

**Group A**  
**RECORDS BEING WITHHELD IN PART**

<u>No.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	08/25/10	Purchase order NRC-DR-43-10-914 (9 pages) Exemption 4

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS  
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NO. 43-10-914 CSO10349		PAGE 1 OF
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE <b>SEP 10 2010</b>	4. ORDER NO. NRC-DR-43-10-914
5. SOLICITATION NUMBER		6. SOLICITATION ISSUE DATE

7. FOR SOLICITATION INFORMATION CALL:	8. NAME Wanda M Brown	9. TELEPHONE NO. (No Collect Calls) 301-492-3634	10. OFFER DUE DATE/LOCAL TIME
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11. ISSUED BY U.S. Nuclear Regulatory Commission Div. of Contracts Attn: Wanda M Brown Mail Stop: TWB-01-B10M Washington, DC 20555	12. CODE 3100	13. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> (A)
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14. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	15. DISCOUNT TERMS Net 30	16. THIS CONTRACT IS A RATED ORDER UNDER OPAS (15 CFR 700) <input type="checkbox"/>	17. RATING N/A
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18. DELIVER TO U.S. Nuclear Regulatory Commission 11545 Rockville Pike Attn: Bill Dabbs, Project Officer m/s T2 C2 Rockville MD 20852	19. CODE	20. ADMINISTERED BY U.S. Nuclear Regulatory Commission Div. of Contracts Mail Stop: TWB-01-B10M Washington, DC 20555	21. CODE 3100
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22. CONTRACTOR/OFFEROR CODE 129360538	23. FACILITY CODE	24. PAYMENT WILL BE MADE BY Department of Interior / NBC NRCPayments@nbc.gov Attn: Fiscal Services Branch - D2770 7301 W. Mansfield Avenue Denver CO 80235-2230	25. CODE 3100
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<input type="checkbox"/> 26. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER	<input type="checkbox"/> 27. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 24 UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM
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19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
1	ThreatGuard, Inc. located in San Antonio, Tx will provide the Nuclear Regulatory Commission (NRC) with ThreatGuard Expansion License according to the provisions the Federal Acquisition Regulations Clauses (FAR) and the contractor quote Q80933 dated 8/16/2010 is hereby made part of this purchase order. Contractor Contact: Marc Enger 210-490-4018 marc.enger@threatguard.com  Period of Performance: Base year and 2 One year options Base Year: 9/10/2010-9/09/2011 <b>\$30,000.00</b> Option Year 1 9/10/2011-9/9/2012 \$20,000.00 Option Year 2 9/10/2012-9/9/2013 \$20,000.00 **see attached quote Secutor Prime Proc Auditor Gov #TGSPPA01 (discount (b)(4))	(b)(4)	lot	(b)(4)	(b)(4)
2	Secutor Prime Professional Gov #TGSPPP001 (discount (b)(4))	(b)(4)	lot	(b)(4)	(b)(4)
3	Magnus Client License Gov #TGSMMD001 (shipping discount (b)(4))	(b)(4)	lot	(b)(4)	(b)(4)
				SUBTOTAL	\$30,000.00

28. ACCOUNTING AND APPROPRIATION DATA B&R 07S-15-5D1-328 JC N7343 BOC 252A Appr# 31x0200 FPS# CSO10349 Obligate \$30,000.00	29. TOTAL AWARD AMOUNT (For Govt. Use Only) <b>\$30,000.00 (base and option)</b>
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<input type="checkbox"/> 30. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-6 ARE ATTACHED. ADDENDA	<input type="checkbox"/> ARE	<input type="checkbox"/> ARE NOT ATTACHED.
<input checked="" type="checkbox"/> 31. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-6 IS ATTACHED. ADDENDA	<input type="checkbox"/> ARE	<input checked="" type="checkbox"/> ARE NOT ATTACHED.

32. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED	33. AWARD OF CONTRACT: REF. RFP CSO-10-914 DATED 8/16/10 YOUR OFFER ON SOLICITATION (BLOCK 6), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:
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34. SIGNATURE OF OFFEROR/CONTRACTOR	35. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)
36. NAME AND TITLE OF SIGNER (TYPE OR PRINT)	37. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)
38. DATE SIGNED	39. DATE SIGNED

A/1



ThreatGuard, Inc.  
 1100 NW Loop 410, Suite 700  
 San Antonio, TX 78213-2263 US  
 Phone:(210) 490-4018  
 www.threatguard.com

Billing Address:  
 wanda.brown@nrc.gov

<b>Account Number</b> 198	<b>Page</b> 1
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<b>Issue Date</b> 08-16-2010
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Shipping Address:  
 wanda.brown@nrc.gov

<b>Valid Till</b> -
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<b>Customer Name</b> Nuclear Regulatory Commission
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<b>Contact Name</b> Wanda Brown
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<b>Quote Number</b> Q80933
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Product Code	Product Name	Qty	Price	Discount	Tax	Total
TGSPPA01	Secutor Prime Pro. Auditor Gov.  Secutor Prime Auditor is licensed for installation on a single computer for auditing an unlimited number of systems.	1	\$10,000.00	\$0.00	\$0.00 (0.00 %)	\$10,000.00
TGSPP001	Secutor Prime Professional Gov.	1	\$2,475.00	\$2,475.00	\$0.00 (0.00 %)	\$0.00
TGSMD001	Magnus Client License Gov.	3000	\$30.00	\$69,750.00	\$0.00 (0.00 %)	\$20,250.00
<b>Net Total:</b>						<b>\$30,250.00</b>
<b>Discount:</b>						<b>\$250.00</b>
<b>Shipping &amp; Handling Charges:</b>						<b>\$0.00</b>
<b>Taxes For Shipping and Handling: (0.00 %)</b>						<b>\$0.00</b>
<b>Adjustment:</b>						<b>\$0.00</b>
<b>Grand Total:(in \$)</b>						<b>\$30,000.00</b>

**Description**  
 CSO-10-914-THREATGUARD EXPANSION  
 Quote for a custom security auditing solution using ThreatGuard SCAP products. Dramatically discounted price is only valid if purchased directly from ThreatGuard (we are the developer and do not have government resellers). Annual maintenance will be billed on the anniversary date of the purchase starting in year 2 at a rate of \$20,000. This solution is a customized periodic auditing solution. It is not licensed as a continuously run enterprise solution. You are authorized to deploy whatever number of Magnus servers are required to optimally supplement your Secutor Prime Pro Auditor license.

**Terms & Conditions**  
 ThreatGuard, Inc. is a small, veteran-owned business.  
 - All invoices are payable within thirty (30) days of the date of invoice  
 - Customers are responsible for any applicable sales tax  
 - To pay by credit card, please call (210) 490-4018  
 Tax ID: 01-0658282  
 DUNS: 12-936-0538

## **A.2 CONSIDERATION AND OBLIGATION—FIRM FIXED PRICE (JUN 1988)**

The firm fixed price of this contract is \$70,000.00 inclusive of all option year pricing

Base Year:	9/10/2010-9/9/2011	\$30,000.00
Option Year 1	9/10/2011-9/9/2012	\$20,000.00
Option Year 2	9/10/2012-9/9/2013	\$20,000.00

## **A.3 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 60; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 9/9/2013.

## **A.4 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAR 2009)**

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights-

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include-

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer— Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe,

any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

**(i) Payment.-**

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

**(6) Interest.**

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if--

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

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

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

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

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

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

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination

for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under that Act; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments
- (9) The specification.
- (t) Central Contractor Registration (CCR).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate



and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

52.212-5	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS	FEB 2010
52.233-1	DISPUTES	JUL 2002

**A.5 NRC Acquisition Clauses - (NRCAR) 48 CFR Ch. 20**

**A.6 SEAT BELTS**

Contractors, subcontractors, and grantees, are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

**A.7 WHISTLEBLOWER PROTECTION FOR NRC CONTRACTOR AND SUBCONTRACTOR  
EMPLOYEES (JULY 2006)**

(a) The U.S. Nuclear Regulatory Commission (NRC) contractor and its subcontractor are subject to the Whistleblower Employee Protection public law provisions as codified at 42 U.S.C. 5851. NRC contractor(s) and subcontractor(s) shall comply with the requirements of this Whistleblower Employee Protection law, and the implementing regulations of the NRC and the Department of Labor (DOL). See, for example, DOL Procedures on Handling Complaints at 29 C.F.R. Part 24 concerning the employer obligations, prohibited acts, DOL procedures and the requirement for prominent posting of notice of Employee Rights at Appendix A to Part 24.

(b) Under this Whistleblower Employee Protection law, as implemented by regulations, NRC contractor and subcontractor employees are protected from discharge, reprisal, threats, intimidation, coercion, blacklisting or other employment discrimination practices with respect to compensation, terms, conditions or privileges of their employment because the contractor or subcontractor employee(s) has provided notice to the employer, refused to engage in

unlawful practices, assisted in proceedings or testified on activities concerning alleged violations of the Atomic Energy Act of 1954 (as amended) and the Energy Reorganization Act of 1974 (as amended).

(c) The contractor shall insert this or the substance of this clause in any subcontracts involving work performed under this contract.