

WAIVER ACTION - ABSTRACT

<u>REQUESTER</u>	<u>CONTRACT SCOPE OF WORK</u>	<u>RATIONAL FOR DECISION</u>	<u>DISPOSITION</u>
General Motors Corporation	Conduct research, development and testing of 30 KW proton-exchange-membrane (PEM) fuel cell propulsion systems	Cost Sharing 20 percent	Recommended

STATEMENT OF CONSIDERATIONS

REQUEST BY GENERAL MOTORS CORPORATION FOR AN
ADVANCE WAIVER OF DOMESTIC AND FOREIGN RIGHTS
UNDER CONTRACT NO. DE-AC02-90CH10435, W(A)-90-
056, CH-0663

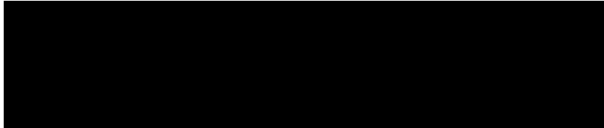
The Allison Gas Turbine Division of the General Motors Corporation (hereafter GM), a large business, has petitioned for an advance waiver of patent rights under DOE Contract No. DE-AC02-90CH10435. The contract, yet to be definitized, resulted from an RFP issued in January 1990. As set out in the attached waiver petition, GM has requested that domestic and foreign title to inventions conceived or first actually reduced to practice in the course of or under the contract by GM employees be waived by the Department and vested in GM subject to the standard march-in, preference for U.S. industry, and background patent provisions. Additionally, GM has agreed to the U.S. competitiveness provision set out in the attached copy of the patent waiver terms and conditions.

The purpose of this contract is to conduct an evaluation of a proton-exchange-membrane (PEM) fuel cell propulsion system for transportation applications. Under the agreement GM will be committed to provide at least 20 percent cost sharing of the total contract cost of about \$14.1 million. The Contracting Officer will certify that GM is committed to contribute at least 20 percent of the total contract cost upon definitization of the contract.

GM appears to be fully committed to the development and ultimate commercialization of this technology. As set out in Items 5 and 6 of its petition, GM and its affiliates have been conducting extensive research and development relating to PEM fuel cells for several years. For example, in a recent cooperative effort with Los Alamos National Laboratory, GM participated in the demonstration of a 20KW reformer that generates clean hydrogen with high operating efficiency. This activity and the associated investment which it represents clearly demonstrates GM's commitment to the technology and indicates a likelihood of successful efforts to commercialize the results of the agreement.

Considering the foregoing, it is believed that granting the waiver will provide GM with the necessary incentive to invest its resources in the commercialization of the results of the contract in a fashion which will make the contract's benefits available to the public in the shortest practicable time.

Therefore, in view of the objectives and considerations set forth in DOE PR 9-9.109-6, all of which have been considered, it is recommended that the requested waiver be granted subject to Contracting Officer's certification that GM is contractually committed to contribute at least 20 percent of the total cost of the contract, currently contemplated to be approximately \$14.1 million.


Thomas G. Anderson
Assistant Chief
Office of Patent Counsel

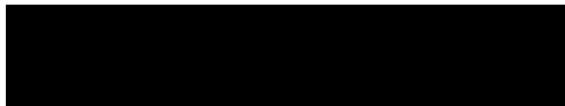
Date 4-8-91

Based on the foregoing Statement of Considerations and the representations in the attached Waiver Petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above and, therefore, the waiver is granted. This waiver shall not apply to any modification or extension of this contract where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:

APPROVAL:


Kenneth F. Barber
Acting Director
Electric and Hybrid
Propulsion Division


Richard E. Constant
Assistant General Counsel
for Patents, HQ

Date 4/19/91

Date 4/22/91