

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS

Brian E. Holian, Acting Director

In the Matter of)	
)	Docket No. 030-38594
Science Applications International)	
Corporation (SAIC))	
)	
CSMI, LLC)	License No. 20-35022-01

PROPOSED DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. Introduction

By letter dated August 10, 2013, George E. Walther-Meade from Science Applications International Corporation (SAIC or the petitioner) filed a petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206. The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take immediate enforcement action by issuing an order to revoke CSMI, LLC (CSMI) License Number 20-35022-01. As the basis for the request, the petitioner stated that CSMI (the licensee) had committed a willful violation involving falsification of information. Such violations are of particular concern to the U.S. Nuclear Regulatory Commission (NRC) because the NRC's regulatory program is based on licensees acting with integrity and communicating with candor.

The petitioner met with the NRC Petition Review Board (PRB) on September 10, 2013, to clarify the basis for the petition. The transcript of this meeting was treated as a supplement to the petition and is available for inspection at the NRC's Public Document Room (PDR), located at O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The transcript is also

PROPOSED

accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Accession No. ML13263A388 in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

On September 25 - 26, 2013, the NRC staff conducted an inspection of CSMI and on October 29, 2013, the NRC staff held a telephone exit meeting with the licensee. The NRC inspector reviewed CSMI's organizational structure and the scope of its licensed program to determine compliance with NRC rules and regulations and license conditions. The inspection consisted of observations by the NRC inspector, interviews with CSMI personnel, and a review of documents, procedures and records. The inspection included a review of CSMI personnel training records, qualifications and experience; and a discussion of CSMI's proposed service activities.

In a letter dated November 4, 2013 (ADAMS Accession No. ML13275A306), the NRC informed the petitioner that their request for immediate action was denied because there was no immediate impact on public health and safety, national security or the environment. The petitioner was also informed that their petition was accepted for review under 10 CFR 2.206.

II. Discussion

As the basis for this request, the petitioner stated that the licensee had committed a willful violation involving falsification of information. Such violations are of particular concern because the NRC's regulatory program is based on licensees acting with integrity and communicating with candor. The list below summarizes the petitioner's concerns about

PROPOSED

potential misrepresentations made by the licensee, which form the basis for the petition, followed by NRC's evaluation:

1. Concern: In the cover letter to its license application dated December 3, 2012 (ADAMS Accession Number ML12340A385), CSMI stated that they have provided installation, transportation, and maintenance services related to the radiological safety of SAIC Vehicle and Cargo Inspection System (VACIS) system for 10 years as a subcontractor. However, according to the petitioner, SAIC has only been operating the VACIS system for the U.S. Government since 2006 (a period of less than 10 years).

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. The NRC conducts an initial inspection of every new licensee to verify that they are complying with the regulations and license, including the license conditions. During the initial NRC inspection performed on September 25 - 26, 2013, the inspector determined that CSMI previously provided services as a subcontractor for VACIS systems for several international clients located outside of NRC's jurisdiction for approximately 10 years.

Based on this information, the NRC staff determined that the licensee had performed service activities on VACIS systems and functioned as a subcontractor to its clients, including SAIC, over a span of 10 years. Therefore, the petitioner's concern that the information provided by the licensee, CSMI, was not accurate and in violation of 10 CFR 30.9(a), was not substantiated.

2. Concern: Three of the petitioner's concerns involved training that CSMI stated their employees had received from SAIC. CSMI stated that Roberto Bhaday, their Radiation

PROPOSED

Safety Officer (RSO), received 40 hours of SAIC Field Service Representative radiation safety training in January 2005 in San Diego, California. Additionally, CSMI stated that their staff attended 80 hours of Initial Field Service Representative technical training in January 2005, at SAIC's facility in Rancho San Bernardo, California. The petitioner stated, however, that SAIC did not provide training to Mr. Bhaday or any CSMI staff.

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. The regulations in 10 CFR 30.33(a)(3) state that an application for a specific license will be approved if, in addition to other requirements met, the applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property. NUREG-1556, Volume 18, "Program-Specific Guidance About Service Provider Licenses," Appendix H provides criteria for training and experience for service providers that the NRC staff finds acceptable for meeting the regulatory requirements. It states that training should emphasize practical subject matter important to the safe handling of licensed materials and that the duration and technical level should be commensurate with the expected hazards encountered during routine and emergency conditions. In addition, the training should occur before duties with, or in the vicinity of, radioactive materials.

CSMI provided the NRC staff copies of training certificates for selected members of its staff, including Roberto Bhaday. One of the certificates states that Roberto Bhaday attended the "Radiation Safety Course for Mobile VACIS Operations," which was offered by SAIC at its San Diego, California, facility in January 2005 for a period of 1 week (40 hours). The NRC staff noted that individuals designated as authorized service

PROPOSED

technicians or authorized users, including Roberto Bhaday, had certificates from SAIC documenting attendance at a 2-week (80 hours) training of "Mobile VACIS Inspection System Maintenance Course," offered by SAIC at its San Diego, California, training facility (Note: Rancho San Bernardo, California, is a suburb of San Diego). While the certificates do not specify "SAIC Field Service Representative radiation safety training" or "Initial Field Service Representative technical training," the courses provide equivalent training and education in support of the requirements for an authorized user. Therefore, the petitioner's concern that the information provided by the licensee, CSMI, concerning the training received by their employees was not accurate and in violation of 10 CFR 30.9(a), was not substantiated.

3. Concern: Two of the petitioner's concerns involved communication with SAIC for maintenance and emergency support. CSMI stated that their service personnel will adhere to the strict guidelines provided by SAIC (e.g., maintenance procedure) and that SAIC will be consulted immediately in the case of an emergency. However, the petitioner stated that the licensee does not have access to current guidelines and procedures nor is there any vehicle to consult SAIC in case of an emergency.

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. During the inspection performed on September 25 - 26, 2013, the NRC inspector reviewed CSMI's service procedures, radiation safety procedures, and emergency procedures. During discussions with CSMI's RSO, the licensee provided clarification to statements made in their license application. Specifically, CSMI stated that it would follow the user's instructions outlined in the operator's manual that is readily

PROPOSED

available at the computer console for the VACIS device or on the Internet. The NRC staff finds that this documentation is acceptable because the design of the VACIS device has not changed and the initial procedures continue to apply. During an emergency, the owner of the VACIS device, not CSMI, would be responsible for notifying the device manufacturer per contractual agreement. CSMI also stated that requests for replacements parts, would originate from the owner of the device and not CSMI.

Based on the results of the inspection, the NRC staff determined that the information provided in the application represents the licensee's established process and intent for conducting licensed activities. The owner of the device will have access to procedures and will be able to contact the manufacturer in case of an emergency. Therefore, the petitioner's concern is not substantiated.

4. Concern: CSMI stated that radiation safety training is supervised by an RSO-qualified representative of the system manufacturer and that all radiation safety training materials are provided by the system manufacturer. However, the petitioner states that no such agreement exists, nor is there evidence to support this claim.

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. In accordance with the regulations in 10 CFR 30.33(a)(3), an application for a specific license will be approved if, in addition to other requirements met, the applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property. NUREG-1556, Volume 18, "Program-Specific Guidance About Service Provider Licenses," Appendix H provides criteria for training and experience for service

PROPOSED

that the NRC staff finds acceptable for meeting the regulatory requirements. It states that training should emphasize practical subject matter important to the safe handling of licensed materials and that the duration and technical level should be commensurate with the expected hazards encountered during routine and emergency conditions. In addition, the training should occur before duties with, or in the vicinity of, radioactive materials.

The NRC inspector noted that at the time of the inspection, CSMI had not initiated licensed activities authorized under its NRC license in areas within the NRC jurisdiction. Until such time as the licensee decides to initiate licensed activities, the licensee is not required to provide training to authorized users or ancillary personnel such as administrative and custodial staff. The licensee clarified that individuals who would be users of the systems were expected to have obtained training from the respective device manufacturer. The licensee provided clarification that before it initiated licensed activities, it would develop a training program for its service personnel, including field managers.

Based on this information and the commitments in the licensee's letter dated January 7, 2013 (ADAMS Accession No. ML13011A413), the NRC staff has reasonable assurance that the licensee will develop a training program in accordance with the applicable requirements of 10 CFR Parts 19 and 30 upon initiation of licensed activities. Therefore, the petitioner's concern is not substantiated.

5. Concern: CSMI stated that leak analysis will be the responsibility of the manufacturer. However the petitioner stated that no such agreement exists, nor is there evidence to support the licensee's claim.

PROPOSED

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. In accordance with CSMI License Number 20-35022-01, License Condition 14.E, tests for leakage and/or contamination, limited to leak test sample collection, shall be performed by the licensee or by other persons specifically licensed by the NRC or an Agreement State to perform such services.

The regulations do not require that leak analyses be performed by the device manufacturer; rather, they require that the test be conducted by a company licensed to perform the analysis, for example the source manufacturer. The NRC staff concluded that the licensee's process for conducting sealed source leak testing would be performed in accordance with its NRC license condition. Therefore, the petitioner's concern is not substantiated.

6. Concern: In telephone conversations with the NRC (telephone logs dated January 22, 2013 (ADAMS Accession No. ML13028A087), and January 23, 2013 (ADAMS Accession No. ML13028A092)), CSMI stated that Michael Hartnett would be named RSO with Roberto Bhaday as back-up and that Mr. Hartnett was scheduled for RSO training in mid-February. However, the petitioner stated, Mr. Bhaday is no longer with CSMI and Christopher Knox has since been appointed RSO.

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. The regulations in 10 CFR 30.33(a)(3) state that an application for a specific license will be approved if, in addition to other requirements met, the applicant is qualified by training and experience to use the material for the purpose requested in

PROPOSED

such manner as to protect health and minimize danger to life or property. NUREG-1556, Volume 18, "Program-Specific Guidance About Service Provider Licenses," Appendix H provides criteria for training and experience for service providers that the NRC staff finds acceptable for meeting the regulatory requirements. Service provider licensees must have an RSO who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiological safety matters. The licensee must provide documentation of the training and experience of the individual as RSO.

In a letter dated February 19, 2013 (ADAMS Accession No. ML13064A167), CSMI requested an amendment to its NRC license to appoint a new RSO, Christopher Knox. The former RSO, Roberto Bhaday, departed the company in April 2013. The licensee included a copy of the training certificate for Mr. Knox indicating that he attended an RSO training course in February 2013 offered by Nevada Technical Associates. Based on this information, the NRC staff has reasonable assurance that Mr. Knox has completed training that satisfies the training requirements in 10 CFR 30.33(a)(3). NRC determined that CSMI has maintained an RSO with the required training and experience. Therefore, the petitioner's concern is not substantiated.

7. Concern: The petitioner stated that Christopher Knox, Michael Hartnett, and Roberto Bhaday have not received training by the petitioner as implied in the license application and correspondence.

NRC Evaluation: The regulations in 10 CFR 30.9(a) require that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. With regard to training, the regulations in 10 CFR 30.33(a)(3) state that an application for a specific license will be approved if, in addition to other

PROPOSED

requirements met, the applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property. NUREG-1556, Volume 18, "Program-Specific Guidance About Service Provider Licenses," Appendix H provides criteria for training and experience for service providers that the NRC staff finds acceptable for meeting the regulatory requirements. Service provider licensees must be qualified by training and experience in radiation protection, and be available for advice and assistance on radiological safety matters. The licensee must provide documentation of the training and experience of the individuals as RSO or authorized users.

The NRC staff reviewed the training certificates provided by CSMI and verified that Messrs. Harnett and Bhaday received operator/maintenance training from SAIC in 2005. In addition, the NRC staff confirmed that Messrs. Hartnett, Bhaday, and Knox received "Radiation Safety Officer" training by Nevada Technical Associates as described in the license correspondence. Based on a review of the training syllabus, the NRC staff determined that the course would satisfy the criteria listed in NUREG-1556, Volume 18 for a position as RSO for this license type. Furthermore, none of the VACIS system documents (e.g., device registration or manual) specify that the device is to be operated under an RSO's oversight who was trained by SAIC.

Therefore, the petitioner's concern that the information provided by the licensee, CSMI, was not accurate and in violation of 10 CFR 30.9(a), was not substantiated. Additionally, the inspector confirmed that all individuals mentioned above had attended the training courses described in the licensee's correspondence and that those courses

PROPOSED

would satisfy the training requirements in 10 CFR 30.33(a)(3). Therefore, the petitioner's concern is not substantiated.

III. Conclusion

The NRC staff has evaluated the information provided by the petitioner, obtained during the PRB public meeting, and information gathered during an on-site inspection at CSMI. Based on its review, the NRC staff has not substantiated the petitioner's concern that CSMI has committed a willful violation involving falsification of information. Additionally, the staff has not identified any safety basis for revoking, suspending, or modifying CSMI License Number 20-35022-01. Therefore, the staff denies this petition.

As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this day of , 2014.

For the Nuclear Regulatory Commission

Brian E. Holian, Acting Director
Office of Federal and State Materials
and Environmental Management Programs

PROPOSED