

## AWARD/CONTRACT

OMB No. 0505-0005

Expiration Date: 05/31/88

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)

1. RATING: N/A

2. CONTRACT NO.  
NRC-39-88-2483. EFFECTIVE DATE  
04/01/884. REQUISITION/PROJECT NO.  
803044

5. ISSUED BY Code:

U.S. Nuclear Regulatory Commission  
Division of Contracts  
Mail Stop AR-2223  
Washington, DC 20555

6. ADMINISTERED BY Code:

(If other than Item 5)  
U.S. Nuclear Regulatory Commission  
Division of Contracts (AR-2223)  
Contract Administration Branch  
Washington, DC 20555

7. NAME AND ADDRESS OF CONTRACTOR

ASC Office Furniture  
P.O. Box 11760  
Alexandria, Virginia 22312

8. DELIVERY

( ) FOB ORIGIN

(X) OTHER

(See Section F)

9. DISCOUNT FOR PROMPT PAYMENT

N/A

Duns Code:

Facility Code:

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS  
SHOWN IN ITEM: 12

11. SHIP TO/MARK FOR

Code:

If applicable,  
see Section D  
of the Schedule

12. PAYMENT WILL BE MADE BY

U.S. Nuclear Regulatory Commission  
Division of Accounting and Finance  
GOV/COM Accounting Section  
Washington, DC 20555

Code:

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION

( ) 10 U.S.C. 2304(c) ( ) (X) 41 U.S.C. 253(c) (2)

14. ACCOUNTING AND APPROPRIATION DATA

B&amp;R No. 40-20-10-26-0 FIN No. B2468

APPN No. 31X0200.408 Obligate: \$32,743.90

15A. ITEM NO.	15B. SUPPLIES/ SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
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See Schedule

15G. TOTAL AMOUNT OF CONTRACT \$32,743.90

APPROVED BY GSA/OIRM 6/85

STANDARD FORM 26 (Rev. 4-85)  
FAR(48 CFR) 53.214(a)8804180308 880405  
PDR CONTR  
NRC-39-88-248 PDR

## AWARD/CONTRACT

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. (X) CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 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. () 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 to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER  
(Type or print)

20A. NAME OF CONTRACTING OFFICER

Timothy F. Hagan

19B. NAME OF CONTRACTOR

20B. UNITED STATES OF AMERICA

by Carolanne M. Murphy  
(Signature of person authorized to sign)

by Timothy F. Hagan  
(Signature of Contracting Officer)

19C. DATE SIGNED

4/3/88

20C. DATE SIGNED

4/4/88

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SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

## B.1 BRIEF DESCRIPTION OF WORK (MAR 1987)

The contractor shall provide all facilities, personnel, and materials to provide the lateral files specified under Section B.3.

(End of Clause)

B.2 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE  
(MAR 1987)

The firm fixed price of this contract is \$32,743.90. Payment will be made upon completion/delivery and acceptance of all required products/services.

(End of Clause)

## B.3 LIST OF DELIVERABLES AND PRICES

ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
1.	Lateral Files Stock No. 1504-SE4 36"W X 20"D X 56"H 1130-B Light Oak Veneer Finish	30 EA	\$787.80	\$23,634.00
2.	Lateral Files Stock No. 1503-SE3 36"W X 20"D X 43"H 1130-B Light Oak Veneer Finish	5 EA	\$646.36	\$3,231.80
3.	Lateral Files Stock No. 1502-SE2 36"W X 20"D X 30"H 1130-B Light Oak Veneer Finish	10 EA	\$492.44	\$4,924.40
Total Lateral Files Amount - - - - -				\$31,790.20
Estimated Shipping and Handling Charge (Not to Exceed 3%) - - - - -				\$953.70
Total Amount - - - - -				\$32,743.90

(End of Clause)

SECTION C - DESCRIPTION/SPECIFICATION  
/WORK STATEMENT

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C.1 STATEMENT OF WORK (MAR 1987)

The contractor shall provide the lateral files specified under Section B.3 of this contract.

(End of Clause)

## SECTION D - PACKAGING AND MARKING

### D.1 PACKAGING AND MARKING (MAR 1987)

The Contractor shall package material for shipment to the NRC in such a manner that will insure acceptance by common carrier and safe delivery at destination. Containers and closures shall comply with the Interstate Commerce Commission Regulations, Uniform Freight Classification Rules, or regulations of other carriers as applicable to the mode of transportation. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

(End of Clause)

SECTION E - INSPECTION AND ACCEPTANCEE.1 CLAUSES INCORPORATED BY REFERENCE  
(FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have 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

CLAUSE NUMBER	DATE	TITLE
52.246-2	JUL 1985	INSPECTION OF SUPPLIES-- FIXED-PRICE
52.246-16	APR 1984	RESPONSIBILITY FOR SUPPLIES

## E.2 PLACE OF INSPECTION AND ACCEPTANCE (MAR 1987)

Inspection and acceptance of the deliverable items to be furnished hereunder shall be made by the Project Officer at the destination.

(End of Clause)



SECTION F - DELIVERIES OR PERFORMANCEF.1 CLAUSES INCORPORATED BY REFERENCE  
(FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have 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

CLAUSE NUMBER	DATE	TITLE
52.212-13	APR 1984	STOP-WORK ORDER
52.247-34	APR 1984	F.O.B. DESTINATION
52.247-54	APR 1984	DIVERSION OF SHIPMENT UNDER F.O.B. DESTINATION CONTRACTS

## F.2 TIME OF DELIVERY (FAR 52.212-1) (APR 1984)

(a) The Government requires delivery to be made according to the following schedule:

ITEM NO.	QUANTITY	REQUIRED DELIVERY SCHEDULE ON OR BEFORE DATE SPECIFIED
1	26 EA	May 9, 1988
1	4 EA	May 27, 1988
2	3 EA	May 9, 1988
2	2 EA	May 27, 1988
3	6 EA	May 9, 1988
3	4 EA	May 27, 1988

The Government will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above, may not be considered for award. The Government reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an offeror offers

an earlier delivery schedule than required above. If the offeror proposes no other delivery schedule, the required delivery schedule above will apply.

## OFFEROR'S PROPOSED DELIVERY SCHEDULE

ITEM NO.	QUANTITY	ON OR BEFORE DATE SPECIFIED
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful offeror, results in a binding contract. The Government will mail or otherwise furnish to the offeror an award or notice of award not later than the day award is dated. Therefore, the offeror should compute the time available for performance beginning with the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the Government will evaluate an offer that proposes delivery based on the Contractor's date of receipt of the contract or notice of award by adding five days for delivery of the award through the ordinary mails. If, as so computed, the offered delivery date is later than the required delivery date, the offer will be considered nonresponsive and rejected.

(End of Clause)

## F.3 PLACE OF DELIVERY--EQUIPMENT (MAR 1987)

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

U.S. Nuclear Regulatory Commission Warehouse  
Contract Number: NRC-39-88-248  
4934 Boiling Brook Pkwy.  
Rockville, MD 20852

(End of Clause)

## F.4 DURATION OF CONTRACT PERIOD (MAR 1987)

This contract shall commence on 04/01/88 and will expire on 05/27/88.

(End of Clause)

### SECTION G - CONTRACT ADMINISTRATION DATA

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#### G.1 PROJECT OFFICER AUTHORITY (MAR 1987) ALTERNATE II (MAR 1987)

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

Name: Eugenia M. Pleasant

Address: Office of Consolidation  
11555 Rockville Pike  
Rockville, MD 20852

Telephone Number: (301) 492-1505

b. The Project Officer is responsible for:

- 1) Monitoring Contractor performance and recommending to the Contracting Officer changes in requirements.
- 2) Inspecting and accepting products/services provided under the contract.
- 3) Reviewing all Contractor invoices/vouchers requesting payment for products/services provided under the contract and making recommendations for approval, disapproval, or suspension.

c. The Project Officer is not authorized to make changes to the express terms and conditions of this contract.

(End of Clause)

#### G.2 METHOD OF PAYMENT (MAR 1987)

a. Payment under this contract will be made by wire transfer through the Treasury Financial Communications System for each individual payment in excess of \$25,000 and by Treasury check for each individual payment of \$25,000 or less.

b. In the event that the Contractor's financial institution has access to the Federal Reserve Communications System, the Contractor shall forward the following information in writing to the Contracting Officer within seven days after the effective date of the contract.

- 1) Name and address of organization.
- 2) Contact person and telephone number.

- 3) Name and address of financial institution.
- 4) Contractor's financial institution's 9-digit ABA identifying number for routing transfer of funds.
- 5) Telegraphic abbreviation of Contractor's financial institution.
- 6) Account number at Contractor's financial institution.
- 7) Signature and title of person supplying this information.

c. In the event the Contractor's financial institution does not have access to the Federal Reserve Communication System, the Contractor shall forward the following information with regard to a correspondent or alternate financial institution. The information shall be in writing and submitted to the Contracting Officer within seven days after the effective date of the contract.

- 1) Name and address of organization.
- 2) Contact person and telephone number.
- 3) Name and address of financial institution.
- 4) Telegraphic abbreviation of Contractor's financial institution.
- 5) Account number at Contractor's financial institution.
- 6) Name and address of the correspondent financial institution that has access to the Federal Reserve Communications System.
- 7) Correspondent financial institution 9-digit ABA identifying number for routing transfer of funds.
- 8) Telegraphic abbreviation of correspondent financial institution.
- 9) Signature and title of person supplying this information.

d. Any changes to the information furnished under this clause shall be furnished to the Contracting Officer in writing. It is the Contractor's responsibility to furnish these changes promptly to avoid payments to erroneous bank accounts.

(End of Clause)

## G.3 PAYMENT DUE DATE (MAR 1987)

a. Progress payments, if authorized under this contract, will be due thirty (30) calendar days after receipt of a proper invoice in accordance with the attached "Billing Instructions" (See Section J for List of Attachments). Such payments are solely for financing purposes and shall not accrue interest under the Prompt Payment Act.

b. Payments subject to the Prompt Payment Act under this contract will be due 30 calendar days after the later of:

1. The date of actual receipt of a proper invoice in accordance with the attached "Billing Instructions", or
2. The date the final deliverable products/services are accepted by the Government, or
3. The date the contract expires.

c. 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 receipt of the final deliverable product or completion of performance of all services in accordance with the terms of the contract.

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

(End of Clause)

G.4 INTEREST ON OVERDUE PAYMENTS (MAR 1987)  
ALTERNATE I (MAR 1987)

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.

(End of Clause)

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

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### H.1 PRIVATE USE OF CONTRACT INFORMATION AND DATA (MAR 1987)

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

(End of Clause)

### H.2 CONTRACTOR ORGANIZATIONAL CONFLICTS OF INTEREST (OMB CLEARANCE NUMBER 3150-0112) (MAR 1987)

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 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 interest 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.

(End of Clause)

H.3 GOVERNMENT FURNISHED EQUIPMENT/PROPERTY - NONE PROVIDED  
(MAR 1987)

The Government will not provide any equipment/property, notwithstanding any provisions of the specification(s) to the contrary.

(End of Clause)

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PART II - CONTRACT CLAUSES

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SECTION I - CONTRACT CLAUSES

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I.1 CLAUSES INCORPORATED BY REFERENCE  
(FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have 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

CLAUSE NUMBER	DATE	TITLE
52.202-1	APR 1984	DEFINITIONS
52.203-1	APR 1984	OFFICIALS NOT TO BENEFIT
52.203-3	APR 1984	GRATUITIES
52.203-5	APR 1984	COVENANT AGAINST CONTINGENT FEES
52.203-6	JUL 1985	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.215-1	APR 1984	EXAMINATION OF RECORDS BY COMPTROLLER GENERAL
52.215-2	APR 1984	AUDIT -- NEGOTIATION
52.215-33	JAN 1986	ORDER OF PRECEDENCE
52.219-8	JUN 1985	UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS
52.219-13	AUG 1986	UTILIZATION OF WOMEN- OWNED SMALL BUSINESSES
52.220-3	APR 1984	UTILIZATION OF LABOR SURPLUS AREA CONCERNS
52.220-4	APR 1984	LABOR SURPLUS AREA SUBCONTRACTING PROGRAM
52.222-20	APR 1984	WALSH-HEALEY PUBLIC CONTRACTS ACT
52.222-26	APR 1984	EQUAL OPPORTUNITY
52.222-35	APR 1984	AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS
52.222-36	APR 1984	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS
52.225-3	APR 1984	BUY AMERICAN ACT -- SUPPLIES
52.227-1	APR 1984	AUTHORIZATION AND CONSENT

52.227-2	APR 1984	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
52.227-3	APR 1984	PATENT INDEMNITY
52.229-5	APR 1984	TAXES -- CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO
52.232-1	APR 1984	PAYMENTS
52.232-8	JUL 1985	DISCOUNTS FOR PROMPT PAYMENT
52.232-11	APR 1984	EXTRAS
52.232-17	APR 1984	INTEREST
52.232-23	JAN 1986	ASSIGNMENT OF CLAIMS
52.233-1	APR 1984	DISPUTES
52.233-3	JUN 1985	PROTEST AFTER AWARD
52.244-5	APR 1984	COMPETITION IN SUBCONTRACTING
52.246-23	APR 1984	LIMITATION OF LIABILITY
52.249-1	APR 1984	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM)
52.249-8	APR 1984	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)
52.215-26	APR 1987	INTEGRITY OF UNIT PRICES ALTERNATE I (APR 1987)
52.222-37	JAN 1988	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
52.243-1	AUG 1987	CHANGES--FIXED PRICE

## I.2 ANTI-KICKBACK PROCEDURES (FAR 52.203-7)

(a) Definitions. "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purposes of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor employee," as used in this clause, means any

officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or subcontract entered into in connection with any such prime contract, and (2) includes any person who offers to furnish or furnishes supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from--

(1) Providing or attempting to provide or offering to provide any kickback; or

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly the amount of any kickback in the contract price charged by the prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or a higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) Regardless of the contract tier at which a kickback was provided, accepted or charged under the contract in violation of paragraph (b) of this clause, the Contracting Officer may--

(i) Offset the amount of the kickback against any monies owed by the United States under this contract and/or (ii) direct that the

Contractor withhold from sums owed the subcontractor, the amount of kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In the latter case, the contractor shall notify the Contracting Officer when monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5), in all subcontracts under this contract.

(End of Clause)

PART III - LIST OF DOCUMENTS, EXHIBITS  
AND OTHER ATTACHMENTS

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SECTION J - LIST OF ATTACHMENTS

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J.1 ATTACHMENTS (MAR 1987)

<u>Attachment Number</u>	<u>Title</u>
1	NRC Contractor Organizational Conflicts of Interest (41 CFR Part 20)
2	Billing Instructions

## PART 20-1 -- GENERAL

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

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

#### §20-1.5401 Scope and Policy

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

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

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



agreements with other government agencies, international organizations, or state, local or foreign governments; separate procedures for avoiding conflicts of interest will be employed in such agreements, as appropriate.

#### §20-1.5402 Definitions

(a) "Organizational conflicts of interest" means that a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair competitive advantage.

(b) "Research" means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

(c) "Evaluation activities" means any effort involving the appraisal of a technology, process, product, or policy.

(d) "Technical consulting and management support services" means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally require the contractor to be given access to information which has not been made available to the public or proprietary information. Such services typically include assistance in the preparation of program plans; and preparation of preliminary designs, specifications, or statements of work.

(e) "Contract" means any contract, agreement, or other arrangement with the NRC except as provided in Section 20-1.5401(c).

(f) "Contractor" means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their successors in interest, including their chief executives, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the NRC.

(g) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both (41 CFR §1-1.606-1(e)).

(h) "Subcontractor" means any subcontractor of any tier which performs work under a contract with the NRC except subcontracts for supplies and subcontracts in amounts of \$10,000 or less. |

(i) "Prospective contractor" or "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the proposal), proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.



(j) "Potential conflict of interest" means that a factual situation exists that suggests (indicates) that an actual conflict of interest may arise from award of a proposed contract. The term "potential conflict of interest" is used to signify those situations which merit investigation prior to contract award in order to ascertain whether award would give rise to an actual conflict or which must be reported to the contracting officer for investigation if they arise during contract performance.

§ 20-1.5403 Criteria for recognizing contractor organizational conflicts of interest

(a) General. Two questions will be asked in determining whether actual or potential organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the NRC? (2) May the contractor be given an unfair competitive advantage based on the performance of the contract? The ultimate determination by NRC as to whether organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts disclosed and the work to be performed. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships which might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation activities, or similar activities that lay direct groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs.

(b) Situations or relationships which may give rise to organizational conflicts of interest. (1) The offeror or contractor shall disclose information concerning relationships which may give rise to organizational conflicts of interest under the following circumstances:

(i) Where the offeror or contractor provides advice and recommendations to the NRC in a technical area in which it is also providing consulting assistance in the same area to any organization regulated by the NRC.

(ii) Where the offeror or contractor provides advice to the NRC on the same or similar matter in which it is also providing assistance to any organization regulated by the NRC.

(iii) Where the offeror or contractor evaluates its own products or services, or the products or services of another entity where the offeror or contractor has been substantially involved in their development or marketing.

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

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract provisions such as provided in §20-1.5405-2 in the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### §20-1.5404 Representation

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

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



## ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

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

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

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

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

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

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

§ 20-1.5405 Contract clauses

§ 20-1.5405-1 General contract clause

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Software exclusion clauses;

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

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

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

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

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

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

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

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

(a) Disqualify the offeror from award,



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

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

§ 20-1.5407 Conflicts identified after award.

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

§ 20-1.5408 (Reserved)

§ 20-1.5409 (Reserved)

§ 20-1.5410 Subcontracts

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

§ 20-1.5411 Waiver

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

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

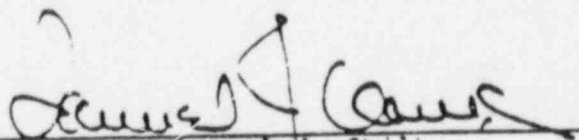
- (1) The work to be performed under contract is vital to the NRC program;
- (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3) contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

§20-1.5412 Remedies

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

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

For the Nuclear Regulatory Commission

  
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Samuel J. Chilk  
Secretary of the Commission

(REVISED - 4/87)

BILLING INSTRUCTIONS FOR FIXED PRICE  
CONTRACTS AND PURCHASE ORDERS

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

Form. Claims shall be submitted on the payee's letterhead, invoice or on the Government's Standard Form 1034 "Public Voucher for Purchases and Services Other Than Personal," and Standard Form 1035 "Public Voucher for Purchases Order Other Than Personal -- Continuation Sheet." These forms are available from the Government Printing Office, 701 North Capitol Street, Washington, DC 20801.

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

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

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

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

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

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