

CONTRACT (Procurement) NO: **NRC-02-82-028-06**
 2 EFFECTIVE DATE: **JUL 10 1982**
 3 REQUISITION/PURCHASE REQUEST PROJECT NO: **RS-NMS-82-028**
 4 CERTIFIED FOR NATIONAL DEFENSE UNDER AFSA REG. 2 AND/OR DMS REG. 1. RATING: **PDR**
 ISSUED BY: **U.S. Nuclear Regulatory Commission**
 CODE: **Washington, DC 20555**
 6 ADMINISTERED BY: **(1) other than block 5)**
 CODE:
 7 DELIVERY FOR DESTINATION: **NATION**
 OTHER (See below):

8 CONTRACTOR NAME AND ADDRESS: **Geotrans, Inc.**
P. O. Box 2550
Reston, VA 22090
 (Street, city, county, state, and ZIP code)
 FACILITY CODE:
 9 DISCOUNT FOR PROMPT PAYMENT: **Net 30 days**
 10 SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK **12** and as further set forth in **Articles XV and XVI**

11 SHIP TO/MARK FOR: **U.S. Nuclear Regulatory Commission**
ATTN: Robert Johnson, WMHT/NMSS
Washington, DC 20555
 CODE:
 12 PAYMENT WILL BE MADE BY: **U.S. Nuclear Regulatory Commission**
Office of Resource Management
Division of Accounting and Finance
ATTN: GOV/COM ACCOUNTS
 CODE:
Washington, DC 20555

13 THIS PROCUREMENT WAS ADVERTISED, NEGOTIATED, PURSUANT TO:
 10 U.S.C. 2304 (a)(1) 41 U.S.C. 252 (a)(1)

14 ACCOUNTING AND APPROPRIATION DATA:
 There is no money obligated by this action.

| 15 ITEM NO. | 16 SUPPLIES/SERVICES | 17 QUANTITY | 18 UNIT | 19 UNIT PRICE | 20 AMOUNT |
|-------------|---|-------------|---------|---------------|-----------|
| | BASIC ORDERING AGREEMENT FOR TECHNICAL ASSISTANCE IN HYDROGEOLOGY | | | | |

21. TOTAL AMOUNT OF CONTRACT **\$0.00**

CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 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.)
 26. AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which portions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheet. 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.

23. NAME OF CONTRACTOR: **James W. Mercer, President**
 BY: **(Signature of person authorized to sign)**
 27. UNITED STATES OF AMERICA
 BY: **MJMattia**
 (Signature of Contracting Officer)
 24. NAME AND TITLE OF SIGNER (Type or print): **James W. Mercer**
 25. DATE SIGNED: **8/9/82**
 28. NAME OF CONTRACTING OFFICER (Type or print): **Mary Jo Mattia**
 29. DATE SIGNED: **JUL 10 1982**

CONTENTS OF BASIC ORDERING AGREEMENT

This Basic Ordering Agreement Consists of:

1. Execution Page (Standard Form 26)
2. Contents of Basic Ordering Agreement
3. Schedule

| | |
|---------------|--|
| Article I | Description of Work |
| Article II | Services to be Ordered |
| Article III | Placing and Processing of Orders |
| Article IV | Pricing and Negotiation of Orders |
| Article V | Time of Delivery |
| Article VI | Reports |
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| Article X | Conditions for Maintaining Agreement |
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| Article XII | Responsibilities of the Project Officer |
| Article XIII | Technical Direction |
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| Article XV | Billing Instructions for NRC Cost-Type Contracts |
| Article XVI | Billing Instructions for NRC Fixed Price Contracts and Purchase Orders |
| Article XVII | Private Use and Protection of Unclassified Government Information |
| Article XVIII | Protection of Proprietary and Company Confidential Information |
| Article XIX | Inspection of Services |
| Article XX | Conflict of Interest |
| Article XXI | General Provisions/Alterations |

4. Attachments

NRC Manual Chapter 3202

Attachment 1

General Provisions - Fixed Price Research and Development Contracts

Attachment 2

General Provisions - Cost Type Research and Development Contracts with Commercial Organizations dated 12/81

Attachment 3

This Basic Ordering Agreement (BOA) as defined in Federal Procurement Regulation 1-3.410-3, provides the terms and conditions under which the contractor is required to provide the services identified under Article II. This agreement is primarily used as a means of expediting procurements and is neither intended to restrict competition nor imply that the Government will place future orders for these services.

During the performance period of this agreement (from date of award thru January 4, 1983 with an option for one additional year), task orders representing various projects within the scope of the work statement will be issued periodically. The type of contract employed for each Task Order will be subject to negotiation. Competition among the qualified BOA holders will be solicited for individual task orders. Additionally, an individual task order for a specific project issued under the BOA may require performance of all, some, or only one of the tasks identified in Article II, Section C.

ARTICLE II - Services to be Ordered

The contractor shall provide to the Government technical assistance services as the Government may order hereunder in the manner hereinafter provided. Such services shall be as generally described in the following Statement of Work:

A. BACKGROUND

The DOE has responsibility for the siting, design, construction, and operation of a geologic repository for the disposal of high-level radioactive waste (HLW). The EPA is responsible for setting a standard for release of radionuclides to the accessible environment from a geologic repository. The NRC is responsible for ensuring that facilities for disposal of HLW are properly sited, designed, constructed, operated, and decommissioned such that the EPA standard will not be exceeded. This goal will be accomplished through preparing regulations and regulatory guides and through licensing reviews at various steps in the repository development.

Presently, the DOE is conducting site screening studies in basalt (Pasco Basin, Hanford Reservation, Washington) tuff (Yucca Mountain, Nevada Test Site, Nevada), bedded salt (Permian Basin in Texas and Paradox Basin Louisiana, and Texas). The first three DOE Site Characterization Reports scheduled for submission to the NRC are in the media of basalt, tuff and salt. After the Site Characterization Reports have been reviewed, Site Characterization studies will proceed and additional reports will be developed.

The Contractor shall review hydrogeologic properties and processes related to containment and isolation of radionuclides. General topics shall include but not be limited to principles of groundwater hydraulics and solute transport, groundwater chemistry, groundwater resource potential, groundwater effects on facility design and construction, methods of groundwater investigation, data analyses and evaluations, and topics relevant to groundwater such as stratigraphy, and structural geology. Emphasis shall be given to topics such as: fracture flow radionuclide transport, groundwater age dating, isotopic analysis, heat driven convective flow, low permeability testing, in situ bulk measurements of hydrogeologic properties, tracer tests, paleohydrogeology, and delineating changes in groundwater systems.

The Contractor shall be required to review major areas of hydrogeologic work such as DOE products developed during site screening and site characterization, and DOE technical reports. The Contractor shall also provide portions of or reviews of draft NRC review plans and technical positions.

A Representative sample of material which would be reviewed is R.E. Gephart, et al, "Hydrologic Studies within the Columbia Plateau, Washington: An Integration of Current Knowledge." RHO-BWI-ST-5, October 1979, Rockwell International, Richland, Washington, prepared for Department of Energy and is provided herein as Attachment 4. (Chapter 3 on

Task 1 - Review of DOE Products Developed During Site Screening and Site Characterization

Under this task the Contractor shall review designated portions of products developed during site screening and site characterization. Each review shall be conducted in terms of the hydrogeologic requirements of 10 CFR 60.* Reviews shall consist of an evaluation of the adequacy and completeness of the: 1) data base, (including methods of investigation, analysis, evaluation, and quality assurance), 2) discussion and assessment of hydrogeologic issues** of the geologic setting and 3) plans for resolving issues and data limitations. Results of reviews shall be provided in draft and final reports containing conclusions and recommendations concerning actions which should be taken by the NRC.

* Proposed Rule 10 CFR 60, Disposal of High-Level Radioactive Wastes in Geologic Repositories, Federal Register, vol. 46, no. 130, July 8, 1981

** The term issues includes all hydrogeologic characteristics of a geologic setting that may affect the ability of a geologic setting to host a repository and to contribute to containment and isolation of waste from the accessible environment (this includes the favorable and potentially adverse conditions in 10 CFR 60).

Task 2 - Develop Portions of or Reviews of NRC Review Plans and Technical Positions

2.1 Under this task, the Contractor shall develop initial drafts of hydrogeologic portions of NRC documents. The Contractor shall accomplish this task using statements of the objectives, scope, and approach of the documents, together with a draft outline, as specified in individual task orders. The Contractor shall furnish additional detailed technical material as needed to satisfy the objectives of the document.

2.2 The Contractor shall be required to review hydrogeologic portions of NRC draft documents as specified in individual task orders. These reviews shall include technical comments on the material in the drafts and recommendations of additional material needed to satisfy the objectives of the document. The Contractor shall also furnish the necessary technical documentation (e.g. references, data, and results of analyses) to support the recommendation.

Results of these efforts shall be presented in a draft report. A final report shall be prepared based on the NRC staff comments on the draft report.

C. MEETINGS AND FIELD TRIPS

The Contractor shall attend planning or review meetings of one day or two days at NRC in Silver Spring, Maryland, as specified in individual task orders.

The Contractor shall attend field trips, technical meetings or site visits as specified in individual task orders.

D. TRAVEL

All domestic travel associated with any resultant task order shall be approved in advance by the NRC Project Officer.

E. REPORTING REQUIREMENTS

Letter Progress Reports:

The Contractor shall submit letter progress reports which summarize:

1. The technical work performed during the previous reporting period including:
 - a) key milestones achieved
 - b) meetings or field trips attended with reference to letter trip reports submitted
 - c) major results, conclusions and recommendations developed;
2. activities planned for the next reporting period;
3. potential or actual contractual problem areas and their impacts (if the schedule has slipped or if the budget will be exceeded, this shall be stated and the reasons explained);
4. the personnel assigned and their time expenditures during the previous reporting period;
5. cost obligations, listed separately for each person during the previous reporting period and cumulative to date (fiscal year and total); and
6. projection of costs by reporting period to completion of the work effort for the current fiscal year.

The first letter progressreport for a task shall provide the cost projection and detailed schedule of work. Subsequent reports shall either indicate revised projections or indicate no change in the cost and schedule projections. Reporting periods will be specified under each task order.

Draft and Final Review Reports

The Contractor shall prepare draft and final review reports as identified in Tasks 1 and 2. Draft and final reports shall be prepared in accordance with NRC manual appendix 3202 "Formal Contractor Documents." The draft shall meet the format requirements of the formal report, shall have been edited and reviewed by the Contractor and, with the possible exception of a few minor editing corrections, shall be ready to be published as a formal report if NRC has no comments. All final reports shall include a camera ready copy.

The Contractor shall submit ten (10) copies of draft reports to the NRC Project Officer in accordance with the completion schedule. Within 15 working days following submission of the draft report, the NRC Project Officer will comment in writing on these reports. The Contractor shall respond to these comments in writing within 15 working days following receipt of NRC comments. Prior to submittal of the final report all comments shall be mutually resolved by the NRC Project Officer and the Contractor. The final report shall be submitted within 20 working days after receipt of NRC comments and shall include a resolution of all NRC review comments. The Contractor shall submit copies of the final report in accordance with Section 4.4.

Each draft and final review report will include a list of references. A system of cross references between text of the report and the list of references shall be used. In all areas where "work by others" is reviewed and used, the Contractor shall specify which conclusions are his and which are those of the original author.

Reports of Meetings and Field Trips

A letter report of meetings and field trips shall be provided by the Contractor to be received by the NRC PO within 10 working days of completion of the meeting or field trip. These reports shall serve as a record of the trip or meeting and shall, as a minimum, identify the purpose, participant(s), itinerary, cost break out, and significant findings.

Report Distribution

The following summarizes the required report distribution under any resultant task order:

| | <u>Meetings and Trips</u> | <u>Progress</u> | <u>Task</u> <u>Draft</u> | <u>Final</u> | <u>Camera-ready</u> |
|--|-------------------------------|-----------------|-----------------------------|--------------|---------------------|
| Project Officer | 1 | 1 | 10 | 6 | 1 |
| Office of the Director, NMSS (Attn: Program Support Branch) | 1 | 1 | 1 | 1 | 0 |
| Division of Waste Management (Attn: Division Director) | 1 | 2 | 2 | 2 | 0 |
| Contracting Officer | 1 | 1 | 1 | 1 | 0 |
| High-Level Waste Technical | 1 | 1 | 1 | 1 | 0 |

At the initiation of each review the NRC will provide the Contractor with a copy of the procedural and technical portions of 10 CFR 60, the NRC Standard Format and Content Guide for the Site Characterization Report (the Site Characterization Report is referred to as the Detailed Site Characterization Plan by DOE), the reports which are to be reviewed, and a copy of the schedule of major events in the Department of Energy's selection, design, and construction of the geologic repository.

G. QUALITY ASSURANCE PROCEDURES

For all draft and final technical reports delivered under any resultant task order the Contractor shall assure that an independent review and verification of all numerical computations and mathematical equations and derivations are performed by qualified Contractor personnel other than the original author(s) of the reports. If the Contractor proposes to verify/check less than 100 percent of all computations and mathematical equations and derivations in the report(s), (such as might be the case when there are a large number of routine, repetitive calculations,) the Contractor must first obtain written approval from the NRC Project Officer. Computer-generated calculations will not require verification where the computer program has already been verified.

In addition, for all reports, including those which do not contain numerical analyses, a management review shall be conducted by the Contractor's project management prior to submission to the NRC.

All reports shall be annotated to indicate that the review and verification has been accomplished prior to their submission to the NRC. (This may be accomplished by use of a cover letter accompanying the report if preferable.)

- (a) Ordering Period: The government, from time to time, during the period commencing on the date of this agreement and ending one (1) year thereafter (hereinafter called the "ordering period") may place orders for services hereunder. Each order placed under this agreement shall be issued and processed in the manner hereinafter provided. By mutual agreement of the parties, the ordering period of the BOA may be extended one (1) additional year.
- (b) Authorized Ordering Activities: Contracting officers of the NRC may place orders under this BOA. The contracting officer has full responsibility for administering all contractual actions arising from any task orders issued and has the sole responsibility and authority to make any changes to the provisions of this BOA.
- (c) Types of Orders: Orders placed hereunder will be of two types. Unpriced Orders and Priced Orders as defined in subparagraphs (1) and (2) below:
- (1) Unpriced Orders: Unpriced Orders are hereby defined as orders hereunder for which price and delivery will be proposed by the Contractor as provided in paragraph (f) of this section.
- (2) Priced Orders: Priced orders are hereby defined as orders for which the parties have agreed upon price, and all other terms and conditions of the order prior to issuance. A Priced Order will be identified as follows:
- "This is a Priced Order issued pursuant to Article III, (c), (2) of the Basic Ordering Agreement Number _____ and _____ offer dated _____.
(Contractor Name) (Date)
- (d) Content of Order: Each order placed under this contract shall include the following:
- (1) The contract number, the task number, and the appropriate reference to this Basic Ordering Agreement.
- (2) Citation of the negotiation authority pursuant to which the order is negotiated.
- (3) Applicable appropriation and accounting data and special invoicing instructions where applicable.
- (4) For Unpriced Orders: A desired period of performance and/or delivery date and a monetary limitation for all the work covered by the order. (This monetary limitation shall be deleted upon the establishment of contract prices.)

(2) When the total of the costs or prices proposed for the unpriced order exceeds \$100,000.00, the Contractor shall, unless otherwise specified by the Government, furnish the Contracting Officer with a cost breakdown of the total order price on the current edition of Optional Form 60 (Contract Pricing Proposal). Additional cost breakdowns and/or substantiating data shall be made available to the Contracting Officer upon request. Orders priced by the Contractor below \$100,000.00 shall be returned to the Contracting Officer with such substantiating data as are reasonable requested to facilitate a pricing review and subsequent negotiation. Such data may be requested by the Contracting Officer at the time of placement of the unpriced order or subsequent to receipt of the Contractor's proposal.

(g) Processing of Priced Orders by the Contractor:

(1) Within fifteen (15) days after receipt of each Priced Order hereunder, or within such additional period as the Contracting Officer may allow, the Contractor shall sign and return three (3) copies of the task order to the Contracting Officer, acknowledging receipt of the task order and acknowledging that the task order contains price and delivery provisions agreed to by the Contractor.

(h) Processing of Unpriced Orders by the Contracting Officer:

Within thirty (30) days or such additional period as may be mutually agreed upon after receipt by the Contracting Officer of the Contractor's proposal, the Contracting Officer shall either:

(1) Issue a Supplemental Agreement, for execution by both parties specifying the proposed prices thereby signifying approval of the proposed prices;

(2) Terminate the task order in its entirety in accordance with the clause hereof entitled, "Termination for Convenience of the Government."

(3) Notify the Contractor of the need for further negotiations. When an agreement on price is reached, the Contracting Officer shall issue a Supplemental Agreement definitizing the Unpriced Order into a Priced Order. The agreement shall be executed by both of the parties.

(i) Disagreement as to Prices: In the event of a failure to agree on price, such failure shall be deemed to be a dispute concerning a question of fact in accordance with the clause hereof entitled, "Disputes."

(5) For Priced Orders: Agreed to, total order price and period of performance and/or delivery dates.

(6) Such other terms and conditions as may be pertinent to the particular tasks thereby ordered.

(e) Authority to Proceed:

(1) Unpriced Orders: Upon receipt of any unpriced order hereunder, the Contractor shall proceed with the work subject to the limitations of paragraph (j) of this section. However, the Contractor shall not proceed in the following circumstances:

(a) Incomplete or Inadequately Described Tasks or Projects: The Contractor shall immediately communicate with the Contracting Officer and request an appropriate adjustment in the order for tasks or projects which are incomplete or inadequately identified, except as applied to typographical errors and other obvious errors.

(b) Orders Which Contain a Monetary Limitation Which is Unreasonably Deficient When Related to the Dollar Value of the Services to be Furnished Thereunder: When the monetary amount provided with the order is so deficient as to make it impracticable to perform the work thereunder, the Contractor shall notify the Contracting Officer in advance of submission of the proposed price for the effort, the dollar amount of understatement in the monetary limitation contained in the order. The Contracting Officer will notify the Contractor in writing of the desired action to be taken.

(2) Priced Orders: Upon receipt of any Priced Order hereunder, the Contractor shall proceed with the tasks specified therein. However, the Contractor shall not proceed with any task that does not set forth price and delivery provisions agreed to by the parties. In the event of receipt of Priced Orders which do not reflect the agreed upon provisions, the Contractor shall immediately communicate such information to the Contracting Officer. The Contracting Officer will promptly notify the Contractor of action to be taken with respect to such order.

(f) Processing of Unpriced Orders by the Contractor:

(1) Within thirty (30) days after receipt of each Unpriced Order hereunder, or within such period as the Contracting Officer may specify, the Contractor shall submit a proposal containing the proposed price for the effort, period of performance or delivery dates, and such other information as is pertinent to the task.

(5) Limitation of Liability of the Government: Prior to work on such order at any time it is reasonably estimated that the cost incurred with respect to such order, plus termination expenses and profit, will exceed the dollar limitation set forth in the order. In the event the Contractor so stops work on any order he shall promptly notify the Contracting Officer of such fact and advise the Contracting Officer of the amount of increase in monetary limitation which is reasonably required in order to permit the Contractor to proceed further with the order. The Government shall not be obligated under any of the provisions of this agreement, including, without limitation, the provisions of the clause of this agreement entitled, "Termination for Convenience of the Government," to pay to the Contractor with respect to tasks under an order, any amount in excess of the monetary limitation stated in the order.

Article IV - PRICING AND NEGOTIATION OF ORDERS

It is agreed that each proposal submitted and all prices negotiated on orders issued under this Basic Ordering Agreement shall be submitted and shall be negotiated in accordance with the provisions of Part 1-XV of the Federal Procurement Regulations as in effect on the date of each such order.

Article V - TIME OF DELIVERY

The Contractor shall deliver the completed tasks called for in each order in accordance with the delivery schedule set forth in such order.

Article VI - REPORTS

All reports required to be submitted to the Nuclear Regulatory Commission under any task order issued pursuant to the terms of this Basic Ordering Agreement shall be as specified in each individual order.

Article VII - PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the "changes" clause or any other provisions of this agreement, such costs shall be in accordance with Part I-XV of the Federal Procurement Regulations as in effect on the date of the order.

Article VIII - TYPE OF CONTRACT

Each individual task order issued hereunder shall specify a particular contract type such as fixed price, labor-hour, cost-plus-fixed-fee, etc., and shall reference the General Provisions applicable to the task for each contract type.

Article IX - MODIFICATION OF BASIC ORDERING AGREEMENT

The agreement may be modified at any time by mutual agreement of the parties.

Article X - CONDITIONS FOR MAINTAINING AGREEMENT

This agreement shall be reviewed from time to time to assure conformance with all requirements of law and pertinent regulations and shall be revised, if necessary, to conform thereto. Any modification or revision shall be evidenced by a Supplemental Agreement modifying this Basic Ordering Agreement or by the issuance of a superseding Basic Ordering Agreement.

This agreement may be terminated upon thirty (30) days written notice by either party to the other, except that the Government may immediately terminate this agreement at any time after the parties fail to agree to any deletion, addition, or modification to this agreement which is required by statute, Executive Order, or the Federal Procurement Regulation. No deletion, addition, or modification to or termination of this agreement shall affect any orders theretofore entered into between the parties in which this agreement has been incorporated, by reference.

Article XI - AUTHORIZED REPRESENTATIVE

The Contracting Officer may designate an authorized representative under each task order for the purpose of assuring that services required under the agreement are ordered and delivered in accordance therewith. Such representative as may be appointed will be specifically designated in writing to the Contractor from the Contracting Officer, including the extent of such designee's authority.

ARTICLE XII - RESPONSIBILITIES OF THE PROJECT OFFICER

The Project Officer is responsible for: (1) Monitoring the Contractor's technical progress, including the surveillance and assessment of performance and recommending to the Contracting Officer changes in requirements; (2) interpreting the Statement of Work; (3) performing technical evaluation as required; (4) performing technical inspections and acceptances required by this contract; and (5) assisting the Contractor in the resolution of technical problems encountered during performance. Within the purview of this authority, the representative is authorized to approve payment vouchers for supplies/services required under the contract. The Contracting Officer is responsible for directing or negotiating any changes in terms, conditions, or amounts cited in the contract.

For guidance from the Project Officer to the Contractor to be valid, it must: (1) be consistent with the description of work set forth in this contract; (2) not constitute new assignment of work or change to the expressed terms, conditions, or specifications incorporated into this contract; (3) not constitute a basis for an extension to the period of performance or contract delivery schedule; (4) not constitute a basis for any increase in the contract price.

If the Contractor receives guidance from the Project Officer which the Contractor feels is not valid under the criteria cited above, the Contractor shall immediately notify the Project Officer. If the two are not able to resolve the question within 5 days, the Contractor shall notify the Contracting Officer.

ARTICLE XIII - TECHNICAL DIRECTION

- A. The NRC Project Officer named in each Task Order is responsible for guiding the technical aspects of the project and for general surveillance of the work performed. The Project Officer is not authorized to make any commitments or any changes which constitute work not within the general scope of this contract, or constitute a basis for any increase in contract price or extension of the contract Period of Performance.
- B. Technical direction must be within the general scope of work stated in the contract. The Project Officer does not have the authority to and may not issue any technical direction which:

1. Constitutes an assignment of additional work outside the general scope of the contract.
 2. Constitutes a change as defined in the clause of the General Provisions, entitled "Changes."
 3. In any way causes an increase or decrease in the total estimated contract cost, the fixed fee, if any, or the time required for contract performance.
 4. Changes any of the expressed terms, conditions or specifications of the contract.
- C. ALL TECHNICAL DIRECTIONS SHALL BE ISSUED IN WRITING BY THE PROJECT OFFICER OR SHALL BE CONFIRMED BY SUCH PERSON IN WRITING WITHIN TEN (10) WORKING DAYS AFTER VERBAL ISSUANCE. A copy of said written direction shall be submitted to the Contracting Officer.
- D. In the event the Project Officer desires a change to the contract within one or more of the categories as defined in (1) through (4) of paragraph B above, he/she must direct such request to the Contracting Officer. The Contracting Officer will handle the request in accordance with applicable laws and regulations.
- E. Any unauthorized commitment or direction issued by the Project Officer may result in an unnecessary delay in the Contractor's performance and may even result in the Contractor expending its own funds for unallowable costs under the contract.

ARTICLE XIV - ORDER OF PRECEDENCE

In the event of an inconsistency between the terms and conditions of this contract, the inconsistency shall be resolved by giving precedence in the following order :

1. THE SCHEDULE
2. The General Provisions
3. Other terms and conditions of the contract, whether incorporated by reference or otherwise.

ARTICLE XV - BILLING INSTRUCTIONS FOR NRC COST-TYPE CONTRACTS

General. The contractor shall submit vouchers for cost-reimbursement in the manner and format described herein and as illustrated in the sample voucher.-

Form. Claims shall be submitted on the payee's letterhead, invoice or on the Government Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," and Standard Form 1035, "Public Voucher for Purchases Other than Personal--Continuation Sheet." These forms are available from the Government Printing Office, 710 North Capitol Street, Washington, DC 20801.

Number of Copies. An original and four copies shall be mailed to the NRC office identified below.

Frequency. The contractor shall submit claims for reimbursement once each month unless otherwise authorized in writing by the Contracting Officer.

Billing of Costs After Expiration of Contract: If cost-reimbursements are incurred during the contract period and claimed after the contract has expired, the period during which these costs were incurred must be cited.

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

Supersession. These instructions supersede all previous billing instructions.

Preparation and Itemization of the Voucher. The contractor shall furnish the information set forth in the explanatory notes below. These notes are keyed to the entries on the sample voucher.

- (a) Payor's Name and Address. (i) Address the original voucher (with copies) to: U.S. Nuclear Regulatory Commission, Office of Resource Management, Division of Accounting and Finance, ATTN: GOV/COM ACCOUNTS, Washington, DC 20555.
- (b) Voucher Number. Insert the appropriate serial number of the voucher. This must be in sequential order beginning with 001 as the number to be used for the first voucher submitted under this contract.
- (c) Date of Voucher. Insert the date the voucher is prepared.
- (d) Contract Number and Date. Insert the contract number and the effective date of the contract.
- (e) Payee's Name and Address. Show the name of the contractor as it appears in the contract and its correct address; except when an approved assignment has been made by the contractor, or a different payee has been designated, then insert the name and address of the payee. Include name of voucher preparer and telephone number.
- (f) Contract Amount. Insert the total estimated cost of the contract, exclusive of fixed fee. For incrementally funded contracts enter the amount currently obligated and available for payment.
- (g) Fixed Fee. Where applicable, insert total fixed fee.

(h) Billing Period. Insert the beginning and ending dates (day, month, and year) of the period in which costs were incurred and for which reimbursement is claimed.

(i) Direct Costs. Insert the major cost elements as follows:

(i)(1) Direct Labor. This consists of salaries and wages paid (or accrued) for direct performance of the contract. Itemize by name/labor category, hours, and rate per hour.

(i)(2) Fringe Benefits. This represents fringe benefits applicable to direct labor and billed as a direct cost. Fringe benefits included in direct costs should not be identified here.

(i)(3) Capitalized Nonexpendable Equipment. For educational institutions list each item costing \$1,000 or more; for contractors other than educational institutions, list each item costing \$200 or more and having a life expectancy of more than one year. List only those items of equipment for which reimbursement is requested. A reference shall be made to the following (as applicable): (1) the item number for the specific piece of equipment listed in the Property Schedule; (2) the Contracting Officer's Approval Letter, if the equipment covered by the Property Schedule; or (3) be preceded by an asterisk (*) if the equipment is below the approval level. Further itemization of vouchers shall only be required for items having specific limitations set forth in the contract.

(i)(4) Materials, Supplies, and Noncapitalized Equipment. This is consumable materials and supplies and equipment other than that described in (i)(3) above. Specify separately all items over \$1,000.

(i)(5) Premium Pay. This is remuneration in excess of the basic hourly rate.

(i)(6) Consultant's Fee. These are fees paid to consultants. List name, hours, rate per hour, and total cost.

(i)(7) Travel. Domestic travel is travel within the United States, its territories, possessions, and Canada; it should be billed separately from foreign travel. List cost elements and locations of travel: Airfare, car rental, lodging, food, parking, misc.

(i)(8) Other. List all other direct costs in total unless in excess of \$500. If over \$500, list cost elements and dollar amount separately, e.g. subcontracts. For computer costs, specify computer type, total hours, and cost per hour of computer time.

(j) Indirect Costs--Overhead. Cite the provisional rate specified in the contract.

(k) G&A Expenses. Cite the provisional rate specified in the contract.

(l) Fixed Fee. If the contract provides for a fixed fee, it must be claimed as provided for by the contract. Cite the formula or method of computation (See (p)).

(m) Amount Billed for Current Period. Insert the amount billed for the major cost elements, adjustment, and adjusted amounts for the period.

(n) Cumulative Amount from Inception to Date of this Billing. Insert the cumulative amounts billed for the major cost elements and adjusted amounts claimed during this contract.

- (o) Total Amounts Claimed. Insert the total amounts claimed for the current and cumulative periods.
- (p) Adjustments. This includes amounts conceded by the contractor, outstanding suspensions, disapprovals subject to appeal, and 15% withholding of earned fixed fee.
- (q) Grand Totals.

General. The contractor shall submit vouchers or invoices as prescribed herein.

Form. Claims shall be submitted on the payee's letterhead, invoice or on the Government's Standard Form 1034 "Public Voucher for Purchases and Services Other Than Personal," and Standard Form 1035 "Public Voucher for Purchases Other Than Personal -- Continuation Sheet." These forms are available from the Government Printing Office, 710 North Capitol Street, Washington, DC 20301.

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

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

Preparation and Itemization of the Voucher. The voucher shall be prepared in ink or typewriter (without strikeouts) and corrections or erasures must be initialed. It must include the following:

- (a) Payor's name and address. (i) Address the original voucher (with 4 copies) to: U.S. Nuclear Regulatory Commission, Office of Resource Management, Division of Accounting and Finance, ATTN: GOV/COM ACCOUNTS, Washington, DC 20555. (ii) Address two copies to: U.S. Nuclear Regulatory Commission, ATTN: E. L. Halman, Director, Division of Contracts, Washington, DC 20555. (iii) The original copy of the voucher should indicate that (2) copies have been forwarded to the Contracting Officer.
- (b) Voucher number. This is to be in sequential order beginning with 001 as the number to be used for the first voucher submitted under this contract or purchase order.
- (c) Date of voucher.
- (d) Contract number and date.
- (e) Payee's name and address. (Show the name of the contractor and its correct address, except when an assignment has been made by the contractor or a different payee has been designated, then insert the name and address of the payee.)
- (f) Description of articles or services, quantity, unit price, and total amount.

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

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 invoices paid under the contract may not exceed the total U.S. dollars authorized in the contract.

- A. Except as specifically authorized by this contract, or as otherwise approved by the Contracting Officer, records or other information, documents and material furnished by the Commission to the contractor in the performance of this contract, or information developed by the contractor in the course of the work hereunder, shall be used only in connection with the work performance under this contract. The contractor shall, upon completion or termination of this contract, transmit to the Commission all records or other information, documents and material, and any copies thereof, furnished by the Commission to the contractor or developed by the contractor in the performance of this contract.
- B. The contractor shall be responsible for safeguarding from unauthorized disclosure any information or other documents and material exempt from public disclosure by the Commission's regulations and made available to the contractor in connection with the performance of work under this contract. The contractor agrees to conform to all regulations, requirements, and direction of the Commission with respect to such material.
- C. The contractor's duties under this clause shall not be construed to limit or affect in any way the contractor's obligation to conform to all security regulations and requirements of the Commission pertaining to classified information and material.

If proprietary or company confidential data is provided to the contractor by the Government in connection with this contract, the contractor agrees to safeguard such information and agrees not to release such information to any person not directly involved in the performance of work under this contract unless such release is authorized in writing by the Contracting Officer. Upon completion or termination of this contract, all copies of any such proprietary or company confidential data shall be returned to the Commission.

ARTICLE XIX - INSPECTION OF SERVICES

- (a) All services (which term throughout this clause includes services performed, material furnished or utilized in the performance of services, and workmanship in the performance of services) shall be subject to inspection and test by the Government, to the extent practicable at all times and places during the term of the contract. All inspections by the Government shall be made in such a manner as not to unduly delay the work.
- (b) If any services performed hereunder are not in conformity with the requirements of this contract, the Government shall have the right to require the Contractor to perform the services again in conformity with the requirements of the contract, at no additional increase in total contract amount. When the services to be performed are of such a nature that the defect cannot be corrected by reperformance of the services, the Government shall have the right to (i) require the Contractor to immediately take all necessary steps to ensure future performance of the services in conformity with the requirements of the contract; and (ii) reduce the contract price to reflect the reduced value of the services performed. In the event the Contractor fails promptly to perform the services again or to take necessary steps to insure future performance of the services in conformity with the requirements of the contract, the Government shall have the right to either (i) by contract or otherwise have the services performed in conformity with the contract requirements and charge to the Contractor any cost occasioned to the Government that is directly related to the performance of such services; or (ii) terminate this contract for default as provided in the clause of this contract entitled "Default."

ARTICLE XX - CONFLICT OF INTEREST

(a) Purpose. The primary purpose of this article 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 relates 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 article.

(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 article. 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 article, 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.

ARTICLE XXI- GENERAL PROVISIONS/ALTERATIONS

The General Provisions of any resultant Basic Ordering Agreement shall consist of:

1. General Provisions - Fixed Price Research & Development Contract (attachment 3).
2. General Provisions - Cost Type Research & Development Contracts With Commercial Organizations dated 12/81 (attachment 4).

Individual Task Orders awarded under the BOA will specify the applicable provisions depending upon the type of contract negotiated.

In addition, the following provisions are added to "Cost Type Research and Development Contracts With Commercial Organizations," dated 12/81:

Provisions Added:

3.12 Labor Surplus Area Subcontracting Program (1-1.805-3(b))

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall--

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matter (ii) supervise compliance with the Utilization of Concerns in Labor Surplus Areas clause, and (iii) administer the Contractor's "Labor Surplus Area Subcontracting Program;"

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitation time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns

(4) Maintain records showing the procedures which have been adopted to comply with the policies set forth in this clause and report subcontract awards (see 41 CFR 1-16.804-5 regarding use of Optional Form 61): Records maintained pursuant to this clause will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulations; and

(5) Include the Utilization of Concerns in Labor Surplus Areas clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

(b) (1) The term "labor surplus area" means a geographical area identified by the Department of Labor as an area of concentrated unemployment or under-employment or an area of labor surplus.

(2) The term "concern located in a labor surplus area" means a labor surplus area concern.

(3) The term "labor surplus area concern" means a concern that, together with its first-tier subcontractors, will perform substantially in labor surplus areas.

(4) The term "perform substantially in labor surplus areas" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price.

(c) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 and which contains the Utilization of Concerns in Labor Surplus Areas clause, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of such subcontractors.

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in the contract, a "women-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

3.14 Women-Owned Business Concerns Subcontracting Program (Over \$500,000 or \$1,000,000 for Construction of Any Public Facility)

(a) The Contractor agrees to establish and conduct a program which will enable women-owned business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the contractor shall:

- (1) Designate a liaison officer who will administer the Contractor's "Women-Owned Business Concerns Program."
- (2) Provide adequate and timely consideration of the potentialities of known women-owned business concerns in all "make-or-buy" decisions.
- (3) Develop a list of qualified bidders that are women-owned businesses and assure that known women-owned business concerns have an equitable opportunity to compete for subcontracts, particularly by making information on forthcoming opportunities available, by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of women-owned business concerns.
- (4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of women-owned business concerns; (ii) awards to women-owned businesses on the source list by minority and non-minority women-owned business concerns; and (iii) specific efforts to identify and award contracts to women-owned business concerns.
- (5) Include the "Utilization of Women-Owned Business Concerns" clause in subcontracts which offer substantial subcontracting opportunities.
- (6) Cooperate in any studies and surveys of the Contractor's women-owned business concerns procedures and practices that the Contracting Officer may from time-to-time conduct.

(7) Submit periodic reports of subcontracting to women-owned business concerns with respect to the records referred to in subparagraph (4) above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 or \$1,000,000 in the case of contracts for the construction of any public facility and which offers substantial subcontracting possibilities, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

(c) The contractor further agrees to require written certification by its subcontractors that they are bona fide women-owned and controlled business concerns in accordance with the definition of a women-owned business concern as set forth in the Utilization Clause 1(b) above at the time of submission of bids or proposals.

5.8 Price Reduction for Defective Cost or Pricing Data (1-3.814-1(a))

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

(a) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(b) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data--Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(c) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(d) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (a), (b) or (c) above, which was not accurate as submitted; the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: Provided, The actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his low tier subcontractors.)

5.9 Price Reduction for Defective Cost or Pricing Data - Price Adjustment
(1-3.814-1(b))

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in cost or applicable profits in excess of \$100,000 unless the modification is priced on a basis of adequate price competition, established catalog or market prices for commercial items sold in substantial quantities to the general public, or set by law or regulation. The right to price reduction under this clause shall apply to defects in data relating to such modification.

(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant amount because:

(1) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(2) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(3) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and submitted to support a subcontract cost estimate furnished by the Contractor which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(4) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (1), (2) or (3) above, which was not accurate and submitted; the price shall be reduced accordingly and the contract shall be amended in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor. Provided the actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractor.)

(c) Failure to agree on a reduction shall be a dispute concerning a matter of fact within the meaning of the "Disputes" clause of this contract.

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds \$100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such expected subcontract hereunder in excess of \$100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST-OR PRICING DATA-
PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to award of any subcontract, the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

5.10 Subcontract Cost and Pricing Data (1-3.614-2(a)) Cont'd

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds \$100,000 when entered into.

5.11 Cost Accounting Standards--Nondefense Contract (1-3.1204-2(a))

(a) Unless the Administrator of General Services has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated by the Cost Accounting Standards Board, the Contractor, in connection with this contract, shall:

(1) Follow consistently the cost accounting practices established or disclosed as required by regulations of the Cost Accounting Standards Board and administered under the Administration of Cost Accounting Standards clause. If any change in disclosed practices is made for purposes of any contract or subcontract subject to those disclosure requirements, the change must be applied in a consistent manner to this contract.

(2) Comply with all cost accounting standards which the Contractor is required to comply with by reason of concurrent performance of any contract or subcontract subject to the Cost Accounting Standards clause (4 CFR 331) and administered under the Administration of Cost Accounting Standards clause. The Contractor also shall comply with any cost accounting standard which hereafter becomes applicable to such a contract or subcontract. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract. Compliance shall continue until the Contractor completes performance of work under this contract.

(3) Agree to an equitable adjustment (as provided in the Changes clause of this contract, if any) if the contract cost is affected by a change which, pursuant to (2) above, the Contractor is required to make to his established cost accounting practices whether such practices are covered by a Disclosure Statement or not.

(4) Negotiate with the Contracting Officer to determine the terms and conditions under which a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under (a)(3) above or (a)(6) below, may be made. A change to a practice may be proposed by either the Government or the Contractor, Provided, however, That no agreement may be made under this provision that will increase costs paid by the United States.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if it or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any practice disclosed or established pursuant to subparagraph (a)(1) or (a)(2) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)), or 7 percent per annum, whichever is less, from time the payment by the United States was made to the time the adjustment is effected.

(6) Negotiate an equitable adjustment (as provided in the Changes clause of this contract, if any) when the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice.

(b) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations (FPR) part 1-20.

(c) Unless a subcontract or Subcontractor is exempt under rules or regulations prescribed by the administrator of General Services, the Contractor: (1) shall include the substance of this clause including this paragraph (c) in all negotiated subcontracts under this contract with subcontractors that are currently performing a national defense contract or subcontract that contains the clause entitled to Cost Accounting Standards and that are currently required to accept the clause in applicable national defense awards, and (2) shall include the substance of the Consistency of Cost Accounting Practices--Non-Defense Contract clause set forth in § 1-3.1204-2(b) of the FPR in negotiated subcontracts under this contract with all other subcontractors. The Contractor may elect to use the substance of the solicitation notice set forth in § 1-3.1203-2(b) of the FPR in his determination of applicability cost accounting standards to subcontracts.

(d) The terms defined in § 331.20 of Part 331 of Title 4, Code of Federal Regulations, shall have the same meaning herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

(e) The administration of this clause by the Government shall be accomplished in conjunction with the administration of the Contractor's national defense contracts and subcontracts subject to rules and regulations of the Cost Accounting Standards Board, pursuant to the Administration of Cost Accounting Standards clause. For the purposes of the Administration of Cost Accounting Standards clause contained in this contract, references to the Cost Accounting Standards clause shall be deemed to include this Cost Accounting Standards--Nondefense Contract clause and reference to the Disclosure and Consistency of Cost Accounting Practices clause shall be deemed to include the Consistency of Cost Accounting Practices--Nondefense Contract clause.

For the purpose of administering Cost Accounting Standards requirements under this contract, the Contractor shall:

(a) Submit to the cognizant Contracting Officer a description of the accounting change and the general dollar magnitude of the change to reflect the sum of all increases and the sum of all decreases for all contracts containing the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause:

(1) For any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraph (a)(3) and (a)(4)(A) of the Cost Accounting Standards clause within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring such change;

(2) For any change to cost accounting practices proposed in accordance with paragraphs (a)(4)(B), (a)(4)(C) of the Cost Accounting Standards clause or with paragraph (a)(3) or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause not less than 60 days (or such other date as may be mutually agreed to) prior to the effective date of the Proposed change;

(3) For any failure to comply with an applicable Cost Accounting Standard or to follow a disclosed practice as contemplated by paragraph (a)(5) of the Cost Accounting Standards clause or with paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause within 60 days (or such other date as may be mutually agreed to) after the date of agreement of such noncompliance by the Contractor.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within sixty (60) days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to (a) (1), (2), or (3), above.

(c) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause or with paragraphs (a)(3), (a)(4), or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause.

(d) When the subcontract is subject to either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practice clause so state in the body of the subcontract and/or in the letter of award. Self-deleting clauses shall not be used.

(e) Include the substance of this clause in all negotiated subcontracts containing either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause. In addition, include a provision in these subcontracts which will require such subcontractors, within 30 days after receipt of award (or such other date as may be mutually agreed to) to submit the following information to the Contract Administration Office Cognizant of the subcontractor's facility.

- (1) Subcontractor's name and subcontract number.
- (2) Dollar amount and date of award.
- (3) Name of Contractor making the award.

(4) A statement as to whether the subcontractor has made or proposes to make any changes to accounting practices that affect prime contracts or subcontracts containing the Cost Accounting Standards clause or Disclosure and Consistency of Cost Accounting Practices clause unless such changes have already been reported. If award of the subcontract results in making a cost accounting standard(s) effective for the first time, this shall also be reported.

(f) For negotiated subcontracts containing the Cost Accounting Standards clause, require the subcontractor to comply with all Standards in effect on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data or date of award, whichever is earlier.

(g) In the event an adjustment is required to be made to any subcontract hereunder, notify the Contracting Officer in writing of such adjustment and agree to an adjustment in the price or estimated cost and fee of this contract, as appropriate, based upon the adjustment established under the subcontract. Such notice shall be given within 30 days after receipt of the proposed subcontract adjustment, and shall include a proposal for adjustment to such higher tier subcontract or prime contract as appropriate.

(h) When either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause and this clause are included in subcontracts, the term "Contracting Officer" shall be suitably altered to identify the purchaser.