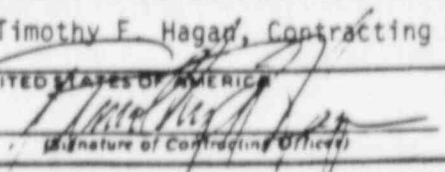


AWARD/CONTRACT		1. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG 2 AND/OR DMS REG 1		PAYING		PAGE OF PAGES 1 3	
2. CONTRACT (Proc Inst Ident) NO NRC-33-85-312		3. EFFECTIVE DATE June 27, 1985		4. REQUISITION/PURCHASE REQUEST/PROJECT NO ORM-85-312			
5. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts, AR 2223 Washington, D.C. 20555		6. ADMINISTERED BY (If other than Item 5) U.S. NRC		7. NAME AND ADDRESS OF CONTRACTOR (No. street, city, county, State and ZIP Code) Cullinet Software, Inc. 5113 Leesburg Pike, 5th Floor Falls Church, Virginia 22041			
8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)		9. DISCOUNT FOR PROMPT PAYMENT 2% - 20 days Net - 30 days		10. SUBMIT INVOICES (4 copies unless other wise specified) TO THE ADDRESS SHOWN IN		ITEM 12	
11. SHIP TO/MARK FOR U.S. NRC		12. PAYMENT WILL BE MADE BY U.S. NRC, ORM/Division of Accounting & Finance, ATTN: GOV/COM Accounts Washington, D.C. 20555		13. THIS ACQUISITION WAS (Check appl box(es)) <input type="checkbox"/> A. ADVERTISED <input type="checkbox"/> B. NEGOTIATED PURSUANT TO: <input type="checkbox"/> 10 USC 2304(a)(1) <input checked="" type="checkbox"/> 41 USC 252(c)(10)			
14. ACCOUNTING AND APPROPRIATION DATA Appn No. 31X0200.805 B&R No. 80-20-23-02 Fin No. D1225		15. TOTAL AMOUNT OF CONTRACT \$ 321,370.00					
16. TABLE OF CONTENTS							
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
A SOLICITATION/CONTRACT FORM 1				I CONTRACT CLAUSES 25			
B SUPPLIES OR SERVICES AND PRICES/COSTS 2				PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH			
C DESCRIPTION/SPECS/WORK STATEMENT 3				J LIST OF ATTACHMENTS 55			
D PACKAGING AND MARKING 11				PART IV - REPRESENTATIONS AND INSTRUCTIONS			
E INSPECTION AND ACCEPTANCE 11				K REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS			
F DELIVERIES OR PERFORMANCE 14				L INSTRS, CONDS, AND NOTICES TO OFFER			
G CONTRACT ADMINISTRATION DATA 17				M EVALUATION FACTORS FOR AWARD			
H SPECIAL CONTRACT REQUIREMENTS 19							
CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE							
17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return copies to issuing office.)				18. <input checked="" type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number RS-ORM-85-312 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.			
19A. NAME AND TITLE OF SIGNER (Type or print) Timothy F. Hagan, Contracting Officer				20A. NAME OF CONTRACTING OFFICER Timothy F. Hagan, Contracting Officer			
19B. NAME OF CONTRACTOR U.S. NRC				20B. UNITED STATES OF AMERICA			
19C. DATE SIGNED 6/27/85				20C. DATE SIGNED 6/27/85			
19D. SIGNATURE OF PERSON AUTHORIZED TO SIGN <i>(Signature)</i>				20D. SIGNATURE OF CONTRACTING OFFICER <i>(Signature)</i>			

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NRC-33-85-312 PDR

AMENDMENT OF SOLICITATION, MODIFICATION OF CONTRACT				TRACT ID CODE		PAGE OF PAGES 1 2	
2. AMENDMENT/MODIFICATION NO. One (1)		3. EFFECTIVE DATE 11/1/84		4. REQUISITION/PURCHASE REQ. NO. ORM-85-312		5. PROJECT NO. (If applicable)	
6. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts, AR 2223 Washington, D.C. 20555		7. ADMINISTERED BY (If other than Item 6)		CODE		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) TO ALL OFFERORS				9A. AMENDMENT OF SOLICITATION NO. X RS-ORM-85-312			
				9B. DATED (SEE ITEM 11) 10/12/84			
				10A. MODIFICATION OF CONTRACT/ORDER NO.			
				10B. DATED (SEE ITEM 13)			
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning <u>2</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14							
<input checked="" type="checkbox"/> A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. <input type="checkbox"/> B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(D). <input type="checkbox"/> C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: <input type="checkbox"/> D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)							
The following questions received regarding technical requirements of the solicitation and the NRC response are furnished for the information of all prospective offerors: A. Page 4, "Section C.3.2.2., DBMS Features (Mandatory), Item F, refers to '500 concurrent users.' Please clarify whether it is 500 concurrent users on one (1) CPU or 500 concurrent users across your data network." In response, clarification is furnished by the following amendment to the solicitation: Change Section C.3.2.2., Item F, to read "Ability to handle							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
				Timothy F. Hagan, Contracting Officer			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)				BY 		11/1/84	
				(Signature of Contracting Officer)			
NSN 7540-01-152-8070 PREVIOUS EDITION UNUSABLE				30-105		STANDARD FORM 30 (REV. 10-83) Prescribed by GSA FPMR (41 CFR) 101-11.6	

500 concurrent users to the DBMS on a single CPU for both information retrieval and update requests."

- B. Page 5, "On point C.3.2.5., you are requesting mainframe host languages; to run on micro computers. Is this your intention, or can more advanced languages like C, be implemented."

In response, NRC is not asking that mainframe languages run on micro computers. The central data bases and the DBMS solicited will be operated on a central mainframe CPU. Advanced languages like C may be offered, but not as a substitute for a mandatory requirement.

The hour and date set for receipt of proposals is not extended but remains as originally specified, until 5:00 p.m., local time, November 13, 1984.

B.1 Brief Description of Work

B.2 Price Schedules

- A. Software
- B. Documentation
- C. Maintenance

- A. Installation
- B. Technical Assistance
- C. Training

B.3 Remittance Address

Name: Cullinet Software, Inc.

Address: P.O. Box 3664
Boston, Massachusetts 02217

Section C - Description/Specifications/Work Statement

C.1 Introduction

The U.S. Nuclear Regulatory Commission (NRC) is developing a Corporate Data Network (CDN) for use within the agency. The CDN concepts, strategies, and goals are summarized in Attachment 3. This CDN will require the use of a Data Base Management System (DBMS) and supporting software packages to serve as the primary tool for the development of the CDN. The DBMS selected will then support continuing maintenance, enhancement, and production use of the CDN.

No decisions have been made by NRC relative to the computer hardware or telecommunications hardware/software for operation of the CDN. The most significant factor for success of the CDN will be in the selection of appropriate data base management and supporting software. Final determination will have an impact upon the eventual computer hardware determination. The NRC may elect, and reserves the right, to install the selected software on a commercial timesharing facility, for use only by NRC, on an interim basis pending final determination, and acquisition as appropriate, of equipment and facility for operation of the CDN.

C.2 General

The Data Base Management System furnished hereunder shall be a commercially available, fully developed and tested system. All proposed software must be totally integrated without necessity of modification in order to integrate supporting software packages with the Data Base Management System software. The term "commercially available software" means software that is available through lease, licensing, or purchase in the commercial market from a concern representing itself to have ownership and/or marketing rights in the software. Commercial computer software is further defined as computer software which is used regularly for other than government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

C.3 Database Management System Features and Requirements

C.3.1 The database management requirements listed herein are those mandatory and desirable features of a DBMS which must be present in a selected package to support the activities performed within the Corporate Data Network. The DBMS features were derived by summarizing user requirements and then mapping them into the fourteen categories, defined below, which provide a common base for the technical evaluation of the DBMS software alternatives.

C.3.2 The following represents the required (mandatory) and desirable characteristics of the DBMS:

C.3.2.1 Productivity

Features which make the application development and maintenance functions easier, less expensive, and more flexible.

DBMS Features (Mandatory)

- A. Program generators or some other type of fourth generation language
- B. Prototyping capabilities
- C. Online screen/transaction generators (screen painting)
- D. Design aids - database performance simulators or terminal simulators
- E. Data dictionary which supports central control of the data and minimally defines the data elements and their relationships (name, owner, description, attributes, range checks, and authorizations) and the database definitions (database name, repeating groups, key fields, secondary fields)

Desirable Features

Self documenting.

✓ C.3.2.2 Performance

Terminal response time appropriate for the operator terminal dialogue and throughput appropriate to batch processing and reporting requirements.

DBMS Features (Mandatory)

- A. Multi-thread re-entrant DBMS code
- B. DBMS directly accessible to all personnel with a 3-5 second average response time.
- C. Response of up to 8 seconds for immediate online updates.
- D. Maximum of 24 hours response time for delayed (batch) routine updates and reports
- E. Performance monitors
- F. Ability to handle 500 concurrent users to the DBMS for both information retrieval and update requests.

Section C.4.1.1., Add:

"NRC may reproduce additional copies of the users' and/or operators' manuals, including all copyright and logos, if they should be needed, but only for use by the agency and agency personnel. No copies may be distributed to any other outside organization."

Section F.3., Duration of Contract Period, page 15, is changed to read as follows:

"Although the Government contemplates use of the Data Base Management System for the system's life of eight years, this contract shall become effective on the date of award and shall continue for a period of one year following installation of the system."

Section G.1.B., insert:

Name and Mail Code: Asa R. Frost, Jr., MNBB 7109
Office Address: U.S. Nuclear Regulatory Commission
Office of Resource Management
Division of Automated Information Services
Washington, D.C. 20555
Telephone Number: 492-4506 (Area Code 301)

Section H, add the following sections:

"H.7 Deposit of Documentation

- (a) Prior to the delivery of the initial copy of any software that is acquired by the Government under this contract, Cullinet Software, Inc. shall deposit with a custodian one (1) copy of a full source language statement for the software and complete maintenance documentation for same. The material shall be held by the custodian for delivery to the Government if Cullinet becomes unable to, or otherwise fails to, maintain the software adequately, and in that event only for the proper maintenance of the software which is in use by the Government.
- (b) Cullinet Software, Inc. further agrees to deposit all updates and changes to the material described in sub-paragraph (a) above in the same manner and on the same basis. Such further deposits shall be made whenever updates and changes are generally released or implemented.

- (c) The Government agrees that the custodian may return or destroy the material described in sub-paragraph (a) and (b) after the Government has discontinued all use of the software covered by the material.
- (d) The custodian is the First National Bank of Boston, 100 Federal Street, Boston, Massachusetts 02110.

H.8 Restrictions on Use of Proprietary Software

- (a) NRC agrees to limit use of software to a specific computer room at one physical location to be determined. NRC may transfer the software programs to a different single computing facility at a different physical location provided NRC maintains possession and the only usage of the software.
- (b) NRC shall notify Cullinet in writing of all such transfers and NRC will erase, destroy, or otherwise render unusable the software programs at the facility from which the software programs are being transferred within thirty days from the date of such transfer.
- (c) The software provided may be used only for, by or on behalf of NRC at the facility that is selected.
- (d) NRC shall take all reasonable steps necessary to ensure the software programs on magnetic tape or disk are not made available to any other person, firm, organization, corporation, or other government agency.
- (e) NRC's rights in and to the software programs may not be assigned, licensed, or transferred voluntarily without written consent of the contractor.
- (f) NRC agrees to refrain from changing or removing any insignia or lettering from software program literature or output which indicates Cullinet ownership of the software program.
- (g) NRC agrees to refrain from using the software programs for others on a service basis. This does not preclude the use or distribution of the output produced by the software program.
- (h) NRC is authorized to use the software on an unlimited number of CPUs located within a specific computer room at one physical location at the base, center, complex or station that is selected.
- (i) A second agency may acquire the right to use software on NRC's computer system via a "sharing agency license" basis. The cost to the sharing agency is fifty percent of the applicable license costs per year, each year. A purchase credit towards a full license will be credited on fifty percent of any money paid in the prior twelve months for the software."

SOFTWARE UNIT PRICE SCHEDULE

TABLE B.2.1

1	2	3				4	
Contract Line Item Number	Item Description	Purchase	Unit Prices Offered			Mos. of Usage After Contract Award	
			Monthly Maintenance Update	Monthly Rental	Special Plan(s)	From (4a)	Until (4b)
A. <u>Software</u>							
1001	IDMS/R	\$ 48,750	*	--	--	Unlimited	
1002	Central Version (Includes CMS Option, DMS Interface and CV Monitor)	22,500	*	--	--	Unlimited	
1003	IDMS/DC (UCF)	45,000	*	--	--	Unlimited	
1004	IDD	26,250	*	--	--	Unlimited	
1005	On Line Query	26,250	*	--	--	Unlimited	
1006	On Line English	45,000	*	--	--	Unlimited	
1007	IDMS/Culprit	20,250	*	--	--	Unlimited	
1008	ADS/O	30,000	*	--	--	Unlimited	
1009	Information DB	56,250	*	--	--	Unlimited	
1010	Goldengate (1 Copy)	---	N/A	--	\$ 795	Unlimited	
1011	Information Link (1 each)	---	N/A	--	300	Unlimited	
	Shipping and Handling Charge - Items 1010 and 1011				25		
	AMOUNT-----	\$320,250			\$1,120		

SOFTWARE UNIT PRICE SCHEDULE

TABLE B.2.1

1	2	3				4	
Contract Line Item Number	Item Description	Purchase	Unit Prices Offered			Mos. of Usage After Contract Award	
			Monthly Maintenance	Monthly Rental	Special Plan(s)	From (4a)	Until (4b)
<u>B. Documentation</u>							
1012	Applicable User's and/or Operator's manuals for Software Products 1001 through 1011 - 10 sets per product	No charge	--	--	--	Unlimited	
<u>C. Maintenance</u>							
1013	*Maintenance/ Update Support	Twelve (12) months maintenance/update shall be provided at no charge beginning after installation of software products 1001 through 1009; not applicable to software products 1010 and 1011.					

SUPPORT SERVICES PRICE SCHEDULE

TABLE B.2.2

1	2		3			4	5	6		
Contract Line Item Number	Item Description	Four	Price Day	Rates Month	Per Year	One Time	Special Rates	Quantity	Mos. of Usage After Contract Award From (6a)	Until (6b)
<u>A. Installation</u>										
2001	Installation of Software Products 1001 - 1011	--	--	--	--	X	No charge	1 Job	1	12
<u>B. Technical Assistance</u>										
	--	--	--	--	--	--	--	--	--	--
<u>C. Training</u>										
2002	Education Units 250 person/ days	--	--	--	--	X	No charge	250	1	24

SOLICITATION, OFFER AND AWARD		1 CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG 2 AND/OR DMS REG 1		PAGE OF 1 75 PAGES	
2 CONTRACT NO.		3 SOLICITATION NO. RS-ORM-85-312		4 TYPE OF SOLICITATION <input type="checkbox"/> ADVERTISED (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	
5 DATE ISSUED 10/12/84		6 REQUISITION/PURCHASE NO. ORM-85-312		7 ADDRESS OFFER TO (If other than Item 7) Handcarried offers, which includes "Express Mail or delivery by any commercial delivery service, must be delivered to the address in Block 9.	
8 SUB BY U.S. Nuclear Regulatory Commission Division of Contracts, AR 2223 Washington, D.C. 20555		CODE			

NOTE: In advertised solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9 Sealed offers in original and 1 signed copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository listed in Room 2223, 4550 Montgomery Avenue until 5:00pm local time 11/13/84
Bethesda, Maryland 20814 (Hour) (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals See Section I, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.

10 FOR INFORMATION CALL ☒ A NAME Kathryn A. Davis B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) 492-7125 (301)

11 TABLE OF CONTENTS

(V)	SEC	DESCRIPTION	PAGE(S)	(V)	SEC	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	SOLICITATION/CONTRACT FORM	1	X	I	CONTRACT CLAUSES	25
X	B	SUPPLIES OR SERVICES AND PRICES/COSTS	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH			
X	C	DESCRIPTION/SPECS/WORK STATEMENT	3	X	J	LIST OF ATTACHMENTS	55
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X	H	SPECIAL CONTRACT REQUIREMENTS	19				

OFFER (Must be fully completed by offeror)

12 In compliance with the above, the undersigned agrees, if this offer is accepted within 90 calendar days (60 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 price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13 DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8) ☒ 10 CALENDAR DAYS 2 % ☐ 20 CALENDAR DAYS 2 % ☐ 30 CALENDAR DAYS Net % ☐ CALENDAR DAYS 0 %

14 ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated)

AMENDMENT NO	DATE	AMENDMENT NO	DATE
1	10/12/84		

15A NAME AND ADDRESS OF OFFEROR Culliner Software, Inc.
5113 Leesburg Pike, 5th Floor
Falls Church, VA 22041

16 NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
Dan Krever
Manager
Federal Systems

15B TELEPHONE NO. (Include area code) (703) 820-2000

15C CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE. ENTER SUCH ADDRESS IN SCHEDULE ☒

17 SIGNATURE [Signature]

18 OFFER DATE 11/13/84

AWARD (To be completed by Government)

19 ACCEPTED AS TO ITEMS NUMBERED

20 AMOUNT

21 ACCOUNTING AND APPROPRIATION

22 SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ☒ ITEM

23 NEGOTIATED PURSUANT TO ☐ 10 U.S.C. 2304(a)(1) ☐ 41 U.S.C. 252(c)(1)

24 ADMINISTERED BY (If other than Item 7) CODE

25 PAYMENT WILL BE MADE BY CODE

26 NAME OF CONTRACTING OFFICER (Type or print)

27 UNITED STATES OF AMERICA

28 AWARD DATE

(Signature of Contracting Officer)

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

Desirable Features

- A. Fast logging
- B. Fast indexing
- C. Data structure-access method
- E. Data placement capabilities

C.3.2.3 Operation Cost

Operating costs include the computer-related production and future system maintenance costs. The features reduce system maintenance costs, reduce the cost of responding to new requirements, improve the computer technology level, control the unit per query cost, and do not increase the technical staff cost significantly.

DBMS Features (Mandatory)

- A. Macro or fourth generation language for producing online and batch programs
- B. Online help facility

Desirable Features

Run time code inclusion

C.3.2.4 Development Cost

The design, development and implementation costs of installing and utilizing a DBMS.

DBMS Features (Mandatory)

- A. Be able to use existing NRC terminals (a listing of NRC equipment showing manufacturer and model number is provided as Attachment No. 4)
- B. Minimize training/experience required (the technical staff should be able to learn to use the DBMS in a 1-2 week training course)

C.3.2.5 In-House Customization

The capability of the DBMS to incorporate custom written routines.

DBMS Features (Mandatory)

- A. Interface to COBOL 74
- B. Ability to write and store macros

- C. Password protection of data within the custom written routines
- D. Ability to access multiple databases and files external to the DBMS

Desirable Features

- A. Interface to FORTRAN 77
- B. Interface to PL/I

C.3.2.6 Database Investment

The database is just as accessible to newly developed application programs as it is to initial programs.

DBMS Features (Mandatory)

- A. Programs already in the structure of the DBMS environment will not have to be redone to satisfy new information requirements.
- B. DBMS must support consistency of data values over time.

C.3.2.7 Distributed Data Processing and Databases

Enhance the ease with which data access and manipulation can be done between the DBMS and word processing terminals and IBM or IBM-compatible microcomputers.

DBMS Features (Mandatory)

- A. Integrated software and data with IBM or IBM-compatible microcomputers
- B. Compatible with the IBM 5520 word processing terminals that have 3270 emulation.

C.3.2.8 Vendor Support

Technical, training, documentation, upgrade, and advisory support of a DBMS by its vendor.

DBMS Features (Mandatory)

A. Technical

1. Assistance with fine tuning on operational system using the DBMS
2. Technical support available from 8:00 a.m. - 8:00 p.m. EST Monday through Friday

B. Training

1. Concepts
2. Database Design
3. Performance
4. Application Design
5. Other Software Products

C. Documentation

1. Database Administrator
2. Application Design
3. Query Language
4. Full Screen Processor

C.3.2.9 System Controls - Reliability

The degree to which the DBMS automatically ensures that reliability requirements are met.

DBMS Features (Mandatory)

- A. No more than one day per month cumulative down time
- B. Never down for more than one hour in the working day (8:00 a.m. to 5:00 p.m. EST) nor two hours outside the normal work day with no loss of transaction.
- C. Roll forward capability
- D. Reorganization of Database
- E. DBMS must support validating and editing of data by range checks or other controls.

C.3.2.10 System Controls - Security

The degree to which the DBMS automatically ensures that security requirements are met.

DBMS Features (Mandatory)

- A. Access control of all DBMS resources to the data element level
- B. Ability to prevent unauthorized access and/or damage to the database.

- C. The first level of security is through password checking for the identification of the user
- D. Logs of all transactions that update data should show the usage of data (who accessed what)

Desirable Features

The system must provide the capability to go back within a minimum of 24 hours of a request and search the database to determine who instigated a change.

C.3.2.11 Data Management

To assure quality control of the CDN information resource by eliminating unplanned data redundancy, providing control of data, and making feasible the efficient use of the data dictionary.

DBMS Features (Mandatory)

- A. Support data shared by multiple applications
- B. Active data dictionary capability which controls data use by all subsystems
- C. One-to-one and one-to-many data relationship capability
- D. Ability for same program to access database and other file access methods (such as sequential, ISAM)
- E. Capable of handling one billion bytes of information in a database.

Desirable Features

Many-to-many data relationship capability

C.3.2.12 Ease of use

Ability to access data in the database in a simple manner (user-friendly)

DBMS Features (Mandatory)

- A. High-level English-like query and report generator language which permits some end users to bypass the application programming step
- B. Screen and report formatting and display capabilities

C.3.2.13 Ease of Change

The capability of database and application programs to absorb hardware, software, and user requirement changes with minimal impact.

DBMS Features (Mandatory)

- A. Data and device independence
- B. Selected DBMS independent of hardware
- C. System expandable to new information and new ways to relate to information
- D. Ability to expand database to support entirely new subsystems

C.3.2.14 Risk

The safety with which the new DBMS-oriented systems can be implemented without major negative impact on the current operation.

DBMS Features (Mandatory)

- A. Proven, established DBMS software system nationally installed and operational
- B. Established local Washington, D.C. metropolitan area user group

C.3.3 Software Furnished

- C.3.3.1 The contractor shall furnish the software listed in Section B.2.1 as well as all supporting desirable features set forth in Section C.3.2 that are proposed and accepted by the government. The contractor shall support such software, including any contractor sponsored modification or revisions thereto, for the duration of this contract. The support provided shall include, but is not limited to, correction of errors, provision of contractor sponsored modifications, improvements, and revisions. Any cost to the government for such support/maintenance will be entered in Table B.2.1, Attachment 1.

C.3.3.2 Modifications and Revisions

The government shall be provided with full documentation of all contractor changes and/or modifications to the software provided to meet the government requirements. These software items are listed in Section B.2.1, Table B.2.1. In the case of new software level releases, the government may elect to accept the later versions of the software, and if accepted, software support will be provided at no additional cost during the period of this contract.

C.4 Support Requirements

C.4.1 Documentation, Manuals and Publications

- C.4.1.1 The contractor shall furnish, in accordance with the schedule below, software documentation, user manuals and publications for all contractor software provided under this contract. Any cost to the government for these materials will be entered into Table B.2.1, Attachment No. 1.

<u>Documentation</u>	<u>Quantities</u>
Technical Manual for each software product	10 copies

C.4.1.2 Other Manuals

In addition to the above specified agency documentation requirements, the offeror may include in his proposal any other manuals and program descriptions which he may consider helpful to the user.

C.4.2 Training

- C.4.2.1 Training credits for a minimum of two people for each software product acquired shall be provided by the contractor at no additional cost to NRC. The contractor must have a training facility available and/or provide onsite training at NRC Headquarters located in Bethesda, Maryland for 25-50 people over a six- to twelve-month period at a prescribed cost per course.

- C.4.2.2 Training shall cover the following general topics as they relate to Section C.3.2.8.B.:

- A. Basic concepts tailored to vendor's software
- B. Software installation and performance testing
- C. Data base backup and recovery
- D. Data base administration
- E. Data base design
- F. Application design
- G. Basic software usage for non-ADP end users
- H. Advanced techniques for ADP personnel

The training course curriculum will be subject to review and approval by the government. The attendees shall be provided with all appropriate manuals, text material, and course outlines necessary for the specified training.

- C.4.2.3 Scheduling of courses for the training will be subject to mutual agreement between the contractor and the government. Courses offered and any costs/credits associated with each course will be entered in Table B.2.2, Attachment No. 2. The schedule of training and number of personnel to be trained may be revised by the government provided the

government notifies the contractor, in writing, of the changes at least thirty (30) days prior to commencement of the specific training, and provided the total number of personnel to be trained does not exceed the above requirements.

C.4.3 Installation

The contractor shall install the Data Base Management Package and supporting integrated software at a site to be designated by the government at a later date. The government reserves the right to designate any government facility or a commercial timesharing facility within the Washington D.C. metropolitan area as the place of installation.

Section D - Packaging and Marking

- D.1 The contractor shall use standard commercial packaging for all items to be delivered under the contract. All shipments shall be clearly marked to show the name of the contractor and the contract number under which the product is being provided.

Section E - Inspection and Acceptance

E.1 FAR Citations

52.246-2 INSPECTION OF SUPPLIES--FIXED-PRICE. (APR 1984)

(a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities

and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e) (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i) (1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for Government inspection.

(2) The Government request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(1) If acceptance is not conclusive for any of the reasons in paragraph (f) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right to contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(End of clause)

(R 7-103.5(a) 1956 MAY)

(R 7-103.5(d) 1977 SEP)

(R 1-7.102-5)

52.246-16 RESPONSIBILITY FOR SUPPLIES. (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon--

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(d) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

(R 7-103.6 1968 JUN)

(R 1-7.102-6)

E.2 Place of Inspection and Acceptance

Inspection and acceptance will be accomplished by the Contracting Officer or his authorized representative at destination.

E.3 Standard of Performance and Acceptance of DBMS and Integrated Supporting Software

Within twenty (20) days following installation of the DBMS, the contractor shall provide a demonstration to establish that the system conforms to and performs in accordance with the contractor's functional description contained in his proposal and meets all other requirements stated in this contract. Acceptance of the DBMS package will be made within thirty (30) days after delivery and receipt of contractor's written certification that the delivered software meets the contract requirements. Such acceptance shall not be conclusive and does not relieve the contractor of his responsibility for defects or other failures of the system, once installed, to meet contract requirements.

Section F - Deliveries and Performance

F.1 Time of Delivery

F.1.1 The DBMS and Supporting Integrated Software together with documentation and other deliverable end items listed in Section C.4.1 shall be delivered to the destination set forth in Section F.2 below within 30 calendar days after receipt of executed contract.

F.1.2 All training shall be conducted within twelve months after delivery of the DBMS. Scheduling of courses for the training within this period will be subject to mutual agreement between the contractor and the government.

F.1.3 Installation of the DBMS and supporting integrated software may be deferred by the government for a period of up to one year following delivery of the DBMS pending determination and acquisition of equipment and facility for operation of the CDN. The contractor shall install the system within thirty (30) calendar days following receipt of written notification from the Contracting Officer identifying the installation site.

F.2 Place of Delivery

The items to be furnished hereunder shall be delivered, with all transportation charges paid by the Contractor, to:

U.S. Nuclear Regulatory Commission
Attention: Asa R. Frost, Jr.
Office of Resource Management
Division of Automated Information Services
Mail Stop MNBB 7109
Washington, D.C. 20555

F.3 Duration of Contract Period

Although the government contemplates use of the Data Base Management System for the system's life of eight years, this contract shall become effective on either the date of award or the effective date as otherwise specified, and shall continue for a period of one year following delivery of the system. The estimated completion date is

_____*

*To be incorporated into any resultant contract.

F.4 FAR Citations

52.212-13 STOP-WORK ORDER. (APR 1984)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. 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 allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, 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 or the period of the order or any extension thereof expires, 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 asserts a claim for the 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 claim asserted 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.

(End of clause)

(AV 7-105.3 1971 APR)

52.212-15 GOVERNMENT DELAY OF WORK. (APR 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

(End of clause)

(AV 7-104.77 1968 SEP)

52.247-34 F.O.B. DESTINATION. (APR 1984)

(a) The term "f.o.b. destination," as used in this clause, means--

(1) Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the Contractor shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee.

- (b) The Contractor shall--
- (1) (i) Pack and mark the shipment to comply with contract specifications; or
 - (ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
 - (2) Prepare and distribute commercial bills of lading;
 - (3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
 - (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
 - (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
 - (6) Pay and bear all charges to the specified point of delivery.
- (End of clause)
(R 1-19.306(a)(1) and (b))
(R 7-104.71 1969 APR)

Section G - Contract Administration Data

G.1 Project Officer

- A. The individual(s) listed in "B" below is (are) 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.

- B. Name and Mail Code: *
Office Address: *

Telephone Number: *

*To be incorporated into any resultant contract

G.2

Payment Due Date

- (a) Payments under this contract will be due 30 calendar days after the later of:

- (1) The date of actual receipt of a proper invoice (original and 4 copies) to:

U.S. Nuclear Regulatory Commission
Division of Accounting and Finance
Office of Resource Management
ATTN: GOV/COM Accounts Section
Washington, D.C. 20555

or

- (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 30 calendar days after the date of delivery of these 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 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.3

Invoice Requirements

Invoices shall be submitted in an original and 4 copies to:

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 of responsible official to whom payment is to be sent.
- (6) Other substantiating documentation or information as required by the contract.

G.4 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 Warranty Exclusion and Limitation of Damages

Except as expressly set forth in writing in this agreement, or except as provided in the clause entitled, "Commitments, Warranties, and Representations," if applicable, and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the contractor be liable to the government for

consequential damages as defined in the Uniform Commercial Code, Section 2-715, in effect in the District of Columbia as of January 1, 1973, i.e.:

Consequential damages resulting from the seller's breach include:

(a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

H.2

Contractor Commitments, Warranties, and Representations

Any written commitment by the contractor within the scope of this contract shall be binding upon the contractor. Failure of the contractor to fulfill any such commitment shall render the contractor liable for liquidated or other damages due to the government under the terms of this contract. For the purpose of this contract, a written commitment by the contractor is limited to the proposal submitted by the contractor, and to specific written modifications to the proposal. Written commitments by the contractor are further defined as including: (1) any warranty or representation made by the contractor in a proposal as to hardware or software performance; total systems performance; other physical, design, or functioning characteristics of a machine, software package, or system, or installation date; (2) any warranty or representation made by the contractor concerning the characteristics or items described in (1) above made in any publications, drawings, or specifications accompanying or referred to in a proposal; and (3) any modification of or affirmation or representation as to the above which is made by the contractor in or during the course of negotiations, whether or not incorporated into a formal amendment to the proposal in question.

H.3

Government Rights in Computer Software

- A. The government, for itself and such others as it deems appropriate, will have unlimited rights in computer software specifically developed or generated (i.e., designed and developed) under this contract, provided such software is identified as a separate line item and unlimited rights are specified. Unlimited rights under this contract are rights to use, duplicate, or disclose software data, in whole or in part, in any manner and for any purpose whatsoever.
- B. For software not specifically developed or generated under this contract, the contractor may restrict the government's rights therein. The fact that the total complement of software involved may incorporate some elements of software to which the government

has unlimited rights shall not affect the contractor's authority to impose restrictions on the government's rights. As a minimum, however, the government will have the right to:

1. Have unlimited use of such software on computer system(s) for which or with which it is acquired.
 2. Use such software with a backup system if the system for which or with which it was acquired is inoperative because of a malfunction, an emergency, change(s) in engineering performance, or change(s) in computer features or models.
 3. Use such software with the computer at any government installation to which the computer may be transferred by the government.
 4. Copy computer software for safekeeping (archives) or backup purposes.
 5. Modify such software or combine it with other programs or material. All modifications by the government will be treated as stated in (A) above. However, any such modification shall not change or limit the contractor's rights with respect to such software in its original, modified, or combined form. If software defects result from program portions which have been added or modified by the government, then the government, not the vendor, is responsible for any resulting adverse effects. However, if vendor provided portions are defective, then the vendor is responsible for providing the software support and/or operating software malfunction credits as specified elsewhere in the contract.
 6. Retain unlimited rights to the part that it owns.
- C. Nothing contained herein shall be construed to restrict or limit any right which the government possesses or may acquire from other sources in the above software or software data or its use.

H.4

Continuing Support of System

The contractor agrees that continuing support of the DBMS and supporting integrated software packages will be available for the system's life stated in Section F.3. Such support shall be made available to the government on the same basis that such support is provided to the contractor's most favored customer. The contractor shall notify the government as soon as updated versions of the contract documentation items become available. The government will specify its requirements, if any, for such updates in numbers not to exceed the initial requirements specified in this contract. Requirements for such updates shall be satisfied promptly.

H.5

Contractor Organizational Conflicts of Interest (OMB Clearance Number 3150-0112)

(a) Purpose. The primary purpose of this clause is to aid in ensuring that the Contractor: (1) Is not placed on 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 forgo 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 prescriptions 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.

H.6 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) Within seven days after the effective date of the contract, the Contractor shall forward the following information in writing to the Contracting Officer to facilitate wire transfer of contract payments. In the event that the Contractor's financial institution has access to the Federal Reserve Communications System, Contractor shall complete all items except items 7 - 9. In the event the Contractor's financial institution does not have access to the Federal Reserve Communications System, Contractor shall complete all items except item 4.
 - 1. Name and address of organization
 - 2. Contact person and telephone number
 - 3. Name and address of financial institution
 - 4. Financial institutions's 9-digit ABA identifying number for routing transfer of funds
 - 5. Telegraphic abbreviation of financial institution
 - 6. Account number at your financial institution your financial institution receives electronic funds transfer messages through, if it does not have access to the Federal Reserve Communications System
 - 7. Name and address of the correspondent financial institution your financial institution receives electronic funds transfer messages through, if it does not have access to the Federal Reserve Communications System
 - 8. Correspondent financial institution 9-digit ABA identifying number for routing transfer of funds
 - 9. Telegraphic abbreviation of correspondent financial institution
 - 10. Signature and title of person supplying this information
- (c) Any changes to the information furnished under paragraph (b) of 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.

PART II - CONTRACT CLAUSES

Section I - Contract Clauses

52.202-1 DEFINITIONS. (APR 1984)

(a) "Head of the agency" (also called "agency head") or "Secretary" means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency, and, in the Department of Defense, the Under Secretary and any Assistant Secretary of the Departments of the Army, Navy, and Air Force and the Director and Deputy Director of Defense agencies; and the term "authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(b) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

(End of clause)

(R 7-103.1 1979 MAR)

(R 7-203.1)

(R 7-302.1)

(R 7-402.1)

(R 7-901.1)

(R 7-1902.1)

(R 7-1909.1)

52.203-1 OFFICIALS NOT TO BENEFIT. (APR 1984)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

(End of clause)

(R 7-103.19 1949 JUL)

(R 1-7.102-17)

52.203-3 GRATUITIES. (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

(R 7-104.16 1952 MAR)

52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

(R 7-103.20 1958 JAN)

(R 1-1.503)

(R 1-7.102-18)

52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL. (APR 1984)

(a) This clause applies if this contract exceeds \$10,000 and was entered into by negotiation.

(b) The Comptroller General of the United States or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under this contract or for any shorter period specified in Federal

Acquisition Regulation (FAR) Subpart 4.7, Contractor Records Retention, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract.

(c) The Contractor agrees to include in first-tier subcontracts under this contract a clause to the effect that the Comptroller General or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under the subcontract or for any shorter period specified in FAR Subpart 4.7, have access to and the right to examine any of the subcontractor's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

(d) The periods of access and examination in paragraphs (b) and (c) above for records relating to (1) appeals under the Disputes clause, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the Comptroller General or a duly authorized representative from the General Accounting Office has taken exception shall continue until such appeals, litigation, claims, or exceptions are disposed of.

(End of clause)

(R 7-104.15 1975 JUN)

(R 1-7.103-3)

52.215-2 AUDIT--NEGOTIATION. (APR 1984)

(a) Examination of costs. If this is a cost-reimbursement, incentive, time- and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain--and the Contracting Officer or representatives of the Contracting Officer shall have the right to examine and audit--books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performing this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(b) Cost or pricing data. If, pursuant to law, the Contractor has been required to submit cost or pricing data in connection with pricing this contract or any modification to this contract, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit all books, records, documents, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the contract or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used.

(c) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit books, records, other documents, and supporting materials, for

the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

(d) Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraphs (a) and (b) above, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation, or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement; and

(2) Records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are disposed of.

(e) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (e), in all subcontracts over \$10,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)
 (R 7-104.41(a) 1978 AUG)
 (R 1-3.814-2(a))
 (R 7-303.28)
 (R 7-402.30)
 (R 7-603.20)
 (R 7-605.11)
 (R 7-607.22)
 (R 7-802.7)
 (R 7-901.16)
 (R 7-1702.15 1971 APR)
 (R 7-1903.29)
 (R 7-1909.24)
 (R 7-2102.19)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS. (APR 1984)

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern--

(1) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

(End of clause)

(R 7-104.14(a) 1980 AUG)

(V FPR Temp. Reg. 50 1979 JUN and its
Supplement 2 1980 MAY)

52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES. (APR 1984)

(a) "Women-owned small businesses," as used in this clause, means businesses that are at least 51 percent owned by women who are United States citizens and who also control and operate the business.

"Control," as used in this clause, means exercising the power to make policy decisions.

"Operate," as used in this clause, means being actively involved in the day-to-day management of the business.

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

(c) The Contractor agrees to use its best efforts to give women-owned small businesses the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with the efficient performance of its contract.

(End of clause)

(7-104.52 1980 AUG)

(FPR Temp. Reg. 54 1980 MAY)

52.220-1 PREFERENCE FOR LABOR SURPLUS AREA CONCERNS. (APR 1984)

(a) This acquisition is not a set aside for labor surplus area (LSA) concerns. However, the offeror's status as such a concern may affect (1) entitlement to award in case of tie offers or (2) offer evaluation in accordance with the Buy American Act clause of this solicitation. In order to determine whether the offeror is entitled to a preference under (1) or (2) above, the offeror must identify, below, the LSA in which the costs to be incurred on

account of manufacturing or production (by the offeror or the first-tier subcontractors) amount to more than 50 percent of the contract price.

.....

(b) Failure to identify the locations as specified above will preclude consideration of the offeror as an LSA concern. If the offeror is awarded a contract as an LSA concern and would not have otherwise qualified for award, the offeror shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

(End of clause)
(R 7-2003.13 1978 JUN)

52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS. (APR 1984)

(a) Applicability. This clause is applicable if this contract exceeds the appropriate small purchase limitation in Part 13 of the Federal Acquisition Regulation.

(b) Policy. It is the policy of the Government to award contracts to concerns that agree to perform substantially in labor surplus areas (LSA's) when this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use its best efforts to place subcontracts in accordance with this policy.

(c) Order of preference. In complying with paragraph (b) above and with paragraph (c) of the clause of this contract entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns, the Contractor shall observe the following order of preference in awarding subcontracts: (1) small business concerns that are LSA concerns, (2) other small business concerns, and (3) other LSA concerns.

(d) Definitions. "Labor surplus area," as used in this clause, means a geographical area identified by the Department of Labor in accordance with 20 CFR 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

"Labor surplus area concern," as used in this clause, means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

(End of clause)
(R 1-1.805-3(a))
(R 7-104.20(a) 1981 May)

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES. (APR 1984)

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract; except that each subcontract shall provide

that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information concerning the dispute.

(End of clause)

(R 7-203.27 1967 JUN)

(AV 7-104.4 1958 SEP)

(AV 7-603.1 1958 SEP)

52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT. (APR 1984)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

(End of clause)

(R 7-103.17 1958 JAN)

(R 1-12.605)

52.222-26 EQUAL OPPORTUNITY. (APR 1984)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

(R 7-103.18 1978 SEP)

(R 1-12.803-2)

(R 7-607.13 1978 SEP)

52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS
(APR 1984)

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause--

(1) Includes, but is not limited to, openings that occur in jobs categorized as--

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;
- (iv) Supervisory and nonsupervisory;
- (v) Technical; and
- (vi) Executive, administrative, and professional positions compensated on a salary basis of less than \$25,000 a year; and

(2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a special disabled or Vietnam Era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam Era veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

- (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion or transfer;
 - (iv) Recruitment;
 - (v) Advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings. (1) The Contractor agrees to list all suitable employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.

(3) The listing of suitable employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.

(d) Applicability. (1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam Era veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

(End of clause)

(R 7-103.27 1976 JUL)

(R FPR Temp. Reg. 39)

52.222-36 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APR 1984)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental handicap. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped individuals and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified physically and mentally handicapped individuals.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as

specified by the Director to enforce the terms, including action for noncompliance.

(End of clause)
(R 7-103.28 1976 MAY)
(R FPR Temp. Reg. 38)

52.223-2 CLEAN AIR AND WATER. (APR 1984)

(a) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.).

"Clean air standards," as used in this clause, means--

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

"Clean water standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

"Compliance," as used in this clause, means compliance with--

(1) Clean air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

"Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

"Water Act," as used in this clause, means Clean Water Act (33 U.S.C. 1251 et seq.).

(b) The Contractor agrees--

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4).

(End of clause)

(R 7-103.29 1975 OCT)

(R 1-1.2302)

52.225-3 BUY AMERICAN ACT--SUPPLIES. (APR 1984)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic end products.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic end product," as used in this clause, means (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

"End products," as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(b) The Contractor shall deliver only domestic end products, except those--

(1) For use outside the United States;

(2) That the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

(3) For which the agency determines that domestic preference would be inconsistent with the public interest; or

(4) For which the agency determines the cost to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954, as amended, and Subpart 25.1 of the Federal Acquisition Regulation.)

(End of clause)

(R 7-104.3 1964 MAY)

(R 1-6.104-5)

52.227-1 AUTHORIZATION AND CONSENT. (APR 1984)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing

the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed \$25,000; however, omission of this clause from any subcontract, under or over \$25,000, does not affect this authorization and consent.

(End of clause)
(R 7-103.22 1961 JAN)

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT
INFRINGEMENT. (APR 1984)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

(End of clause)
(R 7-103.23 1965 JAN)

52.227-3 PATENT INDEMNITY. (APR 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use of disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further,

this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

(R 7-104.5 1975 JUN)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties," as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax," as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$100.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be

expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

(R 7-103.10(a) 1971 NOV)

(R 1-11.401-1(c))

52.230-3 COST ACCOUNTING STANDARDS. (APR 1984)

(a) Unless the Cost Accounting Standards Board (CASB) has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Pub. L. 91-379, August 15, 1970), the Contractor, in connection with this contract, shall--

(1) (National Defense Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by regulations of the CASB. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CASB requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all CAS in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS which hereafter becomes applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4) (i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to (3) above, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of this paragraph 4; provided, that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under (4)(i) above, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS, rule, or regulation of the CASB and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

(c) The Contractor shall permit any authorized representatives of the agency head, of the CASB, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontract's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. This requirement shall apply only to negotiated subcontracts in excess of \$100,000 where the price negotiated is not based on--

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause by reason of 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

Note (1): New CAS shall be applicable to both national defense and nondefense CAS-covered contracts upon award of a new national defense CAS-covered contract containing the new Standard. The award of a new nondefense CAS-covered contract shall not trigger application of new CAS.

Note (2): Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted its Disclosure Statement to a Government Administrative Contracting Officer (ACO), it may satisfy that requirement by certifying to the Contractor the date of the Statement and the address of the ACO.

Note (3): In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to the Contractor or higher tier subcontractor, the Contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of its Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the CASB in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the

subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor

and the subcontractor, provided that they do not conflict with the duties of the Contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by its subcontractors.

Note (4): If the subcontractor is a business unit which, pursuant to 4 CFR 332 is entitled to elect modified contract coverage and to follow Standards 401 and 402, the clause at 52.230-5, "Disclosure Consistency of Cost Accounting Practices," of the Federal Acquisition Regulation shall be inserted in lieu of this clause.

Note (5): The terms defined in 4 CFR 331.20 shall have the same meanings herein. As there defined, "negotiated subcontract" means any subcontract except a firm-fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two persons not associated with each other or with such Contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(End of clause)
(R 7-104.83(a) 1975 FEB)
(R 1-3.1204-1(a)(1))
(R 1-3.1204-2(a))

52.230-4 ADMINISTRATION OF COST ACCOUNTING STANDARDS. (APR 1984)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in (a) through (f) below:

(a) Submit to the cognizant Contracting Officer a description of any accounting change, the potential impact of the change on contracts containing a CAS clause, and if not obviously immaterial, a general dollar magnitude cost impact analysis of the change which displays the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed-fee, etc.) and other contractor business activity. As related to CAS-covered contracts, the analysis should display the potential impact of funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

(1) For any change in cost accounting practices required to comply with a new CAS in accordance with paragraphs (a)(3) and (a)(4)(i) of the CAS clause, within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with paragraph (a)(4)(ii) or (a)(4)(iii) of the CAS clause or with paragraph (a)(3) or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.

(3) For any failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by paragraph (a)(5) of the CAS clause or by paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices

clause, within 60 days (or such other date as may be mutually agreed to) after the date of agreement of noncompliance by the Contractor.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to (a) above. If the above proposal is not submitted within the specified time, or any extension granted by the cognizant Contracting Officer, an amount not to exceed 10 percent of each payment made after that date may be withheld until such time as a proposal has been provided in the form and manner specified by the cognizant Contracting Officer.

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

(d) For all subcontracts subject either to the CAS clause or to the Disclosure and Consistency of Cost Accounting Practices clause--

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used); and

(2) Include the substance of this clause in all negotiated subcontracts. In addition, within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(iv) Any changes the subcontractor has made or proposes to make to accounting practices that affect prime contracts or subcontracts containing the CAS clause or Disclosure and Consistency of Cost Accounting Practices clause, unless these changes have already been reported. If award of the subcontract results in making one or more CAS effective for the first time, this fact shall also be reported.

(e) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract's price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontract or the prime contract appropriately.

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

(End of clause)

(R 7-104.83(b) 1977 OCT)

(R 1-3.1204-1(b))

52.230-5 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES.
(APR 1984)

(a) The Contractor, in connection with this contract, shall--

(1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating, and Reporting Costs, and 402, Consistency in

Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) (National Defense Contracts Only) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by regulations of the Cost Accounting Standards Board (CASB). If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

Note (1): Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted its Disclosure Statement to a Government Administrative Contracting Officer (ACO), it may satisfy that requirement by certifying to the Contractor the date of the Statement and the address of the Contracting Officer.

Note (2): In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to the Contractor or higher tier subcontractor, the Contractor may authorize direct submission of the subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of its Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability if it or a subcontractor fails to comply with an applicable Cost Accounting Standard (CAS) or to follow any practice disclosed pursuant to this paragraph and such failure results in any increased costs paid by the United States. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the CASB in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and subcontractor, provided that they do not conflict with the duties of the Contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by its subcontractors.

Note (3): The terms defined in 4 CFR 331.20 shall have the same meanings in this clause. As there defined, "negotiated subcontract" means any subcontract except a firm-fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two persons not associated with each other or such Contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(3) (i) Follow consistently the Contractor's cost accounting practices.

A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 332.51 of the CASB's regulations, negotiate an equitable adjustment

as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation of the CASB and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute within the meaning of the Disputes clause of this contract.

(c) The Contractor shall permit any authorized representatives of the agency head, of the CASB, or of the Comptroller General of the United States to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that--

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all CAS, the clause entitled "Cost Accounting Standards," set forth in 331.50 of the CASB's regulations shall be inserted in lieu of this clause; or

(2) This requirement shall apply only to negotiated subcontracts in excess of \$100,000 where the price negotiated is not based on--

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(ii) Price set by law or regulation.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause by reason of 331.20(b) of the CASB's regulations.

(End of clause)

(R 1-3.1204-1(a)(2))

52.232-1 PAYMENTS. (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(End of clause)

(R 7-103.7 1958 JAN)

(R 1-7.102-7)

52.232-8 DISCOUNTS FOR PROMPT PAYMENT. (APR 1984)

In connection with any discount offered for prompt payment, time shall be computed from (1) the date of completion of performance of the services or delivery of the supplies to the carrier if acceptance is at point of origin, or date of delivery at destination or port of embarkation if delivery and acceptance are at either of these points, or (2) the date the correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of performance or delivery. For the purpose of computing the discount earned, payment shall be considered to have been made on the date the Government check was mailed.

(End of clause)
(R 7-103.14 1968 JUNE)
(R 7-1902.11 1971 NOV)

52.232-11 EXTRAS. (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(End of clause)
(V 7-103.3 1949 JUL)
(V 1-7.102-3)

52.232-17 INTEREST. (APR 1984)

(a) Notwithstanding any other clause of this contract, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

- (1) The date fixed under this contract.
- (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)
(R 7-104.39 1972 MAY)
(R 1-7.203-15)

52.232-23 ASSIGNMENT OF CLAIMS. (APR 1984)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 203, 41 U.S.C. 15 (hereafter referred to as the "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

(R 7-103.8 1962 FEB; R 1-30.703 1976 MAY)

(R 7-602.8 1976 OCT)

(R 7-607.6 1976 OCT)

52.233-1 DISPUTES. (APR 1984)

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the Act).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that--

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

(iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

(3) (i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by--

(A) A senior company official in charge at the Contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(h) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

(R 7-103.12 1980 JUN)

(R FPR Temporary Regulation 55-II 1980 JUN)

52.243-1 CHANGES--FIXED-PRICE. (APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must submit any "proposal for adjustment" (hereafter referred to as proposal) under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that

the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)
(R 7-103.2 1958 JAN)
(R 1-7.102-1)

52.244-5 COMPETITION IN SUBCONTRACTING. (APR 1984)

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(End of clause)
(V 7-104.40 1962 APR)
(V 1-7.202-30)
(V 7-303.27)
(V 7-402.29)
(V 7-603.18)
(V 7-605.37)
(V 7-702.50)
(V 7-703.43)
(V 7-704.35)
(V 7-1703.5)
(V 7-1903.28)
(V 7-1909.23)

52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (APR 1984)

(a) "International air transportation," as used in this clause, means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States," as used in this clause, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States.

"U.S.-flag air carrier," as used in this clause, means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for

international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) The Contractor agrees, in performing work under this contract, to use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent that service by those carriers is available.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a certification on vouchers involving such transportation essentially as follows:

CERTIFICATION OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

I hereby certify that international air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons]:

(End of certification)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of clause)

(R 7-1G4.95 1979 NOV)

(R 1-1.323-2)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE).
(APR 1984)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and

(ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension.

If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (a) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (i) above; and

(iii) A sum, as profit on subdivision (i) above, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(h) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(i) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (d), (f), or (k), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (k), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f), or (k), the Government shall pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(j) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(k) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(l) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(m) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

(R 1-8.701)

(R 7-103.21(b) 1974 OCT)

52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE). (APR 1984)

(a) (1) The Government may, subject to paragraphs (c) and (d) below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (1)(ii) and (1)(iii) above, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

(R 1-8.707)

(R 7-103.11 1959 AUG)

PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

Section J - List of Attachments

<u>Attachment No.</u>	<u>Title</u>
1	Software Unit Price Schedule, Table B.2.1, With Instructions for Use, 2 pages
2	Support Services and Price Schedule, Table B.2.2, With Instructions for Use, 2 pages
3	Introduction to NRC Corporate Data Network, 3 pages
4	List of NRC Word and ADP Equipment by Manufacturer, 5 pages
5	NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20), 12 pages
6	NRC Organization Chart, 1 page

U.S. NUCLEAR REGULATORY COMMISSION CORPORATE DATA NETWORK

1. Introduction

Building the Corporate Data Network (CDN) will require the combined efforts of top level NRC Managers (the ADP Steering Group) and the Office of Resource Management working toward common objectives. The report which follows presents a strategy for development within the total context of data and word processing support at NRC.

Briefly, the CDN will be the foundation of the future ADP environment. As the CDN evolves, other important supporting objectives will be:

- Integrating Office Automation into the CDN
- Developing the Information Technology Center to Support the CDN
- Instituting a Software Improvement Program for Existing Systems to Assist the Transition to the CDN.

The CDN strategy will ensure that an agency-wide ADP perspective is taken in developing the information that is most critical to management and staff. The central tenet of CDN emphasizes that information is an asset to be shared among many users. By providing common access to single sources of information, the CDN minimizes the potential for duplication in both ADP systems development and data gathering and results in accountability for data quality throughout the NRC. Beginning the CDN concept takes the first step in changing from the insular, stand-alone information systems process to an agency-wide perspective in ADP. Accomplishing the CDN objective will change ADP operations from the traditional, central style of support to a more dynamic end user oriented style of operation.

Basically, in the CDN data may be categorized in three areas: corporate reserved for highly sensitive information, corporate shared for general purpose information, and special purpose for stand-alone applications. Criteria for categorizing information will initially include:

- Relationship to Mission
- Need for Privacy or Sensitivity of Information
- Frequency of Use of Information
- Ad Hoc Reporting, Need for Flexibility
- Potential Elimination of Duplication
- Numbers and Types of Users

Categorizing data and requiring uniform definitions will permit us to (1) identify single sources responsible for specific information, (2) develop procedures, and (3) reinforce data integrity. Categorizing should also simplify developing the security aspects for sensitive information and introduce uniform safeguards policies for corporate reserved information.

CDN primary goals are (1) to provide access to information and data by all NRC staff within reasonable boundaries such as privacy, security, and sensitivity concerns; (2) to link ADP, word processing, and office automation systems together through a modernized telecommunications system; and (3) to have an environment where all ADP equipment, software, and systems are as fully integrated and compatible as possible. The data considered as "corporate" will be supported by all NRC organizations with various organizations having responsibilities for data quality in selected areas. Acceptance of this concept and these goals will help assure that little or no redundancy exists.

The CDN concept assumes that a variety of compatible equipment such as general purpose terminals, microcomputers and word processing terminals will provide staff with direct access to central processors. In the CDN, information will be extracted from corporate data bases, copied to personal computers for local processing and then electronically transmitted to a central system for updating. Standard, compatible equipment, software, and processing techniques will provide flexibility for ad hoc reporting, English-like queries, reduce the need for programmer intervention and simplify operating processes and training. Given the nature of the rapidly changing technology of the computer, telecommunications and word processing industries, we know technology will change before the entire project is completed. Consequently, the CDN plan must be viewed as an evolving, dynamic project.

Prior to determining the equipment, software, and services for the ultimate CDN, numerous steps must be taken. We must accurately understand the information needs, the types of systems involved, and so forth. Then we can project the investment, operation and maintenance costs in terms of equipment, software, and staff required to implement the CDN. Nevertheless, we have included in the plan generic steps necessary to evolve from the existing data processing environment to the proposed CDN.

While pursuing the CDN goal, we cannot ignore the agency's immediate and ongoing data and word processing needs. Concurrent with the CDN plan for new systems, we will (1) begin software improvement projects to improve access and availability of data and resolve current incompatibilities, (2) integrate data processing into our overall office automation environment, and (3) shape the new Information Technology Center to training end users to support the ultimate and interim CDN. The plan for implementing CDN includes several immediate, interim and long-range tasks which allow an orderly transition from the current ADP environment to the new concepts over a four or five year period.

Immediate actions are: (1) continuing to assess information needs while acquiring compatible equipment and stand-alone software, (2) proceeding with the plan for a central office automation system, (3) beginning the Information Technology Center to train users in new technologies, and (4) installing proprietary software packages for online access by all staff and management to existing systems. Not explicitly shown in the plan are various software improvement projects to existing systems and pilot projects for use of personal computers used in conjunction with larger information systems and word processing systems.

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LIST OF NRC WORD & ADP EQUIPMENT
BY MANUFACTURER

PAGE 1

MANU	DESC	MODEL
AB DICK	MAG CARD II	MAG1
ADVANCED TERMINAL	FORM SORTER	401A
ALANTHUS	HARDCOPY TERM	11222
AMDEK	VIDEO MONITOR	300
AMDEK	VIDEO MONITOR	300A
ANDERSON JACOBSON	CRT DISPLAY TERM	510
ANDERSON JACOBSON	CRT DISPLAY TERM	520
ANDERSON JACOBSON	HARDCOPY TERM	630
ANDERSON JACOBSON	HARDCOPY TERM	832
ANDERSON JACOBSON	TELEPRINTER TERMINAL	833
ANDERSON JACOBSON	CRT DISPLAY TERM	833
ANDERSON JACOBSON	PRINTER	862
ANDERSON JACOBSON	PRINTER	864
BROOMALL INDUSTRI	PLOTTER	2000
C ITOH	PRINTER	8510
C ITOH	PRINTER	8510A
CENTRONIC DATA	PRINTER	102AL
CENTRONIC DATA	PRINTER	353
CENTRONIC DATA	PRINTER	4372
CHROMATICS	COLOR GRAPHICS MICRO	CH1999
CHROMATICS	TAPE DRIVE	OPT 43
CODEX CORP	MULTIPLEXER	910
COMPAQ	MICROCOMPUTER	COMPAQ
CUMPRINT	PRINTER	912
COMPUTER DEVICES	PORTABLE TERM	1132P
COMPUTER DEVICES	HARDCOPY TERM	1132P
CTS	PORTABLE TERM	3810A
DATA GENERAL	MINI COMPUTER	8633VA
DATA GENERAL	CRT DISPLAY TERM	D200
DATA GENERAL	DISK CARTRIDGE	1121B
DATA GENERAL	TAPE DRIVE	4196A
DATA GENERAL	PRINTER	4216
DATA GENERAL	PRINTER	4218
DATA GENERAL	PRINTER	4244
DATA GENERAL	PRINTER	4245
DATA GENERAL	PRINTER	4422
DATA GENERAL	TAPE DRIVE	6020/22
DATA GENERAL	TAPE DRIVE	6021/23
DATA GENERAL	TAPE DRIVE	6026
DATA GENERAL	TAPE DRIVE	6026A
DATA GENERAL	PRINTER	6041
DATA GENERAL	CRT DISPLAY TERM	604C
DATA GENERAL	CRT DISPLAY TERM	6053
DATA GENERAL	DISK DRIVE	6060
DATA GENERAL	DISK DRIVE	6061
DATA GENERAL	HARDCOPY TERM	6077
DATA GENERAL	CRT DISPLAY TERM	6093
DATA GENERAL	CRT DISPLAY TERM	6109
DATA GENERAL	CRT DISPLAY TERM	6121

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MANU	DESC	MODEL
DATA GENERAL	CRT DISPLAY TERM	6121
DATA GENERAL	CRT DISPLAY TERM	6130
DATA GENERAL	CRT DISPLAY TERM	6134
DATA GENERAL	DISK DRIVE	6161
DATA GENERAL	PRINTER	6194
DATA GENERAL	MINI COMPUTER	8597J
DATA GENERAL	MINI COMPUTER	8600K
DATA GENERAL	MINI COMPUTER	8724G
DATA GENERAL	MINI COMPUTER	9360B
DATA PRODUCTS	PRINTER	74-001
DATAGRAPHIX	CRT DISPLAY TERM	132B
DATAMEDIA	CRT DISPLAY TERM	DT-80/IL
DELTA DATA	CRT DISPLAY TERM	4000
DELTA DATA	CRT DISPLAY TERM	7000
DESIGN 100	HARDCOPY TERM	CT45
DIABLO	HARDCOPY TERM	1650
DIGILOG ELEC	CRT DISPLAY TERM	33
DIGITAL EQUIP	HARDCOPY TERM	LA36
DOCUMENTATION	CARD READER	M1200
DOCUMENTATION	CARD READER	M200
DOCUMENTATION	CARD READER	4016D
DOCUMENTATION	CARD READER	4016F
ELECTROHOME	MONITOR, DATA	V26113
EPSON AMERICA	GRAPHICS PRINTER	MX80
EPSON AMERICA	PRINTER	MX80
EXXON CORP	TYPEWRITER MEMORY	140D
GENCOM	HARDCOPY TERM	300Q
GENERAL ELECTRIC	HARDCOPY TERM	1200
GENERAL ELECTRIC	PRINTER	300
HARRIS	CONSOLE	0000
HARRIS	CARD READER	11003
HARRIS	COMM SUBASSEMBLY	1200
HARRIS	PRINTER	2440
HARRIS	PRINTER	5004
HARRIS	CARD READER	7005
HARRIS	TAPE DRIVE	8004
HAZELTINE	CRT DISPLAY TERM	2000
HAZELTINE	PRINTER	5120
HEWLETT PACKARD	MINI COMPUTER	1000
HEWLETT PACKARD	CRT DISPLAY TERM	2382A
HEWLETT PACKARD	PRINTER	2608S
HEWLETT PACKARD	CRT DISPLAY TERM	2621B
HEWLETT PACKARD	CRT DISPLAY TERM	2621P
HEWLETT PACKARD	PRINTER	2631A
HEWLETT PACKARD	CRT DISPLAY TERM	2645
HEWLETT PACKARD	CRT DISPLAY TERM	2645A
HEWLETT PACKARD	GRAPHICS TERM	2647A
HEWLETT PACKARD	LASER PRINTER	2680A
HEWLETT PACKARD	PROCESSOR	32445

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LIST OF NRC WORD & ADP EQUIPMENT
BY MANUFACTUR

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MANU	DESC	MODEL
HEWLETT PACKARD	DISK DRIVE	7906
HEWLETT PACKARD	DISK DRIVE	7914
HEWLETT PACKARD	120 MB DISK DRIVE	7915S
HEWLETT PACKARD	120 MB DISK DRIVE	7924S
HEWLETT PACKARD	120 MB DISK DRIVE	7925
HEWLETT PACKARD	120 MB DISK DRIVE	7925S
HEWLETT PACKARD	TAPE DRIVE	7970E
HEWLETT PACKARD	CRT DISPLAY TERM	82912A
HEWLETT PACKARD	PLOTTER	9872B
IBM	KEYPUNCH	026
IBM	KEYPUNCH	029
IBM	KEYPUNCH	129
IBM	SYSTEM UNIT	30
IBM	PRINTER	3203
IBM	CRT DISPLAY TERM	3275
IBM	COMM SUBASSEMBLY	3777
IBM	SYSTEM UNIT	40
IBM	SYSTEM UNIT	50
IBM	SYSTEM UNIT	51
IBM	MICROCOMPUTER	5150
IBM	MONODISPLAY	5151
IBM	GRAPHICS PRINTER	5152
IBM	COLOR DISPLAY	5153
IBM	MICROCOMPUTER	5160
IBM	PRINTER, TEMPEST	5215
IBM	PRINTER, 40 CPS	5218A01
IBM	PRINTER, 60 CPS	5218A02
IBM	PRINTER, 60 CPS	5219B02
IBM	DISPLAY STATION	5253
IBM	PRINTER, INK JET	5258001
IBM	TYPEWRITER MEMORY	5651
IBM	TYPEWRITER MEMORY	5661
IBM	INFO PROCESSOR	6/430
IBM	INFO PROCESSOR	6/440
IBM	INFO PROCESSOR	6/441
IBM	INFO PROCESSOR	6/442
IBM	INFO PROCESSOR	6/450
IBM	INFO PROCESSOR	6/452
IBM	COMPOSER, MAG CARD	6212
IBM	MAG CARD III	6240
IBM	DISKETTE UNIT	6360010
IBM	DISKETTE UNIT	6360011
IBM	DISKETTE UNIT	6360022
IBM	MAG CARD, DISPLAYWRITER	6361
IBM	DISPLAY STATION	6580A02
IBM	DISPLAY STATION	6580A03
IBM	DISPLAY STATION	6580A04
IBM	DISPLAY STATION	6580A06
IBM	DISPLAY STATION	6580B04

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MANU	DESC	MODEL
IHM	DISPLAY STATION	6580B06
IHM	MAG CARD SELECTRIC	6610
IHM	MAG CARD EXECUTIVE	6614
IHM	MAG CARD II	6616
IHM	MAG CARD A	6620
IHM	DOCUMENT PRINTER	6640
IHM	INFO DISTRIBUTOR	6670
IGM	ELECTRONIC TYPEWRITER	75
INTEGRAL DATA SYS	PRINTER	PRISM132
LEXITRON	TYPEWRITER, VIDEO TYPE	921
MOTOROLA	ENCRYPTOR	DES4100
NSI DATA CORP	BAR CODE TERMINAL	885
NCR	HARDCOPY TERM	C-260
OLIVETTI CORP	PRINTER	TH240
OMRON	CRT DISPLAY TERM	8025A
OMRON	CRT DISPLAY TERM	8025AG
OSBORNE	MICROCOMPUTER	001
PRINTRONIX	PRINTER	P300
QUINE	CRT DISPLAY TERM	QT-103
SCOPE DATA	PRINTER	200
SPEERY UNIVAC	INTERPRETER	111004
SPEERY UNIVAC	INTERPRETER	1710
SUMMAGRAPHS	DIGITIZER	OPT 81
SUMMAGRAPHS	TABLET	TAB-1111
SYSTEM INDUSTRIES	380 MB DISK DRIVE	9751
TANDY CORP	MICROCOMPUTER	100
TEKTRONIX	MULTIPLEXER	0489-01
TEKTRONIX	CURSOR	119
TEKTRONIX	GRAPHICS TERM	4006-1
TEKTRONIX	GRAPHICS TERM	4014-1
TEKTRONIX	GRAPHICS TERM	4025
TEKTRONIX	GRAPHICS TERM	4051
TEKTRONIX	GRAPHICS TERM	4054
TEKTRONIX	GRAPHICS TERM	4114
TEKTRONIX	GRAPHICS TERM	4115B
TEKTRONIX	PRINTER	4631
TEKTRONIX	PRINTER	4641
TEKTRONIX	PLOTTER	4662
TEKTRONIX	MAG TAPE	4923
TEKTRONIX	MAG TAPE	4924
TEKTRONIX	CONVERTER	4953
TEKTRONIX	TABLET	4953
TELECAM COMM	PORTABLE WORD PROCESSOR	P-81
TELEVIDEO CORP	CRT DISPLAY TERM	950
TEXAS INSTRUMENTS	HARDCOPY TERM	733
TEXAS INSTRUMENTS	PRINTER	733RD
TEXAS INSTRUMENTS	PRINTER	733RO
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TEXAS INSTRUMENTS	PORTABLE TERM	745

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BY MANUFACTURER

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MANU	DESC	MODEL
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TEXAS INSTRUMENTS	PORTABLE TERM	787
TEXAS INSTRUMENTS	PRINTER	810
TEXAS INSTRUMENTS	PRINTER	810RO
TEXAS INSTRUMENTS	PRINTER	820
TEXAS INSTRUMENTS	PRINTER	820RO
TEXAS INSTRUMENTS	PRINTER	850
TIMEPLEX INC	MULTIPLXER	M-8
TIMEPLEX INC	MULTIPLXER	SER II
VISUAL TECH	CRT DISPLAY TERM	XL-19
VISUAL TECH	CRT DISPLAY TERM	330
VISUAL TECH	CRT DISPLAY TERM	500
VYDEC INC	TYPEWRITER VIDEO TYPE	1145
VYDEC INC	TYPEWRITER VIDEO TYPE	1146
VYDEC INC	TYPEWRITER VIDEO TYPE	1200
VYDEC INC	TYPEWRITER VIDEO TYPE	1800
XEROX	TYPEWRITER MEMORY	610
ZENITH DATA	CRT DISPLAY TERM	ZVM-121
ZETA CORP	PLOTTER	180

PART 20-1 -- GENERAL

Subpart 20-1.54--Contractor Organizational Conflicts of Interest

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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.

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract provisions such as provided in 101.5405-2 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 (1) 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.

(1) 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)

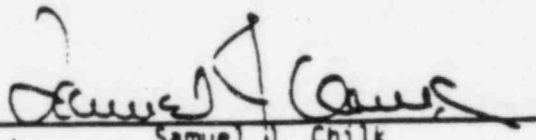
contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

§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.

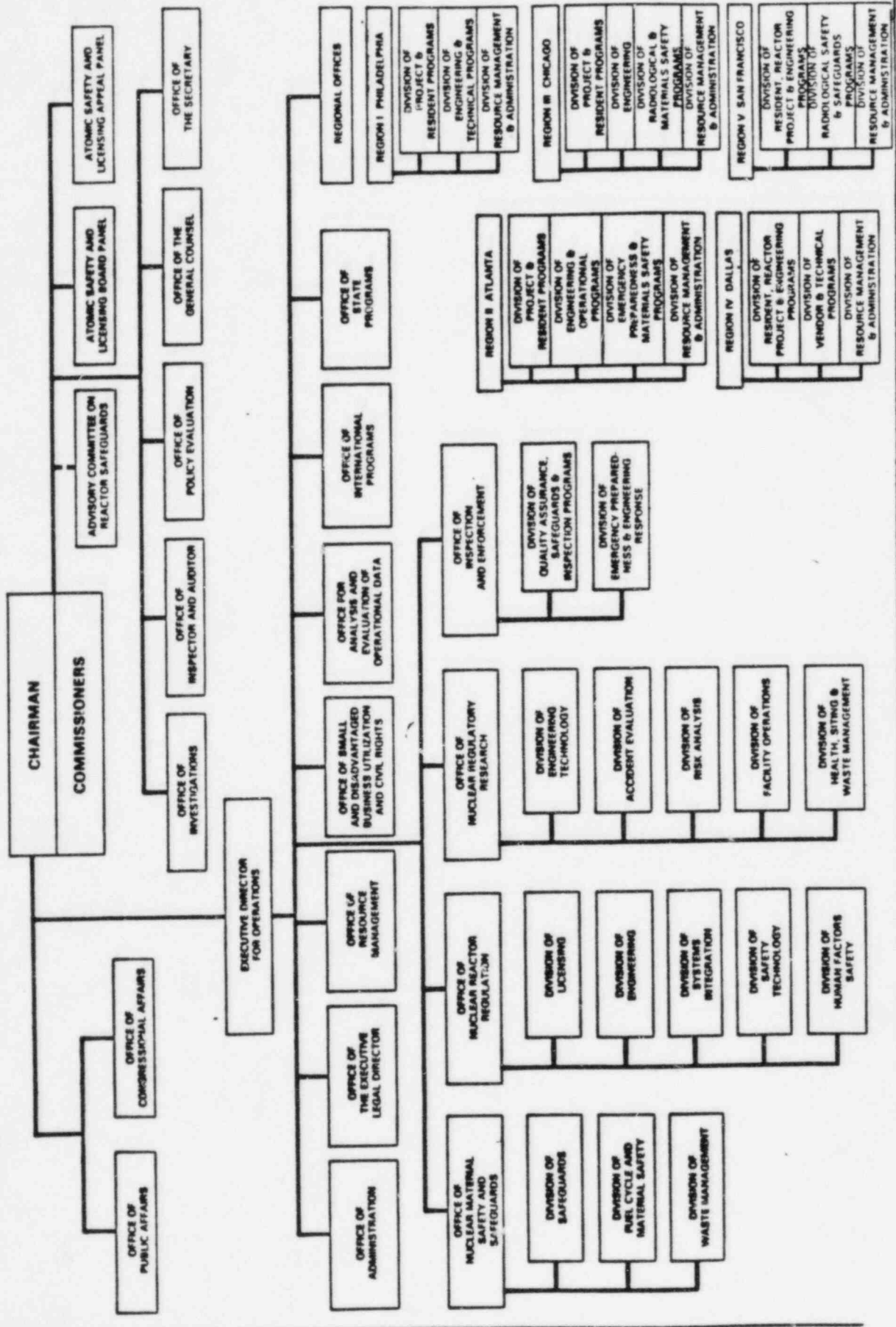
Dated at Washington, D.C. this 27th day of March 1979.

For the Nuclear Regulatory Commission


Samuel J. Chalk
Secretary of the Commission

U.S. NUCLEAR REGULATORY COMMISSION

ORGANIZATION CHART



JANUARY 1, 1984