

THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
CENTERS FOR DISEASE CONTROL AND PREVENTION
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

convenes the

TWENTY-SEVENTH MEETING

ADVISORY BOARD ON
RADIATION AND WORKER HEALTH

DAY ONE

The verbatim transcript of the Meeting of the Advisory Board on Radiation and Worker Health held at the DoubleTree Club Hotel, 720 Las Flores Road, Livermore, California, on December 13, 2004.

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December 13, 2004

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TRANSCRIPT LEGEND

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-- "uh-huh" represents an affirmative response, and "uh-uh" represents a negative response.

-- "*" denotes a spelling based on phonetics, without reference available.

-- (inaudible)/ (unintelligible) signifies speaker failure, usually failure to use a microphone.

In the following transcript (off microphone) refers to microphone malfunction or speaker's neglect to depress "on" button.

P A R T I C I P A N T S

(By Group, in Alphabetical Order)

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Dr. Lew Wade, NIOSH

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1 visitors, Federal employees, whoever -- please
2 register your attendance if you haven't already
3 done so. The registration book is out in the
4 lobby just outside of this room, so please do
5 that if you haven't already done so.

6 There also -- you will find there a brochure
7 that lists eating places. I've been told that
8 this particular motel or hotel is not very well
9 equipped -- or perhaps doesn't even serve lunch
10 -- but for whatever reason, you may need to
11 look outside of this immediate hotel for lunch,
12 and there is a list of places there that are
13 somewhat nearby. You may need to drive. I
14 guess that's true of California, you have to
15 drive everywhere. But those eating places are
16 reasonably close and you can avail yourself of
17 that list, as well.

18 I'm going to now turn the mike, as it were,
19 over to Larry Elliott briefly, and Larry will
20 add a few comments.

21 **MR. ELLIOTT:** Thank you, Dr. Ziemer. On behalf
22 of the Secretary and the Director of NIOSH, I
23 welcome the Board to Livermore, California. As
24 it is the 27th meeting, the Secretary and the
25 Director of NIOSH welcome your contributions as

1 an advisory body and --

2 **DR. ZIEMER:** Who is the Secretary, by the way?

3 **MR. ELLIOTT:** We are -- we are anxiously
4 awaiting that.

5 **MR. PRESLEY:** They announced it this morning.

6 **MR. ELLIOTT:** Did they announce that this
7 morning? Okay.

8 **DR. MELIUS:** From Utah.

9 **MR. ELLIOTT:** So we'll be awaiting his --

10 **DR. MELIUS:** Is the nominee.

11 **MR. ELLIOTT:** -- his appointment, so --

12 **DR. MELIUS:** Security didn't last long.

13 **MR. ELLIOTT:** At any rate, we have a very busy
14 agenda and I look forward to an interesting and
15 productive session here in Livermore.

16 I'll be recusing myself from this next portion
17 of the agenda and turning it over -- delegating
18 the Designated Federal Official and Executive
19 Secretary duties to Dr. Lew Wade, who is the
20 senior science advisor to Dr. Howard. He is
21 now your -- and I introduced him in an e-mail
22 to you all, he is your technical monitor,
23 project officer on the contract for Sanford
24 Cohen & Associates, and he and David Staudt
25 will be talking to you this morning about

1 contract procedures and process requirements.
2 So without further ado, I'd ask Dr. Lew Wade to
3 come to the table and assume this position.

4 **DR. ZIEMER:** Thank you, Larry; and welcome, Dr.
5 Wade, who during this session will serve as our
6 Designated Federal Official and, on an ongoing
7 basis, is our technical contact for our
8 contract and our contractor.

9 (Whereupon, Mr. Elliott retired from the
10 meeting room.)

11 **CONTRACT PROCESS AND REQUIREMENTS**

12 **DR. ZIEMER:** And it's probably appropriate that
13 we have Lew with us for this particular
14 session. As you know, in the intervening
15 period since our last meeting, we've had some
16 concerns about the contract in terms of the
17 level of expenditure for the various tasks. At
18 one point you recall that a couple of the tasks
19 were actually halted by John Mauro because they
20 were very close to the limit -- funding limit
21 for those tasks. At that particular time, I
22 thought -- and I think NIOSH thought -- that
23 those -- that funding could only be sort of
24 turned back on by formal action of this Board,
25 either to do something with the scope or to

1 address that issue in an open meeting of the
2 Board.

3 In the meantime, CDC and the contracting office
4 was able to find a way -- technical way, in a
5 sense -- to actually allow the funding of those
6 tasks to continue, and so they have -- the
7 contractor has been able to go forward then in
8 the meantime and continue on some of that work.
9 But on a longer term basis we need to address
10 the issue of the cost of the various tasks. We
11 will do this in open session here, and I want
12 to ask either Lew or David to sort of set forth
13 the ground rules of what we can and cannot say
14 in open session with regard to the contract.
15 There are some issues that can -- cannot be
16 discussed in open session in terms of
17 proprietary matters, I guess. But Lew, do you
18 want to kick this off for us, and then bring
19 David aboard as needed, to kind of lay the
20 guidelines for us as we discuss the contract
21 and some direction for the future?

22 **DR. WADE:** Thank you, Dr. Ziemer. It's really
23 a pleasure to be here and get an opportunity to
24 work with you on this most important activity
25 that you're undertaking on behalf of the

1 Secretary and the Director of NIOSH. I would
2 ask David so join us, so he'll be at the
3 podium.

4 As David comes up, just to provide a word of
5 caution, again we think it's best, if at all
6 possible, that this group does its business in
7 open session. And we would like to talk about
8 the contract and its direction, and even the
9 cost, in a general way, in open session.

10 It would be inappropriate in an open session to
11 talk about anything that was deemed as business
12 confidential to our contract. You might think
13 of that as things that would speak to their
14 labor rates or any information that would given
15 a competitor an unfair advantage. So what I
16 would like to see us do in our discussions this
17 morning is stick to the overall issue of cost -
18 - cost per task. If we start to stray into
19 those areas that I think would represent a
20 breach of our agreement, then I would ask David
21 to stop us.

22 But I do think that we can talk in general
23 terms about cost and cost per task. So if
24 there are any questions about that, I could
25 take them. If not, I think David is going to

1 start with just an overview of the contract,
2 where we've been, and a little bit of thought
3 as to where we need to go. David?

4 **MR. STAUDT:** Thank you. Good morning, Board
5 members and the public. Just some background.
6 I'm here with Dr. Wade to discuss the Advisory
7 Board's support contract with SC&A. I wanted
8 to highlight some of the purposes of the
9 contract, how it functions, current efforts,
10 funding levels and future considerations.
11 Purpose of the contract. The President is
12 authorized by public law 106398 to carry out
13 the Energy Employees Occupational Illness
14 Compensation Program Act of 2000. The Advisory
15 Board on Radiation and Worker Health has been
16 appointed by the President to advise the
17 Department of Health and Human Services.
18 (Unintelligible) in this Act, the Advisory
19 Board is required to review a reasonable sample
20 of dose reconstructions for scientific validity
21 and quality, assess the methods for dose
22 reconstruction, and review SEC petitions.
23 To support this Advisory Board, the Department
24 of Health and Human Services, through the
25 Centers for Disease Control, has retained the

1 services of Sanford Cohen & Associates, SC&A,
2 to assist in the implementation of a number of
3 tasks related to the independent review of the
4 dose reconstruction process.

5 Within the Centers for Disease Control and
6 Prevention, the National Institute for
7 Occupational Safety and Health, its Office of
8 Compensation Analysis and Support is
9 responsible for providing technical assistance
10 to this Advisory Board in carrying out its
11 mission, and is the primary interface with the
12 supporting contractor, SC&A.

13 Under Federal Acquisition regulations there are
14 two primary individuals with clearly-defined
15 roles and responsibilities in the contracting
16 process. These are the contracting officer and
17 the project officer. I am the current
18 contracting officer. I am from CDC. And Dr.
19 Lew Wade is from CDC-NIOSH, Office of the
20 Director. These roles and responsibilities are
21 laid out in the contract under Section G-5 for
22 the project officer and G-11 for the
23 contracting officer.

24 Dr. Wade and I came here to discuss some of the
25 contract process and requirements for the

1 support contract with SC&A. The SC&A contract
2 was issued October 14th, 2003, and has a five-
3 year period of performance. This is indefinite
4 deliver/indefinite quantity contract with a
5 current ceiling of \$3 million. Under this
6 contract, for each task order the Advisory
7 Board, in conjunction with the project officer,
8 develops a statement of work and an independent
9 government cost estimate. The statement of
10 work and independent government cost estimate
11 are forwarded to me. Upon review, I will issue
12 what's known as a TORP -- it's a Task Order
13 Requirements Package -- to SC&A, which
14 basically is comprised of the statement of work
15 which enables SC&A to provide a proposal.
16 The technical and cost proposal reviewed by
17 this Board, the project officer and myself, and
18 negotiations are conducted as required. After
19 this, a cost plus fixed fee task order will be
20 issued to SC&A.

21 To date there have been four task orders
22 issued. Task one was entitled Site Profile
23 Review, and in round numbers, it was originally
24 issued at \$426,000, and modified adding
25 \$157,000, and is currently at \$583,000.

1 Task two is a small task order. It was issued
2 as entitled Case Tracking and for \$30,000.

3 Task three is Dose Reconstruction Procedures
4 and Methods. It was originally issued at
5 \$56,000, had several modification, one adding
6 \$104,000 and another \$26,000, and is currently
7 funded at \$187,000.

8 Task four is Individual Dose Reconstruction
9 Review. It was issued for \$467,000.

10 Currently the contract is funded for a total of
11 \$1.268 million. But one thing the Board must
12 consider is that to complete the efforts --
13 primarily of task one and four -- under the
14 contract as the way the statements of work are
15 laid out, SC&A is going to need additional
16 funding.

17 SC&A was asked to and did provide an estimate
18 to complete these efforts. To complete all the
19 work under task one, they're estimating a cost
20 of \$1.952 million. Task four would go up to
21 \$664,000. The total funding then would be
22 \$2.834 million, which would get you very close
23 to your contract ceiling.

24 There are four deliverables under the contract,
25 standard deliverables. The first one is a

1 monthly progress report, which I think we may
2 want to talk about the format.

3 The second is, for each task order you do get a
4 draft final report and then you get a final
5 report, and then there are ad hoc reports as
6 needed along the way.

7 And inspection/acceptance of all the articles,
8 services and documentation has been delegated
9 from the contracting officer to the project
10 officer under Section E-1 of the SC&A contract.
11 Dr. Wade and I would like to get your feel and
12 your desires to talk about several issues
13 related to the contract, and that has to do
14 with the cost overruns, changes in scope, time
15 extensions. I think we should talk briefly
16 about the frequency and the format on the
17 monthly reports. And finally, if you have any
18 questions at all on the role of the technical
19 project officer and the Board in monitoring
20 technical process.

21 **BOARD DISCUSSION OF CONTRACT SUPPORT**

22 Dr. Wade, do you think -- did you want to start
23 any particular area with the Board -- or Dr.
24 Ziemer?

25 **DR. WADE:** I would suggest we go through

1 according to that list you just read, David.

2 **MR. STAUDT:** Okay.

3 **DR. ZIEMER:** Do you have -- do you have --
4 again, just to reiterate for members of the
5 Board, the new total for task one was --

6 **MR. STAUDT:** Right, that would take you to
7 \$1.952 million.

8 **DR. ZIEMER:** One point...

9 **MR. STAUDT:** Nine five two, that would be the
10 total to complete all the efforts.

11 **DR. MELIUS:** Excuse me, Dr. -- could we go
12 through all those numbers again 'cause not all
13 of us got them and --

14 **MR. STAUDT:** Sure, if --

15 **DR. MELIUS:** -- (Off microphone) I'm using it
16 as (unintelligible) each one sort of
17 systematically.

18 **MR. STAUDT:** Okay. If you want the -- I'll do
19 the current and then what would be the final.
20 Okay? Currently under task one, the total for
21 task one is \$583,000 -- and these are -- these
22 are rounded numbers -- and to complete that
23 task the way it's lined on the statement of
24 work, the new total for that would be \$1.952
25 million.

1 Task two was awarded for \$30,000; and that will
2 not change.

3 Task three currently is at \$187,000; and that
4 would not require any additional funding.

5 And task four is currently at \$467,000; and
6 that would go up to \$664,000.

7 **DR. ZIEMER:** And the total for the new task one
8 and four, plus old two and three --

9 **MR. STAUDT:** Right, it will take you up --

10 **DR. ZIEMER:** -- totals?

11 **MR. STAUDT:** \$2.834 million.

12 **DR. ZIEMER:** And again, to reiterate, that is
13 to complete the four current tasks.

14 **MR. STAUDT:** Yes, as -- as defined in the
15 current statements of work.

16 **DR. ZIEMER:** Four current tasks. The budgeted
17 amount available currently is \$3 million for
18 five --

19 **MR. STAUDT:** Five years.

20 **DR. ZIEMER:** -- five years. This would total
21 \$2.8 of the five -- of the three.

22 **MR. STAUDT:** That's correct.

23 **DR. ZIEMER:** And that's basically the issue
24 that we need to address.

25 **DR. WADE:** David mentioned a number of issues.

1 That's clearly the most important. We would
2 like to get a sense of the Board as to how you
3 would like to proceed, given this new
4 information.

5 **DR. ZIEMER:** And also if we could just --
6 this'll help the Board, I think, to put those
7 numbers together with what we thought our scope
8 would be for the total project in terms of how
9 many site profile reviews we'd get for this
10 number versus the number that we want to have
11 at the end of -- at the end of the process.
12 Likewise on dose reconstructions, how many does
13 this get us versus what we want to get to
14 eventually. I think those two numbers may be
15 helpful.

16 **DR. WADE:** What this task one will get us in
17 terms of site profiles is an upper level of 16.

18 **DR. ZIEMER:** This -- the new number will cover
19 --

20 **MR. STAUDT:** Yes, yes, the \$1.9 million --

21 **DR. ZIEMER:** -- to 16 --

22 **MR. STAUDT:** Yes, that will get you to 16,
23 that's correct.

24 **DR. WADE:** To 16.

25 **DR. ZIEMER:** -- site profiles, which is I

1 believe the total that we wanted. And what
2 about time -- time period?

3 **MR. STAUDT:** I believe that is going to be
4 stunted. I can -- have to talk to -- yeah, Dr.
5 Ziemer, I can't remember exactly --

6 **DR. ZIEMER:** Yeah, Dr. Mauro --

7 **MR. STAUDT:** -- could Dr. Mauro --

8 **DR. ZIEMER:** -- could you -- for the 16, that
9 wasn't for this time -- current time period.

10 **DR. MAURO:** (Off microphone) (Unintelligible)
11 proposed plan (unintelligible) we will need to
12 extend the period of performance for task one
13 to October, 2005 (unintelligible).

14 **DR. ZIEMER:** And John, are you -- you're
15 telling us that SCA would anticipate that you
16 would be able to complete 16 -- 15 more
17 profiles by October --

18 **DR. MAURO:** Yes.

19 **DR. ZIEMER:** -- with that funding available.

20 **DR. MAURO:** Correct.

21 **DR. ZIEMER:** Correct. And then the number of
22 dose reconstruction reviews?

23 **DR. WADE:** Sixty-two.

24 **MR. GRIFFON:** Was that -- 62 was the --

25 **DR. WADE:** Sixty-two, yes.

1 **MR. GRIFFON:** Is that broken down -- basic,
2 advanced, any of that?

3 **DR. WADE:** Right, the basic reviews would be
4 40; the advanced reviews, 20; and the blind,
5 two.

6 **DR. ZIEMER:** And the timetable on those? Is
7 that also October?

8 **DR. MAURO:** No, that would be through April.

9 **DR. ZIEMER:** That's through April.

10 **DR. WADE:** And just to put a little bit more
11 information on the table, with the cost
12 increases that we recently approved, there is
13 money in the contract to do the next 20 dose
14 reconstruction reviews. We would have to take
15 some action from a cost point of view to go
16 beyond a total of 40 then; the 20 that's --
17 that have been done and the 20 that you've --
18 discussing this morning.

19 **DR. MELIUS:** What about on the site profile?
20 What have you -- what -- where would that get
21 us with what you've put in so far?

22 **DR. WADE:** We've put in money to complete the
23 first four.

24 **DR. ZIEMER:** And then can -- David, I don't
25 know if you have this information, how --

1 roughly, how many site profiles (sic) this
2 Board hopes to accomplish if we sample at two
3 and a half percent. We had a number ourselves
4 that we estimated, based on -- was it based on
5 20,000 cases?

6 **DR. WADE:** This is dose reconstructions?

7 **DR. ZIEMER:** Yes.

8 **DR. WADE:** I think you were talking a number in
9 the mid-400's -- two and a half percent.

10 **DR. ZIEMER:** Two and a half percent of 20,000
11 would give us 40 -- 50,000. Not 50,000 --

12 **DR. WADE:** Five hundred.

13 **DR. ZIEMER:** -- 500.

14 **DR. WADE:** That number grows now, obviously.

15 **DR. ZIEMER:** Right. Right, but I just want to
16 make sure the Board understands where we are.
17 We'd be -- we'd be at 60 cases out of maybe
18 400, or something like that, whereas the site
19 profiles would be essentially completed. So
20 beyond that, we're talking about dose
21 reconstruction cases.

22 Now Wanda, comment, then Jim. Or question.

23 **MS. MUNN:** There are far too many figures to
24 try to keep in my data files here. It would
25 help me greatly if I could hear an

1 approximation from the contractor of what
2 percentage of the total task, as they see it,
3 will have been completed with the \$2.843
4 million that we are discussing here, as opposed
5 to the final close-down of all tasks.

6 **DR. ZIEMER:** I think I can answer that. That
7 would be 100 percent of the four tasks --
8 current tasks would be completed with \$2.8
9 million. And by that we're talking about 16
10 site profiles and 40 --

11 **MR. GRIFFON:** Sixty-two.

12 **DR. ZIEMER:** Site profiles.

13 **MS. MUNN:** No, 16 site profiles.

14 **DR. ZIEMER:** Sixteen site profiles --

15 **MS. MUNN:** Sixty-two dose reconstructions.

16 **DR. ZIEMER:** -- and 62 dose reconstructions.

17 **MS. MUNN:** And that -- that --

18 **DR. ZIEMER:** Plus the -- and the other -- we
19 had the procedure reviews, and that's basically
20 completed, and the tracking was completed -- or
21 is covered, so --

22 **MS. MUNN:** So what I'm trying to boil this down
23 to is a simple number: Approximately what
24 percentage of the total tasks would be complete
25 with this specific funding we're discussing

1 now?

2 **DR. ZIEMER:** Of the current total tasks?

3 **MS. MUNN:** Correct.

4 **DR. ZIEMER:** I believe it's 100 percent.

5 **MR. STAUDT:** 100 percent.

6 **DR. ZIEMER:** Is that not correct? This would
7 complete the current tasks.

8 **DR. MAURO:** (Off microphone) The current tasks,
9 which -- the only (unintelligible)
10 clarification that might be helpful here is the
11 current --

12 **MS. MUNN:** You need a mike for our recorder,
13 John. Sorry about that.

14 **DR. MAURO:** Just to clarify, as you know, task
15 four -- which is the review of the dose
16 reconstruction reports -- currently we have
17 been authorized and are proceeding on
18 completing 62 of those. However, our original
19 contract called for us to do 400, which at that
20 time was two and a half percent. So right now
21 I think in terms of this we are talking about
22 four tasks which, if fully funded as laid out
23 in the budget, would accomplish all 16 site
24 profile reviews. It would also complete our
25 review of all your procedures, our review of

1 these case tracking systems. The only thing
2 that would not be complete, given the current
3 proposal, would -- we'd only have completed 60
4 out of the projected 400, so that's the break
5 point of that. So the four that are currently
6 under consideration would accomplish
7 everything, but only -- would stop at the 62
8 cases as opposed to going all the way to the
9 400.

10 **MS. MUNN:** Thank you, John. That helps.

11 **DR. ZIEMER:** Does that help, Wanda?

12 **MS. MUNN:** Yes.

13 **DR. ZIEMER:** Jim?

14 **DR. MELIUS:** In terms of your original
15 questions, Paul, about sort of how -- how do we
16 reach any -- reach any conclusions on scope or
17 modifications and so forth, I think that's sort
18 of very difficult 'cause in re-- first of all,
19 most of the change in cost has to do with the
20 site profile reviews. That's what we're
21 talking about taking up most of the cost, and
22 in some sense what we're doing within the \$3
23 million is trading off a large number of
24 individual dose reconstruction reviews for a
25 number of site profile reviews, and that's --

1 if we're -- have to make the assumption that
2 it's a fixed amount of money that we have --
3 have to work with, and I -- not sure that's a
4 sound assumption, but that's essentially what
5 they're proposing to us here.

6 The problem I have in terms of making an
7 evaluation of this is that we only have, in
8 terms of looking at scope or whatever, we
9 really only have one final product to -- to
10 judge from on the site profile reviews. We
11 have some more underway and may have -- may
12 have some shortly, but it's very hard to make
13 an -- an evalu-- a full evaluation of that
14 until we have more information to work off of.
15 And I think what I would suggest to go forward
16 is we need some sort of interim approach that
17 keeps the work going, gives us some more
18 information to work off of, and then I think we
19 can make a recommendation -- which may be do we
20 change scope, do we change number of site
21 profiles to look at, do we say that -- look, \$3
22 million is just not an adequate amount of money
23 to do a decent job, that we need to do -- to --
24 to ask and -- you know, request more money.
25 But frankly, right now, you know, we don't have

1 enough information, I think, to make that -- to
2 justify that kind of a recommendation.

3 **DR. ZIEMER:** That's right to the point, and in
4 essence I think what's being laid out for us
5 here is what the contractor estimates will be
6 needed to complete the full task, what will be
7 needed to complete the current tasks, and then
8 the Board will, one way or the other, have to
9 decide -- do we want to do something in the
10 interim, either fund these tasks as we have
11 described them initially and as now proposed,
12 or do we want to alter the tasks in some way,
13 do we want to say let's not do all the site
14 profiles right away and do more of the -- you
15 know, there's a lot of different options. But
16 at least we have some reference points at least
17 to look at. But you're quite right, making a
18 judgment on what the -- thing to do ultimately
19 may be very difficult, at least -- yeah?

20 **DR. WADE:** And certainly from our point of view
21 we wanted to bring this information to you as
22 quickly as possible. It seems to me there are
23 three natural milestones that you'll come to;
24 each one will give you more information. I
25 mean today and tomorrow you'll be looking at

1 the quality and the depth of the work that the
2 contractor has done in dose reconstructions and
3 the review of site profiles. You'll be much
4 better informed after you go through that
5 process.

6 Also, the contractor is preparing to complete
7 three additional site profiles. As you see
8 that work product I think you'll be much better
9 informed. And you're preparing to give them
10 the go-ahead on the next 20 individual dose
11 reconstructions. It would seem to me at a
12 milestone where you would have 40 of the dose
13 reconstructions and four of the site profiles,
14 you'd be in a much better position. Also at
15 that point we'd be in a much better position to
16 get a sense of the -- the accuracy of the
17 contractor's estimates. Because again, they're
18 learning and sharpening their pencil as they
19 go. We could well learn that their ability to
20 estimate has improved or not improved when we
21 come to those next milestones.

22 **DR. ZIEMER:** Another --

23 **DR. MELIUS:** I think --

24 **DR. ZIEMER:** -- comment?

25 **DR. MELIUS:** -- Mike was first.

1 **DR. ZIEMER:** Okay, Mike?

2 **MR. GIBSON:** Just as a comparison, since we're
3 trying to look at these numbers and everything
4 else, you know, obviously we rely on the
5 technical expertise of SCA to help us out as a
6 Board. How many modifications to the contract
7 and cost increase have been incurred by ORAU to
8 CDC or to NIOSH?

9 **DR. ZIEMER:** I'm not sure --

10 **MR. STAUDT:** Yeah, I'm --

11 **DR. ZIEMER:** -- these folks aren't involved
12 with that, but maybe someone's here --

13 **MR. STAUDT:** Yeah, that contract is handled out
14 of my office, although it's done by a different
15 person. I'm sorry, I don't have that answer
16 readily available.

17 **MR. GIBSON:** It just seems to me that this
18 whole program -- and I know, you know,
19 Department of Energy's a different leg of this,
20 but there have been cost overruns there and
21 everyone else, and I think everyone's just
22 trying to get up to speed and they realize
23 what's going on in this process in determining
24 how much it's going to cost.

25 **DR. ZIEMER:** Do you want then somebody to try

1 to get you those numbers or --

2 **MR. GIBSON:** Yeah, if I could.

3 **DR. ZIEMER:** I don't know if anyone here has
4 that or --

5 **DR. WADE:** Well, if you -- specifically, sir,
6 what would you like?

7 **DR. ZIEMER:** He asked if there's been --

8 **MR. GIBSON:** How many contract modifications
9 and contract cost increase and overruns ORAU
10 has incurred with NIOSH or CDC.

11 **DR. WADE:** ORAU, okay. We'll get that
12 information for you.

13 **DR. ZIEMER:** Jim?

14 **DR. MELIUS:** Yeah. A concern I'd raise that --
15 though, that if we try to lock-step this in
16 terms of let's complete four, stop, review, and
17 then go forward, is that does hold up work and
18 delay work, and it takes us a while to modify
19 things through this process. It's a bit
20 cumbersome because of the Advisory Board and
21 FACA issues and so forth, and I think if we're
22 going to -- if we're looking to take some sort
23 of an approach like that, I think we have to
24 take into account that we also want to keep
25 some of the work going. We don't want to stop

1 everything so that we have a long down time
2 where there won't be -- wouldn't be any site
3 profile reviews; we get to four and then we go
4 forward. So something where we would -- yeah,
5 stop at four, reconsider, but we may meanwhile
6 have, you know, two or four or some other
7 number underway that -- that would keep the
8 process moving 'cause --

9 **DR. WADE:** If I'm not mistaken, sir, I think
10 we've given the contractor the go-ahead on
11 eight site profiles overall.

12 **DR. MAURO:** (Off microphone) No, we have
13 currently (unintelligible) funding complete the
14 four. We have not received the additional
15 funding for the next four, which have been
16 identified, but we don't have the funding to do
17 the next four.

18 **DR. ZIEMER:** The issue is one that the Board
19 can address for Lew and David, and that is do
20 you want to give them, in a sense, the
21 authority to go ahead and allow the funds to
22 continue without the Board necessarily
23 authorizing specifically -- in other words, is
24 four a stop-point, or is it -- we -- you're not
25 going to get to 16 right away, but you want --

1 you want to, in essence, allow the ability to
2 continue the work. Is that sort of what we're
3 talking about?

4 **DR. WADE:** It could well be you would like us
5 to authorize the contractor to go ahead with
6 the preliminary work leading to the next four
7 site profiles. We could do that.

8 **DR. ZIEMER:** Something like that. Other
9 comments or questions?

10 I want to ask David and Lewis if you can
11 identify for us specifically what action in
12 fact is needed by this Board today that is
13 important to the contract to get from where we
14 are to whatever might be needed. Obviously the
15 Board would like some continuity of the
16 process. I'm sure the contractor would, also.
17 We also have to have the ability to evaluate
18 and determine change in direction at some
19 point, when we have a little more history under
20 our belts as to what the product looks like.

21 **DR. WADE:** Well, to try and be specific, on
22 task one we have provided the funding for the
23 contractor to proceed with a total of four site
24 profile reviews. We would like to get a sense
25 of the Board as to what you would like to do --

1 like us to do in addition to that with regard
2 to this issue of not stopping rigidly at four,
3 if you would like us to authorize the
4 contractor to go ahead and begin the
5 preliminary work leading to another four or
6 some number --

7 **DR. ZIEMER:** And you basically authorized up to
8 four, funding-wise --

9 **DR. WADE:** Right.

10 **DR. ZIEMER:** -- and up to -- the next 20 on the
11 dose reconstructions?

12 **DR. WADE:** Cor-- I mean we -- the contractor
13 has now asked us for -- it is a total of
14 \$664,000 to do the 62 individual dose
15 reconstructions.

16 **DR. ZIEMER:** Or 62.

17 **DR. WADE:** Right. And how much money is in the
18 contract now, David?

19 **MR. STAUDT:** We have for task four \$467,000.

20 **DR. WADE:** So we would have to authorize an
21 additional \$200,000 for them to go ahead with
22 the full scope of 62.

23 **DR. ZIEMER:** Basically you've authorized up to
24 I guess at least the next 20.

25 **DR. WADE:** Right.

1 **DR. ZIEMER:** So that's -- that's where we are
2 currently. Robert, then Jim.

3 **MR. PRESLEY:** Did the Board specify any type of
4 priority on the 16 site profiles? Did we
5 specify which ones we wanted first? I can't
6 remember.

7 **DR. ZIEMER:** We provided a list.

8 **MR. PRESLEY:** We gave them a list, but did we
9 set a priority, an order that we would like to
10 have them done in?

11 **DR. ZIEMER:** I don't think we prioritized that
12 list. John, do you recall us giving you an
13 order?

14 **DR. MAURO:** No, you gave us the list of eight,
15 but the order in which we proceeded is we
16 selected the order based on what we thought
17 would be the most productive way to proceed.

18 **DR. MELIUS:** But we only gave eight.

19 **DR. MAURO:** But you only authori-- gave --
20 identified eight.

21 **DR. MELIUS:** So it's --

22 **DR. ZIEMER:** First eight.

23 **DR. MELIUS:** Yeah.

24 **MR. PRESLEY:** Do we want -- do we want to go
25 back and readdress that to make sure that we at

1 least get some of the ones we feel would be
2 more important as sites? This is a question.

3 **DR. ZIEMER:** Question for the Board. Right now
4 -- is it a rhetorical question? Do you want us
5 to ponder that or --

6 **MR. PRESLEY:** Think about it.

7 **DR. ZIEMER:** -- do you want us to debate it?
8 Think about it? Okay.

9 **DR. MELIUS:** Can I get some further information
10 along those lines 'cause it's -- which would be
11 what -- what four are underway now; when are
12 they scheduled to complete, be able to give a
13 report -- submit a report on the -- on those
14 other three, we've got one.

15 **DR. ZIEMER:** The other three, John, could you
16 report to us -- Bethlehem Steel of course we
17 have -- or Joe Fitzgerald will report on what
18 other three are in the process and --

19 **DR. MELIUS:** And what are the other four that
20 are on that list of eight?

21 **MR. FITZGERALD:** We have Hanford, which I think
22 we said in our letter was 50 percent completed.
23 We've ramped up and started work on that again.
24 Savannah River, which was standing at about 80
25 percent completed, and Mallinckrodt, an AWE,

1 which was also roughly 80 percent -- and that's
2 round numbers, I mean in terms of amount of
3 work left.

4 **DR. ZIEMER:** Mallinckrodt.

5 **MR. FITZGERALD:** And for those three remaining
6 of the first four, we're looking to the
7 February time frame, but I'm going to put an
8 asterisk on that because there's information
9 that we're working with NIOSH on in terms of
10 obtaining from Savannah River which -- you
11 know, this is sort of a new M.O. that we're
12 trying to look at is not to try to work around
13 information that we can't get -- this is part
14 of the learning process -- but to suspend
15 activity -- burning hours on that particular
16 profile -- until that documentation arrives.
17 It's been one of the biggest challenges, so
18 assuming that Savannah River documentation does
19 get to us and we can reactivate sort of the
20 rest of the review, we should be on schedule in
21 February. But I can't predict -- since we've
22 been, you know, looking for it for about three
23 months -- when that Savannah River
24 documentation will get to us. And we're
25 working -- I think NIOSH is also working with

1 DOE to try to get that stuff to us.

2 **DR. ZIEMER:** And Joe, do you remember what the
3 next four are after that?

4 **MR. FITZGERALD:** The next four are Idaho, Rocky
5 Flats, Nevada Test Site and Y-12. And again,
6 that's sort of something we'll have to rough-in
7 a schedule for, but we would expect to pick
8 right up on that, and the preliminary activity
9 for those can begin in that February time
10 frame, too, so we can ramp into those and
11 continue that without loss of continuity.
12 Continuity I find is very important, given the
13 experience that once you put things aside, as
14 we did this fall, picking them up and then, you
15 know, catching those threads of information, it
16 takes a lot of time to ramp back up in
17 something, so continuity is pretty important.

18 **DR. WADE:** So Joe, just to clarify, you would
19 need the go-ahead on the second four by
20 February to not have a break in continuity?

21 **MR. FITZGERALD:** At least. Certainly we'll be
22 finishing up Mallinckrodt and perhaps Savannah
23 River in January time frame, and then Hanford.
24 And you know, I'm -- so I'm saying, you know,
25 as we start finishing up on those, even in the

1 January time frame, it'd be very useful to have
2 those resources move on to the other sites. So
3 actually it's even before that. It's not a
4 abrupt, all four will be pre-- remaining three
5 will be presented at the same time. We'll be
6 finishing those up and the last one, hopefully,
7 will be available by the end of February.

8 **DR. WADE:** Thank you. I guess from our
9 perspective, to hear from the Board at this
10 meeting on those next four would be most
11 useful.

12 **DR. ZIEMER:** Yeah, Leon.

13 **MR. OWENS:** Dr. Ziemer, I know that the Board
14 members have had an opportunity to look at the
15 individual dose reconstructions, at least four,
16 and I think that based on those four they've
17 been able to see whether or not the contractor
18 is going into the depth that we might feel is
19 necessary in reviewing these cases. And so I
20 would think that also we might be able to make
21 some type of recommendation to allow for the
22 scope -- the full scope to be continued to
23 complete the additional dose reconstructions.

24 **DR. ZIEMER:** Thank you. And I would pose to
25 the Board -- and you might react to this -- do

1 you feel that you're prepared to make a
2 specific recommendation at this point, or do
3 you want to wait until after the discussions of
4 the dose reconstructions and the site profile
5 before you make a determination and give
6 direction to Dr. Wade on this issue? Or do you
7 feel like you're prepared now?

8 Basically, the totals that the Board
9 established for those four tasks have been
10 exceeded by action of the contracting officer,
11 and I think -- it appears there -- at least
12 there's tacit agreement for him to have done
13 that, unless somebody wishes to make a motion
14 to censure.

15 **DR. WADE:** Maybe we should talk just very
16 briefly --

17 **DR. ZIEMER:** But in terms of the issues of to
18 what extent does the contracting staff have the
19 flexibility between Board meetings to act, in a
20 sense, on our behalf -- particularly where if
21 Dr. Wade believes that they are in the task,
22 the scope -- is kind of the issue -- and that
23 the proposed cost overruns are reasonable, in
24 essence, they have acted in our behalf. We've
25 not authorized, as it were, the increase by any

1 formal action in open meeting.

2 **DR. WADE:** Right. I mean I would just add a
3 third criteria to that when we made the
4 decision -- first, again, that it was within
5 the scope that you had defined; secondly, that
6 the costs are reasonable; and third, that we
7 were not able to get this Board together to
8 make a recommendation in a time frame that
9 would not have caused us an unnecessary delay
10 in the progress of the contract. We did try
11 to get you together, and that was impossible,
12 so we made that decision. Again, I'd like to
13 have a discussion of that. I would intend to
14 act that way again, unless counseled by the
15 Board otherwise.

16 **MR. STAUDT:** Well, I just, you know, wanted to
17 reiterate that, you know, there is feedback
18 through monthly progress reports and -- and,
19 you know, other e-mails, et cetera. So it's
20 not like once you make the decision to go ahead
21 that they were -- you know, it's -- so there is
22 feedback on -- on how they're proceeding, so I
23 think we need to look at that fact, so I
24 certainly would have recommended to give Dr.
25 Wade at least that authority to -- for the next

1 four, go from there.

2 **DR. ZIEMER:** Jim?

3 **DR. MELIUS:** Yeah. Can I just try to pin Joe
4 or John Mauro down a little bit more on --
5 terms of when things'll be completed, 'cause we
6 keep talking about February time frame and we
7 have a meeting scheduled the beginning of
8 February, I believe, and -- in -- so I guess my
9 question is, again, given there's some
10 contingencies, but would by that beginning of
11 February would we have more reports -- site
12 profile review reports; and then secondly,
13 where would we stand with an additional 20
14 individual dose reconstructions? Is that --

15 **MR. FITZGERALD:** Yeah, if you detect a little
16 hedging, it's because there's two -- two --

17 **DR. ZIEMER:** Pick the mike up there, Joe.

18 **MR. FITZGERALD:** -- there's two factors that
19 come into play which are a little hard to gauge
20 exactly at this point. One is, you know,
21 picking up the pieces where we had left off,
22 and we've been doing that certainly over a
23 couple of weeks now trying to re-establish the
24 documentation and to set up interviews with
25 site experts, and really trying to ramp back up

1 into this thing -- at unfortunate time, by the
2 way. I can only tell you trying to set these
3 things up at Christmas, particularly on a DOE
4 reservation, we're quickly finding out that
5 just isn't going to happen. So even though we
6 have this time line that shows the second half
7 of December, I think what we're really finding
8 out, that's -- that's very optimistic, not
9 realistic.

10 The second thing is -- and this has been a
11 recurring issue and we've talked to the Board
12 about this before, that in terms of obtaining
13 pieces of information, documentation, even the
14 documentation that we know is sitting there in
15 boxes waiting to be shipped, it just isn't
16 being shipped. That's proven to be a
17 uncertainty. And if anything we've learned
18 over the past four or five months, that's the
19 part we can't control very well in terms of how
20 quickly specific documentation gets to us so we
21 can review it include it. I mean it's such an
22 important part of what we do in terms of review
23 that we absolutely have to have documentation
24 that we think the Board needs to be aware of.
25 Like just logistically getting that in our

1 hands has surprised me. I, you know, having
2 been in DOE, I thought that was kind of a, you
3 know, something that could be managed. But
4 being on the receiving end now I'm realizing
5 that no, actually it's a little harder than I
6 thought --

7 **DR. ZIEMER:** Joe, I'm surprised you're
8 surprised.

9 **MR. FITZGERALD:** So anyway, to answer your
10 question, those uncertainties -- those
11 uncertainties make me hedge on time because I
12 don't know if it's one week, two weeks, three
13 weeks or two months before I get records that I
14 need. And I don't want to tell the Board it'll
15 be done on a precise date when I can't control
16 that part. But we're aiming to get these three
17 site profiles in draft if in fact we can get
18 these -- this documentation and connect with
19 the interviews that we need to do, hopefully by
20 -- and I say hopefully by the February time
21 frame. But I think early February probably
22 would be unlikely, in my view.

23 **DR. MAURO:** I'd like -- I'd like to complete
24 the answer by going to the dose reconstruction
25 reviews, the task one -- I'm sorry, task four

1 activities. We've developed the machinery
2 whereby we -- we turn over in two months. That
3 is, if today you authorized us to proceed with
4 the next set of 20, the machinery is set up
5 right now that we will deliver a report similar
6 to the big thick report you have there within
7 two months. And that would include the process
8 that we followed whereby we'd have draft, we'd
9 have one of our -- in -- right between the
10 process we'd hold one of our meetings, same --
11 such -- so we're in a position where the
12 machinery's in place, 20 cases every two
13 months, and just keep going indefinitely.
14 Of course, as pointed out correctly, right now
15 the funding that we have will get us through
16 the next 20, but not the third set of 20, so
17 there's going to be a point in time --

18 **DR. ZIEMER:** But this gets us into mid-February
19 --

20 **DR. MAURO:** Right, so -- exactly.

21 **DR. ZIEMER:** -- which may be a little touchy in
22 terms of the next meeting in terms of getting
23 things in advance then.

24 **DR. MAURO:** Yeah, if we were authorized today -
25 - as a matter of fact -- yeah, we would

1 probably be in a position to deliver the next
2 set of 20 cases about mid-February. That's
3 when the next -- assuming authorization is --
4 on this next set of 20 is given shortly.
5 There is one point that I think is an important
6 consideration, and it has to do with the
7 linkage between the work being done on the site
8 profile reviews and the work being done on the
9 dose reconstruction reviews. We are the
10 beneficiaries -- when I say "we", I mean the
11 folks doing the work on task four are the
12 beneficiaries of the site profile reviews. One
13 of the things you will find is that if in fact
14 a site profile review has been completed and
15 then the dose reconstruction review is coming
16 in behind it, the folks doing the dose
17 reconstruction review are the beneficiaries of
18 all the -- of the investment that was made --
19 made in the site profile. So there is a --
20 there's a linkage between the two.
21 We have been proceeding productively on -- as
22 you may know, we have done 20 cases, and I feel
23 as if we were able to do comprehensive reviews
24 of those 20's, notwithstanding the fact that
25 many of those 20's included cases that were

1 from sites that did not yet have a site profile
2 review, but -- so there is this linkage and
3 it's important to try -- so -- try to keep that
4 linkage. As I see it right now, the -- I'm so--
5 - the cases that -- I'm sorry, the sites that
6 have been selected, the eight sites, I believe
7 when those are done we would basically have
8 captured well over 80 to 90 percent of the
9 cases, so we'll be in very -- in other words,
10 almo-- in terms of -- once those are behind us,
11 we will have in place the platform, the
12 technical platform within the -- regarding site
13 profile reviews that will allow us to be a lot
14 more effective in our dose reconstruction
15 reviews. I hope that helps.

16 **DR. ZIEMER:** Thank you. Question?

17 **DR. MELIUS:** Yeah. If I understand this all
18 correctly, in terms of individual dose
19 reconstructions, we're -- we may or may not --
20 probably unlikely to have another set to review
21 by our early February meeting, if we -- we hold
22 to that date, but we would -- we wouldn't be
23 authorizing the next 20 -- or selecting the
24 next 20 until that -- we probably could do that
25 -- could do that at our February date --

1 February meeting, so we could make the decision
2 at that point about procee-- proceeding there,
3 and we really wouldn't really have to confront
4 the issue of getting up to the 400 in cases or,
5 you know, making decisions beyond what's
6 already in the contract until the -- after that
7 February date sometime -- time in the spring,
8 so we would be okay I think on individual dose
9 reconstructions.

10 I would propose that we also -- that we
11 authorize or whatever we do, approve, whatever
12 we have to do here is to get going on these
13 next four site profiles, recognizing that
14 either in our February meeting in -- or the
15 subsequent meeting we will have reviewed --
16 have the information, will have reviewed, you
17 know, three or four, you know, total site
18 profile review reports and then will be able to
19 make a decision or recommendation on what to do
20 about the next eight, which we really haven't
21 even selected, so -- go forward. I think that
22 would keep the contractor working efficiently.
23 I think it would keep the whole review process
24 efficient and would -- we would be in a better
25 position sometime then to really make an

1 overall assessment and evaluation of -- of how
2 to deal with this -- this cost issue.

3 **DR. WADE:** One positive side benefit of that
4 would be -- right now we have estimates from
5 the contractor on what it would cost to
6 complete four reviews, then 16 reviews. By the
7 action you would authorize us to take, we would
8 have a good estimate of what it would take them
9 to do eight, and that could allow you the
10 ability at your next meeting to decide if you
11 wanted to take some of that money that was
12 freed up and invest it in individual dose
13 reconstructions or whatever else you might want
14 to do.

15 **DR. ZIEMER:** So Dr. Wade, are you suggesting
16 that there -- we basically have -- our current
17 contract we have the overall estimate. There's
18 an intermediate point, which is what you talked
19 about. What is required of this Board -- for
20 example, if we want to go to such an
21 intermediate point? Is that a change of scope
22 and/or -- or David, yeah.

23 **MR. STAUDT:** Yeah, we'd have to issue a
24 modification to add the money and whatever
25 scope you would like, so you know, if you

1 wanted to go to eight and then later on scale
2 back to -- if we had to, we could do that,
3 also. But those are going to require a
4 modification to the contract --

5 **DR. ZIEMER:** Do you require first from the
6 contractor a -- in essence a new bid for a task
7 which would be, for example, eight instead of
8 16, and so on?

9 **MR. STAUDT:** Well, he -- yeah, he has basically
10 supplied the pricing for -- for that, so I
11 think we could --

12 **DR. ZIEMER:** You can go to intermediate --

13 **MR. STAUDT:** Yes. Right, yes.

14 **DR. ZIEMER:** -- steps?

15 **MR. STAUDT:** Yes, and we could do this pretty
16 quickly, so no -- you know, if not by the end
17 of the week, by early next week that could be
18 done on task one, if that's what you want.

19 **DR. ZIEMER:** Now -- okay, let me get a -- Gen
20 Roessler's got a comment here.

21 **DR. ROESSLER:** I understand the number for
22 where we are right now. I understand the total
23 number that would be required. But do we have
24 an in-between number yet?

25 **DR. ZIEMER:** We don't have the in-between

1 number. The contractors have it and we could
2 probably get it at some point, even fairly
3 soon, but you can probably roughly scale it.

4 **MR. STAUDT:** Yeah, I can -- I can get exact,
5 but I think it's -- I think that's something
6 that you can just ask Dr. Wade to -- to -- from
7 a technical standpoint, and he'd say okay, that
8 looks -- and give him the, you know, authority
9 to go ahead and I can take care of that.

10 **DR. ZIEMER:** Okay, Henry, and then Leon.
11 Henry?

12 **DR. ANDERSON:** I was going to make a proposal,
13 so if you have other comments first...

14 **MR. OWENS:** Dr. Wade, I guess the question that
15 I have is if the Board's pleasure is to not
16 change and keep the initial estimates that we
17 had in regard to the dose reconstructions and
18 also the site profile reviews, and if in fact
19 we exhaust \$2.834 million and there are
20 additional tasks that the Board deems necessary
21 to complete, what process would the Board then
22 need to undertake in order to request
23 additional funding for those tasks?

24 **DR. WADE:** I think you would need to advise
25 NIOSH of your recommendation that the contract

1 be exten-- expanded and additional funds be
2 added to it. NIOSH isn't the agency that's
3 providing the funds. We would then have to
4 take your recommendation to the Department of
5 Labor and present it to the Department of
6 Labor. But first we would need to hear from
7 you as to what you would like to see the
8 contract expanded to and your reasons for that.

9 **DR. ZIEMER:** Do we -- do we have a number at
10 this time as to the additional costs from going
11 to the 62 dose reconstructions to the 400? I
12 believe that's the only part that's not covered
13 by the \$2.8 million, is it not, those
14 additional 300 or so -- 340 dose
15 reconstructions?

16 **MR. STAUDT:** No, no, we have not requested a
17 cost to complete that. We can, if we -- if you
18 would like us to.

19 **DR. ZIEMER:** But that's the cost that we're
20 talking about, is it not? That's --

21 **MR. OWENS:** Yes, sir, that's correct, and could
22 you please request that?

23 **DR. ZIEMER:** -- I think that's -- the nature of
24 Leon's question was what do we do? Three
25 million, if we -- if we burn up \$2.8 million

1 for completing these tasks, probably there's
2 not enough to do those additional dose
3 reconstructions, is the nature of your
4 question. And did I understand you to say that
5 the money's actually coming from Labor on this,
6 not...

7 **DR. WADE:** Correct.

8 **DR. MELIUS:** I think the trade-off here is
9 roughly one site profile for 20 individual dose
10 reconstructions, looking -- taking a quick look
11 at these figures is my -- that's -- you know,
12 at least -- at least ball park. We -- we are
13 not going to get up to 400, no matter what we
14 do, I think, in terms of -- with what's already
15 -- already happened here, and then this
16 proposal of letting them go ahead and do eight
17 -- finish up eight site profiles, you know,
18 we're still going to be well below 400
19 completed within the \$3 million, you know, that
20 was originally allocated. So I think -- yeah,
21 our -- we're going to up to asking -- needing
22 more, yes, at some point. We're not going to -
23 - and I think that's a given. The question is
24 what mix of site profiles versus individual
25 dose reconstructions will we need and is there

1 something that we could modify in terms of the
2 scope -- or should modify in terms of the scope
3 of the site profile reviews that would, you
4 know, make this process more efficient. And I
5 just find that hard to -- you know, for us to
6 even discuss 'cause we're so early in the
7 process.

8 **DR. ZIEMER:** Thank you. Okay, Henry?

9 **DR. ANDERSON:** Yeah, I was going to -- it
10 sounds to me like timing and flow-wise, I was
11 going to propose that we go ahead and authorize
12 to have the eight site profiles completed and
13 that we also assure that we'll have the 62
14 individual reviews, so that'll get us through
15 two more rounds. And then I think somewhere
16 within there we'll have a better sense of how
17 it's going. But I think it's also clear that
18 the original estimates were insufficient. And
19 I think if you look at the Board and the
20 subcommittee that looked at the tasks and the
21 budget discussions, it was very uncertain and
22 we did the best we could at the time. I think
23 we have a better sense of how much time and
24 effort it takes, and I don't think the \$3
25 million is going to meet what the Board wanted.

1 So to me, the issue is how much time would it
2 take, and then what is a good next level of
3 funding to begin to talk about and when do we
4 need to do that, because I think our original
5 estimate of 16 and 400 to 500 is probably still
6 very good. What we didn't know is just how
7 much resource would have to go into that. We
8 have a better sense now. We'll have a better
9 sense later, so I think we need to do the eight
10 site profiles, authorize that. That'll get us
11 past the next meeting, maybe into two meetings.
12 Do the 62 which they're already proposed
13 increasing. That'll still leave some
14 additional funds, and I would do that as a
15 timing issue. Do we want to do site profiles
16 or do we want to do the others, and that's a
17 decision we can make, but I think maybe we'd
18 want to do it as a separate proposal. I think
19 NIOSH needs to look at; we are not going to be
20 able to do our tasks without additional
21 resource. So I --

22 **DR. ZIEMER:** Henry, are you --

23 **DR. ANDERSON:** -- bottom line, it's -- it's --

24 **DR. ZIEMER:** -- are you making that as a --

25 **DR. ANDERSON:** -- let's do the eight and

1 authorize up to 62 for now, and that'll --
2 that'll keep the process rolling, and then just
3 parenthetically I would say thank you, NIOSH,
4 for interim going on, and I would certainly
5 support the freeing-up of funds with the
6 authorization that went on without the Board's
7 explicit vote on that. I think that's
8 appropriate process and that was a good
9 decision by NIOSH.

10 **DR. ZIEMER:** Henry, are you making that as a --

11 **DR. ANDERSON:** Yes.

12 **DR. ZIEMER:** -- formal motion?

13 **DR. ANDERSON:** Yes.

14 **DR. ZIEMER:** You've heard the motion. Is there
15 a second?

16 **DR. MELIUS:** I'll second.

17 **DR. ZIEMER:** We're going to discuss the motion.
18 I'm going to ask -- Tony, did you have a
19 comment on the motion or just a general
20 comment? I'll allow general comments, too, but
21 --

22 **DR. ANDRADE:** Actually, both.

23 **DR. ZIEMER:** Both, okay.

24 **DR. ANDRADE:** First a general comment. Just a
25 quick estimate by linearly scaling the numbers

1 here, it appears that if we were to actually in
2 the future try to go forth with the complete
3 scope of work that was once outlined by the
4 Board, we'd be talking in excess of \$5 to \$7
5 million to complete everything we had once
6 envisioned, so it's just a number to keep in
7 the back of one's head -- easy enough to scale
8 from those figures.

9 **DR. ZIEMER:** Essentially double what we can...

10 **DR. ANDRADE:** Uh-huh. But as a -- I'd like to
11 also offer a friendly amendment to -- to the --
12 to the motion, and that is that although I
13 agree that we should allow for the additional
14 four site profiles to be completed and the
15 other 40 dose reconstructions to be completed,
16 as well -- or dose reconstruction reviews to be
17 completed, as well -- that beyond that point,
18 that NIOSH -- that the NIOSH contracting
19 officer not be allowed to, at their discretion,
20 act on behalf of the Board; that the Board then
21 should have full authority to stop work or
22 modify scope, cost or schedule.

23 **MR. STAUDT:** No, the -- no, the Board does not
24 have that authority.

25 **DR. ZIEMER:** I'm sorry?

1 **MR. STAUDT:** The Board does not have the
2 authority to change scope -- like officially
3 with the contractor. I mean you can -- that
4 has to be submitted through Dr. Wade and then I
5 would do that if you want a change in scope and
6 that I can do that, but you know, certainly on
7 your behalf.

8 **DR. ANDRADE:** Well, then how do we --

9 **MR. STAUDT:** I mean if you -- if you want to
10 change scope or -- or any modifications, that
11 has to be done formally through -- through Dr.
12 Wade to me, and then that's done with the
13 contractor. The Board does not have the
14 authority just to go to the contractor and
15 change scope.

16 **DR. ZIEMER:** Oh, no --

17 **DR. ANDRADE:** I understand that.

18 **DR. ZIEMER:** -- no, Tony's talking about --

19 **DR. ANDRADE:** I understand that.

20 **DR. ZIEMER:** -- formally changing scope and
21 would have to be done in open meeting.

22 **MR. STAUDT:** Right.

23 **DR. ANDRADE:** Right.

24 **DR. ZIEMER:** I think the -- I'm going to not
25 interpret that necessarily as a friendly

1 amendment. I think it's a completely different
2 issue. We need to talk about it separately
3 from --

4 **UNIDENTIFIED:** Yeah.

5 **DR. ZIEMER:** And so if you would raise that as
6 a separate motion at some point --

7 **DR. ANDERSON:** I guess I would -- for my
8 original comment I would say if in fact the
9 Board couldn't get together and it would impede
10 the action. I mean we had an unusual
11 circumstance that we couldn't get the Board
12 together and that would have delayed things
13 further, so that's...

14 **DR. ZIEMER:** Let's address that as a separate
15 issue.

16 **DR. ANDERSON:** I would address that separately.
17 (Unintelligible) move forward on the eight --

18 **DR. ZIEMER:** Roy, you want to address the
19 motion or general comment?

20 **DR. DEHART:** It's the motion primarily. We sit
21 around the table, not having looked at the
22 product that's before us currently. I think
23 it's premature -- it certainly is in my case --
24 to vote Henry's motion when we haven't had a
25 discussion of any of the reconstruction -- dose

1 reconstructions and the audit has been -- that
2 has been conducted with those, nor the one on
3 the site profile for the Bethlehem Steel. I
4 move that that be tabled to another point in
5 this meeting in the next two days, following
6 our discussion of the various documents that
7 are before us.

8 **DR. ZIEMER:** There's a motion to table. Is
9 there a second?

10 **DR. ROESSLER:** Second.

11 **DR. ZIEMER:** This is not a debatable motion.
12 We have to vote immediately.

13 All in favor of tabling, say aye.

14 (Affirmative responses)

15 **DR. ZIEMER:** Opposed to tabling?

16 (Negative responses)

17 **DR. ZIEMER:** Show of hands. All in favor of
18 tabling, raise your right hand -- one, two,
19 three, four, five -- is that right?

20 Opposed? One, two, three, four, five, six.

21 Abstaining? The Chair didn't vote. The Chair
22 has to vote on it -- no, it isn't --

23 **DR. ANDERSON:** It's not tied.

24 **DR. ZIEMER:** It's not tied so the Chair doesn't
25 -- the Chair could tie it by voting, but then -

1 - actually a motion to table requires two-
2 thirds vote to table, under Robert's Rules, so
3 the motion fails, so we're -- or the motion to
4 table fails, so we're back to the motion -- I'm
5 going to ask for a clarification.

6 The 62 reviews we already know the cost of that
7 'cause that, in essence, was approved by their
8 action. The cost of eight site profiles is
9 somewhere between the current task and the 16.
10 Do we know, David, what that number actually
11 is? Would that be helpful if we knew the
12 number, or --

13 **MR. STAUDT:** Yeah, I believe it is broken down
14 by their -- the cost estimate that was provided
15 by -- by SC&A. I think -- I think we have
16 that.

17 **DR. ZIEMER:** Are we allowed to have that
18 number?

19 **MR. STAUDT:** If --

20 **DR. ZIEMER:** In other words, it's -- it's less
21 than \$1.952 and it's more than --

22 **MR. STAUDT:** Well, if it was -- if it was doing
23 the two -- two remaining sites, the NTS and
24 INEEL each, that was \$301,000. And then to do
25 the six other DOE sites, that was \$723,000.

1 **DR. ZIEMER:** So what does that give --

2 **MR. STAUDT:** I think -- I'd have to go through,
3 but -- I'd have to verify that with SC&A, but
4 that's just about -- a little over -- around \$1
5 million.

6 **DR. ZIEMER:** So that would take us to like \$1.5
7 million instead of nine? Is that --

8 **MR. STAUDT:** Yes. Yes.

9 **DR. ZIEMER:** Roughly.

10 **MR. STAUDT:** Yes, roughly.

11 **DR. ZIEMER:** John is shaking his head.

12 **DR. MAURO:** (Off microphone) (Unintelligible)
13 did that correctly.

14 **DR. ZIEMER:** So that's -- that's what we're
15 talking about.

16 **DR. WADE:** Mr. Chairman, could I make a point
17 of clarification of something you said? We
18 have not, by any action we've taken now,
19 approved task -- task four funding to the full
20 62.

21 **DR. ZIEMER:** You've allowed it to go to the
22 next 20, yes. I'm sorry. But we know what the
23 62 value is.

24 **DR. WADE:** We know we have -- we have an
25 estimate.

1 **DR. ZIEMER:** We know that value. What we
2 didn't know was the value for the eight. It's
3 about -- \$1.5 million would be the new total.

4 **DR. ANDERSON:** And -- and -- and just from
5 Roy's standpoint, this is simply a numbers
6 issue. It's now how it's done issue, so that
7 if in later discussion we want to modify the
8 proc-- or the -- the report we see or how it's
9 done, that's different. This is simply to say
10 we want that to move forward. If we change how
11 they're going to do it, then the budget
12 estimate might be different, but the numbers is
13 really where I'm headed. And I think we need
14 to have a good idea of being able to think far
15 enough into the future that we'll have the
16 numbers moving forward in the process.

17 **DR. DEHART:** That's a clarification. I'm glad
18 you made that because it certainly wouldn't
19 have stood with -- without that explanation.
20 We obviously need to look at how the -- the job
21 is done, the detail that goes into these
22 audits.

23 **DR. ZIEMER:** Jim.

24 **DR. MELIUS:** And just in further follow-up, I -
25 - my sense is that it's very hard to do that

1 based on as -- a small sample we've gotten so
2 far and that we -- that it's also paramount
3 that we do do it, and we do it when we have
4 better experience in terms of seeing what the
5 product will be and understanding that and --
6 on both individual dose reconstruction, as well
7 as the site profile reviews. And so that has
8 to be done as part of whatever we do in
9 February or March/April, whatever for that time
10 period.

11 **DR. ZIEMER:** I want to ask David or Lewis a
12 question. If the Board approves this action,
13 does that change the scope at all?

14 **MR. STAUDT:** No, it doesn't.

15 **DR. ZIEMER:** Doesn't change the scope. It's
16 simply -- in other words, it's just an
17 intermediate step --

18 **MR. STAUDT:** That's correct.

19 **DR. ZIEMER:** -- in the current task and it
20 gives us a kind of a checkpoint.

21 **MR. STAUDT:** That's correct.

22 **DR. ZIEMER:** Does everybody understand that
23 then?

24 **DR. WADE:** I mean and for the record, what --
25 the action that we took unilaterally a month

1 **DR. ZIEMER:** The motion has carried and we --
2 and we'll proceed on that basis.

3 **MR. OWENS:** Dr. Ziemer, could I ask -- did you
4 make the second?

5 **DR. MELIUS:** I seconded, yeah.

6 **MR. OWENS:** I thought so. Thank you.

7 **MR. STAUDT:** And we thank you for that very
8 clear instruction.

9 **DR. ZIEMER:** Now -- we lost Tony.

10 **UNIDENTIFIED:** He stepped out.

11 **DR. ZIEMER:** Do we need a break?

12 **UNIDENTIFIED:** Ask him when he gets back.

13 **DR. ZIEMER:** Does the Board wish to address
14 this issue that Tony raised about what happens
15 on an interim basis on these kinds of issues if
16 we have the situation -- maybe, David, just
17 explain how you proceed, and I think you --

18 **MR. STAUDT:** Yeah, once --

19 **DR. ZIEMER:** -- you identified a process that
20 allows some continuity between Board meetings.
21 We want to find out, make sure the Board is
22 comfortable with proceeding in this manner.

23 **MR. STAUDT:** Right, you know, once -- once a
24 task order is issued and -- and they begin
25 their work, we're going to get feedback from --

1 from Dr. Mauro and others at SC&A through
2 either monthly reports or -- or interim
3 reports. And based on that, Dr. Wade's going
4 to have the discretion to -- to have them move
5 appropriately, so you're going to have -- you
6 know, you're not going to have to wait till the
7 next Board meeting if you think they're going
8 astray or -- or you want them to focus
9 somewhere else, so he -- he has that latitude.
10 And so I -- you know, that -- that's what I'm
11 thinking.

12 **DR. WADE:** Maybe I could explain a little bit
13 of --

14 **DR. ZIEMER:** Sure, the process.

15 **DR. WADE:** -- the technical --

16 **MR. STAUDT:** Right.

17 **DR. WADE:** I mean there -- there are provisions
18 in the Federal procurement regulations that
19 when a contractor reaches 75 percent
20 expenditure of what they are expected to expend
21 on a task, they would notify the government.
22 And again, we would then give them the go-ahead
23 to proceed or not. In this case, the
24 contractor found themselves (sic) spending more
25 than 100 percent of the money that was

1 allocated for the task. They came to us and
2 said we feel we need to stop work on these
3 tasks until you tell us to proceed. At that
4 point we would normally come back to this Board
5 and say what is your wish, but we couldn't get
6 the Board together and we made the unilateral
7 decision to proceed because it was, one, within
8 the scope; two, we felt that the costs were
9 reasonable; and three, we made a good-faith
10 effort to reach the Board. And we'd like to
11 get a sense of the Board as to how you would
12 like us to proceed in the future on those
13 issues. Again --

14 **DR. ZIEMER:** And that was the -- I think, Tony,
15 is basically what you were addressing, so...

16 **DR. ANDRADE:** Precisely, especially if the
17 Board's pleasure is to move money between
18 tasks, which I envision may very well be the
19 case. If indeed what John told us earlier is -
20 - comes to pass, and that is that the wealth of
21 knowledge from the data mining that's occurring
22 in the -- in the site profile review grows to
23 the point to where we -- they have confidence,
24 as well as we, in the -- in the technical
25 ability -- in their technical ability to

1 complete dose reconstruction reviews, then we
2 may want to shift funds, for example, from task
3 one to task four and perhaps do many more dose
4 reconstructions reviews than what are required,
5 and that's what I was referring to. I don't
6 mean do we want to tie our hands. Okay? I'm
7 just suggesting that this Board really should
8 have a say in --

9 **MR. STAUDT:** And absolutely, and it's perfectly
10 logical to descope one task and reallocate this
11 one's elsewhere (sic).

12 **DR. ZIEMER:** I think what David is referring to
13 -- or is talking about, though, is -- for
14 example, once we authorize, for example, the
15 eight site profiles and the 62 reviews, if they
16 reach a point now where they've bumped up
17 against whatever those new totals are, do you
18 want to allow them to make the decision that
19 the total can be exceeded, within reason, if
20 it's within scope and the costs look
21 reasonable, or do you want to stop work?
22 That's kind of where we're at, isn't it? Do I
23 understand that right, it's -- it's not the
24 issue so much as we suddenly decide we don't
25 want any more of these kinds of reviews or a

1 major change in scope, it's the ongoing issue
2 of managing that contract with some continuity.
3 **DR. WADE:** Right. And please understand, we --
4 we would expect to -- to follow the will of the
5 Board in terms of administering this contract.
6 But when we find a situation where the
7 contractor would stop, and then there would be
8 costs expended to ramp them up again, as
9 they're saying, if we can't ask the Board that
10 question, then we're asking you, do you want us
11 to make that unilateral decision? We would
12 certainly not make that decision attempting to
13 modify the Board's instruction to us, but
14 simply to make a prudent business judgment
15 that, rather than have them stop and let their
16 information and sources go stale, we would ask
17 them to continue until we could get to the
18 Board.

19 **DR. ANDRADE:** I think given the experience that
20 they have had during this particular period of
21 time, they've learned quite a bit and I would
22 hope that they would have more time to present
23 us with a potential issue that might come up,
24 financial-- financially speaking, and that
25 there would be sufficient time for us to get

1 together as a Board because these are open
2 proceedings, even in a conference call, and
3 make those decisions. So indeed, I think that
4 the Board really should have the greater
5 authority here to provide direction.

6 **DR. ZIEMER:** Thank you. Other comments? We
7 don't have a particular action here on this,
8 but -- unless someone wishes to make a
9 particular motion.

10 **DR. WADE:** No, we certainly take your sense.

11 **DR. ZIEMER:** Roy DeHart.

12 **DR. DEHART:** Moving backward in time a bit, I
13 think it would be appropriate for the Board to
14 recognize the efforts that the procurement
15 office took in moving forward with the
16 financial arrangements when we were under a
17 difficult task and they couldn't get back to
18 us. I think we need to have some kind of
19 positive response to that.

20 **DR. ZIEMER:** Would you like to make a motion to
21 endorse the actions that were taken?

22 **DR. DEHART:** So moved, yes.

23 **MR. PRESLEY:** Second.

24 **DR. ZIEMER:** Seconded? Is there a discussion
25 on this motion?

1 Motion to endorse with thanks the action that
2 was taken, all in favor, aye?

3 (Affirmative responses)

4 **DR. ZIEMER:** Any opposed, no?

5 (No responses)

6 **DR. ZIEMER:** Any abstentions?

7 (No responses)

8 **DR. ZIEMER:** Motion carries. Thank you.

9 **DR. WADE:** Thank you.

10 **DR. ZIEMER:** Don't get carried away now with
11 that -- don't let it happen again.

12 Robert?

13 **MR. PRESLEY:** Could we as a Board ask that --
14 we have given the money to do this, and if it
15 comes back and we see that -- that maybe 50
16 percent of the work is not going to be
17 completed, then at that point you issue a stop
18 order and we go back and talk about it. You
19 know, if we get down to where that maybe 85 or
20 90 percent's completed and then you need to say
21 okay, we're going to give ten percent more or
22 15 percent more or whatever it is to complete
23 this work and -- but what I would like to see
24 is something in there that if we go down the
25 road and only 50 percent of this work is

1 completed for our money, they we stop and go
2 back and let's talk about it as a Board.
3 There's something wrong.

4 **MR. STAUDT:** Yeah, well, I think there's --
5 there's -- you know, there's an official stop
6 work, you know, which we need -- we have to be
7 -- that's more drastic, and then there's a --
8 from Dr. Wade or from the Advisory Board asking
9 them to stop work on a certain task until you,
10 you know, have an opportunity to meet again.
11 So you know, just want to make sure you --
12 which one we're talking about here, so I'd --
13 certainly we've done it before, I think, in the
14 (unintelligible) task is have them stop until
15 we can reconsider.

16 **DR. ZIEMER:** Well, the indication is pretty
17 clear at this point that -- that if -- if in
18 fact the tasks as originally envisioned of 16
19 site profiles and 400 and some dose
20 reconstructions are to be completed, it's going
21 to require more than the \$3 million. And it
22 seems to me that this Board needs to know,
23 process-wise, exactly what steps need to be
24 taken when to address that issue. If after
25 reviewing our eight and our 62 and so on, if --

1 if we decide that the scope should continue to
2 be what we originally envisioned, and at some
3 point we'll know pretty close what that
4 entails, whether it's \$3.5 million or \$4
5 million or \$7 or whatever that number turns out
6 to be, but at some point we need to know what
7 to do, and where do we go, when do we go,
8 what's the nature of the steps we need to take.
9 Think about that a minute and --

10 **MR. STAUDT:** Well, I was just going to -- you
11 know, we could certainly, you know, request now
12 from SC&A, you know, to develop estimates to
13 complete that. So you know, if you want that
14 for your next meeting or -- or when you want
15 that in time, we can see how quickly they can
16 get those numbers together so you can start to
17 think about that well in advance.

18 **DR. ZIEMER:** Well, it seems to me it's
19 something the Board has to be dealing with
20 fairly soon if in fact there's a process -- now
21 we understand that there's kind of a fixed pot
22 of money and it just doesn't automatically
23 grow, so when and what -- does somebody have to
24 budget for this and what's the lead time and
25 all those kinds of questions. You don't

1 necessarily need to answer now, but we need to
2 know --

3 **MR. STAUDT:** Well, the one additional thing,
4 and I didn't want to, you know, muddle the
5 issue but I have heard from SC&A several times
6 that the Board's going to need -- may want to
7 consider a separate task for project management
8 cost, and this is -- sometimes can skew which
9 task we're looking at here and so -- 'cause
10 those costs for Dr. Mauro, just to -- himself
11 and his staff to kind of be ramped up and
12 sitting there, that's costing a certain amount
13 per month. And if you only have one task in
14 place, those costs are going to hit those
15 tasks, so -- hit that task, so you know, we're
16 looking at numbers, comparing numbers. I'm not
17 sure we have to do it now, but maybe next
18 meeting the Board may want to consider in the
19 future having a separate program management
20 task as set up, so this is just something I
21 just wanted to advise you of and -- and that's
22 something we're definitely look at.

23 **DR. ZIEMER:** And this has to do more with how
24 costs are assigned, I believe. John Mauro,
25 program management -- I think we sort of

1 assumed it was built into each task, but you're
2 saying for accountability, it probably would be
3 better from your point of view to have an
4 overall management task that would cut across
5 the lines of all the other tasks? Is that --
6 **DR. MAURO:** Yes, in fact one of the problems we
7 encountered in our cost overrun on task four
8 was we used task four when we budgeted that out
9 originally as not only the task that we would
10 do cases, but I also put in in that part of --
11 in task four the cost to -- for example, to
12 support these meetings. See, there are certain
13 cross-cutting activities that apply to all four
14 tasks. Perfect example is coming to these
15 meetings. Another example is putting in place
16 our quality assurance programs, our conflict of
17 interest programs. So all of these what I call
18 -- and also our records management process
19 whereby we are acquiring records, and so these
20 are what I call the program management
21 activities which cut across all four tasks.
22 What I did originally was put those resources
23 into task four. Okay? It turns out that's --
24 it obscures what does it really cost. I have
25 the numbers, but it obscures -- if you were to

1 just look in the aggregate at the total price
2 tag to do the 62 cases and the price that has
3 been estimated for doing the 62 cases, the
4 unfortunate part of that is imbedded in that
5 price tag is also the cost for program
6 management. So I think in an ideal
7 circumstance, quite frankly, and in retrospect,
8 I think it would -- from a program management
9 point of view it would have been much cleaner
10 to have broken out program management as a
11 separate task that's managed separately so then
12 we can get a very clear vision on what does it
13 cost per case to -- to be reviewed.

14 **DR. ZIEMER:** Yeah, thanks. Now we're -- we're
15 driving up the contractor's cost by meeting too
16 often is the problem. Henry?

17 **DR. ANDERSON:** Yeah, I just wanted to reiterate
18 your comment, what is our timing if -- I mean
19 we now have kind of \$3 million in the pot.
20 With where we are now, there -- there's still
21 some left there. The question is, when that's
22 gone and if we want to do more, what's the time
23 line and what do we need to do to get that? I
24 mean do we now tell you we really believe that
25 it's going to cost more, we don't know how much

1 because we haven't got all the experience yet;
2 is that something you can take forward over to
3 whoever you would ask and say we are
4 anticipating that come August, July, whatever,
5 the Board is going to be asking for additional
6 funds. You need to be thinking about that, and
7 then either give them a ball park number to be
8 followed up. What -- what do you need to go
9 forward, because my sense is we're going to
10 want to do more case reviews. We aren't going
11 to be able to cover the funds solely out of
12 redeploying site reviews to that. So our
13 original estimates were ball park and now the
14 ball park is -- has increased. What do... Up
15 to this point we've got our five-year budget
16 planned and it isn't going to be sufficient, so
17 we need to know, what do you need from us?
18 What do we need from our contractor? What is
19 our time line? I don't think we have enough
20 information now to really know. I mean we --
21 we can do your linear projections, but we all
22 know that also has a tendency to -- to not go
23 linear, so the question is, what do you need --
24 what is that time line? Are we looking at next
25 year, you know, that '06 Federal budget, '07

1 Federal budget? Where are we in being able to
2 get more funds into this account and what do we
3 need to do to -- to justify that?

4 **DR. WADE:** I think based upon this discussion,
5 once it's concluded, we'll have enough
6 information to go back and to begin to explore
7 that process, and then come to your next
8 meeting.

9 **DR. ANDERSON:** Okay.

10 **DR. WADE:** But might I ask one -- one
11 additional question? Was it the sense of this
12 Board that this contractor would begin to do
13 work in the area of Special Emphasis (sic)
14 Cohorts? Is that also something that needs to
15 be considered, or -- we have on the table the
16 entire scope that we had imagined -- that you
17 had imagined?

18 **DR. ZIEMER:** When the Board first looked at
19 that, there was a thought that that might be a
20 possible task. But the way -- this -- he's
21 talking about Special Exposure Cohorts.

22 **DR. WADE:** I'm sorry, Special Exposure.

23 **DR. ZIEMER:** This Board has a responsibility to
24 specifically review those documents. It's not
25 clear that we -- and this could change. It's

1 not clear that we need contractor assistance on
2 that because we have to review -- regardless,
3 we have to review those documents. That's --

4 **DR. WADE:** Okay.

5 **MR. GRIFFON:** But -- but I think we did in the
6 original task order contract --

7 **DR. ZIEMER:** Originally -- that's what I say,
8 originally we felt there could be --

9 **MR. GRIFFON:** And it's more technical
10 assistance. It's not an audit thing. It would
11 be to technically assist us in reviewing those,
12 so I think that's still open.

13 **DR. WADE:** It's still potentially on the table,
14 with an associated cost.

15 **MR. GRIFFON:** Right.

16 **DR. ZIEMER:** We don't know. Okay, Mike,
17 Robert, Jim. Mike?

18 **MR. GIBSON:** Again, I just -- I know it's our
19 responsibility to oversee this audit process
20 and make sure that things are being done
21 correctly. I also understand that we're
22 supposed to be fiscally responsible with the
23 government's money. We're talking about \$3
24 million here as opposed to some of these other
25 costs that have been spent by other agencies

1 and organizations, and we haven't even -- we
2 haven't even seen much of SCA's work. They may
3 be the most efficient contractor out there, and
4 maybe did a better job than ORAU or anyone
5 else, and we're still worrying about
6 potentially cutting scope or changing scope.
7 You know, I think we're just jumping the gun a
8 little bit and we need to hear from them and
9 get a flavor for their work. And you know, if
10 we have to increase the budget or request to
11 increase the budget by \$10,000 -- \$10 million.
12 I mean I've seen a dose reconstruction (sic) be
13 bid at \$3 million for a site and go to \$12 or
14 \$13 million, and -- and it wasn't even done
15 efficiently, in my opinion. But I think we
16 need to give the contractor a chance to
17 demonstrate their abilities and their work
18 before we worry about the costs or how to cut
19 them.

20 **DR. ZIEMER:** Thank you. Robert?

21 **MR. PRESLEY:** Could we ask that when we meet in
22 February that we have a cost review of what we
23 have authorized here today as to where we stand
24 with the \$3 million and the eight site profiles
25 and the 20 or -- I mean not 20, but the 40 to

1 62 reviews?

2 **MR. STAUDT:** Absolutely we can get that, uh-
3 huh.

4 **DR. ZIEMER:** And Robert, let me add to that --
5 I'll mention on behalf of the Board, sitting
6 here in the chair behind me, this is
7 proprietary stuff so it's not available to the
8 public 'cause it has cost breakdown by position
9 and so on for the contractor, but each of the
10 tasks -- all the details on all expenditures on
11 each task by month are shown in here, and Board
12 members are welcome to look through this. The
13 monthly progress reports are here, percent of
14 each task expended and so on are in here, as
15 well, for some supplementary material, one
16 notebook for each task, one, two, three and
17 four. So avail yourselves of that information,
18 as well. And then this would supplement that.

19 **DR. WADE:** But we would certainly take it as
20 our responsibility at the February meeting to
21 stand up and give you that --

22 **MR. PRESLEY:** I would appreciate that.

23 **DR. WADE:** -- that information.

24 **DR. ZIEMER:** Who was next, Roy?

25 **DR. DEHART:** I'd simply like to ask at such a

1 presentation if the appropriate graphics
2 couldn't be made available on the screen so we
3 can all work from those.

4 **DR. ZIEMER:** Thank you. Jim?

5 **DR. MELIUS:** I have a separate subject to bring
6 up, so -- it's related to this, so -- you're
7 done discussing it, and that's the issue of the
8 reports and public availability of the reports.
9 I'm very confused as we go through this
10 process. We now have blue stamps, I notice, on
11 all of our -- a lot of our documents and -- on
12 some and not on others saying it's part of the
13 record, but there's a lot -- some of us were
14 pretty disconcerted when we received the report
15 from our contractor and was told that it was --
16 could not be shared with anybody, and there's
17 been some correspondence -- there was some e-
18 mails back and forth with Paul and among the
19 Board about that particular issue, and I'm just
20 trying to understand if it comes from a
21 contracting point of view, where -- where is
22 that issue coming from in terms of claiming
23 that these interim reports are -- or the
24 reports that are submitted by the contractor on
25 site profile reviews are privileged or can't be

1 shared in some way?

2 **DR. WADE:** I can't answer that.

3 **DR. ZIEMER:** I don't think that's coming from
4 procurement, is it?

5 **UNIDENTIFIED:** No, I believe the legal people -
6 -

7 **DR. ZIEMER:** I believe that was a legal
8 opinion, as I heard it. Liz may want to speak
9 to that. And it's an issue -- I think the
10 Board may wish to discuss this because the -- I
11 suppose the Board could also decide that it in
12 fact wanted to make documents publicly
13 available, even if it's a work product, but I -
14 - I -- I think legal counsel would have -- I
15 don't know if Liz is here right now, but we can
16 -- we can address this later, during our work
17 session, at least.

18 **DR. MELIUS:** Okay, can we put it on the agenda?

19 **DR. ZIEMER:** Oh, sure. Any other issues
20 pertaining to procurement and the contract?
21 And let me ask John -- John, does SC&A have any
22 other related issues that you need to raise
23 with the Board at this time vis-a-vis what
24 you've heard here so far?

25 **DR. MAURO:** No.

1 **DR. ZIEMER:** Thank you. Okay. Richard?

2 **MR. ESPINOSA:** I have just a -- I have just a
3 request. The only documents that I have on the
4 deliverable on the task are basically the
5 drafts that we've worked on prior to. Can I
6 get a finalized set?

7 **DR. ZIEMER:** Of the deliverables?

8 **MR. ESPINOSA:** Of one, two, three and four, the
9 finalized.

10 **DR. ZIEMER:** Certainly.

11 **MR. GRIFFON:** Final tasks? Is that what he
12 said?

13 **DR. ZIEMER:** Let me -- let me see, this is...

14 **MR. ESPINOSA:** I never received the
15 finalized...

16 **DR. ZIEMER:** Okay. Who else needs copies --
17 you're talking about the statement of task on
18 each of the tasks?

19 **MR. ESPINOSA:** Yes.

20 **DR. ZIEMER:** I think the answer is yes, a Board
21 member can have the statement of task.

22 **MR. ESPINOSA:** I never received that.

23 **DR. ZIEMER:** I'm not sure who's going to
24 provide that, though. We need to pin down --

25 **UNIDENTIFIED:** Can we provide them to you?

1 **DR. ZIEMER:** Okay.

2 **UNIDENTIFIED:** To you, and then you can
3 provide...

4 **DR. ZIEMER:** We'll make sure. If anyone else
5 doesn't have that in their files, the statement
6 of the four tasks, we'll certainly make them
7 available.

8 Okay, anything else on this particular issue?

9 **DR. MELIUS:** Liz just -- our legal counsel just
10 walked back in, if we want to talk about the
11 issue of --

12 **DR. ZIEMER:** Oh, Liz --

13 **DR. MELIUS:** Or she has time to prepare, if she
14 -- I don't want to put her --

15 **DR. ZIEMER:** The question was raised as to the
16 status of the -- the legal status of the --

17 **UNIDENTIFIED:** Draft.

18 **DR. ZIEMER:** -- the draft that comes from the
19 contractor. It was explained that it was work
20 product and is -- is it legally -- as you see
21 it, legally not available, or can the Board,
22 for example, decide it wants to make it
23 available?

24 **MS. HOMOKI-TITUS:** Well, it's a pre-decisional
25 document until you take it up, so therefore it

1 will be publicly available tomorrow when the
2 Board considers it.

3 **DR. ZIEMER:** But that -- that's a legal -- that
4 was a legal opinion, nothing to do with the
5 contractors. That's a --

6 **DR. MELIUS:** Do FACAs have pre-decisional
7 documents?

8 **MS. HOMOKI-TITUS:** Yes, you all have had a copy
9 of it.

10 **DR. MELIUS:** No, no, no, I mean legally --
11 legally it may apply to other agency
12 situations, but does it apply to a Federal --

13 **MS. HOMOKI-TITUS:** Yeah, the same as when you
14 all prepare documents in a work group and it's
15 the same as when you all prepare a letter for
16 signature by Dr. Ziemer. They're pre-
17 decisional documents, and then when you take
18 them up publicly, they're no longer pre-
19 decisional.

20 **DR. MELIUS:** Is there any reason we cannot make
21 it public document by an action of the Board,
22 as a policy?

23 **MS. HOMOKI-TITUS:** That would be a policy held
24 by the Department. A pre-decisional document
25 protects the Department in their decision-

1 making, and you all, as special government
2 employees, are making recommendations to the
3 Department.

4 **DR. ZIEMER:** Okay. Thank you.

5 **MS. HOMOKI-TITUS:** (Off microphone) Are you
6 going to need me again, because I've got to
7 finish (unintelligible).

8 **DR. ZIEMER:** No, we're going to recess here
9 momentarily. I just wanted to see if there's
10 any other issues relating to the contract,
11 contract process or the contract requirements.

12 (No responses)

13 We're going to recess for lunch. This
14 afternoon there will be a closed session. I
15 want to -- we need to make a public statement --
16 -- Lew, can you give us the -- for that -- for
17 the public, make a -- give us the -- the
18 necessary statement about this afternoon's
19 session?

20 **DR. WADE:** Okay. The closed portion of the
21 meeting on December 13th will involve
22 discussion of individual dose reconstruction
23 case reviews, as directed by EEOICPA and the
24 Executive Order, both of which direct the Board
25 to evaluate the scientific validity and quality

1 of dose reconstructions conducted by NIOSH.
2 The individual cases the ABRWH will be
3 discussing include personal information of a
4 confidential nature where disclosure would
5 constitute a clearly unwarranted invasion of
6 personal privacy. The meeting will be closed
7 in order to protect the privacy of the
8 claimants. A general report of the summary
9 findings, without personal and confidential
10 information, will be presented by the Board in
11 open public session for Board discussion and
12 deliberations towards consensus recommendation.
13 So that's what we'll go into closed session to
14 discuss.

15 **DR. ZIEMER:** And I would add that there will be
16 no other business conducted by the Board during
17 the closed session.

18 **MR. MILLER:** Dr. Ziemer, could I just ask a
19 clarifying question?

20 **DR. ZIEMER:** Yes, you certainly may. Richard
21 Miller.

22 **MR. MILLER:** With respect to the -- this is
23 Richard Miller, good -- good -- good morning.
24 I just had a clarifying question, Dr. Wade.
25 You said that there'll be a general report

1 prepared for distribution to the public. Will
2 there be a transcript made of the closed
3 proceedings, is the first question. And the
4 second question that follows is will that
5 transcript be made available by NIOSH with
6 appropriate redactions for Privacy Act-related
7 material. And the third question is, will the
8 report that you all will be discussing behind
9 closed doors that has been received from the
10 contractor be made available to the public
11 appropriate redactions. Thank you.

12 **DR. WADE:** And again, I -- I will defer that to
13 legal counsel.

14 **DR. ZIEMER:** Well, let me answer part of the
15 third question. The Board will determine what
16 -- what report will be -- public report. What
17 we have from the contractor is not a report.
18 We do not have a report from the contractor.
19 We have a series of reviews of individual
20 cases, and various Board members have copies of
21 various cases that they are working -- have
22 worked on, so that's what we have before us.
23 Okay. And Jim -- Jim Neton, NIOSH.

24 **DR. NETON:** This is Jim Neton, NIOSH. I
25 believe that NIOSH has prepared appropriately

1 redacted versions of those original reports
2 that will be available to the public during
3 this meeting.

4 **DR. ZIEMER:** Of the original --

5 **DR. NETON:** Original SC&A reports.

6 **DR. ZIEMER:** -- reports from the contractor?

7 **DR. NETON:** Yes.

8 **DR. ZIEMER:** Redacted reports.

9 **DR. NETON:** They will be available.

10 **DR. ZIEMER:** And Cori?

11 **MS. HOMER:** I can speak at least in terms of
12 the transcript. There is a transcript made.
13 However, it is sealed, according to Privacy Act
14 direction. For example, if it -- we were
15 discussing an independent government cost
16 estimate, that transcript would be closed for
17 two years. There is a summary of the
18 proceedings that is published within 14 days in
19 the *Federal Register* and that is all that is
20 made available to the public in terms of a
21 transcript until the transcript is unsealed.

22 **DR. ZIEMER:** The public summary contains very
23 little information other than the fact that the
24 Board met on a particular topic and that no
25 other business was discussed. But I think in

1 partial answer, Jim indicated apparently the
2 SCA reviews, appropriately redacted, will be
3 available. Is that what I understood?

4 **DR. NETON:** Right.

5 **DR. ZIEMER:** And whether or not -- if you're
6 asking is the Board going to have a position on
7 each review, that will be up to the Board. Is
8 that what you're asking?

9 **MR. MILLER:** My question with respect to the
10 transcript is whether that transcript -- Cori
11 said would be sealed for two years. I'd sure
12 appreciate if you could -- Dr. Wade or others -
13 - could get us a legal clarification about
14 whether the Government in the Sunshine Act
15 requires the disclosure of transcripts to the
16 public pursuant to a request, and whether
17 there's legal authority to seal them for two
18 years. I certainly understand the redaction of
19 business-sensitive information or business
20 confidential, the Privacy Act, or anything else
21 that's appropriately redactable. But the
22 question of -- Dr. Ziemer, is just it's -- it's
23 -- it is with great interest I guess that the
24 public will be hearing from the Board, but
25 given the -- and I don't take issue with you

1 all needing to have free and open discussion
2 behind closed doors where there's Privacy Act
3 information. But it seems to me that that
4 deliberative process ought to be as transparent
5 as possible. And my understanding of the law
6 is that those transcripts are public
7 information -- unless there's some exception
8 that I'm not aware of -- as appropriately
9 redacted. So that's -- that's the issue.
10 The question of whether what the Board chooses
11 to do is its own choice, and you all will do
12 what you're going to do.

13 **DR. WADE:** We will seek legal clarification and
14 provide it to the Board.

15 **DR. ZIEMER:** Okay. Then we are going to recess
16 for lunch now and we will reconvene in closed
17 session at 1:00 o'clock.

18 (Whereupon, the public session of the meeting
19 was in adjournment until Tuesday, December 14,
20 2004, at 8:00 a.m.)

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C E R T I F I C A T E

STATE OF GEORGIA :

COUNTY OF FULTON :

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the 13th day of December, 2004; and it is a true and accurate transcript of the testimony captioned herein.

I further certify that I am neither kin nor counsel to any of the parties herein, nor have any interest in the cause named herein.

WITNESS my hand and official seal this the 23rd day of January, 2005.

Steven Ray Green
STEVEN RAY GREEN, CCR
CERTIFIED MERIT COURT REPORTER
CERTIFICATE NUMBER: A-2102

