

# **TOSHIBA**

**Leading Innovation >>>**

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Letter No. TANE-NRC-11-001  
Date: July 27, 2011  
Project No. 52-0001

ATTN: Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**REFERENCE: (a) Letter from Robert W. Schrauder (TANE) to the NRC, "Toshiba America Nuclear Energy Corporation Request Related to Approval of Additional Facilities for Storage of Safeguards Information", dated December 16, 2010.**

**SUBJECT: 10 C.F.R. 2.390 Supporting Affidavit**

On December 16, 2010, Toshiba America Nuclear Energy Corporation (TANE) submitted Reference (a) to the Nuclear Regulatory Commission (NRC). In that letter, TANE noted that Enclosures 2 (Audit Procedures) and 3 (Standard Terms and Conditions) to Reference (a) contained proprietary information and requested that they be withheld from public disclosure under 10 C.F.R. 2.390 and 9.17. TANE attached an affidavit to support its request that was contained in Enclosure 1. TANE inadvertently failed to date the signed affidavit. Accordingly, TANE is resubmitting a dated affidavit to support its request in Reference (a). The attached affidavit can be substituted for the affidavit submitted with Reference (a).

TANE further noted in Reference (a) that due to the security-related nature of the information contained in the transmittal letter and Enclosure 2, TANE understands that the NRC will withhold both these documents from public disclosure pursuant to 10 C.F.R. 2.390.

If you have any questions, please contact me at 704-548-7640 or at [RSchrauder@tane.toshiba.com](mailto:RSchrauder@tane.toshiba.com).

Very truly yours,



Robert W Schrauder  
VP Licensing US ABWR Projects & Technologies  
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DOSO  
NRD

Enclosure: (1) 10 C.F.R. 2.390 Supporting Affidavit of Robert W. Schrauder, VP Licensing US  
ABWR Projects & Technologies, Toshiba America Nuclear Energy Corporation

cc: (electronic copies)

Stacy Joseph	US Nuclear Regulatory Commission
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**ENCLOSURE 1**

**10 C.F.R. 2.390 Supporting Affidavit of Robert W. Schrauder**

**VP Licensing US ABWR Projects & Technologies**

**Toshiba America Nuclear Energy Corporation**

**TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION**  
**10 C.F.R. 2.390 AFFIDAVIT OF ROBERT W. SCHRAUDER**

**AFFIDAVIT**

**I, Robert W. Schrauder**, hereby affirm and state as follows:

- (1) I am the VP Licensing US ABWR Projects & Technologies of Toshiba America Nuclear Energy Corporation (TANE), and I have been authorized to execute this affidavit on behalf of TANE.
  
- (2) By this letter, TANE is submitting to the NRC its request for approval of TANE to approve additional facilities for the use and storage of safeguards information (SGI) or alternatively for NRC approval of such additional facilities. Along with the transmittal letter, TANE is also submitting for the NRC's review Toshiba America Nuclear Energy Corporation's Safeguards Information Audit Procedures for Certain Outside Entities (Audit Procedures) (Enclosure 2), which define the procedures that TANE will use to assess whether to authorize storage of SGI at any TANE contractor, vendor, or subcontractor facility that does not have an NRC-approved SGI protection program, and TANE Standard Terms and Conditions of Control of Safeguards Information and Sensitive Security Information (Standard Terms and Conditions) (Enclosure 3), which govern the obligations of any TANE contractor, vendor, or subcontractor who seeks or is provided access to SGI under TANE's SGI protection program. TANE understands that the transmittal letter and Audit Procedures are security-related information that the NRC treats as exempt from public disclosure under 10 C.F.R. 2.390. These documents have been marked as "security-related." In addition, in accordance with my responsibilities, I have reviewed the contents of the Audit Procedures and the Standard Terms and Conditions and have determined that these documents contain information proprietary to TANE. Accordingly, these documents have been marked to indicate that they should be withheld from public disclosure in their

entirety pursuant to 10 C.F.R. 2.390 and 9.17. Thus the Audit Procedures, in addition to being marked as "security-related," are also marked as proprietary.

- (3) In making this application for withholding of proprietary information of which it is the owner, TANE believes that the information contained in the Audit Procedures and the Standard Terms and Conditions qualifies for withholding under the exemption from disclosure set forth 10 C.F.R. 2.390(a)(4) for trade secrets and commercial or financial information.
- (4) The information identified as proprietary has in the past been, and will continue to be, held in confidence by TANE and its disclosure outside the company is limited to regulatory bodies and others with a legitimate need for the information, and is always subject to suitable measures to protect it from unauthorized use or disclosure.
- (5) The basis for holding the Audit Procedures and the Standard Terms and Conditions confidential is that they describe the specific procedures established by TANE for the control and protection of SGI. This information was developed at a significant expenditure of time and resources by TANE. Disclosure of the documents would have a negative impact on TANE because of a loss of competitive advantage due to the costs associated with development of the Audit Procedures and the Standard Terms and Conditions. Providing public access to such information could permit competitors to duplicate the documents without incurring the associated costs.
- (6) The referenced information is being furnished to the NRC in confidence and solely for the purpose of information and review by the NRC staff.
- (7) The referenced information is not available in public sources and could not be gathered readily from other publicly available information.

Accordingly, TANE requests that the Audit Procedures and the Standard Terms and Conditions be withheld from public disclosure pursuant to 10 C.F.R. 2.390(a)(4) and 10 C.F.R. 9.17.

As permitted by 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on July 27, 2011.

A handwritten signature in black ink, appearing to read "R. Schrauder", written over a horizontal line.

Robert W. Schrauder