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Vice President and Dean

14 April 1986

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3/11/86
51FR 8383
4/12/86
51FR 11379

Dear Mrs. Mace:

I wish to provide comment on the draft of certain elements of the solicitation package for the proposed FFRDC being considered by the NRC (Reference Mr. T. F. Hagen's letter of 11 March 1986).

It appears that the draft solicitation package was written from the perspective that potential contractors would be industrial organizations and not major universities. However, I believe that several universities might be potential contractors for operation of the proposed FFRDC. Some universities are well suited to provide access to the broad, diverse expertise that will be required from various disciplines to address the technical assistance and research tasks envisioned for the CNWRA (Center). Further, I believe that the intellectual independence and scientific and technical objectivity that a university contractor can offer would greatly enhance public confidence in the high level waste licensing process. Unfortunately, I think that several of the mandatory requirements, as drafted in the solicitation package, would preclude universities from proposing to operate the Center. Examples, include the following:

I. Under 5. PREDECISIONAL/CLEARANCE

It is stated that "The Center will release no external publications without NRC permission."

Universities cannot accept restrictions on publication which require the approval or permission of others; this is to prevent censorship and is inherent to scientific objectivity and independence. The NRC indicates that the only basis for denial of permission will be predecisional content of the publications. It is presumed that this refers to information which is important in making a regulatory or licensing decision, but for which a decision has not yet been made and for which premature publication could frustrate the orderly decisional process. The meaning of "predecisional content" and the extent of this restriction should be well defined and appropriately limited in the RFP.

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Universities generally are willing to accept requirements that publications be submitted to a sponsor for review and comment in advance of publication for such purposes as preventing the release of proprietary or classified information. Further, universities may agree to withhold publication for a given period of time to provide time for review and comment, patent review, etc.

Therefore, I think that an acceptable resolution could be reached if the NRC would better define and appropriately limit its restriction on publication. For example, I believe that a wording change to "The Center will release no external publication without the NRC having an opportunity to review and comment on the contents. The NRC may request that information, which is considered predecisional for impending licensing matters, be withheld from the publication, or that the publication containing the predecisional information be withheld for up to six (6) months." The existing initial reference to 30 days should be retained.

II. Under 2. CORPORATE RESPONSIBILITY REQUIREMENTS

It is stated that "All formal products produced by the Center must be supported by the corporation," and further that "The Center must assure that any position statements are corporate positions supported by documented review by senior staff and management. In appropriate circumstances these will need to be defended in an adjudicatory licensing proceeding by the corporation."

Any potential contractor with the necessary broad disciplinary expertise available to effectively operate the proposed Center will more than likely be a relatively large organization or institution. Therefore, corporate officers would normally not be involved in the day-to-day operation of the proposed Center. The above requirements would involve corporate officers in matters with which they would not normally be familiar or to which they would normally not be equipped to contribute. I believe that requiring corporate officials to be involved in day-to-day matters of the Center is not realistic, is unnecessary and could be highly counterproductive to an efficient Center operation.

I believe that the NRC should be assured of two things. First, that the corporate management understands the importance of the work of the proposed Center, is committed to its successful operation, and strongly endorses and supports its work by providing the atmosphere, facilities and resources for attracting and retaining the highest quality personnel to perform the work of the Center in a competent

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manner while being responsive to the needs of the NRC. This can be assured by more traditional management oversight methods, in contrast to attempting to require day-to-day corporate officer involvement in matters outside their normal areas of expertise. Secondly, there should be strong technical management of the Center to assure that work products are of the highest quality, have been thoroughly documented and reviewed, are supported by Center managers, represent the official position of the Center and are technically and logically defensible by Center personnel in the adjudicatory hearing process.

For these reasons, I believe that the references to corporation, to corporate positions, etc. in general should be changed to make reference to the Center, Center positions, Center management, etc.

III. Under 1.A. CONFLICT OF INTEREST

It is stated that "the offeror must submit a statement listing . . . All work which it has performed over the past five years."

Under 3. OTHER CONTRACTS - FIRST APPROVAL

It is stated that "The parent company and the CNWRA shall obtain prior approval from the NRC on any contemplated new non-NRC contracts in order to assure that no conflict-of-interest will exist."

Difficulty with these requirements can best be expressed by an example. The Pennsylvania State University is a large educational institution with 22 separate locations in the Commonwealth of Pennsylvania, an annual budget in excess of \$700 million, over 3,000 faculty, more than 60,000 students, etc. It is not clear what "all work which it has performed" would include. Even in the limited area of work funded by external sponsors, the University received 2,127 separate awards in Fiscal Year 1985. Only a small number of these would have any bearing on high level radioactive waste activities or would have been sponsored by DOE, the National Laboratories, etc.

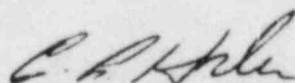
I believe the NRC should limit its request to a listing of work performed over the past five years which is related to the high-level waste program, to DOE or National Laboratory sponsorship, etc. Listing of thousands of other unrelated activities with no conflict of interest potential would be of no use and would be highly counterproductive. Similarly, requiring NRC approval of thousands of non-NRC contracts would not make sense, and would be extremely time consuming and expensive. Again, the NRC should primarily limit its attention and any necessary restrictions to the proposed Center and not to the parent company or corporation.

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In closing, I wish to repeat that I think several major universities would have the scientific and engineering expertise, management experience and interest in operating the proposed CNWRA. Further, a university contractor could greatly enhance public confidence in the licensing process through its reputation and tradition for independence and scientific objectivity.

The Pennsylvania State University has the requisite expertise, experience and interest in operating the CNWRA. We have conducted research and graduate training over a long period of time in both the high level and low level radioactive waste areas. Numerous University graduates are involved in the national high level waste program. We have more than 40 years experience in managing and operating a highly successful FFRDC for the U.S. Navy*. Experience has shown that, if properly structured and managed, a university based FFRDC can serve as a highly effective window to expertise in a broad range of scientific disciplines available at a large academic institution and which can be brought to bear on specific problems. We hope that the NRC will modify its draft solicitation package in a manner that would make it feasible for Penn State, as well as other universities, to propose to operate the Center. I believe that the modifications suggested would help accomplish that purpose without weakening NRC objectives and needs.

Sincerely,



C. L. Hosler
Vice President for Research
and Dean of the Graduate School

*Our Applied Research Laboratory operated as an FFRDC until 1978, at which time it was removed from the formal FFRDC classification, but continues to operate in that general mode as a valuable national scientific resource for the Navy as one of its university-technical base centers. Its success has been strongly dependent on its ability to attract and retain highly qualified full-time personnel in a University environment, its ability to attract specialized expertise from other University disciplines, and its intellectual independence and scientific objectivity.