



Department of Energy
Under Secretary for Nuclear Security
Administrator, National Nuclear Security Administration
Washington, DC 20585



November 18, 2024

Dr. James S. Peery
Laboratories Director
National Technology and Engineering Solutions of Sandia, LLC
Sandia National Laboratories
Post Office Box 5800, MS-0101
Albuquerque, New Mexico 87185

SSA-2024-01

Dear Dr. Peery:

The Office of Enforcement has completed its investigation into the facts and circumstances associated with the introduction of an unauthorized Bluetooth-enabled electronic device into a Limited Area (LA) at the Department of Energy (DOE), National Nuclear Security Administration (DOE/NNSA) Sandia National Laboratories, located in Albuquerque, New Mexico (SNL-NM) in April 2022. This event was documented in the Office of the Inspector General (OIG) Inspection Report, *Allegations Regarding Security and Safety Concerns at Sandia National Laboratories* (DOE-OIG-24-11), dated January 30, 2024; however, it was not documented by National Technology and Engineering Solutions of Sandia, LLC (NTESS) in the Safeguards and Security Information Management System (SSIMS). NTESS is the management and operating contractor for DOE/NNSA at SNL-NM.

NTESS allowed a vendor to introduce and use a Bluetooth-enabled device in an LA where unapproved electronic devices are expressly prohibited. NTESS did not properly identify the Bluetooth-enabled device as a controlled article. As a result, NTESS did not go through the established approval process to allow the use of a controlled article within a security area or seek approval of an exception to policy in the required manner (i.e., approval by the Sandia Field Office [SFO] Officially Designated Federal Security Authority [ODFSA]).

Since the Bluetooth-enabled device was not appropriately identified as a controlled article, NTESS determined this event did not qualify as an incident of security concern; therefore, it was not reported into SSIMS. As a result, NTESS did not conduct a causal analysis and did not develop a corrective action plan.

In accordance with 10 Code of Federal Regulations (C.F.R.) § 824.4 *Civil penalties*, subsection (e), the Office of Enforcement and DOE/NNSA have elected to resolve potential noncompliances with requirements enforceable under 10 C.F.R. Part 824, *Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations*, through execution of a Settlement Agreement. In deciding to enter

into this Settlement Agreement, DOE/NNSA considered past enforcement activities as well as the effort conducted by NTESS to mitigate and correct deficiencies.

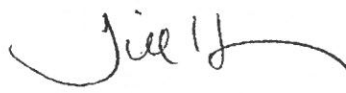
DOE/NNSA and the Office of Enforcement reserve the right to re-open this investigation if DOE later becomes aware that NTESS provided any false or materially inaccurate information. Further, if there is a recurrence of classified information security deficiencies similar to those identified in this Settlement Agreement, or a failure to comply with the terms and conditions prescribed in the Settlement Agreement (or other related actions that NTESS subsequently determines to be necessary) to prevent recurrence of the identified issues, then the Office of Enforcement may pursue additional enforcement activity.

The Office of Enforcement, NNSA Defense Nuclear Security (NA-70), and SFO will continue to closely monitor NTESS's implementation of classified information security requirements until the issues associated with this Settlement Agreement are fully resolved.

Enclosed please find the Settlement Agreement for your signature. Within 1 week from the date of receipt, sign and return the Settlement Agreement to the Office of Enforcement. Please follow all instructions specified in the enclosure and keep a copy for your records. By signing this Settlement Agreement, you agree to comply with all terms, including payment of the settlement sum, specified in section IV of the Settlement Agreement and in the manner prescribed therein.

If you have any questions concerning this Settlement Agreement, please contact the Office of Enforcement at 301-903-7707, or your staff may contact Ms. Carrienne Zimmerman, Director, Office of Security Enforcement, at (301) 351-1186.

Sincerely,



Jill Hruby
Under Secretary for Nuclear Security
Administrator, NNSA



Anthony C. Pierpoint
Director
Office of Enforcement
Office of Enterprise Assessments

Enclosures: Settlement Agreement (SSA-2024-01)
Electronic Funds Transfer Instructions

cc: Maria Braem, National Technology and Engineering Solutions of Sandia, LLC
Daryl Hauck, NA-SN

In the matter of) Report No. DOE-OIG-24-11
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National Technology and)
Engineering Solutions of)
Sandia, LLC)
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) Settlement Agreement SSA-2024-01

SETTLEMENT AGREEMENT AMONG THE U.S. DEPARTMENT OF ENERGY,
THE NATIONAL NUCLEAR SECURITY ADMINISTRATION, AND NATIONAL
TECHNOLOGY AND ENGINEERING SOLUTIONS OF SANDIA, LLC

I

National Technology and Engineering Solutions of Sandia, LLC (NTESS) is responsible for the management and operation of the Department of Energy, National Nuclear Security Administration (DOE/NNSA) Sandia National Laboratories. NTESS is the prime contractor under Contract No. DE-NA0003525 (Contract) entered into with the DOE/NNSA Sandia Field Office.

II

On January 30, 2024, the Office of Enforcement was notified of a DOE Office of the Inspector General (OIG) Inspection Report, *Allegations Regarding Security and Safety Concerns at Sandia National Laboratories* (DOE-OIG-24-11), dated January 30, 2024. On September 2, 2022, the OIG hotline received two complaints alleging inappropriate management response to security and safety events at Sandia National Laboratories in Albuquerque, New Mexico (SNL-NM). The complainant alleged that NTESS allowed a vendor to introduce and use a Bluetooth-enabled device in a Limited Area (LA), where unapproved electronic devices are expressly prohibited.

NTESS purchased a large, multimillion-dollar tool to enhance production capabilities at SNL-NM. The vendor required that a Bluetooth-enabled device be attached to the tool during transit and installation to validate the warranty. The vendor's warranty required the Bluetooth-enabled device to track and verify proper handling and environmental conditions and that only the vendor could remove the Bluetooth-enabled device from the tool. The Bluetooth-enabled device was capable of recording data during transit and later transmitting the data to the vendor via Bluetooth technology.

The OIG substantiated the allegation that NTESS management allowed a vendor to introduce and use a prohibited Bluetooth-enabled device in an LA at SNL-NM. On April 27, 2022, based on a determination that the Bluetooth-enabled device was not a controlled article, NTESS approved an exception to the NTESS-controlled articles policy for the Bluetooth-enabled device

on a temporary basis (i.e., five days). NTESS did not properly identify the Bluetooth-enabled device as a controlled article; therefore, NTESS did not go through the established approval process for allowing the use of a controlled article within a security area or seek approval of an exception to policy in the required manner (i.e., approval by the Sandia Field Office [SFO] Officially Designated Federal Security Authority [ODFSA]). Additionally, NTESS approved an extension of the exception on May 5, 2022, after the original exception had expired on May 1, 2022. Since the Bluetooth-enabled device was not appropriately identified as a controlled article, NTESS determined that this event did not qualify as an Incident of Security Concern (IOSC); therefore, it was not reported. As a result, a causal analysis was not conducted, and a corrective action plan was not developed.

Pursuant to DOE regulations at Title 10, Code of Federal Regulations (C.F.R), Part 824, Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations, and based on the OIG Inspection Report and discussions with the NNSA Program Office and Field Office, the Office of Enforcement initiated an investigation into the April/May 2022 security event. On March 22, 2024, the Office of Enforcement notified NTESS of its decision to investigate the facts and circumstances associated with potential deficiencies of NTESS's security programs. The Office of Enforcement conducted an onsite investigation during May 14-16, 2024.

In a July 17, 2024, letter to the Office of Enforcement, NTESS requested a Settlement Agreement to settle this matter under investigation. The settlement request outlined actions to prevent recurrence, including:

- Improvements to the Controlled Articles Registration Process (CARP) and corresponding website;
- Development of PHYS100, *Controlled Articles*, training;
- Implementation of a comprehensive Safeguards and Security Awareness campaign focused on controlled articles;
- Submission of the Prohibited and Controlled Articles Project Plan to the Sandia Field Office;
- Conducting a Safeguards & Security Program Assessment of the Security Incident Management Program (SIMP); and
- Execution of an effectiveness review following the completion of corrective actions in accordance with NTESS policy.

III

Pursuant to 10 C.F.R. § 824.4(e), DOE/NNSA may enter into a settlement, with or without conditions, at any time during an outstanding enforcement proceeding if the settlement is consistent with the objectives of the Atomic Energy Act of 1954, as amended, and DOE classified information protection requirements enforceable under 10 C.F.R. Part 824.

To resolve potential noncompliances with DOE classified information security requirements identified by the investigation, and in consideration of NTESS's actions taken since the receipt of

the DOE OIG Inspection Report, DOE/NNSA has elected to enter into settlement. DOE/NNSA and NTESS 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, the sufficiency and adequacy of which are acknowledged by DOE/NNSA and NTESS (hereinafter the "Parties"), the following terms represent agreement by the authorized representatives of the Parties to resolve by settlement the potential noncompliances at SNL-NM, in lieu of an enforcement action that DOE/NNSA may issue pursuant to 10 C.F.R. § 824.6.

1. NTESS shall fully implement all corrective actions and improvement actions outlined in the NTESS Request for Settlement, dated July 17, 2024, as set forth below in subparagraphs a. through h. In addition, NTESS shall obtain SFO approval for changes to any corrective actions and improvement actions and shall communicate approved changes to the Office of Enforcement.
 - a. NTESS shall obtain ODFSA approval of the revised Prohibited and Controlled Articles Project Plan.
 - b. NTESS shall implement an ODFSA-approved Controlled Articles Program with a Controlled Articles Registration Process tool following the ODFSA approved Prohibited Controlled Articles project plan.
 - c. NTESS shall deploy PHYS100, *Controlled Articles* training and provide evidence to SFO that all required individuals have received the training in Fiscal Year 2025.
 - d. NTESS shall provide evidence to SFO that implementation and maintenance of a Safeguards and Security Awareness campaign that is focused on controlled articles is accomplished.
 - e. NTESS shall provide evidence to SFO that corrective actions resulting from the Safeguards & Security Program Assessment of the SIMP have been accomplished.
 - f. NTESS shall obtain ODFSA approval of the revised SIMP program plan that addresses controlled article IOSCs.
 - g. NTESS shall enhance the Controlled Articles Program in their Contractor Assurance System and will include the Controlled Articles requirements in their Self-Assessments consecutively for the next 3 years.

- h. NTESS shall continue with the proof-of-concept review of technologies that may assist with controlled articles management and obtain ODFSA approval for implementation of engineering controls, if deemed necessary.
2. NTESS shall notify the Office of Enforcement and SFO in writing upon completion of the actions specified in items 1.a. – 1.h. above.
3. NTESS shall complete a final effectiveness review of the corrective and improvement actions specified in items 1.a. – 1.h. above in accordance with NTESS's issue management process and shall provide the results of the review(s) to the Office of Enforcement and SFO.
4. NTESS shall pay the amount of \$170,625 reflecting an agreed upon monetary remedy in lieu of the issuance of an enforcement action with the proposed imposition of a civil penalty pursuant to 10 C.F.R. § 824.6.
5. NTESS agrees to return a signed copy of this Settlement Agreement, within one week from the date of receipt, via email, to the Director, Office of Enforcement at enforcementdocketclerk@hq.doe.gov.
6. The Effective Date of this Settlement Agreement shall be the date upon which NTESS signs this Settlement Agreement.
7. NTESS shall remit the monetary remedy of \$170,625 by electronic funds transfer (EFT) or automated clearing house (ACH) Transfer to the Department of Energy through the U.S. Treasury within 30 calendar days after the effective date of this Settlement Agreement. The Office of Enforcement must be copied at enforcementdocketclerk@hq.doe.gov when the electronic payment is submitted to the U.S. Treasury. Instructions for sending payment in U.S. dollars via EFT or ACH Transfer are enclosed.
8. This Settlement Agreement shall constitute a full and final settlement of the potential noncompliances identified in the DOE OIG Inspection Report and the Office of Enforcement investigation, subject to the following: (a) NTESS's payment of the monetary remedy in accordance with item 7 above; and (b) NTESS's completion of all actions set forth in items 1, 2, and 3 above to the satisfaction of the Office of Enforcement.
9. Neither the monetary remedy nor any costs, as defined in the Federal Acquisition Regulation 48 C.F.R. § 31.205-47, incurred by, for, or on behalf of NTESS relating to coordination and cooperation with DOE concerning the investigation of matters covered by this Settlement Agreement, shall be considered allowable costs under the Contract. However, cost incurred by, for, or on behalf of NTESS relating the development and implementation of corrective actions, including costs associated with the effectiveness review required under item 3 above may be considered allowable costs under the Contract.
10. This Settlement Agreement does not preclude the Office of Enforcement from re-opening the investigation nor preclude DOE/NNSA from issuing an enforcement action under 10 C.F.R. § 824.6 with respect to a potential noncompliance if: (a) after the Effective Date (as defined in item 6 above), DOE/NNSA becomes aware of any false or materially inaccurate facts or

information provided by NTESS; (b) there is a recurrence of classified information security deficiencies similar to those identified above; or (c) NTESS fails to complete all actions identified in item 1, 2, and 3 above in a timely and effective manner to prevent recurrence.

11. Any modification to this Settlement Agreement requires the written consent of all Parties.
12. NTESS waives any and all rights to appeal or otherwise seek judicial or administrative review of the terms of this Settlement Agreement. DOE/NNSA retains the right to judicially enforce the provisions of this Settlement Agreement by all available legal means.
13. This Settlement Agreement is issued pursuant to DOE's authority under Section 234B of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2282b), and the implementing provisions of 10 C.F.R. Part 824 governing enforcement of DOE classified information security requirements.
14. This Settlement Agreement shall become a Final Order after the signed copy, referenced in item 5 above, is filed by the Office of Enforcement's Office of the Docketing Clerk.

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

FOR National Nuclear Security
Administration

FOR National Technology and Engineering
Solutions of Sandia, LLC

 Date 11/15/24

Jill Hruby
Under Secretary for Nuclear Security
Administrator, NNSA

 Date 11/21/2024

James S. Peery
Laboratories Director
National Technology and Engineering
Solutions of Sandia, LLC

FOR Office of Enforcement

 Date 11/18/24

Anthony C. Pierpont
Director
Office of Enforcement
Office of Enterprise Assessments