

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Chief Administrative Judge:
E. Roy Hawkens

In the Matter of

DISA TECHNOLOGIES, INC.

(Multi-Site Service Provider License)

Docket No. 40-38417-ML

June 24, 2025

MEMORANDUM AND ORDER
(Protective Order Governing Specific Sensitive
Unclassified Non-Safeguards Information)

Upon consideration of the Joint Motion for Entry of a Protective Order of twelve Sensitive Unclassified Non-Safeguards Information (SUNSI) access requestors¹ (collectively referred to as Requestors); Disa Technologies, Inc. (Disa or Applicant); and the U.S. Nuclear Regulatory Commission (NRC) Staff, the Presiding Officer GRANTS the motion and issues this Protective Order, the terms of which are as follows:

1. This Protective Order shall govern access, disclosure, and use in this proceeding of SUNSI denoted below as being subject to the Protective Order. The SUNSI that is subject to this order is contained within Disa's application Appendix D, which is entitled "Third-Party Decommissioning Estimate per Site," and any other SUNSI provided to the Requestors by the Applicant or the NRC Staff to allow the

¹ Requestors are: Maslyn Locke and Eric Jantz, New Mexico Environmental Law Center; Susan Gordon and Ava Curtis, Multicultural Alliance for a Safe Environment (MASE); Chris Shuey and Wendy Attcity, Southwest Research and Information Center; Larry King, ENDAUM; Rachel Conn, Amigos Bravos; Teracita Keyanna, Edith Hood, Bradley Henio, and Bertha Nez, Red Water Pond Road Community Association (RWPRCA).

Requestors to participate in this proceeding. This Protective Order shall remain in effect until specifically terminated by the Presiding Officer.

2. Persons who may receive SUNSI pursuant to this Protective Order are designated as "Authorized Recipients." Such persons may receive SUNSI as follows:
 - a. Each of the Requestors shall execute, and the Requestors shall individually or collectively file the attached Non-Disclosure Agreement (Attachment 1) to gain access to SUNSI. A Requestor shall not become an Authorized Recipient of SUNSI until the individual executes, and the Requestors file, via the E-Filing System, the Non-Disclosure Agreement.
 - b. The Requestors may request that an additional or substitute person necessary for the preparation of the Requestors' case become authorized to receive SUNSI. Permission may be obtained either by written agreement with the Applicant or upon approval by the Presiding Officer of a motion requesting such authorization. The Requestors shall file any written agreement via the E-Filing System, consistent with 10 C.F.R. § 2.302. Any additional or substitute person shall be subject to the terms of this Order and shall not receive access to SUNSI until the individual executes, and the Requestors file the Non-Disclosure Agreement.
3. "Authorized Holders" of SUNSI Include Authorized Recipients; NRC personnel, including the Licensing Board and Atomic Safety and Licensing Board Panel (ASLBP) staff and NRC contractors; Applicant personnel, contractors, and legal counsel; and Commission adjudicatory employees as defined by 10 C.F.R. § 2.4.
4. Other than the requirements set forth in this Protective Order for filing documents, the terms of this Protective Order do not apply to the NRC Staff,

NRC Contractors, or NRC legal counsel. The NRC's use of SUNSI is governed by NRC regulations and policies as well as other applicable laws.

5. SUNSI shall not be used or reproduced by Authorized Recipients except as necessary for the conduct of this proceeding.
6. SUNSI shall be treated as confidential by Authorized Recipients. Authorized Recipients may copy and take notes of SUNSI, but such copies and notes become SUNSI subject to all of the terms of this Protective Order. Authorized Recipients may generate documents containing SUNSI, but such documents are also subject to all of the terms of this Protective Order. Authorized Recipients who copy or take notes of SUNSI are responsible for marking the information appropriately to indicate that the document contains SUNSI, as identified in paragraph 7 below. Authorized Recipients shall not reveal, either during or after this proceeding, any SUNSI received by virtue of this proceeding as long as the information remains SUNSI.
7. Marking documents containing SUNSI; proprietary information:
 - a. Each document containing SUNSI shall be marked in accordance with its applicable type of protected information. Document marking shall be the responsibility of the Authorized Holder that initially identifies the document as containing SUNSI. Authorized Recipients shall be responsible for marking documents, including copies and notes, generated under paragraph 6.
 - b. Each document containing proprietary information shall be marked "Contains Proprietary Information – Subject to Protective Order" in a conspicuous manner at the top of every page and each successive page containing the proprietary information and adjacent to the specific information. Document marking shall be the responsibility of the

Authorized Holder that initially identifies the document as containing proprietary information. Authorized Recipients shall be responsible for marking all documents containing proprietary information, including copies and notes, generated under paragraph 6.

8. Safeguarding SUNSI: Authorized Recipients shall take reasonable precautions to guard against unauthorized disclosure of SUNSI. Among the reasonable precautions, the following measures shall be included:
 - a. Each Authorized Recipient shall establish a “controlled environment” in which to protect SUNSI from unauthorized access or disclosure and make use of those controlled environments. A controlled environment is any area or space with adequate physical or procedural controls to protect SUNSI from unauthorized access or disclosure. A controlled environment must satisfy the requirements in paragraphs 8.a to 8.d of this Protective Order.²
 - b. Each Authorized Recipient shall reasonably ensure that unauthorized individuals or artificial intelligence (A.I.) services, programs, or applications, including but not limited to large language models (LLM) and machine learning, are not given access to and control over SUNSI.
 - c. Each Authorized Recipient shall keep SUNSI under his or her direct control or store SUNSI in a secure location such as a locked filing

² An acceptable controlled environment must prevent unauthorized individuals from accessing, observing, or overhearing the protected information. Thus, an Authorized Recipient should use a computer to view or process the SUNSI only if the computer screen cannot be viewed by unauthorized individuals. Also, viewing or processing the SUNSI on a public computer, such as those found in public libraries, would not be acceptable, because unauthorized individuals could access the computer’s memory to retrieve the protected information.

cabinet, closet, or other storage container so that only Authorized Recipients can observe or access the SUNSI.

- d. Each Authorized Recipient shall restrict access to electronic information systems containing SUNSI so that only Authorized Recipients can observe or access the SUNSI. This obligation includes (but is not limited to) ensuring all electronic files containing SUNSI are encrypted and password protected when not in use; and, if storing such files in a cloud server, ensuring the cloud service provider uses encrypted servers located in the United States and such files are stored in a password-protected account to which only the Authorized Recipient has access. Each Authorized Recipient shall ensure that electronic information systems containing SUNSI are controlled by Authorized Recipient and have up to date virus and security protections that enable compliance with the terms of this Protective Order.
9. SUNSI may be transmitted only to Authorized Recipients and only in accordance with the following requirements:
- a. SUNSI shall be electronically transmitted (such as by phone, computer, tablet, smartphone, facsimile, etc.) in an encrypted form sufficient to meet the standards set forth in 15 C.F.R. § 734.18(a)(5)(i)-(iii) and that only enables access by the Authorized Recipients.
 - i. To double-check that a transmission to a telephone number, email address, or other electronic destination will be received only by an Authorized Recipient, the sender must verify prior to transmission that the telephone number, email address, or other electronic destination is correct.

- ii. SUNSI shall only be transmitted via email after the sender has verified that the recipient's email server meets the requirements of this Protective Order.
 - iii. SUNSI may be discussed during a web-based meeting or phone call only if all those capable of listening are Authorized Recipients or Holders.
 - iv. SUNSI shall not be transmitted by facsimile unless no other form of electronic transmission is available.
- b. SUNSI may be physically transmitted only by the following means:
- i. by hand delivery from an Authorized Holder or Authorized Recipient to another Authorized Recipient, or
 - ii. by U.S. mail or commercial delivery service in an opaque envelope addressed to the Authorized Recipients with no external markings to indicate the presence of SUNSI.
10. Documents containing SUNSI shall be filed using the E-Filing System³ as follows:
- a. The Requestors and Applicant shall take the necessary actions to obtain a digital certificate and file documents in this proceeding using the E-Filing System.
 - b. The person filing the document shall choose the option "Non-Public Submission" to prevent the document from being filed in the public docket of the proceeding.

³ Participants seeking an exemption from the E-Filing requirements must request an exemption in accordance with 10 C.F.R. § 2.302(g).

- c. In the "Submission Comment" portion of the "Non-Public Submission" form, the filer shall include a statement that the filing contains SUNSI and shall specify the type of SUNSI (e.g., proprietary information).
 - d. Only the Board, Presiding Officer and Special Assistants, NRC Staff counsel, the Applicant's counsel, the Requestors, the Office of the Secretary (HearingDocket@nrc.gov), the Office of Commission Appellate Adjudication (OCAEmail@nrc.gov), and other Authorized Holders shall be "checked" as recipients on the electronic service list for the non-public docket.
 - e. Within fourteen (14) days of a party filing pleadings or other documents containing SUNSI in the non-public docket, such party will file a redacted version in the public docket. All redactions to documents containing SUNSI filed by the Authorized Recipients shall be approved by the Applicant prior to filing in the public docket.
11. Persons may not reveal SUNSI during any public hearing or conference session.
- Any person who anticipates discussing SUNSI at any public hearing or conference shall notify the Presiding Officer and the other participants at least three (3) business days prior to that hearing or conference that SUNSI may be discussed. During any public hearing or conference, any person who intends to discuss SUNSI shall notify the Presiding Officer and the participants that such discussion will contain SUNSI prior to the statement being made. Such statements containing SUNSI may be provided only in nonpublic sessions as permitted by the Presiding Officer.

12. All Authorized Recipients shall maintain a log of all copies of SUNSI materials within their possession or control, including documents derived from SUNSI under paragraph 6 or otherwise. Upon the written request of NRC Staff or the Applicant, or their respective legal counsel, an Authorized Recipient shall promptly supply (i) a copy of such log, and (ii) a written report (which may be incorporated in such log) indicating the location of all such materials and the manner of their safeguarding under paragraph 8.
13. If any Authorized Recipient has reason to believe that SUNSI may have been lost or misplaced, or that SUNSI has become available to unauthorized persons, notification shall promptly be made to the Presiding Officer, NRC Staff counsel, Applicant's counsel, and the Requestors' counsel regarding that belief and the reason for that belief by filing a notification through the E-Filing system as a non-public submission in accordance with paragraphs 10.b to 10.d of this Protective Order, without a corresponding public filing as would otherwise be required by paragraph 10.e of this Protective Order.
14. The Presiding Officer may alter or amend this Protective Order and resolve disputes regarding the application of its terms. Requestors, Applicant, or NRC Staff may seek amendments to this Protective Order or the Non-Disclosure Agreement via motion (see 10 C.F.R. Part 2).
15. SUNSI shall remain available to each Authorized Recipient until the Access Termination Date. The Access Termination Date is the earlier of (a) the date of an order by the Presiding Officer rescinding the right of access granted by this Protective Order; or (b) the date of an order by the Presiding Officer terminating this proceeding for any SUNSI other than that needed to pursue or defend against an appeal of an order by the Presiding Officer. Within sixty (60) days of the Access Termination Date, the Requestors shall destroy all materials

containing SUNSI and execute the attached Termination of Possession Declarations (Attachment 2) via the E-Filing System. After the Access Termination Date, no Authorized Recipient shall create, reference, or use, on the basis of memory or otherwise, any additional materials containing SUNSI subject to this protective order. Each Authorized Recipient shall take those actions necessary for the Requestors to satisfy this obligation, but Authorized Recipients may retain copies of filings, official transcripts, exhibits, and notes that have been redacted so that only those portions not containing SUNSI remain accessible.

16. Nothing in this Protective Order shall preclude a participant to this proceeding from objecting to the use of an exhibit, testimony, or a pleading with information subject to the Protective Order. The Presiding Officer may issue additional orders concerning the use of SUNSI.
17. Nothing in this Protective Order shall preclude any person from seeking public disclosure of SUNSI in accordance with NRC regulations and applicable federal law. Nothing in this Protective Order shall preclude any person from seeking through discovery in any other administrative or judicial proceeding, any information protected by this Protective Order.
18. Any violation of this Protective Order or of any Non-Disclosure Agreement executed hereunder may result in the imposition of sanctions as the Presiding Officer deems appropriate. Nothing in this Protective Order restricts or waives Applicant's or the NRC's rights to pursue any other legal or equitable remedies that may be available in the event of actual disclosure of SUNSI or equitable remedies that may be available to prevent an anticipated disclosure of SUNSI.
19. The Requestors must file executed Non-Disclosure Declarations within five (5) business days after the issuance of this Protective Order. Within two (2) business days after filing of the executed Non-Disclosure Declarations, the Applicant shall

provide to the Requestors' counsel access to the following SUNSI information:
unredacted application Appendix D "Third-Party Decommissioning Estimate per
Site."

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

E. Roy Hawkens
CHIEF ADMINISTRATIVE JUDGE

Rockville, Maryland
June 24, 2025

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Chief Administrative Judge:
E. Roy Hawken

In the Matter of

DISA TECHNOLOGIES, INC.

(Multi-Site Service Provider License)

Docket No. 40-38417-ML

ASLBP No. _____

Date: _____

NON-DISCLOSURE AGREEMENT

I, _____, being duly sworn, state:

1. I have read the _____, 2025 Protective Order issued in the above-referenced proceeding and will comply in all respects to its terms and conditions regarding the Sensitive Unclassified Non-Safeguards Information (SUNSI) produced in connection therewith. I will protect and keep confidential all SUNSI information in accordance with the terms of this Non-Disclosure Agreement (NDA).
2. I will not disclose the SUNSI to anyone except an Authorized Recipient as defined in the Protective Order. I will protect documents containing or revealing the SUNSI in written or recorded form (including any portions of transcripts of in camera hearings, filed testimony, or any other documents that contain or reveal such SUNSI), so that the SUNSI contained therein remains at all times under the control of an authorized person and is not revealed to anyone else.
3. When not under my direct control or the direct control of another authorized person, I will securely maintain all documents containing or revealing SUNSI (including, without limitation, transcripts, pleadings that I may generate, and any notes and copies that I may make). I will not transmit by unsecured methods any material containing SUNSI. I will only transmit using facsimile when there are no other forms of electronic transmission available.
4. I will restrict access to electronic information systems with SUNSI in accordance with the terms of the Protective Order.
5. I will transmit SUNSI and file documents containing SUNSI only in accordance with the terms of the Protective Order.
6. I will mark each document containing SUNSI in accordance with the terms of the Protective Order.
7. I will not publicly reveal any of the SUNSI during or after this proceeding.

8. I will destroy any SUNSI I acquire or generate during this proceeding as required by the Protective Order.
9. I acknowledge that any violation of the terms of this agreement or the Protective Order, which incorporates the terms of this agreement, may result in the imposition of such sanctions on me that the Presiding Officer may deem to be appropriate. I also acknowledge that if I am involved in the actual disclosure of the SUNSI or otherwise violate the terms of this affidavit or the Presiding Officer's Protective Order, then the party that produced the information or another affected entity might pursue legal or equitable remedies against me personally. I further acknowledge that the party that produced the SUNSI or another affected entity may pursue equitable remedies to prevent an anticipated disclosure of the SUNSI.

WHEREFORE, I do certify under penalty of perjury that the foregoing is true and correct and I do solemnly agree to protect and keep confidential such protected information as may be disclosed to me in this proceeding, in accordance with the terms of this Agreement.

(Name)

Subscribed to and sworn before me this ____ day of _____, 2025.

Notary Public

My commission expires:

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Chief Administrative Judge:
E. Roy Hawken

In the Matter of

DISA TECHNOLOGIES, INC.

(Multi-Site Service Provider License)

Docket No. 40-38417-ML

ASLBP No. _____

Date: _____

TERMINATION OF POSSESSION DECLARATION

I, _____ being duly sworn, state:

In accordance with the Presiding Officer's Protective Order in the above-captioned proceeding, I have destroyed all Sensitive Unclassified Non-Safeguards Information (SUNSI), as defined in that Protective Order, that is in my possession.

WHEREFORE, I certify under penalty of perjury that the foregoing is true and correct and do solemnly agree to CONTINUE to protect and keep in confidence such identified SUNSI as may have been disclosed to me in connection with the above-captioned proceeding in accordance with the terms of the Protective Order and of the Nondisclosure Agreement I previously executed for this proceeding.

(Name)

Subscribed to and sworn before me this ____ day of _____.

Notary Public

My commission expires:

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
DISA TECHNOLOGIES, INC.)	Docket No. 40-38417-ML
)	
)	
(Multi-Site Service Provider License))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Protective Order Governing Specific Sensitive Unclassified Non-Safeguards Information)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail.resource@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
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Disa Technologies, Inc. Docket No. 40-38417-ML

MEMORANDUM AND ORDER (Protective Order Governing Specific Sensitive Unclassified Non-Safeguards Information)

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Stephen Cohen
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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 24th day of June 2025.