



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

AC01-2  
PDR

91 NOV -8 PM 12:00

November 6, 1991

DIVISION OF CONTRACTS &  
PROPERTY MANAGEMENT

MEMORANDUM FOR: Edward L. Halman, Director  
Division of Contracts  
& Property Management  
Office of Administration

FROM: Donald F. Hassell  
Deputy Assistant General Counsel  
for Administration

SUBJECT: PROPOSED FINAL RULE ENTITLED "NUCLEAR  
REGULATORY COMMISSION ACQUISITION REGULATION"

This is in reply to your October 2, 1991, request for comments on and concurrence in the subject final rule. Our office's memorandum of April 26, 1989, copy attached, recommended a number of changes in an earlier draft which were incorporated in the proposed final rule. However, one of the recommendations which we consider significant was not adopted. The regulation still requires that NRC's technical evaluation panel recommend both a competitive range and, later in the procurement, an awardee. See NRCAR Sections 2015.608 and .611.

In lieu of this approach, we continue to recommend that the panel limit its role to evaluation of the technical merits of individual proposals against the stated criteria and that the panel report only its technical findings and conclusions to the contracting officer, without a recommendation. The contracting officer should then independently determine the competitive range or select the awardee based on the panel's technical findings, plus cost and other permissible factors. This approach will help NRC avoid potential legal problems, as well as operational difficulties experienced over the last several years.

We concur in the final rule with the understanding that our recommended approach will be incorporated in the first revision of the regulation if it is not feasible to incorporate the recommendation in the final rule before publication due to time constraints.

Donald F. Hassell  
Deputy Assistant General Counsel  
for Administration

Attachment: As stated