

<b>AWARD/CONTRACT</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF PAGES 1 38		
2. CONTRACT (Proc. Inst. Ident.) NO. <b>3-85-2-7178</b>		3. EFFECTIVE DATE September 30, 1985		4. REQUISITION/PURCHASE REQUEST/PROJECT NO. RFPA No. ADM-85-263			
5. ISSUED BY U.S. Small Business Administration 1111 18th Street, N.W., 6th Floor P. O. Box 19993 Washington, D.C. 20036		6. ADMINISTERED BY (If other than Item 5)		8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)			
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code) Pailen-Johnson Associates, Inc. Attention: Mr. Claude Johnson 7655 Old Springhouse Road McLean, Virginia 22102		9. DISCOUNT FOR PROMPT PAYMENT Net		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN Block 12			
11. SHIP TO/MARK FOR U.S. NRC, Attention: Brian Brownell, MS W-324, Washington, D.C. 20555		12. PAYMENT WILL BE MADE BY U.S. NRC, Division of Accounting & Finance, ORM, ATTN: GOV/COM Accounts Section, Washington, D.C. 20555		14. ACCOUNTING AND APPROPRIATION DATA B&R No. 42-20-25-612 APPROPRIATION: 31X0200.40			
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input checked="" type="checkbox"/> 41 U.S.C. 252(c)(1) 15 USC 637(a)							
15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT		
The U.S. Nuclear Regulatory Commission (NRC) hereby accepts Pailen-Johnson Associates, Inc.'s Technical and Cost Proposals dated September 6, 1985, as revised September 16, 1985, which are incorporated herein and made a part hereof, by reference, to provide technical support services for Data Telecommunications Equipment.							
8511010174 850930 PDR CONTR NRC-10-85-263 PDR							
15G. TOTAL AMOUNT OF CONTRACT						ESTIMATED \$ 206,059.00	
16. TABLE OF CONTENTS							
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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.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as in 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) CLAUDE W. JOHNSON VICE PRESIDENT				20A. NAME OF CONTRACTING OFFICER MARY E. THOMAS CONTRACTING OFFICER			
19B. NAME OF CONTRACTOR BY <u>CW Johnson</u> (Signature of person authorized to sign)		19C. DATE SIGNED 9/23/85		20B. UNITED STATES OF AMERICA BY <u>Mary E. Thomas</u> (Signature of Contracting Officer)		20C. DATE SIGNED 9/30/85	

52.219-12 SPECIAL 8(a) SUBCONTRACT CONDITIONS. (APR 1984)

(a) The Small Business Administration (SBA) has entered into Contract No. NRC-10-85-263 with the U.S. Nuclear Regulatory Commission to furnish the supplies or services as described herein. A copy of the contract is attached hereto and made a part hereof.

(b) Pailen-Johnson Associates, Inc., hereafter referred to as the subcontractor, agrees and acknowledges as follows:

(1) That it will, for and on behalf of the SBA, fulfill and perform all of the requirements of Contract No. NRC-10-85-263 for the consideration stated therein and that it has read and is familiar with each and every part of the contract.

(2) That the SBA has delegated responsibility for the administration of this subcontract to the U.S. Nuclear Regulatory Commission with complete authority to take any action on behalf of the Government under the terms and conditions of this subcontract.

(3) That it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the designated Contracting Officer of the U.S. Nuclear Regulatory Commission.

(c) Payments, including any progress payments under this subcontract, will be made directly to the subcontractor by the U.S. Nuclear Regulatory Commission.

(End of Clause)  
(AV 1-1.713-3(e)(1))

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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) CODE		CODE		
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code)  PRIME: U.S. Small Business Administration 1111 18th Street, N.W., 6th Floor P. O. Box 19993 Washington, D.C. 20036  SUB: Pailen-Johnson Associates, Inc. 7655 Old Springhouse Road McLean, Virginia 22102				8. DELIVERY  <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)		
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	L	INSTRS, CONDS, AND NOTICES TO OFFERORS	
	M	EVALUATION FACTORS FOR AWARD	

**CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE**

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>five</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)		18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as in 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) MARY E. THOMAS CONTRACTING OFFICER		20A. NAME OF CONTRACTING OFFICER Timothy F. Hagan, Contracting Officer	
19B. NAME OF CONTRACTOR BY <u>Mary E. Thomas</u> (Signature of person authorized to sign)	19C. DATE SIGNED 9/30/85	20B. UNITED STATES OF AMERICA BY <u>Timothy F. Hagan</u> (Signature of Contracting Officer)	20C. DATE SIGNED 9/23/85

STANDARD FORM 36, JULY 1966 GENERAL SERVICES ADMINISTRATION FED. PROC. REG. (41 CFR) 1-16.101		CONTINUATION SHEET		REF. NO. OF DOC. BEING CONT'D. NRC-10-85-263		PAGE 4	OF 38								
NAME OF OFFEROR OR CONTRACTOR Pailen-Johnson Associates, Incorporated															
ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT										
	All quantities listed herein are estimates only, and are based on a twenty-four (24) month period of performance.														
	On-Call maintenance charge	4,000	HR	\$ * See Below	\$175,536.00										
	Spare Parts (For estimating purposes only. Refer to Section C.2.F. for spare parts provisions)	SPARE PARTS AT COST			\$15,565.00										
	Materials (For estimating purposes only. Refer to Section C.2.F. for materials provisions)	MATERIALS AT COST			\$14,958.00										
	The estimated number of hours includes travel time associated with each service call. The maintenance charge shall include transportation costs as well as the contractor's hourly labor rate.		TOTAL		\$205,059.00										
<p>*The contractor will be reimbursed for service performed, exclusive of spare parts and materials, in accordance with the following schedule:</p> <table border="1"> <thead> <tr> <th>Calendar Year</th> <th>Composite Labor Rate</th> </tr> </thead> <tbody> <tr> <td>1985</td> <td>\$41.11</td> </tr> <tr> <td>1986</td> <td>\$43.29</td> </tr> <tr> <td>1987</td> <td>\$45.61</td> </tr> </tbody> </table>								Calendar Year	Composite Labor Rate	1985	\$41.11	1986	\$43.29	1987	\$45.61
Calendar Year	Composite Labor Rate														
1985	\$41.11														
1986	\$43.29														
1987	\$45.61														



## Section B - Supplies or Services and Prices/Costs

The contractor shall provide all necessary personnel, materials, equipment and facilities to perform on-call maintenance for NRC data communications equipment as specified in accordance with Section C - Description/Specifications/Work Statement and Section H - Special Contract Requirements.

## Section C - Description/Specifications/Work Statement

### C.1 Statement of Work

The U.S. Nuclear Regulatory Commission (NRC) requires a contractor to perform on-call maintenance for NRC data communications equipment/systems. For definition purposes, maintenance includes the following activities:

- Installation
- Removal
- Relocation
- Trouble or fault isolation
- Repair
- Checking and setting modem and MUX options
- Cable fabrication and installation
- Equipment inspection and adjustment
- Minor hardware fabrication
- Transportation and shipping
- Documentation
- Trouble reporting to proper vendor
- Monitoring vendor repairs
- Local and remote self-testing of equipment
- Diagnostic testing
- Training user in proper operation of data communications equipment
- Other actions relating to equipment/system installation and maintenance

Data communications equipment (DCE) associated with this contract include modems, multiplexors, auto-call units, commercial data encryption units, A-B switches, X switches, cables, and other related ancillary DCE. Also included is the fabrication of interface cables, cable systems, and minor equipment mounting racks, brackets, and hardware.

All NRC leased and owned DCE is currently located within the Washington, D.C. metropolitan area. The following areas may change as new locations are established.

Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland

East West/South Towers Building, 4340 East West Highway, Bethesda, Maryland

East West/West Towers Building, 4350 East West Highway, Bethesda, Maryland

Matomic Building, 1717 H Street, N.W., Washington, D.C.

Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland

Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland

Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland

NRC Warehouse, 4934 Boiling Brook Parkway, Rockville, Maryland

Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland

Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland

Delray Building, 4905 Del Ray Avenue, Bethesda, Maryland

## C.2 Maintenance Requirements

- A. The contractor shall provide on-call maintenance during normal duty hours (8:00 a.m. - 5:00 p.m., Monday through Friday) on all DCE described in Section C.1.

Prior to requesting maintenance services on each equipment outage, the NRC will provide its best efforts to determine if the problem is in the line or equipment. If the malfunction is known to be in the line, the NRC will notify the Local Exchange Company (LEC) directly for repair. If the source of the malfunction cannot be determined, the NRC will place a service call with the contractor. If the contractor then determines that the malfunction is on the LEC's side of the demarcation point, the contractor shall document the work order of that determination in accordance with Section C.2.G. and notify the NRC Project Officer (PO) or designee. The PO or designee will then request the LEC to perform corrective action. However, should the malfunction actually be in the NRC's equipment and not on the LEC side of the demarcation point, the PO or designee will obtain the LEC's validation of such determination on the work order, and the cost of the LEC service visit shall be borne by the contractor. This shall be reflected by the contractor in the form of a credit in its monthly voucher to the NRC.

The NRC PO or his designee will telephonically notify the contractor when maintenance is required. The NRC PO and his designee are the only individuals authorized to place service calls under this contract. The NRC will not be held liable for any costs incurred by the contractor through performance in response to service calls accepted from unauthorized personnel. The contractor will be provided with the names of the NRC PO and designee at the time of contract award.

The following information will be provided to the contractor at the time each service call is placed:

- Service Call Number (to be numbered sequentially)
- Type of response required (i.e., on-call routine, emergency, nature of problem, etc.)
- Type of service required (i.e., repair, installation/removal, wiring/cabling, cable fabrication, etc.)
- Location and type of equipment.
- Name and telephone number of user/customer.
- NRC Tag Number and/or serial number of equipment involved.
- Status of equipment (i.e., whether equipment is owned, leased, or under manufacturer or vendor warranty)

The contractor's response time starts from the time the contractor receives notification that service is required. Response times are as follows:

- |  |           |
|--|-----------|
| - On-call routine maintenance  | - 4 hours |
| - Emergency maintenance  | - 2 hours |
| (For estimating purposes, less than 1 percent of the service calls placed per year will be on an emergency basis.) |           |

The determination of whether required service is of a routine or emergency nature will be made by the NRC PO.

Equipment outage time shall commence at the time of the actual contact with the contractor's representative, answering service or other continuous telephone coverage provided to permit such contact. Equipment outage time shall end when the equipment or system is returned to operation and ready to perform its assigned function. Service shall be restored to working order within twenty-four (24) continuous hours after initial arrival.

Nonchargeable service time is that time for which no additional charges to the NRC shall be made by the contractor for:

- Arrival of contractor personnel at repair location beyond the designated response time.
- Time spent by contractor personnel at the site awaiting the arrival of additional contractor personnel and/or delivery of parts (other than spare parts which are being provided as Government Property in accordance with Clause 52.245-5), etc., after a service call has commenced.

- Time spent in a travel status to or from the work site.
- B. The contractor shall be responsible for repairing all NRC data communications and ancillary equipment (including spares) not covered under a maintenance contract or warranty. In addition, the contractor shall be responsible for repairing equipment for which the maintenance contract or warranty expires during the performance period of this contract. Repairs shall be accomplished through NRC-provided spare board level units in accordance with Section H. Refer to Attachment No. 3, "Data Communications Equipment Listing," for information regarding NRC-owned equipment, leased equipment, and equipment currently under maintenance arrangements.
- C. The contractor shall obtain equipment removal and substitution approval from the NRC PO or designee prior to initiating corrective action on any equipment that is covered by a manufacturer or vendor warranty, or that is currently being leased by the NRC. Upon receiving approval, the contractor shall remove the defective equipment and substitute comparable equipment from the spare parts inventory. The contractor shall then proceed to coordinate the repair in accordance with instructions received from the appropriate manufacturer or vendor. The contractor shall monitor all manufacturer/vendor actions until the equipment is fully restored to operation. The contractor shall check all newly repaired equipment to ensure its proper operability. The repaired equipment shall then be placed in the spare parts inventory.

The contractor shall immediately report the unavailability of any spare parts necessary for replacement of warranted or leased equipment requiring repair to the NRC PO or designee.

- D. In accordance with the service call procedures described under Section C.2.A., the contractor shall install or remove equipment and perform cable fabrication as directed by the NRC PO or designee. The estimated number of installations, removals and cable fabrications for a twenty-four (24) month period is as follows:

Modems	-	200
Multiplexors	-	20
Ancillary Equipment	-	40
Cables - 5 ft. section	-	50
10 ft. section	-	120
20/25 ft. section	-	40
50/100 ft. section	-	30

- E. In accordance with the service call procedures described in Section C.2.A., the contractor shall furnish and install all required wiring, terminal connectors, and telephone cross connect wiring to provide connection between the data communications point of interface and the LEC point of demarcation when there is no embedded cable or wire available or where the cable or wire is not free for reuse. It is estimated that this requirement will arise approximately eight (8) times during a twenty-four (24) month period.

- F. The contractor shall maintain an inventory of spare and repair parts and such tools and instruments as necessary to properly and efficiently maintain the equipment for the life of the contract, in accordance with Section H. Only new or remanufactured parts equivalent in quality to new parts shall be used in the maintenance of DCE. Parts which have been replaced shall become the property of the NRC. All charges for major or minor parts necessary for maintenance of the equipment will be paid for by the NRC upon receipt of a properly executed invoice submitted in accordance with Section G.6. For the purpose of this contract, minor parts are those which cost \$100.00 or less and major parts are those which cost \$100.01 and over. The contractor shall obtain prior approval from the NRC for all purchases of parts exceeding \$100 in value. The contractor shall be reimbursed for spare parts and materials at cost only. The contractor shall procure materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, and take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of such benefits, the contractor shall promptly notify the Contracting Officer and give the reasons thereof.
- G. The contractor shall document each service call through the use of a numbered work order system acceptable to the NRC. A legible copy of each completed work order shall be submitted to the NRC or his designee within twenty-four (24) hours after completion of equipment repair and shall contain the following as a minimum:
- Work order number
  - Date and time service call received
  - Date and time of arrival at work site
  - Name, nomenclature and NRC tag number of equipment involved
  - Description of corrective action taken
  - Parts or equipment installed/replaced/repared, as applicable
  - Chargeable time spent on service call
  - Chargeable time spent in fabrication/maintenance/service offsite
  - Other remarks (as applicable)
  - Signature of customer to include time and date
  - Signature of service technician with time and date



- H. In the event the technician is unable to gain access to the building in which the equipment requiring repair is located, NRC's Telecommunications Branch shall be called for assistance and the work order shall be annotated to indicate the conditions or circumstances as follows:
- Cause
  - Location
  - Date and Time
  - Signature and telephone number of Guard on duty or other NRC personnel having knowledge of the situation.
- I. The contractor shall make no modifications, alterations or changes to the original configuration of NRC-owned or leased equipment without specific written authorization from the NRC PO. In addition, the contractor shall not disable, by-pass or otherwise render inoperative, any built-in safety devices or mechanisms associated with equipment under this contract.
- J. All documentation, software manuals, diagnostic routines, and any other aids (hereinafter called documentation) necessary to perform service under this contract, shall be furnished by the contractor whose property it shall remain. The NRC, as a party to the contract, shall not be required to aid in the acquisition nor furnish above documentation necessary to perform under the contract for the term of the contract.

#### Section D - Packaging and Marking

The Contractor shall use standard commercial packaging for all items to be delivered. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

#### Section E - Inspection and Acceptance

##### E.1 Place of Inspection and Acceptance

- A. Inspection and acceptance of the deliverable items to be furnished hereunder shall be made at the destination.

#### Section F - Deliveries and Performance

##### F.1 Duration of Contract Period

This contract shall become effective on September 30, 1985 and shall continue for twenty-four (24) months after said contract is effective. The completion date is September 29, 1987.

Section G - Contract Administration Data

G.1 Total Amount of the Contract Ceiling

The estimated amount for performing the work under this contract is \$206,059.00. The estimated amount may be increased by the Contracting Officer at his discretion from time to time by written notice to the contractor. When and if the amount(s) paid and payable to the contractor hereunder shall equal the ceiling, the contractor shall be excused from further performance of the work unless and until the Contracting Officer shall increase the amount obligated with respect to this contract.

The amount presently obligated with respect to this contract is \$123,777.00.

G.2 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: Brian D. Brownell, MS W-331  
Office Address: 8120 Woodmont Avenue, Room W-324  
Bethesda, Maryland  
Telephone Number: (301) 492-7927

G.3 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 final deliverable product/service is 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 the final deliverable product/service performed in accordance with the terms of the contract.

(c) If the final product/service is rejected for failure to conform to the technical requirements of the contract, the provisions in paragraph (b) of this clause will apply to the new delivery of the final product/service.

(d) The date of payment by wire transfer through the Treasury Financial Communications System 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.4 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.5 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.A The Government will furnish spare units required for performance under this contract in accordance with Clause 52.245-5, "Government Property." On an emergency basis, however, the NRC PO or designee may direct the contractor to acquire spare units in performance of a service call in accordance with Section C.2.F. of this contract. It is estimated that less than one (1) percent of the service calls placed within the contract period will require spare unit acquisition on the part of the contractor. It is estimated that 500 service calls will be placed under this contract.
- H.1.B The NRC will reimburse the contractor for short-term leasing or rental of diagnostic equipment for maintaining and supporting DCE in accordance with Section C.2.F.

## H.2 Security (OMB Clearance Number 3150-0112)

(a) It is the Contractor's duty to safeguard Restricted Data, Formerly Restricted Data, and other classified information. The Contractor shall, in accordance with the Commission's security regulations and requirements, be responsible for safeguarding Restricted Data, Formerly Restricted Data, and other classified information and protecting against sabotage, espionage, loss and theft, the classified documents and material in the Contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to the Commission any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract.

If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the Contractor will complete a certificate of possession to be furnished to the Commission specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter and their period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained.

(b) Regulations. The Contractor agrees to conform to all security regulations and requirements of the Commission.

(c) Definition of Restricted Data. The term "Restricted Data," as used in this clause, means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act of 1954, as amended.

(d) Definition of Formerly Restricted Data. The term "Formerly Restricted Data," as used in this clause, means all data removed from the Restricted Data category under section 142-d. of the Atomic Energy Act of 1954, as amended.

(e) Security Clearance Personnel. The Contractor shall not permit any individual to have access to Restricted Data, Formerly Restricted Data, or other classified information, except in accordance with the Atomic Energy Act of 1954, as amended, and the Commission's regulations or requirements applicable to the particular type or category of classified information to which access is required.



(f) Criminal Liabilities. It is understood that disclosure of Restricted Data, Formerly Restricted Data, or other classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any Restricted Data, Formerly Restricted Data, or any other classified matter that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 11652.)

(g) Subcontracts and Purchase Orders. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

(h) In performing the contract work, the Contractor shall assign classifications to all documents, material, and equipment originated or generated by the Contractor in accordance with classification guidance by the Commission. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall provide that the subcontractor or supplier shall assign classifications to all such documents, material, and equipment in accordance with classification guidance furnished by the Contractor.

H.3 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.5

##### 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.

H.6 Determination of Minimum Wages and Fringe Benefits

Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid the minimum monetary wage and shall be furnished fringe benefits in accordance with the Wage Determination issued by the Department of Labor. As of this time, however, no wage determination applicable to the specified locality and classes of employees is in effect.

H.7 Estimated Requirements

The quantities listed in Section B. of this solicitation are estimates of the amount of work which may be required and ordered hereunder. If such requirements fail to materialize, such failure shall not constitute grounds for equitable adjustment hereunder.

## PART II - CONTRACT CLAUSES

Section I - Contract Clauses

## 52.216-21 REQUIREMENTS. (APR 1984)

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

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

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

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

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

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after October 1, 1987.

(End of clause)

(R 7-1102.2(b) 1966 OCT)

## FPR TEMP. REG 76 SERVICE CONTRACT ACT

(a) Service Contract Act of 1965, as amended: This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR Part 4).



(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraph of this section have been approved by the Office of Management and Budget under OMB control number 1215-0150.)

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General

Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b)(2)(ii) of this section need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2)(i) and (ii) of this section shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraph (b)(2)(i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR Part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standard Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of §4.1b(b) of 29 CFR Part 4 apply or unless the Secretary of Labor or his authorized representative finds, after hearing as provided in §4.10 of 29 CFR Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in §4.11 of 29 CFR Part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and

accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150).

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1)(i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 4.6(g)(1)(i) through (iv) approved by the Office of Management and Budget under OMB control number 1215-0017 and sections 4.6(g)(1)(v) and (vi) approved under OMB control number 1215-0159).

(i) Name and address and social security number of each employee.

(ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which have been furnished to the contractor pursuant to §4.61(1)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.



(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback or any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government prime contractor."

(k)(1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contract pursuant to section 2(a)(5) of the Act and is for informational purposes only:



The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

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<u>Employee Class</u>	<u>Monetary Wage-Fringe Benefits</u>
Data Communications Specialist	\$ 17.41
Electronics Mechanic (Journeyman level)	\$ 12.49
Electronics Mechanic	\$ 11.47
Electronics Worker	\$ 9.84

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(1)(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (4.173 of Regulations, 29 CFR Part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR Part 4.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an

approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) An employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: Provided, however; that the amount of such credit may not exceed \$1.24 per hour beginning January 1, 1980, and \$1.34 per hour after December 31, 1980. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized.

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received):

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; (approved by the Office of Management and Budget under OMB control number 1215-0017);

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 4, 6, and 8. Disputes within the meaning of the clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, the employees or their representatives.

(FPR Temporary Regulation 76)

#### 52.219-11 SPECIAL 8(a) CONTRACT CONDITIONS. (APR 1984)

The Small Business Administration (SBA) agrees to the following:

(a) To furnish the supplies or services set forth in this contract according to the specifications and the terms and conditions hereof by subcontracting with an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(b) That in the event SBA does not award a subcontract for all or a part of the work hereunder, this contract may be terminated either in whole or in part without cost to either party.

(c) Delegates to the U.S. Nuclear Regulatory Commission the responsibility for administering the subcontract to be awarded hereunder with complete authority to take any action on behalf of the Government under the terms and conditions of the subcontract; provided, however, that the U. S. Nuclear Regulatory Commission shall give advance notice to the SBA before it issues a final notice terminating the right of a subcontractor to proceed with further performance, either in whole or in part, under the subcontract for default or for the convenience of the Government.

(d) That payments to be made under any subcontract awarded under this contract will be made directly to the subcontractor by the U.S. Nuclear Regulatory Commission.

(e) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the Contracting Officer cognizable under the "Disputes" clause of said subcontract.

(End of clause)

(AV FPR 1-1.713-3(d)(1))

52.246-20 WARRANTY OF SERVICES. (APR 1984)

(a) Definitions. "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor ..... [Contracting Officer shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "within 30 days from the date of acceptance by the Government,"; within 1000 hours of use by the Government,"; or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time]. This notice shall state either (1) that the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

(End of clause)

(R 7-1904.5(b) 1979 SEP)

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

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

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

## Section E

- 52.246-6 INSPECTION--TIME-AND-MATERIAL AND LABOR-HOUR. (APR 1984)
- 52.246-16 RESPONSIBILITY FOR SUPPLIES. (APR 1984)

## Section F

- 52.212-13 STOP-WORK ORDER. (APR 1984)
- 52.212-15 GOVERNMENT DELAY OF WORK. (APR 1984)
- 52.247-34 F.O.B. DESTINATION. (APR 1984)

## Section I

- 52.202-1 DEFINITIONS. (APR 1984)
- 52.203-1 OFFICIALS NOT TO BENEFIT. (APR 1984)
- 52.203-3 GRATUITIES. (APR 1984)
- 52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)
- 52.210-5 NEW MATERIAL. (APR 1984)
- 52.210-7 USED OR RECONDITIONED MATERIAL, RESIDUAL INVENTORY, AND FORMER GOVERNMENT SURPLUS PROPERTY. (APR 1984)
- 52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL. (APR 1984)
- 52.215-2 AUDIT--NEGOTIATION. (APR 1984)
- 52.215-22 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (APR 1984)
- 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS. (APR 1984)
- 52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES. (APR 1984)
- 52.220-1 PREFERENCE FOR LABOR SURPLUS AREA CONCERNS. (APR 1984)
- 52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS. (APR 1984)
- 52.222-3 CONVICT LABOR. (APR 1984)
- 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION--GENERAL. (APR 1984)
- 52.222-26 EQUAL OPPORTUNITY. (APR 1984)
- 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (APR 1984)
- 52.222-36 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APR 1984)
- 52.223-2 CLEAN AIR AND WATER. (APR 1984)
- 52.225-3 BUY AMERICAN ACT--SUPPLIES. (APR 1984)
- 52.227-1 AUTHORIZATION AND CONSENT. (APR 1984)
- 52.227-2 NOTICE AND ASSISTANCE, REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (APR 1984)
- 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)
- 52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS. (APR 1984)



52.232-8 DISCOUNTS FOR PROMPT PAYMENT. (APR 1984)  
52.232-11 EXTRAS. (APR 1984)  
52.232-17 INTEREST. (APR 1984)  
52.232-23 ASSIGNMENT OF CLAIMS. (APR 1984)  
52.233-1 DISPUTES. (APR 1984)--Alternate I. (APR 1984)  
52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND  
VEGETATION. (APR 1984)  
52.243-3 CHANGES--TIME-AND-MATERIALS OR LABOR-HOURS. (APR 1984)  
52.244-3 SUBCONTRACTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR  
CONTRACTS. (APR 1984)  
52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL,  
OR LABOR-HOUR CONTRACTS). (APR 1984)  
52.249-1 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)  
(SHORT FORM). (APR 1984)  
52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE). (APR 1984)  
52.249-14 EXCUSABLE DELAYS. (APR 1984)  
52.251-1 GOVERNMENT SUPPLY SOURCES. (APR 1984)



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

Section J - List of Attachments

<u>Attachment Number</u>	<u>Title</u>
1	NRC Organization Chart
2	NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20)
3	Data Communications Equipment Listing
4	Billing Instructions for Fixed Price Contracts

ATTACHMENT 1



## PART 20-1 -- GENERAL

## Subpart 20-1.54--Contractor Organizational Conflicts of Interest

Sec.	
20-1.5401	Scope and policy.
20-1.5402	Definitions.
20-1.5403	Criteria for recognizing contractor organizational conflicts of interest.
20-1.5404	Representation.
20-1.5405	Contract clauses.
20-1.5405-1	General contract clause.
20-1.5405-2	Special contract provisions.
20-1.5406	Evaluation, findings, and contract award.
20-1.5407	Conflicts identified after award.
20-1.5408	(Reserved)
20-1.5409	(Reserved)
20-1.5410	Subcontractors.
20-1.5411	Waiver.
20-1.5412	Remedies.

AUTHORITY: Sec. 8, Pub. L. 95-601, adding Sec. 170A to Pub. L. 83-703, 68 Stat. 919, as amended (42 U.S.C. ch. 14)

## §20-1.5401 Scope and Policy

(a) It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to avoid, eliminate or neutralize contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons (including those regulated by NRC) which may give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely; the application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied so as to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations which might arise; however, examples are provided in these regulations to guide application of the policy. NRC contracting and program officials must be alert to other situations which may warrant application of this policy guidance. The ultimate test is: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased, or where it may have an unfair competitive advantage?

(c) The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment process, NRC

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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 §20-1.5405-2 in the following circumstances:

(i) Where the offeror or contractor prepares specifications which are to be used in competitive procurements of products or services covered by such specifications.

(ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using such approaches or methodologies.

(iii) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs which could form the basis for a later procurement action.

(iv) Where the offeror or contractor is granted access to proprietary information of its competitors.

(v) Where the award of a contract might otherwise result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or may otherwise result in an unfair competitive advantage for the offeror or contractor.

(c) Policy application guidance. The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations. (1) Example. The XYZ Corp., in response to a request for proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

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

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.



Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which would motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work during the performance of the NRC contract with the private sector which could create a conflict. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3) Example. As a result of operating problems in a certain type of commercial nuclear facility, it is imperative that NRC secure specific data on various operational aspects of that type of plant so as to assure adequate safety protection of the public. Only one manufacturer has extensive experience with that type of plant. Consequently, that company is the only one with whom NRC can contract which can develop and conduct the testing programs required to obtain the data in reasonable time. That company has a definite interest in any NRC decisions that might result from the data produced because those decisions affect the reactor's design and thus the company's costs.

Guidance. This situation would place the manufacturer in a role in which its judgment could be biased in relationship to its work for NRC. Since the nature of the work required is vitally important in terms of NRC's responsibilities and no reasonable alternative exists, a waiver of the policy may be warranted. Any such waiver shall be fully documented and coordinated in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4) Example. The ABC Co. submits a proposal for a new system for evaluating a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Co. has advised NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

Guidance. A contract could be awarded to the ABC Co. provided that the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless such information has been reported to NRC. Information which is reported to NRC by contractors will normally be disseminated by NRC to others so as to preclude an unfair competitive advantage that might otherwise accrue. When NRC furnishes information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities unless such information is generally available to others. Further, the contract will stipulate that the contractor will inform the NRC contracting officer of all situations in which the information developed under the contract is proposed to be used.

(5) Example. The ABC Corp., in response to a RFP proposes to assemble a map showing certain seismological features of the Appalachian fold belt. In accordance with the representation in the RFP and §20-1.5403(b)(1)(i), ABC Corp. informs the NRC that it is presently doing seismological studies for several utilities in the Eastern United States but none of the sites are within the geographic area contemplated by the NRC study.

Guidance. The contracting officer would normally conclude that award of a contract would not place ABC Corp. in a conflicting role where its judgment might be biased. The work for others clause of §20-1.5405-1(c) would preclude ABC Corp. from accepting work during the term of the NRC contract which could create a conflict of interest.

(d) Other considerations. (1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising from the performance of a contract is not relevant to a determination of the existence of such conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

#### §20-1.5404 Representation

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor.

(b) Representation procedure. The following organizational conflicts of interest representation provision shall be included in all solicitations and unsolicited proposals for: (1) Evaluation services or activities; (2) technical consulting and management support services; (3) research; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement shall also apply to all modifications for additional effort under the contract except those issued under the "changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest representation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

## ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

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

Pailen-Johnson

The award to Associates, Inc. of a contract or the modification of an existing contract does ( ) or does not (x) involve situations or relationships of the type set forth in 41 CFR § 20-1.5403(b)(1).

(c) Instructions to offerors. The following shall be included in all NRC solicitations: (1) If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR § 20-1.5403(b)(1) are involved, or the contracting officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the contracting officer. If the contracting officer determines that organizational conflicts exist, the following actions may be taken: (i) Impose appropriate conditions which avoid such conflicts, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interest of the United States to seek award of the contract under the waiver provisions of § 20-1.5411.

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

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

(e) The offeror's failure to execute the representation required by subsection (b) above with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct the omission.

§ 20-1.5405 Contract clauses

§ 20-1.5405-1 General contract clause

All contracts of the types set forth in § 20-1.5404(b) shall include the following clauses:

(a) Purpose. The primary purpose of this clause is to aid in ensuring that the contractor: (1) Is not placed in a conflicting role because of current or planned interest (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor as defined in 41 CFR § 20-1.5402(f) in the activities covered by this clause.

(c) Work for others. Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees who are employed full time under this contract and employees designated as key personnel, if any, under this contract abide by the provision of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the contractor shall obtain the written approval of the contracting officer prior to execution of such contractual arrangement.

(d) Disclosure after award. (1) The contractor warrants that to the best of its knowledge and belief and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest, as defined in 41 CFR § 20-1.5402(a).

(2) The contractor agrees that if after award it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the government.

(e) Access to and use of information. (1) If the contractor in the performance of this contract obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the public, the contractor agrees not to: (i) Use such information for any private purpose until the information has been released to the public; (ii) compete for work for the Commission based



on such information for a period of six (6) months after either the completion of this contract or the release of such information to the public, whichever is first, (iii) submit an unsolicited proposal to the government based on such information until one year after the release of such information to the public, or (iv) release the information without prior written approval by the contracting officer unless such information has previously been released to the public by the NRC.

(2) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat such information in accordance with restrictions placed on use of the information.

(3) The contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) Subcontracts. Except as provided in 41 CFR §20-1.5402(h), the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "contractor," and "contracting officer," shall be appropriately modified to preserve the government's rights.

(g) Remedies. For breach of any of the above proscriptions or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract or for such erroneous representations as necessarily imply bad faith, the government may terminate the contract for default, disqualify the contractor from subsequent contractual efforts, and pursue other remedies as may be permitted by law or this contract.

(h) Waiver. A request for waiver under this clause shall be directed in writing through the contracting officer to the Executive Director for Operations (EDO) in accordance with the procedures outlined in §20-1.5411.

#### § 20-1.5405-2 Special contract provisions.

(a) If it is determined from the nature of the proposed contract that organizational conflicts of interest exist, the contracting officer may determine that such conflict can be avoided or after obtaining a waiver in accordance with §20-1.5411, neutralized through the use of an appropriate special contract provision. If appropriate, the offeror may negotiate the terms and conditions of these clauses, including the extent and time period of any such restriction. These provisions include but are not limited to:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of his key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for protection of confidential data and guard against its unauthorized use.

(b) The following additional contract clause may be included as section (i) in the clause set forth in § 20-1.5405-1 when it is determined that award of a follow-on contract would constitute an organizational conflict of interest.

(i) Follow-on effort. (1) The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor shall not perform any technical consulting or management support services work or evaluation activities under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of such products or services.

(2) If the contractor under this contract prepares a complete or essentially complete statement of work or specifications, the contractor shall be ineligible to perform or participate in the initial contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.

(3) Nothing in this paragraph shall preclude the contractor from offering or selling its standard commercial items to the government.

#### § 20-1.5406 Evaluation, findings, and contract award

The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the representation requirements of § 20-1.5404(b) and other relevant information. After evaluating this information against the criteria of § 20-1.5403, a finding will be made by the contracting officer whether organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that conflicts of interest exist, then the contracting officer shall either:

(a) Disqualify the offeror from award,



(b) Avoid or eliminate such conflicts by appropriate measures; or

(c) Award the contract under the waiver provision of § 20-1.5411.

§ 20-1.5407 Conflicts identified after award.

If potential organizational conflicts of interest are identified after award with respect to a particular contractor, the contracting officer determines that such conflicts do, in fact, exist and that it would not be in the best interests of the government to terminate the contract as provided in the clauses required by § 20-1.5405, the contracting officer will take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with § 20-1.5411, neutralize the effects of the identified conflict.

§ 20-1.5408 (Reserved)

§ 20-1.5409 (Reserved)

§ 20-1.5410 Subcontracts

The contracting officer shall require offerors and contractors to submit a representation statement in accordance with § 20-1.5404(b) from subcontractors and consultants. The contracting officer shall require the contractor to include contract clauses in accordance with § 20-1.5405 in consultant agreements or subcontracts involving performance of work under a prime contract covered by this subsection.

§ 20-1.5411 Waiver

In the first instance, determination with respect to the need to seek a waiver for specific contract awards shall be made by the contracting officer with the advice and concurrence of the program office director and the Office of Executive Legal Director. Upon the recommendation of the contracting officer, and after consultation with the Office of the General Counsel, the EDO may waive the policy in specific cases if he determines that it is in the best interest of the United States to do so.

Such action shall be strictly limited to those situations in which:

- (1) The work to be performed under contract is vital to the NRC program;
- (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3)

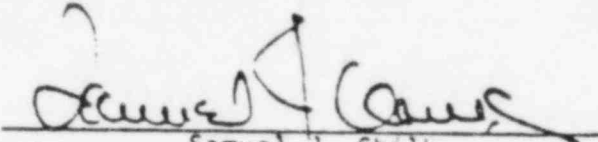
contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

§20-1.5412 Remedies

In addition to such other remedies as may be permitted by law or contract for a breach of the restrictions in this subpart or for any intentional misrepresentation or intentional nondisclosure of any relevant interest required to be provided for this section, the NRC may debar the contractor from subsequent NRC contracts.

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

For the Nuclear Regulatory Commission

  
Samuel J. Chalk  
Secretary of the Commission

DATA COMMUNICATIONS EQUIPMENT LISTINGMODEMS (550)

- \* IBM
- GANDALF
- \* VADIC CORP
- \* ANDERSON JACOBSON
- PENRIL
- AVANTI
- \* WESTERN ELECTRIC
- UNIVERSAL & DATA SYS
- QEI TELEPRODUCTS
- W HAYES
- \* VENTEL
- VIKONICS
- 3M
- RENEX
- \* BELL

MULTIPLEXERS (55) DATA SWITCHES(30)

- MICOM
- \*TIMEPLEX

- WIDGET
- ELECTRO DATA INC
- INT'L DATA SCIENCES
- DYNATECH DATA SYS

AUDIO COUPLERS (59)

- DACON ELECTRONICS
- AUDIO DATA CORP
- SKUTCH ELECTRONICS

DATA ENCRYPTION DEVICES (14)

- (W) PARADYNE

AUTO CALL UNITS (25)

- \* WESTERN ELECTRIC

\* Equipment currently under maintenance contract, or lease with maintenance included.

(W) Currently under warranty.

(February, 1982)

BILLING INSTRUCTIONS FOR FIXED PRICE  
CONTRACTS

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

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

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

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

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

- (a) Payor's name and address. (i) Address the original voucher (with 4 copies) to: U.S. Nuclear Regulatory Commission, Division of Accounting, Office of the Controller, ATTN: GOV/COM Accounts Sections, Washington, DC 20555. (ii) Address 2 copies to: U.S. Nuclear Regulatory Commission, ATTN: E. L. Halman, Director, Division of Contracts, Washington, DC 20555. (iii) The original copy of the voucher should indicate that (2) copies have been forwarded to the Contracting Officer.
- (b) Voucher number.
- (c) Date of voucher.
- (d) Contract number and date.
- (e) Payee's name and address. (Show the name of the contractor and its correct address, except when an assignment has been made by the contractor or a different payee has been designated, then insert the name and address of the payee.)
- (f) Description of articles or services, quantity, unit price, and total amount.

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

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