



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

January 22, 2019

CERTIFIED MAIL

Ms. Julie Reddick
[REDACTED]
[REDACTED]

Dear Ms. Reddick:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2019-00005)

This letter is in response to the electronic Freedom of Information Act (FOIA) request you submitted to this office requesting the following information:

“Please provide a copy of three letters, including all attachments: 16-WTP-0054, dated about March, 2016, Subject: Special Report of Management of Suspended Procurements at the Waste Treatment and Immobilization Plant Project, (ORP letter); 18-WTP-0041, dated about May 2018, Subject: Factual Accuracy Review of Letter Related to Waste Treatment and Immobilization Plant Design and Quality, (ORP Letter); 18-CPM-0119, dated about August 2018, Subject: Transmittal of Defense Contract Audit Agency’s Audit on Bechtel National, Inc.’s Subcontract Classification and Request for Plan of Action to Address the Findings (ORP Contracting Officer’s Letter).”

Your request was assigned to the U.S. Department of Energy (DOE) Office of River Protection (ORP) to conduct a search of its files for responsive information. Partial responses to your request were provided to you on December 6 and December 26, 2018. This is our final response and enclosed is a copy of ORP letter No. 18-CPM-0119 dated August 15, 2018. Within the attachment to the requested letter, this office has made certain deletions pursuant to Exemption 4 of the FOIA.

Exemption 4 protects “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” Information that is required to be submitted by a person is “confidential” for purposes of Exemption 4 if disclosure is likely to either (1) impair the Government’s ability to obtain reliable and high quality necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information is obtained. Certain confidential business practices that belong to Bechtel National, Inc. (BNI) have been redacted from the documents as this information could be used by a competitor to gain insight into BNI’s business practices and strategies which are unique to them and have been developed at their expense. The result of such a release would place BNI at a competitive disadvantage by giving their competitors insight into how they do business.

In interpreting the FOIA, courts have held that information may be withheld if disclosure would be likely to impair the government's ability to obtain similar information in the future. If confidential business practices and strategies were released, it would clearly impair the government's ability to obtain such information because companies would be less willing to risk disclosure of their information.

Additionally, the document contains certain information that is exempt from disclosure under Exemption 5 of the FOIA. Exemption 5 incorporates the deliberative process privilege that protects advice, recommendations, and opinions that are part of the process by which agency decisions and policies are formulated. However, in this particular matter, we are making a discretionary release of the deliberative content and not invoking Exemption 5 for portions of the document.

All releasable information in these documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for this determination. Should you choose to exercise this right, your appeal must be filed within 90 days after receipt of this letter. You may submit your appeal by email to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (this is the method preferred by the Office of Hearings and Appeals). Alternatively, any such appeal may be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615. The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Should you choose to appeal, please provide my office with a copy of your appeal. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

You may contact the DOE Richland Operations Office FOIA Public Liaison, Richard Buel, at (509) 376-3375, or by mail at P.O. Box 550, Richland, Washington, 99352 for any further assistance or to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

Ms. Julie Reddick

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January 22, 2019

If you have any questions regarding this matter, please contact me at our address or at (509) 376-6288.

Sincerely,

-Original signed by-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosure



OFFICE OF RIVER PROTECTION

P.O. Box 450, MSIN H6-60
Richland, Washington 99352

AUG 15 2018

18-CPM-0119

Mr. C.K. Binns, Business Services Manager
Bechtel National, Inc.
2435 Stevens Center Place
Richland, Washington 99354

Mr. Binns:

**CONTRACT NO. DE-AC27-01RV14136 – TRANSMITTAL OF DEFENSE CONTRACT
AUDIT AGENCY’S AUDIT ON BECHTEL NATIONAL, INC.’S SUBCONTRACT
CLASSIFICATION AND REQUEST FOR PLAN OF ACTION TO ADDRESS THE FINDINGS**

The purpose of this letter is to (i) transmit the Defense Contract Audit Agency’s (DCAA) audit report (attached) on Bechtel National Inc.’s (BNI) subcontract classification, and (ii) direct BNI to provide a formal response on how the problems identified in the audit, and the recommendations put forth, will be addressed. DCAA’s findings and opinion pose an unacceptable risk to ORP. As such, please provide the formal response to the U.S. Department of Energy, Office of River Protection (ORP) no-later-than 30 days from the date of this letter. In addition, please set up a meeting 10 days after response submission to discuss with ORP.

The DCAA auditors found four material weaknesses which resulted in them issuing an adverse opinion. The auditors concluded BNI’s Bechtel Procurement System (BPS) for the Waste Treatment and Immobilization Plant (WTP) contract “is unable to ensure that subcontract types are accurately recorded as either a firm-fixed price or flexibly priced subcontract to ensure compliance with prime Contract Clause, I.112(c).”

The auditors found that approximately 30% of the firm-fixed priced subcontracts sampled should have been classified as flexibly priced. Contract Clause I.112(c) requires flexibly priced subcontract costs to be audited but if the contract type is misclassified as firm-fixed price, the costs incurred will miss the contract-required audits.

If you have any questions, please contact me at (509) 372-0098.

Ronnie L. Dawson
Contracting Officer

CPM:RLB

Attachment

cc w/attach: See page 2

~~Document transmitted contains ORO information.
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OFFICIAL USE ONLY INFORMATION
Name/Org D. Riehle, RL/ORP FOIA Officer Date 01/22/2019

Mr. C.K. Binns
18-CPM-0119

-2-

AUG 15 2018

cc w/attach:
D.C. Kemp, RL-FIN
L. Parker, RL-FIN
T.L. Toon, RL-FIN
BNI Correspondence

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Attachment
To
18-CPM-0119

DCAA Audit Report No. 4281-2018D17900001

DOES NOT CONTAIN
OFFICIAL USE ONLY INFORMATION

Name/Org: D. Biehle, RI/ORP FOIA Officer Date: 01/22/2019

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May be exempt from public release under the Freedom of Information Act
(5 U.S.C. 552), Exemption number (b) 7 and category 4, Commercial/Proprietary
Department of Energy review required for public release
Name/Org: Ronnie Lawson, CPM-ORP Date: 01/11/19
Guidance (if applicable): N/A~~

~~Official Use Only~~



DCAA
DEFENSE CONTRACT AUDIT AGENCY

Audit Report No. 4281-2018D17900001

Silicon Valley Branch Office

2105 S. Bascom Avenue, Suite 310

Campbell, CA 95008-3295

June 29, 2018

**Independent Audit Report on Bechtel National, Inc.'s
Contract Type Classification of Waste Treatment and
Immobilization Plant Subcontracts under Prime
Contract DE-AC27-01RV14136**

SPECIAL WARNING: The contents of this audit report must not be released or disclosed, other than to those persons whose official duties require access in accordance with Department of Defense (DOD) regulations. This document may contain information exempt from mandatory disclosure under the Freedom of Information Act. Unauthorized disclosure of proprietary, contractor bid or proposal or source selection information may violate Title 18 United States Code (U.S.C.) § 1905 and/or Title 41 U.S.C. § 2102. Please see the Audit Report Distribution and Restrictions section of this report for further restrictions.

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EXECUTIVE SUMMARY

ABOUT BECHTEL NATIONAL, INC.

Bechtel National, Inc. (BNI) is an operating company of Bechtel Group, Inc. (BGI). BGI, incorporated in Delaware in 1980, is a privately held company headquartered in San Francisco, California with worldwide operations.

Bechtel Nuclear, Security and Environmental (B-NS&E) is BGI's U.S. Government contracting arm which serves as both an intermediate home office and a source of direct and/or indirect labor for BNI. BNI follows a uniform set of accounting policies and procedures and utilizes indirect rates developed by B-NS&E. Accounting practices are applied to contracts of various legal entities. BNI performs and manages the majority of BGI's federal government contracts and specializes in providing a wide range of services, including large project management and integration, maintenance and operations, design, construction, construction management, chemical demilitarization, and environmental remediation for unique, one-of-a-kind projects in the areas of defense, space, and the nuclear fuel cycle. BNI also serves as an intermediate home office for BGI's Management and Operating (M&O) and Management and Integration (M&I) contracts. The M&O/M&I contracts are performed at Government-Owned Contractor-Operated (GOCO) facilities.

BNI (1S307) is primarily located at 50 Beale Street, San Francisco, California.

(b)(4)

(b)(4)
(b)(4)

BNI uses a calendar year ending December 31 as its accounting period. BNI's consolidated revenue for calendar year CY 2017 was (b)(4) and (b)(4) percentage of government sales.

BNI had (b)(4) employees in CY 2017; however, BNI (b)(4) (b)(4) (b)(4) (b)(4) had (b)(4) employees during CY 2017.

ABOUT THIS AUDIT

On November 21, 2017, the Department of Energy (DOE), Office of River Protection (ORP), requested an audit of BNI's subcontract-type classification on Waste Treatment and Immobilization Plant (WTP) under Prime Contract DE-AC27-01RV14136 from December 11, 2000 (inception of the WTP contract) to October 31, 2017. Proper classification of subcontract type is critical for compliance with the requirements contained in Clause I.112(c) of the WTP contract.



WHAT WE FOUND

We found that 33 percent of the subcontracts reviewed were not correctly classified in Bechtel's Procurement System (BPS) which is required to comply with Contract Clause I.112(c) which states:

Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

The table in the Exhibit B, page 18, presents the subcontract number, subcontractor name, attributes tested, errors found, and types of errors.

REPORT ON BNI WASTE TREATMENT PLANT SUBCONTRACT CLASSIFICATION

At DoE-ORP's request, an audit of BNI's WTP contract's subcontract-type classification was performed on subcontracts awarded from inception of the prime contract on December 11, 2000 through October 31, 2017. The primary objective of this audit is to determine if the WTP subcontract contract types in BNI's BPS are properly classified as firm-fixed-price or flexibly-priced. As part of our review, we will verify whether or not the WTP subcontract listing provided by BNI is complete. Our examination will cover the period from inception of the WTP contract on December 11, 2000 through October 31, 2017.

For subcontracts reviewed subject to Contract Clause I.112(c), we will document the status of subcontract audits, the audit number, audit party identification, and other pertinent audit details. If the subcontract being reviewed is indicated as firm-fixed-price type in BPS, we will identify and determine if any modification changed the subcontract type and/or have flexibly priced components.

Management's Responsibility

BNI's management is responsible for ensuring that subcontract types are accurately recorded in the BPS system as either fixed price or flexibly priced in compliance with Contract Clause I.112(c), including the design, implementation, and maintenance of internal control to prevent or detect and correct noncompliance due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on BNI's compliance based on our examination. We conducted our examination in accordance with Generally Accepted Government Auditing Standards (GAGAS).

GAGAS requires that we plan and perform the examination to obtain reasonable assurance about whether BNI's BPS system classification of WTP subcontracts materially comply with Contract Clause I.112(c). An examination includes performing procedures to obtain evidence about whether BNI's WTP subcontract classification materially comply with Contract Clause I.112(c). The nature, timing, and extent of the procedures selected depend on our professional judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error, and involve examining evidence about BNI's BPS system classification of WTP subcontracts.

Specifically we performed the following:

1. Obtain a subcontract listing from BNI from December 11, 2000 to October 31, 2017;
2. Verify the completeness of the BNI subcontract listing;
3. Review the subcontract listing by using the sampling selection discussed on November 9, 2017 to ensure the subcontracts were properly classified as firm-fixed-price or flexibly-priced including, but not limited to:
 - a. Determining appropriate sample sizes and timely communicate to DOE the results of sample testing to determine if testing needed to be expanded, see Exhibit B, page 18;
 - b. Identifying whether firm-fixed-price subcontract modifications changed the subcontract type and/or had flexibly priced components, see Appendix 1, page 28; and
 - c. Identifying the status of whether a subcontract audit was completed to recognized audit standards, audit number, audit party identification, and any other pertinent audit details, see Appendix 1, page 29.

We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our audit opinion. Our examination does not provide a legal determination on BNI's compliance with the criteria cited above.

Basis for Adverse Opinion

Our examination disclosed material weaknesses with the WTP subcontract classification in the BPS system and BNI's related policies and procedures which does not allow BNI to comply with Contract Clause, I.112(c), described in Exhibit A, page 8.

MATERIAL WEAKNESSES

1. BNI's BPS system for the WTP contract is unable to ensure that subcontract types are accurately recorded as either a fixed price or flexibly priced subcontract to ensure compliance with prime Contract Clause, I.112(c). See Exhibit A, page 8 and Exhibit B, page 18.
2. Bechtel Systems Infrastructure, Inc. (BSII)/Bechtel Nuclear Security and Environmental (BNS&E) Procurement Procedure 3.2, Revisions No. 004 *Subcontract Formation*, lacks a requirement for the procurement representatives to review and understand the applicable subsections of FAR Part 16 *Types Of Contracts* and FAR Part 30 Subpart 00 Section 1 - *Definitions* for fixed-price versus flexibly-priced contracts and subcontracts when selecting the contract types prior to determining subcontract award. See Exhibit A, page 8 and Exhibit B, page 18.
3. BNI does not have a uniform BPS policy, Standard Operating Procedure, or Desktop Instruction which mirrors its Procurement Procedure 3.2 to ensure the original contract award, or modification to the original subcontract award is prepared in a manner which is consistent with the procurement representatives contract type determination. See Exhibit A, page 8 and Exhibit B, page 18.
4. In BNI's "Exhibit C (Quantities, Pricing, and Data)" contained in the original subcontract award/change order/modification does not clearly identify the contract type. This causes the procurement representatives to use different subcontract type definitions to describe the same contract type; resulting in an inconsistent contract type being entered in BPS. See Exhibit A, page 8 and Exhibit B, page 18.

The material weaknesses are described in detail within the Statement of Conditions and Recommendations (SOCAR), in Exhibit A, page 8.

Adverse Opinion

In our opinion, BNI's BPS system for the WTP contract is unable to ensure that subcontract types are accurately recorded as either a firm-fixed price or flexibly priced subcontract to ensure compliance with prime Contract Clause, I.112(c). Details are in Exhibit A, page 8.

EXIT CONFERENCE

We provided a draft copy of the report and discussed the results of our examination with (b)(4);(b)(6) in an exit conference held on June 19, 2018. BNI representatives both agreed and disagreed with certain sections of our findings. The complete text of the contractor's response appears as Appendix 3, see page 34.

DCAA PERSONNEL

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General information on audit matters is available at <http://www.dcaa.mil/>.

AUDIT REPORT AUTHORIZED BY:



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cn=DOWNER.DAVID.W.12319674
40
Date: 2018.06.29 16:47:48 -0700

/for/ VIVIAN CUSI
Branch Manager
DCAA Silicon Valley Branch Office

AUDIT REPORT DISTRIBUTION

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RESTRICTIONS

- The contents of this audit report should not be released or disclosed, other than to those persons whose official duties require access in accordance with Department of Defense (DoD) Manual 5200.01, Volume 4 - DoD Information Security Program, February 2012, Enclosure 3, paragraph 2.d. This document may contain information exempt from mandatory disclosure under the Freedom of Information Act. Exemption 4, of the Freedom of Information Act, which addresses proprietary information, may apply.

It is not practical to identify during the conduct of the audit those elements of the data that are proprietary. You should make proprietary determinations in the event of an external request for access. Unauthorized disclosure of proprietary information violates Title 18 United States Code (U.S.C.) 93 §1905 and, if the information is contractor bid or proposal or source selection information, Title 41 U.S.C. 21 § 2102. Any person who unlawfully discloses such information is subject to penalties such as fines, imprisonment, and/or removal from office or employment.

2. Under the provisions of Title 32, Code of Federal Regulations, Part 290.7(b), the Defense Contract Audit Agency will refer any Freedom of Information Act requests for audit reports received to the cognizant contracting agency for determination as to releasability and a direct response to the requestor.
3. The Defense Contract Audit Agency has no objection to the release of this report, at the discretion of the contracting agency, to authorized representatives of Bechtel National, Inc.
4. Do not use the information contained in this audit report for purposes other than action on the subject of this audit without first discussing its applicability with the auditor.

Statement of Conditions and Recommendations**a. Condition**

The Bechtel Procurement System (BPS) used on the WTP prime contract does not ensure subcontract types are accurately recorded as either a firm-fixed price or flexibly priced subcontract to ensure compliance with Contract Clause, I.112(c) which states:

Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

Bechtel Systems Infrastructure, Inc. (BSII)/Bechtel Nuclear Security and Environmental (BNS&E) Procurement Procedure 3.2, Revisions No. 004 *Subcontract Formation*, lacks a requirement for the procurement representatives to review and understand the applicable subsection of FAR Part 16 *Types Of Contracts* for the contract types selected prior to determining subcontract award. BNI does not have a uniform BPS policy, standard operation procedure, or desktop instruction which mirrors its Procurement Procedure 3.2 to ensure the original award (OA), or modifications to the OA / purchase orders are prepared in a manner which is consistent with the procurement representatives' contract type determination. In addition, BNI's OA and change orders or modifications, typically documented within the agreement in Exhibit C (Quantities, Pricing, and Data), does not clearly identify the contract type which results in the procurement representatives using different subcontract type definitions to describe the same contract type. As a result, BNI's BPS procurement representatives must "interpret" the intent of the original award (OA) and any subsequent revision or change orders which results in an inconsistent contract type (fixed or flexibly priced) being entered in BPS.

The WTP prime contract requires BNI to comply with Contract Clause I.112(c), which requires BNI to ensure that flexibly priced subcontract costs are audited by BNI or to coordinate an audit with the cognizant Federal Government Agency. To ensure flexibly priced subcontracts or flexibly-priced components of firm fixed-priced subcontracts are audited, BNI's purchasing system, including its BPS, must have an adequate system description including policies, procedures, and purchasing practices that comply with the Federal Acquisition Regulations (FAR) and contract terms. BNI's BPS system must also ensure that all applicable purchase orders and subcontracts contain all flow down provisions, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract. The system must be able to document which purchase orders / subcontracts are subject to Government review and its system must have controls to ensure appropriate subcontractor surveillance of costs incurred, when they are flexibly priced.

(b)(4)

(b)(4)

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(b)(4)

(b)(4)

During our audit, we requested a listing of all purchase orders within BPS as of October 31, 2017. BNI provided a purchase order listing which consisted of [redacted] subcontracts [redacted] less two placeholders). We developed an attribute statistical sampling plan and statistically identified [redacted] transactions for testing. During our field work, we noted that [redacted] subcontract agreements were consultant agreements, and therefore, were considered not applicable, thus our testing was limited to [redacted] subcontracts. We did not replace the [redacted] consultant agreements since the testing resulted in a failure and the replacements would not have changed our adverse opinion. Of the [redacted] remaining samples, our field work identified [redacted] BPS records which were not correctly classified in BPS. This resulted in a 33 percent failure rate.

The following are types of errors that we identified (for a full analysis, see Exhibit B, page 16):

1. Sample #14, [redacted] Subcontract # [redacted] Subcontract Value of [redacted] - BPS identifies the subcontract type as labor hour. We determined by reviewing the subcontract documentation that the subcontract type is firm-fixed price. The majority of the costs are fixed while a small portion is flexibly priced. BNI agreed that this should have been classified as firm-fixed price.
2. Sample #38, [redacted] Subcontract # [redacted] Subcontract Value of [redacted] - BPS identifies the subcontract type as firm fixed price. We determined by reviewing the subcontract documentation that the subcontract type is flexibly priced. The costs are based on the actual hours worked and travel expenses incurred. No firm value was determined.
3. Sample #77, [redacted] Subcontract # [redacted] [redacted] Subcontract Value of [redacted] - BPS identifies the subcontract type as firm fixed rate. We determined by reviewing the subcontract documentation that the subcontract type is flexibly priced. The quantities are estimated (not fixed).

Contract Clause I.112(c) which requires flexibly priced subcontract costs incurred to be audited by BNI or if denial of access to records is asserted to by its subcontract vendors, the arrangement for an audit by the cognizant Federal Agency. All flexibly priced subcontracts are subject to audit; however, if the contract type is misclassified as firm fixed price, the costs incurred are not subject to audit, its subcontractor books and records are not available for review in accordance with FAR 52.215-2, *Audit and Records - Negotiation*, and the costs incurred may not be in compliance with FAR 52.216-7 - *Allowable Cost and Payment*.

FAR 52.215-2(b), *Examination of Costs*, indicates that if this is a cost-reimbursement, incentive, time and materials, labor-hour, or price redeterminable contract, or any combination of these, the Contracting Officer shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. FAR 52.215-2(c), states that if the Contractor has been required to submit certified cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, in order to evaluate the accuracy,

completeness and currency of the cost of pricing data shall have the right to examine and audit all of the Contractor's records.

FAR 52.216-7(d)(2)(iii)(J), *Final Indirect Cost Rates – Subcontractor Information*, indicates that an adequate indirect cost rate proposal shall include a listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor and includes prime and subcontract numbers and award type.

b. Recommendations

We recommend BNI to implement the follow actions.

1. BSII/BNS&E Procurement Procedure 3.2 should be revised to include a requirement that contract types defined in FAR Part 16 be applied when determining the contract type, and clearly document that determination within its OA agreements with its vendors and any subsequent change order, modification, addendum, or revision to the OA's terms.
2. Create a policy and procedure for the BPS system that is uniformly aligned with BSII/BNS&E Procurement Procedure 3.2 to ensure collaboration between the procurement representative's contract type determinations and subsequent subcontract creation within BPS when securing materials or services from its subcontract vendors.
3. The BPS system should include a process to identify flexibly priced subcontracts and flexibly-priced components of firm fixed-priced subcontracts to ensure compliance with Contract Clause I.112(c), in order to facilitate the timely access to subcontractor books and records in accordance with FAR 52.215-2, and to ensure compliance with FAR 52.216-7.
4. The BPS system should be modified to allow multiple types of subcontract line items.
5. Use terms consistently from subcontract to subcontract to distinguish firm-fixed price or flexibly-priced subcontracts.
6. Provide clear and detailed desk procedures for procurement personnel that ensure subcontract types are entered accurately into BPS.
7. Provide training for procurement personnel who enter subcontract types into BPS so that they have a deeper understanding of firm-fixed price and flexibly-priced contracts according to the definitions provided in FAR Part 16 *Types of Contracts* and FAR Part 30 *Cost Accounting Standards Administration*. We also recommend that there be some management oversight to ensure original and changes are correct. FAR 16 and 30 definition are as follows:

FAR Part 30.001 – *Definitions*, states:

“Fixed-price contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203 (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (Subpart 16.6).”

“Flexibly-priced contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described at 16.203-1(a)(2), 16.204, 16.205, and 16.206;

(2) Cost-reimbursement contracts and subcontracts (Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (Subpart 16.6).”

c. Contractor’s Reaction

BNI disagrees that NS&E Procurement Procedure 3.2, *Subcontract Formation*, does not require the procurement representatives to review and understand contract types from FAR Part 16 prior to award. **On the contrary, NS&E Procurement Procedure 3.2, Section 6.1.2.1**

“General” states: (b)(4)

(b)(4)

The auditors state that there is no policy or instruction that governs recording of the contract type in the system. However, BNI disagrees that the current instructions are inadequate, in that there are multiple procedures that require the accurate recording of commitments, see Appendix 3, page 34 for a listing of procedures. These procedures, coupled with the training program and the availability of detailed help files, constitute adequate direction to the procurement representatives who are performing the work. While the selections that a procurement representative can enter into BPS to signify contract type is limited by the software itself, supervisory and management oversight of procurement activities are mandated by various procedures, see Appendix 3, page 34.

BNI states that the auditors offered no credible evidence that these measures that are implemented by the procedures listed above are ineffective. The evidence cited can be attributed to the changing direction over the long life of the WTP project. However, BNI agrees that files that were misclassified or ambiguous were older files that are not reflective of process changes and improvements that have occurred over the recent years. Improvements have been made to standardize NS&E subcontracts and purchase orders with the contract type listed directly on the cover page as a result of feedback received from other audits. BNI agrees that older WTP subcontracts that were classified as IDIQ or Fixed Rate should have been called T&M. Corrective action was taken in 2009 with DoE ACO concurrence to align and standardize the contract types; any subcontracts that were still active were corrected in the system, see Appendix 3, page 34.

Discussion regarding when subcontracts require an audit has been moved to Appendix 1, Note 6, page 29.

d. Auditor's Response

Our position that BNI's Procurement Procedure 3.2 (PP 3.2) does not require the procurement representative to review and understand FAR Part 16 is unchanged. PP 3.2 Section 5- Responsibilities and Section 6-Procedures does not require procurement representatives or other procurement personnel responsible for the procurement of goods and/or services under a prime contract or subcontract for work with the Government to review/understand FAR Part 16 prior to and during contract selection determination process. We noted that FAR Part 16 is initially discussed in Section 6.1.2.1-General as noted within BNI's response and only to the extent that the procurement should be based on the principles of FAR Part 16. However, PP 3.2 Section 6.1.2.1 is ambiguous since it does not state that FAR Part 16 shall be the basis for determining subcontract types and formation. PP 3.2 Section 6.1.2.1 states, in part, that the

(b)(4) (i) (b)(4) (ii) (b)(4)
(b)(4) and (iii) (b)(4)

As a result, the procurement representatives and BPS data entry procurement personnel, who may or may not have been the originator of the agreement, are tasked with interpreting the intent of the original agreement terms when initiating a BPS purchase order for the contractually agreed upon services. As previously mentioned, Section 6.1.2.1 provides the following (b)(4)

(b)(4) (i) (b)(4) (ii) (b)(4)

(b)(4) (iii) (b)(4) or (iv) (b)(4)
(b)(4) In addition, BNI's procurement procedure is a copy and paste of carefully chosen portions contained within FAR Part 16 and is not a complete representation of the regulation nor does it have a focus on the appropriate application principles of FAR Part 16 when making a contract type determination.

The complexity of subcontract formation necessitates the need on a continuous basis to review and understand all of the applicable subsections of FAR Part 16. This process should be designed to ensure BNI's procurement and BPS data entry personnel understand the pertinent subsection application requirements of FAR Part 16 prior to determining the award type and after award; initiating the purchase order within the BPS system in a manner consistent with the FAR. Historically and currently, BNI's procedures and practices continue to use contract terms which are not defined within FAR Part 16. For example, the BPS system entries for subcontract types include "pricing types" such as Firm Unit Rate, Fixed Unit Rate, Unit Price, and Firm Fixed Unit Rate which do not exist in FAR Part 16. PP 3.2 simply states that the principles contained within FAR Part 16 are a consideration, not a requirement, and only generally to be considered by the Acquisition Service Manager (ASM) / Project Procurement Manager (PPM) during project and/or acquisition planning not the selection.

As to the assertion that we have not provided any credible evidence to demonstrate that it is PP 3.2, dated May 2017 and any subsequent policy update, is inadequate to address the 33 percent error rate noted during our audit efforts. We provide the following additional information obtained during our CY 2010 through 2012 multi-year audit of direct subcontracts.

DCAA Data Request: SBM-2016-004 BNI MY 2010-2012 IC Subcontracts - A/N 2016D10160005- Corrective Actions for the misclassifications of the subcontract type:

- "...2. Please provide an update to the plans of adding a drop down menu with a list of subcontract types in the Bechtel Procurement System.
- 3. Please provide the corrective actions to fix misclassifications and inconsistencies of the subcontract type starting from the creation of a subcontract."

BNI's Response: "...Attached hereto, is an example of a Construction Form of Agreement that we revised several months back with a Procurement Note instruction on selecting type of agreement. The following is an excerpt:

"Subcontract Type/Pricing Terms: (b)(4)
(b)(4)
(b)(4)

New Contract Wizard

Enter New Contract Details
Complete the information as required by your project.

Contract Information:
 Number: [Redacted]
 Dates: Ending
 Contractor:

Award Date: []
 RFP Date: []
 Complete Date: []

Work Performance:
 Country: United States
 Work Performance ID: []
 Required For: []
 Work Order Title: []
 Unit Code: []
 Vendor Data Budget Amt: []

Pricing Type: []
 NTE Value: []
 Expeditor: []
 Material Usage: Service
 Default Currency: US Dollar
 Invoice Marking: []

Buttons: Back, Next, Cancel, Help

(b)(4)

Source: Bechtel's response to request SRM-2016-004		Source: http://arsite.hill.af.mil/afar.htm
CLASSIFICATION	DEFINITION	FAR 16 Applicable Contract Type
Cost Reimbursable	A contract type used when contract work scope definition is not fully developed and provides for payment of allowable incurred costs. Payment is made for the actual costs incurred by contractor for performing work, plus a fee, and includes all cost type contracts that may identify incentive arrangements, e.g. CIF, CPAF, CPFF, CPII, CP, etc.	FAR 16 Subpart 16.3 "Cost-Reimbursement Contracts"
Firm Fixed Price	Contract with a well-delivered scope provides for price not subject to any adjustment.	FAR 16 Subpart 16.2 "Fixed Price Contracts"
Firm Unit Price Fixed Unit Price Unit Price	A form of fixed price contract which is flexible with respect to quantity changes. It is used when the type and complexity of the work is shown on drawings but the quantities for each unit have not been finalized. Note: These terms are for the same type contract and are interchangeable.	FAR 16 Subpart 16.5 "Indefinite Delivery Contracts"
Firm Fixed Unit Rate	When a contract provides for payment of a fixed dollar amount per unit of a variable quantity of service, it is referred to as a "fixed rate" or "fixed hourly rate" contract. These generally do not include an element of materials and are considered to be in the fixed price category of subcontracts.	FAR 16 Subpart 16.5 "Indefinite Delivery Contracts"
Time and Materials / Labor Hour	Contract provides for supplies or services on the basis of direct labor hours at specified fixed hourly rates and materials, if applicable. T&M labor, equipment and associated items are charged at agreed upon rates which include factors for overhead expenses and profit. Materials are charged at cost plus a percentage mark up. These typically include fixed labor rates but may include materials at cost and is considered to be in the flexibly price category of subcontracts.	FAR 16 Subpart 16.6 "Time and Material, Labor Hour, and Letter Contracts"

Based on BNI's responses to DCAA auditor effort, noted above during current and prior audit efforts, it is observable that the procurement representative, ASM/PPMs, and other procurement representatives are unaware of or otherwise do not understand the types of contracts

defined by FAR Part 16 as BNI continues to utilize contract types which are not inclusive of FAR Part 16 subcontract types.

DCAA's position that no policy exists for its BPS system for recording contract types which are consistent PP – 3.2 remains unchanged.

In Data Request WPM-2018-08 WTP subcontract classification procedures, we asked if BNI had any formal policies or procedures for the BPS system. BNI's response was:

"There are no formal procedures that describe the BPS data entry, but there are many informal guides published on the BPS web site."

BNI further asserts that PP 3.2, Section 6.1.2.1 "General," that the existence of multiple procedures which require the accurate recording of commitments, coupled with training programs and the availability of detailed help files, constitutes an adequate direction to the procurement representatives who are to perform the work lacks merit. It lacks merit because we determined that 33 percent of its subcontracts were inadequately recorded within its system during our audit of its WTP subcontract agreements and data entry within its BPS system. In addition, prior audit efforts have determined that similar errors occur with BNI's DoD contracts.

List of Misclassification on Audit Evaluation

Bechtel Procurement System (BPS) Records			Audit Evaluation		
Sample Number	Subcontractor	Subcontract Types in BPS	Flexible-Priced or Firm-Fixed-Price	Types of Misclassification * (see footnote)	
4	(b)(4)	Firm Fixed Rate	Flexibly-Priced	I	
7		Firm Fixed Rate	Flexibly-Priced	I	
11		Firm Fixed Rate	Flexibly-Priced	I	
13		Firm Fixed Rate	Flexibly-Priced	I	
14		Labor Hour	Firm-Fixed-Price	II	
19		Firm Fixed Rate	Flexibly-Priced	I	
20		Firm Fixed Rate	Flexibly-Priced	I	
22		Firm Fixed Rate	Flexibly-Priced	I	
25		Firm Fixed Rate	Flexibly-Priced	I	
28		Firm Fixed Rate	Flexibly-Priced	I	
30		Firm Fixed Rate	Flexibly-Priced	I	
37		Firm Fixed Rate	Flexibly-Priced	I	
38		Firm-Fixed Price	Flexibly-Priced	III	
40		Firm Fixed Rate	Flexibly-Priced	I	
42		Firm Fixed Rate	Flexibly-Priced	I	
47		Firm Fixed Rate	Flexibly-Priced	I	
48		Firm Fixed Rate	Flexibly-Priced	I	
57		(b)(4)	Firm Fixed Rate	Flexibly-Priced	I
63			Firm Fixed Rate	Flexibly-Priced	I
68			Firm-Fixed Price	Flexibly-Priced	III
70	Firm Fixed Rate		Flexibly-Priced	I	
77	Firm Fixed Rate		Flexibly-Priced	I	
78	Firm Fixed Rate		Flexibly-Priced	I	
80	Firm Fixed Rate		Flexibly-Priced	I	
82	Firm Fixed Rate		Flexibly-Priced	I	
89	Firm Fixed Rate		Flexibly-Priced	I	
96	No Record		N/A	IV	
97	Firm Fixed Rate		Flexibly-Priced	I	
101	Firm Fixed Rate		Flexibly-Priced	I	
102	Firm Fixed Rate		Flexibly-Priced	I	

Notes:

Types of Misclassification	Per BPS Record	Per Contract Documents	Incident(s)
I	Firm Fixed Rate (Firm Fixed Price)	Flexibly-Priced	(b)(4)
II	Labor Hour (Flexibly Priced)	Firm-Fixed-Price	
III	Firm Fixed Price	Flexibly-Priced	
IV	No Record		
Total			

a. Summary of Conclusion

We found that 33 percent of the subcontracts reviewed were not correctly classified in the BPS which is required to comply with Contract Clause I.112(c) which states:

Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

b. Contractor Provided Audit Universe

(b)(4)

BNI provided a listing from BPS of all purchase orders/subcontracts totaling (b)(4). We asked BNI to segregate between purchase orders and subcontracts. From BNI's refined list (b)(4) subcontracts were identified, however, two placeholders were removed so total subcontracts for testing totaled (b)(4). BNI also provided their subcontract type definitions.

c. Audit Evaluation

Testing of Completeness of the BNI Subcontract Listing

We reviewed BNI's initial list and noted that it included purchase orders/subcontracts totaling (b)(4) agreements. We performed an over-the-shoulder reperformance of the extract in order to ensure completeness of the list. On January 25, 2018, we clarified with DOE representatives regarding whether they wanted us to review both purchase orders/subcontracts. DOE advised that they only were interested in subcontracts. We asked BNI to filter the list of (b)(4) to isolate only subcontracts which totaled (b)(4) subcontracts which included two placeholders. Subcontracts are identified in the agreement number in positions 8 to 10. BNI provided the following to assist in identifying subcontracts.

(b)(4)

1	2	3	4	5	-	6	7	-	8	9	10	-	11	12	13	14	-	15	16	17	18	19
---	---	---	---	---	---	---	---	---	---	---	----	---	----	----	----	----	---	----	----	----	----	----

Positions 1-5: Bechtel job number (24590 for WTP).

Positions 6-7 Quality class: "QL" – Nuclear Safety Related; "CM" – Non-nuclear or Commercial Quality; "NP" – Non-permanent Plant or "CD" – Commercial Grade Dedication.

Positions 8-9 Subcontracts: "HC" – engineering subcontract and "FC" – field subcontract.

Position 10 Subcontract Type:

- 1 – Construction subcontract, scope of which includes design, furnish and install.
- 2 – Construction subcontract, scope of which includes only furnish and install.
- 3 – Construction subcontract, scope of which includes install services only.
- 4 – Technical services subcontract.
- 5 – General services subcontract.
- 6 – Architect/Engineering (A/E) subcontract.
- 7 – Operations and maintenance (O&M) subcontract.
- 8 – Professional services subcontract.
- 9 – All other types (leases, software licensing, etc.).

Positions 11-14 – Commodity Code: Alpha or combination of alpha and numeric

Positions 15-19 – Sequence Number: A sequential number, system-assigned by commodity code

To test the accuracy of the filtering process, we performed a statistical sample using DCAA's EZQ two step attribute acceptance testing on the agreements BNI classified as purchase orders.

We selected two step attribute acceptance since we are sampling to determine the rate or proportion of errors in the records and do not expect to find errors. The two-step acceptance sampling plan produces a pass/fail test, which places limits on the risk; the test results will be misleading. Two types of risk are controlled when designing the sample: the risk of incorrect acceptance and the risk of incorrect rejection. The risk of incorrect acceptance is defined by the critical error rate (CER) and confidence level (CL) established in our sampling plan. We used a CER of 10 percent and a CL of 90 percent (expresses as 1-the government risk). Therefore, if no errors are found, there would have been at least 90 percent assurance that BNI's actual error rate for this attribute did not exceed the established CER of 10 percent. The risk of incorrect rejection is defined by the false alarm risk (FA-risk) and false alarm error rate (FAER) established in our sampling plan. We used a FA-risk of 50 percent and a FAER of 5 percent (one-half of the CER). Therefore, we have accepted a 50 percent risk if the true universe error rate is less than 2.5 percent; we may falsely reject the universe. Based on the aforementioned criteria, we established a sample size of 29 for the first step and 26 for the second step. If no errors are found in the first step of the samples the sample is considered complete. If errors are found the additional 25 items will be reviewed for a total of 54 items. Our review of the first 29

items selected resulted in no errors; therefore, we were satisfied that the filtering process and identification of the subcontracts were proper.

Testing Contract Classification in BPS

For the BNI filtered subcontract listing discussed above, we performed a one-step acceptance attribute sampling because based on our risk, we determined there is a potential for errors. If the actual error is greater than the CER of 5 percent at CL of 90 percent, FAER of 2.6 percent and FA-risk of 50 percent, the sample would fail (more than 2 errors). Our sample size is [redacted] items.

We selected [redacted] WTP subcontracts from the sample universe of [redacted] subcontracts (less 2 placeholders). Excluding [redacted] consulting agreements not considered subcontracts in our sample, we identified and determined that [redacted] out of [redacted] subcontracts were misclassified. We identified four types of misclassifications in our examination:

1. There were [redacted] subcontracts recorded in BPS as firm fixed rate that were flexibly priced per the intent of the subcontract documents.
2. There was one subcontract recorded in BPS as labor hours that was firm fixed price per the intent of the subcontract documents.
3. There were [redacted] subcontracts recorded in BPS as firm fixed price that were flexibly priced per the intent of the subcontract documents.
4. There was one subcontract that had no subcontract type recorded in BPS. The subcontract type field was blank.

In our sample plan, the acceptance number for the [redacted] audit samples was two misclassifications; however, we have identified [redacted] misclassifications or 33 percent in errors. The upper precision limit of the error rate is 41 percent and the lower precision limit is 25 percent. Accordingly, the total subcontract universe of [redacted] items (less [redacted] placeholders) are unacceptable due to improper classification of firm-fixed-price and flexibly-priced subcontracts in the BPS. BNI has agreed to [redacted] of the errors (22 percent errors or 67 percent of the errors identified) and disagrees on the other [redacted] items (11 percent errors or 33 percent of the errors identified).

In order to identify the root cause of the high error rate, we requested additional information regarding the BPS system. Specifically, the job title of the individual who inputs the WTP subcontract types into BPS. BNI responded that the procurement representative enters contract type into BPS which refers to either a Buyer who inputs purchase orders or a Subcontract Administrator who inputs subcontracts. We asked how the procurement representative knows which contract type to enter into BPS and whether there are any written procedures that described this process. BNI responded that the subcontract type is determined by the procurement representative who enters the coding into BPS at the time of award. Procedure 24590-WTP-GPP-RAPS-PS-3001 *Acquisition Planning, Strategy and Risk Assessments* contains the responsibility for the procurement representative to select the contract type. This procedure

also refers to 24590-WTP-GPP-RAPS-PS-3009 *Subcontract and Purchase Order Formation* for guidance on the various contract types and selection criteria. 24590-WTP-GPP-RAPS-PO-1009 *Electronic File Structure* contains the requirement for commitments to be entered into BPS. BNI also stated that "There are no formal procedures that describe the BPS data entry, but there are many informal guides published on the BPS web site."

We reviewed BNI's policies and procedures on subcontract creations as well as obtaining its subcontract type definitions. We compared BNI subcontract type definitions to the FAR 16 *Types of Contracts* definitions. BPS records the subcontract type in accordance with BNI's terminology that differs from the subcontract types defined in FAR Part 16. We created a table to categorize them as either a flexibly-priced or fixed-price subcontract based on BNI's assertion.

d. Contractor's Reaction and Auditor's Response

(b)(4)
(b)(4)
(b)(4)

(b)(4)

Explanation of our preliminary audit findings, dated May 31, 2018, BNI's initial reaction and our response are annotated as BNI Reaction #1 and DCAA Response #1. In BNI's reactions to our preliminary findings, it agreed with [redacted] but of [redacted] findings. We only responded below to the [redacted] findings where BNI disagreed. We changed our Sample #10 finding to concur with BNI so our final result was a total of [redacted] findings. On June 25, 2018 BNI provided their formal reaction to our June 19, 2018, draft audit finding, see Appendix 3, page 34. BNI's formal reaction and our response are annotated as BNI Reaction #2 and DCAA Response # 2 shown below.

1. **BNI Reaction #1:** Sample #10, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of (b)(4) - "Disagree, this subcontract was priced using a fixed, all-inclusive per-trip price. Original award contained a (optional) labor-hour priced item, but it was removed in Change Order 1. Thus a modification did change the type."

DCAA Response #1: We concur with BNI's reaction that this is a firm-fixed price subcontract; however, our concerns about this subcontract is addressed in Appendix 1, Other Matters, Item 1, page 26.

2. **BNI Reaction #1:** Sample #19, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of \$(b)(4) - "Disagree, this is a Hybrid subcontract where the majority of the cost is tied to fixed, all-inclusive prices for discrete work elements. The LH type elements are comparatively minor. It is not correct to say that modifications ever changed the type."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract based on the following support documents:

- a. In Original Award, Section 2.0 of Exhibit C "Unit Prices" has a fixed Daily Unit Rates Schedule, but there is no defined quantity (dates) throughout the contract; Section 3.0 of Exhibit C states that all travel expenses incurred are reimbursable, and Section 7.0 of Exhibit C "Allowable Costs" states that the actual value of the

subcontract will be calculated on the basis of labor hours actually worked and travel costs actually incurred in accordance with the subcontract documents and the work stipulated in the Statement of Work. Therefore, the final value of the contract is flexible to reflect the actual. (b)(4)

- b. Invoices # (b)(4) and # (b)(4) show the costs are based on the actual hours worked and travel costs incurred not on a firm-fixed value, and was never stated in any part of the contract or modifications. Based on these invoices, labor hours and travel consists majority of the costs rather than fixed, all-inclusive prices. We have other concerns about this subcontract that are addressed in Appendix 1, Other Matters, Item 2, page 28.

BNI Reaction #2: BNI agrees that this subcontract could have been classified as Labor-Hour or T&M in hindsight but still maintain that it does not require any additional audits beyond the invoice performed reviews per BNI procedures.

DCAA Response #2: Based on the invoices we examined above, Labor Hours or T&M are actual hours so that reviewing an invoice will not ensure that the correct hours charged in timesheets or tasks are performed by qualified labor (i.e., adequate positions, skills, and certifications).

3. **BNI Reaction #1:** Sample #25, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of \$(b)(4) - "Disagree. This is a fixed price agreement with a minor travel component. It is also incorrect to say that any modification changed the type in any way."

DCAA Response #1: We concur with BNI's response that there is a minor flexibly priced component although we disagree that this is a fixed price subcontract. We have concerns about this issue that is addressed in Appendix 1, Other Matter Item 2, page 28.

4. **BNI Reaction #1:** Sample #30, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of \$(b)(4) - "Disagree. This subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also disagree that the type was ever changed via modifications."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract based on the following support documents:

- a. In the last contract amendment 004, all firm fixed price items totaled \$(b)(4) were strikethrough and a new contract value of \$(b)(4) was added; however, we were not able to reconcile this value to any fixed price item. It appears to be the value adjusted in accordance to the costs incurred.
- b. We examined the invoice (b)(4) and (b)(4) and identified the actual travel costs incurred and other costs incurred, but not tied back to fixed price items in contract documents. The cost of a pay item depended upon the number of employees that were interviewed and the number of reports issued. In addition,

we identified this pay item appears in the invoice, but is never stated in the contract document.

We have concerns about the pay items in this subcontract that are addressed in Appendix 1, Other Matters, Item 3, page 28.

BNI Reaction #2: *"BNI agrees that the supplier invoiced incorrectly, showing receipted travel and 'survey fees'. It is evident from emails attached on one of these invoices that the procurement specialist rationalized approving them on the basis that the price for performing the survey overall, including the travel, was less than agreed-upon fixed unit price. The Accounts Payable representative questioned the invoice but accepted the Procurement Representative's (PR) explanation. The rationalization, while still an incorrect resolution, was technically true:*

Invoice # (b)(4) total for survey: \$(b)(4)

Invoice # (b)(4) total for survey: \$(b)(4)

Unit price for survey per Exhibit C (Pay Item 1): (b)(4)

While this situation is less than ideal, the subcontract had no activity other than these two 2011 invoice and closed 2016. Payment did not exceed the agreed unit prices, there terms were not based on cost, no audit is required.

Final value adjustment: *Amendment 004 was issued at closeout, to reconcile the committed NTE value with the actual expenditures based on the actual quantities purchased, as stated in the Amendment. This is not based on cost, but is based on the fixed unit pricing."*

DCAA Response #2: *If it is truly a fixed-price subcontract, there is no need for substantiating supporting documentation, because invoiced expenditures are only used on cost-based subcontracts. There will be no need for the number of interviews conducted to substantiate the invoiced amount based on the fixed unit rate per survey.*

The invoices show expenses which are not identified in the original agreement which has a fixed price of \$(b)(4) but the invoices show reimbursement at actual cost consists of data review meetings and travel expenses. Contrary to procurement procedure 3.2, section 6.2.1, Firm-Fixed-Price, "...is not subject to any adjustment on the basis of the subcontractor's cost in performing the work..."

Amendment 004 reflects the actual expenses incurred in the above referenced invoices. The cost is determined based on the actual number of surveys performed, but the quantities (number of surveys) were not fixed or defined in the amendment/original agreement.

6. **BNI Reaction #1:** *Sample #47, (b)(4) Subcontract # (b)(4) (b)(4) No Subcontract Value in BPS – "Disagree. This was a commission-based agreement for auction sales of surplus property. The subcontractor auctioned off the property and then issued Bechtel a check for the proceeds from the sale, less the agreed-upon commission (percentage)."*

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly priced subcontract. Commissions are generally based on a sales price that is not normally a fixed amount as in this instance. Additionally, there were two different commission rates used so the rates were not fixed. See the following table from the Exhibit C:

Pay Item	Description	Subcontractor Fixed Commission (% of Total Sales Price for Each Item)	Contractor Net Recovered Revenue (% of Total Sales Price for Each Item)
1.0	When gross sales of all lots in any single sale submittal total is less than \$100,000.00	(b)(4)	(b)(4)
2.0	When gross sales of all lots in any single sale submittal total is equal to or greater than \$100,000.00	(b)(4)	(b)(4)

BNI Reaction #2: BNI's "position on this item is that it is a Sales Agreement, not a Purchase Agreement. The question of whether it is fixed or flexibly priced is irrelevant. There are no subcontractor costs to audit in any event, as the subcontractor is compensated through the sales commission."

DCAA Response #2: Initially, BNI gave us the list of all the subcontracts including Subcontract # (b)(4). All contract documents indicated this is a subcontract, and it has a number coded as a subcontract. A sales agreement should not include terms such as "firm-fixed prices", and use a subcontract form of agreement. The intention of the agreement documentation is used as a subcontract. Consequently, we evaluated it as a subcontract. If BNI's position on this item is that it is a "Sales Agreement", then it would be an error, because it should not be classified as a subcontract or assigned a subcontract type in the document and BPS system.

7. **BNI Reaction #1:** Sample #63, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of (b)(4) "Disagree. This subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also, disagree that the type was ever changed via modifications."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract based on the following support documents:

- In the original contract, the unit price is fixed, but the quantities are variable, because they cannot estimate future needs. No information was found on defined quantity among all contract documents.
- The invoices # (b)(4) and # (b)(4) shows that quantities changes among these three different order. Therefore, the contract value is based on the flexible quantities needed, not a fixed contract value as a whole.

8. **BNI Reaction #1:** Sample #77, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of (b)(4) "Disagree. This

subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also disagree that the type was ever changed via modifications."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract based on the following support documents:

- In invoice (b)(4) the quantities are estimated (not fixed). They are billing for the actual quantity which is also the costs incurred. The invoice shows a schedule that includes a "cumulative work completed" column implies the actual usage of unit such as cubic yard and ton.
- The last modification, shows it has fixed priced items but the unit price items made up a larger percentage (flexible in quantities).
- We have concerns about this issue that are addressed in Appendix 1, Other Matter. Item 2, page 28.

9. **BNI Reaction #1:** Sample #78, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of (b)(4) - "Disagree. This subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also disagree that the type was ever changed via modifications."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced contract. We noted that the subcontract has tripled in size. The quantities are estimated and the costs are billed monthly, so it is driven by costs incurred. For example, Invoice #2 shows the dates that the costs were incurred and billed; therefore, the total value is not based on negotiated fixed quantity.

10. **BNI Reaction #1:** Sample #80, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of \$(b)(4) - "Disagree. This subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also, disagree that the type was ever changed via modifications."

DCAA Response #1: We continue to believe that this is a flexibly-priced subcontract based on section 5.0, Allowable Costs, in Exhibit C which states "All parties agree that the actual value of this Subcontract will be calculated on the basis of quantities actually worked and services actually released and provided and allowable in accordance with the Subcontract Documents and the Work stipulated in the Scope of Work." See Appendix 1, Other Matters, Item 1, page 26.

11. **BNI Reaction #1:** Sample #82, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of (b)(4) - "Disagree. This subcontract is priced using fixed, all-inclusive prices for discrete work elements. Also, disagree that the type was ever changed via modifications."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract. Shipping rates are based on weight. There

is a minimum weight and a legal capacity for each truck. Rates are negotiated at the time of shipment.

12. BNI Reaction #1: Sample #97, (b)(4) Subcontract # (b)(4) (b)(4) Subcontract Value of \$(b)(4) - "Disagree. This is a hybrid agreement consisting primarily of firm fixed price line items, with one minor labor hour line item."

DCAA Response #1: We do not concur with BNI's reaction. We continue to believe that this is a flexibly-priced subcontract based on the following documents:

- In both the original award and modifications, Section 6.0 of Exhibit C states "All parties agree that the actual value of this Subcontract will be calculated on the basis of labor hours actually worked and travel costs actually incurred in accordance with the subcontract documents and the Work stipulated in the Scope of Work." Therefore, it is based on actual hours instead of fixed value.
- In both invoice (b)(4) and (b)(4) all costs are billed in accordance to the hourly rate stated in contract documents. We do not agree that the labor hour is a minor item and the fixed price items in the invoice.

BNI Reaction #2: "It is evident from review of the invoicing that this subcontract could have been classified as Labor Hour, however, Bechtel maintains that Labor Hour subcontracts do not require audit beyond the invoice reviews performed per Bechtel procedures. Exhibit C ambiguity in this regard would have not occurred under WTP's new subcontract pro forma documents as discussed below under "Other Matters, Item 1 - Allowable Costs paragraph".

DCAA Response #2: This is the same scenario as Sample #19 above. Our position remains unchanged, and we still believe that hours incurred in the Labor Hour subcontract drives the actual costs.

Note: On items 2 through 11, BNI disagreed that the type was ever changed via modification. In our preliminary results BNI misunderstood our statement in our testing that follows: "For fixed-priced subcontract indicated in BPS, determine whether modifications changed the subcontract type and/or have flexibly priced components". We did not indicate that modifications ever changed the type; however, we found flexibly priced components in this subcontract (labor hour, travel reimbursement, indefinite quantities, etc.). The result of this statement will not impact the misclassification of the subcontract.

Other Matters to Be Reported

Items 1 through 3 that follow addresses some concerns we have and expands on items previously discussed.

1. BNI incorporated a paragraph in Exhibit C, 6.0 Allowable Costs, that implies flexibly priced, "*All parties agree that the actual value of this subcontract will be calculated on the basis of labor hours actually worked and travel cost actually incurred and allowable...*" even though it is a firm fixed price subcontract or the subcontract has firm fixed price components. Example:

- Sample #10, (b)(4) Subcontract # (b)(4)
Subcontract Value of \$(b)(4)
- Sample #80, (b)(4) Subcontract # (b)(4)

Additionally, the following firm fixed priced subcontract which were correctly identified in BPS as firm fixed price contains the Allowable Costs clause above. Such statement in a contract generates ambiguity among the subcontract type, which makes additional costs allowable to the fixed price.

- Sample #75, (b)(4) Subcontract # (b)(4)
Subcontract Value of \$(b)(4)
- Sample #87, Talend, Inc., Subcontract # (b)(4) Subcontract Value of \$(b)(4)

BNI Reaction #1: *Bechtel agrees that this language was not appropriate for fixed-priced agreements. WTP updated its pro form Exhibit C documents in May 2017 to standardize its approach to flexibly-priced subcontracts, development unique pro forma for each type of subcontract, which eliminated this language from all pro forma Exhibit C in the process. Measurement for payment terms used in current Exhibit C pro forma for T&M are aligned with FAR clause 52.23-7 Payments under Time and Material Contracts.*

DCAA Response #1: WTP updated its pro forma Exhibit C documents in May 2017 to standardize its approach to flexibly-priced subcontracts, however, this language can still be found in current modifications for ongoing fixed-priced subcontracts. For example, in sample item no. 80, (b)(4) change order #11 dated April 5, 2018, the allowable costs language has not been eliminated.

BNI Reaction #2: BNI provided additional comments as follows, see Appendix 3, page 34.

1. Sample #10 (b)(4) subcontract clearly stated that this language only applied to the labor hour line item. (No ambiguity)
2. Sample #19 (b)(4) contained both labor hour and fixed price line items. Exhibit C Allowable Costs did not state that the language was only applicable to the labor-hour

priced line items, however even at that, based on the other line items in the subcontract, the language does not seem ambiguous. Invoicing did not appear to be incorrect, but as previously noted, many of the billings were made against the labor hour line items and the travel provisions. This subcontract closed 11/24/2004. This language no longer appears in any WTP subcontract pro forma documents.

3. Sample #80 (b)(4) The "Allowable Costs" clause in Exhibit C actually says "All parties agree that the actual value of this subcontract will be calculated on the basis of quantities actually worked and services actually released and provided and allowable in accordance with the subcontract documents and the Work stipulated in the Scope of Work." Thus for this subcontract, the clause had been tailored to align with the other features of the subcontract (i.e. fixed, all-inclusive unit prices for discrete work elements).

4. Sample numbers 75 and 87, Bechtel agrees this language should not have been used, however both agreements are currently closed, and there was apparently no incorrect invoicing observed. This language is no longer present in any WTP pro forma subcontract documents.

DCAA Response #2:

1. Sample #10 (b)(4) - It states this language only applied when labor-hour line items is being used, which is optional. A truly fixed-price contract will not have an optional flexibly priced component.

2. Sample #19 (b)(4) - We did not include this sample in the other matters regarding this issue. We believe this is a flexibly priced contract, so we agree this "allowable costs" language is appropriate in this subcontract.

3. Sample #80 (b)(4) - We agree the "Allowable Cost" language is appropriate for this flexibly priced subcontract, which BNI claimed it to be a fixed-price subcontract. See Exhibit B, item # 3. However, BNI also stated that this language is not appropriate for fixed-price contract.

4. BNI agrees that the "Allowable Costs" language is not appropriate for sample numbers 75 and 87 and is no longer present in any WTP pro forma subcontract documents. However, for Sample #80, (b)(4) change order #11 dated April 5, 2018, the allowable costs language has not been eliminated.

2. We have observed a pattern in the use of the term "hybrid" to describe a subcontract that has a mix of fixed price and flexibly-priced components. The flexibly priced components are often referred to as a minor components (travel and labor hours) and lack visibility so that the Government loses the opportunity to audit these costs. Although in some circumstances the flexible amounts are relatively small, it could become significant as the quantities are indefinite. Example:

- Sample #19, (b)(4) Subcontract # (b)(4)
Subcontract Value of \$(b)(4)
- Sample #25, (b)(4) Subcontract # (b)(4)
Subcontract Value of \$(b)(4)
- Sample #77, (b)(4) Subcontract # (b)(4)
(b)(4) Subcontract Value of \$(b)(4)

BNI Reaction #1: *Bechtel agrees with DCAA's observation that flexibly priced elements in otherwise fixed-priced subcontracts could grow in value over time when quantities are not fixed. NS&E procedures covering invoicing and payment speak broadly to the importance of maintaining detailed invoice logs, however, WTP has recognized that these procedures have not always been effective in developing and maintaining effective controls and visibility of line item values. Accordingly, WTP has increased focus in this area, and is in the process of developing more robust procedural guidance, tools and training to address it. Procedural guidance will include requirement to seek Management approval before combining multiple contract types into a single agreement.*

DCAA Response #1: From this assertion, BNI agrees that unknown quantities are flexibly-priced elements in fixed-price subcontracts which determine the contract value. This contradicts BNI's reaction to Exhibit B "Audit Evaluation" and Appendix 3 on page 34 regarding BNI's statement as follows, "While true that variability of quantities does affect the final overall subcontract price, actual quantities provided do not, by definition, constitute a cost." In our observation, the cost incurred is a factor that impacts the overall subcontract price. The price for a true fixed-price subcontract will not change regardless of the actual quantity.

3. We identified some pay items in the subcontract invoices that are not in accordance with the contract agreement and modifications. For example, in sample #30, (b)(4) (b)(4) (Invoice (b)(4) & (b)(4)), travel expenses were not authorized in the contract, but were incurred and reimbursed. In addition, the incurred travel expense was added to a fixed price line item. The fixed price line item was never paid as the price stated, but was calculated based on actual days of meeting and surveys completed.

4. **Modifications Changing Types.** For our WTP subcontract classification testing, we categorized the WTP subcontract types in BPS as either flexibly-priced or fixed-price. We reviewed the subcontract agreement/original award documents and all modifications (if any) to determine if any of the change orders/modifications changed the contract type. We noted only one modification that changed a contract type. Sample Number 10, (b)(4) Subcontract Number (b)(4) was originally classified as flexibly priced. The original award contained an optional labor-hour priced item. This optional labor-hour item was removed in modification number 1 which changed the contract type to firm fixed price.

(b)(4)

5. Identified Errors by Independent Public Accounting Firm in a Performance Audit Report No. 0206880-2380-13 dated June 16, 2017 The report identified seven subcontract-type misclassifications. We reviewed the (b)(4) subcontract agreements that were identified as errors. Using the criteria developed for our review of subcontract agreement (agreement firm-fixed price or flexibly priced), we determined that [redacted] of the subcontract agreements were properly classified and one was incorrectly classified in BPS. (b)(4) was a purchase order and was not applicable.

6. Audit Status of Flexibly-Priced Subcontracts. We requested BNI identify the status of whether flexibly-priced subcontract audits in our audit sample were completed to recognized audit standards, audit number, audit party identification, and any other pertinent audit details. BNI indicated that the audit requirement for time and materials (flexibly priced) subcontracts are met through BNI's audits of invoiced costs. BNI claims that no audits were missed due to misclassifications because invoice reviews are performed based on subcontract requirements regardless of the contract type code applied in BPS.

Generally Accepted Government Auditing Standards require that the individual auditing the organization must be independent of the audited entity. (AU 220 and GAGAS 3.02 - Independence) BNI's audits of invoiced costs are not independent, and therefore, do not meet recognized audit standards. The following are specific comments that BNI provided about the subcontract audit status in accordance with DOE contract clause; however, we do not concur with BNI on several determinations on subcontract audit requirement. Our responses are as follows:

1. BNI Reaction: "No audit requirement exists for Fixed-Price or Labor Hour subcontracts. Audit is required by the WTP Prime Contract for subcontracts where costs are a factor in determining the amount to be paid."

DCAA Reaction: Even though the labor hour rate is fixed, the hours incurred are variable and a factor in determining the amount payable to the subcontractor of any tier; therefore, audit of labor hour subcontract is required under the contract clause. Furthermore, time-and-materials contracts and labor-hour contracts are not fixed-price contracts per FAR Part 16.601 *Time-and-Materials Contracts*. However, we agree that BNI does not require to audit fixed-price subcontracts.

2. BNI Reaction: "No 'audits' were missed because of misclassifications. Invoice reviews are performed based on subcontract requirements, regardless of the type code applied to BPS."

DCAA Response: The root cause of misclassification is not the input of subcontract type codes in BPS, but the incorrect interpretation of subcontract type from subcontract agreements. For example, BNI uses contract type such as "Firm Fixed Rate" which is categorized as fixed price. Nevertheless, this terminology is not defined in FAR and the actual hours/units are the fact in determining of the subcontract value (quantities are variable upon

incurred). Therefore, BNI could miss the audit if the interpretation of such subcontract as a fixed price contract regardless of the type code applied to BPS.

3. **BNI Reaction:** *All cost reimbursement-type subcontracts in the sample are with companies that have an established audit relationship with a federal audit agency, such as DCAA. Thus these audits are the responsibility of DOE.*

DCAA Response: Even though a subcontract audit can be performed by the cognizant government audit agency, the subcontractor has the responsibilities to accurately present these subcontract and arrange such an audit.

7. **Flexible Quantities and Subcontract Price.** Throughout BNI's formal response dated June 25, 2018, it made several statements regarding flexible quantities, actual costs, and subcontract prices.

We are not persuaded by BNI's argument that, "while true that variability of quantities does affect the final overall subcontract price, actual quantities provided do not, by definition, constitute a cost." We continue to believe that a subcontract price calculated by the actual quantities times the unit price, results in actual cost, as demonstrated below:

$$\text{Actual Quantities} * \text{Unit Price} = \text{Actual Cost} = \text{Subcontract Price}$$

The price of a truly fixed-price subcontract should not be affected or changed by the actual quantities incurred. Therefore, actual quantities must constitute a cost, otherwise, the subcontract price would not change.

8. **Time-and-Materials (T&M) and Labor Hour Subcontracts**

BNI's Reaction: *DCAA has taken exception to Bechtel's preliminary response wherein stated that audits are not required for fixed price or labor hour subcontracts. DCAA stated that Labor Hour and Time and Materials are not considered to be fixed price contracts in accordance with FAR 16.601. While this statement is accurate in a broad sense, Bechtel would point again to the specific wording of Prime Contract Clause 1112(c).*

Audits are only required when a subcontractor's actual costs are a factor in determining the amount payable to the subcontractor, and variations in quantity do not constitute cost.

DCAA's Response: Our position remains unchanged. We believe that Labor Hour and T&M contracts are not fixed price contracts per FAR Subpart 16.6. The total cost of T&M and labor hour subcontracts are calculated by multiplying the hourly rate by actual hours incurred, which also determines the subcontract value and amount payable to the subcontractor. If variation in quantities do not constitute a cost as BNI stated, the amount payable to the subcontractor should not be based on the actual hours as we observed in both invoices and contract modifications.

Assist Audits on Cost Reimbursable Subcontracts
Received by DCAA

Subcontractor/ Subcontract No.	Period of Performance	Total Award	Assist Audit Status
(b)(4)	12/11/2000	(b)(4)	(b)(4) (11/02/2004) (09/20/2004) (b)(4) (04/05/2006) (b)(4) (09/28/2007) (b)(4) (07/19/2013) (b)(4) (04/22/2015)
(b)(4)	12/14/2015 8/29/2011 6/17/2004 7/15/2010 11/1/2016	(b)(4)	(b)(4) (09/19/2005) (b)(4) (b)(4) (09/03/2013) (b)(4) (b)(4) (06/06/2014) (b)(4) (b)(4) (04/13/2015) (b)(4) (b)(4) (11/20/2015) (b)(4) (b)(4) (11/20/2015) (b)(4)
(b)(4)	3/1/2001	(b)(4)	(b)(4) (02/25/2004) (b)(4) (04/02/2004)
(b)(4)	5/15/2002 -	(b)(4)	Bechtel IA performed review of 2012 costs. (b)(4) (9/28/2007) BNI (b)(4) 2006-2011 (10/31/2012)
(b)(4)	1/25/2001 - 10/31/2016	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
(b)(4)	9/10/2001 - 9/20/2004	(b)(4)	No DCAA assist audit report identifying WTP subcontract.

Subcontractor/ Subcontract No.	Period of Performance	Total Award	Assist Audit Status
(b)(4)	9/10/2010 -	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
			(b)(4)
			(09/19/2005) (b)(4)
			(b)(4)
			(09/03/2013) (b)(4)
			(b)(4)
			(06/06/2014) (b)(4)
			(b)(4)
			(04/13/2015) (b)(4)
			(b)(4)
	5/17/2001	(b)(4)	(b)(4)
	2/7/2012		(11/20/2015) (b)(4)
	10/13/2008		
	11/18/2010		
	7/9/2009 - 9/18/2013		
(b)(4)	9/21/2001	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
	10/1/2001 - 8/9/2006		No DCAA assist audit report identifying WTP subcontract.
			(b)(4)
			(12/23/2004)
			(b)(4)
			(03/25/2005)
			(b)(4)
			(11/09/2006)
			(b)(4)
			(04/25/2008)
(b)(4)	11/15/2002	(b)(4)	(b)(4)
			(11/19/2008)
			(b)(4)
			(03/26/2013)
			(b)(4)
			(03/26/2013)
			(b)(4)
			(03/26/2013)
			(b)(4) (09/25/2015)
			(b)(4) (09/25/2015)
			FY 2011-2015 no audit due to
			2014 (b)(4)

Subcontractor/ Subcontract No.	Period of Performance	Total Award	Assist Audit Status
(b)(4)	8/20/2009 8/20/2009	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
	6/18/2013 - 2/13/2018 4/6/2016		No DCAA assist audit report identifying WTP subcontract.
	9/26/2006		(b)(4)
	9/22/2011		No DCAA assist audit report identifying WTP subcontract.
	8/7/2003		(b)(4) (4/17/2007)
(b)(4)	6/5/2002 - 6/8/2005	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
	5/11/2007 - 12/8/2010		No DCAA assist audit report identifying WTP subcontract.
	10/15/2008 - 5/11/2009 12/22/2008		No DCAA assist audit report identifying WTP subcontract.
	1/11/2017		Bechtel has yet to submit its CY 2017 incurred cost submission.
(b)(4)	4/3/2002 - 4/3/2009	(b)(4)	No DCAA assist audit report identifying WTP subcontract.
Grand Total Awards - Cost Reimbursable		(b)(4)	

Bechtel National Inc.
San Francisco, CA

Formal Response
Appendix 3



June 25, 2018

Subject: Corrected -- Draft Results -- 4281-2018D17900003

Reference: DCAA Email Dated June 19, 2018 - Corrected -- Draft Results -- 4281-2018D17900003

Dear Ms. Cusi,

In response to the DCAA Draft Audit Report No. 4281-2018D17900003, Bechtel is not in agreement with the conclusions stated in this report and offers the following responses.

In the draft report, DCAA states that NS&E Procurement Procedure 3.2, Subcontract Formation, does not require the Procurement Representatives to review and understand contract types from FAR part 16 prior to award. On the contrary, NS&E Procurement Procedure 3.2 states:

Section 6.1.2.1 "General"

"Subcontract type shall be selected in accordance with customer requirements, the type of prime contract Bechtel has with the customer, and the principles stated in FAR Part, 16, Selecting Contract Types. Typical subcontract types to be used for a project shall generally be determined by the ASM/PPM during project/acquisition planning. (See NS&E Procurement Procedures, Section 3.1, Project Planning, Acquisition and Risk Assessments.)"

DCAA further states that there is no policy or instruction that governs recording of the contract type in the system. Bechtel disagrees that the current instructions are inadequate, in that there are multiple procedures that require the accurate recording of commitments, including but not limited to:

- (b)(4)
-
-

These procedures, coupled with the training program and the availability of detailed help files, constitute adequate direction to the Procurement Representatives who are performing the work. While the selections that a Procurement Representative can enter into BPS to signify contract type is limited by the software itself, supervisory and management oversight of procurement activities are mandated by the following procedures:

- (b)(4)
-
-
-

DCAA offered no credible evidence that these measures that are implemented by the procedures listed above are ineffective. The evidence that DCAA does cite can be attributed to the changing direction over the long life of the WTP project.

Bechtel agrees that files that were misclassified or ambiguous were older files that are not reflective of process changes and improvements that have occurred over the recent years.

- o For example, it was identified that in some cases, non-standard contract types were used and the Subcontract Exhibit C did not clearly identify the contract type.
 - o Improvements have been made to standardize NS&E subcontracts and purchase orders with the contract type listed directly on the cover page. This is a recent process improvement that was instituted based on feedback received from DCAA in other audits.
 - o Bechtel agrees that older WTP subcontracts were classified as IDIQ or Fixed Rate when they should have been called Time and Materials. This direction resulted from weekly meetings with the Contracting Officer in 2009 whereas the concern was that the incorrect pricing types were being utilized. Procurement and Subcontracts Compliance Bulletin, *Subcontract and Purchase Order Types*, was issued in July 2009 to provide direction agreed to with DOE. This practice has been discontinued, improvements have been made to align and standardize the contract types with DCAA and the subcontracts that remained active at the time were corrected in the system.

Bechtel agrees with DCAA that the terms of the WTP Prime Contract require an audit be performed when costs are a factor in determining the amount payable under any subcontract. Bechtel also agrees with DCAA that the ability to comply with this contract requirement necessitates that flexibly-priced subcontracts are consistently identified such that the correct contract clauses are included and that accurate reporting can be accomplished. With that said, Bechtel disagrees with DCAA regarding what constitutes a flexibly-priced subcontract subject to audit.

DCAA contends throughout the report that the existence of unknown quantities, although the price-per-unit is "fixed", constitutes a flexibly-priced agreement subject to audit. Bechtel disagrees with this contention. Subcontracts having "fixed" pricing but flexible quantities do not require audit under the terms of the WTP prime contract.

Prime Contract Clause 1112(c) states that audits are required "...where... costs incurred are a factor in determining the amount payable to the subcontractor of any tier...". Bechtel's position is that when the unit pricing is "fixed", the subcontractor's actual costs are not a factor in determining the amounts payable, regardless of the unit of measure used to calculate the total invoiced price. Bechtel's position in this respect is further strengthened by the definitions found in FAR 30.001, which state that the fixed hourly rate portions of Time and Materials and Labor Hour subcontracts are fixed-price subcontracts.

FAR Part 30.001 -- Definitions, states:

Fixed-price contracts and subcontracts means--

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203 (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;

- (2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (Subpart 16.4);
- (3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (Subpart 16.5); and
- (4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (Subpart 16.6).
- "Flexibly-priced contracts and subcontracts means--
- (1) Fixed-price contracts and subcontracts described at 16.203-1(a)(2), 16.204, 16.205, and 16.206;
- (2) Cost-reimbursement contracts and subcontracts (Subpart 16.3);
- (3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (Subpart 16.4);
- (4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (Subpart 16.5); and
- (5) The materials portion of time-and-materials contracts and subcontracts (Subpart 16.6).

It is reasonable to conclude from this definition that the fixed-rate portions of other variable-quantity subcontracts are fixed-price subcontracts as well.

Further, DCAA states that for these types of contracts, the variability of the quantities affects the final price and therefore require audit. While true that variability of quantities does affect the final overall subcontract price, actual quantities provided do not, by definition, constitute a cost. The received quantity of a given commodity is not in itself a reflection of the sum expended, paid or charged by or to the subcontractor.

Received quantities of a commodity, to include labor, are verified by the Procurement Representative prior to approval of an invoice as part of the validation process. WTP Procedure 24590-WTP-GPP-GPX-03603 *Invoicing and Payment* requires a minimum of two approval signatures on each invoice, a Procurement Representative and supervisor. This procedure also requires supplemental approvals by Accounts Payable and by the Technical Representative(s) for Cost-reimbursement and Time and Materials subcontracts.

DCAA has taken exception to Bechtel's contention in its preliminary response that audits are not being missed due to past inconsistencies in classification of subcontracts and cited GAGAS requirements for independence as its reason for disagreement.

As a reminder, audits of Invoiced Cost met the contract requirement of Prime Contract Clause 1112(c) for performing audits of subcontractor costs and clause 1112(c) does not invoke GAGAS, thus Bechtel used its own internal standards / policies and procedures in its efforts to comply with its contract requirements, absent any direction to the contrary.

DCAA has taken exception to Bechtel's preliminary response wherein stated that audits are not required for fixed price or labor hour subcontracts. DCAA stated that Labor Hour and Time and Materials are not considered to be fixed price contracts in accordance with FAR 16.601. While this statement is accurate in a broad sense, Bechtel would point again to the specific wording of Prime Contract Clause 1112(c).

Audits are only required when a subcontractor's actual costs are a factor in determining the amount payable to the subcontractor, and variations in quantity do not constitute cost. DCAA commented on

Bechtel's preliminary response, relative to audits performed by Federal agencies, that it is still Bechtel's responsibility to accurately present those subcontracts and to arrange for such audits to take place.

Bechtel agrees with this comment, and contends that it is meeting those responsibilities as noted above.

Files flagged as concerns by DCAA

Table 1 Subcontracts Misclassified or Ambiguously Classified

Bechtel agrees that the Subcontracts listed below were misclassified or ambiguously classified, however, these subcontracts all pre-date more recent corrective actions and process improvements.

Smp #	Subcontract # Subcontractor	Deficiency	Dates of Award/Closeout	
4	(b)(4)	FUR should have been LH	3/2/01-7/14/03	
7		FUR should have been LH	3/4/02-9/8/04	
11		FUR should have been LH	7/31/03-6/1/04	
13		FUR should have been LH	2/1/01-12/11/03	
20		FUR should have been LH	2/21/02-9/11/03	
22		FUR should have been T&M	5/15/02-5/29/02	
28		FUR should have been T&M	1/27/03-6/1/04	
37		FUR should have been T&M	8/18/06-7/12/07	
38		FUR should have been T&M (LH + Travel)	10/12/09-6/3/10	
40		(b)(4)	FUR should have been T&M (LH + Travel)	12/4/02-11/24/04
42			FUR should have been T&M	10/8/02-6/8/05
48			FUR should have been LH	7/26/02-9/19/03
57			FUR should have been LH	9/20/01-1/27/09/
70			FUR should have been LH	2/8/02-5/25/11
89			FUR should have been T&M (LH + Travel)	5/12/03-12/5/05
101	FUR should have been LH		10/21/01-5/2/03	
102	FUR should have been T&M (LH + Travel)		5/15/07-8/6/08	

Table 2 Subcontracts Classified as Fixed Unit Rate (FUR)

Subcontracts correctly classified as Fixed Unit Rate (FUR), which is considered Fixed Pricing per Bechtel policies and procedures. DCAA believes that FUR should be considered flexibly-priced, however Bechtel disagrees that variation in quantities constitutes a subcontract subject to audit under clause 1112(c).

Smp #	Subcontract #	Subcontractor	Comment
10	(b)(4)		
19			Add'l note below
25			
30			Add'l note below
63			
77			
78			
80			
82			
97			Add'l note below

(b)(4)

Additional issues identified for Subcontracts in Table 2:

- (b)(4) Invoicing Issues**

Although the subcontract Exhibit C consisted of multiple elements, including labor at predetermined labor rates, travel at FTR allowables, and multiple line items of fixed-price testing services, review of the invoices reveals that the invoiced amounts consisted largely of the labor and travel.

 - Bechtel agrees that this subcontract could have been classified as Labor-Hour or T&M in hindsight, but still maintains that it does not require any additional audits beyond the invoice performed reviews per Bechtel procedures.

(b)(4)

- (b)(4) Invoicing Issues**

Bechtel agrees that the supplier invoiced incorrectly, showing receipted travel and "survey fees". It's evident from emails attached on one of these invoices that the procurement specialist rationalized approving them on the basis that the price for performing the survey overall, including the travel, was less than the agreed-upon fixed unit price. The Accounts Payable representative questioned the invoice but accepted the Procurement Representative's explanation. The rationalization, while still an incorrect resolution, was technically true:

Invoice # [redacted] total for survey: (b)(4)
 Invoice # [redacted] total for survey: (b)(4)
 Unit price for survey per Exhibit C (Pay Item 1): (b)(4)

While this situation is less than ideal, the subcontract had no activity other than these two 2011 invoices and closed in 2016. Payment did not exceed the agreed unit prices, the terms were not based on cost, no audit is required.

- (b)(4) final value adjustment**

DCAA questions if this final adjustment in Amendment 004 was "based on cost". Exhibit C

(b)(4)

stated that this was an Indefinite Quantity subcontract. Amendment 004 was issued at closeout, to reconcile the committed NTE value with the actual expenditures based on the actual quantities purchased, as stated in the Amendment. This is not based on cost, but is based on the fixed unit pricing.

- **invoicing issues**
It is evident from review of the invoicing that this subcontract could have been classified as Labor Hour, however Bechtel maintains that Labor Hour subcontracts do not require audit beyond the invoice reviews performed per Bechtel procedures. Exhibit C ambiguity in this regard would have not occurred under WTP's newer subcontract pro forma documents as discussed below under "Other Matters, Item 1 - Allowable Costs paragraph".

(b)(4)

One-off item not covered above

- **[redacted]**
Bechtel's position on this item is that it is a Sales Agreement, not a Purchase Agreement. The question of whether it is fixed or flexibly priced is irrelevant. There are no subcontractor costs to audit in any event, as the subcontractor is compensated through the sales commission.

Other Matters

Item 1 - "Allowable Costs" paragraph in Exhibit C, for otherwise fixed-price subcontracts

Bechtel agrees that this language was not appropriate for fixed-price agreements. WTP updated its pro forma Exhibit C documents in May 2017 to standardize its approach to flexibly priced subcontracts, developing unique proforma for each type of subcontract, which eliminated this language from all pro forma Exhibit C in the process. Measurement for payment terms used in current Exhibit C pro forma for T&M are aligned with FAR clause 52.232-7 *Payments Under Time and Materials Contracts*.

(b)(4)

(b)(4)

Notes:

- **Sample #10** [redacted] subcontract clearly stated that this language only applied to the labor-hour line item. (No ambiguity)
- **Sample #19** [redacted] contained both labor hour and fixed price line items. Exhibit C Allowable Costs did not state that the language was only applicable to the labor-hour priced line items, however even at that, based on the other line items in the subcontract, the language does not seem ambiguous. Invoicing did not appear to be incorrect, but as previously noted, many of the billings were made against the labor hour line items and the travel provisions. This subcontract closed 11/24/2004. This language no longer appears in any WTP subcontract pro forma documents.
- **Sample #20** [redacted] - The "Allowable Costs" clause in Exhibit C actually says "All parties agree that the actual value of this subcontract will be calculated on the basis of quantities actually worked and services actually released and provided and allowable in accordance with the subcontract documents and the Work stipulated in the Scope of Work." Thus for this subcontract, the clause had been tailored to align with the other features of the subcontract (i.e. fixed, all-inclusive unit prices for discrete work elements).

(b)(4)

- Sample numbers 75 and 87. Bechtel agrees this language should not have been used, however both agreements are currently closed, and there was apparently no incorrect invoicing observed. This language is no longer present in any WTP pro forma subcontract documents.

Item 42 – Flexibly-priced components in fixed-price subcontracts (“Hybrid” subcontracts)

Bechtel agrees with DCAA’s observation that flexibly priced elements in otherwise fixed-priced subcontracts could grow in value over time when quantities are not fixed. NS&E procedures covering invoicing and payment speak broadly to the importance of maintaining detailed invoice logs, however, WTP has recognized that these procedures have not always been effective in developing and maintaining effective controls and visibility of line item values.

Accordingly, WTP has increased focus in this area, and is in the process of developing more robust procedural guidance, tools and training to address it. Procedural guidance will include requirement to seek Management approval before combining multiple contract types into a single agreement.

If you have any questions, don’t hesitate to contact me at 415-768-2209 or Trisha O’Toole at 703-429 6616.

Sincerely,



Dave Station
Manager, Government Reporting & Services

cc: Accia Rodriguez, DCAA
Jenny Hsieh, DCAA
Karen Smith
Nona Baird
Tommy Ryon
Trisha O’Toole
Bill Cover
Frank Salaman



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

December 26, 2018

CERTIFIED MAIL

Ms. Julie Reddick
[REDACTED]
[REDACTED]

Dear Ms. Reddick:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2019-00005)

This letter is in response to the electronic Freedom of Information Act (FOIA) request you submitted to this office requesting the following information:

“Please provide a copy of three letters, including all attachments: 16-WTP-0054, dated about March, 2016, Subject: Special Report of Management of Suspended Procurements at the Waste Treatment and Immobilization Plant Project, (ORP letter); 18-WTP-0041, dated about May 2018, Subject: Factual Accuracy Review of Letter Related to Waste Treatment and Immobilization Plant Design and Quality, (ORP Letter); 18-CPM-0119, dated about August 2018, Subject: Transmittal of Defense Contract Audit Agency’s Audit on Bechtel National, Inc.’s Subcontract Classification and Request for Plan of Action to Address the Findings (ORP Contracting Officer’s Letter).”

Your request was assigned to the U.S. Department of Energy (DOE) Office of River Protection (ORP) to conduct a search of its files for responsive information. This is an interim response; enclosed is a copy of ORP memorandum No. 18-WTP-0041, dated May 7, 2018. Within this memorandum, this office has deleted the names of contractor employees, telephone numbers and any other personal information, pursuant to Exemption 6 of the FOIA.

Exemption 6 provides that an agency may protect from disclosure all personal information if its disclosure would constitute a clearly unwarranted invasion of privacy by subjecting the third-party individuals to unwanted communications, harassment, intimidation, retaliation, or other substantial privacy invasions by interested parties.

In invoking Exemption 6 we considered 1) whether a significant privacy interest would be invaded by disclosure of information, 2) whether release of the information would further the public interest by shedding light on the operations or activities of the government, and 3) whether disclosure would constitute a clearly unwarranted invasion of private or public interest. DOE has determined that the public interest in the identity and personal information whose information appears in the documents does not outweigh the individuals’ privacy interests.

All releasable information in these documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for this determination. Should you choose to exercise this right, your appeal must be filed within 90 days after receipt of this letter. You may submit your appeal by email to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (this is the method preferred by the Office of Hearings and Appeals). Alternatively, any such appeal may be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615. The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Should you choose to appeal, please provide my office with a copy of your appeal. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

Additionally, within the enclosure, there are documents that were either generated by DOE Headquarters (HQ) or fall under its jurisdiction. For this reason, your request, along with the documents, has been transferred to the HQ FOIA office for a release determination. The HQ FOIA office will provide a response directly to you. If you have any questions about the processing of your request under HQ, you may contact Mr. Alexander Morris at Alexander.Morris@hq.doe.gov, or by mail at DOE HQ, 1000 Independence Avenue, SW, MA-46, Washington, DC 20585, or at (202) 586-3159.

We continue to review the remaining document you have requested and will notify you when our review is complete. You may contact the DOE Richland Operations Office FOIA Public Liaison, Richard Buel, at (509) 376-3375, or by mail at P.O. Box 550, Richland, Washington, 99352 for any further assistance or to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have any questions regarding this matter, please contact me at our address or at (509) 376-6288.

Sincerely,

-Original signed by-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosure

United States Government

Department of Energy
Office of River Protection

memorandum

DATE: **MAY 07 2018**
REPLY TO
ATTN OF: WTP:TWF 18-WTP-0041

SUBJECT: REISSUE - FACTUAL ACCURACY REVIEW OF LETTER TO UNDERSECRETARY FOR SCIENCE, PAUL M. DABBAR, DATED JANUARY 9, 2018, RELATED TO WASTE TREATMENT AND IMMOBILIZATION PLANT DESIGN AND QUALITY

TO: Memorandum to File

Reference: ORP letter from W.F. Hamel to C.K. Binns, BNI, "U.S. Department of Energy, Office of River Protection Response to Quality Assurance Workshop Meeting Minutes (CCN: 257401)," 18-QAD-0012, dated March 13, 2018.

This memorandum is being reissued to remove OOU markings, as this document is no longer considered OOU.

Background Information: To provide context for the detailed responses to the individual concerns raised in the subject letter, there are two programmatic issues important to the discussion:

1. Quality Assurance (QA) Program Implementation

The Waste Treatment and Immobilization Plant (WTP) Code of Record implements a quality assurance program based on U.S. Department of Energy (DOE) O 414.1C, Quality Assurance, which is based on ASME NQA-1-2000, Quality Assurance Requirements for Nuclear Facility Applications. DOE issued a new quality assurance order, DOE O 414.1D in April 2011, which is based on NQA-1-2008 with the NQA-1a-2009 addendum. In 2016, ORP made the decision to implement DOE O 414.1D after completion of construction, but prior to starting commissioning of the Direct-Feed Low-Activity Waste (DFLAW) facilities, because there would be significant cost and schedule impacts from backfitting new QA requirements for DFLAW engineering, procurement, and construction activities which are nearing completion. The WTP Contractor, Bechtel National, Inc. (BNI), is in the process of developing a new QA Program based on the DOE O 414.1D, which will be implemented for DFLAW commissioning and operations (C&O). The developed QA Program for C&O will consist of a new QA Manual, Graded Approach Document, QA Implementation Plan, and a QA Description Document.

2. Design Verification

BNI has a series of engineering policies and procedures for design and design verification. The primary method for documenting design verification is through the

MAY 07 2018

Memorandum to File
18-WTP-0041
REISSUE

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use of Requirements Verification Matrices (RVM). Design, safety, and environmental requirements for significant structures, systems, and components are flowed down from requirements documents and design media into the RVMs. The RVMs document the method by which design requirements will be verified. Many requirements can be verified before procurement or construction. However, there are some requirements that can only be verified after delivery of components with vendor design information or factory acceptance tests. Some requirements can only be verified during system testing – during startup or commissioning. In those cases, the RVMs remain open until the final requirements are verified during testing.

Factual Accuracy Review Results:

Paragraph 3: This paragraph discusses the November 2016 settlement of a qui tam complaint based on the False Claims Act. This is a matter of public record. There is no new issue raised by the letter author.

Paragraph 4: The letter author alleges that “whole sections of nuclear quality assurance (NQA-1) requirements” are being deleted, referencing BNI meeting minutes CCN: 257401 dated December 11-14, 2017 (Attached). This allegation is misleading and incorrect. The referenced meeting minutes do not provide adequate details to draw any conclusions and the QA Program for C&O has not yet been developed by BNI submitted to the ORP for approval. Consistent with NQA-1 Part II Section 300, which states: “The organization invoking this Part shall be responsible for specifying which section, or portions thereof applies and appropriately relating them to specific items and services.” The meeting minutes (CCN: 257401) identified sections of the NQA requirements were not applicable to commissioning and operations work activities; the NQA-1 requirements used to design, procure, and construct the DFLAW will remain in place under the existing QA Program. The reference letter documents ORP’s position that BNI must implement Part I and Part II of the NQA-1 standard in a graded approach as applicable to the activity. In the event that a portion of NQA-1 is not applicable to the DFLAW commissioning and operations scope, BNI must provide a basis and further rationale for ORP to approve the submitted QA Program.

Paragraph 5: The author is suggesting implementing the new QA manual erroneously assumes that QA requirements for the DFLAW project have been reduced because some engineering, procurement, and construction activities may have been deferred. This assumption is incorrect. BNI engineering, procurement, and construction (EPC) activities, including software development, will continue to be performed using the QA requirements specified in the QA Program for EPC. Commissioning cannot start until all design, construction, and startup testing has been completed. Further, the C&O QA Program will implement NQA-1-2008 (Edition) and NQA-1-1a-2009(Addenda). This implementation will include Part I, and the applicable sections of Parts II, III and IV. As such, the QA requirements for the C&O QA Program have actually increased. The C&O QA Program will be appropriately implemented in a graded approach approved by ORP.

MAY 07 2018

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REISSUE

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Paragraph 6: The author is suggesting that design verification is being delayed until commissioning because of a loophole in the system. This is not correct. As discussed in the Background section above, some design verification cannot be performed until commissioning. Design verification accomplished during commissioning will be accomplished in accordance with the existing QA Program for EPC.

Paragraph 7: The author is citing the Commissioning Plan (CCN: 298472) as further evidence that design verification is improperly being delayed to commissioning. This is not correct. Paragraph 3.2.1 of the Commissioning Plan discusses the technical requirements management process, which includes design verification in accordance with NQA-1 requirements. The plan describes how the BNI Design organization leads the development of commissioning test matrices to ensure design requirements that must be verified in startup or commissioning testing are included in appropriate test plans and procedures. Again, this design verification activity during commissioning is planned, intentional, and appropriate and will be accomplished in accordance with the existing QA Program for EPC.

Paragraph 8: The author is pointing out that the contract incentive fee milestone for completing construction of the Low-Activity Waste Facility, Analytical Laboratory, and Balance of Facilities does not include completion of design verification. As discussed in preceding paragraphs, design verification proceeds along a spectrum that concludes with cold commissioning testing. There are appropriate design activities required to be completed as part of the fee milestone for completing construction, but design verification is not included because there are planned commissioning testing activities required for completing design verification.

Paragraph 9: The author is citing two concerns in this paragraph:

- 1) Proceeding with design and procurements without a completed safety analysis – suggesting this is similar behavior that resulted in a previous DOE Office of Enforcement fine. In fact just the opposite is true. BNI will not proceed with releasing design media or procurements without an approved safety basis document, or written authorization from DOE to proceed. DOE does not authorize such advanced authorization unless a comprehensive safety evaluation has been performed. It is important to understand these are project risk decisions, not safety decisions, since the facility is not operating, and all such changes are incorporated in the Documented Safety Analysis (DSA) that is planned to be approved in May 2018.
- 2) Schedule pressure on safety documentation – The Low-Activity Waste Facility DSA was originally scheduled to be completed by BNI and approved by DOE in August 2018. As a result of a Project Peer Review and subsequent Project Optimization Workshop in late October, 2017, DOE and BNI jointly agreed to accelerate the DSA

MAY 07 2018

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-4-

completion schedule to early spring 2018. The DSA acceleration was one of many optimization initiatives to increase confidence in delivering the DFLAW capability by January 2022. Schedule acceleration does not equate to schedule pressure. The DSA acceleration has been carefully managed with very successful results -- BNI formally submitted the DSA for DOE approval on March 23, 2018.

Paragraph 10: The author expresses concern about the potential for rework because of "multiple problems with.....structures, controls, instrumentation and steel." The author is concerned "rework will be postponed until commissioning, and the Commissioning QA manual will lack the requisite rigor." ORP is aware of risk associated with startup and commissioning the large set of facilities associated with DFLAW, including aging and obsolescence of equipment due to the extended construction period for WTP. However, there is no specific basis for the author's generic statements, thus no response can be provided.

Conclusion: The concerns in the letter related to the design and quality program implementation at the WTP are unfounded. The author of the letter (anonymous) is lacking an understanding of the some fundamental programmatic context for the concerns he or she is raising.



Thomas W. Fletcher
Assistant Manager, Federal Project Director
Waste Treatment and Immobilization Plant

Attachment

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ATTACHMENT
18-WTP-0041
REISSUE

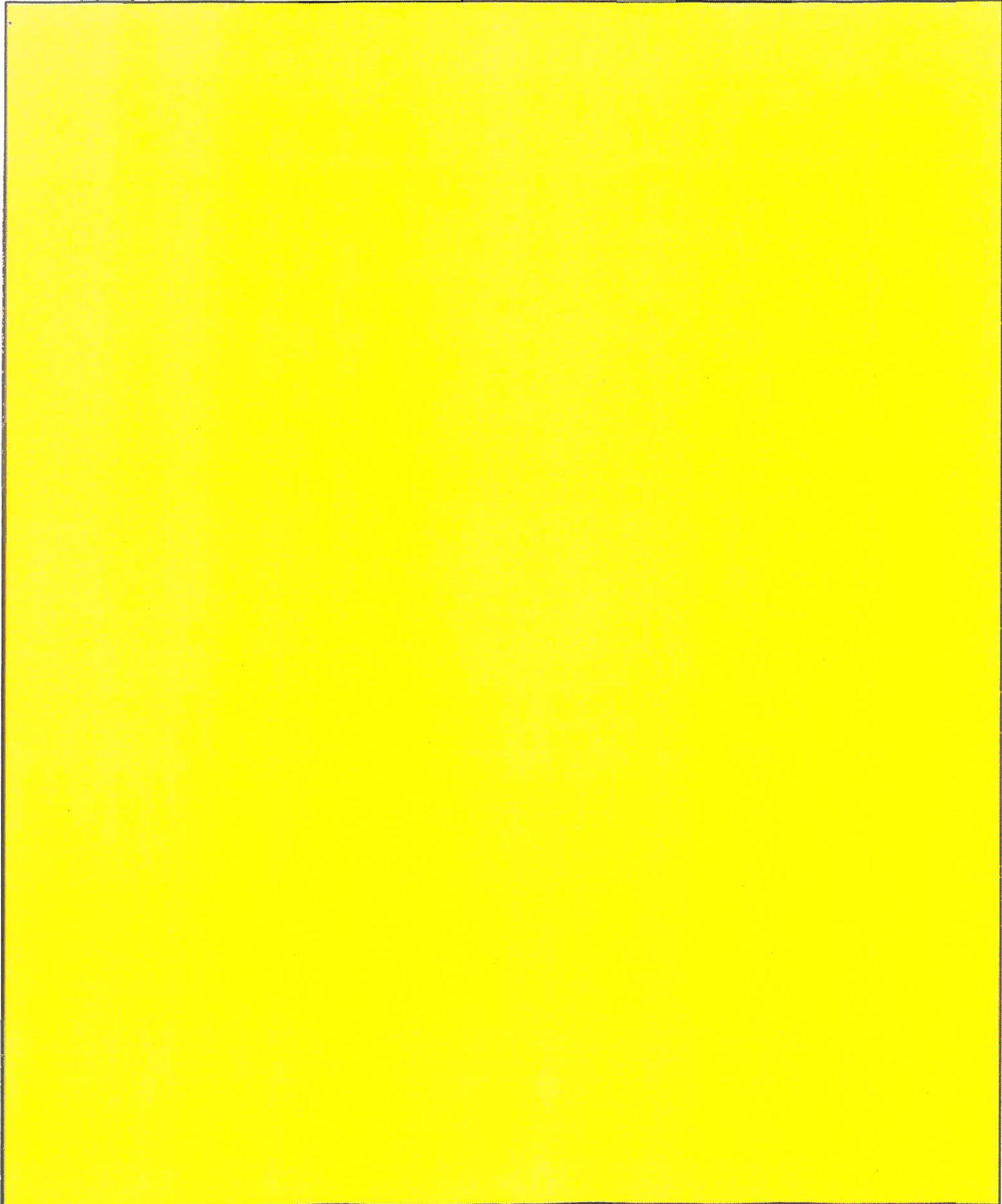
FACTUAL ACCURACY REVIEW BACKGROUND

37 Pages (Including Coversheet)

This document has been referred to the DOE Headquarters FOIA Office as it falls under the jurisdiction of that office. DOE HQ will make final release determination and provide response to the requestor.

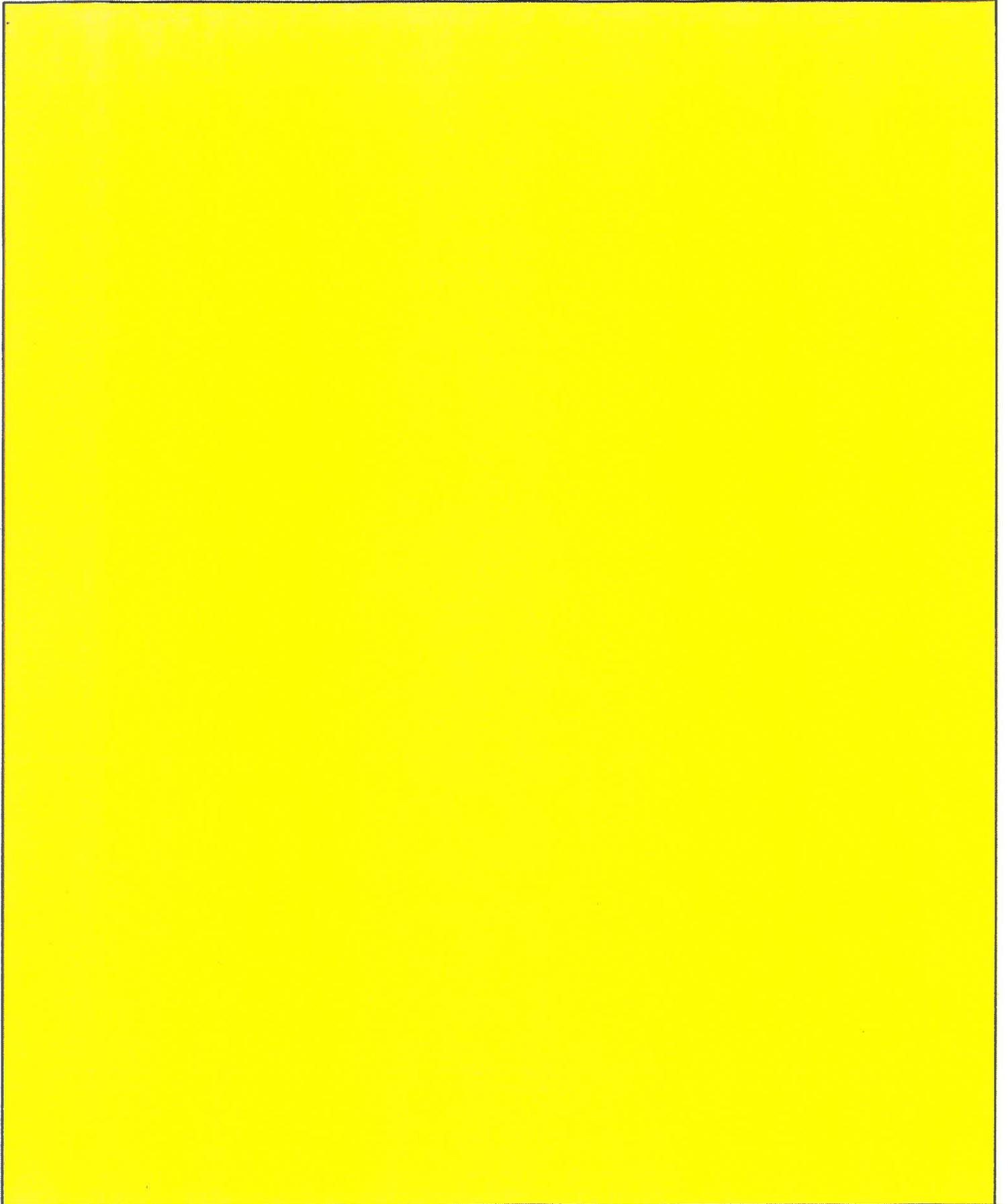
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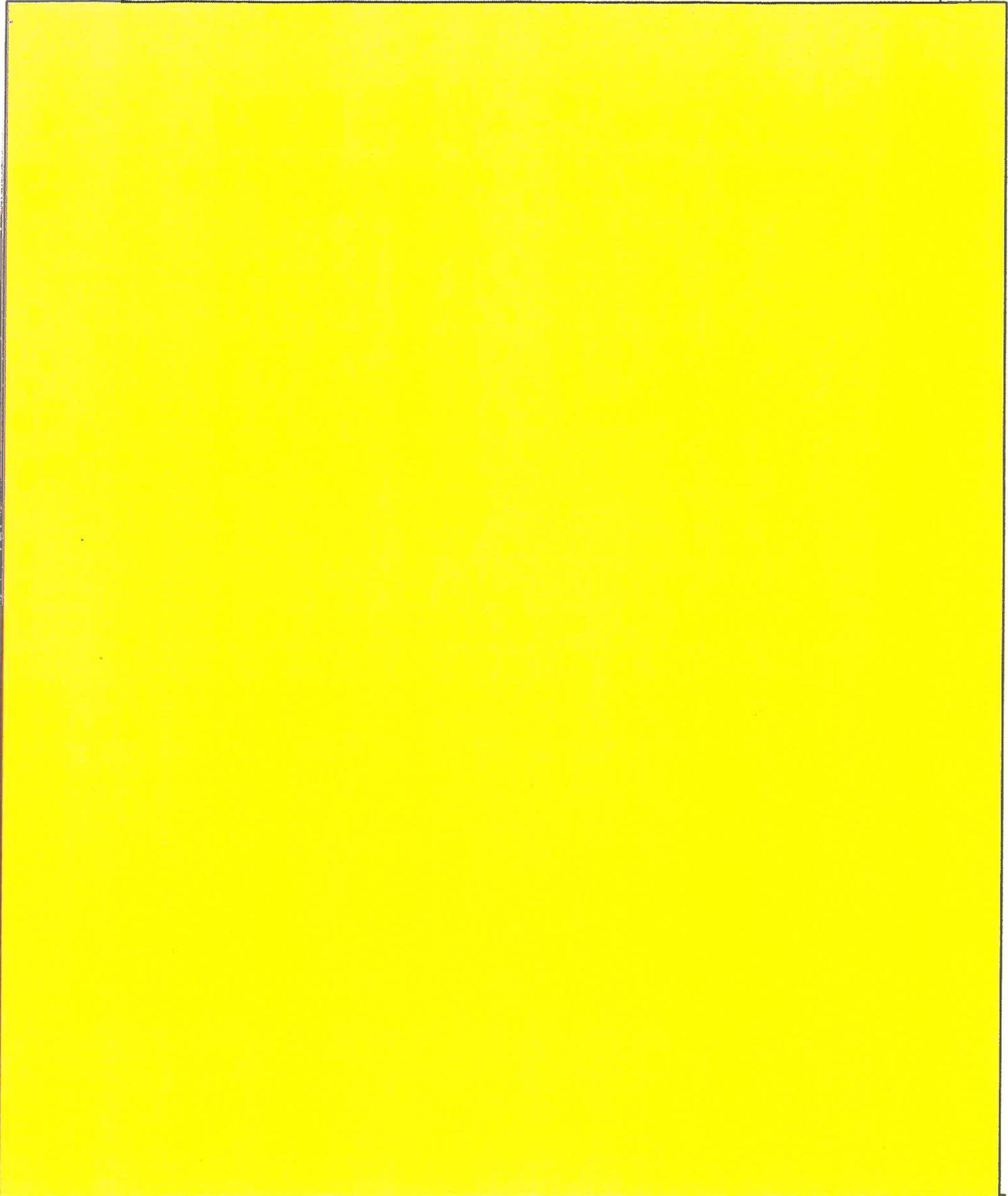
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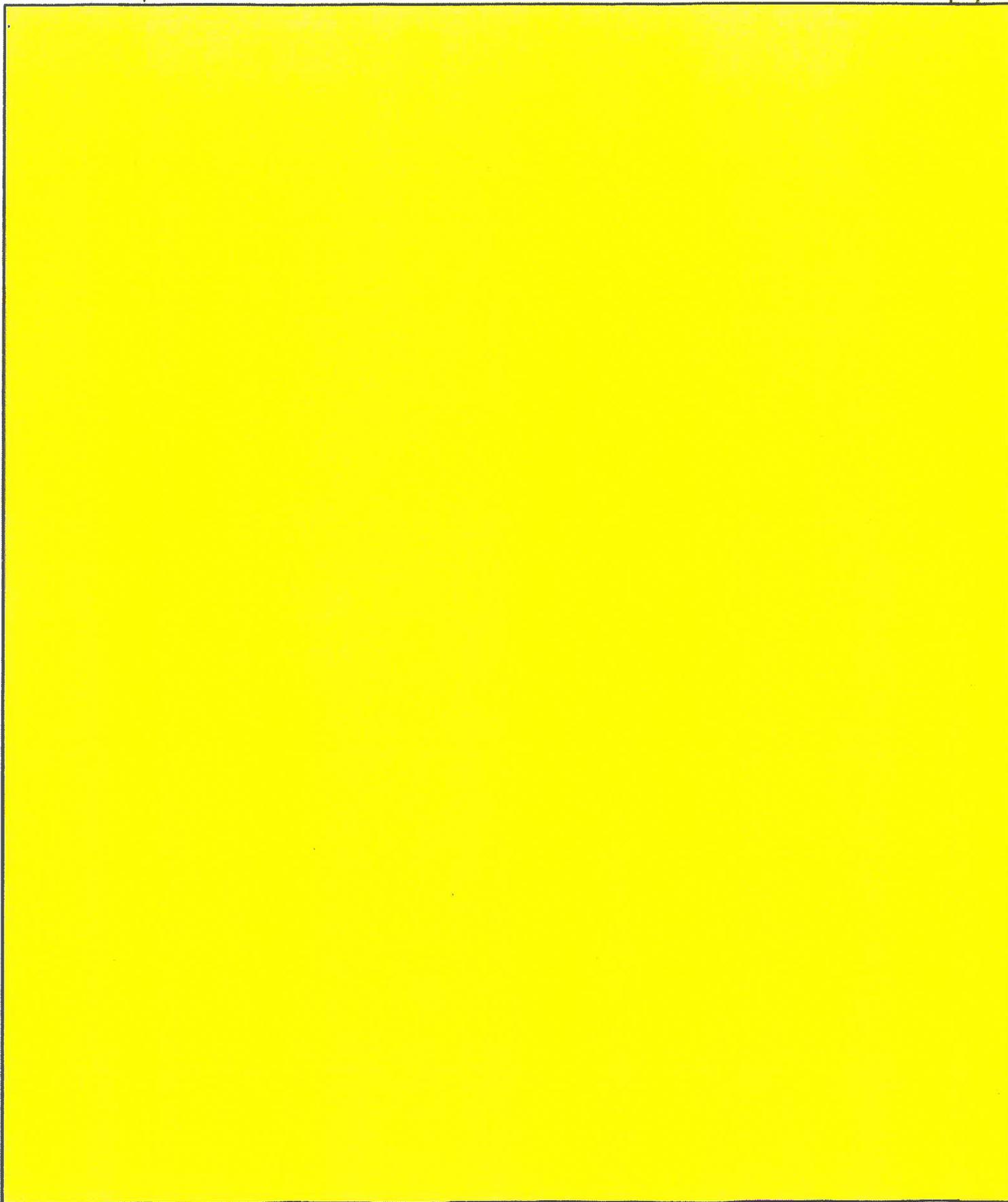
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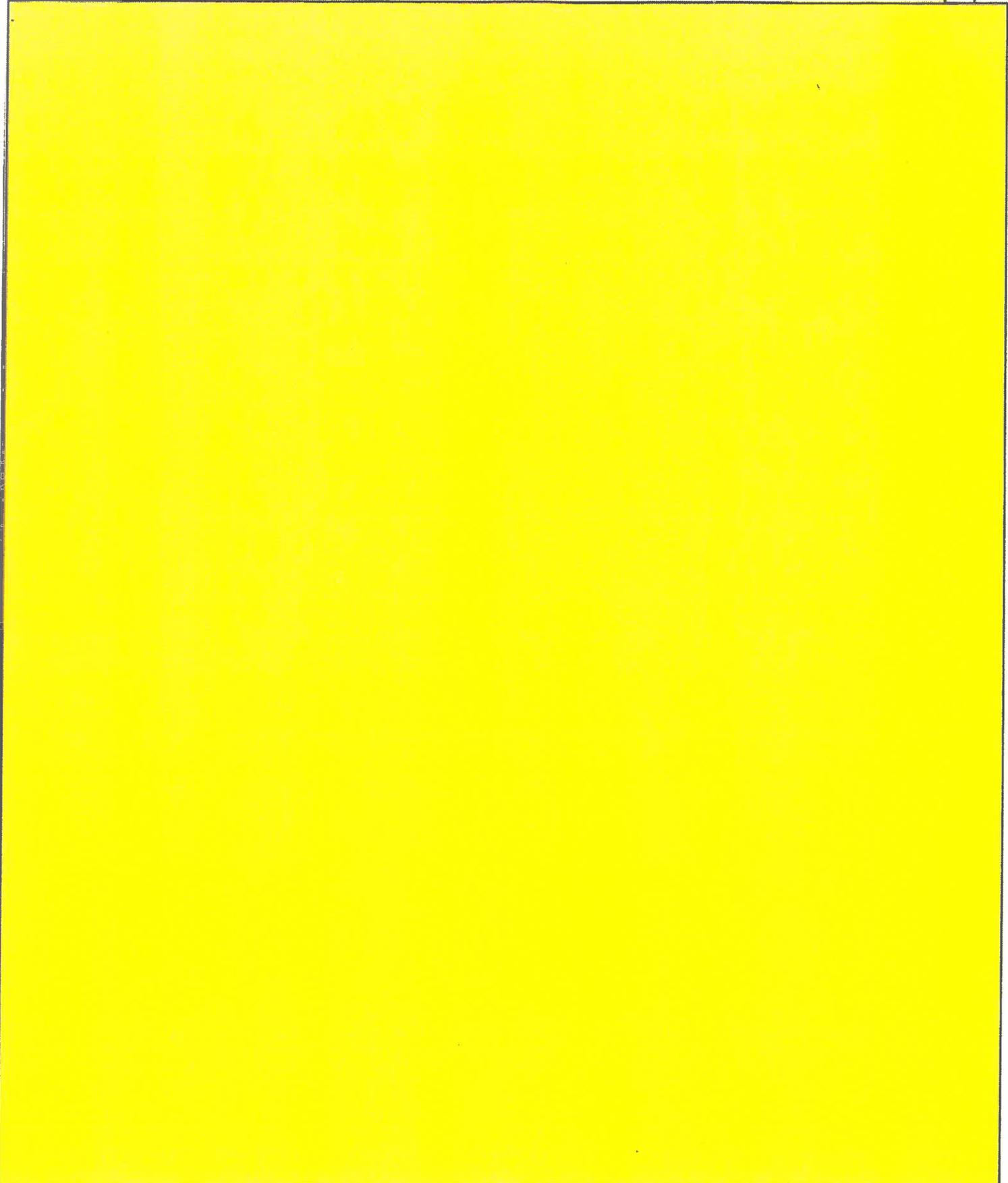
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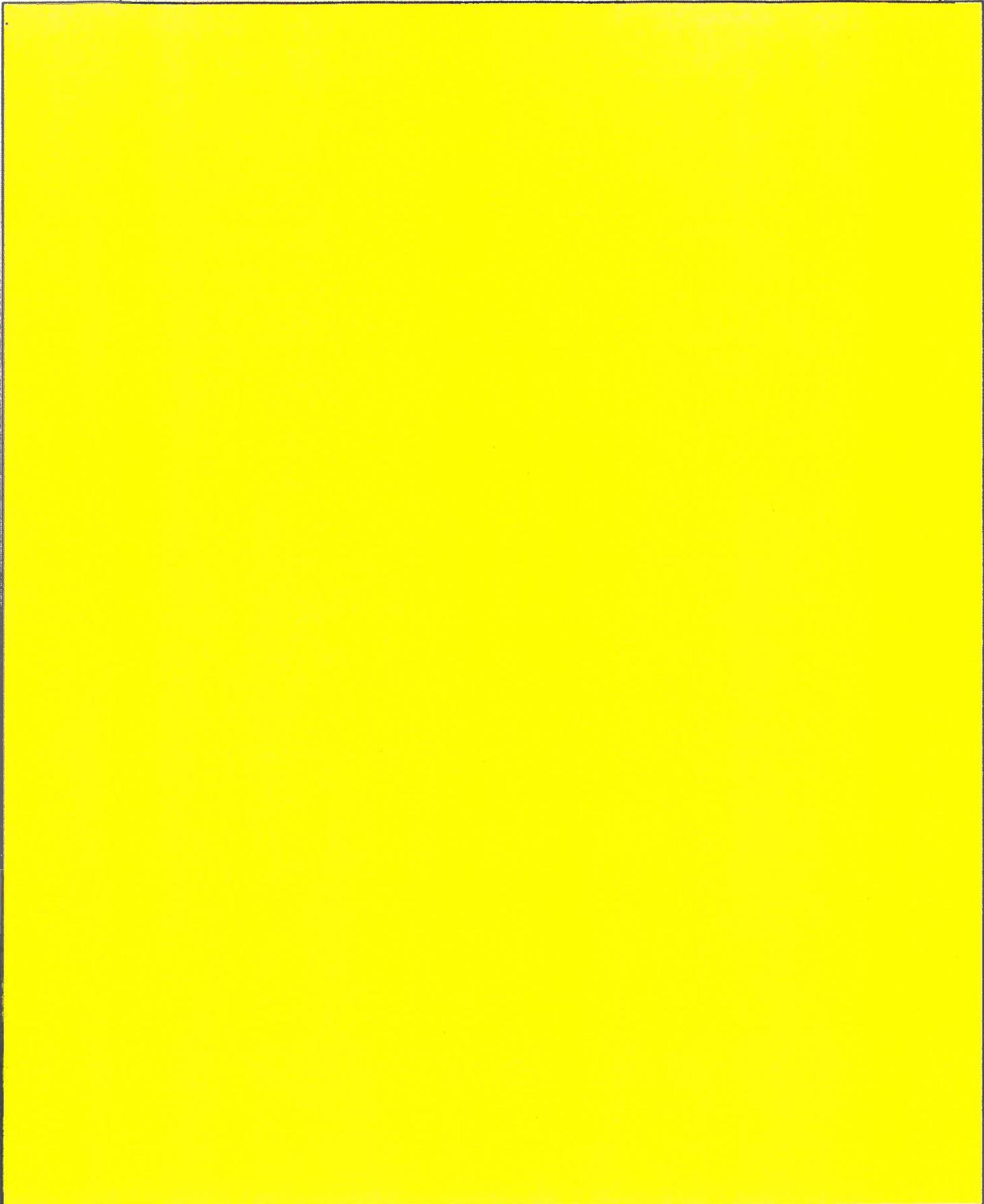
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Attachment
18-WTP-0041



Issued by
[REDACTED]

ECN: 257401



Meeting Minutes

Group Chair: (b)(6)

Meeting: December 11-14, 2017, Project Office CR 4219

Next Meeting: January 22 - 25, 2018

Purpose: Quality Workshop to Evaluate NQA-1-2008/09A Requirements Applicable to DFLAW During Commissioning and Operations

Prepared by: (b)(6)

Agenda Item: Applicability of NQA-1-2008/09A, Parts II, III, IV

Discussion:

The intent of this workshop was to define the requirements for the Commissioning and Operations (C&O) Quality Assurance Manual (QAM), which will apply to the commissioning and operations phases.

Which elements of ACRS NQA-1-2008/09A, Quality Assurance Requirements for Nuclear Facility Applications, Parts II, III, and IV are applicable to DFLAW for the commissioning and operations phases?

- i. Are the requirements identified in Part II specific to nuclear power plants and not intended for the type of facility or activity associated with DFLAW?
- ii. If applicable, what activity is it applicable to?
- iii. When and where can grading be applied to applicable requirements?

The focus of the next workshop in January 2018 will be to define the graded approach to support commissioning and operations activities.

Conclusions:

1. [REDACTED]
 - Part II, Subpart 2.1, Quality Assurance Requirements for Cleaning of Fluid Systems and Associated Components for Nuclear Power Plants;
 - Part II, Subpart 2.2, Quality Assurance Requirements for Packaging, Shipping, Receiving, Storage, and Handling of Items for Nuclear Power Plants;
 - Part II, Subpart 2.4, Installation, Inspection, and Testing Requirements for Power, Instrumentation, and Control Equipment at [REDACTED];
 - Part II, Subpart 2.5, Quality Assurance Requirements for Installation, Inspection, and Testing of Structural Concrete, Structural Steel, Soils, and Foundations for Nuclear Power Plants;

CCN: 257401

- Part II, Subpart 2.15, *Quality Assurance Requirements for Hoisting, Rigging, and Transporting of Items for Nuclear Power Plants;*
 - Part II, Subpart 2.20, *Quality Assurance Requirements for Subsurface Investigations for Nuclear Power Plants;* and
 - Part III, Subpart 3.2, *Nonmandatory Appendix 3.1, Guidance on Qualification of Existing Data*
2. The following elements were assessed as applicable to DFLAW, and tailored:
- Part II, *Introduction (Section 600 - Multifacility Provisions);*
 - Part II, Subpart 2.3, *Quality Assurance Requirements for Housekeeping for Nuclear Power Plants (significant tailoring and reduction in requirements);*
 - Part II, Subpart 2.8, *Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems for Nuclear Power Plants (Cold/Hot Emotional Testing);* and
 - Part II, Subpart 2.16, *Quality Assurance Requirements for Maintenance of Nuclear Facilities (Tailored to reflect DFLAW scope);*
3. Parts III and IV are agreed as nonmandatory and for consideration only. Elements of Part III and Part IV will be considered in the development of implementing documents.
4. The following elements are applicable to DFLAW, and were not evaluated during the workshop because no further changes to the draft C&O-QAM (CCN 224312) were deemed necessary:
- Part II, Subpart 2.7, *Quality Assurance Requirements for Computer Software for Nuclear Facility Applications;* and
 - Part II, Subpart 2.14, *Quality Assurance Requirements for Calibrated GWPB Bales and Services*

Refer to Attendance Roster (Attachment 01, 01 page) for list of attendees, and to the NCR-1-2008/09 Applicability Matrix (Attachment 02, 02 pages) for details associated with applicability and tailoring.

(b)(6)

Signature

1/4/18

Date

CCN: 257401

Distribution:

Name*	Organization	MAIN	(b)(6)	BNL
(b)(6)	WTCC		(b)(6)	BNL
(b)(6)	WTCC		(b)(6)	BNL
(b)(6)	WTCC		(b)(6)	BNL
(b)(6)	WTCC		(b)(6)	BNL
Gordon, Roger	ORP		(b)(6)	BNL
Han, David	ORP		(b)(6)	WTCC
Hastings, Rob	ORP		(b)(6)	WTCC
Hawka, Brenda	DOB HQ EP		(b)(6)	WTCC
(b)(6)	BNL		(b)(6)	BNL
Kwin, Mat	ORP		(b)(6)	WTCC
Schroder, Paul	ORP		(b)(6)	BNL
(b)(6)	WTCC		(b)(6)	BNL
(b)(6)	BNL		(b)(6)	BNL

PADC

WTP

MEIS-A

Attachment 01, to CCN 257401, Page 01 of 01



ATTENDANCE ROSTER

Workshop Title: NQA-1 Requirements Applicability, and Graded Approach

Date: December 11-14, 2017

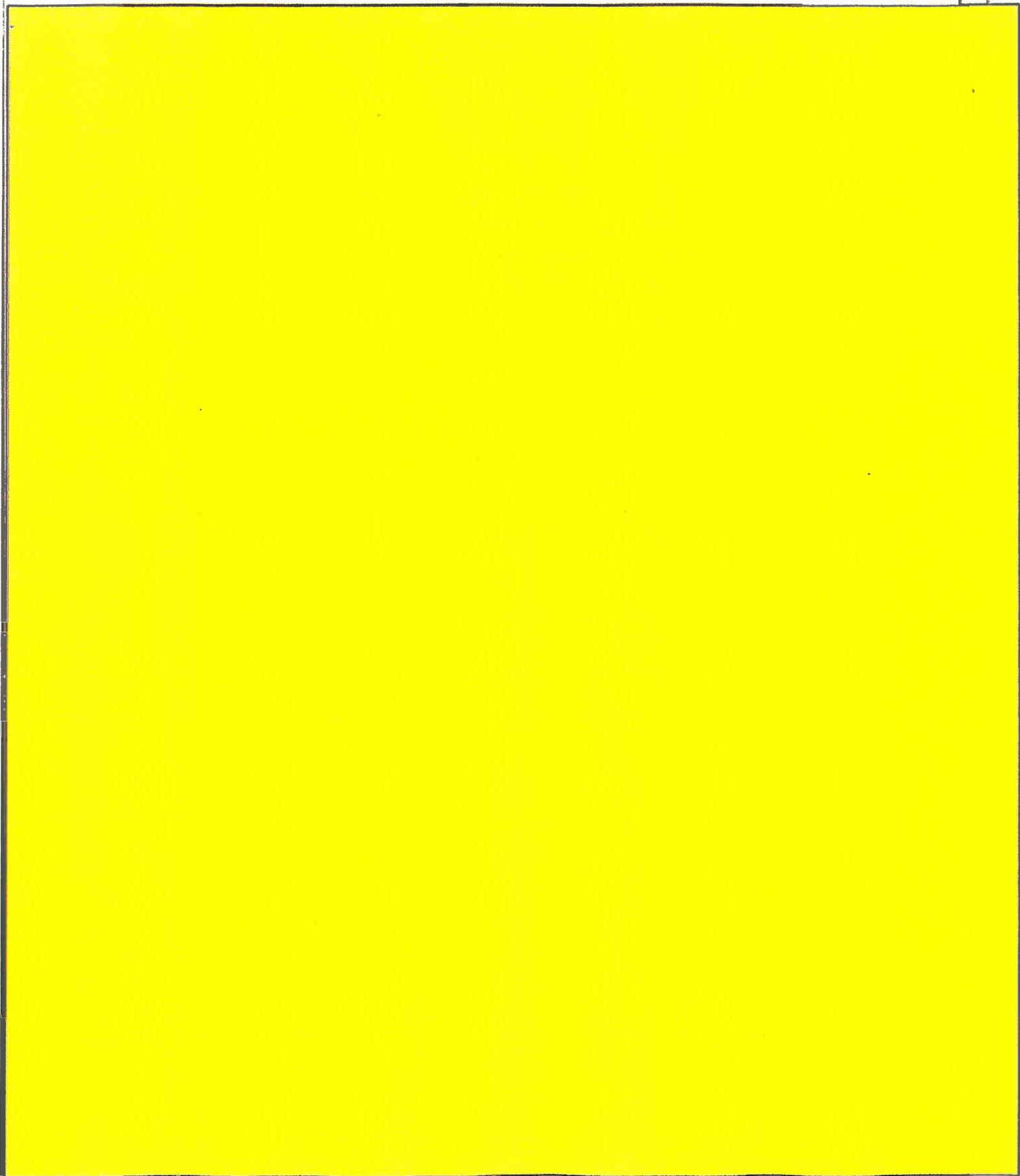
Location: BNI Project Office, 4th Floor Conference Room 413

Name	Signature	Organization	Email Address	Phone Number
(b)(6)		WTP QA BNI QA	(b)(6) (b)(6)	(b)(6) (b)(6)
Gordon, Roger	<i>[Signature]</i>	ORP-WTP	roger.gordon@bechtel.com	2157
Finn, David	<i>[Signature]</i>	ORP OAD	david.finn@bechtel.com	240
Hawke, Brenda	<i>[Signature]</i>	DOE HQ SP	brenda.hawke@bechtel.com	2591
Schroder, Paul	<i>[Signature]</i>	ORP-OAD	Paul.Schroder@bechtel.com	373-8037
(b)(6)		WTPC-OAD	(b)(6)	(b)(6)
(b)(6)		BNI QA	(b)(6)	(b)(6)
(b)(6)		BNI QA	(b)(6)	(b)(6)
(b)(6)		BNI QA	(b)(6)	(b)(6)
Vega, Sam	<i>[Signature]</i>	ORP-OAD	sam.vega@bechtel.com	373-1246
Wallace, Lynn	<i>[Signature]</i>	ORP OAD	lynn.wallace@bechtel.com	373-2227
(b)(6)		BNI QA	(b)(6)	(b)(6)
(b)(6)		WTPC Maintenance	(b)(6)	(b)(6)
(b)(6)		WTPC Programs	(b)(6)	(b)(6)
(b)(6)		WTPC Programs	(b)(6)	(b)(6)
(b)(6)		WTPC	(b)(6)	(b)(6)
(b)(6)		BNI-MET	(b)(6)	(b)(6)
(b)(6)		WTPC-PT	(b)(6)	(b)(6)
(b)(6)		BNI-PT	(b)(6)	(b)(6)
(b)(6)		BNI-PT	(b)(6)	(b)(6)
(b)(6)		BNI-OS	(b)(6)	(b)(6)

24590-PADC-FR0026 Rev 0

This document has been referred to the DOE Headquarters FOIA Office as it falls under the jurisdiction of that office. DOE HQ will make final release determination and provide response. **BEST AVAILABLE COPY**

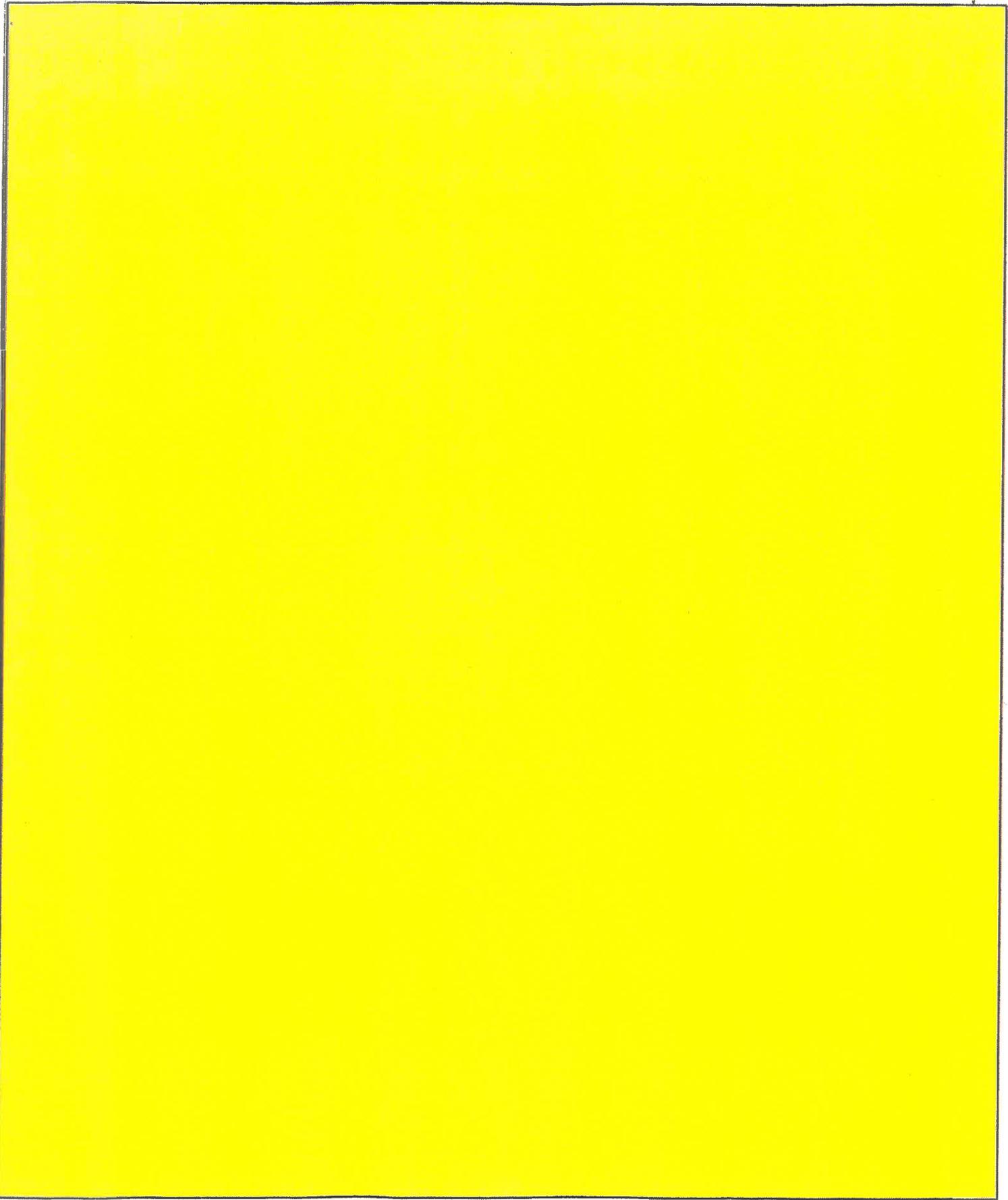
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18-WTP-0041



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FOIA Office as it falls under the jurisdiction of that office.
DOE HQ will make final release determination and provide
response to the requestor.

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Attachment
18-WTP-0041





U.S. Department of Energy
Waste Treatment & Immobilization Plant
Mr. W. F. Hamel
Assistant Manager for WTP, Federal Project Director
P.O. Box 450, MSIN H6-60
Richland, Washington 99352

CCN: 298472

JULY 17 2017

Dear Mr. Hamel:

**CONTRACT NO. DE-AC27-01RV14136 – CONTRACT DELIVERABLE 5.1 –
24590-WTP-PL-RACT-CG-0001, REV 0, COMMISSIONING PLAN**

Reference: CCN 276986, Letter, from L. W. Baker, BNI, to W. F. Hamel, ORP-WTP,
"Contract Deliverable 5.1 – Commissioning Plan," dated December 23, 2016.

In accordance with WTP Contract Section C, Standard.5 (c) and Table C.5-1.1, Item 5.1, BNI submits 24590-WTP-PL-RACT-CG-0001, Rev 0, *Commissioning Plan* (Attachment), to the Contracting Officer Representative for review and approval by ORP. A preliminary version of this plan was previously submitted to ORP by the Reference as required by Table C.5-1.1, Item 5.1.

Contact Terry Hissong at (509) 371-4464 for further information related to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. K. Binns", is written over a large, light blue oval scribble.

C. K. Binns
Business Services Manager

AJD/tlh

Attachment: 24590-WTP-PL-RACT-CG-0001, Rev 0, *Commissioning Plan*

Mr. W. F. Harmel
Page 2 of 2

CCN: 298472

cc:

(b)(6)

Champlain, G. F.
Cone, R. E.
Dawson, R. L.

(b)(6)

Grindstaff, J. F.

(b)(6)

Harp, B. J.

(b)(6)

Mair, K. A.

(b)(6)

w/a (hard copy)

Sheretz, W. C.

Smith, K. W.

(b)(6)

^ORP DNFSB OIG GAO (orpdfsboiggao@rl.gov)
DOE Correspondence Control
PADC w/a

BNI	
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Attachment
18-WTP-0041

Attachment to
CCN 298472

Attachment

24590-WTP-PL-RACT-CG-0001, Rev 0,

Commissioning Plan

134 Pages

(including coversheet)

Electronic documents, once printed, are UNCONTROLLED and may become outdated.
Refer to the electronic documents in InfoWorks for current revision.



Hanford Tank Waste Treatment and Immobilization Plant

Document Owner
WTCC

Applicability	Project Phase	Organization Use	Level of Use
WTCC	Commissioning	Cross-Functional	Information
Care, Custody, and Control		N/A	

Plan

24590-WTP-PL-RACT-CG-0001

Revision 0

Commissioning Plan

Requirement Area: Commissioning

Position	Print Name	Signature	Date
RA SME / Preparer	(b)(6)		7/5/2017
RAM / Approval Authority			7/5/2017

24590-WTP-PL-RACT-CG-0001, Rev 0
Commissioning Plan

processes, an update to the CAA, or approval of a new document providing a commissioning authorization agreement (CoAA) is required.

10. Content to be developed in a subsequent revision:

- Description of transition from the CAA to a CoAA for the control of operational hazards using Commissioning phase programs.
- Description of CoAA for introduction of chemical hazards and limitations applicable during early Commissioning phase testing (e.g., carbon dioxide, sodium hydroxide, and other pre-cold commissioning chemical hazards).

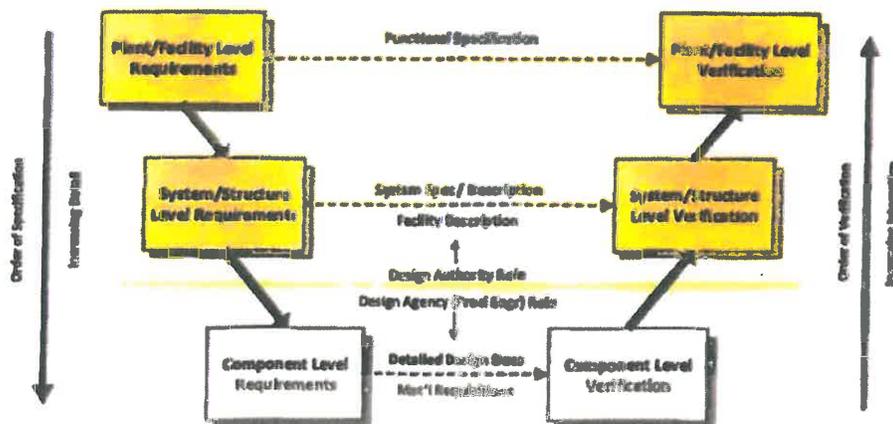
3.2 Technical Requirements

3.2.1 Technical Requirements Management

The WTP Project has implemented a comprehensive technical requirements management process that identifies design requirements, tracks these requirements into the design documentation, and verifies that the requirements have been adequately implemented into the design. The process is described in procedure 24590-WTP-3DP-G04B-00004, *Technical Requirements Management*, and supplemental guide 24590-WTP-3DI-G04T-00004, *Technical Requirements Management*.

Figure 12 illustrates the overall WTP systems engineering approach to requirements development, allocation, and flow-down with the corresponding verification that the implemented design adequately reflects requirements. Technical requirements taken from source documents, listed in 24590-WTP-RPT-ENG-01-001, *Technical Baseline Description*, are decomposed into implementable facility, system, or component level requirements for design implementation.

Figure 12 Technical Requirements Management



Verification of requirements for selected systems is documented in a requirements verification matrix and in design verification reports. These verifications are part of the formal WTP process of verification under the ASME NQA-1-2008 (with 2009a addendum), *Nuclear Quality Assurance Requirements for*

**24590-WTP-PL-RACT-CG-0001, Rev 0
Commissioning Plan**

Nuclear Facility Applications, for safety systems and IHLW affecting systems (IHLW requirements are not applicable to LBL). Verification is accomplished by analysis, inspection, review, or testing.

A test matrix is a document created to compile requirements from multiple design sources into a single location to ease the burden on Startup and Commissioning when identifying test requirements. A test matrix represents a snapshot of the requirement text and is used to identify test requirements in the source design documents. The test matrix does not contain requirements, and actual test performance is conducted in accordance with design documents referenced by the test matrix and verified prior to test execution. Test matrices concentrate test requirements originating from level 1 to 4 design criteria documents and level 5 to 7 detailed design documents into a single location. Requirements originating in level 1 to 4 design criteria documents are identified as functional acceptance criteria (FAC) and those originating in level 5 to 7 documents identify tests needed to demonstrate satisfactory performance. Requirement verification is performed against the current revision of design documents.

The Design Agency leads the development of test matrices with input from a working group consisting of Startup, Commissioning, Plant Engineering, and other organizations as appropriate. Assignment of test requirements to Startup or Commissioning is identified within the test matrix. Each organization is responsible for ensuring the assignment aligns to its respective scope.

3.2.2 Commissioning Test Requirements Management

For work planning purposes, requirements in test matrices are tracked from their initial flow-down to Commissioning through evaluation, planning, execution, and results reporting using a requirements management system called the commissioning test requirements management system (CTRMS). This process is described in guide 24590-WTP-GPG-RACT-CT-0001, *Commissioning Test Requirement Management*. Requirement development status, along with references to supporting documentation, are maintained within CTRMS, allowing the Commissioning organization to monitor the progression of requirement completion and ensure required testing is completed before major facility milestones.

The CTRMS aids in test planning by identifying a phase of testing with suitable facility conditions for each test requirement. Test requirements are aggregated by phase for test index, and subsequent test plan development. This methodology ensures test requirements are identified for field verification in a time frame (phase) with appropriate facility conditions available for testing (e.g., simulant as a test medium). In addition, CTRMS provides traceability by mapping test requirements from source documents through implementing and results documents.

3.3 Commissioning Lessons Learned

The WTP commissioning approach is guided by various benchmarks and lessons learned from within the DOE complex and other applicable sources. The WTCC personnel bring experience from startup and operation of other vitrification facilities: the WVDP, DWPF, and commercial enterprises, such as GeoMelt®. Personnel also bring experience from other high-hazard facilities, including the Savannah River Site HB Line, Tritium, and Tank Farms—as well as the Idaho Waste Treatment Facility, Chemical Demilitarization, and US Navy Nuclear Service. By selecting personnel with a wide range of related experience from high-hazard nuclear and non-nuclear facilities, the WTCC organization provides a wide range of perspectives to solve problems and develop risk-informed solutions.

The WTP Commissioning approach to lessons-learned experience is implemented through the use of procedure 24590-WTP-GPP-RACA-LL-0001, *WTP Lessons Learned*. Lessons learned are extracted

**NQA-1-2008/Addenda 2009, PART II (not including Subpart 2.7)
All New Requirements**

SUBPART 2.4 Installation, Inspection, and Testing Requirements for Power, Instrumentation, and Control Equipment at Nuclear Facilities

Subpart 2.4 consists of ANSI/IEEE Std. 336-1985, *IEEE Standard Installation, Inspection, and Testing Requirements for Power, Instrumentation, and Control Equipment at Nuclear Facilities*.

This document is not reproduced herein. Copies are available from the Institute of Electrical and Electronics Engineers, Inc. (IEEE), 445 Hoes Lane, Piscataway, NJ 08854.

THE FOLLOWING ARE REQUIREMENTS FROM ANSI/IEEE Std. 336-1985, IEEE

1. Introduction

1.1 Scope

This standard sets forth the requirements for installation, inspection, and testing of power, instrumentation, and control equipment and systems during the construction phase of a nuclear facility. These requirements also cover modifications and those operating phase activities that are comparable in nature and extent to related initial construction activities of the facility.

The intent of this standard is to establish requirements for safety systems equipment. (Safety systems equipment is defined in IEEE Std 603-1980 [5], 1.) However, this standard may also be applied to non-safety systems equipment.

¹The numbers in brackets correspond to those of the references listed in Section 2.

1.1.1

This standard does not set forth specific requirements for the following, though they are related to the above equipment and systems

- 1) Installation, inspection, and testing of welds
- 2) Cleaning and flushing of instrument sensing lines
- 3) Aligning or verifying alignment, or both, of rotating equipment
- 4) Verifying structural integrity of supports for equipment
- 5) Activity governed by Section III of [6]
- 6) Preoperational tests of the integrated systems and equipment
- 7) Periodic testing and maintenance after initial operation
- 8) Receiving inspection and test
- 9) Non-destructive examination when required

1.1.2

During the construction phase and when modifications are being performed, this standard shall be used in conjunction with the applicable portions of ANSI/ASME NQA-1-1983[1] and ANSI/ASME NQA-2-1983 [2]. During the operations phase this standard shall be used with the applicable portions of ANSI/ANS 3.2-1982 [3].

1.2 Applicability

The requirements set forth in this standard apply to the work of any organization that participates in the installation, inspection, testing, or modification of power, instrumentation, and control equipment and systems in a nuclear facility from the time that the equipment is turned over for installation until it is integrated into a system.

The extent to which the individual requirements of this standard apply either wholly or in part depends upon the nature and scope of the work to be performed and the importance of the item or service involved.

1.3 Responsibility

It is the responsibility of the organization invoking this standard to identify the equipment and systems to which this standard is applicable. The planning operations stipulated in Section 3.2 shall specify the inspections and tests to be performed on the identified equipment and systems consistent with this standard. The work of establishing practices and procedures and providing the resources, in terms of personnel, equipment, and services, to implement the requirements of this standard, may be delegated to other organizations. Such delegation shall be documented. In any case, the organization invoking this standard shall retain responsibility for overall program effectiveness.

2. References

When the following standards referred to in this document are superseded by a revision approved by the American National Standards Institute, the revision is not mandatory until it has been incorporated as part of this standard

- [1] ANSI/ASME NQA-1-1983, Quality Assurance Program Requirements for Nuclear Power Plants.²
- [2] ANSI/ASME NQA-2-1983, Quality Assurance Requirements for Nuclear Power Plants.

**NQA-1-2008/Addenda 2009, PART II (not including Subpart 2.7)
All New Requirements**

10.3.1

Suitable protective barriers shall be erected, where needed, to prevent damage to equipment or systems associated with the existing unit(s).

10.3.2

Spare capacities available in the existing facility, such as in cable raceways or in panelboards, shall not be used unless expressly indicated on the latest applicable approved-for-construction drawings or installation specification. This does not prohibit authorized temporary use of such spare capacities.

10.3.3

When working in an area common to the new and the existing units, such as the cable spreading room, control room, or radioactive waste building, care shall be especially exercised to avoid interference with existing facilities and to maintain required separation, where appropriate, between the systems associated with existing and new units.

10.4 Inspection**10.4.1**

Inspection shall be performed to verify that the requirements of 10.2 and 10.3 have been satisfied.

10.4.2

Inspection shall be performed to verify that the existing facilities are properly protected from construction activity.

10.5 Testing

In testing integrated electrical control or instrumentation systems, or both, where the plant design calls for interconnection between the existing and new systems, care shall be exercised to prevent tripping or otherwise disturbing the operation of equipment or systems associated with the existing unit(s).

SUBPART 2.5 Quality Assurance Requirements for Installation, Inspection, and Testing of Structural Concrete, Structural Steel, Soils, and Foundations for Nuclear Power Plants

100 GENERAL

Subpart 2.5 provides amplified requirements for installation, inspection, and testing of structural concrete, structural steel, soils, and foundations. It supplements the requirements of Part I and shall be used in conjunction with applicable sections of Part I when and to the extent specified by the organization invoking Subpart 2.5.

101 Definitions

The following definitions are provided to ensure a uniform understanding of unique terms as they are used in Subpart 2.5.

class of concrete: Identifies each individual design mix.

correlation testing: a form of in-process testing accomplished in a manner consistent with established procedures that provides for the comparison of results of specified tests of concrete samples taken of corresponding batches from two different points to establish to what extent the conditions and method of transit have impacted on specified requirements for plastic concrete at the placement point.

curing: the process of maintaining a satisfactory moisture content and a favorable temperature in concrete during hydration of the cementitious materials so that desired properties of the concrete are developed.

delivery point: the point of discharge in the case of a truck agitator unit, or nonagitator unit when another conveying device is to be used to transport the plastic concrete to the placement point. When a truck agitator unit is used in the transit of concrete, the delivery point and the mixing point are considered coincident when

(a) the delivery point is not more than a distance of 2 mi (3.22 km) and a maximum time of 1/2 hr in transit from the mixing point

(b) the delivered concrete commences to be placed within a maximum time of 1/2 hr from the time the transporting vehicle arrives at the delivery point

When a nonagitator unit is used, the delivery point and the mixing point shall not be considered coincident.

finishing: the process of obtaining specified surface characteristics of hardened concrete.

in-process tests: tests performed during the course of construction to determine compliance with specified requirements and maintain control of materials. These tests may be performed by the Purchaser (or his agent), constructor, manufacturer, or Supplier, but samples for these tests must be taken from the lot or batch of materials supplied and used at the site of construction.

mixing point: the point of discharge of plastic concrete from a central mix plant. For truck-mixed concrete, the mixing point and delivery point are defined as coincident.

**NQA-1-2008/Addenda 2008, PART II (not including Subpart 2.7)
All New Requirements**

placement point: the point of discharge of plastic concrete into the forms. Except for pumped concrete, the placement point and the delivery point are considered coincident when 5 min or less is used in transit of the concrete from the delivery point to the placement point.

qualification tests: tests performed to qualify the basic material source or manufacturer to ensure conformance to specification requirements.

200 GENERAL REQUIREMENTS

The requirements of Subpart 2.5 apply to any organization or individual participating in work relating to production, preparation, placement, installation, inspection, and testing of structural concrete, structural steel, soils, and foundations, and applies to the following:

- (a) formwork
- (b) steel reinforcement
- (c) embedded items
- (d) foundation preparation
- (e) concrete
- (f) structural steel
- (g) soils and earthwork
- (h) special foundations
- (i) foundation underpinning

300 REQUIREMENTS

Measures shall be established and implemented for documenting installation, inspection, and testing activities to verify conformance to specified requirements.

301 Planning and Procedures

Planning and procedure preparation shall be in accordance with the Introduction to Part II.

302 Measuring and Test Equipment

Measuring and test equipment used to implement the requirements of Subpart 2.5 shall include (but not be limited to) thermometers, balances, scales, air entrainment meters, volumetric buckets, field measuring devices, pressure gages, and torque wrenches.

303 Laboratory Testing

Laboratory operations and testing associated with concrete and soils shall be controlled using a quality assurance program. Such testing laboratories shall conform to ASTM C 1077 and D 3740.

400 PRECONSTRUCTION VERIFICATION

401 General

Receipt and interim storage inspections shall be used to verify that items are in a satisfactory condition for installation. The verification shall include the following:

- (a) visual inspection of material for proper identification, physical damage, and contamination
- (b) review of manufacturer's documentation, test reports, or other evidence of quality conformance for correctness and compliance with specifications if not reviewed at time of receipt

402 Materials Suitability

To ensure that materials meet specified requirements, preconstruction qualification tests and inspections of the materials to be used and in-process tests of materials being used shall be conducted. Qualification tests shall be performed and the results evaluated prior to the initial use of the material to establish conformance of the materials to the specified requirements. These tests are mandatory unless current documentary test data are available to establish complete confidence in conformance to specification requirements. The specifications shall identify the required qualification tests and the frequency for their repetition. The tests required for concrete, concrete constituents, materials for reinforcing systems, materials for prestressing systems, and welding materials shall be in accordance with the ASME Boiler and Pressure Vessel Code, Section III, Division 2 (ACI Standard 359). Lightweight concrete mix designs shall be made in accordance with ACI 211.2. Lightweight concrete aggregates shall be qualified by tests for conformance with ASTM C 330. When splitting tensile strengths are required for lightweight concrete mix, the methods given in ASTM C 330 shall be used. Additional tests may be required to qualify materials for special application.

403 Construction Processes

Inspections shall be performed to verify that the prerequisites for control of construction processes such as welding, structural bolting, mechanical splicing of reinforcement, and concrete measuring, mixing, transporting, placing, and curing have been accomplished. These inspections shall include verification of the following:

WTP Design Completion Requirements

Systems Engineering Management Plan (24590-WTP-PL-ENG-0002, Rev 2)

3.2.1 Design Criteria Hierarchy

The technical requirements are contained in source requirement documents that are defined in 24590-WTP-RPT-ENG-01-001, Technical Baseline Description. These documents have a hierarchy of precedence which is detailed in the Technical Baseline Description and summarized below.

- Level 1 – Stakeholder
- Level 2 – DOE Approval (e.g., PDSA, SRD, CoR)
- Level 3 – WTP Approval (e.g., BOD)
- Level 4 – Discipline specific requirements; facility/system specific requirements (e.g., DC, and requirement sections of FDDs/SDDs and FDs/SDs)

4.4 Design Verification

Design verification is performed by the Design Agency and documented in a Design Verification Report (DVR). The DV procedure is established by the Design Agency as the preparer of the DVR with review/approval by Design Authority. Design verification is performed to provide reasonable assurance that the design conforms to requirements that are safety related, WAI, and other select requirements as needed. The Design Authority establishes the scope of DV activities via the approved Design Verification Matrix (DVM). Design verification is performed on design documents that will be used for procurement and/or construction installation.

5.3 Construction Phase

Prior to turnover to startup, the Design Agency prepares a Design Completion List (DCL) in accordance with 24590-WTP-3DP-G04T-00916, *Design Completion for Turnover to Startup or Plant Operations*; and supports walkdowns in accordance with 24590-WTP-GPP-CON-1602, *System and Area Completion and Turnover*.....

Note: 24590-WTP-3DP-G04T-00916, *Design Completion for Turnover to Startup or Plant Operations* has been deleted – superseded by 24590-WTP-3DP-G04B-00092, *System Verification*. Design Completion Lists no longer exist.

5.4.1 Requirement Verification & Turnover from Construction to Startup

The requirement verification activities that are selected depend on the nature and complexity of the design. Verification activities consist of inspections, pass/fail verification, detailed functional configuration audits (to show compliance with the requirements), and physical configuration audits to confirm compliance with the design documents. As part of this effort, requirement verification matrices are completed to provide documented evidence that the requirements have been met. This activity is performed prior to startup, and updated as

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needed to account for verification activities performed during startup and commissioning. All requirement verification is completed prior to commencement of Operational Readiness Review (ORR), for the associated scope of the ORR.

Test objectives, acceptance criteria, and test conditions necessary to support requirements verification are included in the FDD/SDD and FD/SD documents. Demonstration or testing requirements specified for requirement verification are incorporated in startup and commissioning testing and tracked in the RVM.

WTP Turnover Process (24590-WTP-GPP-RACT-TA-0101, Rev 1)

6.2.1 Phase 1, Initiation of the Turnover Process

b. (Design Agency) PERFORM the following:

1. VERIFY design completion in accordance with 24590-WTP-3DP-G04B-00092, *System Verification*
2. PROVIDE Engineering deliverables in accordance with 24590-WTP-3DP-G04B-00047, *Engineering Deliverables to Construction, Startup, and Plant Operations*.
3. PROVIDE test matrices in concert with Startup and Commissioning in accordance with engineering instructions to define test conditions and criteria for testing to be performed by Startup and Commissioning.
4. ENSURE Fire Hazards Analyses have been completed with no deficiencies or open items requiring resolution related to the turnover scope. Fire Hazards Analyses are prepared in accordance with 24590-WTP-GPP-SRAD-065, *Preparing a Fire Hazards Analysis*

System Verification (24590-WTP-3DP-G04B-00092, Rev 2)

2.1 Scope

RVMs are developed for all SDs/FDs prepared in accordance with 24590-WTP-3DP-G04T-00903, *System and Facility Descriptions*, unless specifically exempted, and all SDDs/FDDs prepared in accordance with 24590-WTP-3DP-G04B-00093, *System and Facility Design Descriptions* to confirm that the structure, system, or component (SSC) delivered meets the specified requirements.

Design Verification per 24590-WTP-QAM-QA-06-001, *Quality Assurance Manual*, Policy Q 03.1 Design Control, is a subset of requirements verification activities.

Specialized RVMs are developed at the discretion of the PEM/PE, Plant Engineering Manager or Systems Engineering Manager to document the review of the design for conformance to requirements that are outside the scope of the system-based RVMs.

2.2 Background Information

The system verification process confirms that the design process has resulted in SSCs that satisfy system requirements. The focus of verification is to confirm the adequacy of the design to achieve requirements specified in SDs/FDs/SDDs/FDDs; and that system requirements are properly incorporated into the design.

5.5 Primary Verification Methods

Design requirements are verified by one or a combination of the following activities:

- **Analysis (A)** – A formal calculation that confirms conformance with design criteria, including any required design margin, based on actual or bounding design configuration and other inputs. Committed calculations may be used as the basis for initial verification, but confirmed calculations shall provide the basis for verification prior to turnover from Construction to Startup and Commissioning. Analysis may include formally issued engineering reports and studies that have been subject to checking.
- **Review (R)** – A review of issued, non-preliminary design documentation to ensure requirements have been appropriately included or otherwise addressed. This verification can be met through the system design review or design verification process.
- **Inspection (I)** – A documented nondestructive evaluation/examination, confirming conformance with design criteria that are documented by an inspection report or record.
- **Test (T)** – Includes both documented demonstrations (qualitative performance evaluation) and formal testing, typically by means of measurable parameters and (or) quantifiable data, that design requirements are met under actual, simulated, scale model, or bounding conditions. Performance testing is typically done on SSCs in their installed configuration under actual or simulated operating conditions.

5.6 Design Verification

Design Verification (DV), as described in 24590-WTP-QAM-QA-06-0001, Quality Assurance Manual, Policy Q-03.1 Design Control, is a subset of overall requirements verification activities. At a minimum, DV is performed on all requirements identified as nuclear safety or WAI impacting. All remaining requirements are verified per Section 6.2.

Acceptable verification methods for DV include, but are not limited to, any one or a combination of the following: design reviews, alternate calculations, and qualification testing.

The extent of the design verification shall be a function of the importance to safety, the complexity of the design, the degree of standardization, the state of the art, and the similarity with previously proven designs. RVMs are used to document all requirements verification, including activities that fall under design verification.

Design verification shall be performed to the level of design activity accomplished prior to releasing the design for procurement, manufacture, construction, or release external to WTP Engineering except where this timing cannot be met, such as when insufficient data exist. In all cases, the design verification shall be completed prior to relying upon SSCs to perform their safety functions, and before installation becomes irreversible (e.g. not replaceable without extensive demolition and rework).

6.2 RVM Verification

Verification is expected to be performed on SSCs as they progress through design, fabrication, and installation.

The RVM Preparer:

- Indicates verification status.
- As needed in support of DV-flagged requirements, shall indicate the subcategory verification method (per Exhibit C) used to verify the requirement in the Verification Discussion section of the RVM. When verification is by design review, it is necessary to identify the subcategory for DV-flagged items.
- Shall identify verification document(s)/revision, such as:
 - Calculations and other system design documentation
 - Inspection reports
 - Test and data reports
- Provides verification discussion, as needed.
- Shall identify a "Partial" status when appropriate, with discussion to identify the basis for the partial status and sufficient details to understand the scope of what has been completed and what has not.
- Coordinates with Systems Engineering to determine if implementing design document revisions require a requirement re-verification.
- Includes reason for revision in the revision history.

Verification does not necessarily require new activities to be performed or documented. It is preferred to take advantage of activities and documents previously performed/issued where they are relevant, correct, and provide evidence of the requirement having been met.

6.3 RVM Revisions

RVMs document the verification of the requirements and are used to determine the overall status of design completion of Level 1 through 3 requirements. As such, revisions to the RVMs to update requirements, verification methods, or add or update verification documentation must be controlled to ensure alignment with the SD/FD/SDD/FDD and design documentation.

6.3.1 RVM Revision Timing

System-based RVMs may be revised and issued as needed, such as in advance of design decisions, design reviews, procurements, or construction releases. A system-based RVM revision is required:

- Subsequent to requirements updates or changes to verification methods as documented in the SDDs/FDDs/SDs/FDs.
- Subsequent to updates to the verification documentation and changes to the design as authorized by the PEM/PE.

- **Prior to turnover to Startup.** Verification activities not assigned to Startup or Commissioning, or exempted (punch-listed) for later completion, are to be complete and are identified in the revised RVM.
- **In advance of the Operational Readiness Review.** Verification activities, including Startup and Commissioning demonstrations and tests in support of requirements verification, are to be complete and identified in the revised RVM.

6.5 Design Completion and Changes to Design Used for Verification

The RVM form is the primary basis for determining the overall status of design completion of Level 1 through 3 requirements. Verification activities may also include a system design review for selected systems in accordance with 24590-WTP-3DP-G04T-00925, *System Design Review*.

Changes to Engineering documents identified as supporting RVM verification are evaluated to determine whether the changes affect or potentially invalidate previous verified requirements.



U.S. Department of Energy
Waste Treatment & Immobilization Plant
Mr. W. F. Hamel
Assistant Manager, Federal Project Director
P.O. Box 450, MSIN H6-60
Richland, Washington 99352

CCN: 222757

JUL 01 2014

Dear Mr. Hamel:

CONTRACT NO. DE-AC27-01RV14136 -- IMPLEMENTATION OF REVISION 1 TO THE CORPORATE QUALITY ASSURANCE PROGRAM, EM-QA-001, AND U.S. DEPARTMENT OF ENERGY (DOE) O 414.1D, "QUALITY ASSURANCE"

- References: 1) CCN 258624, Letter, from W. F. Hamel, ORP-WTP, to J. M. St. Julian, BNI, "Implementation of Revision 1 to the Corporate Quality Assurance Program, EM-QA-001, and U.S. Department of Energy (DOE) O 414.1D, 'Quality Assurance,'" 13-QAT-0025, dated May 23, 2013.
- 2) CCN 222754, Letter, from J. M. St. Julian, BNI, to W. F. Hamel, ORP-WTP, "Implementation of Revision 1 to the Corporate Quality Assurance Program, EM-QA-001, and U.S. Department of Energy (DOE) O 414.1D, 'Quality Assurance,'" dated January 8, 2014.

In Reference 1, ORP requested Bechtel National, Inc. (BNI) to re-implement activities associated with an impact analysis (gap analysis) associated with implementation of Revision 1 to the Corporate Quality Assurance Program, EM-QA-001 and U.S. Department of Energy (DOE) O 414.1D, Quality Assurance. This letter and attachment provide the requested impact analysis information, including information (Reference 2) related to software quality assurance.

BNI's review of the subject Order, EM QAP, and NQA-1 Standard [DOE O 414.1D, EM-QA-001, Revision 1, and NQA-1-2008 / Addenda 2009 (Parts I, II, III, and IV)] was requested and performed. Attachment 1 provides the resulting requested gap analysis.

BNI has performed the requested rough order of magnitude (ROM) estimate. The point estimate to implement DOE O 414.1D, CRD, NQA-1-2008/Addenda 2009 (Parts I, II, and corresponding sections of Parts III and IV), and EM-QA-001, Rev. 1 is \$325 million with an expected accuracy range of -30% to +50% based on a Class 4, Feasibility/Order of Magnitude type estimate. Attachment 2 provides key areas of impact identified during the development of this ROM.

During development of this estimate, BNI assumed that a date would be determined for implementation, and all work occurring after that date, including new procurements, would be subject to these new quality assurance requirements. That is, no back-fit would be required. Even with this assumption, a significant cost is foreseeable.

Mr. W. F. Hamel
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The WTP Contractor quality assurance program is integrated throughout most WTP Project processes, procedures, and design basis and safety basis documentation. Consequently, quality assurance program changes of this magnitude will likely have an impact on most WTP processes, procedures, and various other project documentation. The principal driver for the significant ROM estimate value is the need to review, modify, and approve changes to a large body of existing processes, procedures, and likely affected design and safety basis documents in order to implement the balance of NQA-1 Part II and to consider the guidance that is provided in NQA-1 Parts III and IV. In several cases, changes would be needed in existing engineering, procurement, and construction (EPC) and start-up processes. As such, there would also likely be additional costs to re-train Project personnel on all of the quality assurance program changes and their impacts on organizational processes and procedures. BNI would be pleased to meet with and provide additional information to ORP if further understanding of the ROM basis is required.

The ROM transmitted in this letter reflects near-term Project-wide implementation of the newer quality program requirements, as requested by Reference 1. While developing this ROM, BNI identified and recommends an alternate approach that could result in a reduction in the impacts while meeting the objectives for upgrading the quality assurance program. The proposed architecture for the alternate approach is identified in Attachment 3. In this approach, the WTP Contractor would implement a quality assurance program compliant with DOE O 414.1D programmatic requirements that also implements the requirements of NQA-1 2008/2009, Parts I and II; and it would consider the use of the guidance of Parts III and IV in the development of this new program. This program would also satisfy the applicable provisions of EM-QA-001, Revision 1.

The BNI recommended approach relies on the specification within DOE O 414.1D that states that projects that are post-CD-1 use the quality assurance program that was in effect at CD-1. Based on this allowance in DOE O 414.1D, BNI proposes to allow the EPC and start-up aspects of the Project to continue under the existing quality assurance program requirements (i.e., DOE O 414.1C, CRD). The new quality assurance program requirements in accordance with DOE O 414.1D, would then be implemented to support commissioning activities.

This proposed approach, including the proposed use of the EPC and start-up supplemental quality assurance program under the existing program, has been briefed to the ORP staff, with a positive reaction. BNI is continuing to work with the Tank Operations Contractor (TOC) and ORP staff to address outstanding technical questions and is refining this approach. BNI would be pleased to continue the development of this recommended approach and can provide additional briefings to ORP if desired.

Making a change from the existing quality programmatic requirements in the middle of the EPC process creates a complexity for the employees in dealing with the design, procurement, construction, and corrective action processes. Such a change as the project transitions to new quality requirements mid-stream would create Human Performance Initiative (HPI) and nuclear quality culture issues. Having a clean break after the EPC/startup phases, as shown in

Mr. W. F. Hamel
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Attachment 3, would reduce the project HPI concern while still promoting adoption of quality requirements that support integration with TOC and address operational needs.

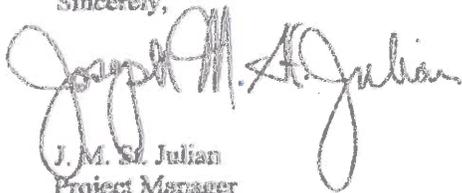
In conclusion, BNI believes the recommended alternative implementation approach depicted in Attachment 3 offers three significant benefits to the WTP Project and ORP:

- The proposed quality assurance program architecture will facilitate transition to a future operating contractor and provide near-term opportunities for TOC and the WTP Contractor to establish common approaches with lower combined costs.
- The proposed quality assurance program architecture will aid BNI in its efforts to improve quality performance. Changes in quality assurance requirements will be focused at appropriate points in time in the Project schedule for groups of personnel where there is the greatest benefit to Project performance.
- BNI anticipates that the cost of this alternative, compliant approach to implement DOE O 414.1D will be much lower than the ROM provided for the requested near-term implementation approach.

To pursue the development of this recommended approach, BNI requests Contracting Officer direction, since this quality assurance program development work involves the implementation of new contract requirements. The TOC was recently provided not-to-exceed (NTE) direction to implement a similar concept. BNI similarly requests that NTE be provided with Contracting Officer direction to work in parallel with the TOC to implement a common programmatic approach to the implementation of quality assurance requirements between the two contracts.

Contact (b)(6) at (b)(6) or (b)(6) at (b)(6) for further information regarding this matter.

Sincerely,



J. M. St. Julian
Project Manager

JWS/jws

Attachments: 1) WTP GAP Analysis
2) Key Areas of Impact
3) Proposed Quality Assurance Program Architecture

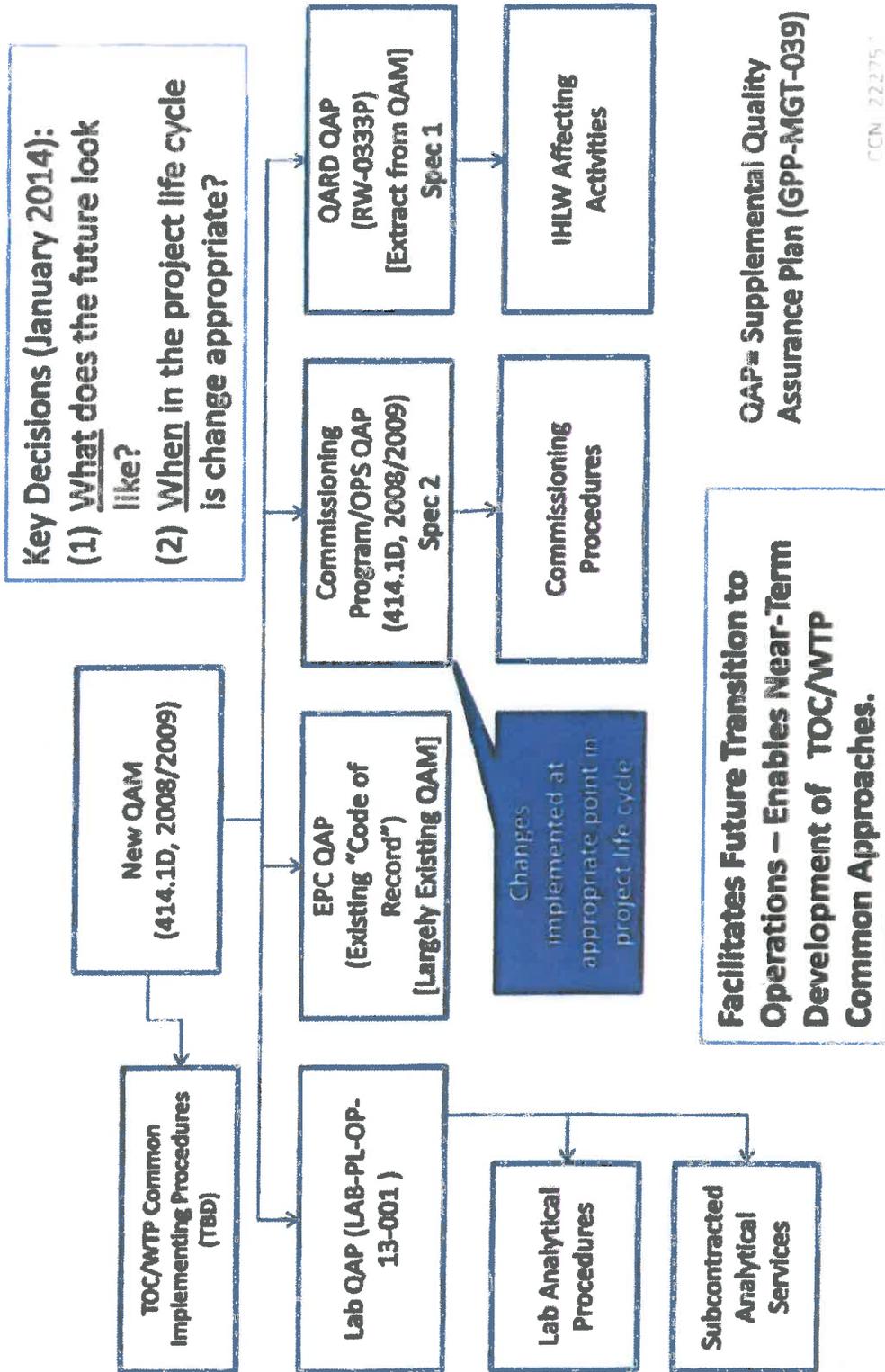
Attachment 2

Key Areas of Impact

Key Areas of Impact by the new and revised quality programmatic requirements are as follows:

- Engineering preparation of new and/or revised procedures, guides, documents, drawings, specifications, calculations, material requisitions, subcontracts, plans, reports, etc. will incorporate the revised/new requirements from DOE O 414.1D and NQA-1-2008 / Addenda 2009 (hereafter shown as NQA-1). Major impact to WTP organizations will be through identification and implementation of requirements specified in the new NQA-1, Part II, Subparts.
- For the basis of this ROM Estimate, all existing procurement actions will not require compliance to the new NQA-1, Part II, requirements. They will be held to the original NQA-1 standard(s) of which they were initially prepared to meet until such time that the systems, components, and structures have been delivered and installed in the WTP facilities.
- There are significant NQA-1, Part II, programmatic impacts which will increase performance times to complete Startup activities. These impacts include an increase in the duration of individual activities for performing discrete activities involved with Test/Operations, complex system test performance, and test closeout.
- A major change is the use of Commercial Grade Dedication (CGD) for software with a safety function (instead of otherwise acquired software). WTP will implement this requirement in plant installed software only. The changes will be implemented on work going forward and will not be implemented retroactively or for procurements currently underway.
- A major revision of the WTP Quality Assurance Manual (QAM) will be required to incorporate revised/new requirements from DOE O 414.1D and NQA-1.
- Flowdown of quality program impacts to vendors and subcontractors were calculated using an analogy method and are included in the ROM estimate.

Attachment 3 Proposed QA Program Architecture



CCN 22275

NQA-1 2000	NQA-1 2008/09 Blue Text = changes made in 2008 (differences) Red Text = changes made in 2009 addenda
Design analyses shall be sufficiently detailed such that a person technically qualified in the subject can review and understand the analyses and verify the adequacy of the results without recourse to the originator.	Design analyses shall be sufficiently detailed such that a person technically qualified in the subject can review and understand the analyses and verify the adequacy of the results without recourse to the originator.
<p>401 Use of Computer Programs</p> <p>To the extent required in paras. 401(a) and (b) of this Requirement, computer program acceptability shall be preverified or the results verified with the design analysis for each application.</p> <p>Preverified computer programs shall be controlled in accordance with the requirements of this Standard.</p> <p>(a) The computer program shall be verified to show that it produces correct solutions for the encoded mathematical model within defined limits for each parameter employed.</p> <p>(b) The encoded mathematical model shall be shown to produce a valid solution to the physical problem associated with the particular application.</p>	<p>401 Use of Computer Programs</p> <p>To the extent required in paras. 401(a) and (b) of this Requirement, computer program acceptability shall be preverified or the results verified with the design analysis for each application.</p> <p>Preverified computer programs shall be controlled in accordance with the requirements of this Standard.</p> <p>(a) The computer program shall be verified to show that it produces correct solutions for the encoded mathematical model within defined limits for each parameter employed.</p> <p>(b) The encoded mathematical model shall be shown to produce a valid solution to the physical problem associated with the particular application.</p>
<p>Documentation of design analyses shall include (a) through (f) below:</p> <p>(a) the objective of the analyses;</p> <p>(b) design inputs and their sources;</p> <p>(c) results of literature searches or other applicable background data;</p> <p>(d) assumptions and indication of those assumptions that must be verified as the design proceeds;</p> <p>(e) identification of any computer calculation, including identification of the computer type, computer program name, and revision, inputs, outputs, evidence of or reference to computer program verification, and the bases (of reference thereto) supporting application of the computer program to the specific physical problem; and</p> <p>(f) review and approval.</p>	<p>Documentation of design analyses shall include the following:</p> <p>(a) the objective of the analyses</p> <p>(b) design inputs and their sources</p> <p>(c) results of literature searches or other applicable background data;</p> <p>(d) assumptions and indication of those assumptions that must be verified as the design proceeds</p> <p>(e) identification of any computer calculation, including identification of the computer type, computer program name, and revision, inputs, outputs, evidence of or reference to computer program verification, and the bases (of reference thereto) supporting application of the computer program to the specific physical problem; and</p> <p>(f) review and approval</p>
<p>500 DESIGN VERIFICATION</p> <p>(a) The responsible design organization shall identify and document the particular design verification method(s) used.</p>	<p>500 DESIGN VERIFICATION</p> <p>(a) The responsible design organization shall identify and document the particular design verification method(s) used.</p>

<p>NQA-1 2000</p>	<p>NQA-1 2008/09 Blue Text = changes made in 2008 (differences) Red Text = changes made in 2009 addenda</p>
<p>The results of design verification shall be documented with the identification of the verifier clearly indicated.</p> <p>Design verification shall be performed by any competent individual(s) or group(s) other than those who performed the original design but who may be from the same organization.</p> <p>(b) Design verification shall be performed prior to releasing the design for procurement, manufacture, construction, or use by another design organization except where this timing cannot be met, such as when insufficient data exist. In those cases, the unverified portion of the design shall be identified and controlled.</p> <p>In all cases the design verification shall be completed prior to relying upon the component, system, structure, or computer program to perform its function.</p> <p>(c) If the design is modified to resolve verification findings, the modified design shall be verified prior to release for use.</p> <p>(d) <i>Extent of Design Verification.</i> The extent of the design verification shall be a function of the importance to safety, the complexity of the design, the degree of standardization, the state of the art, and the similarity with previously proved designs. Where the design has been subjected to a verification process in accordance with this Part (Part I), the verification process need not be duplicated for identical designs. However, the applicability of standardized or previously proven designs, with respect to meeting pertinent design inputs, shall be verified for each application. Known problems affecting the standard or previously proved designs and their effects on other features shall be considered.</p> <p>The original design and associated verification documentation shall be referenced in records of subsequent application of the design.</p>	<p>The results of design verification shall be documented with the identification of the verifier clearly indicated.</p> <p>Design verification shall be performed by any competent individual(s) or group(s) other than those who performed the original design but who may be from the same organization. This verification may be performed by the originator's supervisor, provided</p> <p>(1) the supervisor did not specify a singular design approach or rule out certain design considerations and did not establish the design inputs used in the design; or</p> <p>(2) the supervisor is the only individual in the organization competent to perform the verification.</p> <p>Cursory supervisory reviews do not satisfy the intent of this Standard.</p> <p>(b) Design verification shall be performed prior to releasing the design for procurement, manufacture, construction, or use by another design organization, except where this timing cannot be met, such as when insufficient data exist. In those cases, the unverified portion of the design shall be identified and controlled.</p> <p>In all cases the design verification shall be completed prior to relying upon the component, system, structure, or computer program to perform its function.</p> <p>(c) If the design is modified to resolve verification findings, the modified design shall be verified prior to release or use.</p> <p>(d) <i>Extent of Design Verification.</i> The extent of the design verification shall be a function of the importance to safety, the complexity of the design, the degree of standardization, the state of the art, and the similarity with previously proved designs. Where the design has been subjected to a verification process in accordance with this Part (Part I), the verification process need not be duplicated for identical designs. However, the applicability of standardized or previously proven designs, with respect to meeting pertinent design inputs, shall be verified for each application. Known problems affecting the standard or previously proved designs and their effects on other features shall be considered.</p> <p>The original design and associated verification documentation shall be referenced in records of subsequent application of the design.</p>



OFFICE OF RIVER PROTECTION
P.O. Box 450, MSIN H6-60
Richland, Washington 99352

JAN - 5 2018

17-WTP-0234

Mr. C.K. Binns
Business Services Manager
Bechtel National, Inc.
2435 Stevens Center Place
Richland, Washington 99354

Mr. Binns:

**CONTRACT NO. DE-AC27-01RV14136 CONTRACT DELIVERABLE 1.13 LOW-
ACTIVITY WASTE CONSTRUCTION COMPLETE INCLUSION/EXCLUSION LIST OF
ACTIVITIES FOR DETERMINATION OF MILESTONE**

Reference: BNI letter from C.K. Binns to W.F. Hamel, ORP, "Contract Deliverable 1.13
LAW Construction Complete Inclusion/Exclusion List of Activities for
Determination of Milestone," CCN: 302998, dated December 14, 2017.

The purpose of this letter is to respond to the Reference. In accordance with the Waste Treatment Immobilization Plant Contract Section C, Standard 1 (a) (2) (iii), and Table C.5-1.1, Deliverable 1.13, on December 14, 2017, Bechtel National, Inc. (BNI) made their quarterly submittal, to the U.S. Department of Energy, Office of River Protection (ORP), of the Low-Activity Waste (LAW) construction completion inclusion/exclusion list.

ORP approves the BNI quarterly submittal of Deliverable 1.13, the LAW construction completion inclusion/exclusion list. The list identifies: (1) all of the scheduled activities that have been completed/actualized and (2) any changes to the schedule activities that have been implemented through change control. This list remains under change control and no changes to it shall be made without ORP approval. In addition to this quarterly update, BNI provided clarifications with respect to the specific activities which are included and excluded in the definition of Milestone A-5, and information presented to ORP management on April 5, 2017. ORP concurs with the clarifications and information provided.

Mr. C.K. Binns
17-WTP-0234

-2-

JAN - 5 2018

If you have any questions, please contact George F. Champlain, Contracting Officer, (509) 376-6678, William F. Hamel, Federal Project Director (509) 376-6727, or your staff may contact Jeffrey M. Bruggeman, LAW Federal Project Director, (509) 438-0444.



George F. Champlain
Contracting Officer



William F. Hamel
Assistant Manager, Federal Project Director
Waste Treatment and Immobilization Plant

WTP:JMB

cc: BNI Correspondence



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

December 6, 2018

CERTIFIED MAIL

Ms. Julie Reddick
[REDACTED]
[REDACTED]

Dear Ms. Reddick:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2019-00005)

This letter is in response to the electronic Freedom of Information Act (FOIA) request you submitted to this office requesting the following information:

“Please provide a copy of three letters, including all attachments: 16-WTP-0054, dated about March, 2016, Subject: Special Report of Management of Suspended Procurements at the Waste Treatment and Immobilization Plant Project, (ORP letter); 18-WTP-0041, dated about May 2018, Subject: Factual Accuracy Review of Letter Related to Waste Treatment and Immobilization Plant Design and Quality, (ORP Letter); 18-CPM-0119, dated about August 2018, Subject: Transmittal of Defense Contract Audit Agency’s Audit on Bechtel National, Inc.’s Subcontract Classification and Request for Plan of Action to Address the Findings (ORP Contracting Officer’s Letter).”

Your request was assigned to the U.S. Department of Energy (DOE) Office of River Protection (ORP) to conduct a search of its files for responsive information. This is an interim response and enclosed is a copy of Office of River Protection (ORP) letter No. 16-WTP-0054 dated March 26, 2016. This letter included two attachments. The first attachment was generated by the DOE Office of Inspector General (IG). For this reason, your request, along with the document, has been transferred to the DOE Headquarters (HQ) FOIA Office for a release determination. The HQ FOIA Office will provide a response directly to you. If you have any questions about the processing of your request under HQ, you may contact Mr. Alexander Morris at Alexander.Morris@hq.doe.gov, or by mail at DOE HQ, 1000 Independence Avenue, SW, MA-46, Washington, DC 20585, or at (202) 586-3159.

The second attachment is being provided. We continue to review the remaining documents you have requested and will notify you when our review is complete.

Ms. Julie Reddick

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December 6, 2018

You may contact the DOE Richland Operations Office FOIA Public Liaison, Richard Buel, at (509) 376-3375, or by mail at P.O. Box 550, Richland, Washington, 99352 for any further assistance or to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have any questions regarding this matter, please contact me at our address or at (509) 376-6288.

Sincerely,

-Original signed by-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosure



OFFICE OF RIVER PROTECTION

P.O. Box 450, MSIN H6-60
Richland, Washington 99352

MAR 24 2016

16-WTP-0054

Mrs. Margaret McCullough, Project Director
Bechtel National, Inc.
2435 Stevens Center Place
Richland, Washington 99354

Mrs. McCullough:

**CONTRACT NO. DE-AC27-01RV14136 – SPECIAL REPORT OF MANAGEMENT OF
SUSPENDED PROCUREMENTS AT THE WASTE TREATMENT AND IMMOBILIZATION
PLANT PROJECT**

The U.S. Department of Energy, Office of River Protection, Waste Treatment and Immobilization Plant (WTP) requests Bechtel National, Inc. to provide a factual accuracy review of the Special Report on Management of Suspended Procurement at the WTP Coordination Draft, (Attachment 1). Due to the urgency of this action, please incorporate comments in the Comments on Coordination Draft (March 2016) form (Attachment 2), with a formal letter by close of business Thursday, March 31, 2016.

The action taken herein is considered to be within the scope of work of the existing contract and does not authorize the Contractor to incur any additional costs (either direct or indirect) or delay delivery to the Government. If the Contractor considers that carrying out this action will increase contract/project costs or delay of delivery, the Contractor shall promptly notify the Contracting Officer orally, confirming and explaining the notification in writing within ten (10) calendar days, and otherwise comply with the requirements of the Contract clause I.84 FAR 52.243-7, -- "Notification of Changes (APR 1984)." Following submission of the written notice of impacts, the Contractor shall await further direction from the Contracting Officer.

If you have any questions, please contact me, or your staff may contact Daniel P. Knight, Project Controls Officer, Waste Treatment and Immobilization Plant, (509) 373-4143.

A handwritten signature in black ink, appearing to read "Joanne F. Grindstaff".

Joanne F. Grindstaff
Deputy Assistant Manager
Deputy Federal Project Director
Waste Treatment and Immobilization Plant

WTP:DPK

Attachments (2)

cc w/attach: BNI Correspondence

Document transmitted contains O/U information

When separated from attachment(s), handle this
document as non-sensitive information.

Attachment 1 was generated by the DOE Office of Inspector General (IG). This document has been transferred to the DOE Headquarters (HQ) FOIA Office for a release determination.

Attachment 1

16-WTP-0054

**Special Report on "Management of Suspended
Procurements at the Waste Treatment and Immobilization Plant
Project" – COORDINATION DRAFT**

Pages 10 (Including Coversheet)

Attachment 2

16-WTP-0054

Comments on Coordination Draft (March 2016)

Pages 3 (Including Coversheet)

Comments on Coordination Draft (March 2016)
Proposed Adjustments to OIG Coordination Draft – Audit A16RL002 Suspension of WTP HLW and PT Facilities

Page/Paragraph Number	Statement	Comment	Name of Commenter
		<p>Example: <i>General Comment:</i> The DOE would appreciate the opportunity to discuss comments and suggested changes with the GAO.</p> <p><i>Suggested Assumption:</i></p>	
<p>Example: Page 2/2nd paragraph/4th sentence</p>	<p>Example: Under these circumstances the L.A.W. stream would be operated prior to the availability of the current pretreatment facility, which would still be under construction.</p>	<p>Please replace "stream" with: "facility." Please replace "would" with: "could." Please delete: "current."</p>	<p align="center">John Doe</p>

3/4/15

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May be exempt from public release under the Freedom of Information Act (5 U.S.C. 522), exemption under and category: ~~3 - Privileged Information~~

Department of Energy Review required before public release
 Name/Org.: JoLynn Garcia / Office of Risk Protection Date: 03/04/2015
 Guidance (if applicable): N/A

OFFICIAL USE ONLY

DOES NOT CONTAIN
 OFFICIAL USE ONLY INFORMATION
 Name/Org.: *John Doe* Date: *3/12/15*

OFFICIAL USE ONLY

