



Department of Energy
Washington, DC 20585

March 24, 2011

Dr. Paul J. Hommert
President
Sandia Corporation
Sandia National Laboratories
1515 Eubank SE
Building 802 / Room 3180
Albuquerque, New Mexico 87123

Re: SSA-2011-01

Dear Dr. Hommert:

This letter concerns the investigation by the Office of Health, Safety and Security's Office of Enforcement into the adverse trend of classified information security incidents at Sandia National Laboratories. We provided Sandia Corporation (Sandia) with a copy of the Investigation Report dated June 10, 2010, entitled *Adverse Classified Information Security Trend at Sandia National Laboratories*. On August 18, 2010, Sandia and Department of Energy (DOE) representatives participated in an enforcement conference (summary enclosed) to discuss the report's findings.

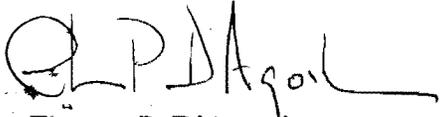
In consideration of the Security Improvement Plan dated October 2010 developed by Sandia, DOE is offering to settle the potential noncompliances discussed in the Investigation Report in accordance with the terms of the enclosed proposed Settlement Agreement. As detailed in the Settlement Agreement, Sandia will agree to pay a settlement sum of \$123,750 and complete all key activities identified in the Security Improvement Plan.

If you agree with the terms of the Settlement Agreement, please execute both enclosed documents and return one fully executed original to the undersigned. Other than remittance of the settlement amount and a signed copy of the Settlement Agreement, no written response to this letter is required.



If you have questions regarding the terms of the Settlement Agreement, please contact the Office of Enforcement at (301) 903-2178.

Sincerely,



Thomas P. D'Agostino
Administrator
National Nuclear Security Administration



John S. Boulden III
Acting Director
Office of Enforcement
Office of Health, Safety and Security

Enclosures

cc: M. Patrice Wagner, NNSA/SSO
Michael Hazen, SNL
Stephen Ward, SNL

In the matter of:) Office of Enforcement Investigation Report
) (June 10, 2010)
)
)
Sandia Corporation) Settlement Agreement SSA-2011-01
)

SETTLEMENT AGREEMENT

I

Sandia Corporation (“Sandia”) manages and operates Sandia National Laboratories (SNL) for the U.S. Department of Energy’s (DOE) National Nuclear Security Administration, under Contract No. DE-AC04-94AL85000 (“Contract”).

II

In March 2008, DOE’s Office of Enforcement, within the Office of Health, Safety and Security, identified an adverse trend of security incidents at SNL involving the protection and control of classified information. Pursuant to 10 C.F.R. Part 824, *Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations*, Appendix A to Part 824 – General Statement of Enforcement Policy, Section VII, the Office of Enforcement issued an Enforcement Letter dated May 15, 2008, to Sandia that set forth the Office of Enforcement’s concerns regarding the said security incidents. In November 2008, the Office of Enforcement conducted an Integrated Program Review and issued a report dated May 19, 2009, which identified program strengths and weaknesses concerning the protection and control of classified information at SNL, and a lack of improvement in addressing the trend of security incidents.

In July 2009, the Office of Enforcement issued a notice of intent to conduct an investigation at Sandia based on the Office of Enforcement’s analysis of trending data which revealed a continued increase in the frequency and security significance of incidents during calendar year (CY) 2008 and first half of CY 2009.

In August 2009, pursuant to DOE’s authority under 10 C.F.R. § 824.5, the Office of Enforcement initiated an investigation into the recurrence of security incidents involving the protection and control of classified information at SNL.

DOE issued the results of its investigation in a report dated June 10, 2010, entitled *Adverse Classified Information Security Trend at Sandia National Laboratories* (“Investigation Report”), in which DOE identified three Potential Violations of security requirements as set forth in DOE Manual 470.4-1 (Chg.1, March 7, 2006) *Safeguards and Security Program Planning and Management* (“Potential Violations”). DOE provided a copy of the Investigation Report to

Sandia, and on August 18, 2010, Sandia and DOE representatives participated in an Enforcement Conference to discuss the Potential Violations.

The Office of Enforcement finds that security improvement initiatives and process changes were underway at SNL before the issuance of the 2008 Enforcement Letter. The Enforcement Letter, and subsequent Office of Enforcement activities, provided Sandia with additional focus on improving its security culture. Sandia presented data during the enforcement conference that demonstrated improved performance in addressing the incident trend, along with a number of actions taken and planned to address the potential noncompliances. Sandia also acknowledged additional improvements were required to demonstrate effectiveness and long term sustainability of improved performance. In response to these concerns, Sandia submitted a Security Improvement Plan to NNSA/SSO in October 2010.

III

Pursuant to 10 C.F.R. § 824.4(e), the Director, Office of Enforcement may enter into a settlement, with or without conditions, of an enforcement proceeding at any time if the settlement is consistent with the objectives of DOE's classified information protection requirements.

To resolve the potential noncompliances discussed in the Investigation Report, and in consideration of Sandia's efforts to ensure sustained improvement of the protection of classified information at SNL, as evidenced by its development of and agreement to fully implement the Security Improvement Plan, the Director, Office of Enforcement and Administrator, National Nuclear Security Administration have elected to enter into settlement. DOE and Sandia have reached agreement to resolve this matter through execution of this Settlement Agreement.

IV

Accordingly, the terms of this Settlement Agreement are as follows:

In consideration of the mutual agreements set forth in this Section IV, the sufficiency and adequacy of which are acknowledged by DOE and Sandia (hereinafter the "Parties"), the following terms represent agreement by the authorized representatives of the Parties to resolve by settlement the potential noncompliances at SNL, in lieu of an enforcement action that DOE may issue pursuant to 10 C.F.R. § 824.6.

1. Sandia shall fulfill all requirements of the Security Improvement Plan at SNL no later than September 30, 2011, including but not limited to completion of all of the identified key activities. In this regard, Sandia will coordinate with the Manager at the Sandia Site Office (SSO); specifically: (a) Sandia agrees to provide the SSO Manager with written updates, not less than once per calendar year quarter, on the implementation status of key activities in the Security Improvement Plan until each key activity is completed; (b) Sandia will provide written notification to the SSO Manager after each key activity is completed; and (c) upon completion of all key activities, Sandia will request SSO Safeguards and Security to conduct a validation review to confirm the completion of the key activities.

2. SSO Safeguards and Security will validate completion of all Security Improvement Plan key activities upon notification by Sandia of their completion. If SSO Safeguards and Security determines that a key activity has not been completely implemented, the SSO Manager will provide Sandia with a written explanation of SSO's determination, in which event Sandia shall complete the key activities no later than December 31, 2011. The Parties agree that a key activity shall not be deemed complete until DOE so determines in its sole judgment.
3. Sandia shall pay the sum of \$123,750 ("Settlement Sum") in lieu of initiation of an enforcement action by DOE pursuant to 10 C.F.R. §824.6.
4. Because Sandia was aware of the need to improve its security performance prior to the 2008 Enforcement Letter, and has made progress in performance through the implementation of on-going improvement initiatives, DOE has determined that Sandia is entitled to recover 80 percent of its proceeding costs, consistent with the Federal Acquisition Regulation.
5. This Settlement Agreement shall constitute a full and final settlement of the potential noncompliances identified in the Investigation Report, subject to: (a) Sandia's payment of the Settlement Sum in accordance with paragraph 8 below; (b) Sandia's completion at SNL of all key activities identified in the Security Improvement Plan by September 30, 2011 (as set forth in paragraph 1 above), but not later than December 31, 2011 (as set forth in paragraph 2 above); and (c) SSO's validation of all key activities identified in the Security Improvement Plan.
6. This Settlement Agreement does not preclude the issuance of an enforcement action by DOE under 10 C.F.R. § 824.6 with respect to a potential noncompliance if: (a) after the Effective Date, (as defined in paragraph 11 below) DOE becomes aware of any false or materially inaccurate information provided by Sandia; or (b) Sandia fails to complete all of the key activities identified in the Security Improvement Plan, as set forth in paragraphs 1 and 2 above.
7. Any modification to the Security Improvement Plan must be agreed to in writing by the SSO Manager and Sandia prior to Sandia implementing any change to the Plan. This Settlement Agreement cannot be modified without the written consent of both Parties.
8. Sandia shall remit the sum of \$123,750 by check, draft or money order payable to the Treasurer of the United States (Account Number 891099) within thirty (30) calendar days after the Effective Date of this Settlement Agreement. Payment shall be sent by overnight carrier to:

Director, Office of Enforcement
Attention: Office of the Docketing Clerk, HS-40
U.S. Department of Energy
19901 Germantown Road
Germantown, Maryland 20874-1290

9. Sandia hereby covenants that it shall not seek judicial or administrative review or otherwise contest the validity of the terms of this Settlement Agreement. DOE retains the right to enforce judicially the provisions of this Settlement Agreement by all legal means.
10. This Settlement Agreement is entered into pursuant to section 234B of the Atomic Energy Act, as amended (42 U.S.C. § 2282b), and DOE's implementing regulations at 10 C.F.R. Part 824 governing enforcement of its rules regarding the security of classified information.
11. Sandia agrees to return a signed copy of this Settlement Agreement, within one week from the date of receipt, to the address provided in paragraph 8 above. The Effective Date of this Settlement Agreement shall be the date upon which the last of the Parties signs this Settlement Agreement.

On behalf of my respective organization, I hereby agree to and accept the terms of the foregoing Settlement Agreement.

FOR U.S. Department of Energy:



Thomas P. D'Agostino
Administrator
National Nuclear Security Administration

Date: 3/21/11



John S. Boulden III
Acting Director, Office of Enforcement
Office of Health, Safety and Security

Date: 2/25/11

FOR Sandia Corporation:



Dr. Paul J. Hommert
President

Date: 3/28/11