

MEMORANDUM

Date: June 20, 2007
To: Radiation Control Program Directors
From: Ruth E. McBurney, Executive Director, CRCPD
Re: The CRCPD National Radioactive Material Disposition Program

Under its National Radioactive Material Disposition Program, CRCPD can provide funds for the disposition of discrete radioactive material that a State, county or city radiation control program (RCP) or the Nuclear Regulatory Commission declares to be:

- a) unwanted by an owner who cannot afford the cost of disposition, or
- b) in the custody of a person who should not be held liable for its disposition, or
- c) taken into custody by the radiation control program and not traceable to its owner, or
- d) at unacceptable risk of loss or theft, thus making it potentially harmful to life or property.

The Agreement between the RCP and CRCPD on the following pages enlists the RCP regulatory staff to inspect the material, declare its status as orphan or insecure under (a) through (d) above, contract for services to be paid for by CRCPD, verify transfer of the material, and obtain a LLRW disposal permit if necessary. Of these duties the CRCPD staff can only, when necessary, execute the contracts for commercial assistance with disposition of material.

The following is an outline of the procedure for disposition of material under the National Material Disposition Program:

- A. The RCP-CRPCD Agreement on procedure is executed.
- B. For each batch of eligible material:
 1. The RCP lists candidate materials (Attachment #2) to CRCPD for review and concurrence.
 2. The RCP solicits bids for services to disposition the agreed upon materials.
 3. The RCP requests CRCPD to commit funds (Sample Funding Request is shown in Attachment #1), with attached bids for review and concurrence.
 4. CRCPD commits funds for the agreed upon project.
 5. The RCP contracts with service providers, including insurance for CRCPD and, where applicable, attaches the CRCPD funding commitment.
 6. Upon completion of the project, service providers' invoice the RCP.
 7. The RCP, as it chose in the Agreement, either pays the service provider and requests CRCPD for reimbursement, or notifies CRCPD to pay the service providers.
 8. CRCPD either reimburses the RCP or pays the service providers and notifies the RCP.
A sample reimbursement request is shown in Attachment #4.

The following Agreement contains spaces for the RCP to enter specific information, and the text has two sets of alternative phrases in highlight, one set of which the RCP is to delete so as to choose either reimbursement from CRCPD for the RCP's payment of service providers, or the direct payment of service providers by CRCPD.

For additional information, phone Terry Devine, CRCPD, 502/227-4543 ext. 2223

**Reimbursement Agreement
for the
CRCPD National Radioactive Material Disposition Program**

[Notes, to be deleted, and details, to be filled in or optionally replaced, by the RCP are in red]

This AGREEMENT is made and entered into by and between the Conference of Radiation Control Program Directors, Inc. (CRCPD), 205 Capital Avenue, Frankfort, KY 40601, and the *[State, county or city] office entering the agreement, its mail address*].

Recitals

Orphan Materials:

Radioactive material becomes an "orphan," and its disposition becomes eligible for CRCPD financial assistance, when the radiation regulatory authority (State, county, city or Federal) determines that:

- the possessor of such material cannot pay for the proper disposition of the material, or
- the individual or firm became the possessor of the material inadvertently, and should not be held liable for the disposition of such material. Examples of this circumstance are:
 - an individual or firm, not holding a radioactive material license, comes in possession of a radioactive material in the course of business, or
 - an individual or firm that is licensed to possess radioactive material, but is in possession of radioactive material not authorized by the license, or
- The agency took abandoned radioactive material into custody, and could not trace the owner.

Source Collection and Threat Reduction (SCATR) Program Materials:

Radioactive material, of a type that CRCPD regards as potentially harmful to life and property, becomes an "unacceptable risk" and eligible for CRCPD financial assistance when the radiation regulatory authority (State, county, city or Federal) determines that it has been in storage for so long that it is passing from the memory and care of the custodian and workers in the area.

Radioactive materials that meet the orphan or SCATR criteria pose a potential harm to persons or property. Such material for which appropriate action for disposition is not taken over a long period of storage incur increasing risk of loss or theft, which could result in radiation exposure to individuals close to the material and the spread of radioactive contamination to the environment.

Purpose

The overall purpose of this agreement is to financially assist, through the cooperation of State, county, or city radiation control programs, persons that do not have sufficient funding or who should not be held liable to fund the safe disposition of eligible radioactive material, and to financially assist the radiation control programs in their disposition of eligible material that they have taken into custody or declared to be at unacceptable risk of loss or theft.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

Article I Definitions

"Agreement" means this agreement.

"Agency" means the [State, Department, radiation control program].
["Agency" may be replaced throughout by "Department"]

"Company" means a person under **contract** with the Agency to provide disposition of eligible radioactive material or to assist with that disposition.
["Company" may be replaced throughout by "Vendor"]

"Contract" means the formal arrangement between the Agency and a company that will provide or assist with disposition of eligible material. *[This may be replaced throughout with any suitable term other than Agreement, which is defined above with another meaning.]*

"CRCPD" means the Conference of Radiation Control Program Directors, Inc.

"Eligible material" means discrete radioactive material that meets the criteria for orphan material or SCATR material given under Recitals.

"Person" means any individual, corporation, partnership, firm, association, public or private institution, group, or state agency, but shall not include federal government agencies.

Article II Objectives

The specific objective of this program is for CRCPD to financially assist in the disposition of eligible radioactive material.

Article III Responsibilities of the Agency

3.1 Procurement Procedures

The Agency will follow and apply its state procurement rules and regulations to assure that each Company selected to provide or assist with disposition of eligible materials approved for funding by CRCPD is qualified, licensed as appropriate, and selected at a competitive cost. In the event that competitive bidding is not employed, the Agency shall notify the CRCPD that competitive bidding was not used for the service, with an explanation as to why such competitive bidding was not employed in the selection process to assure the lowest reasonable cost.

3.2 Request for Financial Assistance

The Agency will request a written commitment from CRCPD to reimburse the company (companies) chosen as stated in 3.1 above, for the cost(s) incurred in the successful completion of disposition of agreed upon radioactive material. The letter of request (see Attachment #1) shall contain the following:

- The type and description of each radiation source or device involved, and
- The manufacturer, model number and serial number of each device, if applicable, and
- The radionuclides and current radioactivities (Attachment #2); and
- The proposal of each company chosen to perform a service, including identification of each Company's insurance providers and amounts of coverage and confirmation that the Company will include CRCPD as an additional named insured under that insurance; and
- An estimate of each anticipated cost to disposition these materials.

3.3 Program Implementation

Upon receipt of a written commitment from the CRCPD to honor the request of the Agency under 3.2, the Agency shall enter into a Contract with each Company that was selected to participate in the disposition of the agreed upon radioactive materials, including in each Contract the limitation on CRCPD's liability as stated in 3.4 and the naming of CRCPD as an additional insured under the Company's insurance for the course of the Contract. Upon completion of such disposition, the Agency shall, by letter, notify the CRCPD that the material has been disposed of at a licensed disposal facility or transferred to another licensed recipient, and that such disposal or transfer has been in accordance with the Agency's rules and regulations. A copy of each Company's invoice shall be enclosed with the Agency's letter of notification.

3.4 Liability of the Parties

CRCPD's reimbursement commitment shall not create a contractual or Agency relationship between CRCPD and the Company, and CRCPD shall not have any responsibility or liability-for the relocation/disposition of the radioactive material identified under 3.2, or any damages resulting therefrom. This limitation on CRCPD's liability shall be included in each Contract entered into between the Agency and each Company regarding said disposition, and such Contract shall include an insurance coverage clause substantially the same as Attachment #3, which is included herein as if fully set out.

Article IV Responsibilities of the CRCPD

4.1 CRCPD will be acting solely as a cost reimbursement source, and will not be responsible or liable for the identification and/or relocation of radioactive material; CRCPD shall not in any way arrange for, manage, or direct the identification and/or relocation or disposition of such material.

4.2 CRCPD will only consider funding the relocation or disposition of the eligible material that has been identified and recommended for funding by the Agency.

4.3 Each **Contract** for disposal, relocation, or associated service shall be between the Agency and the Company providing the service. CRCPD shall not be a party to that **Contract** except as an additionally insured and shall have no duties or responsibilities thereunder.

4.4 Upon the request of the Agency, and at the discretion of the CRCPD, and provided the estimated costs are deemed reasonable, CRCPD will, pending the availability of funds, issue a letter to the Agency committing CRCPD to reimburse each Company selected by the Agency under paragraph 3.2 to provide the disposal service. The commitment letter will state a maximum amount that CRCPD will reimburse the Company for the service identified. Any claim or charge made by a Company in excess of the maximum amount under the commitment letter shall not be the responsibility of CRCPD.

4.5 Upon the successful completion of the service, and upon receipt of the Agency's written notification that the radioactive material identified under 3.2 has been disposed of or transferred to a licensed recipient in accordance with the Agency's rules and regulations, and upon receipt of each Company's invoice to the Agency, CRCPD will reimburse each Company for the services rendered, not to exceed the maximum amount identified in the CRCPD's letter of commitment. The Agency will be notified when each Company has been reimbursed, and such notification will state the amount of such reimbursement. CRCPD has the right to refuse commitment of funds to any vendor that has been suspended or debarred.

4.6 CRCPD will maintain records in accordance with its record retention policy relating to all transactions performed under this project.

**Article V
Termination of Agreement**

5.1 Either party may terminate this Agreement upon notification of the other party at least 30 days prior to such termination. Any funding commitment made by CRCPD prior to termination will be honored.

[CRCPD recommends deletion of this Article but the-Agency may wish to retain it] **Article VI**
Term

6.1 This agreement will expire **twenty-four** months from its effective date.

[signature]
[printed name, title]
[agency]

[Date]

[signature]
Ruth E. McBurney, Executive Director
Conference of Radiation Control Program Directors, Inc.

[Date]

Attachment #1

Sample Funding Request

Date:

Ruth E. McBurney, Executive Director
Conference of Radiation Control Program Directors, Inc.
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. McBurney:

Pursuant to the Agreement between the [insert State, Dept., agency name] and the Conference of Radiation Control Program Directors, Inc. (CRCPD), dated [insert date], I am requesting the CRCPD to commit a maximum reimbursement amount of \$[insert amount] for the disposition of radioactive material described, in Attachment 2, per paragraph 3.2 of the Agreement. The Agency believes that this material meets the criteria as outlined in the above referenced Agreement.

In accordance with our agreement, this is to confirm that bids were obtained from commercial firms that offer services of managing radioactive materials. These bids were [were not, because...] obtained in accordance with state bidding policies. Attachment B to this letter provides information on the terms and conditions received from all bidders. [insert each company's name] was chosen because of [insert rationale for selecting each chosen company]. Upon receipt of confirmation from CRCPD to fund the disposition of the described radioactive material, the Agency will proceed to **Contract** the chosen company(ies) to perform the described services. The Agency shall ensure the limitation on CRCPD's liability as stipulated in paragraph 3.4 of the Agreement.

Should you have questions, please do not hesitate to contact [me] [other individual] [phone number].

Sincerely,
[signature]

**ATTACHMENT #2
MATERIALS FOR FUNDING REQUEST**

| Device Application | Mfg. and Model (if known) | Radionuclide | Radioactivity & Assay Date | Eligibility¹ Criteria met (insert a, b, c or d) | <i>For OED Use Only</i> | |
|---------------------------|--------------------------------------|---------------------|---|---|------------------------------|---------------------------|
| | | | | | <i>Approved (Y or N)</i> | <i>Funding Source</i> |
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Authorized Signature

Radiation Control Agency/Department

Date

¹ Eligibility criteria: a) owner can't afford disposition; b) possessor should not be liable for disposition; or c) RCP has possession but owner unknown
d) material is at unacceptable risk.

Note: Please attach any additional information relative to the radioactive material you feel will assist CRCPD in determining eligibility for funding.

Attachment #3

Participation and Insurance Coverage Clause

*[To be included in each Agency **Contract** for disposition service]*

The Agency and the Company agree and recognize that this **Contract** is contingent upon the Agency obtaining a funding commitment for the relocation/disposition of specified radioactive material from the Conference of Radiation Control Program Directors, Inc. (CRCPD), which is located in Frankfort, Kentucky.

In the event the Agency obtains such a funding commitment from CRCPD and this **Contract** is undertaken, the Company agrees as follows:

- (1) The funding commitment by CRCPD shall not and does not create any responsibility on the part of CRCPD related in any way to the performance of this **Contract**, including but not limited to arranging for, managing or directing the identification/relocation/disposition of the related materials.
- (2) The Company agrees to register and provide certification of CRCPD as an additionally insured on the Company's insurance policies for any and all claims, causes of action, damages, and other liabilities (administrative and/or civil), and costs incurred (including reasonable attorney's fees) that might be made or imposed upon CRCPD as a result of the funding commitments made by CRCPD to the Agency, or payments made by CRCPD to the Company, as a result of this **Contract** and the corresponding funding commitment by CRCPD.
- (3) The insurance requirements set forth above will be included by the Company in any **Contract** it might make with a third party regarding the identification/relocation/disposition of the radioactive material which is the subject of this **contract**.

Attachment #4

[Sample request for reimbursement of radioactive material disposition]

[Agency letterhead]

[Date]

REIMBURSEMENT REQUEST

Ruth E. McBurney, Executive Director
Conference of Radiation Control
Program Directors, Inc.
205 Capital Avenue
Frankfort KY 40601

Dear Ms. McBurney:

Pursuant to the National Radioactive Material Disposition Agreement between the [insert Agency name] and the Conference of Radiation Control Program Directors Inc. (CRCPD) dated, the Agency's request for funding of material disposition dated and CRCPD's commitment of that funding dated, I am requesting the CRCPD to pay the vendor] the amount of \$..... for the disposition of the radioactive material described in the above referenced request. Copy of the vendors invoice is attached.

The [Agency] confirms that the material identified in the above referenced request has been dispositioned as described in that request and according to all applicable State and Federal rules and regulations for the control of radiation sources.

Should you have any question regarding this request, please contact [individual, phone number].

Thank you.

[Agency director]

Att: Vendor's receipt of payment
Documentation of disposition