

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

Brian E. Holian, Acting Director

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

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 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

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.

The NRC sent a copy of the proposed director's decision to the petitioner and to CSMI for comment on February 28, 2014. The petitioner responded with comments on April 4, 2014 (ADAMS Accession No. ML14101A127), and the licensee responded with no comments on March 26, 2014. The comments and the staff's response to them are included in the Director's Decision.

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 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.

Petitioner's Comment: CSMI was a subcontractor to SAIC in only two instances, Subcontract Nos. 4400087650 and 440097582, dated March 4, 2004, and September 13, 2004, both of which concluded in March and August 2005, respectively, of which neither included scope for any type of maintenance of Military Mobile VACIS systems. The first Military Mobile VACIS, which is the only VACIS system authorized by the CSMI license, was fielded/deployed on June 23, 2007, and CSMI has never been a subcontractor of SAIC (now Leidos) to service and to conduct maintenance on the Military Mobile VACIS systems. It is also important to note that the U.S. Army is the sole customer/end-user for this type of VACIS system which is International Traffic in Arms Regulation (ITAR)-controlled so there are no other cases where CSMI could have been a subcontractor for other international clients.

NRC Response: CSMI stated in their application dated December 3, 2012 (ADAMS Accession No. ML12340A385) that they have provided installation, transportation, and maintenance services related to the radiological safety of SAIC VACIS system for 10 years as a subcontractor, but CSMI did not specify the type of VACIS. As stated in the NRC evaluation, during the initial NRC inspection, 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. In addition, even though CSMI contracts concluded in 2005, before the first Military Mobile VACIS was fielded or deployed in 2007, CSMI provided the NRC staff copies of

training certificates indicating CSMI personnel training on the maintenance of the Mobile VACIS systems. These training certificates included the "Radiation Safety Course for Mobile VACIS Operations" and the "Mobile VACIS Inspection System Maintenance Course" offered by SAIC. Therefore, the petitioner's concern that CSMI willfully falsified information concerning its experience with the VACIS system 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 Mr. Roberto Bhaday, their Radiation 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 Mr. Bhaday. One of the certificates states that Mr. 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 technicians or authorized users, including Mr. 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.

Petitioner's Comment: The applicable training guideline that CSMI should be judged on is Appendix P. While Appendix H provides guidelines for authorized users, CSMI's license (No. 20-35022-01), as issued by the Commission, allows "Installation, radiation surveys, relocation, removal from service, source exchange, source retrieval, transportation, replacement, disposal of the sealed source, maintenance, or repair of

components related to the radiological safety of Science Applications International Corporation Military Mobile VACIS.” As explained in Appendix P, such activities encompass non-routine maintenance. Appendix P states that “applicants wishing to perform non-routine operations must use personnel with special training.” This is a higher level of training that is specified in Appendix H.

NRC Response: The petitioner’s comment is not related to the basis of this request, which is willful violations involving falsification of information. Therefore, this comment does not affect the staff’s determination related to 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); therefore, this concern was not substantiated. However, the NRC has addressed the issues raised in this comment in a separate letter (ADAMS Accession Number ML14128A268) and process. As noted in that letter, as a result of its review of the additional information provided by the petitioner, the staff has corrected CSMI’s license to authorize only the provision of routine maintenance services.

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 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.

Petitioner's Comment: License 20-35022-01, Amendment 1 states that CSMI is allowed to conduct the following activities: "Installation, radiation surveys, relocation, removal from service, source exchange, source retrieval, transportation, replacement, disposal of the sealed source, maintenance, or repair of components related to the radiological safety of Science Applications International Corporation Military Mobile VACIS." None of

these activities are discussed in the Operator's Manual for the Military Mobile VACIS product, or for that matter any VACIS product.

CSMI initially requested the ability to conduct non-routine maintenance, and when pressed by the Commission for NUREG 1556, Volume 18, Appendix P data to support their request, CSMI changed their stance to only provide routine maintenance. This is understandable since in order to comply with the data requirements of NUREG 1556, Volume 18, Appendix P, CSMI would require, as pointed out to the PRB, access to SAIC (now Leidos) proprietary information, which they do not have. Nevertheless, the license specifically authorizes CSMI to conduct the non-routine maintenance activities CSMI had listed initially.

The NRC's evaluation above states that "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." There are two problems with this statement: 1) the information provided by CSMI does not comply with the requirements of NUREG-1556, Volume 18, Appendix P, which is necessary to support the activities listed on their license; and 2) the "established process and intent for conducting licensed activities" appears to be based on the assumption that CSMI will only be performing routine maintenance as described in the User's Manual of the Military Mobile VACIS system. However, the issued license allows non-routine maintenance activities that are not described in the User's Manual of the Military Mobile VACIS system. The license specifically authorizes CSMI to conduct "non-routine" maintenance as described in Appendix P of NUREG-1556, Volume 18.

NRC Response: The petitioner's comment is not related to the basis of this request, which is willful violations involving falsification of information. Therefore, this comment does not affect the staff's determination related to the petitioner's concern that the information provided by the licensee, CSMI, concerning the process and intent for conducting licensed activities, was not accurate and in violation of 10 CFR 30.9(a); therefore, this concern was not substantiated. However, the NRC has addressed the issues raised in this comment in a separate letter (ADAMS Accession Number ML14128A268) and process. As noted in that letter, as a result of its review of the additional information provided by the petitioner, the staff has corrected CSMI's license to authorize only the provision of routine maintenance services.

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 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.

Petitioner's Comment: CSMI is licensed as a service provider for non-routine maintenance. General VACIS User level training is insufficient for this function and, in accordance with NUREG 1556, Volume 18, Appendix P, a service provider for non-routine maintenance needs "special training" or specific training on the systems they are

licensed to provide non-routine service for; in this particular case the Military Mobile VACIS. User training in and of itself is insufficient for non-routine maintenance and service level training for Mobile VACIS systems is insufficient for the Military Mobile VACIS, as the latter product has important safety subsystems that are not present on the Mobile VACIS system. For CSMI to be a service provider for non-routine maintenance of Military Mobile VACIS, their personnel need service level “special” training on Military Mobile and not user level training on general VACIS products.

NRC Response: The petitioner’s comment is not related to the basis of this request, which is willful violations involving falsification of information. Therefore, this comment does not affect the staff’s determination related to the petitioner’s concern that the information provided by the licensee, CSMI, concerning the process and intent for conducting licensed activities, was not accurate and in violation of 10 CFR 30.9(a); therefore, this concern was not substantiated. However, the NRC has addressed the issues raised in this comment in a separate letter (ADAMS Accession Number ML14128A268) and process. As noted in that letter, as a result of its review of the additional information provided by the petitioner, the staff has corrected CSMI’s license to authorize only the provision of routine maintenance services.

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.

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 Mr. Michael Hartnett would be named RSO with Mr. 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 Mr. 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 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, Mr. Knox. The former RSO, Mr. 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 Messrs. Knox, Hartnett, and 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 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 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, information gathered during an on-site inspection at CSMI, and comments received on the proposed Director's Decision. 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 or suspending CSMI License Number 20-35022-01. Therefore, the staff denies this petition. However, the NRC has addressed certain issues raised by the petitioner in its comments on the Proposed Director's Decision in a separate letter (ADAMS Accession Number ML14128A268) and process. As noted in that letter, as a result of its review of the additional information provided by the petitioner, the staff has corrected CSMI's license to authorize only the provision of routine maintenance services.

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 27th day of May 2014.

For the Nuclear Regulatory Commission

/RA/

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

III. Conclusion

The NRC staff has evaluated the information provided by the petitioner, obtained during the PRB public meeting, information gathered during an on-site inspection at CSMI, and comments received on the proposed Director’s Decision. 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 or suspending CSMI License Number 20-35022-01. Therefore, the staff denies this petition. However, the NRC has addressed certain issues raised by the petitioner its in comments on the Proposed Director’s Decision in a separate letter (ADAMS Accession Number ML14128A268) and process. As noted in that letter, as a result of its review of the additional information provided by the petitioner, the staff has corrected CSMI’s license to authorize only the provision of routine maintenance services.

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

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