PLAINTIFF'S EXHIBIT

CAP-726

ASBESTOS INFORMATION ASSOCIATION
NORTH AMERICA
1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

# BOARD OF DIRECTORS MEETING

Ramada Inn Old Town — Alexandria, VA

June 13, 1979

Pursuant to notice, a meeting of the Board of Directors was held June 13, 1979, at the Ramada Inn Old Town, Alexandria, VA. The meeting was called to order at 9:00 AM. The following directors were present:

| | |
|---|---|
| George Barge | Atlas Turner, Inc. |
| W. H. Beasley | Cement Asbestos Products Co. |
| Gordon Coats | Calaveras Asbestos, Ltd. |
| R. A. Cree (for R. A. Carlson) | Special Asbestos Co., Inc. |
| Brian H. Donner | Vermont Asbestos Group |
| Thomas A. Dougherty | CertainTeed Corporation |
| Elisabeth Hanlin (for Dimitry Poutiatine) | Johns-Manville Corporation |
| Clarence A. Herbst, Sr. | Resinoid Engineering Corp. |
| A. R. Hooker | The Flintkote Company |
| B. J. Iwarsson | Abex Corporation |
| A. C. Liggett | Nuturn Corporation |
| Donald G. Magill, Jr. | Hollingsworth & Vose. Co. |
| John H. Marsh | Raybestos-Manhattan, Inc. |
| Joseph T. Mooney, Jr. | Monsey Products Co. |
| C. G. Morgan | Continental Products Corp. |
| Adam Novak | Huxley Development Corp. |
| H. B. Rhodes, Dr. Eng. Sc. | Union Carbide Corp. |
| John Riopelle | The Bendix Corporation |
| Jean-Francois Robert (for M. P. Carson) | Asbestos Corporation, Ltd. |
| Kurt Schwarz | Supradur Manufacturing Corp. |
| Martin Sendecki (for N. E. DeCandia | Congoleum Corporation |
| John Sheridan (for J. M. Ciskowski) | Jim Walter Research Corp. |
| Edward R. Zacharias | Molded Materials Co. |
| Frank Zimmerman (for E. J. FitzGerald) | National Gypsum Co. |

Others: Joseph A. Artabane, Esq., Cadwalader, Wickersham and Taft; Richard T. Davis, CPA, Frantz & Company, Chartered; J. Hammang, Vermont Asbestos Group; John Zacharias and Frank

Betts, Atlas Turner, Inc.; J. E. Keith, Rostone Corp.; Alfred Shaines, P.T. Brake Lining Co., Inc.; John P. DeKany and Richard Guimond, EPA; B. J. Pigg and Richard Trachtman, AIA/NA staff.

## Minutes

On motion, the minutes of the previous meeting, March 21, 1979, were approved as submitted.

## Financial Report

The financial statement for the period ending May 31, 1979, was reviewed by the Executive Director and accepted on motion.

## Staff Report

OSHA - An OSHA official has advised that staff review of the RTI-CONSAD consolidated report has been completed. Formal agency acceptance of the report is expected in the near future. It is expected that portions of the report will then be released. The consolidated report does not meet the requirements for a regulatory analysis. Schedule of any further regulatory process regarding OSHA's asbestos standard(s) remains unclear.

The transfer of funds from NCI to OSHA in support of an Asbestos Information Program has not occurred. A request for proposal (RFP) will be published when funds are received.

On May 17, 1979, Mr. Trachtman made a presentation to the OSHA Advisory Committee on Construction Safety and Health in Harvey, Illinois. The subject of his presentation was the role of work practices in safe handling of asbestos-containing products in the construction industry.

EPA - As reported at last meeting, the Office of Toxic Substances continues its active review of asbestos. A meeting between AIA/NA representatives and OTS personnel was held May 30 in EPA headquarters. A follow-on presentation for EPA and other regulatory agencies is scheduled for June 18. The Technical Committee will meet on July 12 to prepare comments on the IIT Research Institute report titled "Exposure to Asbestos." Mr. John P. DeKany, Deputy Assistant Administrator for Chemical Control, EPA, will be the luncheon speaker at directors meeting today.

The Environmental Defense Fund recently filed suit against EPA for an immediate rulemaking to require inspection and repair of asbestos in public schools.

U.S. Navy - Reference was made to a meeting between AIA/NA representatives and U.S. Navy officials held May 10. The presentation for industry was given by Edmund M. Fenner, Johns-Manville Corporation, and chairman of the AIA/NA Technical Committee.

CPSC - Corrective action proposals which were accepted by the Consumer Product Safety Commission in connection with asbestos in hand-held hair dryers were reviewed.

NIOSH testing of hair dryers is still ongoing. Final results are not expected before August.

CPSC's consideration of alternatives for asbestos-containing consumer products other than hair dryers was reviewed. A recent CPSC staff memorandum presented options including general/special orders to industry and an advance notice of proposed rulemaking. The Commission has not taken any action on these options.

DOT - The Department of Transportation has revised its final rule on the transportation of commercial asbestos with publication of amendments in the Federal Register on March 29, 1979. The revised final rule, effective August 20, 1979, allows for a new, third alternative in commercial asbestos transportation: in bags which do not need to be palletized or unitized if they are within closed freight containers, motor vehicles or rail cars, loaded by the consignor and unloaded by the consignee.

The Department of Transportation proposed a further system of labelling hazardous materials in transportation. Comments are due on August 7, 1979. The Standards Advisory Committee will review the proposal.

Congressional Activities - The "Asbestos School Hazard Detection and Control Act" (H.R. 3282) was referred to the Rules Committee on May 30. The controversial section 5(e) has been deleted.

The House Education and Labor Subcommittee on Labor Standards chaired by Rep. Edward P. Beard (D-RI) held three days of hearings May 1, 2, and 8 on compensation for workers exposed to asbestos.

Medical testimony was taken the first day of the hearing. Witnesses included Dr. Anthony Robbins, Director, National Institute of Occupational Safety and Health and Dr. Hilton Lewinsohn, Corporate Medical Director, Raybestos-Manhattan, Inc., Dr. Hans Weill, Professor of Medicine, Tulane University Medical School, testified on May 2. Also testifying on the 2nd were labor representatives including Sheldon Samuels, Industrial Union Department, AFL-CIO.

The final day of testimony included as witnesses Captain D. F. Hoeffler, M.D., Director, Occupational and Preventative Medicine

Division, Bureau of Medicine and Surgery, U.S. Navy, John A. McKinney and Dr. Paul Kotin, Johns-Manville Corporation, and plantiff attorney Robert E. Sweeney, Esq.

The hearings on asbestos were one set in a series which the Subcommittee is conducting on compensation for a number of occupational diseases. Further hearings on asbestos worker compensation are scheduled for October in Providence, RI.

Rep. Beard has stated he is preparing an asbestos worker compensation bill which, purportedly, will propose a ban of non-essential uses of asbestos.

N.A.S. - It was reported that the National Academy of Sciences will most likely not request a financial contribution from AIA/NA in support of a proposed asbestos study. A $5,000 contribution was approved at the last directors meeting, March 21.

State Activities - Recent action of the California Occupational Safety and Health Standards Board on exceptions to the asbestos spraying prohibition and work practices with products containing asbestos was reviewed.

The Virginia Board of Health approved a proposal classifying asbestos a Class I substance on May 24. This action will require an additional report from those establishments using in manufacturing or manufacturing 1000 kg/year of asbestos. Initial Class I reports are not expected to be due before December, 1979.

## Resolutions Adopted

1. Messrs. Frank Betts and William F. Phifer were elected on motion as directors of the Association, having been appointed the designated representatives of Atlas Turner, Inc. and Safeguard Automotive Corporation respectively.

2. On motion, a general format for an industry-government conference to be held in conjunction with the AIA/NA annual meeting, September 19-20, was approved.

## Miscellaneous

Other reports and discussions in accordance with agenda.

Mr. John P. DeKany, Deputy Assistant Administrator for Chemical Control, EPA, was luncheon speaker. A copy of his remarks is enclosed.

## Other Business

The next meeting of the Board of Directors will be held September 19, 1979, at Stouffer's National Center Hotel, 2399 Jefferson Davis Highway, Arlington, VA.

Adjournment

There being no further business, the meeting was adjourned at 11:25 AM.

B. J. Pigg
Executive Director

bjp/cn

25 June 1979

Enclosure

PRESENTATION TO

THE ASBESTOS INFORMATION ASSOCIATION OF NORTH AMERICA

BY

JOHN P. DEKANY

DEPUTY ASSISTANT ADMINISTRATOR FOR CHEMICAL CONTROL

ENVIRONMENTAL PROTECTION AGENCY

JUNE 13, 1979

Regulatory Investigation of Asbestos

Under TSCA

Thank you for inviting me to speak to you today about our work on asbestos in the Office of Toxic Substances.

We at EPA have been concerned about the risks associated with human exposure to asbestos. These risks have been well documented. At the workplace we have seen increased incidences of lung cancer, pleural mesothelioma, gastrointestinal cancer, and peritoneal mesothelioma. Asbestos-related diseases have been reported in nonworker populations living and working in the vicinity of asbestos plants. We also have some evidence that the amount of asbestos fibers in the air has increased in some major cities.

Regulations promulgated to date by EPA and other Federal agencies have only addressed selected asbestos exposure sources. Unfortunately more and more exposure problems are being recognized in the universe of unregulated asbestos products and uses. For example, the Federal government is now having to deal with two newly identified and unregulated exposure risks--asbestos-sprayed materials already in place in all kinds of buildings and asbestos in hair dryers and other appliances. It is evident that our current case-by-case regulatory approach is not adequately addressing the total risk problem that we have with asbestos.

:. believes that a coordinated regulatory program to deal
bestos is necessary. The Toxic Substances Control Act
we call TSCA) with its comprehensive and all-encompassing
:ity over chemical substance activities provides the
.priate regulatory tool for handling asbestos exposure
:s. Therefore we in OTS recently began an extensive
tory investigation under TSCA of asbestos. During this
:tigation we plan to evaluate the exposure problems
:iated with all types of asbestos activities from mining,
:g, and primary manufacturing to end product use and
al.

re already familiar with the EPA school asbestos
.rogram. We have sent a package of materials to public
districts and private schools throughout the United States
.orm them of the problems that may exist in school buildings
sprayed asbestos-containing materials have been applied to
tural building surfaces. We are also providing technical
tance to the States and school districts through our
:al Offices as part of this program. Over the summer months
:k forward to an aggressive inspection program of schools.
-fall we will have collected and compiled preliminary data
number of schools inspected and the number of problem
.s where corrective action is required. Based on the
:e of our guidance program, we will be able to decide
:r further action by EPA is required to assist the States in
:g with sprayed materials.

EPA was petitioned in December 1978 by the Environmental Defense Fund (EDF) to require the inspection of all public school buildings in the country and to require corrective action where necessary.

The Agency determined that it would be unwise to take immediate regulatory action and denied the petition. We beleived that a regulatory program with its many legal ramifications would not have been as immediately effective in controlling problems as the non-regulatory guidance program which the Agency initiated. EDF has now sued EPA in The United States District Court in Washington, D.C., challenging our denial of its petition and failure to initiate a rulemaking on asbestos-sprayed materials in school buildings. While it would not be appropriate for me to discuss this case in more detail at this time, clearly the resolution of EDF's suit will have bearing on any future EPA regulatory action on asbestos.

There are primarily six Federal Agencies involved in the regulation of asbestos--EPA, the Department of Transportation (DOT), the Consumer Product Safety Commission (CPSC), the Occupational Safety and Health Administration (OSHA), the Mine Safety and Health Administration (MSHA), and the Food and Drug Administration (FDA). Among these six agencies, approximately 20 regulations have been promulgated to control exposure to asbestos from various sources.

OSHA and the MSHA have established standards for workplace exposure; CPSC has banned the sale of consumer patching compounds

and artificial emberizing materials, FDA has banned consumer use of garments made from asbestos textile and regulates the use of asbestos filters by the drug industry; DOT regulates the transport in interstate commerce of bulk asbestos fibers and asbestos-containing products. EPA has established visible air emission standards from major asbestos sources; prohibited the application of certain materials such as sprayed asbestos-containing material in buildings and has prescribed certain work practice rules for sprayed asbestos-containing material removal; EPA has also set effluent limitations guidelines for manufacturing sources of a variety of asbestos product categories including asbestos cement pipe, asbestos cement sheet, asbestos paper, and asbestos roofing products.

These many regulations have helped to correct specifically identified health and environmental asbestos hazards. However, they constitute case-by-case solutions to recognized hazards. We believe that with such a piecemeal regulatory approach, some significant exposure sources may have been overlooked and the risks posed by some regulated sources may not be adequately reduced.

Asbestos poses a difficult problem for the regulator. Because of its versatility and its many desirable performance characteristics, asbestos is present in thousands of commercial and consumer products. The multitude of diverse uses creates a large universe of different kinds of exposure risks to address. Asbestos also poses a difficult problem for the regulator in view

of the current technological limitations on measurement methodology coupled with the difficulties of determining precisely which physical or chemical characteristics of asbestos lead to unreasonable health hazards. Exposure is not limited to the workplace but is associated with consumer products, foods, drugs, and drinking water. Nature itself contributes to the contamination of our air and water by asbestos. Natural erosion and other natural processes cause asbestos to enter the environment, thus compounding our control problem particularly in the area of exposure source identification.

EPA is concerned that the current Federal regulatory posture for such a ubiquitous substance may not be the most effective and reasonable way for the government to protect the public health. In this regard TSCA offers a way to deal with the asbestos exposure problem in its entirety, building upon the successes achieved by previous regulatory actions and bridging gaps with complementary controls where these regulations have not met with success. Under TSCA, EPA will be able to examine all activities and the inherent risks, particularly the combined risks posed by the manufacturing and end use of asbestos-containing products.

There are many approaches that we can take under TSCA--bans on primary and secondary manufacturing of products containing asbestos; bans on uses of asbestos-containing products; requirements for disposal of asbestos-containing products; and labeling requirements for asbestos-containing products.

We intend to review the whole universe of asbestos

products. Considering the number of existing products, our investigation will be cc 'ucted in phases. Since we are still in the investigation stage, I cannot comment in detail at this time on the phasing schedule or on the scope of each of the phases.

For each regulatory phase we may take only one product category or we may cross several product category lines to regulate a collection of different products and uses. Among the criteria we plan to apply to select potential candidates for regulation will be high asbestos content, high releasability rate, nonessential products or uses, and availability of substitutes. If you apply these criteria, potential candidates for the first regulatory phase clearly include products in the asbestos paper product category.

After we select potential candidates for regulation, we will prepare a risk assessment to determine whether the asbestos exposure risk poses a public health hazard. Source emission data, fiber size and shape for fibers released from products, conditions under which fibers are released, and the populations at risk will be evaluated using a life cycle analysis approach.

By life cycle analysis we mean an evaluation of all exposures, from cradle to grave, i.e., beginning with mining and milling activities through end product use and disposal activities. We will look at exposures ~~emanating~~ resulting from any of the activities covered in Section 6 of TSCA--manufacturing activities which in the language of TSCA are mining and milling of asbestos; processing activities which are primary and secondary manufacture of asbestos-containing

products; distribution in commerce of asbestos-containing products, and use and disposal activities. For all of these activities we will consider the exposures of asbestos workers and their families; the exposures of the populations living and working in the vicinity of asbestos plants; and the exposures of product users. Obviously, with the thousands of products in use today and the accumulation of asbestos products in the environment over the past 40 years, large, diverse populations may be affected.

For any given product or use unreasonable exposure risks occurring during the life cycle will be evaluated in light of the total, cumulative exposure risks occuring over the life cycle. For example, if the production steps for a product pose serious risks although the end product is found not to pose a high risk, we may be determine, using the life cycle approach, that the risk is sufficient to consider the product for regulation.

In the investigation of asbestos we intend to coordinate with the other concerned Federal agencies to ensure that there is no duplication of effort. EPA will lead the investigation under TSCA and will look to other agencies, particularly OSHA and CPSC, for assistance and cooperation in our investigation and for ways in which we can assist them in their regulatory programs. The same will hold true within EPA where several program offices have regulated asbestos or are reviewing some aspect of the asbestos exposure problem--the Office of Air Quality Planning and Standards, the Office of Water Planning and Standards, the Office

of Drinking Water, the Office of Solid Waste, and the Office of Research and Development.

We are interested in minimizing the duplication of data and in assuring data quality and uniformity particularly in view of the difficulties with which we are faced of measuring exposure levels in the air and water and establishing releasability rates for asbestos products. In this regard we intend to pursue a coordinated effort among the responsible EPA offices as well as with other agencies.

We will engage both technical and economic contractors to gather and compile data during our investigation. The technical contractor will have responsibility for conducting exposure and emission studies and evaluating methods and procedures for reducing asbestos exposure. The technical contractor will also conduct performance evaluation studies of potential substitutes. The economic contractor will prepare industry profiles and prepare the socio-economic impact studies required by Section 6 of TSCA. These studies will include an evaluation of the benefits and availability of substitutes and an estimate of the social and overall economic impact of different types of control programs.

By late summer we intend to publish an Advanced Notice of Proposed Rulemaking or what we call an ANPRM. This ANPRM will briefly state our intention to initiate a comprehensive regulatory investigation of all kinds of asbestos exposures and will describe the basis for our concern and set out our internal

priorities. A list of questions addressing key issues will be included. We invite you to respond to the ANPRM by providing answers to or comments on these questions and any relevant information that has bearing on our investigation.

In order to gather all the information and data necessary to complete our regulatory investigation we may promulgate a TSCA Section 8(a) reporting rule. With an 8(a) rule we can require manufacturers and processors to submit information and data on the types of products they manufacture, intended uses, fiber content and fiber type, and emission and exposure data for the different stages of the product life cycle. We hope that the contractor studies, responses and comments to the ANPRM, and informal acquisition of data will preclude the need to promulgate an 8(a) reporting rule.

We are, however, planning to require under Section 8(d) of TSCA that manufacturers, processors, and distributors of asbestos-containing products submit unpublished or ongoing health and safety studies to OTS. This requirement will enable us to obtain a comprehensive compilation of exposure, health effecs, and epidemiological data. The Section 8 (d) rule is scheduled for proposal this summer.

We seek your cooperation in dealing with this serious environmental and health problem. We recognize that many asbestos products may not have suitable substitutes or may have essential uses. We look to industry to help us identify these products. OTS is interested in developing an effective

regulatory program that will address the asbestos exposure problem as a whole and serve to protect the large populations which may be at risk from unnecessary exposures. We hope to carry out our goal in a reasonable manner without causing any undue hardship on industry or the public. Therefore, EPA would like to rely on industry cooperation to provide us with the best information possible in this difficult task ahead of us so that we might strike just such a reasonable balance.

Thank you for the opportunity to speak to you. I will be glad to answer any questions you might have.

DRAFT

Refer to RFP No. AIA/NA-100

Dear Sir:

The Asbestos Information Association/North America extends an invitation to submit a proposal in accordance with the requirements of Request for Proposal (RFP) No. AIA/NA-100, for a project entitled, "Risk Assessment, Technological and Economic Assessment, Legal and Policy Review and Complete Regulatory Response as it relates to Potential Regulatory Action by OSHA."

Your proposal shall be in two parts: A "Technical Proposal" and a "Business Proposal". Both of the parts shall be separate and complete, so that evaluation of one may be accomplished independently of the other. The technical proposal shall include a statement and breakdown of labor hours and categories and materials as well as corresponding back-up information. The technical proposal should contain the descriptions of all four tasks. The business proposal should contain the proposed costs for task 1, 2, and 3 only. It is anticipated that one award of a fixed price type of contract will be made as a result of this solicitation.

Fifteen (15) copies of your technical proposal and five (5) copies of your business proposal shall be submitted.

Copies of your proposal must be received by 4:00 P.M., _____, 1979, Asbestos Information Association/North America, 1745 Jefferson Davis Highway, Crystal Square 4, Suite 509, Arlington, Virginia 22202.

Your outside envelope should be marked with the RFP number shown above.

The RFP does not commit AIA/NA to pay any cost for the preparation and submission of a proposal. The Association reserves the right to reject any or all offers.

Requests for information concerning this RFP should be referred only to Mr. B.J. Pigg, who may be called at (703) 979-1150. Collect calls will not be accepted.

Sincerely yours,

B.J. Pigg
Executive Director
Asbestos Information Association/NA

encl.

## I. BACKGROUND

The Asbestos Information Association/North America (AIA/NA) is an incorporated non-profit organization representing industries involved in the mining/milling, and sale of asbestos fiber, and manufacture or processing of asbestos containing products in the United States and Canada. AIA/NA's major objectives are:

- To develop and disseminate information on asbestos-related health effects and industry efforts to reduce any negative effects.
- To interact with Federal Agencies and assist in the development of, and implementation of occupational health and environmental health regulations for asbestos.
- To exchange information on asbestos control technology.
- To respond to incorrect reporting on asbestos-related health effects.
- To inform the public as to the importance of asbestos products and otherwise represent the industry.

On October 9, 1975, the Occupational Safety and Health Administration (OSHA) proposed a revised standard for occupational exposure to asbestos. This proposal, covering all industry except construction, would reduce the current exposure limits to an eight-hour time-weighted average of 0.5 fibers/cc and ceiling of 5 fibers/cc, and included a number of other more stringent provisions. In December 1976, the National Institute for Occupational Safety and Health (NIOSH) recommended that OSHA further reduce the proposed levels to 0.1 fibers/cc and 0.5 fiber/cc, respectively. Based upon a detailed review of both the OSHA and NIOSH proposals, the Board of Directors of AIA/NA has determined that neither proposal is technically

feasible and could have a severely adverse impact on the industry. Moreover, AIA/NA has determined that such a standard may not be a cost-effective regulation for protecting employee health. In 1975 and 1976, AIA/NA had contracted with two firms to develop comprehensive studies as to the technological feasibility and economic impact of the proposed OSHA standard on general industry (except the maritime), and the construction industry. Since these studies were completed, nearly four years have elapsed and information contained in the studies may be significantly outdated. Moreover, much significant new data may be available to refine the anticipated impact.

At some time in the future, OSHA will likely publish a new proposed standard for exposure to asbestos in general industry and a separate proposed standard for exposure to asbestos in the construction industry. At the present time, it is not possible to predict when these proposals will be published nor the extent to which it will vary from the October 9, 1975 proposal. However, AIA/NA desires to update the two studies contracted in 1975 and 1976 so that the asbestos industry will be prepared to respond to OSHA whenever new proposals are published.

Consequently, AIA/NA is requesting proposals in response to RFP No. AIA/NA-100, to develop detailed information necessary for developing an industry response to a potential regulatory action by OSHA.

## II. STATEMENT OF WORK

The Statement of Work describes the tasks to be completed by the successful offeror during the time span of the contract. Therefore, proposals should address each of these tasks in detail.

Since it is not possible at the present time to predict when OSHA will publish new proposed amendments to the asbestos standard, it may be necessary to update the report of the contractor's work product on an annual basis and/or at the time OSHA publishes a new proposal. Therefore, it is essential for the offeror to perform the tasks set forth herein in such a manner that the work product can be updated annually at a minimal expense.

TASK 1:

Technical and Economic Impact Assessment

The contractor is expected to obtain all necessary information on industries producing and/or using asbestos-containing products to assess the impact of the proposed standard and alternative standards to be assessed after approval by the AIA/NA. The contractor, therefore, is expected to obtain all necessary data including process information, worker exposure data, numbers of exposed workers, engineering and work practice controls in place and in development or capable of development so that all definable, separable sectors and subsectors covered by the OSHA Act can be analyzed. The contractor is expected to develop realistic and detailed strategies for obtaining this data and develop a detailed workable plan for collection and analysis of this data. The contractor is expected to project the cost of complying with provisions of the proposed standard, review and discuss the feasibility of monitoring and analysis at low occupational levels and determine the asbestos industry's ability to comply with the proposed revisions.

For the purpose of preparing a proposal, offerors will identify at least two exposure limit scenarios (general industry) and appropriate work practice scenarios (construction) for impact assessment. Proposals should contain methods to identify engineering and work practice controls necessary to meet the alternative scenarios, and estimated costs for each segment of the asbestos industry. All items must be clearly itemized to allow maximum scrutiny by AIA/NA, OSHA and other affected parties during rulemaking. The proposal should describe an effective econometric model for evaluating the impact of the proposed standard and the alternatives. The model should

consider at least the following items: loss of jobs, rises in costs of producing and use of asbestos-containing products, predicted loss in markets, and ability of companies in each sector to pass along the costs of complying with the standards.

TASK 2:

Risk Assessment

The contractor will determine the potential reduction of the predicted risk of asbestos-related diseases under the OSHA proposed standard and under alternative scenarios used by the contractor for Impact Assessment. This task includes evaluating risk models currently used, as well as asbestos literature in order to design an approach to be used within the context of OSHA rulemaking. The contractor shall perform the analysis, and assess the risk reduction versus incremental costs.

TASK 3:

Legal and Policy Analysis

The contractor will perform a detailed analysis of OSHA statutory authority(ies) to promulgate health standards, pertinent judicial decisions and significant policy decisions which could impact OSHA's regulation of asbestos. To the extent feasible, the contractor shall utilize similar analyses already prepared on behalf of other industries with respect to other OSHA occupational health standards.

TASK 4:

Regulatory Response

The contractor will analyze all provisions of the OSHA asbestos and the generic cancer policy proposal and design an industry response meeting the joint criteria, protection of worker health and cost-effectiveness. This may include, if appropriate, design of an entirely new alternative standard(s).

III. PERIOD OF PERFORMANCE

AIA/NA anticipates that the contract performance period will be divided into two phases. The first phase will consist of performing tasks 1, 2, and 3, and the second phase will be the performance of task 4. It is anticipated that the first phase performance period will be six months. The second phase will not be performed until the regulatory activity is resumed by OSHA.

IV. EVALUATION CRITERIA

1. General

The technical portion of the proposal will be the major factor in selecting the contractor to conduct this project. It is vital, therefore, that proposals thoroughly address the approaches to be taken to completing each of the tasks described in the work statement.

2. Factors

A. Definition of the Problem — Weight 30%

The proposal must demonstrate a thorough understanding of the affected industries, health effects of asbestos, OSHA rule-making and policy making; the elements and role of impact assessment within the context of OSHA rulemaking; the elements of risk analysis; the proper design and role of risk assessment in OSHA rulemaking; legal and policy implications as they relate to OSHA rulemaking.

B. Analysis — Weight 40%

The proposal must demonstrate the offeror's ability to: develop and use effective techniques for information gathering; identify elements to be evaluated; raise alternative scenarios; develop a comprehensive integrated approach to assess the technical and economic impact on all affected segments of industry; design a detailed protocol for risk assessment; and to outline protocols for legal and policy analysis.

C. Technical Experience — Weight 30%

The successful proposal must have demonstrated successful experience in the design of innovative methodologies for assessing impact of OSHA health regulations, experience in OSHA rulemaking, design of OSHA policy, developed successful approaches influencing OSHA during rulemaking; and must have ready access to the full range of expertise required to conduct the project including, as a minimum, experts in industrial hygiene, toxicology, epidemiology, biostatistics, economics and regulatory activities.

V. REPORTING REQUIREMENTS

In performance of a contract resulting from this solicitation, the contractor shall prepare and submit the following reports:

| | TYPE | FREQUENCY AND ADDRESSEE |
|---|---|---|
| 1. | Progress Report to include the current status of work, effort to date covering all updates, noting all areas and shall include: | Monthly, two (2) copies to the AIA/NA. |
| | (a) A description of overall progress. | |
| | (b) An indication of all current problems which may impede performance, and proposed corrective action. | |
| | (c) A discussion of work to be performed during the next reporting period. | |
| | (d) Level of expenditure of funds. | |
| 2. | Draft Final Report | Twenty (20) copies to AIA/NA. |
| 3. | Final Report | Thirty (30) copies to AIA/NA. |

INSTRUCTIONS AND CONDITIONS

The offeror should follow the instructions contained herein and supply all information as required. Failure to furnish all information requested may cause the proposal to be unacceptable.

1. CLOSE OF BUSINESS

For the purpose of receiving proposals, the close of business is 4:00 P.M., Eastern Daylight Time. The specific date is set forth in the cover letter.

2. SUBMISSION OF PROPOSAL

(a) Your proposal should be submitted in two (2) separate parts, one entitled "Technical Proposal" and the other "Business Proposal."

(b) Your technical proposal shall not make reference to cost data in order that evaluation thereof may be made strictly on the basis of technical merit. The Business Proposal and Technical Proposal, signed by an official authorized to bind the offeror, shall be submitted to the address set forth in the cover letter transmitting this solicitation. Proposals should be submitted in the number of copies specified in the cover letter.

(c) The offeror, as a minimum, must submit cost proposals fully supported by cost and pricing data adequate to establish the reasonableness of the proposed amount for tasks 1, 2, and 3 only. The cost and pricing data shall include or be supported with the following as a minimum:

1. Detailed breakdown of various categories of labor: estimated man-hours, rates of pay, overhead, materials, other direct costs, etc.

2. Subcontracting - including name and address and detailed cost anticipated.

3. The amount estimated for travel shall be supported with a breakdown including destination, duration, purpose and cost (per diem and transportation).

4. The cost for individual tasks, except task 4, shall be itemized.

(d) Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings, expensive visual and other presentation aids are neither necessary nor wanted.

(e) Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation for receipt, the solicitation number, and the name and address of the Offeror on the face of the envelope.

(f) Telegraphic offers will not be considered; however, offers may be modified by telegraphic notice.

3. ALTERNATE PROPOSAL

Alternate proposals may be submitted on other terms and conditions which the offeror believes are advantageous to the AIA/NA. Such alternate proposals will be considered if it can be clearly demonstrated that:

(a) the proposed alternate terms and conditions will fulfill the contemplated contract objectives; and

(b) the AIA/NA determines that the proposed alternate terms and conditions are clearly more advantageous to the AIA/NA than those set forth in the solicitation.

4. EXPLANATION TO OFFERORS

Any explanation desired by an Offeror regarding the meaning or interpretation of the solicitation must be requested in writing and with sufficient time allowed for a reply to reach all prospective Offerors before the submission of their offers. Oral explanations or instructions given before the award of a contract will not be binding. Any information given to a prospective Offeror concerning a solicitation will be furnished to all prospective Offerors as an amendment of the solicitation, if such information is necessary to Offerors in submitting responsive proposals or if the lack of such information would be prejudicial to uninformed Offerors.

5. LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered, unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the AIA/NA that the late receipt was due solely to mishandling by the AIA/NA after receipt by AIA/NA; or

(3) It is the only proposal received.

(b) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service).

(2) The time of receipt at the AIA/NA is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(c) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

6. AWARD

(a) Award will be made to the responsible Offeror whose offer conforms to the solicitation and will be most advantageous to the AIA/NA.

(b) The AIA/NA reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

(c) The AIA/NA may accept any offer (or part thereof), whether or not there are negotiations subsequent to its receipt, unless the offer is withdrawn by written notice received by the AIA/NA prior to award. If subsequent negotiations are conducted, they shall not constitute a rejection or counter offer on the part of the AIA/NA.

(d) The right is reserved to accept other than the lowest offer and to reject any or all offers.

(e) The AIA/NA may make award, based on initial offers received, without discussion of such offer. Accordingly, each initial offer should be submitted on the most favorable terms from a price and technical standpoint which the offeror can submit to the AIA/NA.

(f) Any financial data submitted with any offer hereunder or any representation concerning facilities or financing will not form a part of any resulting contract; provided, however, that if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished hereunder is incomplete, inaccurate, or not current.

7. INCURRENCE OF COST PRIOR TO CONTRACT EXECUTION

Issuance of this solicitation does not constitute an award commitment on the part of the AIA/NA. This request does not commit the AIA/NA to pay for costs incurred in the submission of a proposal or for any other costs incurred prior to the execution of a formal contract unless specifically authorized in writing by the Executive Committee of AIA/NA.

8. REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS

When preparing proposals in response to this solicitation, each offeror must state any proposed exceptions which he or she wishes to take with respect to the terms and conditions of the solicitation. Omission of such a statement will be construed as the Offeror's acceptance of the terms and conditions of the Request for Proposals. Exceptions shall be stated in a cover letter conveying the proposal. The Offeror shall mark each sheet of data he or she wishes to restrict with the following legend:

"Use of disclosure of proposal data is subject to the restriction on the title page of this proposal."

Information concerning competitive solicitation will be disclosed to offerors in accordance with AIA/NA policy applicable to negotiated procurements. There will be no debriefing of unsuccessful Offerors. Written notice will be given to unsuccessful Offerors subsequent to evaluation of all proposals received for this requirement and subsequent to award to a successful Offeror.