

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20030627-UTL

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Chairman, on behalf of the BOCC, to sign 1) the USEPA Lobbying and Litigation Certificate which is required to be submitted with the final Financial Status Report for the closeout of the Vulnerability Assessment Study Grant Assistance Agreement and 2) the Sub-License Agreement for the RAM-W Vulnerability Assessment Training conducted by Malcolm Pirnie, Inc.

WHY ACTION IS NECESSARY:

Required by each agency's regulations.

WHAT ACTION ACCOMPLISHES:

Completes the Vulnerability Assessment Study process.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: CW

C10B

3. MEETING DATE:

06-10-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED: _____

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE
 - ORDINANCE
 - ADMIN. CODE
 - OTHER Signature

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER: _____
- B. DEPARTMENT: Lee County Public Works
- C. DIVISION/SECTION: Utilities Division
- BY: Rick Diaz, P.E., Utilities Director

DATE: 5/22/03

7. BACKGROUND:

On April 18, 2002, Lee County Utilities Division (LCU) applied for a U.S.E.P.A. Grant to fund the development of a Vulnerability Assessment Study for the County's potable water system. The Grant was approved on July 9, 2002 in the amount of \$99,500. Malcolm Pirnie, Inc. was selected by the County through the Competitive Negotiations process in December 2002 to develop the Study utilizing the Sandia National Lab methodology. Malcolm Pirnie, Inc. is also a licensed Sandia National Labs trainer and was, therefore, retained to provide Vulnerability Assessment Study Training to 4 staff members in preparation for developing the Study. The Study was completed and submitted to the U.S.E.P.A., complying with the deadline of March 31, 2003.

The final Financial Status Report is required to be submitted to the U.S.E.P.A. to close out the Vulnerability Assessment Study Grant Assistance Agreement (#GHS830077-01-0).

The Sub-License Agreement is necessary to close out the Vulnerability Assessment Study Training process with Malcom Pirnie, Inc.

4 sets of documents are attached for execution by the Chairman. Documents must be returned by LCU to U.S.E.P.A. and Malcolm Pirnie, Inc. by June 30, 2003.

No funds required.

MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES				(G) COUNTY MANAGER
					OA	OM	Risk	GC	
<i>[Signature]</i> Lavender Date: 5/23/03	<i>[Signature]</i> Date: 5/27	N/A Date:	<i>[Signature]</i> M. Crumpton Date: 5/22/03	<i>[Signature]</i> D. Owen Date: 5/27/03	<i>[Signature]</i> 5-27-03	<i>[Signature]</i> 5/28/03	<i>[Signature]</i> 5/28/03	<i>[Signature]</i> 5/27/03	<i>[Signature]</i> Lavender Date: 5/23/03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 5/27/03
Time: 1:38 PM
Forwarded To: _____
5/27/03 3:35 PM

RECEIVED BY
COUNTY ADMIN. *[Signature]*
5/27/03
COUNTY ADMIN.
DATE: 5/29/03

(Attach to Financial Status Report)

EPA LOBBYING AND LITIGATION CERTIFICATE*

I hereby certify that none of these funds have been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS
FORT MYERS, FL**

Assistance Agreement Number(s)**
830077-01-0

Date

*Complete this form pursuant to the 2001 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Acts, Public Law 106-277, Section 424 and 2000 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Acts, Public Law 106-74, Section 426 and any other subsequent Appropriation Act requirements.

**If certifying for more than one grant number and more space is needed, please list additional numbers in the space provided below:

Please mail this form to PHILLIP SCHINDEL (phone 202-564-5293). DO NOT send this information to the Office of Management & Budget.

Burden Statement - The annual public reporting and record keeping burden for this collection of information is estimated to average 5 minutes per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M. St. S.W. Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.

RESTRICTED, COMMERCIAL (GOVERNMENTAL)
SUB-LICENSE AGREEMENT
SUB-LICENSE NUMBER: 02-C01164-175

This SUB-LICENSE AGREEMENT, effective on the date of last signature hereto, is by and between **Malcolm Pirnie, Inc.** whose principal place of business is located in White Plains, New York (hereinafter LICENSEE), and **Lee County, Florida** (hereinafter SUB-LICENSEE) a political subdivision of the State of Florida whose principal place of business is located in Ft. Myers, L.C., FL.

1. The United States Department of Energy (hereinafter DOE) is the agency responsible for the federally-owned facility known as Sandia National Laboratories that is managed and operated by SANDIA Corporation (hereinafter SANDIA) for DOE under prime contract DE-AC04-94AL85000.

2. SANDIA has licensed the copyrighted items identified in EXHIBIT 2 of this Sub-License Agreement (hereinafter LICENSE COPYRIGHT) to Licensee (License No: 02-C01164). Licensee desires to Sub-License material. However, the term LICENSE COPYRIGHT shall not include technical information or data acquired from third parties which require accounting to third parties, except for those identified in EXHIBIT 3 of this Sub-License Agreement.

3. SANDIA undertook licensing arrangements, with Licensee, for the sole benefit of DOE technology transfer programs and in support of its technology transfer mission. However, the United States Government is neither a party to nor assumes any liability for activities of SANDIA OR LICENSEE in connection with this Sub-License Agreement.

4. The United States Government has been granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable worldwide license in SANDIA COPYRIGHT to use, reproduce, prepare derivative works and perform publicly and display publicly.

5. Title to SANDIA COPYRIGHT and to any supporting documentation supplied hereunder shall at all times remain with SANDIA, and SUB-LICENSEE agrees to preserve same.

6. Title to AWWARF COPYRIGHT and to any supporting documentation supplied hereunder shall at all times remain with AWWA Research Foundation, and SUB-LICENSEE agrees to preserve same.

7. LICENSEE grants to SUB-LICENSEE a nonexclusive, nontransferable license to internally use LICENSE COPYRIGHT and associated documentation.

8. LICENSEE grants to SUB-LICENSEE a nonexclusive, nontransferable license to create derivative works of LICENSE COPYRIGHT. SUB-LICENSEE hereby grants title to such derivative works of SANDIA COPYRIGHT to SANDIA and

such derivative works of AWWARF COPYRIGHT to the AWWA Research Foundation. The conditions of this LICENSE AGREEMENT apply to SUB-LICENSEE'S use of such derivative works. SUB-LICENSEE shall maintain records of such derivative works and shall provide LICENSEE copies of such derivative works within a reasonable time after the creation thereof and no later than the termination of this Sub-License Agreement.

9. NOT USED.

10. NOT USED.

11. NOT USED.

12. In consideration of LICENSEE granting the rights and licenses under this Sub-License Agreement, SUB-LICENSEE agrees to pay Sandia license fees to LICENSEE in accordance with the terms and conditions of the Sub-License Agreement and in the amounts set forth in Exhibit 1.

13. Within thirty (30) days of the effective date of this Sub-License Agreement, LICENSEE shall make available to SUB-LICENSEE LICENSE COPYRIGHT and any associated documentation. SUB-LICENSEE acknowledges that LICENSE COPYRIGHT is a research tool still in the development stage and that it is being supplied without any accompanying services or improvements from LICENSEE or SANDIA.

14. Neither SANDIA, the LICENSEE, the United States Government, the DOE, the AWWA Research Foundation, nor any of their employees make any warranty, express or implied, or assume any legal liability or responsibility for the accuracy, completeness, or utility of LICENSE COPYRIGHT. SANDIA, LICENSEE and the AWWA Research Foundation further make no warranty, express or implied, that the use of LICENSE COPYRIGHT made available to SUB-LICENSEE under this Sub-License Agreement will not infringe any United States or foreign patent, copyright, trademark or trade secret.

15. ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

16. Insofar as it may do so pursuant to Florida law, in particular the provisions of CH. 119, Florida Statutes, SUB-LICENSEE shall limit access to LICENSE COPYRIGHT, and may disclose LICENSE COPYRIGHT, associated documentation, and information about LICENSE COPYRIGHT to only those employees and contractors of SUB-LICENSEE and third parties who require access for SUB-LICENSEE's enjoyment of LICENSE COPYRIGHT.

17. Subject to the qualification as set out in paragraph 16 above, SUB-LICENSEE agrees that a suitable protection plan will be in place before LICENSE COPYRIGHT is delivered or installed at the agreed upon site. This plan will include the name of the responsible individual at the facility who is charged with enforcing its provisions and acting as the point of contact with LICENSEE.

18. SUB-LICENSEE agrees to maintain appropriate records of the number and location of any copies of LICENSE COPYRIGHT, and retain statutory markings on all such copies.

19. Subject to the qualification as set out in paragraph 16 above, SUB-LICENSEE's obligations of nondisclosure of LICENSE COPYRIGHT under this Sub-License Agreement shall continue for ten years from the date of this Sub-License Agreement.

20. NOT USED.

21. Upon termination of this Sub-License Agreement, SUB-LICENSEE shall return the LICENSE COPYRIGHT and any associated documentation supplied therewith to LICENSEE, postage prepaid. SUB-LICENSEE shall also return any copies of LICENSE COPYRIGHT and associated documentation to LICENSEE, postage prepaid.

22. SUB-LICENSEE shall not, without express written consent of LICENSEE or SANDIA, make any verbal or written statement or perform any act indicating that SANDIA, LICENSEE, or the AWWA Research Foundation endorses any use of LICENSE COPYRIGHT by SUB-LICENSEE. Further, nothing in this Sub-License Agreement shall be construed as conferring rights to use any trademark or the name of SANDIA or LICENSEE in any advertising, endorsing, publicity, or otherwise.

23. SUB-LICENSEE shall reference LICENSE COPYRIGHT, according to EXHIBIT 4 of this Sub-License Agreement, in all technical publications relating to the use of LICENSE COPYRIGHT by SUB-LICENSEE under this Sub-License Agreement.

24. SUB-LICENSEE shall abide by the export control laws and regulations of the United States Department of Commerce and other United States governmental regulations relating to the export of LICENSE COPYRIGHT. Failure to obtain an export control license or other authority from the Government may result in criminal liability under U.S. laws.

25. All liaisons between SUB-LICENSEE and LICENSEE shall be between the following designated individuals:

LICENSEE (TECHNICAL CONTACT):

Malcolm Pirnie, Inc.
Attention: Patrick R. Flannelly
Reference: License Number 02-C01164
104 Corporate Park Drive
Box 0751
White Plains, NY 10602
Phone: (914) 641-2891
Email: pflannelly@pirnie.com

LICENSEE (LICENSE ADMINISTRATION):

Malcolm Pirnie, Inc.
Attention: Megan O'Banks
Reference: License Number 02-C01164
104 Corporate Park Drive
Box 0751
White Plains, NY 10602
Phone: (914) 641-2837
Email: mobanks@pirnie.com

SUB-LICENSEE:

Lee County Board of County Commissioners
Attention: Michael Crumpton
Senior Engineer
1500 Monroe Street
Ft. Myers, FL 33901
Reference: 02-C01164-175
Phone: (239) 479-8181
Email: mcrumpton@leegov.com

26. SANDIA, the LICENSEE, AWWA Research Foundation, and the United States Government shall not be liable for any loss, damage (including incidental, consequential and special), injury or other casualty of whatsoever kind, or by whomsoever caused, to the person or property of anyone, including SUB-LICENSEE, arising out of or resulting from the license granted to SUB-LICENSEE herein or the accuracy and validity of LICENSE COPYRIGHT. To the extent permitted by Florida law in particular § 768.28 Florida Statutes, SUB-LICENSEE agrees for itself, its successors and assigns, to defend SANDIA, LICENSEE, and the AWWA Research Foundation, and to indemnify and hold SANDIA, LICENSEE, the AWWA Research Foundation, and the United States Government, harmless from and against all claims, demands, liabilities, suits or actions (including all reasonable expenses and attorney's fees incurred by or imposed on SANDIA, LICENSEE, the AWWA Research Foundation, or the United States Government in connection therewith) for such loss, damage (including incidental, consequential and special), injury or other casualty.

27. This Sub-License Agreement shall be effective for **FIVE YEARS** after the effective date of this Sub-License

Agreement, with option to renew at SANDIA'S and LICENSEE'S sole discretion.

28. This Sub-License Agreement shall be construed, interpreted and applied in accordance with the laws of the State of New Mexico. Any legal action arising out of this Sub-License Agreement or use of LICENSE COPYRIGHT under this Sub-License Agreement shall be filed in a court in the State of New Mexico.

29. Each party warrants and represents that the execution and delivery of this Sub-License Agreement, by LICENSEE and SUB-LICENSEE, has not been induced by any promises, representations, warranties, or agreements other than those expressed herein. This Sub-License Agreement, including EXHIBIT 1, EXHIBIT 2, EXHIBIT 3, and EXHIBIT 4 of this Sub-License Agreement, embodies the entire understanding between SUB-LICENSEE and LICENSEE with respect to the subject matter described in EXHIBIT 1, EXHIBIT 2, EXHIBIT 3, and EXHIBIT 4 of this Sub-License Agreement. This Sub-License Agreement supersedes all previous communications, representations, and undertakings, either verbal or written, between LICENSEE and SUB-LICENSEE with regard to the subject matter described in EXHIBIT 1, EXHIBIT 2, EXHIBIT 3, and EXHIBIT 4 of this Sub-License Agreement.

SUB-LICENSEE

By:

Signature

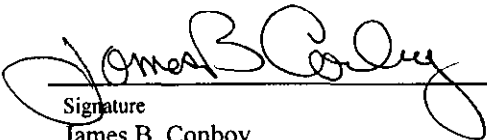
Type or Print Name of Signer

Title:

Date:

LICENSEE (MALCOLM PIRNIE, INC.)

By:



Signature

James B. Conboy

Title: Vice President

Date: 4/16/2003

ATTEST:

By:

Signature

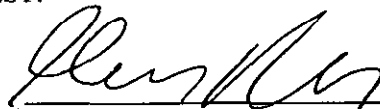
Type or Print Name of Signer

Title:

Date:

ATTEST:

By:



Signature

Gerard P. Carlucci

Title: Vice President

Date: 4/16/2003

Sub License Number: 02-C01164-175

EXHIBIT 1: FEES

NONE

EXHIBIT 2: LICENSE COPYRIGHT

SANDIA COPYRIGHT

SCR# 593: Risk Assessment Methodology for Water (RAM-W) presents a security risk assessment methodology for water utilities. Major elements include: Planning, Threat Assessment, Facility Characterization, System Security Effectiveness, Risk Management.

AWWARF COPYRIGHT

"Vulnerability Assessment Methodology for American Water Works Association Research Foundation" [© 2001, AwwaRF], Licensed to Sandia Corporation by the AWWA Research Foundation in Agreement #02-I00037

EXHIBIT 3: THIRD PARTY RIGHTS

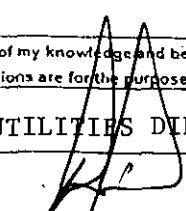
None

EXHIBIT 4: REFERENCES

SUB-LICENSEE shall indicate that LICENSE COPYRIGHT is Sub-Licensed from Malcolm Pirnie, Inc. under license number: 02-C01164-175

**FINANCIAL STATUS REPORT
(Long Form)**

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted U.S.E.P.A.		2. Federal Grant or Other Identifying Number Assigned By Federal Agency HS-83007701-0		OMB Approval No. 0348-0039	Page of 1 1 pages
3. Recipient Organization (Name and complete address, including ZIP code) LEE COUNTY BOARD OF COUNTY COMMISSIONERS (LCU) 1500 MONROE STREET, 3RD FLOOR, FORT MYERS, FL 33901					
4. Employer Identification Number 59-6000702		5. Recipient Account Number or Identifying Number 11069448700		6. Final Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
7. Basis <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual					
8. Funding/Grant Period (See instructions) From: (Month, Day, Year) 07/01/2002		To: (Month, Day, Year) 03/31/2003		9. Period Covered by this Report From: (Month, Day, Year) 07/01/2002	
To: (Month, Day, Year) 03/31/2003					
10. Transactions:					
			I Previously Reported	I This Period	III Cumulative
a. Total outlays			---	---	127,897.48
b. Refunds, rebates, etc.			---	---	---
c. Program income used in accordance with the deduction alternative			---	---	---
d. Net outlays (Line a, less the sum of lines b and c)			---	---	127,897.48
Recipient's share of net outlays, consisting of:					
e. Third party (in-kind) contributions			---	---	---
f. Other Federal awards authorized to be used to match this award			---	---	---
g. Program income used in accordance with the matching or cost sharing alternative			---	---	---
h. All other recipient outlays not shown on lines e, f or g			---	---	---
i. Total recipient share of net outlays (Sum of lines e, f, g and h)			---	---	---
j. Federal share of net outlays (line d less line i)			---	---	99,500.00
k. Total unliquidated obligations			---	---	---
l. Recipient's share of unliquidated obligations			---	---	---
m. Federal share of unliquidated obligations			---	---	---
n. Total Federal share (sum of lines j and m)			---	---	99,500.00
o. Total Federal funds authorized for this funding period			---	---	99,500.00
p. Unobligated balance of Federal funds (Line o minus line n)			---	---	99,500.00
Program income, consisting of:					
q. Disbursed program income shown on lines c and/or g above			---	---	---
r. Disbursed program income using the addition alternative			---	---	---
s. Undisbursed program income			---	---	---
t. Total program income realized (Sum of lines q, r and s)			---	---	---
11. Indirect Expense N/A		a. Type of Rate (Place "X" in appropriate box) <input type="checkbox"/> Provisional <input checked="" type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed			
		b. Rate	c. Base	d. Total Amount	e. Federal Share
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation. N/A					
13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.					
Typed or Printed Name and Title RICK DIAZ, P.E., UTILITIES DIRECTOR				Telephone (Area code, number and extension) 239-479-8181	
Signature of Authorized Certifying Official 				Date Report Submitted 5/22/03	