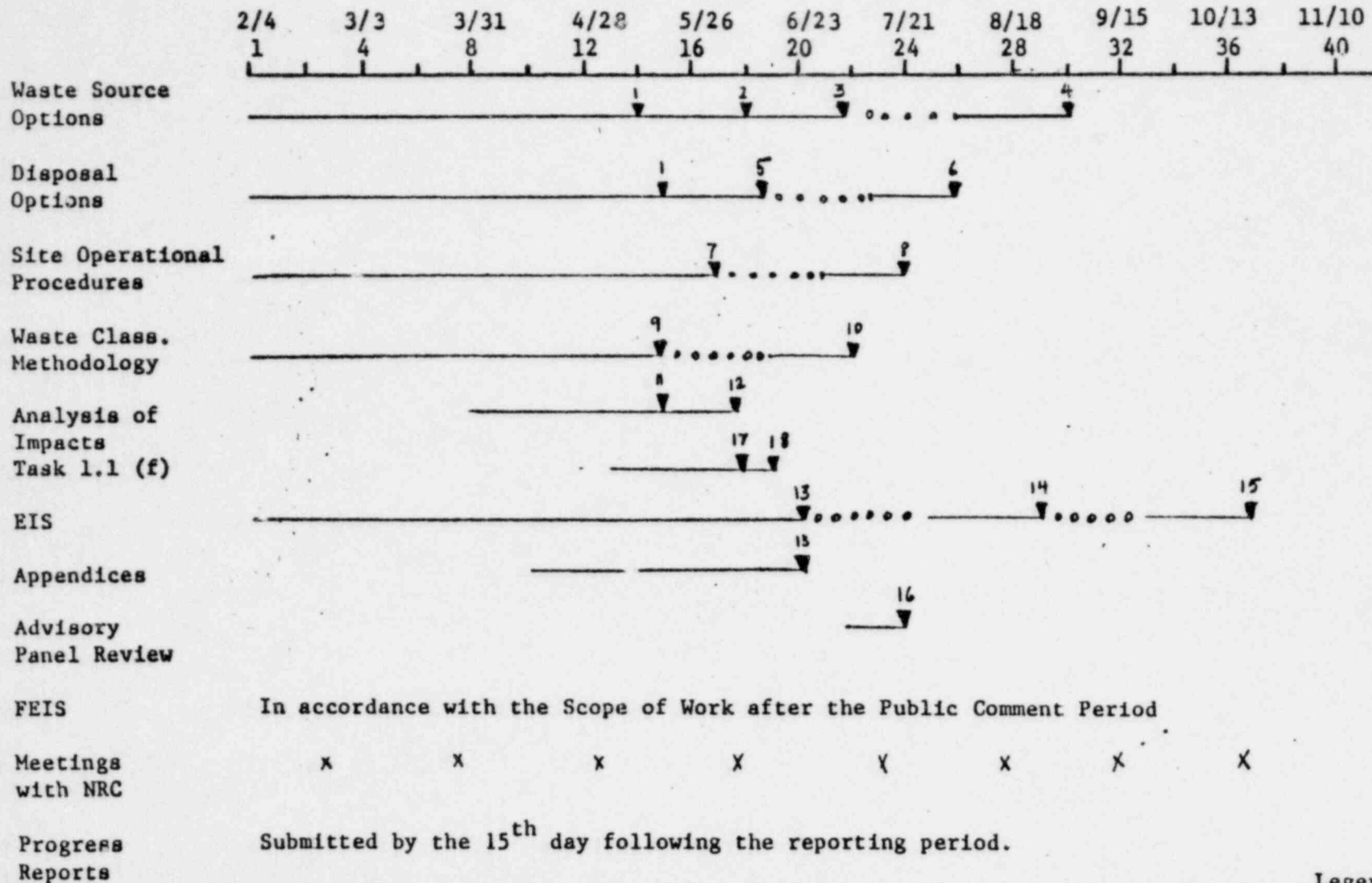
7.0 Contractor's Proposal

The work called for above shall be performed in accordance with the contractor's updated technical proposals dated April 2 and April 25, 1980, which by this reference are incorporated herein and made a part of this contract although set forth in full text.

In the event of any conflict between the contractor's proposal and the NRC's Description of Work, the NRC's Description of Work (Article I) shall take precedence.

ATTACHMENT I - PROJECT SCHEDULE AND MILESTONES

Duration - Weeks After Resumption of Work (2/4/80)



Legend
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Project Milestones

- (1) Computer Data Base Finalized
- (2) Preliminary Report Waste Source Options
- (3) Draft Report on Waste Source Options plus Regulatory Guide(s)
- (4) Final Report on Waste Source Options and Regulatory Guide(s)
- (5) Draft Report on Disposal Options
- (6) Final Report on Disposal Options
- (7) Draft Report on Site Operational Procedures
- (7) Final Report on Site Operational Procedures
- (9) Draft Report on Waste Classification Methodology
- (10) Final Report on Waste Classification Methodology
- (11) Preliminary Analysis of Impacts Completed
- (12) Analysis of Impacts Completed
- (13) Preliminary DEIS and Appendices Submitted
- (14) Revised DEIS and Appendices Submitted
- (15) Final DEIS and Appendices Submitted
- (16) Advisory Panel Review of Preliminary DEIS
- (17) Draft Three Mile Island Waste Disposal Impacts Report
- (18) Final Three Mile Island Waste Disposal Impacts Report

2. Article II - PERIOD OF PERFORMANCE; Delete in entirety and substitute the following:

ARTICLE II - PERIOD OF PERFORMANCE:

The period of performance shall commence on September 19, 1979, and shall continue until June 30, 1982, at which time all work is to be completed and all reports shall have been submitted. The Project Schedule is set forth in Attachments I and II to this contract.

3. Article V - CONSIDERATION: Delete in entirety and substitute the following:

"ARTICLE V - CONSIDERATION:

Allowable cost and compensation for the contractor's services under this contract shall be determined in accordance with General Provision number 5, "Allowable Cost, Fee and Payment," in the General Provisions hereto and shall constitute full and complete compensation for the performance of the work under this contract.

- A. The amount presently obligated by the government with respect to this contract is \$866,464. :

4. Article VI - PROVISIONS APPLICABLE TO DIRECT COSTS: Add the following paragraph:

B. Requests For Prior Authorization of Certain Direct Costs

Prior authorization in writing by the Contracting Officer is required for the following costs:

1. Fees for Consultants (other than those specified in contractor's proposal dated 11/30/78, 12/13/78, 3/19/79, and 3/23/79.)
2. Overtime; shift or incentive payments.
3. All travel outside the United States.
4. Rental agreements, service contracts, or maintenance of government equipment.

6. Add the following new article to the contract:

ARTICLE XIII - OPTION: SERVICES TO PERFORM TASK 6 OF THE CONTRACT, ENTITLED "TESTIMONY"

- A. There is hereby created in the government an option to require the contractor to perform the effort for Task 6., "Testimony," as described in the Statement of Work herein, at the amount and for the period of performance to be specified at such time as the requirement arises.
- B. The Contracting Officer may exercise this option by giving written notice to the contractor within two (2) months after closing of the public comment period for the Draft Environmental Impact Statement.
- C. The option may be exercised at any time within 36 months after the effective date of the contract.
- D. Upon exercise of the option, the following modifications will be made to the contract:
- (i) the Statement of Work will be modified to incorporate Task 6, as set forth herein.
 - (ii) the Period of Performance will be modified accordingly.
 - (iii) the Estimated Cost, Fixed Fee, and Total Cost Plus Fixed Fee will be modified as necessary.

ARTICLE XIII Continued . . .

- E. The Contracting Officer may require the contractor to submit a Cost Proposal for the option effort for the government's consideration.
 - F. Pending exercise of the option for the additional effort under Task 6 the contractor is not authorized to commence work for this task and the total obligation of the government, pursuant to Clause no. 4 of the General Provisions entitled, "Limitation of Cost," shall not exceed the amount set forth in this contract.
7. Add the following new article to the contract:

ARTICLE XIV - UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

- (a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunities to participate in the performance of contracts let by any federal agency.
- (b) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys that may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the extent of the contractor's compliance with this clause.
- (c) (1) The term "small business concern" shall mean a small business as defined pursuant to Section 3 of the Small Business Act and in relevant regulations promulgated pursuant thereto.
(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern -
 - (i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

ARTICLE XIV Continued . . .

- (ii) whose management and daily business operations are controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

- (d) Contractors acting in good faith may rely on written representations by their subcontractors as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

8. Add the following new article to the contract:

ARTICLE XV - SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (NEGOTIATED)

A. The offeror acknowledges that it is aware of the subcontracting plan requirements of this provision, and, if it is the apparent successful offeror, agrees to negotiate a plan which includes:

1. Percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; (For the purposes of the subcontracting plan, the contractor shall include all purchases which contribute to the performance of the contract, including a proportionate share of products, services, etc. whose costs are normally allocated as indirect or overhead costs.)
2. The name of an individual within the employ of the offeror who will administer the subcontracting program of the offeror and a description of the duties of such individual;
3. A description of the efforts the offeror will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;
4. Assurances that the offeror will include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals in all subcontracts which further subcontracting opportunities and to require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000, or in the case of a contract for the construction of any public facility, \$100,000, to adopt a plan similar to the plan agreed to by the offeror;
5. Assurances that the offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the offeror with the subcontracting plan; and
6. A recitation of the types of records the offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

B. The offeror understands that:

1. No contract will be awarded unless and until an acceptable plan is negotiated with the contracting officer and that an acceptable plan will be incorporated into the contract, as a material part thereof.
2. An acceptable plan must, in the determination of the contracting officer, provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract.

3. If a subcontracting plan acceptable to the contracting officer is not negotiated within the time limits prescribed, the offeror shall be ineligible for an award. The contracting officer shall notify the contractor in writing of his reasons for determining a subcontracting plan to be unacceptable. Such notice shall be given early enough in the negotiation process to allow the contractor to modify the plan within the time limits prescribed.
 4. Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract.
 5. It is the offeror's responsibility to develop a satisfactory subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the offeror's plan will be judged independently of the other.
- C. Subcontracting plans are not required of small business concerns.
- D. The failure of any contractor or subcontractor to comply in good faith with (1) the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals or (2) an approved plan required by this Small Business and Small Disadvantaged Business-Subcontracting Plan (Negotiated) provision, will be a material breach of of such contract or subcontract.
- E. Nothing contained in this provision supersedes the requirements of Defense Manpower Policy 4A or any successor policy.
- F. If the prime contract is for a commercial product (defined below), the required subcontracting plan may relate to the company's production of the item generally (both for the Government contract and for regular commercial sale) rather than solely to the item being procured under the government contract. In such cases, the contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which he enters into a prime contract (which requires a subcontracting plan) during the fiscal year. The approved plan will remain in effect for the entire fiscal year.
- Commercial products are defined as products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices.
- G. In negotiating subcontracting plans, the contracting officer shall take into account a prime contractor's stated inability to subcontract due to an existing "make-or-buy" policy. A "make-or-buy" policy concerns the major subsystems, assemblies, and components which the contractor manufactures, develops, or assemblies in his own facilities, and those which it obtains elsewhere by contract.