

2. CONTRACT (Proc. Inst. Ident.) NO. NRC-39-90-186 3. EFFECTIVE DATE November 1, 1989 4. REQUISITION/PURCHASE REQUEST/PROJECT NO. RS-IRM-90-186

5. ISSUED BY U.S. Nuclear Regulatory Commission  
Division of Contracts and Property Management  
Washington, DC 20555  
6. ADMINISTERED BY (If other than Item 5):

7. NAME AND ADDRESS OF CONTRACTOR (No. street, city, county, State and ZIP Code)  
Press Intelligence, Inc.  
1334 G Street, N.W.  
Washington, DC 20005  
8. DELIVERY  FOB ORIGIN  OTHER (See below)  
9. DISCOUNT FOR PROMPT PAYMENT  
Net 30

10. SUBMIT INVOICES (1 copy unless otherwise specified) TO THE ADDRESS SHOWN IN ITEM 8. See Section G.2

11. SHIP TO, MARK FOR CODE See Section F.3  
12. PAYMENT WILL BE MADE BY CODE U.S. Nuclear Regulatory Commission  
Division of Accounting & Finance Gov/Com Section  
Washington, DC 20555

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION.  10 U.S.C. 2304(c)(1)  41 U.S.C. 253(c)(1)  
14. ACCOUNTING AND APPROPRIATION DATA B&R No.: 0102009250 FIN No.: ~~D18750~~ 0-1893-0  
APPN No.: 31X0200.010 OBLIGATED: \$36,000.00

15A ITEM NO.	15B SUPPLIES/SERVICES	15C QUANTITY	15D UNIT	15E UNIT PRICE	15F AMOUNT
The U.S. Nuclear Regulatory Commission hereby accepts Press Intelligence, Inc.'s bid dated August 22, 1989 in response to IFB No. RS-IRM-90-186, entitled "Newspaper Clipping Services."					
8912040085 891103 PDR CONTR NRC-39-90-186 PDC					

15G. TOTAL AMOUNT OF CONTRACT \$ 83,760.00

16. TABLE OF CONTENTS					
SEC	DESCRIPTION	PAGE(S)	SEC	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE			PART II - CONTRACT CLAUSES		
X	A	1	I	CONTRACT CLAUSES	
X	B	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.		
	C		X	J	4
	D		PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E		K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
X	F	3	L	INSTRS. CONDS. AND NOTICES TO OFFERORS	
X	G	3	M	EVALUATION FACTORS FOR AWARD	
	H				

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17.  CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 2 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)  
18.  AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print) J. Martin Jones Jr. 20A. NAME OF CONTRACTING OFFICER Mark J. Flynn

19B. NAME OF CONTRACTOR BY 19C. DATE SIGNED 11/2/89 20B. UNITED STATES OF AMERICA BY Mark J. Flynn (Signature of Contracting Officer) 20C. DATE SIGNED 10/31/89

1. Section B.1 entitled "Brief Description of Work" is hereby completed as follows:

	Estimated Quantity	Unit	Unit Price	Amount
1. Same day-daily and weekend newspaper clippings in accordance with Section C.1.3., Paragraph A.1 (Monthly estimate - 100 clips per month)	2,400	EA.	\$ .90	\$ 2,160
2. National newspaper clippings in accordance with Section C.1.3., Paragraph B.2 (Monthly estimate - 2,000 clips per month)*	48,000	EA.	\$ .90	\$43,200

\*SPECIAL NOTE: To prevent interruption of service due to the time lag in delivery of national clippings, the contractor shall be responsible for service covering the thirty (30) day period prior to November 1, 1989, the effective date of the contract. Delivery of clippings for this period shall be made no later than November 16, 1989, 8:30 a.m. eastern standard time.

3. Monthly Reading (For Items 1 and 2 above)	24	MO.	\$1,600	<u>\$38,400</u>
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TOTAL AMOUNT: \$83,760

2. Section B.2 entitled "Consideration and Obligation--Firm Fixed Price," is hereby revised as follows:

B.2 CONSIDERATION AND OBLIGATION

- a. The total estimated amount of this contract (ceiling) for the products/services ordered, delivered, and accepted under this contract is \$83,760.00. The Contracting Officer may unilaterally increase this amount as necessary for completion of orders placed with the Contractor during the contract period provided such orders are within any maximum ordering limitation prescribed under this contract.
- b. The amount presently obligated with respect to this contract is \$36,000.00. The Contracting Officer or other individual specifically authorized under this contract may issue orders for work up to the amount presently obligated. This obligated amount may be unilaterally increased from time to time by the Contracting Officer by written modification to this contract. The obligated amount shall, at no time, exceed the contract ceiling as specified in paragraph a above. When and if the amount(s) paid and payable to the Contractor hereunder shall equal the obligated amount, the Contractor shall not be obligated to continue performance of the work unless and until the Contracting Officer shall increase the amount obligated with respect to this contract. Any work undertaken by the Contractor in excess of the obligated amount specified above is done so at the Contractor's sole risk.

3. Section F.2 entitled "Duration of Contract Period" is hereby revised to read as follows:

F.2 DURATION OF CONTRACT PERIOD

The contract shall commence on November 1, 1989 and shall expire on October 31, 1991.

4. Paragraph a. of Section G.1 entitled "Project Officer Authority" is hereby completed as follows:

- a. The Contracting Officer's authorized representative hereinafter referred to as the Project Officer for this contract is:

Name: Eileen Chen  
Address: Library Branch  
Division of Information Support Services  
Washington, DC 20555  
Telephone No.: 301/492-8501

5. Section G.2 entitled "Remittance Address" is hereby deleted in its entirety. Substitute in lieu thereof the following:

G.2 PAYMENT

Invoices will be paid in accordance with Attachment No. 1 entitled "Billing Instructions for Fixed Priced Contracts" as revised 8/89.

6. Attachment No. 1 entitled "Billing Instructions" under Section J is hereby deleted in its entirety. Substitute in lieu thereof the following:

Attachment No. 1    Billing Instructions for Fixed Price Contracts  
                         Revised 8/89

SOLICITATION, OFFER AND AWARD

1. This contract is a rated order under DPAS(15 CFR 350) RATING:

2. CONTRACT NO.	3. SOLICITATION NO. RS-IRM-90-186	4. TYPE OF SOLICITATION (X) SEALED BID (IFB) ( ) NEGOTIATED (RFP) <b>THIS IS A 100% SMALL BUSINESS SET-ASIDE</b>
5. DATE ISSUED 7/24/89	6. REQUISITION/PURCHASE REQ. NO. RS-IRM-90-186	
7. ISSUED BY U.S. Nuclear Regulatory Commission Div. of Contracts & Property Mgmt. Contract Neg. Branch No. 1; P-1020 Washington, DC 20555	8. ADDRESS OFFER TO (If other than Item 7) Offer must be addressed as shown in Item 7. Handcarried offers (including Express Mail) must be delivered to the address in Item 9	

NOTE: In sealed bid solicitations, "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 3 signed copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in Room 1011, 7920 Norfolk Avenue, Bethesda, MD 20814, until 2:00 p.m. local time on 8/23/89. CAUTION-LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME: Sharon D. Mearse	B. TELEPHONE NO. (Include Area Code) (NO COLLECT CALLS) 301/492-4276
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X SEC	11. TABLE OF CONTENTS DESCRIPTION	PAGE(S)
	PART I - THE SCHEDULE	
A	SOLICITATION/CONTRACT FORM	
B	SUPPLIES OR SERVICES AND PRICES/COSTS	
C	DESCRIPTION/SPECIFICATIONS/WORK STATEMENT	
D	PACKAGING AND MARKING	
E	INSPECTION AND ACCEPTANCE	
F	DELIVERIES OR PERFORMANCE	
G	CONTRACT ADMINISTRATION DATA	
H	SPECIAL CONTRACT REQUIREMENTS	
	PART II - CONTRACT CLAUSES	
I	CONTRACT CLAUSES	
	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS	
J	LIST OF ATTACHMENTS	
	PART IV - REPRESENTATIONS AND INSTRUCTIONS	
K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
L	INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS	
M	EVALUATION FACTORS FOR AWARD	

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provision at 52.214-16, Minimum Bid Acceptance Period.

12. 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.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)  
10 CALENDAR DAYS \_\_\_\_\_%    20 CALENDAR DAYS \_\_\_\_\_%    30 CALENDAR DAYS \_\_\_\_\_%     CALENDAR DAYS \_\_\_\_\_%

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:

AMENDMENT NO. 1    DATE 7/26/87    AMENDMENT NO.    DATE

15A. NAME AND ADDRESS OF OFFEROR: CODE \_\_\_\_\_ FACILITY: \_\_\_\_\_  
RUCSS INTELLIGENCE, INC.  
1334 G Street, N.W.  
Washington, D.C. 20005  
16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)  
MARTIN JONES

15B. TELEPHONE NO. (Include Area Code) 22-783-5870    15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE

17. SIGNATURE: [Signature]    18. OFFER DATE: 8/22/87  
AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED 20. AMOUNT 21. ACCOUNTING AND APPROPRIATION

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:  
( ) 10 U.S.C. 2304(e)( )    ( ) 41 U.S.C. 253(c)( )

23. SUBMIT INVOICES TO ADDRESS SHOWN IN ITEM (4 copies unless otherwise specified)

24. ADMINISTERED BY CODE \_\_\_\_\_ (If other than Item 7)    25. PAYMENT WILL BE MADE BY CODE \_\_\_\_\_  
U.S. Nuclear Regulatory Commission  
Division of Accounting and Finance  
GOV/COM Accounting Section  
Washington, DC 20555

26. NAME OF CONTRACTING OFFICER (Type or Print)    27. UNITED STATES OF AMERICA (Signature of Contracting Officer)    28. AWARD DATE

IMPORTANT - Award will be made on this Form or on Standard Form 26, or by other authorized official written notice.

EXCEPTION TO STANDARD FORM 33 (REV. 4-85)

SOLICITATION, OFFER AND AWARD. . . . . 1

TABLE OF CONTENTS. . . . . 3

PART I - THE SCHEDULE. . . . . 7

SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS . . . . . 7

    B.1 BRIEF DESCRIPTION OF WORK (MAR 1987). . . . . 7

    B.2 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE. . . . . 8  
        (JUNE 1988)

SECTION C - DESCRIPTION/SPECIFICATION. . . . . 9  
        /WORK STATEMENT

    C.1 STATEMENT OF WORK (MAR 1987). . . . . 9

SECTION D - PACKAGING AND MARKING. . . . . 13

    D.1 PACKAGING AND MARKING (MAR 1987). . . . . 13

SECTION E - INSPECTION AND ACCEPTANCE. . . . . 14

    E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE . . . . . 14

SECTION F - DELIVERIES OR PERFORMANCE. . . . . 15

    F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE . . . . . 15

    F.2 DURATION OF CONTRACT PERIOD (MAR 1987). . . . . 15  
        ALTERNATE I (JUNE 1988)

    F.3 DELIVERIES AND PERFORMANCE. . . . . 15

SECTION G - CONTRACT ADMINISTRATION DATA . . . . . 17

    G.1 PROJECT OFFICER AUTHORITY (MAR 1987). . . . . 17  
        ALTERNATE II (MAR 1987)

    G.2 REMITTANCE ADDRESS (MAR 1987) . . . . . 17

SECTION H - SPECIAL CONTRACT REQUIREMENTS. . . . . 19

    H.1 PRIVATE USE OF CONTRACT INFORMATION AND DATA (JUNE 1988). . . . . 19

    H.2 ORGANIZATIONAL CONFLICTS OF INTEREST. . . . . 19  
        (OMB CLEARANCE NUMBER 3150-0112) (JUNE 1988)

    H.3 DETERMINATION OF MINIMUM WAGES AND FRINGE BENEFITS. . . . . 21  
        (JUNE 1988)

    H.4 GOVERNMENT FURNISHED EQUIPMENT/PROPERTY - NONE PROVIDED . . . . . 21  
        (JUNE 1988)

    H.5 SERVICE CONTRACT ACT OF 1965, AS AMENDED (52.222-41). . . . . 21  
        (MAY 1989)

    H.6 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT -- . . . . . 29  
        PRICE ADJUSTMENT. (52.222-44) (MAY 1989)

PART II - CONTRACT CLAUSES. . . . . 31

SECTION I - CONTRACT CLAUSES . . . . . 31

    I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE . . . . . 31

    I.2 REQUIREMENTS (FAR 52.216-21) (APR 1984) . . . . . 32

    I.3 CLAUSES INCORPORATED BY REFERENCE . . . . . 33  
        (FAR 52.252-2) (JUN 1988)

    I.4 PROMPT PAYMENT (52.232-25) (APR 1989) . . . . . 33

    I.5 DISCOUNTS FOR PROMPT PAYMENT (52.232-8) (APR 1989) . . . . . 37

TABLE OF CONTENTS

PAGE 4

I.6	ELECTRONIC FUNDS TRANSFER PAYMENT METHODS. (52.232-28) (APR 1989)	38
I.7	DRUG-FREE WORKPLACE (FAR 52.223-6)	39
I.8	REMEDIES FOR ILLEGAL OR IMPROPER ACTIVITY (52.203-10) (MAY 1989)	41
PART III	- LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS	42
SECTION J	- LIST OF ATTACHMENTS.	42
J.1	ATTACHMENTS (MAR 1987)	42
PART IV	- REPRESENTATIONS AND INSTRUCTIONS	43
SECTION K	- REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	43
K.1	CERTIFICATE OF INDEPENDENT PRICE. DETERMINATION (FAR 52.203-2) (APR 1985)	43
K.2	CONTINGENT FEE REPRESENTATION AND AGREEMENT (FAR 52.203-4) (APR 1984)	44
K.3	TAXPAYER IDENTIFICATION (FAR 52.204-3) (NOV 1988)	45
K.4	TYPE OF BUSINESS ORGANIZATION--SEALED BIDDING (FAR 52.214-2) (JUL 1987)	46
K.5	PARENT COMPANY AND IDENTIFYING DATA (FAR 52.214-8) (APR 1984)	46
K.6	PLACE OF PERFORMANCE--SEALED BIDDING. (FAR 52.214-14) (APR 1985)	47
K.7	MINIMUM BID ACCEPTANCE PERIOD (FAR 52.214-16) (APR 1984)	47
K.8	SMALL BUSINESS CONCERN REPRESENTATION (FAR 52.219-1) (MAY 1986)	48
K.9	SMALL DISADVANTAGED BUSINESS CONCERN. REPRESENTATION (FAR 52.219-2) (APR 1984)	48
K.10	WOMEN-OWNED SMALL BUSINESS REPRESENTATION (FAR 52.219-3) (APR 1984)	49
K.11	PREFERENCE FOR LABOR SURPLUS AREA CONCERNS. (FAR 52.220-1) (APR 1984)	49
K.12	CERTIFICATION OF NONSEGREGATED FACILITIES (FAR 52.222-21) (APR 1984)	50
K.13	PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FAR 52.222-22) (APR 1984)	50
K.14	AFFIRMATIVE ACTION COMPLIANCE (FAR 52.222-25) (APR 1984)	51
K.15	ORGANIZATIONAL CONFLICTS OF INTEREST (JUNE 1988)	51
K.16	QUALIFICATIONS OF CONTRACT EMPLOYEES (JUNE 1988)	51
K.17	CURRENT/FORMER AGENCY EMPLOYEE INVOLVEMENT (JUNE 1988)	51
K.18	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (52.209-5) (MAY 1989)	52
K.19	CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (FAR 52.223-5)	53
SECTION L	- INSTRUCTIONS, CONDITIONS, AND NOTICES. TO OFFERORS	56
L.1	NOTICE LISTING SOLICITATION PROVISIONS INCORPORATED BY REFERENCE	56
L.2	PERIOD FOR ACCEPTANCE OF BIDS	56



TABLE OF CONTENTS

PAGE 5

	(FAR 52.214-15) (APR 1984)	
L.3	SERVICE OF PROTEST (FAR 52.233-2) (NOV 1988)	56
L.4	SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FAR 52.252-1) (JUN 1988)	57
L.5	SMALL BUSINESS SIZE STANDARD AND PRODUCT CLASSIFICATION (MAR 1987) ALTERNATE I (MAR 1987)	58
L.6	DISPOSITION OF BIDS (MAR 1987)	58
L.7	NONDISCRIMINATION BECAUSE OF AGE (FAR 22.901) (MAR 1987)	58
L.8	LOCATION OF BID OPENING (MAR 1987)	58
L.9	ABSTRACT OF BIDS (MAR 1987)	59
L.10	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (MAR 1987)	59
L.11	TIMELY RECEIPT OF PROPOSALS/BIDS (JUNE 1988)	59
SECTION M - EVALUATION FACTORS FOR AWARD		60
M.1	NOTICE LISTING SOLICITATION PROVISIONS INCORPORATED BY REFERENCE	60
M.2	BIDDER QUALIFICATIONS AND PAST EXPERIENCES. (MAR 1987)	60
M.3	BID EVALUATION (JUNE 1988)	61

OFFERORS/BIDDERS PLEASE NOTE:

An (\*) means the information is to be incorporated into any resultant contract.

PART I - THE SCHEDULE

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SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

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B.1 BRIEF DESCRIPTION OF WORK (MAR 1987)

	Estimated Quantity	Unit	Unit Price	Amount
1. Same day-daily and weekend newspaper clippings in accordance with Section C.1.3., Paragraph 1 (Monthly estimate - 100 clips per month)	2,400	EA.	\$ ____	\$ ____
2. National newspaper clippings in accordance with Section C.1.3., Paragraph 2 (Monthly estimate - 2,000 clips per month)*	48,000	EA.	\$ ____	\$ ____

\*SPECIAL NOTE: To prevent interruption of service due to the time lag in delivery of national clippings, the contractor shall be responsible for service covering the thirty (30) day period prior to November 1, 1989, the effective date of the contract. Delivery of clippings for this period shall be made no later than November 16, 1989, 8:30 a.m. eastern standard time.

	Estimated Quantity	Unit	Unit Price	Amount
3. Monthly Reading (For Items 1 and 2 above)	24	MO.	\$_____	\$_____

TOTAL AMOUNT: \$\_\_\_\_\_

See Section M.3, Bid Evaluation,  
for information pertinent to the  
above items.

(End of Clause)

B.2 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE  
(JUNE 1988)

The firm fixed price of this contract is \_\_\_\_\*\_\_\_\_.

(End of Clause)

SECTION C - DESCRIPTION/SPECIFICATION  
/WORK STATEMENT

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C.1 STATEMENT OF WORK (MAR 1987)

C.1.1 BACKGROUND

The Library Branch of the NRC's Division of Information Support Services is responsible for providing senior NRC management with a summary of relevant news clippings in a capsule format. To accomplish this, the Library staff gathers news clippings and prepares the NRC Media Monitor for daily in-house distribution.

C.1.2 OBJECTIVE

To meet this requirement, the NRC requires the assistance and support of a national clipping service contractor in the gathering and clipping of news articles on a local and nationwide basis. The required clippings must be only those relevant to the NRC mission.

C.1.3 SPECIFICATIONS

The contractor shall furnish all necessary qualified personnel, facilities, equipment and materials (including newspapers) unless otherwise specified herein, to perform the following:

1. SAME-DAY DAILY AND WEEKEND NEWSPAPER CLIPPINGS

The contractor shall furnish original clippings of all relevant information from the following newspapers, (including Saturday and Sunday issues) on a daily government workday basis:

- New York Times
- Wall Street Journal
- Washington Post

Same-day clips shall include all relevant information in the newspapers, including that contained in syndicated columns, local staff columns, editorials, and letters to the editor. (See Paragraph 4 below for a definition of "relevant information.") All same-day clips shall be prepared and delivered by 8:30 a.m., eastern standard time Monday through Friday, excluding national holidays and weekends. Weekend and holiday clips shall be prepared and delivered by 8:30 a.m. eastern standard

time on the first Government workday following the weekend or holiday.

## 2. NATIONAL CLIPPINGS

The contractor shall deliver to the NRC Library original clippings of all information appearing in each of approximately 4,000 daily, weekly, and weekend newspapers published throughout the United States, in accordance with the following schedule:

Tuesday - Friday of each week	Within 20 days of publication
Monday of each week	Within 22 days of publication
National holiday (Monday)	Within 23 days of publication

The NRC recognizes that certain publications may routinely not reach the contractor in time for review and submission of clippings within the required period, despite the best efforts of the contractor. In these instances only, the contractor shall not forward such articles. Articles arriving at NRC beyond the acceptance period set forth in the above schedule will be rejected as unacceptable. Clips shall include all relevant information including those contained in syndicated columns, editorials, and letters to the editor. (See Paragraph 4 below for a definition of relevant information.)

## 3. PREPARATION OF CLIPPINGS

Preparation of clippings shall be accomplished by clipping the news article from the newspaper source and pasting the clipping on 8-1/2 x 11 inch, 20-weight white bond paper. There shall be a one-inch margin on all four edges of the paper. Clippings shall not be mounted diagonally nor at random. To the fullest possible extent, clippings shall be placed in columns running down the 11-inch dimension of the sheets. Clippings shall be placed between the articles and assuring readability. Above each clipping shall be placed the source and data of publication. The contractor shall insure that no duplicate articles are submitted. This is particularly possible with syndicated articles, but it may arise in other items to be clipped. The Government will reject duplicate, non-applicable, illegible, incomplete, or undated clippings.

## 4. RELEVANT INFORMATION

The contractor shall use the following subject-item list as a source guide for the definition of relevant information. If an article deals with any of the following items, the contractor shall clip the article and furnish it as required above to the NRC.

## A. Nuclear Energy (Except when related to weapons)

1. Atomic Energy
2. Commercial nuclear power plants
3. Manufacturing components for nuclear power plants
4. Nuclear energy
5. Nuclear fuel (including reprocessing and transportation)
6. Nuclear power research and development
7. Nuclear materials management (transportation and safeguards)
8. Nuclear health and safety (regulatory only)
9. Nuclear power
10. Nuclear power plant radiation, including environmental effects
11. Nuclear reactors and power
12. Nuclear safeguards
13. Nuclear waste management, storage, and transportation
14. Plutonium
15. Thorium
16. Uranium
17. Emergency response preparedness/plans
18. Earthquakes and geologic/seismic hazards
19. Foreign countries' plans for utilization of nuclear materials or installation and operation of nuclear power reactors

## B. Energy (Only When Related to Nuclear Power)

1. National energy policy
2. Air and water pollution related to production of electric power by nuclear plants
3. Electric utility companies - plans, finances, rates, etc.
4. Power shortages and conservation (blackouts, brownouts)
5. Power transmission lines
6. Projections, plans, policies, decisions, statistics
7. Siting of nuclear and fossil fueled power plants

8. Thermal pollution resulting from operation of nuclear facilities

C. Agencies (When Related to Nuclear Power)

1. Nuclear Regulatory Commission
2. Environmental Protection Agency
3. Department of Energy
4. U.S. Congress
5. Foreign and international atomic energy agencies

D. Miscellaneous

1. The contractor shall not clip advertisements, cartoons or comic strips even though they might contain details of those items under Paragraph 4 of Section C.
2. To meet NRC's requirements, the contractor is expected to read the entire contents of each newspaper except the obituaries, classified advertisements, and comics.

(End of Clause)



SECTION D - PACKAGING AND MARKING

## D.1 PACKAGING AND MARKING (MAR 1987)

The Contractor shall package material for shipment to the NRC in such a manner that will insure acceptance by common carrier and safe delivery at destination. Containers and closures shall comply with the Interstate Commerce Commission Regulations, Uniform Freight Classification Rules, or regulations of other carriers as applicable to the mode of transportation. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

(End of Clause)

SECTION E - INSPECTION AND ACCEPTANCE

## E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

NOTICE: The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

## FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.246-4	APR 1984	INSPECTION OF SERVICES -- FIXED-PRICE

SECTION F - DELIVERIES OR PERFORMANCE

F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

NOTICE: The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
--------	------	-------

None by reference

F.2 DURATION OF CONTRACT PERIOD (MAR 1987)  
ALTERNATE I (JUNE 1988)

The ordering period for this contract shall commence on \_\_\_\*\_\_\_ and will expire on \_\_\_\*\_\_\_. Any orders issued during this period shall be completed within the time specified in the order, unless otherwise specified herein. (See 52.216-18 - Ordering).

(End of Clause)

F.3 DELIVERIES AND PERFORMANCE

A. Time of Delivery

The following items shall be delivered in accordance with the below listed schedule:

Item	Quantity	Delivery
1. Same day Daily and Weekend Clippings	1 set originals	The contractor shall deliver the clippings to NRC by 8:30 a.m. eastern standard time each day excluding weekends and national holidays in accordance with Section C.1.3.1.

Item	Quantity	Delivery
2. Nationwide Newspapers	1 set originals	The contractor shall deliver the clippings to NRC by 8:30 a.m. eastern standard time each day excluding weekends and national holidays. Clippings shall be delivered no later than acceptance period set forth in the schedule under Section C.1.3.2.

B. Place of Delivery

Items 1 and 2 will be delivered to the NRC in accordance with the delivery schedule set forth above to the following address:

Hand Deliver to:

U.S. Nuclear Regulatory Commission  
7920 Norfolk Avenue, Attention: Library  
Bethesda, MD 20814

(End of Clause)

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 PROJECT OFFICER AUTHORITY (MAR 1987)  
ALTERNATE II (MAR 1987)

a. The Contracting Officer's authorized representative hereinafter referred to as the Project Officer for this contract is:

Name: \_\_\_\*\_\_\_

Address: \_\_\_\*\_\_\_  
\_\_\_\*\_\_\_  
\_\_\_\*\_\_\_  
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Telephone Number: \_\_\_\*\_\_\_

b. The Project Officer is responsible for:

- 1) Monitoring Contractor performance and recommending to the Contracting Officer changes in requirements.
- 2) Inspecting and accepting products/services provided under the contract.
- 3) Reviewing all Contractor invoices/vouchers requesting payment for products/services provided under the contract and making recommendations for approval, disapproval, or suspension.

c. The Project Officer is not authorized to make changes to the express terms and conditions of this contract.

(End of Clause)

G.2 REMITTANCE ADDRESS (MAR 1987)

If item 15C. of the Standard Form 33 has been checked, enter the remittance address below.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(End of Clause)

SECTION H - SPECIAL CONTRACT REQUIREMENTS

## H.1 PRIVATE USE OF CONTRACT INFORMATION AND DATA (JUNE 1988)

Except as specifically authorized by this contract, or as otherwise approved by the Contracting Officer, information and other data developed or acquired by or furnished to the Contractor in the performance of this contract shall be used only in connection with the work under this contract.

(End of Clause)

H.2 ORGANIZATIONAL CONFLICTS OF INTEREST  
(OMB CLEARANCE NUMBER 3150-0112) (JUNE 1988)

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

c. Work for others. Notwithstanding any other provision of this contract, during the term of this contract, the Contractor agrees to forgo 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 under this contract abide by the provision of this clause. If the Contractor believes with respect to itself or any employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the Contractor shall obtain the written approval of the Contracting Officer prior to execution of such contractual arrangement.

d. Disclosure after award.

1) The Contractor warrants to the best of its knowledge and belief, and except as otherwise set forth in this contract, that it does not have any organizational conflicts of interest, as defined in 41 CFR 20-1.5402(a).

2) The Contractor agrees that, if after award, it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the Contracting Officer. This statement must 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 if termination is in the best interest of the Government.

e. Access to and use of information.

1) If the Contractor in the performance of this contract obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the public, the Contractor agrees not to:

(i) Use this information for any private purpose until the information has been released to the public;

(ii) Compete for work for the Commission based on the information for a period of six (6) months after either the completion of this contract or the release of the information to the public, whichever is first;

(iii) Submit an unsolicited proposal to the Government based on the information until one year after the release of the information to the public, or

(iv) Release the information without prior written approval by the Contracting Officer unless the information has previously been released to the public by the NRC.

2) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the Contractor shall treat the information in accordance with restrictions placed on use of the information.

3) The Contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

f. Subcontracts. Except as provided in 41 CFR 20-1.5402(h), the Contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "Contractor," and "Contracting Officer," must be appropriately modified to preserve the Government's rights.

g. Remedies. For breach of any of the above restrictions or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract or for such erroneous representations that necessarily imply bad faith, the



Government may terminate the contract for default, disqualify the Contractor from subsequent contractual efforts, and pursue other remedies permitted by law or this contract.

h. Waiver. A request for waiver under this clause must be directed in writing through the Contracting Officer to the Executive Director for Operations (EDO) in accordance with the procedures outlined in 41 CFR 20-1.5411.

(End of Clause)

H.3 DETERMINATION OF MINIMUM WAGES AND FRINGE BENEFITS  
(JUNE 1988)

Each employee of the Contractor or any subcontractor performing services under this contract shall be paid at least the minimum allowable monetary wage and fringe benefits prescribed under Wage Determination Number 86-1259 (Rev. 5) dated September 22, 1988 which is attached (See Section J for List of Attachments).

(End of Clause)

H.4 GOVERNMENT FURNISHED EQUIPMENT/PROPERTY - NONE PROVIDED  
(JUNE 1988)

The Government will not provide any equipment/property under this contract.

(End of Clause)

H.5 SERVICE CONTRACT ACT OF 1965, AS AMENDED (52.222-41)  
(MAY 1989)

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) 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 wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the

establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If 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 under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent

or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) 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 person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been 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 limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, 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. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or 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, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative

decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) 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, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act --

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized

representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) Withholding of Payments 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 an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause 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.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. 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) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, 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) 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 Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and 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, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act 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).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision --

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);



(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

H.6 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT --  
PRICE ADJUSTMENT. (52.222-44) (MAY 1989)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The contract price or contract unit price labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with --

(1) An increased or decreased wage determination applied to this contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(d) Any such adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (b) of this clause, and to the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance; it shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. The Contractor shall promptly

notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

(End of clause)

PART II - CONTRACT CLAUSES

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SECTION I - CONTRACT CLAUSES

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I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

NOTICE: The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.202-1	APR 1984	DEFINITIONS
52.203-1	APR 1984	OFFICIALS NOT TO BENEFIT
52.203-3	APR 1984	GRATUITIES
52.203-5	APR 1984	COVENANT AGAINST CONTINGENT FEES
52.203-6	JUL 1985	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	OCT 1988	ANTI-KICKBACK PROCEDURES
52.214-29	JAN 1986	ORDER OF PRECEDENCE -- SEALED BIDDING
52.219-6	APR 1984	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE
52.219-8	JUN 1985	UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS
52.219-13	AUG 1986	UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES
52.220-3	APR 1984	UTILIZATION OF LABOR SURPLUS AREA CONCERNS
52.222-3	APR 1984	CONVICT LABOR
52.222-26	APR 1984	EQUAL OPPORTUNITY
52.222-35	APR 1984	AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS
52.222-36	APR 1984	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS
52.222-37	JAN 1988	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
52.227-1	APR 1984	AUTHORIZATION AND CONSENT
52.227-2	APR 1984	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
52.229-3	APR 1984	FEDERAL, STATE, AND LOCAL TAXES
52.229-5	APR 1984	TAXES -- CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO

52.232-1	APR 1984	PAYMENTS
52.232-11	APR 1984	EXTRAS
52.232-17	APR 1984	INTEREST
52.232-23	JAN 1986	ASSIGNMENT OF CLAIMS
52.233-1	APR 1984	DISPUTES
52.233-3	JUN 1985	PROTEST AFTER AWARD
52.243-1	AUG 1987	CHANGES -- FIXED PRICE ALTERNATE I (APR 1984)
52.249-8	APR 1984	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)
52.249-2	APR 1984	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)

## I.2 REQUIREMENTS

This is a requirements contract for the supplies or services specified, and effective for the period stated in the Schedule.

Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity specified in the Schedule.

(End of Clause)

(The remainder of this page has been intentionally left blank.)

(End of Clause)

I.3 CLAUSES INCORPORATED BY REFERENCE  
(FAR 52.252-2) (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(End of Clause)

I.4 PROMPT PAYMENT (52.232-25) (APR 1989)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified.

(a) Invoice Payments

(1) For purposes of this clause, "invoice payment" means a Government disbursement of monies to a Contractor under a contract or other authorization for supplies or services accepted by the Government. This includes payments for partial deliveries that have been accepted by the Government and final cost or fee payments where amounts owed have been settled between the Government and the Contractor.

(2) Except as indicated in subparagraph (a)(3) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the date the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(3) The due date on contracts for meat and meat food products, contracts for perishable agricultural commodities, contracts for

dairy products, edible fats or oils, and food products prepared from edible fats or oils, and contracts not requiring submission of an invoice shall be as follows:

(i) The due date for meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) and further defined in Pub. L. 98-181 to include any edible fresh or frozen poultry meat, an perishable poultry meat food product, fresh eggs, and any perishable egg product, will be as close as possible to, but not later than, the 7th day after product delivery.

(ii) The due date for perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(44)), will be as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(iii) The due date for dairy products, as defined in Section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, will be as close as possible to, but not later than the 10th day after the date on which a proper invoice has been received.

(4) An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. An invoice shall be prepared and submitted to the designated billing officer specified in the contract. A proper invoice must include the items listed in subdivisions (a)(4)(i) through (a)(4)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office (3 days for meat and meat food products and 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils). Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(6) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice.

(viii) Any other information or documentation required by other requirements of the contract (such as evidence of shipment).

(5) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(5)(i) through (a)(5)(iii) of this clause are met, if applicable. An interest penalty shall not be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, or contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(6) The interest penalty shall be the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in paragraph (a)(4) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that

might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat and meat food products and 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(7) An interest penalty shall also be paid automatically by the designated payment office, without request from the contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(6) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(8) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with regulations issued by the Office of Management and Budget, shall be paid in addition to the interest penalty amount if the Contractor-

(i) Is owed an interest penalty;

(ii) Is not paid the interest penalty within 10 days after the



date the invoice amount is paid; and

(iii) Makes a written demand, not later than 40 days after the date the invoice amount is paid, that the agency pay such a penalty.

(b) Contract Financing Payments

(1) For purposes of this clause, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government. Contract financing payments include advance payments, progress payments based on cost under the clause at 52.232-16, Progress Payments, progress payments based on a percentage or stage of completion (32.102(e)(1)) other than those made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts, and interim payments on cost type contracts.

(2) For contracts that provide for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (insert day as prescribed by Agency head; if not prescribed, insert 30th day) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(3) For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(4) Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(End of Clause)

I.5 DISCOUNTS FOR PROMPT PAYMENT (52.232-8) (APR 1989)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(End of Clause)

I.6 ELECTRONIC FUNDS TRANSFER PAYMENT METHODS  
(52.232-28) (APR 1989)

Payments under this contract will be made by the Government either by check or electronic funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH)), at the option of the Government. After award, but no later than 14 days before an invoice or contract financing request is submitted, the Contractor shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Contracting Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Contractor shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Contractor shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account ("C" for checking, "S" for savings).

(4) If the Contractor is a new enrollee to the ACH system, a "Payment Information Form," SF 3881, must be completed before payment can be processed.

(c) In the event the Contractor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and contract number.

(e) Contractor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

(End of Clause)

#### I.7 DRUG-FREE WORKPLACE (FAR 52.223-6)

(a) Definitions As used in this clause,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11-1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract at which employees of the contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a contractor directly engaged in the performance of work under a Government contract.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall --

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in the statement required by subparagraph (b)(1) of this clause, that as a condition of continued employment on this contract, the employee will --

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

(5) Notify the contracting officer within ten (10) days after receiving notice under subdivision (a)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction;

(6) Within 30 days after receiving notice under subparagraph (a)(4) of this clause of a conviction, impose the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (b) and (c) of this clause may, pursuant to FAR 23.506, render the contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of Clause)

1.8 REMEDIES FOR ILLEGAL OR IMPROPER ACTIVITY (52.203-10)  
(MAY 1989)

(a) The Government, at its election, may reduce the price of a fixed price type contract or contract modification and the total cost and fee under a cost-type contract or contract modification by the amount of profit or fee determined as set forth in paragraph (c) of this clause if the head of the agency or his or her designee, determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) as implemented in the FAR. In the case of a contract modification, the fee subject to reduction is the fee associated with the particular contract modification.

(b) Prior to making such a fee or profit reduction, the agency head or his or her designee shall provide to the Contractor a written notice of the action being considered and the basis therefor. The Contractor shall have a period determined by the agency head or his or her designee, but in no event less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or his or her designee may, upon good cause shown, determine to reduce the contract or contract modification price or fee by an amount which is less than the amount determined under paragraph (c) of this clause.

(c) The price or fee reduction referred to in paragraph (a) of this clause shall be --

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award notwithstanding any minimum fee or "fee floor" specified in the contract.

(3) For cost-plus-award-fee contracts --

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 10 percent of the amount of each award fee otherwise payable to the contractor for each incentive period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may --

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award;

(ii) When the contract provides for multiple deliverables, reduce the amount otherwise payable to the contractor upon each delivery and acceptance by an amount determined by the Contracting Officer to be the profit portion of each payable amount until the cumulative total of such reductions is equal to the initial target profit amount specified in the contract at the time of contract award;

(iii) In addition to any other withholdings, retentions or reserves, reduce the amount of progress payments otherwise payable in connection with each invoice or voucher properly submitted by the contractor for payment until the aggregate progress payments amounts so withheld equal the initial target profit established at the time of contract award; or

(iv) If the Government elects either (c)(4)(ii) or (iii) of this clause, at the time of total final price establishment, the price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the amount of initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price. Any progress payments amounts retained by the Government in (c)(4)(iii) of this clause shall be returned to the contractor, if appropriate.

(5) For firm-fixed-price contract or contract modifications, by 10 percent of the initial contract price; 10 percent of the contract modification price; or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award or modification.

(d) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraphs (b) and (c) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract or modification for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

PART III - LIST OF DOCUMENTS, EXHIBITS  
AND OTHER ATTACHMENTS

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SECTION J - LIST OF ATTACHMENTS

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J.1 ATTACHMENTS (MAR 1987)

<u>Attachment Number</u>	<u>Title</u>
1	Billing Instructions
2	NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20)
3	Wage Determination

REVISED 8/89

BILLING INSTRUCTIONS FOR  
FIXED PRICE CONTRACTS

General: The contractor shall prepare vouchers or invoices as prescribed herein. FAILURE TO SUBMIT VOUCHERS/INVOICES IN ACCORDANCE WITH THESE INSTRUCTIONS WILL RESULT IN REJECTION OF THE VOUCHER/INVOICE AS IMPROPER.

Form: Claims shall be submitted on the payee's letterhead, voucher/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 U. S. Government Printing Office, 701 North Capitol Street, Washington, D.C. 20801.

Number of Copies: An original and three copies shall be submitted. Failure to submit all the required copies will result in rejection of the voucher/invoice as improper.

Designated Agency Billing Office: Vouchers/invoices shall be submitted to the following address:

U. S. Nuclear Regulatory Commission  
Division of Contracts and Property Management  
Contract Administration Branch, Mailstop P-902  
Washington, D.C. 20555

HAND-DELIVERY OF VOUCHERS/INVOICES IS DISCOURAGED AND WILL NOT EXPEDITE PROCESSING BY NRC. However, should you choose to deliver vouchers/invoices by hand, including delivery by any express mail services or special delivery services which use a courier or other person to deliver the voucher/invoice in person to the NRC, such vouchers/invoices must be addressed to the above Designated Agency Billing Office and will only be accepted at the following location:

U. S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Mail Room  
Rockville, Maryland 20852

HAND-CARRIED SUBMISSIONS WILL NOT BE ACCEPTED AT OTHER THAN THE ABOVE ADDRESS.

Note that the official receipt date for hand-delivered vouchers/invoices will be the date it is received by the official agency billing office in the Division of Contracts and Property Management.

Agency Payment Office: Payment will continue to be made by the office designated in the contract in Block 13 of SF 26 or Block 25 of SF 33, whichever is applicable.



Frequency: The contractor shall submit an voucher or invoice only after NRC's final acceptance of services rendered or products delivered in performance of the contract unless otherwise specified in the contract.

Preparation and Itemization of the Voucher/Invoice: The voucher/invoice shall be prepared in ink or by typewriter (without strikeovers). Corrections or erasures must be initialed. To be considered a proper voucher/invoice, all of the following elements must be included:

1. Contract number
2. Sequential voucher/invoice number.
3. Date of voucher/invoice.
4. Project Officer's name and mailstop as designated in the contract.
5. Payee's name and address. (Show the name of the contractor and its correct address. In addition, when an assignment of funds has been made by the contractor, or a different payee has been designated, include the name and address of the payee.) Indicate the name and telephone number of the individual responsible for answering questions the NRC may have regarding the voucher/invoice.
6. Description of articles or services, quantity, unit price, and total amount.
7. Weight and zone of shipment, if shipped by parcel post.
8. Charges for freight or express shipments. Attach prepaid bill if shipped by freight or express.
9. Instructions to consignee to notify the Contracting Officer of receipt of shipment.
10. For Indefinite Delivery contracts or contracts under which progress payments are authorized, the final voucher/invoice shall be marked "FINAL VOUCHER" or "FINAL INVOICE."

Currency: Billings may be expressed in the currency normally used by the contractor in maintaining his accounting records and payments will be made in that currency. However, the U. S. dollar equivalent for all vouchers/invoices paid under the contract may not exceed the total U. S. dollars authorized in the contract.

Supersession: These instructions supersede any previous billing instructions.

## PART 20-1 -- GENERAL

### Subpart 20-1.54--Contractor Organizational Conflicts of Interest

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

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

#### §20-1.5401 Scope and Policy

(a) It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to avoid, eliminate or neutralize contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons (including those regulated by NRC) which may give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely; the application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied so as to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations which might arise; however, examples are provided in these regulations to guide application of the policy. NRC contracting and program officials must be alert to other situations which may warrant application of this policy guidance. The ultimate test is: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased, or where it may have an unfair competitive advantage?

(c) The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment process, NRC

agreements with other government agencies, international organizations, or state, local or foreign governments; separate procedures for avoiding conflicts of interest will be employed in such agreements, as appropriate.

#### 20-1.5402 Definitions

- (a) "Organizational conflicts of interest" means that a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair competitive advantage.
- (b) "Research" means any scientific or technical work involving theoretical analysis, exploration, or experimentation.
- (c) "Evaluation activities" means any effort involving the appraisal of a technology, process, product, or policy.
- (d) "Technical consulting and management support services" means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally require the contractor to be given access to information which has not been made available to the public or proprietary information. Such services typically include assistance in the preparation of program plans; and preparation of preliminary designs, specifications, or statements of work.
- (e) "Contract" means any contract, agreement, or other arrangement with the NRC except as provided in Section 20-1.5401(c).
- (f) "Contractor" means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their successors in interest, including their chief executives, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the NRC.
- (g) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both (41 CFR §1-1.606-1(e)).
- (h) "Subcontractor" means any subcontractor of any tier which performs work under a contract with the NRC except subcontracts for supplies and subcontracts in amounts of \$10,000 or less.
- (i) "Prospective contractor" or "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the proposal), proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

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

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

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

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

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

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

(iii) Where the offeror or contractor evaluates its own products or services, or the products or services of another entity where the offeror or contractor has been substantially involved in their development or marketing.

(iv) Where the award of a contract would otherwise result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or may otherwise result in an unfair competitive advantage for the offeror or contractor.

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract provisions such as provided in 120-1.5405-2 in the following circumstances:

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

(ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using such approaches or methodologies.

(iii) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs which could form the basis for a later procurement action.

(iv) Where the offeror or contractor is granted access to proprietary information of its competitors.

(v) Where the award of a contract might otherwise result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or may otherwise result in an unfair competitive advantage for the offeror or contractor.

(c) Policy application guidance. The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations. (i) Example. The XYZ Corp., in response to a request for proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

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

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.

Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which would motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work during the performance of the NRC contract with the private sector which could create a conflict. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3) Example. As a result of operating problems in a certain type of commercial nuclear facility, it is imperative that NRC secure specific data on various operational aspects of that type of plant so as to assure adequate safety protection of the public. Only one manufacturer has extensive experience with that type of plant. Consequently, that company is the only one with whom NRC can contract which can develop and conduct the testing programs required to obtain the data in reasonable time. That company has a definite interest in any NRC decisions that might result from the data produced because those decisions affect the reactor's design and thus the company's costs.

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

(4) Example. The ABC Co. submits a proposal for a new system for evaluating a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Co. has advised NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

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

(5) Example. The ABC Corp., in response to a RFP proposes to assemble a map showing certain seismological features of the Appalachian fold belt. In accordance with the representation in the RFP and §20-1.5403(b)(1)(i), ABC Corp. informs the NRC that it is presently doing seismological studies for several utilities in the Eastern United States but none of the sites are within the geographic area contemplated by the NRC study.

Guidance. The contracting officer would normally conclude that award of a contract would not place ABC Corp. in a conflicting role where its judgment might be biased. The work for others clause of §20-1.5405-1(c) would preclude ABC Corp. from accepting work during the term of the NRC contract which could create a conflict of interest.

(d) Other considerations. (1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising from the performance of a contract is not relevant to a determination of the existence of such conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

#### §20-1.5404 Representation

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor.

(b) Representation procedure. The following organizational conflicts of interest representation provision shall be included in all solicitations and unsolicited proposals for: (1) Evaluation services or activities; (2) technical consulting and management support services; (3) research; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement shall also apply to all modifications for additional effort under the contract except those issued under the "changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest representation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

## ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

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

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

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

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

(d) The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work from the statements of work contained in a RFP unless the RFP specifically prohibits such exclusion. Any such proposed exclusion by an offeror will be considered by the NRC in the evaluation of proposals. If the NRC considers the proposed excluded work to be an essential or integral part of the required work and its exclusion would work to the detriment of the competitive posture of the other offerors, the proposal must be rejected as unacceptable.

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

§ 20-1.5405 Contract clauses

§ 20-1.5405-1 General contract clause



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

(a) Purpose. The primary purpose of this clause is to aid in ensuring that the contractor: (1) Is not placed in a conflicting role because of current or planned interest (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

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

(c) Work for others. Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees who are employed full time under this contract and employees designated as key personnel, if any, under this contract abide by the provision of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the contractor shall obtain the written approval of the contracting officer prior to execution of such contractual arrangement.

(d) Disclosure after award. (1) The contractor warrants that to the best of its knowledge and belief and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest, as defined in 41 CFR § 20-1.5402(a).

(2) The contractor agrees that if after award it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the government.

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

on such information for a period of six (6) months after either the completion of this contract or the release of such information to the public, whichever is first, (iii) submit an unsolicited proposal to the government based on such information until one year after the release of such information to the public, or (iv) release the information without prior written approval by the contracting officer unless such information has previously been released to the public by the NRC.

(2) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat such information in accordance with restrictions placed on use of the information.

(3) The contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) Subcontracts. Except as provided in 41 CFR §20-1.5402(h), the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "contractor," and "contracting officer," shall be appropriately modified to preserve the government's rights.

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

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

#### § 20-1.5405-2 Special contract provisions.

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

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

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of his key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for protection of confidential data and guard against its unauthorized use.

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

(i) Follow-on effort. (1) The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor shall not perform any technical consulting or management support services work or evaluation activities under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of such products or services.

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

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

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

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

(a) Disqualify the offeror from award,

- (b) Avoid or eliminate such conflicts by appropriate measures; or
- (c) Award the contract under the waiver provision of § 20-1.5411.

§ 20-1.5407 Conflicts identified after award.

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

§ 20-1.5408 (Reserved)

§ 20-1.5409 (Reserved)

§ 20-1.5410 Subcontracts

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

§ 20-1.5411 Waiver

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

Such action shall be strictly limited to those situations in which:

- (1) The work to be performed under contract is vital to the NRC program;
- (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3)

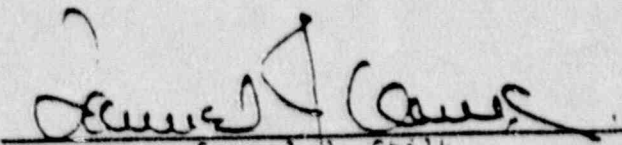
contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

§20-1.5412 Remedies

In addition to such other remedies as may be permitted by law or contract for a breach of the restrictions in this subpart or for any intentional misrepresentation or intentional nondisclosure of any relevant interest required to be provided for this section, the NRC may debar the contractor from subsequent NRC contracts.

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

For the Nuclear Regulatory Commission

  
Samuel J. Chilk  
Secretary of the Commission

U.S. DEPARTMENT OF LABOR  
 EMPLOYMENT STANDARDS ADMINISTRATION  
 WAGE AND HOUR DIVISION  
 WASHINGTON, D.C. 20210

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

LOCALITY

State District of Columbia-Maryland-Virginia  
 Area Washington DC Metropolitan Area 4/

DC-MD-VA

*Alan L. Moss*  
 Alan L. Moss  
 Director

Division of  
 Wage Determinations

Wage determination number:

86-1259 (Rev. 5)

Date: SEP 22 1988

Class of service employee

Minimum  
 hourly  
 wage

Fringe benefit payments

Health &  
 Welfare

Vacation

Holiday

Other

Administrative Support and clerical occupations:

1. Secretary V	\$13.87
2. Secretary IV	11.64
3. Secretary III	10.90
4. Secretary II	9.89
5. Secretary I	9.05
6. Stenographer II	11.29
7. Stenographer I	10.07
8. Transcribing-machine typist	9.81
9. Typist II	8.35
10. Typist I	7.45
11. File clerk III	8.85
12. File clerk II	6.66
13. File clerk I	6.35
14. Messenger	7.31
15. Switchboard operator-receptionist	7.55
16. Order clerk II	8.58
17. Order clerk I	7.76
18. Accounting clerk IV	10.56
19. Accounting clerk III	8.97
20. Accounting clerk II	8.00
21. Accounting clerk I	6.67
22. Payroll clerk	8.44

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 hourly  
 wage

Fringe benefit payments

Health &  
 Welfare

Vacation

Holiday

Other

23. Word processor II	10.03				
24. Word processor I	8.46				
25. Dispatcher, motor vehicle	9.03				
26. Inventory clerk	6.16				
27. Supply Clerk	8.16				
28. Supply Technician	9.03				
29. Mail clerk	6.35				
30. Registered Industrial Nurse	11.92				
31. Test Proctor	6.35				
32. Typist-File Clerk	7.84				
33. Driver Messenger	7.84				
34. Travel Clerk	6.69				
35. Travel Assistant	9.27				

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Class of service employee

Minimum  
 hourly  
 wage

Fringe benefit payments

Health &  
 Welfare

Vacation

Holiday

Other

Fringe benefits applicable to classes of service  
 employees engaged in contract performance:

1/

2/

3/

1/ \$1.59 an hour or \$23.60 a week or \$102.26 a month.

2/ 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years; 4 weeks after 15 years. 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 same Federal facility. (See 20 CFR 4.173.)

3/ 10 paid holidays per year: New Year's Day, Martin Luther King Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus 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.)

4/ DC: Washington (001)

MD: Counties of Calvert (009), Charles (017), Frederick (021), Montgomery (031), Prince Georges (023) and St. Mary's (037)

VA: Counties of Arlington (013), Fairfax (059), Fauquier (061), King George (099), Loudoun (107), Prince William (153), and Stafford (175). Independent Cities of Alexandria (201), Fairfax (267) and Falls Church (217).



**Uniform Allowance:** If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by State or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards, as applicable:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniforms cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors, subject to this wage determination, shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$1.35 a week (or 67 cents a day). However, in those instances where the uniform, furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**NOTE:** The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications, and the classifications listed in the wage determination. Such conforming class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming procedure shall be initiated by the contractor prior to the performance of contract work such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved, or, where there is an authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, for review. (See section 4.6(b)(2) of Regulation 29 CFR 4).

**NOTE:** The definitions of the occupations set forth herein are contained in the SA Directory of Occupations. Information may be obtained by contacting the Administrator of Wage and Hour, U. S. Department of Labor, Washington, D. C. 20240.