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NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	Section B - Supplies or Services and Prices/O B.1 The Institute of Nuclear Power Operations (INPO) shall provide access to the Nuclear Plant Reliability Data Base System (NPRDS) and related support services as described in Section C, paragraph C.1, Statement of Work. The following prices shall apply for the initial 12 month term of the contract: 1. Hourly access charge (Computer and indirect costs) 2. Annual fixed charge Note: The above prices are subject to negotiation prior to exercising renewal options as prescribed under clause 52,217-9 of this contract.	est. 734	hrs.	82.00	\$60,188 \$24,759

Section B - Supplies or Services and Prices/Costs

- B.2 Consideration and Obligation.
 - a. The total estimated amount of this contract (ceiling) for the products/services delivered and accepted under this contract is \$84,947.00. The Contracting Officer may unilaterally increase this amount as necessary for completion of services during the contract period.
 - b. The amount presently obligated with respect to this contract is \$84,947.00. This obligation amount may be unilaterally increased from time to time by the Contracting Officer by written modification to this contract. The obligation amount shall, at no time, exceed the contract ceiling as specified in paragraph a above. When and if the amount(s) paid and payable to the Contractor hereunder shall equal the obligation amount, the Contractor shall not be obligated to continue performance of the work unless and until the Contracting Officer shall increase the amount obligated with respect to this contract. Any work undertaken by the Contractor in excess of the obligation amount specified above is done so at the Contractor's sole risk.

Section C - Description/Specifications/Work Statement

C.1 Statement of Work

C.1.1 Background

The Nuclear Plant Reliability Data (NPRD) System was developed by the Edison Electric Institute (EEI) at the suggestion of the Joint Steering Committee of the Nuclear Technical Advisory Board (NTAB) of the American National Standards Institute (ANSI). In the spring of 1973, Subcommittee N18-20, Nuclear Plant Reliability Data, was established under the American Standards Committee N18, Nuclear Design Criteria, to prepare a standard method for collection of reliability data, to further develop the program, and to oversee the administration and operation of System. Subcommittee N18-20 membership representatives from both privately and publicly owned electric utilities, nuclear steam system suppliers, and the NRC. Beginning in 1978, the NRC entered into tripartite contracts with EEI and Southwest Research Institute (SWRI), the contractor for the NPRD system, to provide a share of the funds required to support the NPRD System and to direct the activities of the contractor.

In 1983, the responsibility for th NPRD System was transferred to the Institute of Nuclear Power Operations (INPO), with the understanding that the quantity, quality, and timeliness of the data would be improved and that the NPRDS data would continue to remain available to the NRC. At that time, the Commission required that a semi-annual review of the NPRD System be performed to verify that the quality, quantity and timeliness of the data was improving to the extent necessary to provide adequate data for use in NRC programs. These reviews have been ongoing.

C.1.2 Scope of Work

NRC use of the NPRDS data base necessitates INPO's involvement in providing access, documentation, and training to the NRC; assisting the NRC in formulating search strategies on a limited basis; printing and mailing lengthy printouts in a timely manner, as required; providing usage information equivalent to that provided to INPO members via Nuclear Network; and supporting the connection of an NRC remote high-speed printer, when purchased by the NRC.

The tasks required are as follows:

Task 1: NPRDS Access Codes.

INPO shall provide up to twenty access codes to the NRC NPRDS Coordinator for distribution to the NRC staff and National Laboratory contractors. Up to two of the twenty access codes shall be available for use by NRC National Laboratory contractors to support applicable contracted projects. Other contractors will not be allowed direct access to the NPRDS data base. The NRC NPRDS Coordinator shall be responsible for the assignment, termination and security of the access codes provided by INPO. Upon request, the NRC NPRDS Coordinator will provide INPO with a listing of access code assignments

Task 2: NPRDS Documentat on.

INPO shall provide up to 20 sets of documentation needed to conduct NPRDS data retrieval. NRC will have the equivalent retrieval system documentation as provided to INPO members. INPO shall provide the NRC NPRDS Coordinator with these sets of documentation for distribution to applicable NRC staff and National Laboratory contractors. INPO shall also provide updates to this documentation through the NRC NPRDS Coordinator.

INPO shall also provide NPRDS usage information equivalent to that provided to INPO members via NUCLEAR NETWORK. This information shall be provided to the NRC NPRDS Coordinator within seven working days of distribution to INPO members.

Task 3: Provide NPRDS Retrieval Training

For personnel with NPRDS access, INPO shall provide NPRDS training consistent with authorized users training. The various training methods are as follows:

- a. An on-line tutorial that provides guidance in use of the NPDRS retrieval system.
- Participation of NRC employee(s) in regular INPO NPRDS training course held at INPO, if slots are available.
- c. Participation of NRC employee(s) in special NRC NPRDS training session at INPO equivalent to the regular INPO NPRDS training course.

d. INPO shall provide an NPRDS training session equivalent to the regular INPO NPRDS training course for a minimum of five NRC employees at the NRC offices. INPO may charge for computer costs associated with this training.

Training will normally be handled as outlined in paragraphs a, b, or c, above as agreed to by INPO and the NRC NPRDS Coordinator and at no additional cost to the NRC. In unusual circumstances when a substantial number of NRC staff members need training, the NRC NPRDS Coordinator will request training as outlined in paragraph "d" above.

The training options may be changed based on retrieval system capabilities. In any case, NRC users will receive the same level of training as INPO members.

Task 4: Provide NPRDS Support Services

INPO shall provide selected NPRDS support services to the NRC. Specific support services will be considered on a case by case basis through a request from the NRC NPRDS Coordinator.

Normal support services are as follows:

- Assisting the NRC in formulating NPRDS search strategies (only through a request from the NRC NPRDS Coordinator).
- b. Printing and mailing NPRDS printouts routed to the INPO printer within two working days of routing to the requestor.

Task 5: Support NRC Remote High-Speed Access

INPO shall provide necessary technical support at the INPO offices to allow NRC to install in the NRC offices a remote NPRDS access high-speed (9600 baud) printer or RJE terminal compatible with INPO computer capabilities. Special hardware, software, and communication equipment needed by INPO to support this high-speed access will be provided by NRC.

Task 6: Provide MPRDS Cost Information

INPO shall provide billing period information on NRC NPRDS usage. This information shall support distinguishing the following usage characteristics:

- a. NPROS usage by user access code and by month
- b. PRIME and 18M computer usage

c. computer connect hours, CPU seconds, and the ratio of total connect hours to CPU hours for the PRIME and IBM computers

On a monthly basis, INPO shall monitor NRC NPRDS user activity to identify unusually high usage. Guidelines for identifying unusual user activity shall be established with the NRC NPRDS Coordinator. INPO shall notify the NRC NPRDS Coordinator of any identified high usage.

C.1.3 MANAGEMENT ORGANIZATION

INPO will support NRC NPRDS access by assigning responsibilities for applicable support activities within the INPO organization. The key personnel for this project are as follows:

- a. NPRDS Department Manager The routine contact with the NRC NPRDS Coordinator to provide access codes and documentation, answer questions concerning the data base, and resolve user access problems will be through the NPRDS Department Manager (or his designee).
- b. Computer Services Department Manager The technical support related to computer hardware, software, communication equipment, and NPRDS usage monitoring will be provided by the Computer Services Department Manager (or his designee).

The overall reporting relationships for these key personnel within the INPO organization are shown in Attachment 4.

Section D - Packaging and Marking

D.1 Packaging and Marking When Delivering a Product

The Contractor shall package material for shipment to the NRC in such a manner that will insure acceptance by common carrier and safe delivery at destination. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

Section E - Inspection and Acceptance

E.1 Place of Inspection and Acceptance - Not Applicable

Section F - Deliveries and Performance

F.1 Place of Delivery.

The items to be furnished hereunder excluding NPRDS print-outs routed to the printer, shall be delivered, with all transportation charges paid by the Contractor, to the NRC Project Officer with a copy to the NRC NPRDS Coordinator at the addresses reflected under Section G.

F.2 Duration of Contract Period.

The contract shall commence on April 1, 1987 as reflected in block 3 of the SF-26 and will expire March 31, 1988. The term of this contract may be extended by mutual agreement of INPO and the Government for four (4) additional twelve (12) month period in accordance with 52.217-9 - Option To Extend The Term Of The Contract-Services (APR 1984).

Section G - Contract Administration Data

- G.1 Project Officer Authority
 - a. The Contracting Officer's authorized representative hereinafter referred to as the Project Officer for this contract is:

Name: Steve Scott Address: Mail Stop W-548

U. S. Nuclear Regulatory Commission

Office of Information Resources Management

Washington, D. C. 20555 Telephone Number: (301)492-8585

- b. The Project Officer is responsible for:
 - Monitoring Contractor performance and recommending to the Contracting Officer changes in requirements.
 - Inspecting and accepting products/services provided under the contract.
 - Reviewing all Contractor invoices/vouchers requesting payment for products/services provided under the contract and making recommendations for approval, disapproval, or suspension.
- c. The Project Officer is not authorized to make changes to the express terms and conditions of this contract.
- G.2 NRC NPRDS Coordinator
 - a. The individual listed below is hereby designated as the NRC NPRDS Coordinator. This person will be the NRC point of contact for the liaison between INPO and the NRC users of NPRD system, for distributing the required user access codes, and associated documents for answering questions concerning the NPRDS data base, and for resolving user access problems. INPO shall keep the NRC NPRDS Coordinator informed on all matters that may affect NRC usage of NPRD System.

b. Eugenia Boyle
Mail Stop EWS 263
U. S. Nuclear Regulatory Commission
Office for Analysis & Evaluation
of Operational Data (AEOD)
Washington, DC 20555
(301) 492-4498

6.3 Method of Payment

- a. Payment under this contract will be made by wire transfer through the Treasury Financial Communications System for each individual payment in excess of \$25,000 and by Treasury check for each individual payment of \$25,000 or less.
- b. In the event that the Contractor's financial institution has access to the Federal Reserve Communications System, the Contractor shall forward the following information in writing to the Contracting Officer within seven days after the effective date of the contract.
 - 1). Name and address of organization.
 - 2). Contact person and telephone number.
 - 3). Name and address of financial institution.
 - 4). Contractor's Financial institution's 9-digit ABA identifying number for routing transfer of funds.
 - 5). Telegraphic abbreviation of Contractor's financial institution.
 - 6). Account number at Contractor's financial institution.
 - 7). Signature and title of person supplying this information.
- c. In the event the Contractor's financial institution does not have access to the Federal Reserve Communications System, the Contractor shall forward the following information with regard to a correspondent or alternate financial institution. The information shall be in writing and submitted to the Contracting Officer within seven days after the effective date of the contract.
 - 1). Name and address of organization.
 - 2). Contact person and telephone number.
 - 3). Name and address of financial institution.

- 4). Telegraphic abbreviation of Contractor's financial institution.
- 5). Account number at Contractor's financial institution.
- 6). Name and address of the correspondent financial institution that has access to the Federal Reserve Communications System.
- 7). Correspondent financial institution 9-digit ABA identifying number for routing transfer of funds.
- 8). Telegraphic abbreviation of correspondent financial institution.
- 9). Signature and title of person supplying this information.
- d. Any changes to the information furnished under this clause shall be furnished to the Contracting Officer in writing. It is the Contractor's responsibility to furnish these changes promptly to avoid payments to erroneous bank accounts.

G.4 Payment Due Date.

- a. Payments under this contract will be due 30 calendar days after the later of:
 - The date of actual receipt of a proper invoice in accordance with the attached "Billing Instructions", or
 - 2) The date the supplies/services 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 30 calendar days after the date of delivery of these supplies or performance of the services in accordance with the terms of the contract.
- c. If the supplies/services 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 or performance of the services.
- d. The date of payment by wire transfer through the Treasury Financial Communications Systems shall be considered the date payment is made for individual payments exceeding \$25,000. The date a check is issued shall be considered the date payment is made for individual payments of \$25,000 or less.

G.5 Invoices and Payments

INPO may submit invoices to the NRC promptly following the end of each contract quarter. INPO is authorized to include the annual fixed fee with the invoice submitted for the first quarter of each contract year.

- G.6 Interest on Overdue Payments.
 - a. The Prompt Payment Act, Public Law 97-177 (96 STAT. 85, 31 USC 1801) is applicable to payments under this contract and requires the payment of interest to Contractors on overdue payments and improperly taken discounts.
 - b. Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125, Vol. 47 Federal Register 37321, August 25, 1982. Among other considerations, OMB Circular A-125 provides that:
 - 1) Interest penalties are not required when payment is delayed because of a disagreement over the amount of payment or other issues concerning compliance with the terms of the contract.
 - 2) Whenever a proper invoice is paid after the due date plus 15 days, interest will be included with the payment at the interest rate applicable on the payment date. Interest will be computed from the day after the due date through the payment date.

Section H - Special Contract Requirements

H.1 Private Use of Contract Information and Data .

Except as specifically authorized by this contract, or as otherwise approved by the Contracting Officer, information and other data developed or acquired by or furnished the Contractor in the performance of this contract, shall be used only in connection with the work under this contract.

H.2 NPRDS PROPRIETARY INFORMATION

INPO understands that the NRC and NRC contractors will treat "unit-specific" (i.e., NPRDS data that identify a specific nuclear plant or utility) information on th NPRD system as confidential commercial information. Unit specific information would be publicly disclosed only if (1) the data which forms a basis for the regulatory decision appears in an NRC document addressing a safety concern, and (2) an NRC Office Director determines pursuant to 10 CFR 2.790(b)(5) that the public's right to know that basis warrants the release of the data. Unless a compelling immediate safety concern dictates otherwise, INPO will be given reasonable advance notification of the NRC decision to make the specific data public on a given date so that INPO will have the opportunity to exercise its legal options regarding such disclosure. The letter from W. J. Dircks (NRC) to Z. T. Pate (INPO) dated November 18, 1985 provides additional background information and guidance.

PART II - CONTRACT CLAUSES

Section I - Contract Clauses

52.216-21 REQUIREMENTS. (APR 1984)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Delivery-Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple

destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor

requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services

from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the expiration date of this contract.

(End of clause) (R 7-1102.2(b) 1966 OCT)

52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT--SERVICES. (APR 1984)

(a) The Government may extend the term of this contract by written notice to the Contractor within the time specified in the Schedule; provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be

considered to include this option provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five years..

(End of clause) (R 7-104.27(c))

R 1-1.1508-2(d))

52.233-3 PROTEST AFTER AWARD (JUN 1985)

(a) Upon receipt of a notice of protest (as defined in 33.101 of the FAR) the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allowable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any

part of this contract; and

(2) The Contractor requests an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the request at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at

the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not

affected by action taken under this clause.

(End of Clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE. (APR 1984)

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I.FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Section E

52.246-4 INSPECTION OF SERVICES--FIXED-PRICE. (APR 1984)

52.212-13 STOP-WORK ORDER. (APR 1984) 52.247-34 F.O.B. DESTINATION. (APR 1984)

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52.202-1	DEFINITIONS. (APR 1984)
52.203-1	OFFICIALS NOT TO BENEFIT. (APR 1984)
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52.203-5	COVENANT AGAINST CONTINGENT FEES. (APR 1984)
52.215-1	EXAMINATION OF RECORDS BY COMPTROLLER GENERAL. (APR 1984)
52.215-2	AUDITNEGOTIATION. (APR 1984)
52.215-22	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (APR
32.213-22	1984
FO 015 04	SUBCONTRACTOR COST OR PRICING DATA. (APR 1985)
52.215-24	SUBCONTRACTOR COST OR PRICING DATA. (APR 1909)
52.215-26	INTEGRITY OF UNIT PRICES (JUL 1986)
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52.223-2	CLEAN AIR AND WATER. (APR 1984)
52.227-1	AUTHORIZATION AND CONSENT. (APR 1984) NOTICE AND ASSISTANCE, REGARDING PATENT AND COPYRIGHT
52.227-2	NOTICE AND ASSISTANCE, REGARDING PATENT AND COPYRIGHT
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52.229-4	(ADD 100A)
	(APR 1984)
52.232-1	PAYMENTS. (APR 1984)
52.232-8	DISCOUNTS FOR PROMPT PAYMENT. (JUL 1985)
52.232-11	EXTRAS. (APR 1984)
52.232-17	INTEREST. (APR 1984)
52.232-23	ASSIGNMENT OF CLAIMS. (JAN 1986)
52.233-1	CHANGESFIXED-PRICE. (APR 1984)Alternate II. (APR 1984)
52.243-1	CHANGESFIXED-PRICE. (APR 1904)AILEPHALE II. (APR 1904)
52.244-5	COMPETITION IN SUBCONTRACTING. (APR 1984)
52.249-4	CHANGESFIXED-PRICE. (APR 1984)Alternate II. (APR 1984) COMPETITION IN SUBCONTRACTING. (APR 1984) TERMINATION FOR CONVENIENCE OF THE GOVERNMENT
	(SERVICES) (SHORT FORM). (APR 1984)
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PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

Section J - List of Attachments

J.1 Attachments

Attachment Number	<u>Title</u>
1	Billing Instructions
2	NRC Manual Chapter 3202 (N/A)
3	Organizational Chart - Key Personnel

PART 20-1 -- GENERAL

Subpart 20-1.54--Contractor Organizational Conflicts of Interest

Sec. 20-1.5401 Scope and policy. 20-1.5402 Definitions. Criteria for recognizing contractor organizational 20-1.5403 conflicts of interest. Representation. 20-1.5404 Contract clauses. 20-1.5405 20-1.5405-1 General contract clause. Special contract provisions. 20-1.5405-2 Evaluation, findings, and contract award. 20-1.5406 Conflicts identified after award. 20-1.5407 20-1.5408 (Reserved) (Reserved) 20-1.5409 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.

\$20-1.5402 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.

7590-01 (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. (11) 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 Co.p., 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. -4Guidance. 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)(l)(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: (l) If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR \$20-1.5403(b)(l) 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 differor'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.
 - 5 20-1.5405 Contract clauses
 - \$ 20-1.5405-1 General contract clause

7590-01 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. The restrictions described herein shall apply to (b) Scope. performance or participation by the contractor as defined in 41 CFR \$ 20-1.5402(f) in the actitities 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: (1) Use such information for any private purpose until the information has been released to the public; (ii) compete for work for the Commission based -8-

7590-01 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: -9-

- (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 quard 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.
 - 5 20-1.5406 Evaluation, findings, and contract award

The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the remesentation 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,

7590-01

- (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)

520-1.5409 (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. Chil

Secretary of the Commission

CONTRACTS AND PURCHASE ORDERS

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 Order Other Than Personal -- Continuation Sheet." These forms are available from the Government Printing Office, 701 North Capitol Street, Washington, DC 20801.

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

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

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

- (a) Payor's name and address. (i) Address the original voucher (with 4 copies) to: U.S. Nuclear Regulatory Commission, Division of Accounting, Office of the Controller, ATTN: GOV/COM Accounts Sections, Washington, DC 20555. (ii) Address 2 copies to: U.S. Nuclear Regulatory Commission, ATTN: E. L. Halman, Director, Division of Contracts, Washington, DC 20555. (iii) The original copy of the voucher should indicate that (2) copies have been forwarded to the Contracting Officer.
- (b) Voucher number.
- (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 Contacting Officer of receipt of shipment.
- (j) Final invoice marked: "FINAL INVOICE"

. . .

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

INPO President and Chief Executive Officer Z. T. Pate

Analysis & Engineering
Group Vice President
P. W. Lyon

Analysis Division
Director
P. W. Lyon (Acting)

NPRDS Department
Manager
R. L. Simard

Industry & Government
Relations
Group Vice President
W. F. Conway

Administrative Division
C. J Ver Steeg
Vice President

Computer Services
Department Manager
B. J. LaScala