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March 19, 1992

U.S. Nuclear Regulatory Commission
ATTN: William H. Foster, Chief
Policy Branch
Division of Contracts and Property Management
Mailstop P-1118
Washington, DC 20555

SUBJECT: RJM-146-92: NRC's Organizational Conflict of Interest Policy

Dear Mr. Foster:

SCIENTECH, Inc. is pleased to have this opportunity to comment on NRC's revised policy on conflict of interest.

SCIENTECH does business with a number of government agencies and private companies. We see a wide range of requirements on organizational conflict of interest. We find that the requirements of the NRC are the most stringent. Correspondingly, we find that the NRC staff is the most thorough and the most fair of all of the federal agencies with which we deal on these matters. NRC is also the best in this area from a performance point of view, i.e., from our perspective there is very low likelihood that NRC will be embarrassed or compromised in its mission because of a contractor with a real or perceived conflict of interest.

In 1984, NRC became the first client of our company. Since then we have had a number of opportunities to serve the NRC. Today, we have several NRC contracts underway representing about five percent of our business. These contracts are subject to varying conflict of interest clauses, because the NRC's rules on conflict of interest have changed several times over the past few years.

We have not yet performed work under the new conflict of interest policy that was announced by the NRC on August 15, 1991. On September 30, 1991, we signed a contract with the NRC that contained the new policy, but NRC later decided to not award that contract to SCIENTECH.

We see the new policy as attempting to address a particular type of conflict of interest, i.e., to prevent NRC contractors from taking advantage of the knowledge or contacts afforded them in performing work for NRC at a licensee's

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site. We are told that this situation has occurred in the past, and we agree with the NRC that it should be prevented in the future.

To determine the best method of addressing this problem, we suggest that the NRC turn to first principles. In our view, it is unethical for a contractor to use current work for a regulatory authority to generate future work by that contractor for the regulated entity. NRC ought to say that it will not allow this practice by its contractors. If NRC were to adopt this principle as a matter of policy, then the Commission could leave it to the staff to implement the policy on a contract-by-contract basis. If this policy were also to be publicized with NRC licensees, they would probably assist NRC in policing the very few contractors that would attempt to violate the simple ethical premise which underlies such a policy.

Under the approach we have suggested, businesses that work for NRC could do work for nuclear power plants so long as they do not take unfair advantage of the work they do for NRC. Businesses would not be prohibited from doing work for an NRC licensee which was gained in a manner unrelated to NRC work and which did not conflict with NRC's interests. For example, under the principle we recommend, our company could not make sales to an NRC licensee while NRC is paying us to be at that licensee's site, and we could not help NRC tell a licensee what to do and then offer to help the licensee do that work. Conversely, even if we were working for NRC at a particular site we could do analytical chemistry work for that licensee or assist with its state public utility commission presentations because we do not do such work for the NRC. Similarly, we could work on computer codes or perform safety analyses for a utility so long as we did not review or require such work by the utilities on behalf of the NRC.

What the recent NRC policy change does to such interactions, in our judgment, is to forbid an NRC contractor from going to a site to solicit or perform work within a year of doing any work at all for the NRC at that site, irregardless of whether the work being solicited or performed is related to the work performed for the NRC. We could live with this new NRC policy by carefully controlling when our people go to a site, what type of work they perform for utilities, and where they perform work for utilities.

However, it would be much easier for us to comply with our understanding of the intent of NRC's new policy if the policy were to be articulated as we have described above. Then, we would be free to go to utility sites to do work unrelated to work that we might have done there for the NRC within the past year. In a larger sense all NRC contractors would not be deprived of legitimate work by an all encompassing NRC conflict of interest policy that is really directed at a narrower target of abusers.

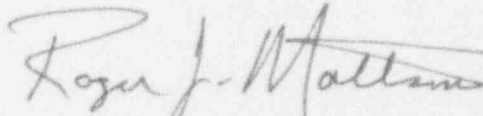
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Thus, a "win-win" situation would result wherein NRC continues its excellent record of avoiding conflict of interest while at the same time using contractors with hands on experience in nuclear technology and fostering the entrepreneurial spirit which makes our economy strong.

The principal advantage to our approach for NRC is the fact that the Commission preserves a larger set of qualified contractors to support its mission while still acting to prevent the unethical situation of one of its contractors abusing the privilege of working for NRC.

Thank you for this opportunity to comment on the new policy.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger J. Mattson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Roger J. Mattson, PhD
Senior Vice President

cc: Larry Ybarrondo, SCIENTECH

File: NRC