

PART I

SOLICITATION, OFFER AND AWARD		1. CERTIFIED FOR NATIONAL DEFENSE UNDER OPS REG. 1 AND/OR DMS REG. 1 RATING.	4. PAGE 1 OF 42
CONTRACT (Proc. Inv. Contr.) NO.	2. SOLICITATION NO. IFB RS-ADM-80-661 <input checked="" type="checkbox"/> ADVERTISED (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 2/20/80	5. REQUISITION/PURCHASE REQUEST NO. RFPA No. ADM-80-661
ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555		6. ADDRESS OFFER TO (if other than block 7) Same As Block 7	

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

SOLICITATION

7. Sealed offers in original and 2 signed 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 until 10:00 AM local time 3/20/80
Silver Spring, MD 20910 (Hour) (Date)

If this is an advertised solicitation, offers will be publicly opened at that time.
CAUTION - LATE OFFERS: See pars. 7 and 8 of Solicitation Instructions and Conditions.
All offers are subject to the following:

- The Solicitation Instructions and Conditions, SF 33-A, 1-78 edition which is attached or incorporated herein by reference.
 - The General Provisions, SF 32, 2-15-78 edition, which is attached or incorporated herein by reference.
 - The Schedule included herein and/or attached hereto.
 - Such other provisions, representations, certifications, and specifications as are attached or incorporated herein by reference.
- (Attachments are listed in schedule.)
Mr. T. F. Hagan, A/C 301, 427-4420 - Bid Opening Officer
FOR INFORMATION CALL (Name & telephone no. (No collect calls) ▶ Ms. Merle Dorsey - Bid Opening Officer's Representative

SCHEDULE

10. ITEM NO.	11. SUPPLIES-SERVICES	12. QUANTITY	13. UNIT	14. UNIT PRICE	15. AMOUNT
<p>Note: The address shown in Block 7 is for mailing only. Handcarried bids should be delivered to the bid opening officer or the bid opening officer's representative at the guards desk, main lobby at 7915 Eastern Avenue, Silver Spring, MD. Telegraphic responses are not authorized.</p> <p>See continuation of schedule on page 4</p>					

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

In compliance with the above, the undersigned agrees, if this offer is accepted within _____ 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. 2, SF 33-A)	% 10 CALENDAR DAYS	% 20 CALENDAR DAYS	% 30 CALENDAR DAYS	% CALENDAR DAYS
17. OFFEROR	CODE	FACILITY CODE	18. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) R. J. White Vice-President	
NAME AND ADDRESS [Data Composition Services Inc. 1350] Baltimore Blvd. Laurel, Maryland 20810 AREA CODE AND TELEPHONE NO ▶ 301-953-3196 Principle place of performance: Laurel, MD.			19. SIGNATURE <i>RJ White</i>	20. OFFER DATE 3/20/80

AWARD (To be completed by Government)

21. ACCEPTED AS TO ITEMS NUMBERED	22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA		
24. SUBMIT INVOICES (if codes unless otherwise specified)	25. NEGOTIATED PURSUANT TO	10 USC 2204(a) 1	41 USC 252(c) 1	
26. ADMINISTERED BY (if other than block 7)	27. PAYMENT WILL BE MADE BY	28. UNITED STATES OF AMERICA		
28. NAME OF CONTRACTING OFFICER (Type or print) 8005230648	BY (Signature of contracting officer)	29. AWARD DATE		

SECTION B - CONTRACT FORM & REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR IFB RS-ADM-20-661

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. 15 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:

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (INCLUDE ZIP CODE)

(c) EMPLOYER'S IDENTIFICATION NUMBER (SEE PAR. 17 ON SF 33-A)	OFFEROR'S E.O. NO.	PARENT COMPANY'S E.O. NO.
	52-085-6665	

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	COUNTRY OF ORIGIN

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. 3.1 (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 heretofore 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.

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
	1	2-20-80		
2	3-10-80			

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.

Representations, Certifications, and Acknowledgements Continued From SF
33 (page 3)

B. 5. WOMAN-OWNED BUSINESS

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

The bidder/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 bidder 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.

SECTION B - CONTRACT FORM & REPRESENTATIONS, CONDITIONS & OTHER STATEMENTS
OF OFFEROR (Continued)

8.8 PROVISION No. 5.6 Federal Register (44 FR 23610
April 20, 1979)

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 opportunity 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

(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 4(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.

SECTION B - CONTRACT FORM & REPRESENTATIONS, CONDITIONS & OTHER STATEMENTS
OF OFFEROR (Continued)

B.9 CONTRACTOR ORGANIZATIONAL CONFLICTS OF INTEREST

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

The award to Data Composition Services Inc 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 D.

B.10 Contacts

Bidder shall furnish names and telephone numbers of personnel to be contacted in the event that clarification of bid is required:

Kenneth T. Haley, President	301-953-3196
(Name - Contractual Matters)	Telephone Number
R. J. White Vice President	301-953-3196
(Name - Contractual Matters)	Telephone Number
Ralph V. Swire Secretary	301-953-3196
(Name - Technical Matters)	Telephone Number

B.11

PUBLIC OR PRIVATE ORGANIZATIONS FOR THE
HANDICAPPED OR HANDICAPPED INDIVIDUALS

(CFR 1-1.706-9(b))

(Execute if a small business set-aside is involved and the offeror is a small business.)

It is a public or private organization for the handicapped or a handicapped individual, as provided in the Small Business Act, as amended, and the regulations of the Small Business Administration.

The term "public or private organization" is one which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of

any shareholder or other individual; (ii) which complies with any applicable occupational health and safety standards prescribed by the Secretary of Labor; and (iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services." (15 U.S.C. 636(a)(1)(A))

The term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable." (15 CFR 113.21(i))

(End of Notice)

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 an 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 1-3.002-2(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.

35-45), the Contract Work Hours Standards Act (40 U.S.C. 317-319), and the Service Contract Act of 1965 (41 U.S.C. 351-357) may be obtained from the Department of Labor, Washington, D.C. 20540, 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) or (2) 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.

C.20 Pursuant to the provisions contained in Clause C.5, Paragraph (b), telegraphic bids are not authorized.

C.21 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.

C.22 LISTING OF EMPLOYMENT OPENINGS (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.23 TYPE OF CONTRACT

It is contemplated that a fixed-price requirements type contract will be awarded. The contract will include all applicable terms and conditions as prescribed by the Federal Procurement Regulations, Standard Form 32, General Provisions (2/15/78 edition) and FPR Changes and NRC Additions to Standard Form 32 (6/76 edition) are attached and will form part of any resultant contract.

C.24 SMALL BUSINESS SIZE STANDARDS

The Contracting Officer has determined that the material described herein is classified under the Standard Classification Manual as Number 7399 and a concern whose average annual receipts for its preceding 3 fiscal years do not exceed \$2 million is considered as small business concern.

(FPR 1-1-705-B(c))

C.2 5 Notice of Total Small Business Set Aside

(a) General Bids or proposals under this procurement are solicited only from (1) small business concerns and (2) eligible organizations for the handicapped and handicapped individuals under the Small Business Act. The procurement is to be awarded only to one or more such concerns, organizations, or individuals. This action is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of manufacturing or mobilizing the Nation's full productive capacity, or in the interest of war or national defense programs, or in the interest of insuring that a fair proportion of Government procurement is placed with small business concerns, or in the interest of creating viable organizations for the handicapped and handicapped individuals. Bids or proposals received from others will be considered non-responsive.

(b) Definition. The term "small business concern" means a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in the regulations of the Small Business Administration (13 CFR 121.5-3). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract and items manufactured or produced in the United States, its territories and possessions, Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia, by small business concerns. Provided, That this additional requirement does not apply in connection with construction or service contracts.

(End of notice)

C.26 Accurate and Complete Bids

Bids must set forth full, accurate and complete information as required by this invitation for bids (including attachments). The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

C.27 COST OF BID PREPARATION

This solicitation does not commit the Government to pay any costs incurred for the preparation of Bids or for necessary studies or designs for the preparation thereof; nor to procure or contract for the articles or services shown under SECTION E herein. It is also brought to your attention 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.28 SUBMISSION OF BIDS

Bids must set forth full, accurate and complete information as required by this Invitation for Bids (including attachments). The Penalty for making false statements in bids is prescribed in 18 U. S. C. 1001.

SECTION 0 - EVALUATION AND AWARD FACTORS

0.1 AWARD OF CONTRACT

Award will be made to that responsive, responsible bidder within the meaning of the Federal Procurement Regulations 1-12 whose offer is the lowest overall evaluated total contract price to the Government based upon the requirements as set forth in ~~the~~ Schedule.

Notwithstanding Section C, Paragraph 10, entitled "Award of Contract," the award of any resulting contract(s) will be made on an "ALL OR NONE" basis.

0.2 EVALUATION OF BIDS

A. Bids will be evaluated for purposes of award by adding the total price for all quantities estimated for the option year to the total price for the basic quantities estimated for the initial year. Evaluation of option will not obligate the Government to exercise the option. Bids which do not include fixed prices for the items under the option year will be rejected as nonresponsive.

B. Any bid or proposal which is materially unbalanced as to prices for basic and option quantities may be rejected as non-responsive. An unbalanced bid or proposal is one which is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

C. Bidders are reminded that although the evaluation which will lead to contract award will be based on lowest overall price the exercise of the option(s) is dependent on the Government's requirement and the availability of funds.

0.3 SEPARATE CHARGES

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

D. 4 Bidder shall list four (4) previous/current contracts for the same or similar services:

- (1) Contract No. Several Contracts
Federal Publications, 1725 K. Street, NW
(Name and Address of Government Agency/Commercial Entity)
Room 500 Washington, DC
Arthur Ramo - 337-7000
(Point of Contact and Telephone Number)

- (2) Contract No. No contract (Several jobs)
Westinghouse electric Corp. ILS Dept.
(Name and Address of Government Agency/Commercial Entity)
P.O. Box 153, Baltimore, MD. 21203
Bill Vint - 301-667-3398 or Nelson Gilbert 301-667-5174
(Point of Contact and Telephone Number)

- (3) Contract No. 305-S Data Capture
U.S. Government Printing Office
(Name and Address of Government Agency/Commercial Entity)
Washington, DC 20404
Oscar Daniels 202-275-2044
(Point of Contact and Telephone Number)

- (4) Contract No. Several Contracts
McGraw Hill, Inc. 400 National Press Bldg
(Name and Address of Government Agency/Commercial Entity)
Washington, DC 20045
Jim Fullerton - 624-7555 or Roseann Schroederer 624-7379
(Point of Contact and Telephone Number)

CONTINUATION SHEET

NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Part II - The Schedule					
Section E - Supplies/Services and Prices					
<u>BASIC YEAR ITEMS</u>					
E.1	Preparation of copy for composition of issuances (Estimated 200 pages to be prepared monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 7.05	\$ 16,920
E.2	Composition and preparation of page proofs (Estimated 200 page proofs required monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 2.00	\$ 28,800
E.3	Preparation of camera-ready copy of monthly issuances (Estimated 200 pages of camera-ready copy required monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 5.50	\$ 13,200
E.4	List of subject terms	2	EA	\$ 350.00	\$ 700.00
E.5	Quarterly Index and camera-ready copy (maximum 600 pages to be indexed per quarter; maximum of 50 pages of camera-ready copy required per quarter)	3	EA	\$ 425.00	\$ 1275.00
E.6	Semi-Annual Index, camera-ready copy and computer tape (maximum 600 pages to be indexed and merged with quarterly index; maximum of 100 pages of camera-ready copy required per semi-annual index)	4	EA	\$ 950.00	\$ 3800.00
E.7	Cumulative Index for January 19, 1975 thru December 31, 1979, camera-ready copy and computer tape (785 pages of previously indexed material to be compiled)	1	EA	\$ 5082.00	\$ 5082.00
E.8	Cumulative Index of ALAB and LBP decisions prior to January 19, 1975, camera-ready copy and computer tape (450 pages of previously indexed material to be compiled)	1	EA	\$ 3340.00	\$ 3340.00
E.9	Pickup and Delivery (roundtrip)	13	EA	\$ 19.00	\$ 247.00
TOTAL PRICE BASIC YEAR					\$ 73,364.00

CONTINUATION SHEET

NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<u>OPTION YEAR ITEMS</u>					
E.10	Preparation of copy for composition of issuances (Estimated 200 pages to be prepared monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 7.75	\$ 18,600.00
E.11	Composition and preparation of page proofs (Estimated 200 page proofs required monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 13.80	\$ 33,120.00
E.12	Preparation of camera-ready copy of monthly issuances (Estimated 200 pages of camera-ready copy required monthly, total estimated requirement - 2400 per year)	2400	EA	\$ 6.35	\$ 15,240.00
E.13	List of subject terms	2	EA	\$ 420.00	\$ 840.00
E.14	Quarterly Index and camera-ready copy (maximum 600 pages to be indexed per quarter; maximum of 50 pages of camera-ready copy required per quarter)	2	EA	\$ 490.00	\$ 980.00
E.15	Semi-Annual Index, camera-ready copy and computer tape (maximum 600 pages to be indexed and merged with quarterly index; maximum of 100 pages of camera-ready copy required per semi-annual index)	2	EA	\$ 1095.00	\$ 2190.00
E.16	Pickup and Delivery (roundtrip)	12	EA	\$ 24.00	\$ 288.00
TOTAL PRICE OPTION YEAR					\$ 71,258.00
TOTAL PRICE BASIC AND OPTION YEAR					\$ 144,622.00

Section F - Description/Specifications*

F.1. Preparation of Copy for Composition (Item E.1)

Upon receipt of typed opinions and headnotes (Headers and Digests), the contractor shall do the following:

- a. Identify each page of typed opinion with appropriate organization and number. This serves to identify appropriate location if page is misplaced during printing and handling, but will not be included on proof copy; e.g., if Atomic Safety and Licensing Appeal Board (ALAB-535) has twenty individual pages, each page should be designated as ALAB-535.
- b. Check each page of the typed opinion for typographical errors, punctuation and cross references. Cross references are made to pages within the typed opinion or to a previous issuance of NRCI. These are to be indicated with a blank space (----) or three zeros(000) and filled in when pagination has been assigned.
- c. Compose all text titles and sub-titles in boldface type.
- d. Insert headnote above the heading "Initial Decision," "Memorandum and Order," etc in the typed opinion.
- e. Enter all attorneys or intervenors names (when present) in the following order: Applicant, Intervenor, NRC staff. These names are usually on the first page of the opinion and should have the heading "Appearances." All names in this section shall appear in bold-face type.

*Additional background information regarding this requirement is set forth in Attachment A.

F.2 Composition and Preparation of Page (Item E.2)

- a. Compose issuances.
- b. Proofread
- c. Prepare Table of Contents. All applicant, licensee and petitioners names shall be in alphabetical order by type of issuance on Contents page.
- d. Number pages and citation headings.
- e. Insert citations in text (cross references).
- f. Insert page numbers of each issuance in table of contents.
- g. Deliver page proof in 6X9 inch format for COAR approval.

F.3 Preparation of Camera-Ready Copy (Item E.3)

The Contractor shall prepare camera-ready copy of monthly issuances for delivery to NRC. The cover, title page, and front matter will be added by NRC.

F.4 List of Subject Terms (Item E.4)

The Contractor shall prepare and maintain a list of subject terms used in past as well as current indexes. Representative samples of past quarterly and semi-annual indexes are available for inspection at the NRC Public Document Room located at 1717 "H" Street, N.W., Washington, DC. Upon NRC request, the Contractor shall provide the current list of subject terms to NRC (The Contractor will be required to provide the subject list a maximum of two (2) times during the contract period.)

F.5 Indexing (Items E.5 thru E.8)

F.5.1 Identification of Indexing and Digest Elements

Contractor shall identify the index and digest elements common to the issuances, which serve as guides to the information contained in the published monthly Issuances. Those elements include:

Case name (owner of facility)

Name of facility, petitioner, organization petitioner represented

Docket number (if any)

Type of hearing (for construction permit, operating license, etc.)

Issues raised by appellants

Issuance number

Type of issuance (memorandum, order, decision, etc.)

Legal citation (case, regulations, and statutes)

Subject matter of issue and/or ruling

Text reference within published NRCI

These information elements shall be displayed in one or more of seven separate formats, arranged as follows:

Case Name Index

The case name index is an alphabetical arrangement of the facility owners or petitioners for the individual issuances of the Commission, LBP, and ALAB. Each facility owner or petitioner is followed by an alphabetical breakdown by type(s) of hearing. These separate entries are further defined by type of issuance, docket number, issuance number, and full text reference.

CASE NAME INDEX

ATLANTIC RESEARCH CORPORATION
 Byproduct Material License, Compliance; Order Affirming Imposition of Civil Penalties; Docket BNL 45-02522-04; ALJ-77-002 (6 NRC 702 (1977))

BOSTON EDISON COMPANY
 Construction Permit; Partial Initial Decision; Dockets 50471;50472; LSP-77-066 (6 NRC 829 (1977))

CLEVELAND ELECTRIC ILLUMINATING COMPANY, et al.
 Antitrust; Memorandum and Order; Dockets 50348A;50350A;50501A;50402A;50441A; ALAB-438 (6 NRC 457 (1977))
 Construction Permit; Decision; Dockets 50440;50441; ALAB-443 (6 NRC 741 (1977))
 Construction Permit; Decision; Dockets 50440;50441; ALAB-449 (6 NRC 884 (1977))

CONSOLIDATED EDISON COMPANY OF NEW YORK
 Construction Permit; Order; Docket 50247; LSP-77-063 (6 NRC 799 (1977))

CONSOLIDATED EDISON COMPANY OF NEW YORK; POWER AUTHORITY OF THE STATE OF NEW YORK
 Operating License; Decision; Dockets 50003;50247;50285; ALAB-436 (6 NRC 547 (1977))

CONSUMERS POWER COMPANY
 Antitrust; Decision; Dockets 50329A;50330A; ALAB-452 (6 NRC 892 (1977))
 Construction Permit; Memorandum and Order; Dockets 50329;50330; ALAB-435 (6 NRC 638 (1977))
 Construction Permit, Compliance; Memorandum; Dockets 50329;50330; ALAB-450 (6 NRC 587 (1977))
 Construction Permit; Order; Dockets 50329;50330; LSP-77-057 (6 NRC 482 (1977))

DUKES POWER COMPANY
 Construction Permit; Decision; Dockets STM 50488;STM 50489;STM 50490; ALAB-431 (6 NRC 400 (1977))
 Construction Permit; Decision; Dockets STM 50491;STM 50492;STM 50493; ALAB-440 (6 NRC 642 (1977))
 Construction Permit; Memorandum and Order; Dockets STM 50488;STM 50489;STM 50490; ALAB-433 (6 NRC 469 (1977))
 Construction Permit; Partial Initial Decision, Supplemental; Dockets STM 50491;STM 50492;STM 50493; LSP-77-047 (6 NRC 191 (1977))
 Construction Permit; Partial Initial Decision; Dockets STM 50491;STM 50492;STM 50493; LSP-77-074 (6 NRC 1014 (1977))

License(uranium fuel cycle effects); Memorandum and Order; Dockets 50272; 50311/50327;50270/50289;50320/50334;50412/50352;50353/50354;50355/50387; 50388/50413;50414/50424;50425/STM 50483;STM 50486/STM 50518;STM 50519;STM 50520;STM 50521; ALAB-426 (6 NRC 206 (1977))

DUCUESNE LIGHT COMPANY, et al.
 License(uranium fuel cycle effects); Memorandum and Order; Dockets 50272; 50311/50327;50270/50289;50320/50334;50412/50352;50353/50354;50355/50387; 50388/50413;50414/50424;50425/STM 50483;STM 50486/STM 50518;STM 50519;STM 50520;STM 50521; ALAB-426 (6 NRC 206 (1977))

EDISON NUCLEAR COMPANY, INC.
 Special Nuclear Materials, Export License; Memorandum and Order; Dockets 70256L;70256S;70212S;702847;702857;702167;702674;702675/701114; CLI-77-031 (6 NRC 849 (1977))

EDISON NUCLEAR COMPANY, INC.

Digests and Headers

Digests shall be separated according to the issuance source (Commission, LBP, ALAB Administrative Law Judges, Director's denials, denials of petitions for rule making) and be presented in issuance-number order. Each issuance is identified by a header containing the following information: issuance number, case name, facility name, docket number, type of hearing, date of issuance, and type of issuance.

The header precedes the digest. The digest is a brief narrative of legal issue followed by its resolution, any legal references used in resolving the issue, and complete text reference. If a given issuance covers more than one issue, separate digests are provided for each issue. If multiple issues appear, the digests shall be designated alphabetically and identified by letter in the corresponding legal citation index and subject index, e.g., LBP -277, A. (The legal citation index and the subject index are defined on pages 24-27 and 30-31 of this IFB.)

DIGESTS

ISSUANCES OF THE ATOMIC SAFETY AND LICENSING BOARDS

- reference is given to interpretation of regulations by the Agency charged with their administration. (6 NRC 1179, 1183 (1977))
- LEP-77-075 MEMPHOLITAN EDISON COMPANY; JERSEY CENTRAL POWER AND LIGHT COMPANY; PENNSYLVANIA ELECTRIC COMPANY; THREE MILE ISLAND NUCLEAR STATION, Unit 2; DOCKET 50320; OPERATING LICENSE; 12-19-77; INITIAL DECISION
- Upon environmental review pursuant to 10 CFR 50 App. D, Section C, and upon request for operating license, the ASLB (1) concludes that the construction permit for Three Mile Island, Unit 2 should be continued; and (2) subject to certain technical conditions, authorizes the Director of Nuclear Reactor Regulation to make such additional findings on uncontested issues as may be necessary for issuance of a full-term operating license. Technical issues discussed included: environmental impact of thermal releases; biological surveys; cooling tower design; safety standards; capacity factor; aircraft crash risk; radioactivity monitoring program; flood protection; emergency plans; gaseous rad-waste treatment system; chlorine discharge; dose calculations; effects of cooling towers; need for power; Table 1-3 (Rn-222 releases); water pollution control; and compliance with Federal and State provisions. (6 NRC 1185 (1977))
- LEP-77-074 NORTHERN STATES POWER COMPANY (MINNESOTA); NORTHERN STATES POWER COMPANY (WISCONSIN), et al.; TYRONE ENERGY PARK, Unit 1; DOCKET 50484; CONSTRUCTION PERMIT; 12-12-77; INITIAL DECISION
- Upon consideration of issues under the National Environmental Policy Act (NEPA) related to application for permit to construct Tyrone Energy Park, Unit 1, the Licensing Board concludes that statutory and regulatory requirements have been complied with and that issuance of the construction permit should be authorized, subject to several environmental protection conditions. The board's earlier decision on radiological health and safety issues (LEP-77-030, 5 NRC 1197) becomes part of this decision. Technical issues discussed included: decontamination effects; thermal discharges; river water diversion; cooling tower effects; transmission line locations; scale scaling and habitat; use of herbicides; land requirements and usage; protection during transportation of radioactive materials; fuel supply; need for power and fuel cycle costs. (6 NRC 1232 (1977))
- LEP-77-073 PUGET SOUND POWER AND LIGHT COMPANY, et al.; SPAGIT NUCLEAR POWER (PUGET SOUND), Units 1 and 2; DOCKETS STP 50522; STN 50523; CONSTRUCTION PERMIT (PAC-LVA AUTHORITY); 12-23-77; ORDER FOLLOWING RECALL
- Pursuant to the reversal and recall by the Appeal Board in ALAD-445, 6 NRC 870, the Licensing Board vacates so much of its September 15, 1977, order, LEP-77-056, 6 NRC 478, as denied pre-LVA authority for certain reactor construction. (6 NRC 1205 (1977))
- LEP-77-072 PUBLIC SERVICE ELECTRIC AND GAS COMPANY; ATLANTIC CITY ELECTRIC COMPANY; HCFE CHIEF GENERATING STATION, Units 1 and 2; DOCKETS 50354; 50355; CONSTRUCTION PERMIT, COMPLIANCE; 12-23-77; ORDER
- On the basis of information provided by the applicants, as verified and supplemented by the staff, the Licensing Board concludes that applicants have shown good cause why construction should not be suspended after Executive Order 11777, pending issuance of the board's decision on the necessity for protection at the plant against fire from a gas cloud that could be released in a tank accident. ASLB agrees with the staff's conclusions that (1) continuation of construction will neither adversely affect the public health and safety nor cause irreparable injury to any party, (2) suspension of construction will result in economic loss to workers and their families and communities, and (3) design modifications to protect against gas cloud fires will not be forsworn or made prohibitively expensive if construction is allowed to continue. (6 NRC 1210 (1977))
- LEP-77-071 DUKE POWER COMPANY; CHEROKEE NUCLEAR STATION, Units 1, 2 and 3; DOCKETS STN 50491; STN 50492; STN 50493; CONSTRUCTION PERMIT; 12-30-77; PARTIAL INITIAL DECISION
- Upon application for construction permits for Cherokee Nuclear Station, Units 1, 2 and 3, the Licensing Board reviews radiological health and safety questions and concludes that the applicant has complied with all necessary statutory and regulatory requirements and that the permits should be issued, subject to environmental protection conditions set forth earlier in decisions. Technical issues discussed included: anticipated accidents without alarm (AALS); atmospheric diffusion; unresolved safety

DIGESTS

ISSUANCES OF THE ADMINISTRATIVE LAW JUDGE

- ALJ-77-001 PITTSBURGH-DES MOINES STEEL COMPANY, 1 BNL 37-01507-02; BYPRODUCT MATERIAL LICENSE, COMPLIANCE; 10-13-77; ORDER AFFIRMING IMPOSITION OF CIVIL PENALTIES
- A The Administrative Law Judge grants the staff's motion for summary judgment and affirms the order of the Director of the Office of Inspection and Enforcement imposing a civil penalty on a byproduct material licensee, where the parties stipulated that the violation occurred and the licensee's employee willfully violated licensee's safety procedures without licensee's knowledge. The Judge further grants the licensee's request for an opportunity for a hearing in present facts in support of mitigation of the amount of such penalty. (6 NRC 693 (1977))
- B The NRC's authority to impose civil penalties for license violations is founded upon Section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2292), and the legislative history of that section. In enacting that section, Congress accepted the Nuclear Regulatory Commission's view that effective enforcement of the Act's safety requirements could be aided by the assessment and collection of civil penalties for license violations, with such penalties to be assessed in part by the gravity of the violation and the attitude toward compliance of a licensee's management. In situations where the Commission deems license revocation to be unwarranted. (6 NRC 653 (1977))
- C The management of a licensee must involve itself in all aspects of operations conducted under the license and must be responsible for instances of license violations, irrespective of its specific knowledge of a violation. This conclusion is directed by the legislative history of Section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2292), and by the Commission's action in Virginia Electric and Power Company (North Anna 1 and 2), CLI-76-022, 4 NRC 400 (1976). (6 NRC 655, 658 (1977))
- ALJ-77-002 ATLANTIC RESEARCH CORPORATION, 1 DOCKET BNL 45-02004-04; BYPRODUCT MATERIAL LICENSE, COMPLIANCE; 10-18-77; ORDER AFFIRMING IMPOSITION OF CIVIL PENALTIES
- A The Administrative Law Judge grants the staff's motion for summary judgment and affirms the order of the Director of the Office of Inspection and Enforcement imposing a civil penalty against a byproduct material licensee for violations of various Commission regulations and license provisions concerning the conduct of radiographic activity. The Judge further grants the licensee's request for hearing in present facts in support of mitigation of the amount of such penalties. (6 NRC 702 (1977))
- B The NRC's authority to impose civil penalties for license violations is founded upon Section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2292), and the legislative history of that section. In enacting that section, Congress accepted the NRC's view that effective enforcement of the Act's safety requirements could be aided by the assessment and collection of civil penalties for license violations in situations where the Commission deems license revocation to be unwarranted. Such penalties are to be assessed in part by the gravity of the violation and the attitude toward compliance of the licensee's management. (6 NRC 702, 707 (1977))
- C The management of a licensee must involve itself in all aspects of operations conducted under the license and must be responsible for instances of license violations, irrespective of its specific knowledge of a violation. This conclusion is directed by the legislative history of Section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2292), and by the Commission's action in Virginia Electric and Power Co. (North Anna 1 and 2), CLI-76-022, 4 NRC 400 (1976). (6 NRC 702, 711 (1977))
- D In considering civil penalties under Section 234 of the Atomic Energy Act, 42 U.S.C. 2292, issues such as good faith, injury to the public and ability to pay have no bearing on the question whether a license violation has occurred but are relevant in determining whether a proposed penalty should be mitigated. (6 NRC 702 (1977))

Legal Citation Index

The legal citation index is an alpha-numeric list of cases, regulations and statutes cited in the issuances. The references to cases, regulations, and statutes are generally followed by phrases that show the application of the citation in the particular issuance. These phrases are followed by the appropriate digest designation and the full text reference. The legal citation indexes are displayed as in the following examples:

LEGAL CITATIONS INDEX
CASES

antitrust, refusal to deal: ALAB-452, L. (6 NRC 852, 1025 (1977))
 California v. F.P.C., 367 U.S. 482 (1962)
 newsw consideration in antitrust: ALAB-452, C. (6 NRC 852, 515 (1977))
 California v. F.P.C., 369 U.S. 482, 484 (1962)
 national antitrust policy: ALAB-451, A. (6 NRC 889 (1977))
 California v. F.P.C., 369 U.S. 482, 486 (1962)
 monopoly power finding, coordination: ALAB-452, I. (6 NRC 852, 987 (1977))
 Calvert Cliffs Coordinating Committee v. A.E.C., 445 F.2d 1109 (1972)
 NRC review scope for spent fuel pool modification: LSP-77-051, B. (6 NRC 253, 267 (1977))
 Carter v. Detroit Edison Co., 428 U.S. 579 (1976)
 antitrust consideration of federally regulated industry: ALAB-452, D. (6 NRC 892, 518 (1977))
 Carter v. Detroit Edison Co., 428 U.S. 579, 596 (1977)
 monopoly power finding, coordination: ALAB-452, I. (6 NRC 852, 987 (1977))
 Carter v. Detroit Edison Co., 428 U.S. 579, 596 (1977)
 national antitrust policy: ALAB-451, A. (6 NRC 889 (1977))
 Carlson v. Coca-Cola Co., 483 F.2d 279 (5th Cir. 1973)
 untimely antitrust intervention affirmed for St. Louis 2: ALAB-452, A. (6 NRC 8 (1977))
 Carnation Co. v. Pacific Westbound Conference, 323 U.S. 213, 218 (1966)
 national antitrust policy: ALAB-451, A. (6 NRC 889 (1977))
 Cass-Swayne Co. v. Sunkist Growers, Inc., 359 F.2d 445, 457 (9th Cir. 1966),
 reversed on other grounds, 355 U.S. 184 (1967)
 relevant market for antitrust: ALAB-452, G. (6 NRC 852, 345 (1977))
 Case Student Adv. v. National Ed. Adv. Service, 407 F.Supp. 520, 522 (N.D. Ill.), affirmed, 337 F.2d 282 (7th Cir. 1976)
 intent to monopolize: ALAB-452, E. (6 NRC 852, 921 (1977))
 Case Student Adv., Inc. v. National Adv. Serv. Inc., 316 F.2d 1052 (7th Cir. 1973)
 antitrust consideration of federally regulated industry: ALAB-452, D. (6 NRC 892, 518 (1977))
 Cass v. Ash. v. U.S., 258 U.S. 228 (1922)
 intent to monopolize: ALAB-452, E. (6 NRC 852, 921 (1977))
 Chisholm Bros. Farm Equipment Co. v. International Harvester Co., 498 F.2d 4127, 1144 (5th Cir. 1974), cert. denied, 419 U.S. 1023 (1974)
 antitrust, refusal to deal: ALAB-452, L. (6 NRC 852, 1025 (1977))
 Cities of Statesville v. A.E.C., 441 F.2d 562 (D.C. Cir. 1969)
 national antitrust policy: ALAB-451, A. (6 NRC 889 (1977))
 NRC antitrust jurisdiction: ALAB-452, C. (6 NRC 852, 515 (1977))
 City of Detroit v. Detroit United Railway, 172 Mich. 136, 137 N.W. 645 (1925)
 antitrust regulations and jurisdiction: ALAB-452, F. (6 NRC 852, 924 (1977))
 City of Lansing v. Michigan Power Co., 183 Mich. 400, 150 N.W. 250 (1918)
 antitrust regulations and jurisdiction: ALAB-452, F. (6 NRC 852, 924 (1977))
 City of Mishawaka v. Indiana and Michigan Electric Co., 560 F.2d 1314 (7th Cir. 1977)
 monopoly power considerations: ALAB-452, J. (6 NRC 852, 1012 (1977))
 City of Mishawaka v. Indiana and Michigan Electric Co., 560 F.2d 1314, 1321 (7th Cir. 1977)
 national antitrust policy: ALAB-451, A. (6 NRC 889 (1977))
 City of Paris, Kentucky v. Kentucky Utilities Co., 41 F.P.C. 45 (1969)
 monopoly power finding: ALAB-452, I. (6 NRC 852, 987 (1977))
 Coalition for Safe Nuclear Power v. A.E.C., 463 F.2d 554, 556 (D.C. Cir. 1972)
 interlocutory stay denied for Seabrook site review: CLI-77-027, A. (6 NRC 715 (1977))
 rules of practice for stay pending appeal: CLI-77-027, B. (6 NRC 715 (1977))
 Cole v. Hughes Tool Co., 215 F.2d 524 (1954), cert. denied, 345 U.S. 927 (1955)
 monopoly power finding: ALAB-452, J. (6 NRC 852, 1012 (1977))
 Commonwealth Edison Co. (Zion 1 and 2), ALAB-116, 6 AEC 238 (1973)
 ASLE referral of discovery order declined: ALAB-452, (6 NRC 638 (1977))
 Commonwealth Edison Co. (Zion 1 and 2), ALAB-196, 7 AEC 457, 469 (1974)
 rules of practice for proprietary data review: ALAB-452, C. (6 NRC 541, 545 (1977))
 Commonwealth Edison Co. (Zion Station 1 and 2), ALAB-226, 8 AEC 381, 382-83 (1974)
 waiver of unbriefed exceptions, rules of practice: ALAB-443, B. (6 NRC 741,

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REGULATIONS

- rules of practice for declining subpoena issuance: ALB-422, S, (6 NRC 33, 53 (1977))
- 10 CFR 2.732(f)
ASLE referral of discovery order declined as to discovery: ALAB-438, (6 NRC 438 (1977))
- licensee's liability for violations, appeal dismissal: ALAB-441, (6 NRC 725 (1977))
- rules of practice for appeals from partial contentions' denial: ALAB-434, B, (6 NRC 471 (1977))
- rules of practice for interlocutory ASLE appeals: ALAB-433, C, (6 NRC 469 (1977))
- 10 CFR 2.732
burden of proof for summary judgment: ALAB-443, H, (6 NRC 741, 752 (1977))
- 10 CFR 2.742(a)
rules of practice for interveners' cross-examination rights: ALAB-422, T, (6 NRC 32, 94 (1977))
- 10 CFR 2.749
rules of practice for antitrust summary disposition: LSP-77-045, B, (6 NRC 150, 162 (1977))
- summary disposition of Stanislaus antitrust matters denied: LSP-77-045, A, (6 NRC 159 (1977))
- 10 CFR 2.749(b)
burden of proof for summary judgment: ALAB-443, H, (6 NRC 741, 752 (1977))
- 10 CFR 2.752
delimitation of issues for Black Fox 1 and 2: LSP-77-045, A, (6 NRC 167 (1977))
- 10 CFR 2.752(a)
ASLE authority to consider and resolve non-controversial matters: LSP-77-045, C, (6 NRC 1127, 1132 (1977))
- 10 CFR 2.760
full-term operating license authorization for Three Mile Island 2: LSP-77-075, (6 NRC 1165 (1977))
- 10 CFR 2.760(a)
spent fuel pool modification for Prairie Island: LSP-77-051, A, (6 NRC 265 (1977))
- 10 CFR 2.762
licensee's liability for violations, appeal dismissal: ALAB-441, (6 NRC 725 (1977))
- 10 CFR 2.762(a)
briefing of exceptions, record references filed with ASLE: ALAB-424, E, (6 NRC 122, 126 (1977))
- nonparty standing to appeal: ALAB-433, B, (6 NRC 469 (1977))
- reconsideration denied for motion to strike exceptions to initial decision: ALAB-418, (6 NRC 1 (1977))
- requesting to consider alternatives, briefs requested: ALAB-424, A, (6 NRC 127 (1977))
- rules of practice for untimely briefs submission: ALAB-424, C, (6 NRC 122, 124 (1977))
- rules of practice, time limits on supporting briefs for exceptions: ALAB-424, B, (6 NRC 122, 125 (1977))
- 10 CFR 2.762(b)
standard for substantial compliance, motion to strike exceptions: ALAB-424, D, (6 NRC 122, 125 (1977))
- 10 CFR 2.785(a)
attorney conduct charges, refusal of entire Appeal Panel: ALAB-450, (6 NRC 287 (1977))
- 10 CFR 2.785(b)(1)
ASLE authority on NRC policy questions: ALAB-425, B, (6 NRC 199, 204 (1977))
- 10 CFR 2.785(d)
rules of practice for Commission certification of appellate issues: ALAB-421, B, (6 NRC 23, 27 (1977))
- 10 CFR 2.786(b)
scope of review of ALAB certified questions: CLI-77-023, B, (6 NRC 455 (1977))
- 10 CFR 2.786(b)(1)

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State's authority under: LSP-77-052, B. (6 NRC 294, 337 (1977))
Federal Water Pollution Control Act 401
full-term operating license authorization for Three Mile Island 2:
LSP-77-170, (6 NRC 1189 (1977))
jurisdictional dispute over water ownership of Ohio River: ALAB-437, A. (6
NRC 420 (1977))
LVA findings for Phipps bend: LSP-77-060, A. (6 NRC 647 (1977))
State authority under, relative to radiological health and safety matters:
LSP-77-252, B. (6 NRC 294, 339 (1977))
Federal Water Pollution Control Act 421(e)(1)
state's failure to grant public hearing prior to certification held
unnecessary, reopening request denied: LSP-77-052, C. (6 NRC 294, 338
(1977))
Federal Water Pollution Control Act 511(e)(2)(A)
state's failure to grant public hearing prior to certification held
unnecessary, reopening request denied: LSP-77-052, C. (6 NRC 294, 338
(1977))
State Act
state and federal jurisdiction over antitrust situation: ALAB-452, F. (6 NRC
292, 324 (1977))
Geothermal Energy Research and Development and Demonstration Act of 1974
alternative fuel substitution, national energy policy: ALAB-422, R. (6 NRC
33, 50 (1977))
National Environmental Policy Act 102(2)(C)
scope of review for spent fuel pool modification: LSP-77-051, B. (6 NRC 265,
267 (1977))
National Environmental Policy Act (NEPA)
adequacy of St. Lucie alternate site review: ALAB-435, A. (6 NRC 541 (1978))
alternate site review methodology, LVA denied for inadequate: LSP-77-066, (6
NRC 237 (1977))
alternative site considerations: ALAB-422, R. (6 NRC 33, 90 (1977))
alternative site review standards: ALAB-425, B. (6 NRC 541, 542 (1977))
applicability to pre-LVA activities: LSP-77-064, C. (6 NRC 141, 152 (1977))
construction permit issuance for Sterling: LSP-77-053, (6 NRC 350 (1977))
federal preemption over local zoning laws for compliance with cooling tower
restrictions: LSP-77-063, (6 NRC 799 (1977))
full-term operating license authorization for Three Mile Island 2:
LSP-77-170, (6 NRC 1189 (1977))
LVA findings for Phipps bend: LSP-77-060, A. (6 NRC 647 (1977))
safety standards required by cost-benefit analysis: ALAB-422, F. (6 NRC 33,
43 (1977))
need-for-power considerations: ALAB-422, R. (6 NRC 33, 90 (1977))
NRC jurisdiction over offsite transmission line routes: ALAB-422, G. (6 NRC
33, 82 (1977))
pre-LVA activity reconsideration denied for Shagit Wild and Scenic River
Act_pre-LVA activity reconsideration denied for Shagit: LSP-77-056, (6 NRC
478 (1977))
pre-LVA authority for activities requiring tree damage: LSP-77-067, C. (6
NRC 674, 677 (1977))
pre-LVA authority for sewer line activity: LSP-77-061, B. (6 NRC 674, 677
(1977))
revised cost-benefit analysis for Peach Bottom radioactive effluent control:
LSP-77-052, (6 NRC 580 (1977))
reversal of pre-LVA road work denial for Shagit: ALAB-446, A. (6 NRC 570
(1977))
standard for evaluation of alternatives, energy conservation: ALAB-422, U.
(6 NRC 33, 100 (1977))
sunk-costs consideration in revised cost-benefit: LSP-77-057, C. (6 NRC 482,
483 (1977))
Ohio Revised Code 4905.48
applicability to NRC licensing process: ALAB-443, C. (6 NRC 741, 747 (1977))
Public Holding Company Act, 15 U.S.C. 79-79e
ASIS role in antitrust scrutiny, interconnection principle: ALAB-452, F. (6
NRC 292, 1046 (1977))
Robinson-Patman Act
state and federal jurisdiction over antitrust situation: ALAB-452, F. (6 NRC

Index of Director's Denials Under Section 2.206 of NRC's Rules and Regulation (Section 2.206 is available for inspection at the NRC Public Document Room).

The Index of Director's Denials is new in CY 1979. Therefore, there is no example to display. This index is to be in a format similar to the other indexes and is to include: name and/or organization of petitioner followed by phrases that give specific information about the subject, the issuance designation and the full text reference.

A draft of this new index is to be submitted to the Project Officer by the contractor for approval prior to its first issue.

Index of Denials of Petitions for Rule Making

The Index of Denials of Petitions for Rule Making is new in CY1979 and therefore there is no example to display. This index is to be in a format similar to the other indexes and is to include: name and/or organization of petitioner followed by phrases that give specific information about the subject, the issuance designation and the full text reference.

Subject Index

Subject words and/or phrases, arranged alphabetically, indicate the issues and subjects covered in the issuances. The subject headings are followed by phrases that give specific information about the subject, as discussed in the issuance being indexed. These phrases are followed by the issuance and digest designation and the full text reference. Cross references are provided between related subject headings. Synonyms are provided with "see" references to the subject heading used. Some subject headings are used in an inverted form to group like information. For example: "Atomic Safety and Licensing Board, Jurisdiction" instead of "Jurisdiction of Atomic Safety and Licensing Board;" "Time, Extension" instead of "Extension of Time;" and "Effluents, Radioactive" and "Effluents, Thermal" instead of "Radioactive Effluents" and "Thermal Effluents."

The subject index is displayed in the following example:

SUBJECT INDEX

ASIS collections to give rationale for resolution of evidence: ALAP-429, D, (6 NRC 225, 227 (1977))

PIPES
protection plans for VPPIS 3 and 5 safe shutdown earthquake design: LEP-77-048, (6 NRC 237 (1977))

FISHES
population dynamics, issue delineation for Black Fox construction permit
proceedings: LEP-77-048, A, (6 NRC 187 (1977))

FLUATING NUCLEAR POWER PLANTS
manufacturing licensing, contentions admissibility: LEP-77-048, A, (6 NRC 248 (1977))

FRANCE
export of special nuclear materials, discretionary intervention policy: CLI-77-021, A, (6 NRC 149 (1977))
export of special nuclear materials, intervention policy: CLI-77-021, A, (6 NRC 221 (1977))

FUEL
see Reactor Fuels

FUEL CYCLE
cost-benefit analysis update for Seabrook: ALAS-422, W, (6 NRC 23, 102 (1977))

FUEL PIGS
see Reactor Fuel Pools

GENERAL ENVIRONMENTAL STATEMENT ON MIXED OXIDE FUEL
reopening proceedings terminated: CLI-77-023, (6 NRC 261 (1977))

GEOLOGIC ANOMALIES
summary disposition of issues for Perry 1 and 2 construction permit
proceedings: ALAS-416, (6 NRC 254 (1977))

GEOLOGICAL PROPERTIES
scope of ASIS inquiry for site suitability: ALAS-422, X, (6 NRC 23, 50 (1977))

GOVERNMENT AGENCIES
see specific agencies

GRAVELINES-2 NUCLEAR REACTOR
ISNN-1176, discretionary hearings for export license applications, comments requested: CLI-77-021, A, (6 NRC 348 (1977))
ISNN-1176, intervention standing for export licensing hearings: CLI-77-024, A, (6 NRC 223 (1977))

GREENE COUNTY NUCLEAR POWER PLANT
construction permit, interlocutory appeal dismissed for denial of same
contentions: ALAS-434, A, (6 NRC 471 (1977))

GRUNDREPHINGEN ATOMIC POWER STATION
ISNN-1145, discretionary hearings for export license applications, comments requested: CLI-77-031, A, (6 NRC 849 (1977))
ISNN-1145, intervention standing for export licensing hearings: CLI-77-024, A, (6 NRC 223 (1977))

HARTSVILLE NUCLEAR PLANT, Units 1A, 2A, 1B and 2B
construction permit authorization affirmed in totality: ALAS-426, B, (6 NRC 206, 210 (1977))
construction permit, interim-fuel-cycle rule effects on NEPA balance: ALAS-426, A, (6 NRC 208 (1977))
construction permit, reconsideration of action to strike exceptions denied: ALAS-418, (6 NRC 1 (1977))

HEALTH AND SAFETY
see also Emergency Plans
limitation of state's authority under FVPCA: LEP-77-052, D, (6 NRC 294, 329 (1977))
NRC jurisdiction does not cover foreign: CLI-77-025, B, (6 NRC 719, 721 (1977))

HEARINGS
see also Construction Permits, Proceedings
see also Licensing Proceedings
see also Operating Licenses, Proceedings
comments requested for discretionary grant in export license applications: CLI-77-031, A, (6 NRC 149 (1977))
failure to grant public 401-certification, reopening of record request

Facility Index

The facility index consists of an alphabetical arrangement of facility names from the issuances. The name is followed by docket number, type of hearing or petition date, type of issuance, issuance number, and full text reference. An example follows:

FACILITY INDEX

ALVIN W. WENTLE NUCLEAR PLANT, Units 1 and 2; Docket 104-117425
Licensing Uranium fuel cycle effects; 09-08-77; Memorandum and Order
ALAB-421 (6 NRC 206 (1977))
BARNWELL NUCLEAR FUEL PLANT SEPARATIONS FACILITY; BARNWELL URANIUM HEXAFLUORIDE
FACILITY; BARNWELL PLUTONIUM PRODUCT FACILITY; Docket 104-117421
Release; 02-02-77; Order; CLI-77-033 (6 NRC 361 (1977))
BEAVER VALLEY POWER STATION, Units 1 and 2; Docket 104-117412
Licensing Uranium fuel cycle effects; 09-08-77; Memorandum and Order;
ALAB-422 (6 NRC 206 (1977))
BLACK FOX NUCLEAR GENERATING STATION, Units 1 and 2; Dockets STM 50556; STM
50557
Construction Permit; 07-11-77; Order; LSP-77-046 (6 NRC 167 (1977))
CALLAWAY PLANT, Units 1 and 2; Docket STM 50463; STM 50466
Licensing Uranium fuel cycle effects; 09-08-77; Memorandum and Order;
ALAB-423 (6 NRC 206 (1977))
CATAWBA NUCLEAR STATION, Units 1 and 2; Docket 50413; 50414
Licensing Uranium fuel cycle effects; 09-08-77; Memorandum and Order;
ALAB-424 (6 NRC 206 (1977))
CHERRY HILL NUCLEAR STATION, Units 1, 2 and 3; Dockets STM 50491; STM 50492; STM
50493
Construction Permit; 07-16-77; Partial Initial Decision, Supplemental;
LSP-77-047 (6 NRC 191 (1977))
Construction Permit; 10-16-77; Decision; ALAB-440 (6 NRC 642 (1977))
Construction Permit; 12-13-77; Partial Initial Decision; LSP-77-074 (6 NRC
1314 (1977))
DAVIS-BESSEMER NUCLEAR POWER STATION, Units 1, 2 and 3; Dockets
50249; 50250; 50251
Application; 09-02-77; Memorandum and Order; ALAB-420 (6 NRC 157 (1977))
DIXIE CANYON NUCLEAR POWER PLANT, Units 1 and 2; Dockets 50275; 50276; 50277
Operating License; 09-15-77; Order; CLI-77-023 (6 NRC 455 (1977))
FLUATING NUCLEAR POWER PLANTS; Docket STM 50437
Manufacturing License; 08-01-77; Memorandum and Order; LSP-77-045 (6 NRC 249
(1977))
GENERAL ENVIRONMENTAL STATEMENT ON MIXED OXIDE FUEL; Dockets RM 505
Release; 09-02-77; Order; CLI-77-033 (6 NRC 361 (1977))
GREENE COUNTY NUCLEAR POWER PLANT; Docket 50549
Construction Permit; 09-16-77; Memorandum and Order; ALAB-434 (6 NRC 471
(1977))
Construction Permit; 10-21-77; Memorandum and Order; ALAB-439 (6 NRC 640
(1977))
HARTSVILLE NUCLEAR PLANT, Units 1A, 2A, 1B and 2B ; Docket STM 50513; STM
50519; STM 50521; STM 50521
Licensing Uranium fuel cycle effects; 09-08-77; Memorandum and Order;
ALAB-425 (6 NRC 206 (1977))
HARTSVILLE NUCLEAR PLANT, Units 1A, 2A, 1B and 2B; Dockets STM 50518; STM
50519; STM 50521; STM 50521
Construction Permit; 07-11-77; Memorandum and Order; ALAB-418 (6 NRC 1
(1977))
LIFE CREEK GENERATING STATION, Units 1 and 2; Dockets 50354; 50355
Construction Permit; 08-24-77; Decision; ALAB-429 (6 NRC 229 (1977))
Construction Permit, Compliance; 12-23-77; Order; LSP-77-073 (6 NRC 1310
(1977))

F.5.2 Quarterly Indexes (Item E.5)

Monthly NRCI's shall be cumulated, compiled and indexed for each of the following calendar quarters:

- a. January 1, 1980, thru March 31, 1980
- b. July 1, 1980, thru September 30, 1980
- c. January 1, 1981, thru March 31, 1981
- d. July 1, 1981, thru September 30, 1981 (Option Item)
- e. January 1, 1982, thru March 31, 1982 (Option Item)

The maximum number of pages contained in a quarterly index is 50. The Contractor shall prepare camera-ready copy of each quarterly index required hereunder. Both the quarterly index and the camera-ready copy shall be delivered to NRC in accordance with the delivery schedule set forth under Section H of this contract. The page-numbered camera-ready copy of the indexes should be a computer printout for issuances in 6X9-inch format. However, copy composed or prepared by word-processing is also acceptable. The cover, title page, and front matter will be added by NRC.

F.5.3 Semi-Annual Indexes (Item E.6)

Semi-annual indexes shall be prepared by the Contractor from monthly NRC's for calendar year 1979. In addition, semi-annual indexes for periods January 1, 1980, thru June 30, 1980, and July 1, 1980, thru December 31, 1980, shall be compiled from Contractor prepared quarterly indexes (see F.5.2) and monthly NRCI's (issuances for the second quarter of each semi-annual index period). Following is a summary of the periods for which semi-annual indexes are required:

- a. January 1, 1979, thru June 30, 1979
- b. July 1, 1979, thru December 31, 1979
- c. January 1, 1980, thru June 30, 1980
- d. July 1, 1980, thru December 31, 1980
- e. January 1, 1981, thru June 30, 1981 (Option Item)
- f. July 1, 1981, thru December 31, 1981 (Option Item)

For each semi-annual index prepared for the maximum number of pages contained in a semi-annual index is 100.

The Contractor shall prepare camera-ready copy of each semi-annual index required hereunder. Both the semi-annual index and camera-ready copy shall be delivered to the NRC in accordance with the delivery schedule set forth under Section H of this contract. The page-numbered camera-ready copy of the indexes should be a computer printout for issuance in 6X9-inch format. However, copy composed or prepared by word-processing is also acceptable. The cover, title page and front matter will be added by NRC. The Contractor shall also prepare a computer tape of the index entries which is compatible with the Data General Eclipse C330 Computer. The computer tape shall be delivered with the semi-annual index and camera-ready copy.

F.5.4 Cumulative Indexes

- a. Preparation of a cumulative index covering the period January 1, 1975, through December 31, 1979, from indexes already published. (Item E.7). On a cumulative basis, the maximum number of pages contained in these previously published indexes is 785.
- b. Preparation of a cumulative index LBP and ALAB decisions prior to the establishment of the NRC on January 19, 1975, from indexes already published. (Item E.8). On a cumulative basis, the number of pages contained in these previously published indexes is 450. Of these previously published index pages, 265 include Commission decision index notations. Therefore, the Contractor will be required to extract the LBP and ALAB index notations from these 265 pages.
- c. The Contractor shall prepare and provide camera-ready copy of each cumulative index required above to the Project Officer in accordance with the delivery schedule set forth under Section H of this contract. The page-numbered camera-ready copy of the indexes should be a computer printout for issuance in 6X9-inch format. However, copy composed or prepared by word-processing is also acceptable. The cover, title page and front matter will be added by NRC. The Contractor shall also prepare a computer tape of the index entries which is compatible with the Data General Eclipse C330 Computer.

SECTION G - PACKAGING AND MARKING

G.1 PACKING

All materials to be picked up and delivered hereunder shall be afforded the degree of packaging (preservation and packing) required to prevent deterioration and/or damages due to hazards of shipment, handling, and storage. Such packaging shall be accomplished in such a manner as to insure safe delivery at destination.

SECTION H - DELIVERIES OR PERFORMANCE

H.1 PERIOD OF PERFORMANCE

The period of performance under this contract shall be for a period of twelve (12) months from the award date of the contract.

H.2 PICKUP AND DELIVERY

- a. Within five (5) working days after contract award, the Contractor shall pick up the issuances for calendar year 1979, issuances for the first quarter of calendar year 1980, indexes of issuances for calendar years 1975 thru 1978, indexes of LBP and ALAB decisions prior to January 15, 1975. Draft copy of monthly issuances will be provided to the Contractor as completed during the applicable month.
- b. The contractor shall furnish the items required hereunder to the NRC in accordance with the following delivery schedule:

<u>ITEM</u>	<u>DELIVERY</u>
E.2 - Page Proofs Copy of Monthly Issuances	Within ten (10) working days of receipt of last issuance for applicable month. (Delivery requirement identical for option item E.11)
E.3 - Camera-Ready Copy of Monthly Issuances	Within two (2) working days of receipt of approved or corrected page proof. (Delivery requirement identical for option item E.12)
E.4 - List of Subject Terms	Within two (2) working days of Project Officer official request. (Delivery requirement identical for option item E.13)
E.5 - Quarterly Index (camera-ready copy)	Within fourteen (14) working days of receipt of last issuance for applicable calendar quarter. (Delivery requirement identical for option item E.14)
E.6 - Semi-Annual Indexes (camera-ready copy and computer tape)	
a. January 1, 1979 thru June 30, 1979	Within three (3) months after contract award.
b. July 1, 1979 thru December 31, 1979	Within five (5) months after contract award.
c. Calendar Year 1980	Within fourteen (14) working days of receipt of last issuance for applicable semi-annual period. (Delivery requirement identical for option item E.15)

- | <u>ITEM</u> | <u>DELIVERY</u> |
|---|--|
| E.7 - Cumulative Index for January 19, 1975 thru December (camera-ready copy and computer tape) | Within two (2) months of delivery of item E.6(b) above.
31, 1979, |
| E.8 - Cumulative Index of LBP and ALAB. decisions prior to January 19, 1975 (camera-ready copy and computer tape) | Within one (1) year after Contract award. |

H.3 PLACE OF DELIVERY

The Contractor shall deliver the items required hereunder to the NRC at the following address:

U.S. Nuclear Regulatory Commission
Division of Technical Information and Document Control
Attn: Alzonja Shepard, Record Facilities Branch, First Floor, Rm. 1713
Maryland National Bank Building
7735 Old Georgetown Road
Bethesda, MD 20014

SECTION I - INSPECTION AND ACCEPTANCE

Inspection and acceptance of the items delivered under this contract shall be performed by the Project Officer at Bethesda, Maryland. The Project Officer shall be the sole judge of the quality of work. Work not in accordance with the specifications or of unacceptable quality shall cause the job to be rejected and reported to the Contractor, who shall at no additional costs to the Government, promptly pickup the rejected work, make the necessary corrections, or remake the work, and return the corrected or remade work along with the rejection notice. Alternatively the Project Officer may at his/her sole option elect to correct or remake rejected work with NRC resources and facilities and deduct the applicable amount from invoices either payable or to become payable to the contractor.

SECTION J - SPECIAL PROVISIONS

J.1 ESTIMATED REQUIREMENTS

The quantities shown for each item of service listed in Section E of this solicitation are estimates of the amount of work which may be required and ordered hereunder. If such requirements of the Commission fail to materialize in the quantities estimated, such failure shall not constitute grounds for equitable adjustment hereunder.

J.2 CONTRACT CEILING

The contract cost ceiling for performance of work under this contract has been established at \$73,364.00. 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.

J.3 PRIVATE USE AND PROTECTION OF UNCLASSIFIED GOVERNMENT INFORMATION

- a. Except as specifically authorized by this contract, or as otherwise approved by the Contracting Officer, records or other information, documents and material furnished by the Commission to the contractor in the performance of this contract, or information developed by the contractor in the course of the work hereunder, shall be used only in connection with the work performed under this contract. The contractor shall, upon completion or termination of this contract, transmit to the Commission all records or other information, documents and material, and any copies thereof, furnished by the Commission to the contractor or developed by the contractor in the performance of this contract.

- b. The Contractor shall be responsible for safeguarding from unauthorized disclosure any information or other documents and material exempt from public disclosure by the Commission's regulations and made available to the contractor in connection with the performance of work under this contract. The contractor agrees to conform to all regulations, requirements, and directions of the Commission with respect to such material.
- c. The Contractor's duties under this clause shall not be construed to limit or affect in any way the contractor's obligation to conform to all security regulations and requirements of the Commission pertaining to classified information and material.

J.4 LATE CHARGES

For any required delivery items which have not been satisfactorily delivered within the time specified, the contractor shall be assessed a late charge of 1% (percent) of the applicable unit price for every complete 12 hour period, or fraction thereof, which the item is delinquent. This late charge shall not exceed 10% (percent) of the stated unit prices for the items involved.

J.5 OPTION FOR INCREASED QUANTITY

The Government may increase the quantity of items E.1, E.2, E.3 called for herein by any amount of units up to 10 percent of year quantities at the unit prices specified in the contract. The Contracting Officer may exercise this option by giving written notice of the Government's exercise of the option to the Contractor not later than fifteen (15) days prior to the last delivery due under the basic contract. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract.

J.6 OPTION TO EXTEND TERM OF CONTRACT

The Government may, at any time within twelve (12) months after the award date of this contract, extend the contract for a period of twelve (12) months and require the Contractor to furnish all or any part of items E.10 thru E.16 listed under SECTION E (Option Year Items) to the places and at the prices set forth herein. This option shall be exercised, if at all, by modification or telegraphic notice signed by the Contracting Officer and forwarded to the Contractor within the twelve (12) month period specified above. The Government shall give preliminary notice of its intent to exercise this option at least thirty (30) days before this contract is to expire. Such preliminary notice shall not be deemed to commit the Government to renewal. Failure to provide the above notice shall not be construed as a waiver of the Government's right to exercise this option. If the Government exercises this option, the total duration of this contract, including exercise of the option under this clause, shall not exceed twenty-four (24) months. Specifications for option year items are identical to basic year items specifications. This option, if exercised, shall be deemed to include the option provision specified in subsection J.4 above for option year items E.10, E.11 and E.12.

SECTION K - CONTRACT ADMINISTRATION DATA

K.1 PROJECT OFFICER

The Contracting Officer will designate a Project Officer for the purpose of assuring that services required under this contract are ordered and delivered in accordance therewith. Such Project Officer will be specifically designated in writing to the Contractor from the Contracting Officer, including the extent of such designee's authority.

K.2 SERVICE CONTRACT ACT WAGE DETERMINATION

The following U.S. Department of Labor Wage Determination Register are incorporated by reference and attached hereto as Attachment E.

<u>Wage Determination</u>	<u>Date</u>
79-642	July 11, 1979

K.3 GOVERNMENT FURNISHED MATERIAL

The following material shall be provided by the Government to the Contractor within the timeframes specified below and is thus designated as Government Furnished Material in accordance with this Subsection K.3.

- a. Nuclear Regulatory Issuances
(NRCI's) - Draft copies to be provided as completed during each month.
- b. NRCI's and Indexes for period January 19, 1975, thru December 31, 1979 - to be provided at time of award.
- c. Indexes for Decisions of LBP and ALAB prior to January 19, 1975 - to be provided at time of award.

K.4

BILLING INSTRUCTIONS FOR FIXED PRICE
CONTRACTS AND PURCHASE ORDERS

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 20541.

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

Frequency. The contractor shall submit monthly invoices or vouchers only after NRC's final acceptance for services rendered or products delivered in performance of the contract.

Preparation and Identification 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/COM 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, quantity, unit price, and total amount.
- (g) Weight and zone of shipment, if shipped by parcel post.
- (h) Charges for freight or express shipments, and attached prepaid bill, if shipped by freight or express.
- (i) Instructions to consignee to notify Contracting Officer of receipt of shipment.
- (j) Final invoice marked: "FINAL INVOICE"

SECTION L - GENERAL PROVISIONS

- L.1 This contract is subject to the Fixed Price Supply Contract General Provisions, dated 2/15/78, which incorporates the Standard Form 32 (Rev 4-75) General Provisions and FPR Changes and Additions to Standard Form 32 General Provisions (June 1976), attached hereto and made a part hereof by this reference.
- L.2 FPR Changes and Additions to Standard Form 32 General Provisions is further modified as follows:
- a. Clause entitled "Service Contract Act of 1965," as amended, attached hereto and forming a part hereof is added as Article No. 44.

PART III

SECTION M - LIST OF ATTACHMENTS

- A. Background
- B. Article No. 44 - Service Contract Act of 1965
- C. General Provisions
- D. NRC Contractor Organizational Conflict of Interest (41 CFR Part 20)
- E. U.S. Department of Labor Wage Determination Register No. 79-642 dated July 1979

BACKGROUND

The U. S. Nuclear Regulatory Commission is required by Section 552(a)(2) the Freedom of Information Act (5 U.S.C. 552 (a)(2)) to comply with the following:

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying--

(A) final opinions, including concurring and dissenting opinions as well as orders, made in the adjudication of cases;

* * * * *

... Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto. ... A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if--

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

The issuances to be printed and indexed are those of the LBP, ALAB

the Commission, Director's denials under Sec. 2.206 and denials of petitions for rule making.

Digests and indexes for these issuances are intended to serve as a guide for the issuances. Information elements common to the cases decided are:

- Case name (owners of facility)
- Name of facility, Docket number
- Type of hearing (for construction permit, operating license, etc.)
- Issues Raised by appellants
- Issuance number
- Type of issuance (memorandum, order, decision, etc.)
- Issuance pagination
- Legal citations (case, regulations, and statutes)
- Subject matter of issues and/or rulings.

In the indexes these information elements are displayed in one or more of seven separate formats, arranged as follows:

- Case Name Index
- Digests and Headers
- Legal Citation Index
- Index of Director's Denials Under Section 2.206
- Index of Denials of Petitions for Rule Making
- Subject Index
- Facility Index

For many years these indexes were prepared at the Technical Information Center of the Department of Energy, which is no longer in a position to continue this effort.

The work outlined here, in order of priority, consists of the following:

- a. Composition and preparation and delivery of camera-ready copy of monthly issuances in CY 1990, beginning April 1, 1980.

- b. Preparation of indexes, composition of indexes, and delivery of camera-ready copy of indexes covering the periods January-June 1979, July-December 1979, January-March 1980, January-June 1980, July-September 1980, and July-December 1980, and January-March 31, 1981, using the present format and subject headings with additional headings as needed and as determined by the indexer and user.
- c. Preparation of a cumulative index covering the period January 1975 through December 1979 using the present subject headings.
- d. Preparation of cumulative index of decisions of LBP and ALAB prior to formation of NRC, January 19, 1975.

Contract Objectives

The objective of this contract is to provide timely and complete preparation of camera-ready copy of the monthly issuances and quarterly and semiannual indexes to the issuances of the Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, the regulatory issuances of the Commission, opinions of Administrative Law Judges, Directors denials, and denials of petitions for rule making published in the Nuclear Regulatory Commission Issuances (NRCIs). This contract requires one year of issuances, indexing 2 years of issuances, and providing two cumulative indexes with an option for an additional year of issuances and indexes.

Clause No. 44

SERVICE CONTRACT ACT OF 1965, AS AMENDED (FPR 1-12.904-1)
(Contracts in Excess of \$2,500)

This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended (41 U.S.C. 351-357) applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder.

(a) Compensation. Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with his recommendation, to the Office of Special Wage Standards, Employment Standards Administration (ESA), Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) Adjustment. If, as authorized pursuant to Section 4(d) of the Service Contract Act of 1965, as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Employment Standards Administration, Department of Labor as provided in the Act.

(c) Obligation to furnish fringe benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in 29 CFR Part 4, Subparts B and C, and not otherwise.

(d) Minimum wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) Obligations attributable to predecessor contracts. If this contract succeeds a contract, subject to the Service Contract Act of 1965, as amended, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits, provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the Secretary of Labor or his authorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, or finds, after a hearing as provided in Department of Labor regulations, 29 CFR 4.10, that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a similar character in the locality.

(f) Notification to employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) Safe and sanitary working conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(h) Records. The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in subparagraphs (1) through (5) of this paragraph for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Employment Standards Administration (ESA), Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator as defined in 41 CFR 1-12.902-2(c) or his authorized representative pursuant to the Labor Standards Clause in paragraph (a) of this clause. A copy of the report required in paragraph (m)(1) of this clause shall be deemed to be such a list.

(i) Withholding of payment and termination of contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the prime Contractor such sums as he, or an appropriate officer of the Department of Labor, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) Subcontractors. The Contractor agrees to insert this clause relating to the Service Contract Act of 1965 in all subcontracts. The term "Contractor" as used in this clause in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) Service employee. As used in this clause relating to the Service Contract Act of 1965, as amended, the term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(l) Comparable rates. The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class: _____
Monetary wage--fringe benefits: _____

(m) Contractor's report. (1) If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(2) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(n) Regulations incorporated by reference. All interpretations of the Service Contract Act of 1965 expressed in 29 CFR Part 4, Subpart C, are hereby incorporated by reference in this contract.

(o) Exemptions. This clause relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by Section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, or gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department (U.S. Postal Service), the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in Section 3(d) of the Service Contract Act of 1965 to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island. It does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country;

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to Section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Pub. L. 92-473, found to be necessary and proper in the public

interest or to avoid serious impairment of the conduct of Government business;

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(p) Special employees. Notwithstanding any of the provisions in paragraphs (a) through (n) of this clause relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to Section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by Section 2(a)(1) or 2(b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or cash payments in lieu thereof required under Section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under Section 14 of the Fair Labor Standards Act of 1938, (29 U.S.C. 201 et seq.) in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(ii) The Administrator will issue certificates under the Service Contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two Acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525);

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) Any employee engaged in an occupation in which he customarily and regularly receives more than \$30 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by Section 2(a)(1) or Section 2(b)(1) of the Act, in accordance with the regulations in 29 CFR Part 531; Provided, however, That the amount of such credit may not exceed \$1.325 per hour beginning January 1, 1978, \$1.305 per hour beginning January 1, 1979, \$1.24 per hour beginning January 1, 1980 and \$1.34 per hour after December 31, 1980. If the employer pays in full cents the \$1.325 figure must be rounded down to \$1.32 and the \$1.305 figure to \$1.30, in order that the employer will not be crediting more than the permissible percentage. [End of clause.]

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 PROVISIONS

(Supply Contract)

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 supplying 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 there 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

(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. 10582, 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 89-176, September 10, 1965 (18 U.S.C. 4082(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. Code 35-45), 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, 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 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.

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 1-15 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, 35 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.

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).

- 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 sub-contract 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 if 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.

- 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 "Disputes," 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:¹ (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

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

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.

38. 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.

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/her 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.

FOR FURTHER INFORMATION CONTACT:
William T. Ward, Effluent Guidelines
Division (WH-552), Environmental
Protection Agency, 401 M Street, S.W.,
Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On
October 12, 1978, EPA proposed
regulations adding Part 434 to Title 40 of
the Code of Federal Regulations (40 FR
48830). These regulations, with
subsequent amendments, established
effluent limitations guidelines based on
use of the best practicable control
technology currently available (BPT) for
existing sources in the coal mining point
source category. These were followed,
on April 23, 1977, with final BPT effluent
limitations guidelines for this category
(42 FR 20300).

On September 12, 1977, the Agency
published proposed standards of
performance for new sources (NSPS)
within this category based on
application of the best available
demonstrated control technology (42 FR
46932). These standards of performance
were promulgated in final form on
January 12, 1978, (4 FR 2388).

In both existing source regulations
and new source performance standards
there is an exemption provided for
catastrophic precipitation events that
overwhelm properly designed and
maintained treatment facilities. The
need for such an exemption provision is
explained in the preamble to the final
existing source regulations, 42 FR 20301-
2 (April 23, 1977).

The appropriateness of EPA's
catastrophic precipitation provision is
one of the issues before the United
States Court of Appeals for the Fourth
Circuit in challenges to the existing
source BPT regulations, *Consolidation
Coal Co. et al. v. Costle, et al.*, No. 73-
1679, etc. The question of how a
catastrophic precipitation event
exemption should be worded also has
been before the Department of Interior
in its rulemaking involving
environmental standards for surface
mines under the Surface Mining Control
and Reclamation Act of 1977, Pub. L. 95-
87.

The exemption in the BPT regulations
promulgated on April 23, 1977 provides:
Any untreated overflow, increase in volume
of a point source discharge, or discharge from
a bypass system from facilities designed,
constructed, and maintained to contain or
treat the discharges from the facilities and
areas covered by this subpart which would
result from a 10-year 24-hour precipitation
event shall not be subject to the limitations
set forth in paragraph (a) of this section.

The new source performance
standards promulgated on January 12,

1979, contain an exemption provision
which reads:

Upon satisfactory demonstration by the
discharger, any overflow, increase in volume
of a discharge, or discharge from a bypass
system, resulting from a 10 year/24 hour or
larger precipitation event or from a snow
melt of equivalent volume, from facilities
designed, constructed and maintained to
contain or treat the volume of water which
would result from a 10 year/24 hour
precipitation event, shall not be subject to the
limitations set forth in paragraph (a) of this
section.

Finally, the floor surface mining
regulations, signed by the Secretary of
Interior on March 5, 1979 and creating 10
CFR Chapter VII, state in their relevant
portions:

(a) A discharge from the disturbed areas is
not subject to the effluent limitations of this
Section, if—
(1) The discharge is demonstrated by the
discharger to have resulted from a
precipitation event equal to or larger than a
10-year 24-hour precipitation event and
(2) The discharge is from facilities designed,
constructed and maintained in accordance
with the requirements of this Part.

Clearly, there are differences in the
wording of the three provisions, and yet
in effect the provisions are quite similar.
Nevertheless, in order to make EPA's
BPT regulations identical to the new
source performance standards in this
respect, and to make both EPA
regulations consistent with the Surface
Mining Regulations, EPA today is
amending the BPT regulations to the
new source performance standards. The
Agency had announced in the January
12 preamble that intention to make BPT
and new source standards identical with
respect to the catastrophic precipitation
exemption, 44 FR 2388.

In the original BPT regulations EPA
intended that the burden of
demonstrating that the exemption is
justified is on the discharger. That is
now made explicit, and is consistent
with the Surface Mining Act regulations.
There is an additional change. As a
result of the amendments announced
today, BPT regulations will—like the
other two—the exemption to
demonstration that an equal
catastrophic event occurred rather than
simply that the properly designed and
maintained containment facility
experienced an overflow or bypass.
(The Agency believes that in instances
there would have been no difference in
application of the exemption provisions
in that regard.)

In an effort to avoid disturbing final
NPODES permits that have been written
based on the BPT regulations and
possibly causing confusion and litigation
over a change in language that EPA

believes will make little if any practical
difference, the amendments announced
today will apply only to NPODES permits
issued in final form May 2, 1979.

Dated: March 27, 1979.

Charles A. Costle,
Administrator.

(§ 434.22, 434.23 and 434.42 (amended)
40 CFR 434.22(a), 434.22(b) and
434.42(b) are each amended to read as
follows:

Upon satisfactory demonstration by
the discharger, any overflow, increase in
volume of a discharge, or discharge from
a bypass system, resulting from a 10
year/24 hour or larger precipitation
event or from a snow melt of equivalent
volume, from facilities designed,
constructed and maintained to
contain or treat the volume of water which
would result from a 10 year/24 hour
precipitation event, shall not be subject to
the limitations set forth in paragraph
(a) of this section.

FR 12-10-78

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NUCLEAR REGULATORY COMMISSION

41 CFR Part 23

Contractor Organizational Conflicts of
Interest

AGENCY: Nuclear Regulatory
Commission.

ACTION: Final Rule.

SUMMARY: This regulation establishes
policies and procedures for the Nuclear
Regulatory Commission (NRC) with
respect to the avoidance of contractor
organizational conflicts of interest. The
regulation is intended to avoid,
eliminate, or neutralize contractual
relationships which might lead NRC
officers and contractors to give advice
and assistance that is not unbiased,
impartial, objective and technically
sound. Additionally, it seeks to
eliminate the opportunities for an unfair
competitive advantage that might accrue
to an NRC contractor.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT:
Edward L. Halman, Director, Division of
Contracts, Office of Administration, U.S.
Nuclear Regulatory Commission,
Washington, D.C. 20585, (301) 427-4481.

SUPPLEMENTARY INFORMATION: Section
7 of Pub. L. 95-102, the NRC
authorization Act for fiscal year 1979.

required the NRC to promulgate guidelines regarding organizational conflicts of interest. The Conference Committee stated in its report (H.R. Rep. 95-133) that the NRC guidelines could be modeled on those previously adopted by Congress for the Federal Energy Administration (FEA) and the Energy Research and Development Administration (ERDA).

On January 31, 1978, the NRC published in the Federal Register (43 FR 3253) proposed regulations on the avoidance of contractor organizational conflicts of interest. The proposed regulations incorporated the substance of the FEA and ERDA statutes recommended to NRC by Congress. Interested persons were invited to submit comments on the proposed regulations until February 21, 1978. In November, 1978 Pub. L. 95-471 added Section 170A to the Atomic Energy Act of 1954.

The language of Section 170A is substantially identical to that of the ERDA and FEA statutes upon which the NRC proposed rule was based. No substantive changes in the proposed rule are required because of the enactment of Section 170A. Since the public has already been afforded notice and the opportunity for comment upon the proposed rule, the Commission for good cause finds that additional notice and public procedures thereon is unnecessary. Accordingly, the following regulations are adopted in final form pursuant to the authority of Section 170A of the Atomic Energy Act of 1954, as amended.

The following is a brief summary of the major features of the rule. The rule sets forth two primary tests to be applied by NRC in its effort to avoid contractor organizational conflicts of interest: (1) Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased and (2) Might the contractor receive an unfair competitive advantage based on the performance of the contract? Solicitations for certain contracts will require offerors to represent whether the award of a contract would involve factual situations of the type set forth in the rule which may lead to conflicts of interest. If so, an offeror must submit information regarding its relationships so that the contracting officer may decide upon an appropriate course of action. If the contracting officer determines that a conflict of interest exists, the contracting officer may disqualify the offeror, or include clauses in the contract designed

to avoid the conflict. A procedure for waiver of the policy is provided under narrowly defined circumstances when the work cannot be performed other than by a contractor involved in a conflict. A clause will be included in contracts requiring the contractor to refrain from other work which may give rise to a conflict and giving the NRC the power to terminate the contract if a conflict is discovered after award.

In response to the comments on the proposed rule, several substantive and editorial changes have been made to the rule. The most significant comments and the responses are summarized below.

Summary of Comments and Responses

1. Three commenters requested clarification of the time period over which a conflict of interest might be considered to exist. Their comments are summarized below.

Comment: The rule does not specify a time period for industry and work for the NRC after which existing conflicts of interest would be waived.

Response: Whether prior work performed by an offeror gives rise to a conflict of interest is a question which must be dealt with in the context of the facts of each case. If, for instance, the contemplated NRC effort involves the evaluation of a product supplied to industry by an offeror the offeror will be ineligible for the contract regardless of the length of time between the furnishing of the product to industry and the award of the NRC contract. In other cases, a temporary exclusion from contracting may suffice. For example, a contractor who develops specifications for a competitive procurement may be excluded by a clause in the contract from competing for the first competitive procurement which utilizes the specifications. Similarly, a contractor, who has access to data not available to the public concerning NRC plans, policies or programs which is integral to future competitive procurements may be permitted to compete after the data is made public. In any case, the occurrence of certain events, rather than the mere passage of time, may remove a contractor from a conflict of interest situation. Each judgment will be made on an ad hoc basis using the criteria set forth in § 101-1.5403(a). Where appropriate, individual clauses can be negotiated to deal with the problems presented by a particular set of circumstances as provided in § 101-1.5403-2(A).

In addition, as a result of the above discussion, Section 101-1.5403-2(b)(2) is revised to temporarily bar the contractor who prepares specifications which will

be used in a follow-on competitive procurement of products or services covered by such specifications. This contract clause now provides that such contractor is ineligible from participating or performing the first or initial contract effort based on the specifications in question rather than restricting the contractor permanently as the rule had originally been drafted.

2. A commentator suggested NRC, through its proposed regulation, should distinguish types of contract performers as well as types of contract activities. Specifically it is pointed out that the nature and diversification of the work performed by an Independent Contracting Research Organization (ICRO) needs to be evaluated according to a different set of conflict of interest standards than a commercial contractor.

Comment: The commentator believes that the work of an ICRO would lose its independence and objectivity by the restrictions placed on it by the proposed NRC regulation.

Response: There is nothing inherent in the nature of ICRO's which would prevent conflicts of interest from arising. While ICRO's do not make a profit as such, they still depend upon government and industry for their business and compete with other firms for this business. The NRC recognizes that enlightened self-interest may militate against a firm yielding to a motive for bias but cannot permit the existence of such a motive, regardless of the integrity of its contractors. It is hoped that this rule will contribute to, rather than decrease, the independence and objectivity of NRC contractors.

3. One commentator expressed the belief that the proposed regulations do not recognize the autonomous nature of ICRO laboratories.

Response: If NRC is assured that affiliates operate independently; that technical controls do not emanate from a common hierarchy; that legally each affiliate is autonomous, then ICRO affiliates will be treated independent of one another for conflict of interest purposes. If NRC's analysis reveals that there is not autonomy between affiliates or components of a parent company, then the conflict of interest rules would be applicable with respect to the relationship between the ICRO and its affiliates.

4. A commentator suggested that adherence to the Representation Statement proposed by GAPP is far less cumbersome and more manageable than the analogous § 101-1.5404(b) in the NRC

proposed regulation because it allows the contractor to make its own determination as to possible conflicts.

Response: It is NRC's intention to require offerors to disclose relationships such as those outlined in § 20-1.1403(b) rather than reaching their own conclusions regarding the conflict of interest implications of those relationships. NRC believes that it is the responsibility of the government to evaluate potential conflict of interest relationships. The situations set forth in § 20-1.1403(b)(1) are intended to assist the offeror in completing the representation required by Section 20-1.1404(b).

5. One commenter questioned the absence of "development" from the definition of "researcher" in § 20-1.1403(b).

Response: Within the present scope of its mission, NRC does not undertake development. The existing definitions and scope of the rule adequately cover the activities of NRC in the research field.

6. A commenter asked that there be a clarification of the termination method which would result from the application of this proposed regulation.

Response: Inasmuch as this regulation will fit into the framework of a specific contract, the contractor's procedural and appeal rights thereunder will be covered by the applicable contract clause. The rule has been modified in § 20-1.1403-1(g) to make clear the right of the NRC to terminate for default in those circumstances where a contractor's nondisclosure or erroneous representation amounts to bad faith.

7. Two commenters feel that NRC has never had a significant situation or relationship to which the proposed regulation would apply and which has worked to NRC's detriment.

Response: The NRC is required by law to formalize through the rule making procedure its standards regarding conflicts of interest. The fundamental concepts found in the rule have always been applied by the Commission. In fact, the NRC has had to resolve organizational conflict of interest situations, which otherwise could have materially and adversely affected NRC interests.

8. Three commenters suggested that the proposed rule will work to the disadvantage of the competitive process by excluding those contractors who have gained experience by virtue of prior NRC contracts.

Response: These commenters are equating "unfair" competitive advantage with the normal increase in expertise brought about by virtue of the

experience gained while performing a contract. This rule is not aimed at the latter. Rather, it is aimed at unfair competitive advantage which, for example, might accrue to one contractor being privy to information not available to the public.

9. Two commenters recommended that since they are already operating under the Department of Energy (DOE) conflict of interest regulations any additional regulations would be superfluous.

Response: Because of the protection already afforded by DOE regulations, the NRC-DOE Memorandum of Understanding and NRC Bulletin 1902, it is NRC's intention not to impose these regulations on interagency agreements between DOE and NRC. Provisions directed at avoiding conflicts of interest will be included in agreements with agencies other than DOE as appropriate. Section 20-1.1401(c) has been added to delineate the scope of the rule.

10. One commenter expressed the view that Government-Owned Contractor-Operated (GOCO) facilities should be exempt from NRC's proposed conflict of interest regulations.

Response: There is nothing inherent in the supervision and control by a government agency over the conduct and activities of a contractor which would prevent conflicts of interest from arising. However, it should be pointed out that GOCO facilities performing work under interagency task orders with DOE will be governed by the DOE conflict of interest rule.

11. One commenter verbally inquired whether it was the intent of the proposed rule to cover NRC's licensing procedures for nuclear power plants.

Response: 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 governmental separate procedures for avoiding conflicts of interest will be employed in such agreements, as appropriate.

12. One commenter expressed concern that strict application of the NRC proposed regulations will preclude architect-engineer firms from securing additional work beyond the initial phase of a particular project in which they were involved. It is pointed out that this restriction will be costly and time

consuming to other phases of the same project.

Response: NRC believes, in view of the clear intention of the regulation, that it would be manifestly inappropriate to grant a class exemption for architect-engineer services. The purpose of the regulation, as intended by the Congress and the Commission, was to avoid precisely the type of relationship the commenter envisioned. That intention is to preclude a contractor from being in the position of evaluating his own previous work as a condition precedent to the performance of a related follow-on effort.

13. One commenter stated that the Commission in promulgating the proposed regulation has attempted to establish requirements that exceed the intent of Pub. L. 95-501, October 1977 directing the Commission to "promulgate guidelines" (Italics supplied) and recommends that NRC adopt the guidelines found in Appendix G of the Armed Services Procurement Regulations (ASPR).

Response: The Commission's regulations setting forth conflict of interest guidelines are consistent with and not in derogation of the mandate given to it by the Congress. While Pub. L. 95-509 directed the Commission to "promulgate guidelines," the Conference Report, H.R. Rep. 95-784, specifically stated that the Commission's guidelines could be modeled on those which Congress previously adopted for the FEA and ERDA. In Pub. L. 95-601, Congress added Section 170A to the Atomic Energy Act of 1954, using language similar to that applicable to FEA and ERDA, requiring the Commission to adopt a rule on conflict of interest. It is the judgment of the Commission that the guidelines in ASPR Appendix G would not satisfy the requirements of Section 170A of the Atomic Energy Act.

14. Two commenters believe that the references throughout the proposed rule aimed at requiring offerors to disclose their "potential" conflicts of interest are too broad and should be limited to avoiding "actual" conflicts of interest only.

Response: The rule is concerned ultimately with a determination as to whether an actual conflict of interest exists. An offeror or contractor may not be eliminated from consideration for award if a conflict of interest relationship is determined to be remote or theoretical. In Section 20-1.1401(b), we state the ultimate test: "If the contractor, if awarded the contract, be placed in a position where its judgment may be biased or where it may have an

unfair advantage? Likewise, in Section 20-1.5405, the regulation states that after evaluating all information, a contracting officer must determine whether a conflict of interest exists. The term "potential conflict of interest" defined in § 20-1.5402(j) is used throughout the rule merely to assist and guide the offeror and the NRC in their deliberations as to whether sufficient information is available to make a proper determination.

In addition to changes brought about by comments received and discussed above, additional staff recommendations account for the deletion of § 20-1.5405(b)(3). It is the view of NRC that since its functions are

a particular industry to benefit from a contract even though the offeror or contractor as part of that industry would receive no special benefits is remote. This situation would be more likely to arise in production or developmental contracts not commonly associated with NRC's mission. Also, the word "future" in § 20-1.5405(b)(2)(i), (ii), and (iii), describing situations or relationships which may give rise to organizational conflicts of interest is deleted. Its impact was more of form rather than substance and does not materially assist offerors or contractors.

15. Two commentors feel that application of the rule will severely restrict competition to the point that new firms or those with minimal experience and ability will be the primary sources for NRC contract work to the detriment of NRC's research goals.

Response: Commentors assume that work for the regulated industry automatically excludes a firm from performing under an NRC contract. The NRC does not believe that the thrust of these rules will impair industry's participation or otherwise impede the competitive process. In this connection, § 20-1.5403(c) is illustrative of the results one might expect from judicious application of this rule to contractors who perform work for both the regulated industry and the NRC.

Summary of Changes

(3) The authority line is revised to reflect passage of Pub. L. 95-601, directing NRC to promulgate a rule on conflicts of interest. Pub. L. 95-601 added Section 170A to the Atomic Energy Act of 1954, as amended.

(b) Revise § 20-1.5402(f) to read "Contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their

successor in interest, including its chief executive, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the United States of America." "Co-sponsor" and "successors in interest" have been added to the definition of contractor to bring these legal entities within purview of the rule, consistent with the contract clause definition set forth in § 20-1.5402(f).

(c) Section 20-1.5403(a) is revised to indicate that a determination of unfair competitive advantage must begin by asking the question might an offeror accrue an unfair competitive advantage by virtue of the award.

of interest' has been added to § 20-1.5402(j) to clarify the process by which the NRC seeks to deal with actual conflicts of interest.

(e) Add a new subparagraph (c) to § 20-1.5401 to reflect that the conflict of interest rule applies to contractors and offerors only and does not apply to individuals who have other relationships with NRC (e.g., parties to a licensing proceeding), the acquisition of consulting services through the personnel appointment process, or interagency agreements.

(f) Revise § 20-1.5402(e) to read "For the purpose of this policy contract means any contract, agreement, or other arrangement with the NRC except as provided in § 20-1.5401(c)."

(g) Section 20-1.5403(b) has been restructured. The situations and relationships have been subdivided into two categories—(b)(1) and (b)(2). The first category is aimed at the disclosure of information about those situations which are essentially within the purview of the offeror or contractor's knowledge. The second category deals with those situations which by their nature are already known to the NRC and warrant further inquiry. Also, the proposed § 20-1.5403(b)(3) dealing with general benefit to the industry is deleted because it falls outside the nature of the Commission's activity. Finally, the word "future" is deleted from § 20-1.5403(b)(2)(i), (ii), and (iii).

(h) Add an introductory sentence to § 20-1.5403(c) to read "The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations."

(i) A new example is added as § 20-1.5403(c)(5). This example represents a current, typical situation taken from experience.

(j) Section 20-1.5405-1(f) is revised to read "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." The words "proscriptions against nondisclosure" are grammatically incorrect. Additionally, the section now consolidates the remedy provided in § 20-1.5405-1(d)(iii), which is deleted, and makes clear that the remedies are deemed to include termination of bid.

(k) Section 20-1.5405-2(a) is revised to provide for the use of special contract provisions for either avoidance or neutralization of conflicts, as appropriate. In the case of neutralization, the rule makes clear that a waiver must first be obtained.

(l) Revise § 20-1.5405-2(b)(2) by deleting the word "any" after the word "in" and before the word "contractual" and insert in lieu thereof the words "the initial." As restructured, the contract clause would bar a contractor from participating or performing the initial (first) contract effort based on his drafting of the specifications rather than declaring such contractor permanently ineligible to participate in all anticipated follow-on efforts.

(m) Because the term "subcontractor" excludes supply subcontracts from the rule, language is deleted from § 20-1.5410 as superfluous.

(n) Section 20-1.5411 is revised to reflect the standard required by statute to be applied in the granting of a waiver, namely, that it is in the best interest of the United States. The third element necessary for waiver, that appropriate measures can be employed to neutralize the conflict, is changed to refer to conflicts in general rather than to the particular case where the conflict may result in biased performance of the work.

(o) Section 20-1.5412 is revised to make clear that the remedy provided in this section is debarment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5, United States Code, the following Part 20 to Title 41 Code of Federal Regulations is hereby adopted and published as a document subject to codification.

PART 20-1—GENERAL

Subpart 20-1.54—Contractor Organizational Conflicts of Interest

- See
- 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. 2, Pub. L. 95-601, adding sec. 208A to Pub. L. 95-601, 52 Stat. 2714 as amended (42 U.S.C. ch. 20).

§ 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 § 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 1-1.505-1(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 which suggests (indicates) that an actual conflict of interest may arise from award of a proposed contract. The term "potential conflict of interest" does not signify those situations which merit investigation prior to contract award in order to ascertain whether award would give rise to an actual conflict of interest which must be reported to the contractor of fear 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 § 20.11305-2 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 utilities. Some 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 a 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 normally 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 § 20.11305(b)(1)(ii), 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 § 20.11305-1(c) would preclude ABC Corp. from accepting work during the term of the NRC contract which could create a conflict of interest.

(c) Other considerations. (1) The fact that the NRC can identify and later void, 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.

§ 25-1.5404 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

(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 § 25-1.5402(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 25-1.5402(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 § 25-1.5411.

(2) The refusal to provide the representation required by § 25-1.5404(b) or upon request of the contracting officer the facts required by § 25-1.5404(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 may also 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 paragraph (b) of this section with respect to invitation for bids will be considered to be a minor informality and the offeror will be permitted to correct the omission.

§ 25-1.5405 Contract clauses

§ 25-1.5405-1 General contract clause

All contracts of the types set forth in § 25-1.5404(b) shall include the following clause:

(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 § 25-1.5402(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

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 25-1.5402(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. 93-502), 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. 93-502), 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

nonreproduction contract previously performed by the contractor.

(2) Software exclusion clause.
(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 in section (i) in the clause set forth in § 25-1.5405-1 when it is determined that award of a follow-on contract would constitute an organizational conflict of interest.

(1) 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

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

(c) Award the contract under the waiver provision of § 25-1.5411.

§ 25-1.5407 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 § 25-1.5405, the contracting officer will take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with § 25-1.5411, neutralize the effects of the identified conflict.

(1) Subcontracts. Except as provided in 41 CFR 101-11.600(b), 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.

(2) Remedies. For breach of any of the above prescriptions 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 and 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.

(3) 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 § 25-1.5411.

25-1.5405-2 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 § 25-1.5411, 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:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related

contract 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.

§ 25-1.5406 Evaluation, findings, and contract award.

The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the representation requirements of § 25-1.5404(b) and other relevant information. After evaluating this information against the criteria of § 25-1.5403, 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,

§ 25-1.5410 Subcontracts.

The contracting officer shall require offerors and contractors to submit a representation statement in accordance with § 25-1.5404(b) from subcontractors and consultants. The contracting officer shall require the contractor to include contract clauses in accordance with § 25-1.5405 in consultant agreements or subcontracts involving performance of work under a prime contract covered by this subsection.

§ 25-1.5411 Waiver.

(a) 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.

(b) 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.

107-1.1472 Remedies.

In addition to such other remedies as may be permitted by law or contract for a breach of the restrictions in this support 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.

Edward L. Galt,

Secretary of the Commission.

FR Doc. 79-1023 Filed 3-29-79; 8:45 am

MAILING CODE 1070-1146

TO OPERATE OVER TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY is amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:53 p.m., March 31, 1979.

(49 U.S.C. (10504-10505 and 11122-11123).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7340, Telex 39-6742.

Decided March 27, 1979.

Upon further consideration of Service Order No. 1220 (42 FR 40390, 43 FR 14021 and 43333), and good cause appearing therefor:

It is ordered, that Service Order No. 1220, § 1033.1029 The Chesapeake and Ohio Railway Company Authorized To Operate Over Tracks of Consolidated Rail Corporation be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:53 p.m., March 31, 1979.

(49 U.S.C. (10504-10505 and 11122-11123).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Harman, Jr.,
Secretary

(S.D. No. 1220, Amend. No. 2)

FR Doc. 79-1023 Filed 3-29-79; 8:45 am

MAILING CODE 1070-1146

COMMISSION

49 CFR Part 1033

Car Service; Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka, and Santa Fe Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 4 to Service Order No. 1220.

SUMMARY: The Missouri Pacific's line between Winfield, Kansas, and Arkansas City, Missouri, has been damaged by flooding and is inoperable. Service Order No. 1220 authorizes the Missouri Pacific to operate over parallel tracks of the Atchison, Topeka and Santa Fe between these points in order to provide continued railroad service to shippers served by the undamaged portions of this line. Service Order No. 1220 is published in full in volume 42 of the Federal Register at page 34833. Amendment No. 4 extends this order until modified or vacated by order of this Commission.

DATE: Effective 11:53 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7340, Telex 39-6742.

Dated March 23, 1979.

Upon further consideration of Service Order No. 1220 (42 FR 40393, 43 FR 14021 and 43333), and good cause appearing therefor:

It is ordered, that Service Order No. 1220, § 1033.1021 MISSOURI PACIFIC RAILROAD COMPANY AUTHORIZED

to operate over tracks of the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Harman, Jr.,
Secretary

(S.D. No. 1220, Amend. No. 4)

FR Doc. 79-1023 Filed 3-29-79; 8:45 am

MAILING CODE 1070-1146

49 CFR Part 1033

Car Service; The Chesapeake and Ohio Railway To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 3 to Service Order No. 1220.

SUMMARY: Service Order No. 1220 authorizes the Chesapeake and Ohio Railway to operate over tracks of Consolidated Rail Corporation between Hallett, Ohio, and Walbridge, Ohio, to avoid congestion on the tracks of the Toledo Terminal Railroad Company formerly used by the Chesapeake and Ohio to traverse this territory. Service Order No. 1220 is published in full in volume 42 of the Federal Register at page 43253. Amendment No. 3 to Service Order No. 1220 extends this order until modified or vacated by order of this Commission.

DATE: Effective 11:53 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

49 CFR Part 1033

Car Service; Lanawee County Railroad Co., Inc. To Operate Over Tracks of Consolidated Rail Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 5 to Service Order No. 1220.

SUMMARY: The Lanawee County Railroad operates two separate lines of railroad in the vicinity of Grosvenor, Michigan. Service Order No. 1220 authorizes the Lanawee County Railroad to operate over 3.5 miles of a line of the

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 By direction of the Secretary of Labor

Xavier M. Vela
 Administrator, Wage and Hour Division

LOCALITY	State: <u>District of Columbia *</u>
	Area: <u>District of Columbia</u>

Wage determination number: <u>79-641</u>	Date: <u>July 11, 1978</u>
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Class of service employee	Minimum hourly wage	Fringe benefit payments			
		Health & Welfare	Vacation	Holiday	Other

Supersedes 78-623 dated June 30, 1978

1. Clerk, accounting, class A	5.76
2. Clerk, accounting, class B	4.61
3. Clerk, file, class A	4.93
4. Clerk, file, class B	4.55
5. Clerk, file, class C	4.09
6. Clerk, order	5.05
7. Clerk, payroll	5.43
8. Key punch operator, class A	4.92
9. Key punch operator, class B	4.46
10. Messenger	4.73
11. Secretary, class A	7.23
12. Secretary, class B	6.77
13. Secretary, class C	6.21
14. Secretary, class D	6.07
15. Stenographer, general	5.21
16. Stenographer, senior	6.17
17. Switchboard operator	3.86
18. Switchboard operator - receptionist	4.70
19. Transcribing - machine operator	5.45
20. Typist, class A	4.70
21. Typist, class B	4.43
22. Computer operator, class A	7.15
23. Computer operator, class B	6.36
24. Computer operator, class C	5.25

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 By direction of the Secretary of Labor

Xavier M. Vela
 Administrator, Wage and Hour Division

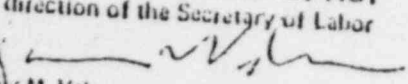
LOCALITY	State: District of Columbia *	Co
	Area: District of Columbia	CD1
Wage determination number: 73-641		Date: Jul 11 1971

Class of service employee	Minimum hourly wage	Fringe benefit payments			
		Health & Welfare	Vacation	Holiday	Other
25. Computer programmer, class A	\$9.60 1/				
26. Computer programmer, class B	7.88 1/				
27. Computer programmer, class C	6.60 1/				
28. Drafter, class A	8.53				
29. Drafter, class B	6.79				
30. Drafter, class C	5.47				
31. Electronics technician, class A	8.92				
32. Electronics technician, class B	7.18				
33. Electronics technician, class C	6.30				
34. Technical Illustrator	7.18				
Fringe benefits applicable to classes of service employees engaged in contract performance:		2/	3/	4/	

- 1/ Does not apply to employees employed in a bona fide executive, administrative, or professional capacity, as defined and delineated in 29 CFR Part 541. (See section 4.156, 29 CFR Part 4.)
- 2/ \$.21 an hour or \$8.40 a week or \$36.40 a month.
- 3/ 2 weeks paid vacation after 1 year of service with a contractor or successor. Length of service includes the whole span of continuous service with the present (successor) contractor wherever employed, and with predecessor contractors in the performance of similar work at the Federal facility. (Reg. 4.171(a)(2).)
- 4/ 9 paid holidays per year: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.)

* This wage determination also applicable to:
 Virginia - Arlington, Fairfax, Loudoun and Prince William Counties; and independent cities of Alexandria, Fairfax, and Falls Church
 Maryland - Charles, Montgomery and Prince Georges Counties

REGISTER OF WAGE DETERMINATIONS UNDER
 THE SERVICE CONTRACT ACT
 By direction of the Secretary of Labor


 Xavier M. Vela
 Administrator, Wage and Hour Division

LOCALITY	State: <u>District of Columbia *</u>	09 001		
	Area: <u>District of Columbia</u>			
Wage determination number: <u>79-041</u>		Date: <u>III 11 1979</u>		
Class of service employee	Minimum hourly wage	Fringe benefit payments		
		Health & Welfare	Vacation	Holiday

Any class of service employee required in the performance of the contract but not listed above shall be classified by the contractor so as to provide a reasonable relationship between such classes and those listed above, and shall be paid such monetary wages as are determined by agreement (evidenced in writing) of the interested parties, who shall be deemed to be the contracting agency, the contractor, and the employees who will perform on the contract or their representatives. In the absence of an agreement, the question of proper conformable wage rates is to be submitted to the Department of Labor by the contracting officer for a final determination. (See Section 4.6(b) of Regulations 29 CFR 4).

Appendix B. Occupational Descriptions

The primary purpose of preparing job descriptions for the Bureau's wage surveys is to assist its field staff in classifying into appropriate occupational workers who are employed under a variety of payroll titles and different work arrangements from establishment to establishment and from area to area. This permits the grouping of occupational wage rates representing comparable job content. Because of this emphasis on interestablishment and interarea comparability of occupational content, the Bureau's job descriptions may differ significantly from those in use in individual establishments or those prepared for other purposes. In applying these job descriptions, the Bureau's field economists are instructed to exclude working supervisors; apprentices; learners; beginners; and part-time, temporary, and probationary workers. Handicapped workers whose earnings are reduced because of their handicap are also excluded. Trainees are excluded from the survey except for those receiving on-the-job training in one of the lower level professional and technical occupations.

Office

SECRETARY

Assigned as a personal secretary, normally to one individual, maintains a close and highly responsive relationship to the day-to-day activities of the supervisor. Works fairly independently receiving a minimum of detailed supervision and guidance. Performs varied clerical and secretarial duties requiring a knowledge of office routine and understanding of the organization, programs, and procedures related to the work of the supervisor.

Exclusions

Not all positions that are titled "secretary" possess the above characteristics. Examples of positions which are excluded from the definition are as follows:

Listed below are several occupations for which revised descriptions or titles are being introduced in this survey:

Order clerk
Payroll clerk
Secretary
Switchboard operator
Switchboard operator-receptionist
Transcribing-machine typist
Machine tool operator (toolroom)

The Bureau has discontinued collecting data for tabulating-machine operator. Workers previously classified as watchmen are now classified as guards under the revised description.

SECRETARY—Continued

Exclusions—Continued

- a. Positions which do not meet the "personal" secretary concept described above;
- b. Stenographers not fully trained in secretarial-type duties;
- c. Stenographers serving as office assistants to a group of professional, technical, or managerial persons;
- d. Assistant-type positions which entail more difficult or more responsible technical, administrative, or supervisory duties which are not typical of secretarial work, e.g., Administrative Assistant, or Executive Assistant;

Listed below are several occupations for which revised descriptions or titles are being introduced in this survey:

Tool and die maker
Guard
Shipper and receiver
(previously surveyed as shipping and receiving clerk)
Truckdriver

Exclusions—Continued

- e. Positions which do not fit any of the situations listed in the sections below titled "Level of Supervisor," e.g., secretary to the president of a company that employs, in all, over 5,000 persons;
- f. Trainees.

Classification by Level

Secretary jobs which meet the above characteristics are matched at one of five levels according to (a) the level of the secretary's supervisor within the company's organizational structure and, (b) the level of the secretary's responsibility. The chart following the explanations of these two factors indicates the level of the secretary for each combination of the factors.

A of Secretary's Supervisor (LS)

Secretaries should be matched at one of the four LS levels described below according to the level of the secretary's supervisor within the company organizational structure.

LS-1 a. Secretary to the supervisor or head of a small organizational unit (e.g., fewer than about 25 or 30 persons); or

b. Secretary to a nonsupervisory staff specialist, professional employee, administrative officer or assistant, skilled technician or expert. (NOTE: Many companies assign stenographers, rather than secretaries as described above, to this level of supervisory or nonsupervisory worker.)

LS-2 a. Secretary to an executive or managerial person whose responsibility is not equivalent to one of the specific level situations in the definition for LS-3, but whose organizational unit normally numbers at least several dozen employees and is usually divided into organizational segments which are often, in turn, further subdivided. In some companies, this level includes a wide range of organizational echelons; in others, only one or two; or

b. Secretary to the head of an individual plant, factory, etc., (or other equivalent level of official) that employs, in all, fewer than 5,000 persons.

LS-3 a. Secretary to the chairman of the board or president of a company that employs, in all, fewer than 100 persons; or

b. Secretary to a corporate officer (other than chairman of the board or president) of a company that employs, in all, over 100 but fewer than 5,000 persons; or

c. Secretary to the head (immediately below the officer level) over either a major supracorporate functional activity (e.g., marketing, research, operations, industrial relations, etc.) or a major geographic or organizational segment (e.g., a regional headquarters; a major division) of a company that employs, in all, over 5,000 but fewer than 25,000 employees; or

d. Secretary to the head of an individual plant, factory, etc., (or other equivalent level of official) that employs, in all, over 5,000 persons; or

Classification by Level—Continued

e. Secretary to the head of a large and important segment (e.g., a middle management supervisor or regional segment often involving as many as several persons) of a company that employs, in all, over 25,000;

LS-4 a. Secretary to the chairman of the board or president of a company that employs, in all, over 100 but fewer than 5,000 persons;

b. Secretary to a corporate officer (other than the chairman of the board or president) of a company that employs, in all, over 5,000 but fewer than 25,000 persons; or

c. Secretary to the head, immediately below the corporate officer level, of a major segment or subsidiary of a company that employs, in all, over 25,000 persons.

NOTE: The term "corporate officer" used in the above LS definitions refers to those officials who have a significant corporatewide policymaking role with regard to major company activities. The term "vice president," though normally indicative of this role, does not in all cases identify such positions. Vice presidents whose primary responsibility is to act personally on individual cases or transactions (e.g., approve or deny individual loan or credit actions; administer individual trust accounts; directly supervise a clerical staff) are not considered to be "corporate officers" for purposes of applying the definition.

Level of Secretary's Responsibility (LR)

This factor evaluates the nature of the work relationship between the secretary and the supervisor, and the extent to which the secretary is expected to exercise initiative and judgment. Secretaries should be matched at LR-1 or LR-2 described below according to their level of responsibility.

Level of Responsibility 1 (LR-1)

Performs varied secretarial duties including or comparable to most of the following:

a. Answers telephones, greets personal callers, and opens incoming mail.

b. Answers telephone requests which have standard answers. May reply to requests by sending a form letter.

c. Reviews correspondence, memoranda, and reports prepared by others for the supervisor's signature to ensure procedural and typographical accuracy.

d. Maintains supervisor's calendar and makes appointments as instructed.

e. Types, takes and transcribes dictation, and files.

Level of Responsibility 2 (LR-2)

Performs duties described under LR-1 and, in addition performs tasks requiring greater judgment, initiative, and knowledge of office functions including or comparable to most of the following:

- a. Screens telephone and personal callers, determining which can be handled by the supervisor's subordinates or other offices.
- b. Answers requests which require a detailed knowledge of office procedures or collection of information from files or other offices. May sign routine correspondence in own or supervisor's name.
- c. Compiles or assists in compiling periodic reports on the basis of general instructions.
- d. Schedules tentative appointments without prior clearance. Assembles necessary background material for scheduled meetings. Makes arrangements for meetings and conferences.
- e. Explains supervisor's assignments to other employees in supervisor's unit. (Also typists, stenographers, and filers.)

The following chart shows the level of the secretary for each LR and LR combination.

Level of secretary's supervisor	Level of secretary's responsibility
LR-1	LR-2
Class E	Class D
Class D	Class C
Class C	Class B
Class B	Class A

STENOGRAPHER

Primary duty is to take dictation using shorthand, and to transcribe the dictation. May also type from written copy. May operate from a stenographic pool. May occasionally transcribe from voice recordings (if primary duty is transcribing from recordings, see Transcribing-Machine Typist).

NOTE: This job is distinguished from that of a secretary in that a secretary normally works in a confidential relationship with only one manager or executive and performs more responsible and discretionary tasks as described in the secretary job definition.

Stenographer, General

Dictation involves a normal routine vocabulary. May maintain files, keep simple records, or perform other relatively routine clerical tasks.

Stenographer, Senior

Dictation involves a varied technical or specialized vocabulary such as in legal briefs or reports on scientific research. May also set up and maintain files, keep records, etc.

OR

Performs stenographic duties requiring significantly greater independence and responsibility than stenographer, general, as evidenced by the following: Work requires a high degree of stenographic speed and accuracy; a thorough working knowledge of general business and office procedures; and of the specific business operations, organization, policies, procedures, files, workflow, etc. Uses this knowledge in performing stenographic duties and responsible clerical tasks such as maintaining follow-up files; assembling material for reports, memoranda, and letters; composing simple letters from general instructions; reading and routing incoming mail; and answering routine questions, etc.

TRANSCRIBING-MACHINE TYPIST

Primary duty is to type copy of voice recorded dictation which does not involve varied technical or specialized vocabulary such as that used in legal briefs or reports on scientific research. May also type from written copy. May maintain files, keep simple records, or perform other relatively routine clerical tasks. (See Stenographer definition for workers involved with shorthand dictation.)

TYPIST

Uses a typewriter to make copies of various materials or to make out bills after calculations have been made by another person. May include typing of stenilla, mate, or similar material for use in duplicating processes. May do clerical work involving little special training, such as keeping simple records, filing records and reports, or sorting and distributing incoming mail.

Class A. Performs one or more of the following: Typing material in final form when it involves combining material from several sources; or responsibility for correct spelling, syllabication, punctuation, etc., of technical or unusual words or foreign language material; or planning layout and typing of complicated statistical tables to maintain uniformity and balance in spacing. May type routine form letters, varying details to suit circumstances.

Class B. Performs one or more of the following: Copy typing from rough or clear drafts; or routine typing of forms, insurance policies, etc.; or setting up simple standard tabulations; or copying more complex tables already set up and spaced properly.

FILE CLERK

Files, classifies, and retrieves material in an established filing system. May perform clerical and manual tasks required to maintain files. Positions are classified into levels on the basis of the following deficiencies.

CLERK—Continued

Class A. Classifies and indexes file material such as correspondence, reports, technical documents, etc., in an established filing system using a number of varied subject matter files. May also file this material. May keep records of various types in conjunction with the files. May lead a small group of lower level file clerks.

Class B. Sorts, codes, and files unclassified material by simple subject matter headings or partly classified material by finer subheadings. Prepares simple related index and cross-reference aids. As requested, files clearly identified material in files and forwards material. May perform related clerical tasks required to maintain and service files.

Class C. Performs routine filing of material that has already been classified or which is easily classified in a simple serial classification system (e.g., alphabetical, chronological, or numerical). As requested, files readily available material in files and forwards material; and may perform withdrawal charge. May perform simple clerical and manual tasks required to maintain and service files.

SENDER

Performs various routine duties such as running errands, operating office machines such as sealers or mailers, opening and distributing mail, and other minor clerical work. Exclude positions that require operation of a motor vehicle as a significant duty.

SWITCHBOARD OPERATOR

Operates a telephone switchboard or console used with a private branch exchange (PBX) system to relay incoming, outgoing, and intrasystem calls. May provide information to callers, record and transmit messages, keep record of calls placed and toll charges. Besides operating a telephone switchboard or console, may also type or perform routine clerical work (typing or routine clerical work may occupy the major portion of the worker's time, and is usually performed while at the switchboard or console). Chief or lead operators in establishments employing more than one operator are included. For an operator who also acts as a receptionist, see Switchboard Operator-Receptionist.

SWITCHBOARD OPERATOR-RECEPTIONIST

At a single-position telephone switchboard or console, acts both as an operator—see Switchboard Operator—and as a receptionist. Receptionist's work involves such duties as greeting visitors; determining nature of visitor's business and providing appropriate information; referring visitor to appropriate person in the organization or contacting that person by telephone and arranging an appointment; keeping a log of visitors.

ORDER CLERK

Receives written or verbal customers' purchase orders for material or merchandise from customers or sales people. Work typically involves one or more of the following duties: Quoting prices; determining availability of ordered items and suggesting substitutes when necessary; advising expected delivery date and method of delivery; recording order and customer information on order sheets; checking order sheets for accuracy and

ORDER CLERK—Continued

adequacy of information recorded; ascertaining credit rating of customer; furnishing customer with acknowledgement of receipt of order; following up to see that order is delivered by the specified date or to let customer know of a delay in delivery; maintaining order files; checking shipping invoice against original order.

Exclude workers paid on a commission basis or whose duties include any of the following: Receiving orders for services rather than for material or merchandise; providing customers with consultative advice using knowledge gained from engineering or extensive technical training; emphasizing selling skills; handling material or merchandise as an integral part of the job.

Positions are classified into levels according to the following definitions:

Class A. Handles orders that involve making judgments such as choosing which specific product or material from the establishment's product lines will satisfy the customer's needs, or determining the price to be quoted when pricing involves more than merely referring to a price list or making some simple mathematical calculations.

Class B. Handles orders involving items which have readily identified uses and applications. May refer to a catalog, manufacturer's manual, or similar document to insure that proper item is supplied or to verify price of ordered item.

ACCOUNTING CLERK

Performs one or more accounting clerical tasks such as posting to registers and ledgers; reconciling bank accounts; verifying the internal consistency, completeness, and mathematical accuracy of accounting documents; assigning prescribed accounting distribution codes; examining and verifying for clerical accuracy various types of reports, lists, calculations, postings, etc.; or preparing, simple or assisting in preparing more complicated journal vouchers. May work in either a manual or automated accounting system.

The work requires a knowledge of clerical methods and office practices and procedures which relates to the clerical processing and recording of transactions and accounting information. With experience, the worker typically becomes familiar with the bookkeeping and accounting terms and procedures used in the assigned work, but is not required to have a knowledge of the formal principles of bookkeeping and accounting.

Positions are classified into levels on the basis of the following definitions:

Class A. Under general supervision, performs accounting clerical operations which require the application of experience and judgment, for example, clerically processing complicated or nonrepetitive accounting transactions, selecting among a substantial variety of prescribed accounting codes and classifications, or tracing transactions through previous accounting actions to determine source of discrepancies. May be assisted by one or more class B accounting clerks.

Class B. Under close supervision, following detailed instructions and standardized procedures, performs one or more routine accounting clerical operations, such as posting to ledgers, cards, or worksheets.

where identification of items and locations of postings are clearly indicated; checking accuracy and completeness of standardized and repetitive records or accounting documents; and coding documents using a few prescribed accounting codes.

BOOKKEEPING-MACHINE OPERATOR

Operates a bookkeeping machine (with or without a typewriter keyboard) to keep a record of business transactions.

Class A. Keeps a set of records requiring a knowledge of and experience in basic bookkeeping principles, and familiarity with the structure of the particular accounting system used. Determines proper records and distribution of debit and credit items to be used in each phase of the work. May prepare consolidated reports, balance sheets, and other records by hand.

Class B. Keeps a record of one or more phases or sections of a set of records usually requiring little knowledge of basic bookkeeping. Phases or sections include accounts payable, payroll, customers' accounts (not including a simple type of billing described under machine biller), cost distribution, expense distribution, inventory control, etc. May check or assist in preparation of trial balances and prepare control sheets for the accounting department.

MACHINE BILLER

Prepares statements, bills, and invoices on a machine other than an ordinary or electronic typewriter. May also keep records as to billings or shipping charges or perform other clerical work incidental to billing operations. For wage study purposes, machine billers are classified by type of machine, as follows:

Billing-machine biller. Uses a special billing machine (combination typing and adding machine) to prepare bills and invoices from customers' purchase orders, internally prepared orders, shipping memoranda, etc. Usually involves application of predetermined discounts and shipping charges and entry of necessary extensions, which may or may not be computed on the billing machine, and totals which are automatically accumulated by machine. The operation usually involves a large number of carbon copies of the bill being prepared and is often done on a fanfold machine.

Professional and Technical

COMPUTER SYSTEMS ANALYST, BUSINESS

Analyzes business problems to formulate procedures for solving them by use of electronic data processing equipment. Develops a complete description of all specifications needed to enable programmers to prepare required digital computer programs. Work involves most of the following: Analyzes subject-matter operations to be automated and identifies conditions and criteria required to achieve satisfactory results; specifies number and types of records, files and documents to be used; outlines actions to be performed by personnel and computers in sufficient detail for presentation to management and for programming (typically this involves preparation of work and data flow charts); coordinates the development of test problems and

Bookkeeping-machine biller. Uses a bookkeeping machine (with or without a typewriter keyboard) to prepare customers' bills as part of the accounts receivable operation. Generally involves the simultaneous entry of figures on customers' ledger record. The machine automatically accumulates figures on a number of vertical columns and computes and usually prints automatically the debit or credit balances. Does not involve a knowledge of bookkeeping. Works from uniform and standard types of sales and credit slips.

PAYROLL CLERK

Performs the clerical tasks necessary to process payrolls and to maintain payroll records. Work involves most of the following: Processing workers' time or production records; adjusting workers' records for changes in wage rates, supplementary benefits, or tax deductions; editing payroll listings against source records; tracing and correcting errors in listings; and assisting in preparation of periodic summary payroll reports. In a non-automated payroll system, computes wages. Work may require a practical knowledge of governmental regulations, company payroll policy, or the computer system for processing payrolls.

KEYPUNCH OPERATOR

Operates a keypunch machine to record or verify alphabetic and/or numeric data on tabulating cards or on tape.

Positions are classified into levels on the basis of the following definitions:

Class A. Work requires the application of experience and judgment in selecting procedures to be followed and in searching for, interpreting, selecting, or coding items to be keypunched from a variety of source documents. On occasion may also perform some routine keypunch work. May train inexperienced keypunch operators.

Class B. Work is routine and repetitive. Under close supervision or following specific procedures or instructions, works from various standardized source documents which have been coded, and follows specified procedures which have been prescribed in detail and require little or no selecting, coding, or interpreting of data to be recorded. Refers to supervisor problems arising from erroneous items or codes or missing information.

COMPUTER SYSTEMS ANALYST, BUSINESS—Continued

participates in trial runs of new and revised systems; and recommends equipment changes to obtain more effective overall operations. (NOTE: Workers performing both systems analysis and programming should be classified as systems analysts if this is the skill used to determine their pay.)

Does not include employees primarily responsible for the management or supervision of other electronic data processing employees, or systems analysts primarily concerned with scientific or engineering problems.

May guide or instruct lower level programmers.

Class C. Makes practical applications of programming practices and concepts usually learned in formal training courses. Assignments are designed to develop competence in the application of standard procedures to routine problems. Receives close supervision on new aspects of assignments; and work is reviewed to verify its accuracy and conformance with required procedures.

COMPUTER OPERATOR

Monitors and operates the control console of a digital computer to process data according to operating instructions, usually prepared by a programmer. Work includes most of the following: Studies instructions to determine equipment setup and operations; loads equipment with required tape reels, cards, etc.; switches necessary auxiliary equipment into correct operating problems and meet special conditions; reviews error made during operation and determines cause or refers problem to supervisor or programmer; and maintains operating records. May test and assist in correcting program.

For wage study purposes, computer operators are classified as follows:

Class A. Operates independently, or under only general direction, a computer running programs with most of the following characteristics: New programs are frequently tested and introduced; scheduling requirements are of critical importance to minimize downtime; the programs are of complex design so that identification of error source often requires a working knowledge of the total program, and alternate programs may not be available. May give direction and guidance to lower level operators.

Class B. Operates independently, or under only general direction, a computer running programs with most of the following characteristics: Most of the programs are established production runs, typically run on a regularly recurring basis; there is little or no testing of new programs required; alternate programs are provided in case original program needs major change or cannot be corrected within a reasonably short time. In common error situations, diagnoses cause and takes corrective action. This usually involves applying previously programmed corrective steps, or using standard correction techniques.

OR

Operates under direct supervision a computer running programs or segments of programs with the characteristics described for class A. May assist a higher level operator by independently performing less difficult tasks assigned, and performing difficult tasks following detailed instructions and with frequent review of operations performed.

Class C. Works on routine programs under close supervision. Is expected to develop working knowledge of the computer equipment used and ability to detect problems involved in running routine programs. Usually has received some formal training in computer operation. May assist higher level operator on complex programs.

DRAFTER

Class A. Plans the graphic presentation of complex items having detailed design features that differ significantly from established drafting precedents. Works in close support with the design originator, and may recommend minor design changes. Analyzes the effect of each change on the details of form, function, and positional relationships of components and parts. Works with a minimum of supervisory assistance. Completed work is reviewed by design originator for consistency with prior engineering determinations. May either prepare drawings or direct their preparation by lower level drafters.

Class B. Performs nonroutine and complex drafting assignments that require the application of most of the standardized drawing techniques regularly used. Duties typically involve such work as: Prepares working drawings of subassemblies with irregular shapes, multiple functions, and precise positional relationships between components; prepares architectural drawings for construction of a building including detail drawings of foundations, wall sections, floor plans, and roof. Uses accepted formulas and formulas in making necessary computations to determine quantities of materials to be used, load capacities, strengths, stresses, etc. Receives initial instructions, requirements, and advice from supervisor. Completed work is checked for technical adequacy.

Class C. Prepares detail drawings of single units or parts for engineering, construction, manufacturing, or repair purposes. Types of drawings prepared include isometric projections (depicting three dimensions in accurate scale) and sectional views to clarify positioning of components and convey needed information. Consolidates details from a number of sources and adjusts or transposes scale as required. Suggested methods of approach, applicable precedents, and advice on source materials are given with initial assignments. Instructions are less complete when assignments recur. Work may be spot-checked during progress.

DRAFTER-TRACER

Copies plans and drawings prepared by others by placing tracing cloth or paper over drawings and tracing with pen or pencil. Does not include tracing limited to plans primarily consisting of straight lines and a large scale not requiring close delineation.)

AND/OR

Prepares simple or repetitive drawings of easily visualized items. Work is closely supervised during progress.

ELECTRONIC TECHNICIAN

Works on various types of electronic equipment and related devices by performing one or a combination of the following: Installing, maintaining, repairing, overhauling, troubleshooting, modifying, constructing, and testing. Uses reference practical application of technical knowledge of electronics principles, ability to determine malfunctions, and skill to put equipment in required operating condition.

The equipment—consisting of either many different kinds of circuits or mainly the repetition of the same kind of circuit—includes, but is not limited to, the following: (a) Electronic transmitting and receiving equipment (e.g., radar, radio, television, telephone, sonar, navigational aids), (b) digital and analog computers, and (c) industrial and medical measuring and controlling equipment.

This classification excludes repairs of such standard electronic equipment as common office machines and household radio and television sets; production assemblers and testers; workers whose primary duty is setting electronic test instruments; technicians who have administrative or supervisory responsibility; and drafters, designers, and professional engineers.

Positions are classified into levels on the basis of the following definitions:

Class A. Applies advanced technical knowledge to solve usually complex problems (i.e., those that typically cannot be solved solely by reference to manufacturers' manuals or similar documents) in working on electronic equipment. Examples of such problems include location and density of circuitry, electromagnetic radiation, isolating malfunctions, and frequent engineering changes. Work involves: A detailed understanding of the interrelationships of circuits; exercising independent judgment in performing such tasks as making circuit analyses, calculating wave forms, tracing relationships in signal flow; and regularly using complex test instruments (e.g., dual trace oscilloscopes, Q-meters, deviation meters, pulse generators).

Work may be reviewed by supervisor (frequently an engineer or designer) for general compliance with accepted practices. May provide technical guidance to lower level technicians.

Class B. Applies comprehensive technical knowledge to solve complex problems (i.e., those that typically can be solved solely by properly interpreting manufacturers' manuals or similar documents) in working on electronic equipment. Work involves: A familiarity with the interrelationships of circuits; and judgment in determining work sequence and in selecting tools and testing instruments, usually less complex than those used by the class A technician.

Maintenance, Toolroom, and Powerplant

MAINTENANCE CARPENTER

Performs the carpentry duties necessary to construct and maintain in good repair building woodwork and equipment such as bins, cribs, counters, benches, partitions, coors, floors, stairs, casing, and trim made of wood in an establishment. Work involves part of the following: Planning and laying out of work from blueprints, drawings, models, or verbal instructions; using a variety of carpenter's handtools, portable power tools, and standard measuring instruments; making standard shop computations relating to dimensions of work; and selecting materials necessary for the work. In general, the work of the maintenance carpenter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

MAINTENANCE ELECTRICIAN

Performs a variety of electrical trade functions such as the installation, maintenance, or repair of equipment for the generation, distribution, or utilization of electric energy in an establishment. Work involves most of the following: Installing or replacing any of a variety of electrical

Receives technical guidance, as required, from supervisor or level technician, and work is reviewed for specific compliance with accepted practices and work assignments. May provide technical guidance to lower level technicians.

Class C. Applies working technical knowledge to perform simple or routine tasks in working on electronic equipment, following detailed instructions which cover virtually all procedures. Work typically involves such tasks as: Assisting higher level technicians by performing such activities as replacing components, wiring circuits, and taking test readings; repairing simple electronic equipment; and using tools and common test instruments (e.g., multimeters, audio signal generators, tube testers, oscilloscopes). Is not required to be familiar with the interrelationships of circuits. This knowledge, however, may be acquired through assignments designed to increase competence (including classroom training) so that worker can advance to higher level technician.

Receives technical guidance, as required, from supervisor or higher level technician. Work is typically spot checked, but is given detailed review when new or advanced assignments are involved.

REGISTERED INDUSTRIAL NURSE

A registered nurse who gives nursing service under general medical direction to ill or injured employees or other persons who become ill or suffer an accident on the premises of a factory or other establishment. Duties involve a combination of the following: Giving first aid to the ill or injured; attending to subsequent dressing of employees' injuries; keeping records of patients treated; preparing accident reports for compensation or other purposes; assisting in physical examinations and health evaluations of applicants and employees; and planning and carrying out programs involving health education, accident prevention, evaluation of plant environment, or other activities affecting the health, welfare, and safety of all personnel. Nursing supervisors or head nurses in establishments employing more than one nurse are excluded.

MAINTENANCE ELECTRICIAN—Continued

equipment such as generators, transformers, switchboards, controllers, circuit breakers, motors, heating units, conduit systems, or other transmission equipment; working from blueprints, drawings, layouts, or other specifications; locating and diagnosing trouble in the electrical system, or equipment; making standard computations relating to load requirements of wiring or electrical equipment; and using a variety of electrician's handtools and measuring and testing instruments. In general, the work of the maintenance electrician requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

MAINTENANCE PAINTER

Paints and redecorates walls, woodwork, and fixtures of an establishment. Work involves the following: Knowledge of surface peculiarities; types of paint required for different applications; preparing surface for painting by removing old finish or by placing putty or filler in nail holes