

1. CONTRACT (Proc. Inst. Ident.) NO. **NRC-32-83-689**
 2. EFFECTIVE DATE **2/16/83**
 3. REQUISITION/PURCHASE REQUEST/PROJECT NO. **RG5-83-689 (formerly 82-736)**
 4. CERTIFIED FOR NATIONAL DEFENSE UNDER DUSA REG. 2 AND/OR DMS REG. 3. RATING.

5. ISSUED BY **U.S. Nuclear Regulatory Commission
Division of Contracts
Washington, DC 20555**
 CODE
 6. ADMINISTERED BY **(If other than block 5)**
 CODE
 7. DELIVERY FOR DISTR. NATION
 OTHER (See below)

8. CONTRACTOR NAME AND ADDRESS **Tennelec, Inc.
601 Oak Ridge Turnpike
Oak Ridge, TN 37830**
 CODE
 FACILITY CODE
 (Street, city, county, State, and ZIP code)
 9. DISCOUNT FOR PROMPT PAYMENT
 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK

11. SHIP TO/MARK FOR **SEE ARTICLE III**
 CODE
 12. PAYMENT WILL BE MADE BY **U.S. Nuclear Regulatory Commission
Office of Resource Management
Attn: GOV/COM Accounts
Washington, DC 20555**
 CODE

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

14. ACCOUNTING AND APPROPRIATION DATA
 B&R NO. **95-31** FIN. NO. **B6558** APPROPRIATION NO. **31X0200.952** **\$24,871.00**

15. ITEM NO.	16. SUPPLIES/SERVICES	17. QUANTITY	18. UNIT	19. UNIT PRICE	20. AMOUNT
	<p>The Government hereby accepts your bid on IFB No. RS-RG5-82-736 dated December 6, 1982</p> <p>ARTICLE IX - <u>Total Amount of Contract</u></p> <p>The firm fixed price amount of this contract for the delivery and acceptance of the supplies stipulated in ARTICLE I is <u>\$24,871.00</u>.</p> <p>FIRM FIXED PRICE.....FULLY FUNDED</p>				

21. TOTAL AMOUNT OF CONTRACT \$ **24,871.00**

CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ 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 **IFB-RS-RG5-736** 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.

23. NAME OF CONTRACTOR **UNITED STATES OF AMERICA**
 BY **Timothy J. Hogan**
 (Signature of person authorized to sign) (Signature of Contracting Officer)

24. NAME AND TITLE OF SIGNER (Type or print) **Mary Jo Mattia**
 25. DATE SIGNED **2/16/83**
 29. DATE SIGNED **2/16/83**

ARTICLE XI - Project Officer

Gerald Hamada is hereby designated as the Contracting Officer's authorized representative for technical aspects of this contract.

The following articles are added and made a part of the General Provisions.

46. Interest on Overdue Payments

- (a) The Prompt Payment Act, Public Law 97-177 (96 STAT. 25, 31 USC 1801) is applicable to payments under this contract and requires the payment to contractors interest on overdue payments and improperly taken discounts.
- (b) Determination of interest due will be made in accordance with provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

47. Payment Due Date - F.O.B. Destination

- (a) Payments under this contract will be due on 30 calendar days after the later of:
 - (1) The date of actual receipt of a proper invoice (original and 4 copies) to the U.S. Nuclear Regulatory Commission, Division of Accounting and Finance, Office of Resource Management, ATTN: GOV/COM Accounts Section, Washington, D.C. 20555.
 - (2) The date the supplies are accepted by the Government.
- (b) For the purpose of determining the due date for payment and for no other purpose, acceptance will be deemed to occur \times calendar days after the date of delivery of the supplies in accordance with the terms of the contract.
- (c) If the supplies are rejected for failure to conform to the technical requirements of the contract, or for damage in transit or otherwise the provisions in paragraph (b) of this clause will apply to the new delivery of replacement supplies.
- (d) The date of the check issued in payment shall be considered to be the date payment is made.

48. Invoice Requirements

Invoices shall be submitted in an original and 4 copies to the U.S. Nuclear Regulatory Commission, Division of Accounting and Finance, Office of Resource Management, ATTN: GOV/COM Accounts Section, Washington, D.C. 20555. To constitute a proper invoice, the invoice must include the following information and/or attached documentation:

- (1) Name of the business concern and invoice date.
- (2) Contract number or other authorization for delivery of property or services.
- (3) Description price and quantity of property and services actually delivered or rendered.
- (4) Shipping and payment terms.
- (5) Name (where practicable), title, phone number, and complete mailing address or responsible official to whom payment is to be sent.
- (6) Other substantiating documentation or information as required by the contract. See Attachment 1 - "Billing Instructions for Fixed Price Contracts."

SOLICITATION, OFFER AND AWARD		3. CERTIFIED FOR NATIONAL DEFENSE UNDER DPA REG. 1 AND/OR DPA REG. 1 RATING	4. PAGE 1 OF 1
1. CONTRACT (Proc Inv. Item) NO NRC-RG5-83-689	2. SOLICITATION NO IFB-RG5-82-736 <input checked="" type="checkbox"/> ADVERTISED OFFER <input type="checkbox"/> NEGOTIATED OFFER	5. DATE ISSUED 11/15/82	6. REQUISITION/PURCHASE REQUEST NO RFPA No. RG5-82-736
7. ISSUED BY U. S. Nuclear Regulatory Commission Division of Contracts Washington, D.C. 20555		8. ADDRESS OFFER TO (if other than above)	

In advertised procurement offer and offers shall be construed to mean bid and tender

SOLICITATION

9. Sealed offers in 1 original and 2 copies if handcarried, in the depository located in Room 2223, 4550 Montgomery Ave until 10:00 a.m. local time 12/15/82
Bethesda, MD 20814
(Hour) (Date)

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

- The Solicitation Instructions and Conditions, SF 33-A, January 1978 edition which is attached or incorporated herein by reference.
 - The General Provisions, SF 32, _____ edition, which is attached or incorporated herein by reference.
 - The Schedule included herein and/or attached hereto.
 - Such other provisions, representations, certifications, and specifications as are attached or incorporated herein by reference. (301)
- Ms. Ellyce B. Miles - Bid Opening Officer 492-7125
Ms. M. Dorsey, Bid Opening Officer's Representative

FOR INFORMATION CALL (Name & telephone no.) (No collect calls)

SCHEDULE

11. ITEM NO	11. SUPPLIES SERVICES	12. QUANTITY	13. UNIT	14. UNIT PRICE	15. AMOUNT
<p>SEE PART III OF THIS SOLICITATION PACKAGE NOTE: THE ADDRESS SHOWN IN BLOCK 9 IS FOR MAILING ONLY. HAND-CARRIED BIDS SHOULD BE DELIVERED AS ADDRESSED IN BLOCK 9 ABOVE. THIS INCLUDES DELIVERY BY ANY EXPRESS MAIL SERVICES OR SPECIAL DELIVERY SERVICES WHICH USE A COURIER OR OTHER PERSON TO DELIVER THE BID IN PERSON TO THE NRC. TELEGRAPHIC BIDS ARE NOT AUTHORIZED.</p> <p>OFFER (pages 2 and 3 must also be fully completed by offeror)</p>					

In compliance with the above, the undersigned agrees, if this offer is accepted within 90 calendar days (90 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 prices set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

16. DISCOUNT FOR PROMPT PAYMENT (See par 3 SF 33-A):
1/2 % 10 CALENDAR DAYS Net 20 CALENDAR DAYS 30 CALENDAR DAYS CALENDAR DAYS

17. Bidder CODE _____ FACILITY CODE _____

18. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
Linda G. Duncan
Sales Administrator

19. SIGNATURE
Linda G. Duncan

20. OFFER DATE
12/6/82

NAME AND ADDRESS:
Tennelec, Inc.
601 Oak Ridge Turnpike
Oak Ridge, TN 37830
(615) 483-8405 See below

Check 1 - alternate address - different from above - enter such address in Schedule

AWARD (To be completed by Government)

21. ACCEPTED AS TO ITEMS NUMBERED All Items	22. AMOUNT \$24,871.00	23. ACCOUNTING AND APPROPRIATION DATA B&R No. 95-31 FIN NO. B6558 APPROPRIATION NO. 31Y0200.952
24. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK <u>27</u>	25. NEGOTIATED PURSUANT TO 10 U.S.C. 2304(a)(1) 41 U.S.C. 252(c)(1)	26. PAYMENT WILL BE MADE BY U.S. Nuclear Regulatory Commission Office of the Controller, GOV/COM Accts. Sec. Washington, DC 20555
28. NAME OF CONTRACTING OFFICER (Type or print) Mary Jo Mattia	29. UNITED STATES OF AMERICA BY (Signature of contracting officer)	30. AWARD DATE

Award will be made on the form or on Standard Form 28 or by other official written notice

REPRESENTATIONS, CERTIFICATIONS AND ACKNOWLEDGMENTS

REPRESENTATIONS (Check or complete all applicable boxes or blocks.)

The offeror represents as part of his offer that

1. SMALL BUSINESS (See par. 14 on SF 33-A.)

He is, is not a small business concern. If offeror is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder will, will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico.

2. MINORITY BUSINESS ENTERPRISE

He is, is not a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American-Aleuts.

3. REGULAR DEALER - MANUFACTURER (Applicable only to supply contracts exceeding \$10,000.)

He is a regular dealer in, manufacturer of, the supplies offered.

4. CONTINGENT FEE (See par. 15 on SF 33-A.)

(a) He has, has not, employed or retained any company or persons (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, and (b) he has, has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer (Interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1-1.5.)

5. TYPE OF BUSINESS ORGANIZATION

He operates as an individual, a partnership, a nonprofit organization, a corporation, incorporated under the laws of the State of TN.

6. AFFILIATION AND IDENTIFYING DATA (Applicable only to advertised solicitations.)

Each offeror shall complete (a) and (b) if applicable, and (c) below:

(a) He is, is not, owned or controlled by a parent company. (See par. 16 on SF 33-A.)

(b) If the offeror is owned or controlled by a parent company, he shall enter in the blocks below the name and main office address of the parent company:

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (Include ZIP code)

The Nucleus, Inc.
761 Emory Valley Rd.
Oak Ridge, TN 37830

C. EMPLOYER'S IDENTIFICATION NUMBER - SEE PAR. 17 ON SF 33-A.

62-0634183

OFFEROR'S I.D. NO.

62-0634183

PARENT COMPANY'S I.D. NO.

62-0811361

7. EQUAL OPPORTUNITY

(a) He has, has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; that he has, has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)

(b) The bidder (or offeror) represents that (1) he has developed and has on file, has not developed and does not have on file, at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or (2) he has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (The above representation shall be completed by each bidder (or offeror) whose bid (offer) is \$50,000 or more and who has 50 or more employees.) Exempt

CERTIFICATIONS (Check or complete all applicable boxes or blocks)

1. BUY AMERICAN CERTIFICATE

The offeror certifies as part of his offer, that: each end-product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act"), and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

EXCLUDED END PRODUCTS

NONE

COUNTRY OF ORIGIN

2. CLEAN AIR AND WATER (Applicable if the bid or offer exceeds \$100,000, or the contracting officer has determined that orders under an indefinite quantity contract in any year will exceed \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract has, has not, been listed on the Environmental Protection Agency List of Violating Facilities.

(b) He will promptly notify the contracting officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities.

(c) He will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION (See par. 18 on SF 33-A)

(a) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for that purpose of restricting competition.

(b) Each person signing this offer certifies that:

(1) He is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3), above; or

(2) (i) He is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

4. CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). *NOTE: The penalty for making false offers is prescribed in 18 U.S.C. 1001.*

Continued on Page 4

ACKNOWLEDGMENT OF AMENDMENTS The offeror acknowledges receipt of amendments to the Solicitation for offers and related documents numbered and dated as follows:	AMENDMENT NO	DATE	AMENDMENT NO	DATE

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

PART I

Representations, Certifications, and Acknowledgments - Continued SF-33 (Page 3)

5. WOMAN-OWNED BUSINESS

Concern is is not a woman-owned business. The business is publicly owned, a joint stock association, or a business trust yes no. The business is certified not certified.

A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, woman-owned if this information is available.

6. PERCENT OF FOREIGN CONTENT

The offeror/contractor will represent (as an estimate), immediately after the award of a contract, the percent of the foreign content of the item or service being procured expressed as a percent of the contract award price (accuracy within plus or minus 5 percent is acceptable).

7. NON-DISCRIMINATION BECAUSE OF AGE CERTIFICATION (1-12.1001)

The offeror hereby certifies as follows:

(a) In the performance of Federal contracts, he and his subcontractors shall not in connection with the employment, advancement, or discharge of employees or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational retirement plan, or statutory requirement, and

(b) That contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based on a bona fide occupational qualification, retirement plan, or statutory requirement.

8. CERTIFICATION OF RECOVERED MATERIALS (1-1.2504(b))

The offeror/contractor certifies that recovered materials will be used as required by specifications referenced in the solicitation/contract.

CONTRACTOR ORGANIZATIONAL CONFLICTS OF INTEREST

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

The award to Tennelec 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 paragraph 20-1.5403(b)(1).

If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR 20-1.5403(b)(1) are involved or the Contracting Officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant factors bearing on his representation to the Contracting Officer. If the Contracting Officer determines that organizational conflicts exist, the following actions may be taken:

- (a) impose appropriate conditions which avoid such conflicts,
- (b) disqualify the offeror, or
- (c) determine that it is otherwise in the best interest of the United States to seek award of the contract under the waiver provisions of § 20-1.5411.

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

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

The offeror's failure to execute the representation required herein with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct the omission.

Any contract resulting from a solicitation requirement shall include general clauses (41 CFR 20-1.5404-1) prohibiting contractors from engaging in relationships which may give rise to an actual or apparent conflict of interest. Note: NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20) is included in Part IV as Attachment No. 1.

1. DEFINITIONS.

As used herein:

- (a) The term "solicitation" means Invitation for Bids (IFB) where the procurement is advertised, and Request for Proposal (RFP) where the procurement is negotiated.
- (b) The term "offer" means bid where the procurement is advertised, and proposal where the procurement is negotiated.
- (c) For purposes of this solicitation and Block 2 of Standard Form 33, the term "advertised" includes Small Business Restricted Advertising and other types of restricted advertising.

2. PREPARATION OF OFFERS.

- (a) Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at offeror's risk.
- (b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his name on the Schedule and each Continuation Sheet thereof on which he makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the issuing office.
- (c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the Amount column of the Schedule for each item offered. In case of discrepancy between a unit price and extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.
- (d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.
- (e) Offeror must state a definite time for delivery of supplies or for performance of services unless otherwise specified in the solicitation.
- (f) Time, if stated as a number of days, will include Saturdays, Sundays and holidays.
- (g) Code boxes are for Government use only.

3. EXPLANATION TO OFFERORS. Any explanation desired by an offeror regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., must be requested in writing and with sufficient time allowed for a reply to reach offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished to all prospective offerors as an amendment of the solicitation, if such information is necessary to offerors in submitting offers on the solicitation or if the lack of such information would be prejudicial to uninformed offerors.

4. ACKNOWLEDGMENT OF AMENDMENTS TO SOLICITATIONS.

Receipt of an amendment to a solicitation by an offeror must be acknowledged (a) by signing and returning the amendment, (b) on page three of Standard Form 33, or (c) by letter or telegram. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

5. SUBMISSION OF OFFERS.

- (a) Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.
- (b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt. (However, see paragraphs 7 and 8.)
- (c) Samples of items, when required, must be submitted within the time specified, and unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at offeror's request and expense, unless otherwise specified by the solicitation.

6. FAILURE TO SUBMIT OFFER. If no offer is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future solicitations for the type of supplies or services covered by this solicitation are desired. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, may result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

7. LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS.

- (a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:
- (1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); or
 - (2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.
- (b) Any modification or withdrawal of a bid is subject to the same conditions as in (a), above. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.
- (c) The only acceptable evidence to establish:
- (1) The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)
 - (2) The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.
 - (d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

Note: The term "telegram" includes mailgrams.

8. LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS.

- (a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:
- (1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);
 - (2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or
 - (3) It is the only proposal received.
- (b) Any modification of a proposal, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in (a)(1) and (a)(2) of this provision.
- (c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.
- (d) The only acceptable evidence to establish:
- (1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)
 - (2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding (a), (b), and (c), of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

Note: The term "telegram" includes mailgrams.

Note: The alternate late proposals, modifications of proposals and withdrawals of proposals provision prescribed by 41 CFR 1-3.802-2(b) shall be used in lieu of provision 8, if specified by the contract.

9. DISCOUNTS.

(a) Notwithstanding the fact that a blank is provided for a ten (10) day discount, prompt payment discounts offered for payment within less than twenty (20) calendar days will not be considered in evaluating offers for award, unless otherwise specified in the solicitation. However, offered discounts of less than 20 days will be taken if payment is made within the discount period, even though not considered in the evaluation of offers.

(b) In connection with any discount offered, time will be computed from date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination or port of embarkation when delivery and acceptance are at either of those points, or from the date correct invoice or voucher is received in the office specified by the Government, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

10. AWARD OF CONTRACT.

(a) The contract will be awarded to that responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered.

(b) The Government reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

(c) The Government may accept any item or group of items of any offer, unless the offeror qualifies his offer by specific limitations. UNLESS OTHERWISE PROVIDED IN THE SCHEDULE, OFFERS MAY BE SUBMITTED FOR ANY QUANTITIES LESS THAN THOSE SPECIFIED; AND THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD ON ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY OFFERED AT THE UNIT PRICES OFFERED UNLESS THE OFFEROR SPECIFIES OTHERWISE IN HIS OFFER.

(d) A written award (or Acceptance of Offer) mailed (or otherwise furnished) to the successful offeror within the time for acceptance specified in the offer shall be deemed to result in a binding contract without further action by either party.

The following paragraphs (e) through (h) apply only to negotiated solicitations:

(e) The Government may accept within the time specified therein, any offer (or part thereof, as provided in (c) above), whether or not there are negotiations subsequent to its receipt, unless the offer is withdrawn by written notice received by the Government prior to award. If subsequent negotiations are conducted, they shall not constitute a rejection or counter offer on the part of the Government.

(f) The right is reserved to accept other than the lowest offer and to reject any or all offers.

(g) The Government may award a contract, based on initial offers received, without discussion of such offers. Accordingly, each initial offer should be submitted on the most favorable terms from a price and technical standpoint which the offeror can submit to the Government.

(h) Any financial data submitted with any offer hereunder or any representation concerning facilities or financing will not form a part of any resulting contract; provided, however, that if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished hereunder is incomplete, inaccurate, or not current.

11. GOVERNMENT-FURNISHED PROPERTY. No material, labor, or facilities will be furnished by the Government unless otherwise provided for in the solicitation.

12. LABOR INFORMATION. General information regarding the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C.

35-45), the Contract Work Hours Standards Act (40 U.S.C. 327-330), and the Service Contract Act of 1965 (41 U.S.C. 351-357) may be obtained from the Department of Labor, Washington, D.C. 20210, or from any regional office of that agency. Requests for information should include the solicitation number, the name and address of the issuing agency, and a description of the supplies or services.

13. SELLER'S INVOICES. Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified. Invoices shall contain the following information: Contract and order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices, and extended totals. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading.

14. SMALL BUSINESS CONCERN. A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting offers on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

15. CONTINGENT FEE. If the offeror, by checking the appropriate box provided therefor, has represented that he has employed or retained a company or person (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, or that he has paid or agreed to pay any fee, commission, percentage, or brokerage fee to any company or person contingent upon or resulting from the award of this contract, he shall furnish, in duplicate, a complete Standard Form 119, Contractor's Statement of Contingent or Other Fees. If offeror has previously furnished a completed Standard Form 119 to the office issuing this solicitation, he may accompany his offer with a signed statement (a) indicating when such completed form was previously furnished, (b) identifying by number the previous solicitation or contract, if any, in connection with which such form was submitted, and (c) representing that the statement in such form is applicable to this offer.

16. PARENT COMPANY. A parent company for the purpose of this offer is a company which either owns or controls the activities and basic business policies of the offeror. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the offeror, such other company is considered the parent company of the offeror. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

17. EMPLOYER'S IDENTIFICATION NUMBER. (Applicable only to advertised solicitations.) The offeror shall insert in the applicable space on the offer form, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Number used on Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941), or, if he has a parent company, the Employer's Identification Number of his parent company.

18. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION.

(a) This certification on the offer form is not applicable to a foreign offeror submitting an offer for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

(b) An offer will not be considered for award where (a) (1), (a) (3), or (b) of the certification has been deleted or modified. Where (a) (2) of the certification has been deleted or modified, the offer will not be considered for award unless the offeror furnishes with the offer a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

19. ORDER OF PRECEDENCE. In the event of an inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Schedule; (b) Solicitation Instructions and Conditions; (c) General Provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and (e) the specifications.

PART II (Continued)B. Notices to Bidders1. Notice of Requirement to Certify Nonsegregated Facilities

Bidders are cautioned as follows: By signing this offer, the bidder will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" contained on page 2 of this solicitation. Failure of the bidder to agree to the certification of nonsegregated facilities may cause his bid to be rejected as non-responsive.

2. Bid Identification

Mailing envelopes shall be marked with the IFB number as specified on Page 1, Block #2 of this solicitation. The IFB number should also be referenced in your cover letter and on each page of your bid.

3. Cost of Bid Preparation

This solicitation does not commit the Government to pay any costs incurred for the preparation of bids or for any studies or analysis that may be conducted in the preparation thereof; nor is the Government committed to procure or contract for the articles or services described under Part III of this solicitation.

4. Award Notification

All bidders will be notified of their final selection or nonselection as soon as possible following the completion of the formal NRC bid opening and subsequent detailed examination of bids and conduct of responsibility checks. Formal notification of nonselection to unsuccessful bidders will be made following contract award to the successful bidder.

5. Bid Evaluation

- A. Bids in response to this IFB shall set forth full, accurate, and complete information as required herein. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.
- B. Bids will be evaluated for purposes of award by first ascertaining the sum of the proposed total amounts for each of the items specified in Article I, contained on Page 12 of this solicitation. To this "Total Bid Amount" will be applied any due consideration for discounts offered in Block No. 16 on Page 1 of this IFB. (See Part II, A, "Solicitation Instructions and Conditions," "Discounts.") This will constitute the bidder's "final bid amount."
- C. Award will be made to that responsive, responsible bidder within the meaning of Federal Procurement Regulation 1-1.12 whose total bid amount, as set forth by the bidder in the appropriate blank of Page 12 of this IFB, after NRC consideration of any applicable discount, constitutes the lowest overall evaluated final contract price to the Government based upon the requirements as set forth in the schedule.
- D. Separate charges, in any form, are not solicited. Bids containing such charges for discontinuance, termination, failure to exercise an option, or for any other purpose will cause the bid to be rejected as nonresponsive.
- E. A preaward onsite survey of the bidder's facilities, equipment, etc. in accordance with FPR 1-1.1205-4 may be made by representatives of the Commission for the purpose of determining whether the bidder is responsible within the meaning of FPR 1-1.12 and whether the bidder possesses qualifications that are conducive to the production of work that will meet the requirements, specifications, and provisions of this contract. Also, if requested by the Commission, the prospective contractor may be required to submit statements within 72 hours after such request concerning their ability to meet any of the minimum standards set forth in FPR 1-1.1203.
- F. Notwithstanding Part II, A, Paragraph 10, Award of Contract, the award of any contract resulting from this solicitation will be made on an "all or none" basis. Thus, bids submitted on fewer than the items listed in Article I of this IFB, or on fewer than the estimated quantity will cause the bid to be rejected as nonresponsive.

(c) Bidder shall list three (3) previous/current contracts for the same or similar products: This information will assist the Contracting Officer in his/her Determination of Responsibility. Failure to provide this information will not necessarily result in an unfavorable Determination of Responsibility.

- (1) Contract No.: DAAD05-81-C-9726
 Name and address of Government Agency or Commercial Entity: Aberdeen Proving Grounds
Edgewood Arsenal, Bldg. E 2100
Aberdeen Proving Ground, MD 21005
 Point of Contact and Telephone Number: Mr. Ken Lange/Mr. Swataski (301) 671-2619
- (2) Contract No.: DAAD05-82-C-0169
 Name and address of Government Agency or Commercial Entity: Chemical Systems Lab
US Army Armament Res. & Dev., Bldg E5101
Aberdeen Proving Ground, MD 21010
 Point of Contact and Telephone Number: Phillip Edwards/WE Joyner/GJ Weber (301) 671-4411
- (3) Contract No.: DNA004-82-C-0006
 Name and address of Government Agency or Commercial Entity: AFRRI
Bldg. 42
Bethesda, MD 20814
 Point of Contact and Telephone Number: Bill Webber (301) 295-0482

Additional information will be supplied to the Contracting Officer upon request.

6. Nondiscrimination Because of Age (FPR 1-12.1001)

It is the policy of the Executive Branch of the Government that (a) Contractors and Subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement, and (b) that Contractors and Subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.

7. Listing of Employment Openings (FPR 1-12.1102-2)

Bidders and offerors should note that this solicitation includes a provision requiring the listing of employment openings with the local office of the Federal-State employment service system where a contract award is for \$2,500.00 or more.

8. Commitment of Public Funds

The Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with this procurement. Any other commitment, either explicit or implied, is invalid.

9. Minimum Acceptance Period

Bids offering fewer than 90 days for acceptance by the Government from the date set for opening will be rejected as non-responsive.

10. Price

Bidders must insert a definite price or indicate "no charge" in the blank space provided for each item and/or subitem listed in Article I hereof. Unless expressly provided for herein, no additional charge will be allowed for work performed under the contract other than the unit prices stipulated herein for each such item and/or subitem.

12. Other Contractual Commitments

The bidders shall list any commitments with agencies, Government or private, and indicate whether these commitments will or will not interfere with the completion of work and services contemplated under this solicitation.

NAME OF OFFICER OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	Part III - Contract Schedule				
	Article I - Supplies/Services and Prices				
	A. Automatic Low Background Alpha/Beta Counting System Tennelec LB5100-2080	1	EA	\$ <u>24,871.00</u>	\$ 24,871.00
	B. Installation	1	lot	\$ <u>N/C</u>	
	C. Transportation Charges	1	lot	\$ <u>N/C</u>	\$ <u>N/C</u>
	Total: FOB Destination				\$ <u>24,871.00</u>
	Price includes system assembly and test at Tennelec in Oak Ridge, TN and installed at customer's facility with one year on-site warranty..				
	Note: Should conflict occur, Tennelec accepts WRC terms & conditions.				

Article II - Description/Specifications

An automatic low background alpha/beta counting system is required for the unattended analysis of low level samples. The contractor shall provide and install such a system in accordance with the following description and performance specifications:

- A. System Components. The system shall consist of the following major components:
- A.1 Detector Assembly: The detector assembly shall consist of a 2.25 inch diameter sample detector shielded by a large area guard detector. Both detectors are to be gas flow proportional type and operate on P-10 gas. The sample detector window shall be 80 micrograms/sq. cm. or less with a uniformity of 15.% over 90% of the window. The entire detector assembly shall be surrounded by oxygen free high conductivity (OFHC) copper.
 - A.2 Lead Shielding: Four (4) inches of low background lead must surround the detector assembly in all directions.
 - A.3 Sample Changer: The sample changer shall be capable of automatic and unattended sample changing operation. All sample changer movements shall be controlled by the microprocessor. The sample changer must be capable of handling at least fifty (50) 2 inch diameter planchets. The sample changer must be capable of handling 1/16, 1/8, 1/4 or 5/16 inch thick planchets either randomly mixed or with all of them being 5/16 inch thick.
 - A.4 Signal Processing Electronics:
 - A.4.a. PREAMPLIFIERS Shall be charge sensitive, small in size and mounted in close proximity to the detector assembly. High voltage to each detector shall be routed through the preamplifiers.
 - A.4.b. GUARD DETECTOR ANALYZER shall produce a blocking pulse that exceeds an adjustable lower level discriminator. Automatic dead time correction shall be provided.
 - A.4.c. SAMPLE DETECTOR ANALYZER shall contain two independent discriminators that are adjustable such that any signal that exceeds both levels will result in an alpha pulse and any signal that exceeds only the lower level but not the upper level, will result in a beta pulse.
 - A.4.d. DETECTOR BIAS SUPPLY must have a 3000 volt capability so that gases other than P-10 may be used on the system. The high voltage must be disabled automatically by the system processor should the gas flow pressure to the detectors drop below a safe level of operation. High voltage failure and low gas flow warning lights must be displayed. High voltage adjustments must be made via a front-panel control.
 - A.4.e. SYSTEM POWER SUPPLY shall have power "on" and power "interrupt" indicators. A line voltage filter must be incorporated into the system.

- A.4.f. KEYBOARD TYPE MICROPROCESSOR which controls all sample count, data analysis and sample changer control functions must be provided.
 - A.4.g. TELETYPE TERMINAL/PRINTER shall be provided and will serve as the input/output device. This unit must be capable of handling standard 12" x 8-1/2" pin feed, fan-fold, computer paper.
 - A.4.h. ACCESSORIES will include all cables, gas tubing, flow meter, low gas high voltage cutoff switch, gas regulator, printer paper, stainless steel 2" planchets, operating and maintenance manuals.
 - A.4.i. MOBILE CABINET the system shall be housed in a mobile cabinet.
 - A.4.j. A key-locking switch with a "Protect" position must be provided so that overnight or overweekend runs can be performed without accidental program interruption.
- A.5 Operational Capabilities: The system shall be able to perform the following operations:
- A.5.1. Single sample
 - A.5.2. Single cycle
 - A.5.3. Single cycle or restack
 - A.5.4. Multi-cycle
- A.6 System Performance Requirements
- A.6.a. Background: Less than or equal to 1.3 cpm total alpha plus beta
 - A.6.b. Efficiency: Greater than or equal to 40.% for Sr-90/Y-90 betas
Greater than or equal to 30% for Po-210 alphas and C-14 betas
 - A.6.c. Crosstalk: With the system adjusted for a 1.% Sr-90 beta crosstalk the alpha channel, the Po-210 alpha crosstalk into the beta channel must be less than or equal to 3.%.
.
 - A.6.d. Plateaus: C-14 less than or equal to 1.5% slope per 100 volts
Sr-90 less than or equal to 2.5% slope per 100 volts
 - A.6.e. Guard Efficiency: Greater than or equal to 90.% cosmic rejection
 - A.6.f. Countrate: Greater than or equal to 500,000 cpm with less than 1.5% data loss
 - A.6.g. Count Capacity: At least 999,999 cpm
 - A.6.h. Timer Limit: At least 999,999 minutes
 - A.6.i. Sample Capacity: At least 50 samples.
 - A.6.j. Selectable Printout and Display Information. The system shall be able to display and printout as a minimum the following (items) functions:

1. Sample number
2. Elapsed counting time (accurate to 0.01 min.)
3. Gross alpha counts
4. Gross beta counts
5. Alpha counts per minute*
6. Beta counts per minute*
7. Alpha DPM (Efficiency entered as a constant)*
8. Beta DPM (Efficiency entered as a constant)*
9. 2 Sigma alpha in percent
10. 2 Sigma beta in percent

*Calculated data shall be system corrected for background.

Article III - Deliveries and Installation

A. Time of Delivery

Delivery is required by the Government within sixty (60) days after the date of award. Bids offering delivery under such terms or conditions that delivery will not clearly fall within the applicable required delivery period specified above will be considered nonresponsive and will be rejected. Earlier deliveries shall be considered acceptable provided this occurs at no additional cost to the government.

B. Place of Delivery

The items required hereunder shall be delivered by the contractor to the NRC at the following address:

U.S. Nuclear Regulatory Commission
Region V
1450 Maria Lane, 4th Floor
Walnut Creek, CA 94596
(Inside Delivery Required)

All transportation charges are to be paid by the contractor.

The contractor is to ship by the most economical means. Prepay and aud shipping charges as a separate item to invoice. Insurance charges in connection with transportation of the supplies hereunder shall not be reimbursed by the government.

C. Installation

Installation is required by the Government within five (5) days after delivery to the address cited in Article III.B.

Article IV - Preservation/Packaging/Packing

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

Article V - Inspection and Acceptance

A. Prior to Delivery

The Nuclear Regulatory Commission reserves the right to make periodic on-site inspections in accordance with the General Provision, entitled, "Inspection." It shall be expressly understood that such inspections shall not constitute acceptance by the Government of any part of the work, but shall be for the purpose of providing coordination and technical guidance in interpretation of technical requirements.

B. After Delivery

All inspections, acceptance, and rejection decisions shall be made at destination by the Project Officer.

Upon receipt, installation, and testing of all deliverable items specified, the Project Officer shall inspect the system for compliance with the specifications contained herein.

C. Standard of Performance

The system must operate in conformance with the contractor's technical specifications and the functional description stipulated in Article II at an effectiveness level of ninety (90) percent or more.

C.1. Performance Period

The system's period of operational performance shall begin on the date that the contractor certifies the system is ready-for-use which must occur within fifteen (15) calendar days of the installation date of the complete system at the designated NRC Regional Office, and shall end when the system has met the Standard of Performance for a period of thirty (30) days.

In the event the system does not meet the Standard of Performance during the initial thirty (30) days, the operational performance period shall continue on a day-by-day basis until the Standard of Performance is met for a total of (thirty) 30 consecutive days.

If the system fails to meet the Standard of Performance within 120 calendar days from the certified ready-for-use date, the Government may, at its option, reject the system, request a replacement or correction in accordance with General Provision Clause 5 entitled, "Inspection" or terminate subject contract in accordance with General Provision Clause 11 entitled, "Default."

C.2 Effectiveness Level Computations

The effectiveness level for a system is computed by dividing the operational use time by the sum of the operational use time plus system failure downtime.

C.3 Operational Use Time for System

Operational use time for performance testing of the system shall be defined as the accumulated time during which all system components operate in accordance with the specification of this document.

C.4 System Failure Downtime

System failure downtime is that period of time which the scheduled productive workload or simulated workload, being utilized for acceptance testing cannot be continued on the system due to machine(s) failure.

C.5 Start of Downtime

Downtime for each incident shall start from the time the Government contacts the contractor's designated representative at the pre-arranged contact point until the system or machine(s) is returned to the Government in proper operating condition, exclusive of actual travel time required by the contractor's maintenance personnel but not in excess of one hour on each day such services were requested.

C.6 Minimum of Use Time

During the performance period for a system/machine a minimum of 100 hours of operational use time with scheduled productive or simulated work will be required as a basis for computation of the effectiveness level. However, in computing the effectiveness level, the actual number of operational use hours shall be used when in excess of the minimum of 100 hours.

C.7 Date of Acceptance

Equipment shall not be accepted and no charges shall be paid until the standard of performance is met. The date of acceptance shall be determined by the Contracting Officer or the Contracting Officer's Authorized Representative.

C.8 Daily Records

The NRC shall maintain appropriate daily records to satisfy the requirements of this section and shall notify the Contractor in writing of the date of the first day of the successful performance period.

C.9 Measurement of Operational Use Time

Operational use time and downtime shall be measured in hours and whole minutes.

Article VI - Commercial Warranty

Notwithstanding the provisions of the "Inspection" clause of this contract, the Contractor agrees that the items delivered under this contract shall be covered by the same warranties as the Contractor customarily offers in connection with the sale of these items on the commercial market. In the event that differing warranties covering these items are customarily offered to other purchasers by the Contractor, it is agreed that such warranties shall apply to this contract as are available to the Contractor's most favored purchaser. In addition to any other obligations imposed upon the Contractor under any such warranties, and regardless of whether a similar right is customarily offered to other purchasers, the Contractor shall, if so required by the Government within a reasonable time after the giving of notice of defect in accordance with such warranties, correct or replace the defective or nonconforming item with all possible speed at the Contractor's cost, including shipping costs, not exceeding usual charges, from the delivery point to the Contractor's plant and return.

The Contractor shall affix a prominent notice on the equipment stating that the unit is covered by a warranty by the _____. Tennelec, Inc.

The warranty period shall be for _____ days after acceptance by the Government.
365 days

- (1) Insert name of your firm
- (2) Insert number of days for warranty period

Article VII - Notice to the Government of Delays

In the event the contractor encounters difficulty in meeting performance requirements, or when he anticipates difficulty in complying with the contract delivery schedule or date, or whenever the contractor has knowledge that any actual or potential situation is delaying, or threatens to delay the timely performance of this contract, the contractor shall immediately notify the Contracting Officer and the Project Officer in writing, giving pertinent details; provided, however, that this date be informational only in character and that this provision shall not be construed as a waiver by the Government of any delay schedule, or date of any rights, or remedies provided by law, or under this contract.

Article VIII - Price Certification

The Contractor warrants that the prices, rates, or factors quoted herein are as low or lower as the prices, rates, or factors quoted to, or paid by, any other purchaser for like quantities of the like item(s) required to be delivered hereunder.

Article IX - Total Amount of Contract

The firm fixed price amount of this contract for the delivery and acceptance of the supplies stipulated in Article I is \$ _____*_____.

Article X - Payment

- A. In the absence of a discount, the contractor shall be paid upon the submission of a proper and correct invoice or voucher in approximately thirty (30) days after submission or date of delivery, whichever is later, the prices stipulated in Article I for supplies delivered and accepted, as herein provided.
- B. If this contract provides for a discount, the contractor shall indicate the contract's discount terms (Block 16 of Page 1) on the face page of the invoice or voucher.
- C. Additional provisions relating to payment are contained in Article 7 of the General Provisions.

Article XI - Project Officer

The Contracting Officer may designate one or more authorized representatives under this contract for the purpose of assuring that the supplies required under the contract are delivered in accordance therewith. Such representatives as may be appointed will be specifically designated in writing by the Contracting Officer.

* _____ is hereby designated as the Contracting Officer's authorized representative (hereinafter called Project Officer) for technical aspects of this contract. The Project Officer is not authorized to approve or request any action which results in or could result in an increase in contract cost; or terminate, settle any claim or dispute arising under the contract; or issue any unilateral directive whatever.

The Project Officer is responsible for: (1) monitoring the contractor's technical progress, including surveillance and assessment of performance, and recommending to the Contracting Officer changes in requirements; (2) interpreting the scope 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 Project Officer is authorized to review all costs requested for reimbursement by contractors and submit recommendations for approval, disapproval, or suspension 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 the 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; and, as stated above, (4) not constitute a basis for any increase in the contract cost.

*To be incorporated at time of award.

Article XII - Technical Direction

- A. Performance of the work under this contract shall be subject to the technical direction of the NRC Project Officer named in Article XI of this contract. The term "Technical Direction" is defined to include the following:
1. Technical direction to the contractor which shifts work emphasis between areas of work or tasks, requires pursuit of certain lines of inquiry, fills in details or otherwise serves to accomplish the contractual scope of work.
 2. Providing assistance to the contractor in the preparation of drawings, specifications or technical portions of the work description.
 3. Review and where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the contractor to the Government under the contract.

Article XIII - Type of Contract and General Provisions

It is contemplated that a fixed price contract will be awarded. In addition to the special provisions of the Invitation For Bid, any resultant contract shall be subject to the Fixed Price Supply General Provisions dated April 1, 1982.

Part IV - List of Attachments

Billing Instructions for Fixed Price Contracts	Attachment 1
NRC Contractor Organizational Conflicts of Interest	Attachment 2
General Provisions for Fixed Price Supply Contracts	Attachment 3

BILLING INSTRUCTIONS FOR FIXED PRICE CONTRACTS

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 20801.

Number of Copies and Mailing Address: An original and six (6) 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 by typewriter (without strikeouts) and corrections or erasures must be initialed. It must include the following:

- a. Payor's name and address.
- b. Voucher number.
- c. Date of voucher
- d. Contract number and date
- e. Payee's name and address. (Show the name of the contractor and its correct address, except when an assignment has been made by the contractor or a different payee has been designated; then, insert the name and address of the payee.)
- f. Description of articles or services, quantity, unit price, and total amount.
- g. Weight and zone of shipment, if shipped by parcel post.
- h. Charges for freight or express shipments, and attached prepaid bill, if shipped by freight or express.
- i. Instructions to consignee to notify Contracting Officer of receipt of shipment.
- j. Final invoice marked: "FINAL INVOICE"

Address the original voucher (with four (4) copies) to:

US Nuclear Regulatory Commission
Office of Resources Management
Division of Accounting and Finance
ATTN: GOV/COM ACCOUNTS
Washington, D. C. 20555

Address two (2) copies to:

US Nuclear Regulatory Commission
ATTN: Mary Jo Mattia, Contracting Officer, ACB
Division of Contracts
Washington, DC 20555

The original copy of the voucher should indicate that two (2) copies have been forwarded to the Contracting Officer.

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. dollar authorized in the contract.

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.

-120-1.5402 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 §20-1.5405-2 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. (1) Example. The XYZ Corp., in response to a request for proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

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

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several 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:

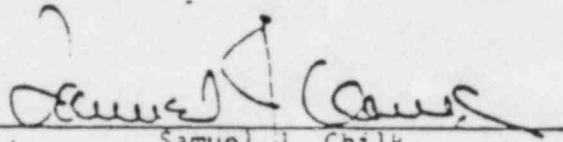
- (1) The work to be performed under contract is vital to the NRC program;
- (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3) contractual and/or technical review and supervision methods can be employed by NRC 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. Chik
Secretary of the Commission