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THE DEPARTMENT OF ENERGY'S IMPLEMENTATION OF THE NATIONAL NUCLEAR SECURITY ADMINISTRATION ACT OF 2000

HEARING

BEFORE THE

STRATEGIC FORCES SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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THE DEPARTMENT OF ENERGY'S IMPLEMENTATION OF THE NATIONAL NUCLEAR SECURITY ADMINISTRATION ACT OF 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
STRATEGIC FORCES SUBCOMMITTEE,
Washington, DC, Wednesday, January 31, 2007.

The subcommittee met, pursuant to call, at 1:15 p.m., in room 2226, Rayburn House Office Building, Hon. Ellen Tauscher (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. ELLEN O. TAUSCHER, A REPRESENTATIVE FROM CALIFORNIA, CHAIRMAN, STRATEGIC FORCES SUBCOMMITTEE

Ms. TAUSCHER. Good afternoon. This hearing of the House Armed Services Committee, Strategic Forces Subcommittee, on the Department of Energy's (DOE) implementation of the National Nuclear Security Administration (NNSA) Act will now come to order.

Let me begin by welcoming our distinguished witnesses: Honorable Samuel W. Bodman, Secretary of Energy, and Mr. Gene Aloise, Director of the Government Accountability Office's (GAO) National Resources and Environment Division.

The hearing will consist of two panels today, with the secretary appearing alone on the first. Mr. Aloise will be joined on the second panel by James Noel, Assistant Director of GAO and a principal author of the report that we are releasing today.

Let me thank each of you for appearing before the subcommittee today.

This is our subcommittee's first hearing in the 110th Congress and my first as chairman of the subcommittee, so let me lay out a couple of ground rules.

First, as Chairman Skelton instructed at our full committee organizational meeting, we will honor and enforce the five-minute rule so that all subcommittee members have a reasonable chance to ask questions.

Mr. Secretary, we will not impose a five-minute rule on you.

Second, I encourage all subcommittee members to be respectful of our witnesses and, in turn, our witnesses to be respectful of the subcommittee members, especially our limited time during hearings. We will all be grateful if you can keep your answers as concise as possible while answering the question.

Now let's get started.

Today's hearing is not being held because of recent leadership changes at the NNSA, nor is it being held because of the latest Los Alamos National Laboratory (LANL) security breach. Those issues

are relevant but not the motivation for today's hearing, which is a compilation of a long-awaited report from the GAO on the department's progress in establishing the NNSA, a matter of longstanding and significant interest to this subcommittee.

In October 2004, my distinguished predecessor, Chairman Terry Everett, and Ranking Member Silvestre Reyes asked the GAO to conduct a comprehensive survey of the department's progress in implementing the fiscal year 2000 NNSA Act.

Specifically, the subcommittee asked GAO to evaluate the extent to which NNSA had taken steps to, one, improve security at its laboratories and plants and, two, improve its management practices and revive its organizational structure.

After a lengthy investigation, the report is complete. And I want to compliment the GAO on what I believe to be a constructive and illuminating assessment. My colleague, Mr. Thornberry, and I helped draft the provision in the National Defense Authorization Act (NDAA) for Fiscal Year 2000, which created the National Nuclear Security Administration.

This committee's and, indeed, Congress's objective in establishing the NNSA was simple: to address chronic, well-documented problems with security and management within the Department of Energy's nuclear weapons complex.

Congress took action in response to well-publicized espionage charges, decades of documented mismanagement at DOE, and dozens of reports and studies that describe weak management, confused lines of authority and a lack of mission focus within DOE military nuclear programs.

Heeding the advice of dozens of experts who had studied these problems—this is some of the paper, by the way, produced by the dozens of different experts and boards and commissions and Presidential advisory committees, including the most recent 1994 report by the President's Foreign Intelligence Advisory Board, known as PFIAB—we approved the creation of a semi-autonomous agency within DOE.

The rationale for semi-autonomous was to insulate the new agency from a culture within DOE that had undermined security and management in the weapons complex, but also preserve for the secretary of energy ultimate authority for policy. Immediately after passage of the NNSA Act, this committee began aggressive oversight of implementation of the act.

The committee established a special oversight panel on DOE reorganization, on which I served as the ranking member. That panel issued two reports in February and October of 2000, assessing initial DOE efforts, and held hearings throughout the 106th and 107th Congresses.

We have modified the NNSA Act several times. Amendments to the original statute were included in the fiscal year 2001, 2005 and 2007 National Defense Authorization Acts. Finally, in 2004, we asked for the GAO report, which we are discussing today. So we have been active.

Like GAO, we see progress in some areas. But as GAO has found in this latest investigation, seven years after the NNSA Act was created, we still face many of the same problems that drove us to create the organization in the first place. These range from a lack

of human resources, whether among NNSA site office security personnel or NNSA headquarters program management staff, to difficulties in establishing effective budget and project program management processes.

Mr. Secretary, I have long been concerned about these problems, most of which have been raised in other reports, like the recent Defense Science Board report or the former NNSA oversight panel. I am concerned, because our national labs and weapons complex sites need to have effective security procedures to protect the sensitive national security secrets they guard. And the NNSA must be effectively run if the agency is to successfully manage critical challenges it faces, from the Reliable Replacement Warhead program, to the effort to transform the complex.

I am supportive of these programs, but I need to have the confidence that the NNSA is an effective, competent organization, if we are to embark upon these expensive, complicated activities. Furthermore, I need confidence that DOE is enabling the NNSA to achieve top-notch science and security, rather than serving as one big bureaucratic roadblock.

Frankly, Mr. Secretary, after reading your submitted testimony, I am losing that confidence. In your statement, you acknowledge that there has been improvements in the management of the nuclear weapons complex since the NNSA was established. But you also indicate that the NNSA Act "created a significant obstacle to realizing the benefits of functional accountability and sound management between the NNSA and the broader department."

Mr. Secretary, over the seven years since we established the NNSA, the evidence is clear. DOE has never afforded the NNSA the degree of autonomy Congress intended in the NNSA Act. So from where I sit, it is not credible for the department to assert that the NNSA Act has not worked because the department has not given it a fair chance to work.

I do want to work with the department to address these problems. But the starting point for our partnership is clear: DOE must honor the intent of the NNSA Act and grant NNSA the authority Congress intended.

I know you believe in accountability, Mr. Secretary, as do I. But I am concerned that you testify that "certain elements of the NNSA Act present obstacles to management's success across the weapons complex." But you decline to propose solutions. That is not accountability, in my judgment, and the issues that depend on NNSA require more than that.

So my bottom line is this. If the department cannot or will not faithfully implement the NNSA Act, we will find a way to further insulate the NNSA from the department.

Finally, the subcommittee members and I put together a comprehensive set of questions that we will need your help with, Mr. Secretary. We will be drafting the fiscal year 2008 National Defense Authorization Act in the next couple of months, and you can be sure we will deal with these issues in that bill. So if you could be timely with your responses to our questions, it would allow us to factor in your views.

And with that, I welcome your testimony today.

Let me now recognize my good friend and colleague, Mr. Everett, the ranking member of the subcommittee.

Mr. Everett.

STATEMENT OF HON. TERRY EVERETT, A REPRESENTATIVE FROM ALABAMA, RANKING MEMBER, STRATEGIC FORCES SUBCOMMITTEE

Mr. EVERETT. Well, I want to thank my friend, colleague and chairwoman. And I want to join you in welcoming our distinguished guests today, our witnesses today, Honorable Sam Bodman, Secretary of Energy, and Mr. Gene Aloise and Mr. James Noel, both from the Government Accountability Office.

I would frame my focus at today's hearing by asking two questions. First and foremost, why do we continue to have problems with basic security at the nuclear weapons complex? And, second, is the NNSA Act, which arose out of concerns over security in the nuclear weapons complex, performing as intended, specifically in the area of how NNSA interacts with the Department of Energy?

For years, this subcommittee has closely followed NNSA, the nuclear weapons complex security posture, and its relationship with the Department of Energy. The GAO report which is now being released today was requested by me and my ranking member, Congressman Reyes, when I previously chaired this subcommittee.

I will also note that the long history of expertise for both Chairman Tauscher and Congressman Thornberry of this subcommittee, who developed in their leadership of this committee's special oversight panel on development—on Department of Energy reorganization following the passage of Title 32 of fiscal year 2000 National Defense Authorization Act that established NNSA.

Most recently, in last year's defense authorization conference with our Senate colleagues, we merged the counterintelligence offices of NNSA and the Department of Energy, taken due to the concerns with how NNSA and the department were implementing the NNSA Act.

Safeguarding our nation's nuclear weapons design information, the underlying rationale for establishing NNSA, is critical to our national security. I am perplexed as to why we have continued to have significant security problems at Los Alamos and perhaps elsewhere in the complex. I will also note that the GAO report highlights several areas of management of practices which NNSA and, between NNSA and the department, now are not functioning smoothly.

And significantly, I am especially interested in hearing the secretary as to whether NNSA can effectively execute the national security mission under the existing NNSA Act legislation or, alternatively, whether legislation requires changes. I will look forward to hearing from our witnesses, and we actually need to find out what we need to do to get this thing right.

And I want to thank the Madam Chairman for convening this hearing. It is timely, with the release of the GAO report. Thank you, Madam Chairman.

Ms. TAUSCHER. I thank the distinguished ranking member.

Apparently we may have been called for another vote. I wanted to ask Mr. Thornberry if he had an opening statement.

Mr. Loebsack, do you have an opening statement?

Mr. LOEBSACK. No, I don't. Thank you, Madam Chairman.

Ms. TAUSCHER. Mr. Secretary, if you could give me a sense for how long it will take for you to summarize your statement, perhaps we could go ahead with that, and then we could break for a vote.

Secretary BODMAN. Five minutes.

Ms. TAUSCHER. Please go ahead. Mr. Secretary, the floor is yours. Thank you.

STATEMENT OF HON. SAMUEL W. BODMAN, SECRETARY OF ENERGY, DEPARTMENT OF ENERGY

Secretary BODMAN. Madam Chairman, members of the subcommittee, I am very pleased to be here before you to provide my assessment of Title 32 in the National Nuclear Security Administration Act.

Let me begin by recognizing Chairman Tauscher, Ranking Member Everett for the terrific leadership they have shown in focusing on this, which you have just talked about. Anybody that can work their way through all those documents is my kind of person.

I also want to say that the men and women in the NNSA complex are a key national asset. The work that they do is critical to our nation's security, defense and scientific capabilities, and it is among the most sensitive work performed in our government.

While we grapple with some of the challenges that it presents, I continue to be committed to administering the NNSA Act as written to the best of my ability. Last July, based on a recommendation of the department's inspector general, following a security lapse at the Albuquerque service center, I convened a task force to review the separate organization of NNSA within the department.

The deputy secretary led the team that included the administrator of the NNSA, the undersecretary for science, and our general counsel. Task force members identified language within the act that prohibited the delegation of authority beyond the deputy secretary, as having created a significant obstacle to realizing the benefits of functional accountability and sound management between the NNSA and the broader department.

After careful consideration of their review, I concluded that, while certain elements of the act presented obstacles to management success across the weapons complex, we would continue to work within the limits and under the guidance of that act. It does, however, remain my belief that the creation of the NNSA as a separately organized entity within the department has not yielded all of the beneficial results that the legislation's authors intended.

Let me add here that my views on these issues are informed by experience as deputy secretary in two other Cabinet departments, with large, separately organized elements within them, both Commerce and Treasury. I am aware that the GAO just today has released a report in which it concludes that there continue to be serious flaws in the management practices across the weapons complex, particularly in the area of security.

And while I have not yet reviewed that report in any great detail, I can say generally that I certainly agree that problems persist. There is no doubt about that.

While we have much more to do, we have made it a top priority to improve management within the entire department, including the NNSA, and we are making progress, in my judgment, toward that goal.

Madam Chairman, in the past, our partnership has led to very constructive changes, with large beneficial impacts on our organization. A merger of intelligence and counterintelligence functions on a department-wide basis is a good example of that type of cooperation, and I very much look forward to working with you in the future where similar opportunities arise.

That concludes my opening remarks, and I ask that the written statement that I have prepared be entered into the record.

Ms. TAUSCHER. Without objection.

Secretary BODMAN. Thank you.

[The prepared statement of Secretary Bodman can be found in the Appendix on page 35.]

Ms. TAUSCHER. Let me just ask my colleagues. Apparently we have a 15-minute vote on. Shall we go vote and then just come right back? Does that work?

Is that fine with you, Mr. Everett?

Mr. EVERETT. Absolutely.

Ms. TAUSCHER. Mr. Secretary, I apologize. We will be back as quickly as we can. Thank you.

Secretary BODMAN. Thank you.

[Recess.]

Ms. TAUSCHER. Mr. Secretary, thank you, and thank you for the witnesses' indulgence. We don't expect to have a vote imminently, but why don't we proceed with questions?

I am just going to yield myself some time to ask you a question, and then to proceed on a five-minute rule to the other members.

Mr. Secretary, in your prepared testimony, you state, "Over the last six years, an array of security breaches has continued to occur in the weapons laboratory complex. These incidents call into question whether the arms-length management model prescribed by the act is a workable and effective management tool."

I guess my question effectively is, are you suggesting that these incidents would have been avoided if you had been granted greater authority over the NNSA?

Secretary BODMAN. No.

Ms. TAUSCHER. Well, can——

Secretary BODMAN. I am trying to be responsive to your request to be brief.

Ms. TAUSCHER. I appreciate that. So let me get it straight. If you are not suggesting that if you had gotten more authority under the NNSA Act, that these incidents wouldn't have occurred. And I sense a very real reluctance on your part to implement the act. And you have made it clear that you don't think that the act is workable or that it will achieve the kinds of things that we intended.

What exactly, then, are we meant to do, in absence of getting compliance on the act by you and the department, what are we meant to do to stop these chronic, debilitating, embarrassing security breaches?

Secretary BODMAN. Well, first, Madam Chairman, I would say to you, I believe we are implementing the act. I have every intention of implementing the act and obeying the law. It seems to me that is my job, and I am attempting to do it.

Now, you may not be happy with how I am doing it and may have different views as to how I am doing it, but I want you to know that, at least in my mind, I am attempting to deal with that and trying as hard as I know how to implement that act. And I wanted to say that.

Second, in order to understand the reasons for the continuing issues on security, it strikes me that one has to look at sort of the root cause of the problem. I think the root cause of the problem is the so-called culture at Los Alamos. I mean, these issues largely—they are not exclusively, but largely have been focused in Los Alamos.

And the problems of trying to manage a cultural change takes—I can tell you, I have done it before. Perhaps you have, as well. It takes time. So it is something that I think is—I am reasonably comfortable that the current LANL board and the organization is going to be effective. I am cautiously optimistic, let's say, about that. And I remain hopeful about that.

But it seems to me that is really the issue, is to try to manage that laboratory better. And I believe that we have implemented the act.

With all due respect to my friends from GAO, I would tell you that they started at, which I had not realized, two years ago or more, from I think what Ranking Member Everett said. And I think that some of the problems—maybe not all, but many of the problems—have been dealt with.

I do believe we are in better shape, in terms of the day-to-day management, at least by my definition of it, which is a more supportive, cooperative interface between DOE members and NNSA members.

Ms. TAUSCHER. Mr. Secretary, do you have two or three different suggestions of how we can amend the NNSA Act to get better compliance and a more effective, organic organization?

Secretary BODMAN. I don't really—I am not recommending any changes in the NNSA Act. I think we can make it work. And so the idea of going through the—that is one thing I looked at when I think I mentioned that. We had a committee internally and looked at, you know, are there changes that would make sense?

And I think that this can be made to work. I think we are making it work. And that is not to say all the problems are dealt with. And I will continue to look at Los Alamos with a jaundiced eye.

My big concerns, frankly, and the act concern the multiplicity of, you know, the replication of functions. I have two general counsels; I have two congressional offices; I have two public affairs offices; I have two senior financial people. I guess one isn't really called a Chief Financial Officer (CFO), per se, but effectively operates in that fashion. And it is——

Ms. TAUSCHER. Well, with all due respect, Mr. Secretary, you are not meant to have two. One is meant to be in the NNSA, and one is meant to be for you. That is the problem, I think.

Secretary BODMAN. Well, the NNSA reports to me, I believe, and therefore, in that sense, I have two. And so that is how I think of it.

Ms. TAUSCHER. Well, maybe that is a culture issue we can work on, too, because I think, to a certain extent, Mr. Secretary, this obviously all happened way before your time, both this President's time and—this is something that has happened over many administrations, Democrat and Republican, and many Congresses.

Secretary BODMAN. Right.

Ms. TAUSCHER. And part of the problem we had was that we had all of these chronicles of embarrassing, debilitating, worrisome security breaches, management failures, project management lapses, other things, and that we found ourselves with recurring suggestions that the weapons complex itself was not getting the kind of attention it needed and it needed to have its own CFO, its own capabilities resident in that organization.

Secretary BODMAN. I understand.

Ms. TAUSCHER. And so I think that, you know, our intent was to stop what had been this litany of mistakes and problems and create this organization. Now we have done that. Now we have not only competed the weapons lab contracts, changed out directors, closed labs temporarily, had all kinds of other things, and we still find ourselves with similar situations.

And it resonates to me when you say "culture." I understand what you are saying. But we cannot allow this to continue. The American people need to know that they are not only getting the best science, but the best national security, in this——

Secretary BODMAN. I couldn't agree more.

Ms. TAUSCHER. I agree.

Secretary BODMAN. You and I have the same objectives. I have met with the LANL board. I have commissioned the Inspector General's (IG) report. I have commissioned two further reports that will be completed at the end of next month, at the end of February. Ninety days is what I gave them. I started them in early December, all geared toward looking at the specifics of the security failures at Los Alamos and putting a program in place that will have teeth to it and that will work.

And I would tell you that I am attempting to play a much more proactive, aggressive role than my predecessors have, frankly of both parties—it is not meant to be a partisan matter—that I believe has an opportunity to change the way that organization thinks about both security, which is the discussion of the day, but also safety matters, which is part of what I worry about, as well.

Ms. TAUSCHER. Thank you, Mr. Secretary.

As I said, we have a number of questions for the record that we will be giving to you——

Secretary BODMAN. Okay.

Ms. TAUSCHER [continuing]. And we would hope that we could have a timely response from you.

I am happy to yield time now to the distinguished ranking member, Mr. Everett.

Mr. EVERETT. Thank you very much, Madam Chairman.

Mr. Secretary, I often kind of like just to get right to the heart of the matter. Let me read some of your written statement.

On page four of that statement, second line down, ''The NNSA Act is unique in that it imposes severe limitations on the Secretary of Energy's management authority and, in my view, impedes the Secretary's ability to manage the organization effectively. For example, the Secretary is prohibited from directing subordinate NNSA, Federal or contract personnel or authorizing any other than the deputy secretary to exercise authority, direction or control over them. This prohibition precludes me and my line managers from many logical and effective workings with NNSA's deputy administrators, associate administrators, or their subordinate employees.''

Now, if I understood you correctly, you told the chairman that you have contemplated no change in the NNSA Act. And my question would be, if you believe what is in your written statement—well, two things. Number one, explain the written statement to me a little further in detail. And, number two, if you believe this, then why wouldn't you want some changes?

Secretary BODMAN. Well, first of all, I believe the statement. I believe it to be accurate. I believe that the problems that we have experienced, the most recent problems that we have experienced, are unrelated to that description. And it is evident to me that this committee, among others, has worked very hard over a long period of time to develop the NNSA Act.

And I have a view that we would be better off without aspects of it. They are mentioned there. But I don't think that they are really at the heart of the problem. The heart of the problem is a cultural issue with Los Alamos, and that is going to be there whatever changes we might make.

And so I have two years left, sir, in this job, and that is unless the President changes his mind or you all do, or something, and that I would hope that when we are completed that there would be a sense that we have made significant progress.

There are two big issues within NNSA that I would just sort of—if we step back and sort of look at it. One I think we get good credit for. That is, when you look at the Defense Science Board, in effect the message that was in that report that I received about a year or a year-and-a-half ago, was that we had lost the confidence of the Department of Defense in our management of the nuclear complex.

Tom D'Agostino, who is here, took on the assignment of being the deputy administrator for defense programs and has done—I wish he weren't here—he has done a magnificent job in implementing and improvements there. And so we are responding to that. That is one big area that was, I think, the challenge.

The second big area is security within our system, security and safety within our system, broadly defined, and at Los Alamos in particular. And there we have failed. And I can tell you, it now has much more of my personal attention than it did before, and we are going to try to be proactive and very specific in terms of dealing with it. And I would rather put my time and effort, Congressman, into that, rather than in worrying about exactly what is involved in changing the NNSA Act.

So it is strictly a matter of trying to put my time where I think it can do the most good.

Mr. EVERETT. Mr. Secretary, two things. Number one, I spent four years as the chairman of the Committee on Investigation and

Oversight on Veteran's Affairs (VA). And I can tell you, to be honest with you, I started to give up that chairmanship because of the culture within V.A., of their own little kingdoms that these directors of these hospitals had.

And, frankly, my wife talked me into keeping the subcommittee, because we had done a lot of good things. But there are a lot of things out there that we did not have the resources to get to. So I understand the culture.

From my personal knowledge, we have been dealing with the culture issue on this, though, 10 to 12 years now. And it seems, at some point in time, we ought to be making some headway. I have often described government as like a huge, huge ship floating downstream. And just to make a correction a little bit, it takes a mighty force to do it. But after 10 or 12 years, it would seem to me that we were beginning to make some headway or we would be firing a bunch of folks at Los Alamos, to put it as blunt as I know how.

The other thing—and you said that the last incident that happened at Los Alamos was not related to some of the things that I have read here.

Secretary BODMAN. That is correct, sir. That is correct.

Mr. EVERETT. Can you tell me what is related to this, other than culture?

Secretary BODMAN. Cost effectiveness of management. I mean, you know, from my selfish standpoint, I would be better off with NNSA "as a part of the department" and operating in that fashion and without what I consider, as the chairman would, what I consider a duplication of efforts.

But we have made it work. I mean, it is not that big a deal, but I just thought this was an occasion for me to come in and address myself to this committee for the first time. And I thought it unwise to do it without being honest and tell you that I do have some misgivings about the organization.

But I also think that it is important to say that I don't think they are—that these issues are the focus of the problems that we are all wrestling with. So we have issues here, and we have problems over here, and I don't think they link up.

Mr. EVERETT. Madam Chairman, I am not going to, you know, take a lot more time. But the thing that concerns all of us, if we want to zero in and put a culture in the middle of the bull's eye, it seems to me that, after 10 or 12 years, we ought to be able to be making some progress on it.

And I recognize that you haven't been here that long.

Secretary BODMAN. Yes, sir.

Mr. EVERETT. But speaking for myself on this committee, somehow or the other, we have to get—and I have been to Los Alamos a number of times. But we have to get it across down there that, you know, we are serious. And if the chairman mentioned the place was closed down for six months at one time, and I don't know—you take, $300 million or $150 million, I don't know which it was, frankly.

If that doesn't get their attention—and, of course, we have a lot of belly-aching from the folks down there, you know, because of it. And if that doesn't get their attention, I don't know what will.

Secretary BODMAN. Well, I guess if I could just respond to you, sir, on that, I thing that I mentioned before, I have met with the LANL board. In addition to what we have done, they have had their own evaluative team in there to make a determination. And I have a letter in here. I would be happy to read you the list of issues that they have, that they are working on.

I want to try to, frankly, keep the pressure on them, because that is where the first line of defense is. They are the ones that are operating this laboratory. They are responsible for it. And I think Administrator D'Agostino will use the contract, this new contract that we have negotiated, in the most effective way possible.

I do think it is important to remember that they have only been there six months. And six months is some time, but when you think about changing the culture of an environment, it is not a long time.

They have imposed a mandatory drug testing program for the first time in Los Alamos. I expect that we will look at expanding that throughout the complex, so that we are starting to—and there will be a manual written by our chief information officer, in conjunction with the chief information officer, working together with the NNSA. The two of them will issue a manual that will have very specific requirements that have been called out in a directive from the deputy secretary.

And for the first time, we will have something that will be, in effect, a part of the contract with the LANL organization. That did not exist before, sir. And so I think that we are taking a number of steps and changing the way we deal with the organization out there, the formality with which we do it, and I believe, hopefully, the effectiveness with which we do it.

Mr. EVERETT. Madam Chairman, I do have some questions that we will come back to about the contract that was recently awarded, but in fairness to the other members, I don't have enough time.

Ms. TAUSCHER. Mr. Everett, do you want to ask the Secretary if he is willing to share with us the LANL's director's ladder and make it part of the record subsequently?

Mr. EVERETT. I would ask that.

Ms. TAUSCHER. To the extent that you can?

Secretary BODMAN. Yes, to the extent——

Ms. TAUSCHER. To the extent that you can.

Secretary BODMAN [continuing]. That I can, I would be happy to read the—I can certainly give you the list of what they—the organization consists of Bechtel, University of California, BWXT, and the Washington Group. The three corporate members are new members of the management.

So, in effect, it really is a significant change. And they dispatched members from the parent organizations into Los Alamos and the team that evaluated what the problems were.

And it was embarrassing, frankly. We just haven't done it. And so what we are attempting to do is to deal with a lot of the issues that they have dealt with and the issues that—this has also been looked at by the I.G. There is no shortage of expert opinions and more reports, you know, that are——

Ms. TAUSCHER. By the pound.

Secretary BODMAN. Yes, and so we have plenty of that. And so I think what we are trying to do is to act on it. And we are trying to take steps. I don't want to say anything more than that, than we are taking steps.

But if I can make the entire letter available, I will do it. And if not, I am sure I can make the list of what their summary of—it is seven or eight different points of what they found when they looked at the security breach in Los Alamos.

Mr. EVERETT. One final parting shot, Madam Chairman. I have great confidence in Tom, and I recognize that, probably in the six to eight months, he will have this culture thing straightened up.

Thank you, Madam Chairman.

Ms. TAUSCHER. I thank the distinguished ranking member.

I am now happy to yield five minutes to the gentleman from Texas, Mr. Thornberry.

Mr. THORNBERRY. Thank you, Madam Chair.

Mr. Secretary, I appreciate you being with us today. I am going to have to continue a little bit along the same line, because I do think, from passage of the NNSA Act until today, we have talked a lot, rightfully so, about the culture of the complex, not just Los Alamos, especially Los Alamos, but throughout the complex.

And yet I guess part of what is worrying me today may be the culture within the Department of Energy. For example, when I read from the Defense Science Board report from January 2006, a year ago, they said that, you know, one option is to have the Secretary of Energy enforce the requirement that the Administrator be autonomous and accountable, but it had little confidence in the prospect for effective or lasting change within the Department of Energy.

And I don't mean to be nitpicky, but I see in your statement, too, where, after this careful review, you decide that, after all, you all would continue to comply with the law. And I realize it may be a matter of wording, but in your statement that is essentially—we would continue to work within the limits of the act, like there is another choice.

And then, when I go through some of the specifics that the GAO found—and I don't want to take a lot of time with this—but, for example, on procurement, it says, "DOE made a commitment to issue NNSA specific acquisition procedures, but it has not done so, and, as a matter of fact, the Department has blocked NNSA's efforts to issue its own acquisition regulations. On information technology, both the DOE and NNSA offices of chief information officer cannot reach agreement on which office is doing what. NNSA and DOE don't have a formal process for obtaining DOE approval of NNSA specific procedures."

And it says specifically, "DOE's office of general counsel has delayed the development of the process because it believes NNSA should be treated like any other part of the Department." And there are safeguards and security, where it talks about DOE and NNSA haven't been able to agree on the formal procedures for safeguards and security.

Bottom line is you go through the specifics and where the road blocks are, and helping NNSA be as effective as it can, I worry that

as much of the problem isn't within the Department of Energy as it is within the NNSA itself.

And I would like to say one other thing, and then obviously be very attentive to whatever response you would like to give. It was not an easy decision for this committee to agree to the merger of intelligence and counterintelligence last year. For my part, I supported the change, only because I felt that there was a feeling within the department to make the NNSA Act work.

If, on the other hand, there is a feeling within the department to do otherwise, then I am afraid that maybe I have made a mistake and that things are headed back the other way. And so I just want to share with you, as far as I am concerned, I want to work with the department to make this act and this complex as effective as possible, because it is so dad-gum important.

If, on the other hand, we are back to turf wars and lawyers fighting, you know, I am going to be very discouraged about the prospects of doing so. So I would be very interested in your thoughts on that.

Secretary BODMAN. I don't know where to start, sir. Let me start at the end, talk about the merger of the counterintelligence with the intelligence office and between NNSA and the department.

That was, in my judgment, perhaps the most dysfunctional of all the organizations, the counterintelligence particularly, the counterintelligence office. We had one staff and two sets of bosses. And they were having turf warfare all the time about who did what to whom. Now, they did finally, I think, a couple of fiscal years ago, arrange priorities and set up what they would do and how they would do it.

I did talk to the director of national intelligence about the issue. I got advice from him. I got a recommendation from him as to a leader. I think, if you were to have your staffs or even the committee have a hearing and have a discussion with the man who runs that operation right now, he is extremely capable and very good. And I am very pleased. I think you would be pleased if you were to get a sense of what they are doing, how they are doing it.

You can't do intelligence without counterintelligence, in my opinion. You have to have both. And one thing leads to another.

Now, as to the rest of it, I would just try to maybe give you a brief response, and I would do more for the record, if you would like. But I would tell you that we share the same objectives. We are trying to get this right. I believe we have made more progress than is indicated, from the little I have seen of the GAO report, because I have not read it all. I have looked at a summary of it and so forth.

I have talked to the acting director, and I have talked to the former director, the former administrator of the NNSA. And in both cases, their responses have been that we have made a lot of progress. We are much better than we were.

The goal here is to try to effectively bridge whatever gaps exist between the department and the NNSA. And I believe we have made progress on that. It is not a final product yet, but I can assure you that David Hill, the general counsel, is not attempting to hold up anything. He knows full well the law. He is a very capable

guy. And he knows that the NNSA is different. Everybody knows that within the department.

And we are attempting to do our best, and I think we are having some success. I say that hesitantly, because what we have to talk to you about today is not a very encouraging story, just what the problems we have had in the Albuquerque service office, and then in Los Alamos itself.

And I lived there every day, and I believe that it is better. I believe we are getting more effective cooperation. I have delegated specifically to the deputy secretary, to Clay Sell, the job of meeting every week with the full—he joins in with the leadership group when they meet every week. And so he devotes a couple of hours per week to that endeavor, to try to establish better relationships. And I think he has accomplished that.

And it is he that reports back to me as to where and what he believes is going on. And I think we have improved.

Mr. THORNBERRY. Madam Chairman, I am sorry I got carried away, and I went on beyond my time.

Ms. TAUSCHER. No problem.

Mr. Loebsack, for five minutes.

Mr. LOEBSACK. Okay. Thank you, Madam Chair.

And thank you, Mr. Secretary, for being here today.

As a new member of the Congress and as a new member of this committee and this subcommittee, I would just like you to enlighten me a little bit as to, what specifically are we talking about when we talk about the culture? I mean, you know, we can talk about government bureaucracies, all of them wanting to maybe have their own little kingdoms, as was already mentioned.

But what specifically about Los Alamos and about, you know, sort of the agencies, whatever, that we are talking about here, what specific elements of the culture are we talking about? Because it is not the same as Health and Human Services, for example, or whatever.

Secretary BODMAN. Arrogance. Arrogance of the chemists and physicists and engineers who work at Los Alamos. They think they are above it all and that this is not an important part of what they do. It has been that way for a long time. And it is that, in my judgment, that is the issue.

Mr. LOEBSACK. Do they believe that they can deal with the security issues on their own? Is that the case, the safety issues on their own, or they just don't want to be policed, or what it is, or supervised or whatever?

Secretary BODMAN. Well, they don't want to be policed. I think that is fair. They have a view that they are kind of above it, you know, that they are doing—you have to understand, in dealing with a world-class physicist, you know, that is the most important thing in the world to that person, is physics, and that is what they do, and that is their focus.

They worry less about—it is not that they are trying to, to my judgment, in general. This woman was willfully breaking the law, in my judgment. But in general there is an attitude that is there that has to be changed. And I think it is going to get changed. And the only way to change it that I know of is to be much more specific and much more strict. And we are going to do that.

And the oversight office that is in Los Alamos, that reports to Mr. D'Agostino, is likewise—we have had a change in leadership there. And I think you will find that there is going to be a much more strict interpretation of exactly what the requirements are, being more specific and being strict with it.

Mr. LOEBSACK. Well, and related to that, I suppose, in some ways, on page seven—and this is getting I think what Mr. Thornberry was talking about, to some extent—you know, your concerns about authority, you know, you coming from the private sector, where obviously things might operate a little bit differently than the public sector, and you state here on page seven some of the concerns about harmonizing the workings of the separate elements, includes the authority to delegate necessary authority to subordinates of his or her own selection, your own selection, right, because the secretary or chief executive cannot do it all alone in a complex organization.

How have things changed since you have been in office then? And you seem to be very concerned that, perhaps, what you would like to see hasn't been the case up to this point.

Secretary BODMAN. Well, it hasn't been, but, by the same token, as I have already stated, sir, you know, I think it can work. And I think we can make it work, and we are doing our level best to make it work.

The challenge is largely one of having these duplicative—what I think of as duplicative activities. And there is a built-in natural resistance of one to the other. It is just that is human nature. That is the way people are, and that is why the department secretary and is working assiduously on this, is to try to break that down.

We also have a meeting with all of the leadership of the entire department every week, every Monday morning for an hour, from 8:30 to 9:30. Everybody, both sides, that is to say that NNSA people and the Department of Energy people. It is funny when you meet with people and you get to know them, sometimes things work a little better. And it surprised me that that apparently had not been the practice in the past, but it is now.

And so I think there is an improving relationship.

Mr. LOEBSACK. Any other things that you have been doing, besides having these meetings, once a week for an hour, to try to break down those barriers?

Secretary BODMAN. The deputy is also devoting a significant part of his time working with the NNSA. You know, I think it is—in effect, no, but we do talk pretty—as I have talked and addressed employee groups, the Department of Energy is the most Balkanized, stove-piped place I have ever seen in my life. And we are trying to break that down, and they know it.

It has also not been a bastion of managerial excellence. And we are trying to improve that. And I think we are making some progress. I am not here to tell you that we have solved all the problems, but I think we are making some progress on both fronts.

Mr. LOEBSACK. Okay. Thank you.

I yield back my time.

Ms. TAUSCHER. The gentleman's time has expired.

Mr. Larsen.

Mr. LARSEN. Thank you, Madam Chairman.

Secretary Bodman, thanks for coming this afternoon.

Secretary BODMAN. Yes, sir.

Mr. LARSEN. Chairwoman Tauscher's first question to you elicited a one-word response—I think it was "no"—and that is, would these problems have happened if you had been there? And the answer was no.

And I think the impetus for that question was based on your testimony, which was sort of kind of "I love you, I hate you" kind of testimony, and it started off my saying that you want to work—and you want to keep things working. And then you go through this laundry list of all these bad things.

I think it was kind of, as I was reading it, it was kind of a backhanded compliment, a little bit. It sort of cries for, "Well, what would you do to change what is going on?" And that is what Chairwoman Tauscher's question was about.

So I want to ask it a little differently, if I could, with regards to the security side of things. And this is, basically, in your testimony, what gives you confidence that greater secretarial authority over NNSA would solve these problems. Not to say that you, that it wouldn't have happened if you were there or weren't there, but what gives you confidence that greater secretarial authority over NNSA would solve these problems?

Secretary BODMAN. Let me correct, at least, what I think is a correction of the question, that I felt I answered, that Chairman Tauscher asked, and that was—it was not a matter of my personally being there. It was a matter of, if we made the changes that I had talked about or the concerns that I expressed, and if we were to have fixed those in a change of the act, would that have changed the events at Los Alamos? And my answer to that was no.

It wasn't a matter of my personal presence, just so that that is clear. You know, I don't know how to answer your question other than by saying, you know, there are—this department is very stove-piped. Everything operates by itself, in and of—whether that has been there for 30 years or not, I don't know, but it is the most Balkanized, stove-piped place I have ever seen.

And it has been very difficult to break down and get people to work with one another. It has been a major challenge. That has been the major thing that we have attempted to do, and we have tried to do it in a number of different ways, by exercising leadership, by allocating resources, by picking people that can do that sort of work.

That is where the core of this is, I believe, because it is going to be by bringing competence, knowledge, and a cooperative attitude of working with an organization that we hopefully can make progress. But other than that, there is no magic bullet. And it is not going to be done by changing the NNSA Act, in my opinion.

Mr. LARSEN. I perhaps have missed it. Have you yet sought out a replacement for Ambassador Brooks?

Secretary BODMAN. We have interviewed a number of people. And we are in the process of working our way through that. We have not yet identified an individual.

Mr. LARSEN. It just seems to me as, looking back on the history of this and certainly the history of the act, that the clear intent of Congress was to keep NNSA semi-autonomous. And, as a result, I

think that the person you come up with, we would probably prefer that person have that same kind of view toward NNSA, as well. Is that something that you would agree with?

Secretary BODMAN. I would agree with it, but as long as there is an attitude of trying to work, you know, cooperatively. It is not a matter of trying to run it—I think, you know, it is not—let me give you a good example.

A good example is Naval Reactors. Naval Reactors is also a part of the NNSA. They are extremely competent. They are so competent, I don't have to spend any time worrying about them, because they operate on their own. And I have been invited to go do different things of a fun nature, and I frankly haven't had the time to do that. And so I haven't.

And so I have not spent a lot of time with them, but they are very, very autonomous and operate without much involvement at all with this department. This department is one department, and it is important to understand that. I guess that is a point I would make.

The science office of, when you look at the three weapons laboratories, 20 percent of the budget in each of those laboratories comes from the science department of the department. They are very important.

The environmental management activity of our department, which is also, if you will, a civilian part—it is a non-weapons part of what we do—that also has direct overlap and works very closely with it. It is quite interesting. The first supercomputer that was developed was not developed in the science office, although it has now been exercised and worked there. It came out of Sandia.

And Sandia Laboratory built the first—I know you call it Red Storm. It was the first supercomputer. And so that is now the basis of what we put at Oak Ridge.

And so, if we were to separate this to the extent that Naval Reactors is separated, we would lose the synergies. We would lose a lot of very positive things that have occurred.

And I guess the last thing I would say—again, forgive me, Madam Chairman, but this is important that I try to deliver this—the Energy Policy Act of 2005 elevated for the first time—we have an Under Secretary of Science, Raymond Orbach. He is terrific. He is a very capable man. He is my personal science adviser.

And so he works very closely in helping evaluate—he was the one that did the evaluation on the National Ignition Facility, the NIF, so called, out in Lawrence Livermore. He did the work on that and convinced me that this was a good thing and that they knew what they were doing and they were on top of it. I think that was a good decision.

So he also works with me—every spring, I have to write a letter to the President of the United States certifying that if, God forbid, we need to use a nuclear weapon, it will work. And he works with me to evaluate that.

So it really is an integrated department and that, to the extent one were to separate it out and create autonomy, on the one hand, you lose the kind of cooperative, supportive environment that I believe exists and has been extremely effective.

Ms. TAUSCHER. The gentleman's time has expired. Thank you, Mr. Larsen.

Mr. LARSEN. Sorry.

Ms. TAUSCHER. Mr. Spratt, for five minutes.

Mr. SPRATT. Mr. Secretary, thank you for your testimony. Let me slip to slightly a different subject.

Secretary BODMAN. Yes, sir.

Mr. SPRATT. Mixed Oxide (MOX) fuel fabrication has been a bone of contention for eight or nine years now. Its cost, the necessity of it, or its desirability, vis-a-vis other forms of disposal, such as immobilization, whether or not the Russian counterpart on the parallel track would ever come about, all of these things have been swirling around in the argument. And those arguments almost killed the program here in the House.

The Continuing Resolution (CR) on the floor today does provide some carryover money—$220 million, if I am not mistaken, which is last year, 2006 funding—but it fences that money until August the 1st. When I last saw the language, it required DOE to come forward with a justification of the whole plutonium disposition program, not just the 34 metric tons in MOX, but everything.

That language may have been dropped, but the fence until August 1st is still there. And the purpose obviously—and particularly from the Energy and Water Committee on our side—is to have time for them to deny the funding for 2008, so that it would make the use of the funds in 2007 futile.

The department has to come forward and make a strong, emphatic case for MOX fuel and for your whole plutonium disposition project, if it is going to survive and if we are going to get out of this year-to-year wrangle over whether it is worth doing. Are you prepared to do that?

Secretary BODMAN. Yes, sir.

Mr. SPRATT. You are sold on it? You are satisfied with the program?

Secretary BODMAN. Yes, sir. I am satisfied with the program, in that we made a commitment to the state of South Carolina. One of my predecessors did, and I am here to honor it.

Mr. SPRATT. Yes, sir. Well, it is going to take several billion dollars, but part of the argument is to recognize that, if you don't spend it on MOX, you will have to spend on the mobilization, some other form of——

Secretary BODMAN. Well, or, I mean, you know, I am an—you have understand, sir, I am an engineer. And therefore, if I had my way, probably I wouldn't—this is kind of old-fashioned technology, and I would do what the Russians are thinking about doing. I would probably use a fast reactor and try to develop something. It would then take 20 more years to get that developed, and used, and all of that, and I think you would then have 20 more years of plutonium around.

And, therefore, I have concluded that we are better off as a country employing the current technology that is available and making the oxide of plutonium and using it in a conventional reactor. And so we will do whatever we can do, and I have made that case, sir, to the chairman of the Energy and Water Appropriations Committee more than once.

Mr. SPRATT. It needs to be made one more time, at least, sir. [Laughter.]

Secretary BODMAN. Then I will do it again, sir.

Mr. SPRATT. Thank you very much. One concern, though, is that the Russians are not on track, that they are not going forward with the MOX plant themselves. They would like to build a fast neutron reactor. And lots of people have had apprehensions about it, because they look upon it as a breeder reactor.

Secretary BODMAN. No, I know. And I have talked to Mr. Kiriyenko about that subject when he was last here in town. He is the head of Rosatom, the atomic energy commission of Russia. And I pointed out to him that we were having significant funding problems in our Congress related to the MOX program, and that we needed to get a commitment from them as to what they were going to do and how they were going to do it.

Mr. SPRATT. You think that is going to be forthcoming?

Secretary BODMAN. I don't know, to be honest with you, sir. I can tell you that they have sort of made a halfway effort, but it is not strong enough. And we will continue to work that issue.

Mr. SPRATT. Thank you very much.

Secretary BODMAN. Yes, sir.

Ms. TAUSCHER. Mr. Johnson, for five minutes.

Mr. JOHNSON. Madam Chair, I have no questions.

Ms. TAUSCHER. Mr. Turner, for five minutes.

Mr. TURNER. Thank you, Madam Chair. I thought we were going back and forth, so I appreciate it. You guys sort of had a run going over there.

Ms. TAUSCHER. We are actually doing by time that you came into the hearing.

Mr. TURNER. Thank you.

Mr. Secretary, in looking at the GAO report and the conclusion, the last couple sentences, "While there have been continuing calls for moving NNSA from DOE and establishing it as a separate agency, we do not believe that such drastic change is necessarily to produce an organization that can provide effective oversight of the nation's nuclear weapons complex."

And then, when you look at page 44, it raises the issue of moving NNSA to DOD. Most of the discussion that is in this document relates to issues of management and effectiveness and control. And you have been addressing that, and I know that a lot of the focus has been on improvement and in ways in which we can all feel more confident of the efficiency and effectiveness there.

But the item of page 44, move NNSA to DOD, raises an issue that I wanted to ask you about that goes beyond issues of management. So, for a minute, let's assume that everyone at DOE and NNSA is doing everything perfectly well and to the best of their ability.

Secretary BODMAN. That is a great leap, sir, but I will be happy to assume that.

Mr. TURNER. I thought I would like to take you there for a moment.

Secretary BODMAN. Good.

Mr. TURNER. But just for a moment, but once you finally get there, you still hit a ceiling. And that is something that I have a

concern about, in that there is a limitation as to NNSA's and DOE's ability to provide security for facilities, a limitation that is widely and publicly known, that DOD, in its weapons systems and its ability to deploy, it does not have.

And I discussed with Ambassador Brooks when we toured several facilities, and it seems to me that, no matter how well you do your job, that because of the ceiling, if you will, of what you are able to do within providing security at NNSA, that we are still taking a risk that also needs to be addressed.

I would like your thoughts on that.

Secretary BODMAN. I don't know what conversations you have had with Ambassador Brooks. I would tell you that the decision was made after the Second World War, I believe, to leave the control of nuclear weapons in civilian hands. And it ended up in our department, as the way these things go.

Ms. TAUSCHER. A wise decision, in many people's opinion.

Secretary BODMAN. And I think it probably is a wise decision. But I think, you know, therefore you get faced with how much and how far and how high is up. And I think, you know, that gets to the design-based threat and the issues related to how we protect our nuclear stockpiles and how we protect our special nuclear materials at the laboratories.

And I think we are well along—you know, I think I am quite comfortable with where we stand on that front, especially if you give the passage of another couple of years, where, at the end of 2008, we will be in compliance, I believe. And so I think we are going to be—if you have visited, which apparently you have, with Ambassador Brooks, you have gotten the sense for the kind of security that is there.

And after 9/11, we upped it, and that has been—I think we were looking at a smaller number of people, and now we are looking at more people, that would be bad people, and people inside the complex, and so forth. So if I got much further, it will be classified, but I——

Mr. TURNER. But as to the matter that you have said, and the design-based threat, I feel that both the gaps that you currently have that you are stretching forward, I think are obviously important still.

But I do think that, to some extent, the design-based threat is biased, in that it takes into consideration the inherent limitation of your current authority. And even when you stretch to meet it, I mean to 2008, that perhaps, if you did not have the experience that you currently do, or had assistance, interagency assistance, you would have a broader stretch.

So I wanted to raise that issue with you as you think of it, because, you know, there is no margin of error here, that——

Secretary BODMAN. No, no, no, I understand. I understand. I will think about it. You know, all I can tell you is that I have no compunctions about asking for help if we need help. I will tell you that. And so to the extent we need help from another department, I know all the phone numbers.

Mr. TURNER. Very good.

Thank you, Madam Chair.

Secretary BODMAN. Thank you.

Ms. TAUSCHER. The gentleman yields back.

Mr. Everett.

Mr. EVERETT. Thank you, Madam Chairman.

I just want to briefly make a comment here. You mentioned the Naval Reactor program as a model.

Secretary BODMAN. Yes, sir.

Mr. EVERETT. We need to remember that is basically a military culture there.

Secretary BODMAN. Yes, sir.

Mr. EVERETT. That is very much unlike what we see at Los Alamos. As I understand, and there is discipline imposed there if you don't strictly follow the rules. Now, I understand that the chain of command goes roughly from DOE and NNSA down to the focus, those who are running the laboratories.

Now, there is a contract there of where they can receive about $70 million a year to run that——

Secretary BODMAN. Seventy million.

Mr. EVERETT. And I think that it is about $30 million of that that is very baseline stuff. So there is $40 million that can be awarded, or in the neighborhood of $40 million, for doing things right, you know.

Secretary BODMAN. Yes, sir.

Mr. EVERETT. And we need some accountability all the way down the line.

And, Madam Chairman, that is all I have to say about that. And no response.

Ms. TAUSCHER. I appreciate your comments.

Mr. Thornberry, do you have another question?

Mr. Secretary, I want to thank you for being with us today. We appreciate the fact that we had a series of votes and we delayed you here, and we are very grateful for your contributions and for the fact that you were so willing to come up and see us.

Don't be a stranger. We would like to see you again soon. And we look forward to working with you to address the critical challenges facing the nation's nuclear weapons complex. And thank you very much for your service to your country.

We would like to start the second panel.

Thank you again, Mr. Secretary.

Secretary BODMAN. Thank you. If I may, Madam Chairman, I do have the letter from Los Alamos, which apparently is available, and I can——

Ms. TAUSCHER. I appreciate that. It will be entered to the record.

Secretary BODMAN. Should I give it to you or——

Ms. TAUSCHER. Yes, you can give it to the staff, please. Thank you.

Secretary BODMAN. Great.

[The letter referred to can be found in the Appendix on page 61.]

Ms. TAUSCHER. And we would like to thank Mr. D'Agostino, too, for his excellent service and his readiness to always be available for us. Thank you.

Secretary BODMAN. Thank you.

Ms. TAUSCHER. Thank you, Mr. Secretary.

If we could have the second panel please come to the table. We apologize again for the fact that we had votes, and we apparently

may have votes in the next half an hour, 40 minutes, so we want to show you as much time as we possibly can.

Mr. Aloise, Mr. Noel.

Mr. Aloise, you are the Director?

Mr. ALOISE. Yes.

Ms. TAUSCHER. And, Mr. Noel, you are the Deputy Director?

Mr. NOEL. Assistant Director.

Ms. TAUSCHER. Assistant Director. Is deputy a promotion? Because I can make that happen right now. I have the gavel. [Laughter.]

I am ready.

Mr. NOEL. Please, go right ahead.

Ms. TAUSCHER. No raise, though, under the C.R.

Thank you very, very much for your hard work, and thank you for being here. You know, I often tell my colleagues and my constituents back home that I don't know how we would actually get our jobs done if, every few days, we didn't call for a GAO study to make sure things get done. And I know how hard you work, and I know how diligent you are. And I hope you know how much we appreciate the partnership that the Congress has with you.

We have fabulous, fabulous staffs, but not everybody can be everywhere at the same time. And you do give us a stand-off view of things in much more depth than we are capable of many times ourselves. So thank you very much for your service.

We would like to hear from you briefly, if you might. If you could keep your remarks very brief, and then we can get to questions. We would appreciate it.

So, Mr. Aloise.

STATEMENT OF GENE ALOISE, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT DIVISION, U.S. GOVERNMENT ACCOUNTABILITY OFFICE ACCOMPANIED BY JAMES NOEL, ASSISTANT DIRECTOR OF GAO

Mr. ALOISE. Thank you, Madam Chairman, and thank you for those kind remarks.

Madam Chairman and members of the subcommittee, I am pleased to be here today to discuss the actions needed to improve the security and management of the nation's nuclear programs. In response to serious security and management weaknesses at our nation's nuclear weapons labs, the Congress in 1999 created a National Nuclear Security Administration as a simply organized entity within DOE.

Since its creation, NNSA has experienced security problems and cost and schedule overruns on its major projects. My remarks, which are based on a report being released today, will address NNSA's actions to improve security and management.

Producing a well-organized and effective agency out of what was considered a dysfunctional enterprise has been a considerable challenge. While progress has been made in some areas, problems remain, with respect to security, NNSA's relationship with DOE, and project, program and financial management.

Regarding security, our analysis of internal and independent assessments found continuing weaknesses in physical security at sev-

eral NNSA sites, including the Y–12 National Security Complex, Nevada Test Site, and Sandia National Lab .

Importantly, we also found weaknesses in cybersecurity throughout NNSA. According to current and former NNSA officials, the cybersecurity program has received inadequate attention and was poorly implemented.

There are, in our view, four factors that have contributed to NNSA security problems, and these are: first, until recently, NNSA did not have consistent leadership or direction at headquarters for its security program; second, since NNSA was created, five of six site offices, which have oversight of contractor security, including Los Alamos, have not been staffed at the required level; third, NNSA has not trained security officials in the skills needed for effective security oversight; and, fourth, weaknesses in DOE's database for tracking security problems prevented NNSA from having complete understanding of the overall effectiveness of its security program.

Regarding NNSA's relationship to DOE, we found that, almost seven years after its creation, NNSA and DOE still have not determined how NNSA should function as a separately organized agency within DOE. NNSA has focused considerable attention on reorganizing its internal operations, but it and DOE continue to struggle with establishing how NNSA should operate within the department.

Several factors have contributed to this situation, including the fact that NNSA's January 2000 implementation plan did not define how it would operate as a separately organized agency within DOE. As a result, some NNSA programs have established procedures for interacting with DOE, but others have not, and this has resulted in organizational conflict. Even where procedures have been developed, interpersonal disagreements have hindered effective cooperation.

Finally, while NNSA has improved its management practices, we found several areas where weaknesses remain. Specifically, NNSA has not, among other things, implemented a plan for improving project management, identified all of its program managers and trained them to a certified level of competence, and established an independent group to review budget proposals and alternatives.

While there have been continuing calls for removing NNSA from DOE and establishing it as a separate agency, we do not believe such a drastic move is necessary to produce an agency that can provide effective oversight over the nation's nuclear weapons programs.

Our report makes a series of recommendations to the Secretary of Energy and the Administrator to improve security oversight, clearly define NNSA's status as a separately organized agency, and improve its program and project management. We believe that implementing our recommendations will go a long way toward producing the agency that Congress had in mind when it created NNSA.

Madam Chairman, that concludes my remarks. We would be happy to address any questions you may have.

[The prepared statement of Mr. Aloise can be found in the Appendix on page 43.]

Ms. TAUSCHER. Thank you very much, sir.

I am just going to ask you a very brief, to-the-point question. The Secretary's testimony, while he acknowledged that he found the NNSA Act objectionable in certain aspects, he also suggests that recent security breaches demonstrate that the NNSA Act has not been fully effective in addressing security problems in the weapons complex.

In your view, has DOE ever granted the NNSA the degree of autonomy contained within the NNSA Act?

Mr. ALOISE. In our view, the NNSA Act has really never been fully implemented. The agency really hasn't had a chance to be what Congress had intended it to be when it created it. So we see no reason why the agency can't function as the Congress has intended it to.

Ms. TAUSCHER. And what do you think has been the primary impediment for its reaching its maturity as an agency, over the seven years since it has been created?

Mr. ALOISE. One of the main reasons is, for internal reasons, they had not yet determined how it should function as a separately organized agency. If you look at their 2000 implementation plan, our staff did a word search on the term "separately organized agency," and we can't even find those words in the implementation plan.

And that shows the kind of reluctance to fully implement the act from the very beginning.

Ms. TAUSCHER. From the very beginning, Mr. Thornberry and I and other members of this committee that were struggling with what to do after a series of significant failures on security and other management problems, including project management issues, as Mr. Thornberry and I often say—we repeat each other sometimes—I often said, "Here you have the Department of Energy that manages and regulates refrigerator coolant that also has the nuclear weapons."

And for a very long time, the kind of competencies and skills to do, you know, a big portfolio of energy management policy, science and technology, that also had the nuclear weapons, there was something about what happened to the complex and it, at the end, got shunted down in this kudzu-laden bureaucracy off to the side by an assistant secretary.

And unless you really were looking at the organization chart and paying attention, you almost couldn't find it. And our decision was very—we struggled with the decision. And, by the way, we didn't have any real support out of Secretary Richardson, when he was DOE secretary.

But, you know, I think our concern is, is that, unless you have an administration and a secretary in DOE that is going to implement the act and actually understand that we mean it, that we are going to continue to have these overarching security problems that are debilitating to, not only people's confidence in the national security and the science, but doesn't cause us to have a sense that we can actually go onto bigger issues that we are meant to really deal with, complex issues, complicated issues about Reliable Replacement Warhead (RRW), how do we reconstitute and reinvest in the complex.

So if you can't get the basic stuff right, I think we are very hesitant and the American people should be concerned as to how we go forward. What do you suggest we could do? I mean, the Defense Science Board has said, "Take it all the way out. Create a nuclear weapons agency that is completely separate." That is a recent recommendation.

Do you see what we could do as Congress to compel the secretary to move toward implementation of the act? Or do you have other suggestions on what we should be doing?

Mr. ALOISE. Well, one thing, of course, is the oversight that you are providing today. And I would agree that if the tone is not set at the top in DOE, it filters all the way down through the agency. And if the employees in the DOE side see reluctance to implement the act, they are going to see that, and they respond.

What our report lays out is a blueprint to fix what we have identified as wrong with NNSA, and that turns up being a separately organized agency, not really coming to terms with what that means, security, and project and program management.

We do believe, if the Secretary and the Administrator implement our recommendations, the agency will get to where it needs to be. But having said that, we don't have any illusions that it is going to be easy for them to implement our recommendations. Although they said they agree with us, the proof is in the pudding to see if they will really do that.

Ms. TAUSCHER. Thank you.

Mr. Everett.

Mr. EVERETT. Thank you, Madam Chairman.

Two questions, and somewhat related, although in the beginning they may not appear to be so. The Secretary talked a lot about culture. And I guess the first question would be, if he implemented the suggestions that you have in your report, do you think that would solve the culture problem? Or do you believe it is simply culture?

And then the other question is—and you have to really work hard to connect these dots—but Los Alamos is less than 30 square miles. Lawrence Livermore is a mile; Sandia is a bit more, maybe. Being such a large, spread-out complex and doing so much work there, does that complicate the mission of NNSA?

Mr. ALOISE. Two things. Culture is a problem. It is a culture of non-interference, a culture of low regard for security. The way I think we need to get at that is through improving the oversight at all of these labs, and especially Los Alamos.

Mr. EVERETT. May I interrupt you just a second? We have had oversight after oversight after oversight.

Mr. ALOISE. Oversight at the security—at the site office. This is DOE oversight.

Mr. EVERETT. Okay, thank you.

Mr. ALOISE. Our report points out that five of the six site offices have been understaffed, in terms of their security staff. For example, Los Alamos was supposed to have 18 staff. It had nine. It didn't have the staffing; it didn't have the resources; it didn't have the leadership at all levels.

The Office of Independent Oversight comes in once every 18 months or so. The site surveys come in a year or so. That is not

enough. Because you are fighting this culture out there, you need more DOE, NNSA site oversight.

To get to your second point, and maybe I will let James address that, about the size of Los Alamos, you are right. It is so big that that is a problem. The blueprint is too large to really have a good control over. I mean, they have consolidated some weapons material. They have beefed up their security. But there is actually a void.

Mr. NOEL. Yes, I think it is a little more subtle than that, in that, not only is the site very large, but it is spread out, as you know, on these mesas. And the Federal office is actually on the other side of a ravine in the town of Los Alamos.

And there is, again, going off what Gene is saying about culture, there is been a culture of, "Hey, we will stay on our side of the ravine and let things happen over on the other side." And that really has to change. I mean, people have to go out, they have to kick the tires, they have to knock on the doors, they have to see what is going on.

Mr. EVERETT. I appreciate you connecting my dots for me.

Ms. TAUSCHER. Connecting the ravine.

Mr. NOEL. So that is another culture aspect that has to change. And that is true throughout the department. It is not just in the NNSA. That is a department-wide culture of, "You know, we hire these contractors. They are the smartest guys in the world. We will just kind of let them do their thing."

And when it comes to producing a nuclear weapon, no question. But when we are talking about management, that is a different world.

Mr. EVERETT. Thank you, Madam Chairman.

Ms. TAUSCHER. I thank the distinguished ranking member.

Mr. Thornberry.

Mr. THORNBERRY. Thank you, Madam Chair.

And I want to join with the chair's comments and appreciation for what GAO has done since we passed the NNSA Act. Through the special panel that this committee has, GAO has been tremendously helpful, and I appreciate y'all's work, as well.

And I apologize. I am going to have to get downstairs for another hearing. But let me just ask briefly, you were asked to start this in 2004, and you just finished? How come it took so long?

Mr. ALOISE. Well, we actually started it in 2005, after we staffed up for it. It was a very complex kind of dissection of the agency, and we wanted to make sure we took the time mounting resources to do it right. We interviewed former administrators; we interviewed lots of people connected with the complex, reviewed lots of documents, reviewed lots of procedures.

We will take the hit. We should have done it sooner. We would have liked to have done it sooner. It was more complex than anything else I think James and I have worked on.

Mr. THORNBERRY. Really? Well, really why I am asking is I got an inference from the secretary that things have changed. You know, this started in 2004, 2005. We are a lot better. And so what I am really wondering is, those things that I mentioned to him, procurement, the information officers, the procedures for DOE to

approve NNSA things, is that—do you have any reason to believe that that is solved now?

Or are the things that you wrote about in your report still true today, to the best of your knowledge?

Mr. ALOISE. Well, there have been improvements, but the problems still remain. That is why—I haven't worked on many reports that come on with 21 recommendations for improvement. And it covers all of those areas you have mentioned.

Mr. NOEL. If I may, you know, that is a frequent thing that is said about our reports, because it does take time to do something, particularly of this scale. But let me give you a couple of examples. In terms of the CIO, if you look at the report that the inspector general just wrote about the situation at Los Alamos and the thumb drive, I mean, the failures were from top to bottom. And one of the failures was the CIOs not developing a policy, not working together to get that problem done.

Another example, when we talked earlier about the counterintelligence situation, once the act was amended, the department contracted with Booz Allen Hamilton to look at how they would bring the counterintelligence functions back together. This is a report that we just got briefed on yesterday. And the findings that Booz Allen Hamilton came up with were exactly the same ones that are in our report.

So Gene is right. I mean, it is a moving situation. It is not completely static. But on a couple of very important items, you know, the information we have is just as current now.

Mr. THORNBERRY. Thank you. Thank you.

Ms. TAUSCHER. Mr. Loebsack.

Mr. LOEBSACK. Thank you. Just a quick question. You mentioned the culture issue. I keep coming back to that, too.

The Secretary mentioned the culture of arrogance on the part of the scientists and others, but you also mentioned that there is a culture problem as far as the department is concerned, too. Can you elaborate on that a little bit?

Mr. ALOISE. Yes, there is enough blame to go around on both sides. NNSA feels they are a separately organized agency, so they sometimes feel they don't have to cooperate with the department. The department feels like they can and should be able to direct NNSA employees.

So there is still that culture of interpersonal relationships that haven't been worked out. Turf battles are still going on, that is still being—kind of thing, at headquarters and even throughout the complex, that you still see that.

Mr. NOEL. And, again, Gene made an earlier remark to this culture of least interference. That goes back to the Atomic Energy Commission days of, you know, we will hire these very brilliant people. We will tell them what we want them to do, which is protect the nation, and then, you know, we don't really have to do anything else.

And up to a point, that is a good idea. But as history has shown us, that extreme application of that produced some very serious environmental insults throughout the complex. And so now it is a matter of finding that balance between telling them what we want without telling them exactly how to do it, and at the same time

providing enough effective Federal oversight and Federal employees carrying out their fiduciary responsibility to make sure the taxpayer gets what they are paying.

Mr. LOEBSACK. Is it the case those doing oversight sometimes—they simply don't understand the problems, the technical problems, also, of those they are supposed to be overseeing, so they feel somewhat intimidated perhaps? Or is that not a problem?

Mr. NOEL. Well, I think——

Mr. LOEBSACK. Just from a knowledge perspective.

Mr. NOEL. If you are talking about the functioning of a nuclear weapon, then there is only a limited number of people that really understand that. But if you are talking about rudimentary management or if you are talking about making sure that we know how to keep thumb drives from being put into classified computers, that is pretty simple stuff. And so most people ought to be able to stay ahead of the curve on that, I think.

Mr. LOEBSACK. Thank you.

Ms. TAUSCHER. Mr. Johnson.

Mr. JOHNSON. Yes, Madam Chair. At a time when we have spent $384 billion in a quagmire in Iraq that many would argue is not really the war on terrorism at its inception, we have had our back door open, allowing for the security breaches of our nuclear secrets, in part because we don't have enough manpower to secure these secrets.

And I find it spectacularly appalling that we would be in this condition at this time, when nuclear terrorism is, indeed, a significant threat to the world. And we keep talking about culture differences playing a part in this, cultural differences between security personnel, if you will, or security concerns and then scientific research.

But to me, it is a no-brainer: Security trumps research, in terms of this cultural difference. Has there been anyone who has lost their job as a result of a security breach, with respect to our nuclear secrets? And, also, has anyone been subject to criminal prosecution?

Mr. ALOISE. To be sure, there have been people who have, you know, paid a price for that. And maybe James knows more about that. But the point about the security, James mentioned the ports and drives, and they right now, or they have already, epoxied all the ports and some of the lap computers, so that people can't stick thumb drives in there.

That fixes a problem, but it doesn't get at the root cause. And the root cause is what we talk about in our report, and that is part of the culture, the least interference, low regard for security, but also not staffing the security staff properly, not training them properly, not giving them the resources they need to do the job.

And on the cybersecurity side, it collapsed from top to bottom, in terms of implementation of that program.

On your specific question about has anybody been fired or held accountable, I know there have been. I don't know the specifics.

But, James, do you know?

Mr. NOEL. I don't know the specifics, and I suspect we probably couldn't mention people's names or positions in this kind of environment anyways.

Mr. JOHNSON. Well, I don't see it as rocket science to provide security for our nuclear secrets.

And I am happy, Madam Chair, that this Congress, this committee, this subcommittee is now exercising the appropriate oversight to make sure that we get that back door closed and don't suffer these kinds of losses in the future.

Thank you.

Ms. TAUSCHER. I thank the gentleman's comments. And I will tell you that this committee, under current ranking member, former Chairman Everett, has, in a bipartisan way, a significant commitment to this. And I thank him for his energies.

I just have one final question, Mr. Director. This is just really a fabulous document, and I know that you spent such a great amount of time.

Page 67 is the comments from the NNSA. And I find, after the dramatic number of recommendations, and the significance and the specificity of your recommendations, that this letter is not exactly saluting smartly and saying, "Aye-aye, I will do them immediately."

If anything, it is a little short on a commitment, and it is kind of like, like I said earlier, kicking the can down the street, as far as I see, in even recognizing that there are this appalling number of recommendations that we have right now from you, that I think we now have to take a serious look at on how we look to either incorporate them in legislation, whether we do it in the Defense Authorization Act, or whether we look specifically at the act itself in a separate venue.

But is this the kind of thing that happens to you all the time? Because I would be very frustrated, if I were you.

Mr. ALOISE. In addition to those, they provide some technical comments, which we incorporate. I have to tell you, we had this discussion, and kind of scratched our heads when we looked at this, thinking, well, it is easy to say, but it is not going to be easy to do, because, as I mentioned, one of them is to determine how NNSA is going to function as a separately organized agency.

I think we will need your help to get these implemented.

Mr. NOEL. One vehicle for that, you know, by law, they are required within 60 days to respond to the authorizing and appropriating committees with the specifics about what they are going to do, so——

Ms. TAUSCHER. The clock is running.

Mr. NOEL. Yes, I will look forward, as I am sure you all will, to seeing what they say.

Ms. TAUSCHER. Mr. Everett, do you have any final comments?

Mr. EVERETT. Madam Chairman, I do not. But, in fact, I want to be the first to congratulate you on this hearing——

Ms. TAUSCHER. Thank you, sir.

Mr. EVERETT [continuing]. And for your first hearing as chairman of the committee.

Ms. TAUSCHER. Thank you, sir.

Mr. EVERETT. And I am very pleased with our working relationship. I look forward to it continuing.

Ms. TAUSCHER. Well, Mr. Everett, you are a distinguished Member of Congress, and you are a gentleman. And I am very inter-

ested in having the kind of partnership that we have. It is going to, I think, accrue very well to the national security of the American people.

And I think it is important that everybody understand that this is a bipartisan effort that we are working on, that there was absolutely no partisanship at all, and we did achieve, I think, the kind of comity and respectfulness with certainly the Secretary that we wanted to achieve.

And, once again, thank you very much, Mr. Director, Mr. Assistant Director, for your very, very hard work. And we look forward to talking to you again soon.

The hearing is adjourned.

Mr. JOHNSON. Madam Chairman?

Ms. TAUSCHER. Yes, Mr. Johnson. I apologize.

Mr. JOHNSON. Before you adjourn, I want to apologize to Ranking Member Everett. I do recall my first subcommittee. It was the organizational meeting, and I think, Madam Chair, you indicated that I would enjoy serving on this committee because it was a very bipartisan committee or subcommittee.

And in my youthfulness today, I have been kind of fighting a lack of oversight on a couple of committees that I serve on, and so I got carried away with my comments.

And actually, Mr. Everett, you are to be commended for the way that you have conducted this subcommittee in the past. And that is refreshing.

And so I want to apologize in public for mischaracterizing the affairs of this subcommittee.

Mr. EVERETT. I thank the gentleman from Georgia who I have had a conversation with. There is no apology necessary. I appreciate the fact that, as the chairman has said, we have very controversial issues here. We don't always agree. But we do it in a very bipartisan way, and we try to move. And we have had hearing after hearing in the past four years. But I appreciate the gentleman's comments.

Mr. JOHNSON. Thank you.

Mr. EVERETT. And, again, I appreciate the chairman.

Ms. TAUSCHER. Thank you, sir.

Let me just say that I have enjoyed my first hearing, and I think I will keep doing this. [Laughter.]

But let me just, first of all, let me thank our subcommittee staff and committee staff, who are professional staff members who have come up with some very good and interesting ideas and very good support for all of our members.

And I want to thank them very much, all three that are sitting here, that are just really superb professionals. And we couldn't do our work without them. And I am sure every member here wants to thank their own personal staff, too, for their very hard work.

You know, we are going pretty much at 85,000 feet with our hair on fire these days. And it is a very exciting prospect to chair this subcommittee, and I am very pleased to have Mr. Everett as my partner.

And this first subcommittee hearing of the Strategic Forces Subcommittee for this Congress is adjourned.

[Whereupon, at 3:09 p.m., the subcommittee was adjourned.]

A P P E N D I X

JANUARY 31, 2007

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JANUARY 31, 2007

STATEMENT OF SAMUEL W. BODMAN

SECRETARY OF ENERGY

before the

SUBCOMMITTEE ON STRATEGIC FORCES

of the

COMMITTEE ON ARMED SERVICES

U.S. HOUSE OF REPRESENTATIVES

JANUARY 31, 2007

Madam Chairman and members of the subcommittee, I am pleased to appear before you to provide my assessment of the Department's progress in implementing Title 32 - the National Nuclear Security Administration Act. This is the first opportunity I have had to testify before this subcommittee specifically on this subject since assuming office as Secretary of Energy some two years ago. But this is a subject on which I have spent a considerable amount of time since my arrival at the Department.

Let me begin by saying that the men and women of the NNSA complex are a key national asset. The work that they do is critical to our nation's security, defense, and scientific capabilities, and it is among the most sensitive work performed by our government.

While we grapple with some of the challenges it presents, I continue to be committed to administering the NNSA Act, as written, to the best of my abilities.

The impetus for adoption of the NNSA Act in 1999 was a security lapse at Los Alamos National Laboratory that implied possible espionage by a laboratory employee. It was coupled with a highly critical report by the President's Foreign Intelligence Advisory Board. That report lauded the quality of the science

practiced at the laboratory, but depicted its security lapses as the product of a "dysfunctional DOE management structure and culture." Given the chain of events that preceded NNSA's creation, I can see how many believed providing NNSA more flexibility and independence from the larger organization seemed a logical course of action.

And in fact, I believe that the legislation has had some positive impacts on the execution of the work for which NNSA is responsible. As a semi-autonomous agency, its singular mission has led to greater focus. As an organization, NNSA has implemented innovative budget practices. And by overseeing their own personnel function, they are able to respond more quickly to staffing needs at the operational level. Their semi-autonomy can also provide greater flexibility and speed of action when responding to emerging issues.

However, as recently as last July, based on a recommendation by the Department's Inspector General following a security lapse at Los Alamos National Laboratory, I convened a task force to review the separate organization of NNSA within the Department. The Deputy Secretary led the team that included the Administrator of the NNSA, the Under Secretary for Science, and the General Counsel. The Task Force members identified language within the Act that prohibited the delegation of

authority beyond the Deputy Secretary as having created a significant obstacle to realizing the benefits of functional accountability and sound management between the NNSA and the broader Department.

After careful consideration of their review, I concluded that while certain elements of the NNSA Act present obstacles to management success across the weapons complex, we would continue to work within the limits of the Act. However, it remains my belief that the creation of NNSA as a separately organized entity within the Department has not yielded all the beneficial results that the legislation's authors intended.

I am aware that the GAO just today has released a report in which it concludes that there continue be serious flaws in the management practices across the weapons complex, particularly in the area of security. And while I have not reviewed it in any detail yet, I can say generally that I agree that problems persist. While we have much more to do, we have made it a top priority to improve management and we are making progress toward that goal.

The existence of discrete, separately-organized operational entities within executive departments is not unusual, but the NNSA Act is unique in that it

imposes severe limitations on the Secretary of Energy's management authority, and in my view, impedes the Secretary's ability to manage the organization effectively. For example, the Secretary is prohibited from directing subordinate NNSA federal or contractor personnel or authorizing anyone other than the Deputy Secretary to exercise authority, direction, or control over them. This prohibition precludes me and my line managers' from many logical and effective workings with NNSA's Deputy Administrators, Associate Administrators, or their subordinate employees. Further, the resulting insularity and redundancy implicit in the Act impair the Department's ability to commit its most proficient resources to redress problems and deficiencies arising from NNSA activities – areas in which NNSA does not necessarily have special institutional expertise including but not limited to cyber security.

The NNSA Act also withholds from the Secretary the authority to direct any internal reorganization of the NNSA, authority that has been a fixture of the Department's organic act since 1977. This authority provides a management tool widely available to the heads of other federal agencies and is used effectively when circumstances change and the redeployment of assets is warranted.

Without this customary authority granted to the Secretary, accountability for activities at the weapons laboratories—which themselves were made part of NNSA—has been seriously hampered and the anticipated improvements in security performance have not come to pass.

Over the past six years, an array of security breaches has continued to occur in the weapons laboratory complex, most of which involved management of the Los Alamos National Laboratory. The extent, nature, and impact of the 2006 incident are currently being assessed, but these incidents call into question whether the arm's length management model prescribed by the Act is a workable and effective management tool.

In my opinion, I think it only prudent that we examine that question. And I would note that I did not arrive at this conclusion in a vacuum, rather I am aided by insights formed before becoming Secretary of Energy two years ago. From 2001 to 2005 I served as Deputy Secretary in two other cabinet departments—Commerce, and then Treasury. Each of these departments contains large, separately organized elements within it, one of which (the National Oceanic and Atmospheric Administration within the Department of Commerce) was held out as a model for what became NNSA in the 1999 report by the President's Foreign

Intelligence Advisory Board. None of the legal charters establishing these organizations imposes the sorts of management restrictions on the Secretary of the relevant department as does the NNSA Act. My assessment is also informed by my experience for 14 years as chief executive officer of a publicly-traded business corporation that, like the Department of Energy, has multiple business lines and personnel situated at locations throughout the country, as well as overseas.

In each of these settings the cabinet secretary or the chief executive officer, as the case may be, has full authority to marshal and direct any and all of the resources of the entire organization and to harmonize the workings of its separate elements. This includes the authority to delegate necessary authority to subordinates of his or her own selection, because the secretary or chief executive cannot do it all alone in a complex organization. The Secretary must be able to delegate full authority to individuals in whom he or she has confidence to direct or control the actions of any components of the organization for which he or she is held accountable. Through this means, the sorts of impasses identified by the GAO report about the conduct of activities of equal concern to both the NNSA and the non-NNSA elements of the Department can most effectively be resolved for the benefit of the entire organization. Despite some of these challenges, I have resolved to work within the

existing structure and will continue to strive for improved communication and accountability with NNSA.

Among my personal objectives over the remaining time I have at the Department of Energy is to leave my successor with an NNSA that performs effectively in carrying out its important operational national security responsibilities, and is widely understood to be effective in that enterprise. I am committed to abiding by the law and implementing the act as the Congress has written it, and hope we can have a constructive dialogue about the best ways to ensure continued improvement of NNSA and DOE's management relationship and continued success in the pursuit of our shared mission.

Madame Chairman, in the past, our partnership has led to constructive changes with large beneficial impacts to the organization. The merger of intelligence and counterintelligence functions department-wide is a good example of that type of cooperation and I look forward to asking for your support in the future when similar opportunities are identified.

This concludes my statement. I will be pleased to respond to your questions. Thank You.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Strategic Forces, Committee on Armed Services, House of Representatives

For Release on Delivery
Expected at 1:00 p.m. EST
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NATIONAL NUCLEAR SECURITY ADMINISTRATION

Security and Management Improvements Can Enhance Implementation of the NNSA Act

Statement of Gene Aloise, Director
Natural Resources and Environment

GAO-07-428T

GAO
Accountability·Integrity·Reliability

Highlights

Highlights of GAO-07-428T, a testimony before the Subcommittee on Strategic Forces, Committee on Armed Services, House of Representatives

Why GAO Did This Study

During the late 1990s, the Department of Energy (DOE) experienced difficulties with a lack of clear management authority and responsibility that contributed to security problems at the nation's nuclear weapons laboratories and management problems with major projects. In response, Congress created the National Nuclear Security Administration (NNSA) as a separately organized agency within DOE under Title 32 of the National Defense Authorization Act for Fiscal Year 2000—the NNSA Act. Since its creation, NNSA has continued to experience security problems, such as unauthorized access to NNSA computer systems, and cost and schedule overruns on major projects, such as the National Ignition Facility.

GAO was asked to review the extent to which NNSA has taken steps to (1) improve security at its laboratories and plants and (2) improve its management practices and revise its organizational structure. In January 2007, GAO issued a report—*National Nuclear Security Administration: Additional Actions Needed to Improve Management of the Nation's Nuclear Programs*, (GAO-07-36)—that addressed these matters.

To carry out its work, GAO reviewed legislation; NNSA policies, plans and budgets; collected and analyzed security performance ratings and interviewed current and former DOE and NNSA officials.

www.gao.gov/cgi-bin/getrpt?GAO-07-428T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gene Aloise at (202) 512-3841 or aloiseeg@gao.gov.

January 31, 2007

NATIONAL NUCLEAR SECURITY ADMINISTRATION

Security and Management Improvements Can Enhance Implementation of the NNSA Act

What GAO Found

While NNSA has better delineated lines of authority and improved communication through a reorganization and has made progress in establishing critical management systems, especially in the development of its Planning, Programming, Budgeting, and Evaluation process, important weaknesses remain with respect to security; the Administration's relationship with DOE; and project, program and financial management.

Although NNSA has begun to build an effective headquarters security organization, it still cannot demonstrate that all of its security program objectives are being met at all of its sites. Specifically, GAO identified weaknesses in physical security at several NNSA sites, including the Nevada Test Site, the Sandia National Laboratories, and the Y-12 National Security Complex; and weaknesses in cyber security throughout NNSA. Four factors have contributed to these problems: (1) lack of consistent NNSA headquarters leadership and direction for security; (2) security personnel staffing shortages at NNSA site offices; (3) lack of adequate training resources and opportunities for site office security staff; and (4) incomplete security data to gauge the effectiveness of NNSA's security program.

While NNSA has focused considerable attention on reorganizing its internal operations, it and DOE have continued to struggle with agreeing on how NNSA should operate as a separately organized agency within the department. This lack of agreement has resulted in organizational conflicts that have inhibited effective operations. While there have been continuing calls for removing NNSA from DOE and establishing it as a separate agency, GAO does not believe that such drastic change is necessary to provide effective oversight of the nuclear weapons complex. Rather, DOE and NNSA need to clearly define their working relationships and determine how conflicts will be resolved.

Finally, GAO identified several other management weaknesses where additional NNSA actions could strengthen its ability to manage the nuclear weapons complex. For example, among other things, NNSA has not (1) implemented a plan for improving its project management efforts; (2) identified all of its program managers and trained them to a certified level of competency; and (3) established an independent analysis unit to review program budget proposals and analyze budget alternatives.

In its recent report, GAO made recommendations to the Secretary of Energy and the Administrator of NNSA to (1) improve NNSA's security oversight program; (2) clearly define NNSA's status as a separately organized agency within DOE; and (3) improve project and program management, and the Administration's planning, programming, budgeting, and evaluation process. NNSA generally agreed with the report and its recommendations. NNSA considered the agency a success but acknowledged there was considerable work yet to be accomplished.

Madam Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our work on the actions the National Nuclear Security Administration (NNSA)—a separately organized agency within the Department of Energy (DOE)—has taken to improve the security and management of the nation's nuclear programs. Specifically, my remarks are based on the report we are issuing today—*National Nuclear Security Administration: Additional Actions Needed to Improve Management of the Nation's Nuclear Programs*, which was prepared at the request of this Subcommittee.[1]

During the late 1990s, DOE experienced management difficulties with its nuclear weapons programs that contributed to security problems at the nation's nuclear weapons laboratories and significant cost overruns on major projects. According to a June 1999 report by the President's Foreign Intelligence Advisory Board (the Board), DOE's management of the nuclear weapons laboratories, while representing "science at its best," also embodied "security at its worst" because of "organizational disarray, managerial neglect, and ...a culture of arrogance." The Board urged the Congress to create a new organization that, whether established as an independent agency or a semi-autonomous entity within DOE, would have a clear mission, streamlined bureaucracy, and drastically simplified lines of authority and accountability. Responding to the Board's recommendations, the Congress created the National Nuclear Security Administration (NNSA) under Title 32 of the National Defense Authorization Act for Fiscal Year 2000—the NNSA Act.[2]

The NNSA Act established NNSA as a "separately organized agency" within DOE and made NNSA responsible for the management and security of the nation's nuclear weapons, nuclear nonproliferation, and naval reactor programs. The NNSA Act established the position of DOE Under Secretary for Nuclear Security, who was also designated as the Administrator of NNSA. The Secretary of Energy and the Deputy Secretary of Energy were allowed to establish policy for NNSA and to give direction to NNSA through the Administrator; however, other DOE employees were prohibited from directing the activities of individual NNSA employees. Finally, the NNSA Act required that, among other things, NNSA develop a

[1]GAO-07-36.

[2]Pub. L. No. 106-65, 113 Stat. 512, 953 (1999).

planning, programming, and budgeting process in order to ensure that the administration operated under sound financial management principles.

Since its inception, however, NNSA has continued to experience both security and management problems. For example, with respect to security, in 2003 we found that NNSA had not fully defined the roles and responsibilities of officials in its security program and that NNSA had shortfalls in security staff at the site offices that oversee its contractors. In addition, two NNSA studies commissioned in July 2003 found ongoing problems with NNSA's security program, including weaknesses in its security culture, organization, and staffing and training. Finally, DOE's Office of Inspector General found security problems with NNSA's contractors, including improprieties in the testing of the officers who protect NNSA's sites and weaknesses in NNSA's cyber security program. With respect to the management of major projects, the National Ignition Facility and the Dual Axis Radiographic Hydrodynamic Test Facility—two major facilities needed to support NNSA's nuclear weapons programs—experienced major delays and cost overruns because of problems with project management and are still not complete.

In this context, you asked us to evaluate the extent to which NNSA has taken steps to (1) improve security at its laboratories and plants and (2) improve its management practices and revise its organizational structure. To carry out our objectives, we reviewed the NNSA Act; and NNSA and DOE policies, plans and budgets; and interviewed current and former NNSA and DOE officials. We also used reports on NNSA's security efforts prepared by GAO, the DOE Inspector General, and outside groups, such as a 2005 report on security commissioned by NNSA. Finally, we collected and analyzed security performance ratings developed by DOE's Office of Health, Safety and Security and NNSA site offices, from fiscal years 1996 through 2005. We used these performance ratings because there was wide agreement among NNSA and DOE security officials that these ratings represented the best available information on the overall performance of NNSA's safeguards and security program. We conducted the work for our report from March 2005 through January 2007 in accordance with generally accepted government auditing standards, which included an assessment of data reliability and internal controls.

In summary:

Producing a well-organized and effective agency out of what was widely considered a dysfunctional enterprise has been a considerable challenge. In some areas, NNSA can be viewed as a success. Most notably, through its

internal reorganization efforts, NNSA has addressed some past problems by better delineating lines of authority and improving communication and has made important progress in establishing critical management systems, especially in the development of its Planning, Programming, Budgeting and Evaluation (PPBE) process. However, important problems remain with respect to security, the Administration's relationship with DOE, and project, program and financial management.

Regarding security, NNSA still cannot demonstrate that all of its security program objectives are being met at all of its sites. Specifically, we found weaknesses with physical security at several NNSA sites, including the Nevada Test Site, Sandia National Laboratories, and the Y-12 National Security Complex, and weaknesses throughout NNSA in the cyber security area. Four factors have contributed to problems with NNSA's security program. Specifically, we found

- a lack of consistent NNSA headquarters leadership and direction for security;
- security personnel staffing shortages at the NNSA site offices that oversee NNSA's contractors;
- inadequate training resources and opportunities for site office security staff; and
- incomplete security data to gauge the effectiveness of NNSA's security program.

With respect to NNSA's relationship to DOE, we found that almost 7 years after its creation, NNSA and DOE still have not fully agreed on how NNSA should function within the department as a separately organized agency. This lack of agreement has resulted in organizational conflicts that have inhibited effective operations. In our view, DOE and NNSA need to take a more active approach to clearly defining DOE and NNSA's working relationships and determining how conflicts will be resolved. While there have been continuing calls for removing NNSA from DOE and establishing it as a separate agency, we do not believe that such drastic change is necessary to produce an organization that can provide effective oversight of the nation's nuclear weapons complex.

Finally, while NNSA has taken several actions to improve its management practices, including developing a PPBE process, we also identified several areas where management weaknesses remain. Specifically, NNSA has not

developed a project management policy, implemented a plan for improving its project management efforts, and fully shared project management lessons learned between its sites. In addition, NNSA has not identified all of its program managers and trained them to a certified level of competency. Finally, NNSA has not established an independent analysis unit to (1) review program budget proposals, (2) confirm cost estimates, and (3) analyze budget alternatives.

In order to improve the management of NNSA and its ability to oversee the nuclear weapons complex , in our report to you, we made a series of recommendations to the Secretary of Energy and the Administrator, NNSA to (1) improve NNSA's security oversight program; (2) clearly define NNSA's status as a separately organized agency within DOE; and (3) improve project and program management, and the agency's planning, programming, budgeting, and evaluation process. In its comments on our report, NNSA generally agreed with the report and its corresponding recommendations. NNSA noted that it considers the agency to be a success but acknowledged that there was considerable work yet to be accomplished.

Background

NNSA operates three national laboratories that design nuclear weapons—Lawrence Livermore National Laboratory, California; Los Alamos National Laboratory, New Mexico; and the Sandia National Laboratories, New Mexico and California; and four nuclear weapons production sites—the Pantex Plant, Texas; the Y-12 National Security Complex, Tennessee; the Kansas City Plant, Missouri; and parts of the Savannah River Site, South Carolina; as well as the Nevada Test Site.

To implement its programs, NNSA received about $9.1 billion for fiscal year 2006, including almost $6.4 billion for its nuclear weapons activities, about $1.6 billion for its defense nuclear nonproliferation programs, and about $782 million for the Naval Reactors program. NNSA's appropriation also included about $766 million to provide security at its sites. NNSA requested over $9.3 billion for fiscal year 2007, including $6.4 billion for its nuclear weapons activities, $1.7 billion for its defense nuclear nonproliferation programs, and $795 million for the Naval Reactors program. According to NNSA's Future Years Nuclear Security Program plan, between fiscal years 2007 and 2011, NNSA is proposing to spend almost $48.5 billion on its nuclear weapons, nuclear nonproliferation, and naval reactors programs.

As noted earlier, for several years before NNSA was established, external studies found problems with the organization and operation of what is now NNSA's principal organization—DOE's Office of Defense Programs. These studies cited continuing problems in the areas of overall management, organization, priority setting, and maintenance of a viable infrastructure and workforce. Most influential in the creation of NNSA was the study conducted by a Special Investigative Panel of the President's Foreign Intelligence Advisory Board. Prepared in response to a series of security problems, including public access to classified documents at the Los Alamos National Laboratory, the Board found that DOE was a dysfunctional bureaucracy incapable of reforming itself and that reorganization was clearly warranted to resolve security and counterintelligence problems. As noted earlier, the Board urged the Congress to create a new organization that, whether established as an independent agency or a semi-autonomous entity within DOE, should have a clear mission, streamlined bureaucracy, and drastically simplified lines of authority and accountability. To correct the problems identified by the Board and others, in 1999, the Congress created the NNSA.

For the last several years, we have monitored NNSA's actions to implement the NNSA Act for this Subcommittee and the Special Oversight Panel on Department of Energy Reorganization, House Armed Services Committee. For example, in April 2001, we testified that NNSA's efforts to establish a new organization looked promising. However, we highlighted the need for NNSA to clearly define the roles and responsibilities of headquarters and field staff and to establish clear lines of authority between NNSA and its contractors, among other things. In May 2001, NNSA announced plans to reorganize its headquarters operations. In December 2001, however, we found that NNSA's plans for the headquarters reorganization did not contain a clear definition of the roles and responsibilities of the headquarters organizational units.

In addition to reorganizing its headquarters, in February 2002, NNSA proposed reorganizing its entire operation to solve important, long-standing issues. In February 2002, we testified that, with the proposed new organizational structure, resolution of NNSA's long-standing organizational issues appeared to be within its grasp. However, we noted that NNSA's lack of a long-term strategic approach to ensuring a well-managed workforce precluded it from identifying its current and future human capital needs, including the size of the workforce; its deployment across the organization; and the knowledge, skills, and capabilities needed to fulfill its mission. In December 2002, the Administrator of NNSA implemented the proposed reorganization.

Our May 2003 report on the management of NNSA's security program identified similar concerns about NNSA's security organization and management. Specifically, we found that NNSA (1) had not fully defined clear roles and responsibilities for its headquarters and site security operations and (2) had shortfalls at its site offices in the total number of staff and in expertise, which could make it more difficult for the site offices to effectively oversee security activities. We therefore concluded that NNSA could not be assured that its contractors were working to maximum advantage to protect critical facilities and material from individuals seeking to inflict damage.

Finally, in June 2004, we found that NNSA's reorganization had addressed some past problems by better delineating lines of authority and improving communication. However, we also found that NNSA's reorganization had not ensured that the agency had sufficient staff with the right skills in the right places because it had downsized its federal workforce by about 17 percent without first determining the critical skills and capabilities needed to meet its mission and program goals.

Additional Action Needed to Improve NNSA's Security Program

Although NNSA has begun to build an effective headquarters security organization, it still cannot demonstrate that all of its security program objectives are being met at all of its sites. Specifically, we found that the results of internal and independent security oversight assessments have identified weaknesses in physical security at several NNSA sites, including the Nevada Test Site, the Sandia National Laboratories, and the Y-12 National Security Complex; and weaknesses in cyber security throughout NNSA. The following factors have contributed to this situation:

- *Lack of consistent leadership and direction for its security activities.* For several years, the NNSA headquarters security organization experienced turnover in the position of Chief of the Office of Defense Nuclear Security. Specifically, four individuals have occupied the position since NNSA's creation, often in an acting capacity. In addition, these chiefs have reported to different levels within the organization. The current Chief is a permanent appointee, reporting directly to the NNSA administrator, and he has taken a number of steps to develop an effective headquarters security organization.

- *Security personnel staffing shortages at site offices.* Having sufficient staff to oversee the security programs of its contractors continues to be a problem. For example, since NNSA became operational, key site offices, such as the Los Alamos Site Office, have experienced staffing shortfalls.

As a result, sites are limited in their ability to effectively oversee contractors' security activities.

- *Lack of adequate training resources and opportunities for site office security staff.* NNSA has not implemented a training program that provides NNSA federal security officials with the skills needed to effectively oversee contractor security programs. In addition, NNSA site offices often do not have all the resources needed to meet training needs. For example, according to site office officials, the Los Alamos Site Office did not receive training funds for fiscal year 2006 and the Nevada Site Office received a minimal training budget for its security staff.

- *Lack of data to gauge program effectiveness.* NNSA does not have complete data for tracking security deficiencies identified by security oversight reviews and, as a result, does not have information regarding the overall effectiveness of its safeguards and security program. NNSA officials told us that while they believe security across the weapons complex has improved, NNSA does not have sufficient data to support this assertion. In addition, NNSA has not implemented a formal process for sharing best practices or lessons learned to guide security improvements. While best practices and lessons learned have been communicated informally, a formal process could help ensure that previously identified security deficiencies, such as the retrieval of badges from terminated employees at one NNSA site, are reviewed and corrected as necessary at other NNSA field locations.

DOE and NNSA Have Not Yet Fully Determined How NNSA Should Operate as a Separately Organized Agency within DOE

While NNSA has focused considerable attention on reorganizing its internal operations, it and DOE have continued to struggle with establishing how NNSA should operate as a separately organized agency within the department. Several factors have contributed to this situation. First, DOE and NNSA did not have a useful model to follow for establishing a separately organized agency in DOE. The Board's June 1999 report suggested several federal agencies, such as the National Oceanic and Atmospheric Administration in the Department of Commerce, which could be used as a model for NNSA. However, we found that none of the officials from these agencies considered their agency to be separately organized or believed that their agency's operational methods were transferable to NNSA. Second, DOE's January 2000 implementation plan, which was required by the NNSA Act, did not define how NNSA would operate as a separately organized agency within DOE. Instead reflecting the opposition of the then DOE senior leadership to the creation of NNSA, the implementation plan "dual-hatted" virtually every significant statutory position in NNSA with DOE officials, including the Director of NNSA's

Office of Defense Nuclear Counterintelligence and General Counsel. As we testified in April 2001, this practice caused considerable concern about NNSA's ability to function with the independence envisioned in the NNSA Act. Dual-hatting was subsequently forbidden by an amendment to the NNSA Act.[3]

As a result, although some NNSA programs have set up procedures for interacting with DOE, other programs have not, resulting in organizational conflict. For example, DOE made a commitment to issuing NNSA-specific acquisition procedures in its January 2000 implementation plan for NNSA, but it has not done so. According to DOE Office of General Counsel officials, the department subsequently determined that NNSA-specific procedures were inconsistent with the Federal Acquisition Regulation, the NNSA Act, and the January 2000 implementation plan. According to both DOE and NNSA officials, since 2004 the department has blocked NNSA's efforts to issue its own acquisition regulations. As a result, according to NNSA officials, NNSA has had to issue a series of deviations to the DOE acquisition regulations to carry out NNSA acquisition policies in areas such as negotiating a more effective contract fee arrangement and awarding additional years to a contract's term.

Even where formal procedures have been developed, interpersonal disagreements have hindered effective cooperation. Most notable in this regard has been the longstanding conflict between NNSA and DOE counterintelligence offices. Specifically, as our report documents, NNSA and DOE counterintelligence officials have disagreed over (1) the scope and direction of the counterintelligence program, (2) their ability to jointly direct staff in the headquarters counterintelligence program offices, (3) the allocation of counterintelligence resources, (4) counterintelligence policymaking and (5) their roles and responsibilities in handling specific counterintelligence matters—in particular with regard to the department's handling of the well-publicized mid-2005 intrusion into an unclassified NNSA computer system and removal of the names and social security numbers of 1,502 individuals working for NNSA. Subsequently, the Congress amended the NNSA Act to consolidate the counterintelligence programs of DOE and NNSA under the Department of Energy.

[3]Pub. L. 106-398, § 3157, 114 Stat. 1654, 1654A-468 (2000) (codified as amended at 50 U.S.C. § 2410).

In this environment, concerns about NNSA's organizational status have persisted. Most notably, a January 2006 report by the Defense Science Board called for the removal of NNSA from DOE and the creation of a new, independent National Nuclear Weapons Agency. However, former senior DOE and NNSA officials with whom we spoke generally did not favor removing NNSA from DOE.

Several Management Issues Need to be Resolved for NNSA to Become Fully Effective

In addition to identifying the underlying issue of NNSA's relationship to DOE, we identified the following four other management areas where additional NNSA actions could strengthen its ability to manage the nuclear weapons complex if it took further action.

- *Human capital.* NNSA has made progress in developing a human capital strategy. However, DOE and NNSA have not conducted a systematic, detailed analysis of how many staff NNSA needs in relation to DOE. As a result, we identified areas where potential staff imbalances have affected NNSA's ability to operate separately from DOE. For example, NNSA's Office of General Counsel has 35 attorneys, including the General Counsel, to provide NNSA legal analysis, while the rest of DOE has 277 attorneys. According to NNSA's General Counsel, his office would need 15 to 20 additional attorneys to fully handle NNSA's legal workload with minimal assistance from DOE. Currently, NNSA relies on DOE's Office of General Counsel to perform a significant portion of its legal work.

- *Project management.* While both DOE and NNSA have initiated efforts to improve project management, NNSA reported in November 2006 that about 16 percent of NNSA projects were at risk of breaching their cost baseline, schedule baseline or both. We identified seven areas for improvement that would foster a stronger culture for effective project management. For example, DOE's Project Assessment and Reporting System—a Web-based system for keeping DOE senior managers apprised of the performance of projects costing more than $5 million—does not include four major NNSA projects, estimated to cost over $100 million each. Consequently, these projects do not receive the senior management oversight that can be provided through that system.

- *Program management.* NNSA program managers are responsible for completing a set of activities by employing a working knowledge of such diverse areas as contracting, budgeting, and engineering. Recognizing the important role of program managers, NNSA has taken several actions, such as developing a program management policy. However, NNSA has yet to identify all of its program managers or train them to a certified level of competency. Indeed, DOE's most recent performance and accountability

report for fiscal year 2006 showed that NNSA fully met only about 52 percent of its program goals while the rest of DOE achieved about a 79-percent success rate.

- *Financial management.* NNSA has made significant progress in implementing its PPBE process over the last 4 years, as mandated by the NNSA Act. However, several areas of improvement still have not been fully addressed. For example, NNSA has issued policy letters on PPBE, but some of these letters are still in draft form because, in part, NNSA is waiting to obtain DOE's views on certain matters. In addition, NNSA's PPBE mechanism for centralized resource allocation relies on collegial decision making among senior NNSA managers, with the Administrator resolving disputes and deciding on the final resource allocation. However, the Administrator does not have an independent group to review program proposals, confirm cost estimates, and analyze alternatives. According to a 2003 DOE Inspector General report, most senior managers believe that such an analytical group would be of value. While NNSA has taken some action in this direction, it is not clear when such a group will be established.

As discussed earlier, while there have been continuing calls for removing NNSA from DOE and establishing it a separate agency, we do not believe that such drastic change is necessary to produce an organization that can provide effective oversight of the nation's nuclear weapons complex. Rather, we believe NNSA can provide comprehensive oversight of the operation and security of the nation's nuclear weapons programs by addressing a variety of lingering, often unrelated, but important management issues. These issues include providing sufficient, qualified staff to conduct program and operational oversight, especially in the security area, and developing and implementing improvements needed to support effective project, program, and financial management.

Madam Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or Members of the Subcommittee may have.

GAO Contacts and Staff Acknowledgements

For further information on this testimony, please contact me at (202) 512-3841 or aloisee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. James Noel, Assistant Director; Robert Baney; Preston Heard and Jonathan Ban made key contributions to this testimony.

Related GAO Products

Department of Energy: Views on DOE's Plan to Establish the National Nuclear Security Administration, GAO/T-RCED-00-113 (Washington, D.C.: March 2, 2000).

Department of Energy: Views on the Progress of the National Nuclear Security Administration in Implementing Title 32, GAO-01-602T (Washington, D.C.: Apr. 4, 2001).

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GAO, Nuclear Security: NNSA Needs to Better Manage Its Safeguards and Security Program, GAO-03-471 (Washington, D.C.: May 30, 2003).

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JANUARY 31, 2007

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January 19, 2007

The Honorable Samuel W. Bodman
Secretary of Energy
US Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585-1000

Dear Secretary Bodman:

Thank you for meeting with the Executive Committee of the Los Alamos National Security, LLC (LANS) Board of Governors last week. You were very clear about the seriousness of last fall's security incident at the Los Alamos National Laboratory and your sense of urgency about our need to make security improvements at the Laboratory. We share your assessment of the seriousness of the security lapses at Los Alamos and the need to change individual behavior and improve security systems at the Laboratory.

As we described at our meeting, members of the LANS Executive Committee were informed by Laboratory Director Michael Anastasio about the security incident and were actively involved in directing the response from the outset. We immediately informed the Director of the Lawrence Livermore National Laboratory (LLNL) about the security incident so that he could take any necessary actions to prevent a similar incident at LLNL. The LANS Board remains committed to taking the necessary steps to resolve the matter and to involve the LANS partner organizations in doing so. Furthermore, the Board and Director Anastasio are fully committed to changing the history of security lapses at the Laboratory. We regret that we did not immediately communicate our assessment of the security incident and our intended plan of action to you. You can be assured that we will do so from this moment forward, while also informing the Acting Administrator of the National Nuclear Security Administration (NNSA).

During our meeting, we mentioned that the LANS Board was meeting the following day and that we would report to you the Board's deliberations and actions. Those deliberations and actions are described as follows:

First, as we described at our meeting with you, Director Anastasio informed members of the Executive Committee about the incident soon after he learned about it and together they directed the LANS response to the incident. The Board immediately commissioned an Independent Special Cyber Security Team to conduct an independent assessment of Cyber Security at the Laboratory. The team was composed of personnel from the LANS partner organizations who do not work at the Laboratory. At last week's LANS Board meeting, the Board was briefed about the independent review, its findings, and the recommended actions. A summary of the assessment's findings follow:

- Roles and responsibilities for Cyber Security are not in all cases clearly defined;
- LANS lacks a clearly defined, cohesive, and integrated Cyber Security Program;
- LANS Cyber Security policy lacks a clear hierarchical structure;
- There is inconsistency in both policy implementation and self assessments;
- Worker level coordination and integration is lacking;
- Classified computer training needs strengthening;
- Cyber security plans are not well written; and
- The LANS Cyber Security Program Plan is currently unapproved.

The Board and the LANS management team agree with these findings. Director Anastasio has already begun to implement the necessary corrective actions to address these findings. The Board's Independent Special Cyber Security Team will conduct a follow-up assessment in six months to assess the adequacy of the actions taken.

Second, we also discussed the LANS management team's response to the security incident. While Director Anastasio and his team acted properly in many instances, we determined that several lessons can be applied to improve our response to any future situations, including:

- The Laboratory leadership must remain at the Laboratory immediately after such incidents to direct the response;
- The LANS Board and management must communicate immediately with Department of Energy and NNSA officials about the incident and the plan of action; and
- Immediate action is critical to secure the Laboratory and direct the response.

Third, it is important to hold people accountable for security lapses as a deterrent to prevent future disregard of policies and procedures. Director Anastasio is taking formal disciplinary action for 24 LANS employees, ranging from time off without pay, to written reprimands, to removal of specified job responsibilities.

Fourth, Director Anastasio outlined to the Board several other important steps he is taking to address Cyber Security at the laboratory. The most significant is a reorganization of the Laboratory's management structure that creates a Manager of Cyber Security reporting directly to the Laboratory Director. This action centralizes the key components of Cyber Security and will improve the leadership in the organization. He also put in place immediate corrective actions including disabling USB ports on classified computers, revised escort policies, and enhanced search policies.

Fifth, the Board re-examined its committee structure and created a new committee for oversight of Safeguards and Security. This oversight function was previously the responsibility of the Business and Operations committee which included numerous other business related functions. Thomas Hash, LANS Vice Chairman, will chair this new committee. Tom has three decades of operating experience in a classified environment with over 25 years of direct association with classified work for Naval Reactors.

Sixth, we reviewed the new mandatory drug testing program being introduced at Los Alamos. It involves drug testing for all job applicants and random drug testing for all employees. We have encouraged Director Anastasio to move forward on the implementation of this program and to report back to the Board with the early results to determine if any course corrections are required, such as increasing the frequency of testing. We believe this new program will have a positive effect in helping avoid these types of security infractions in the future.

We realize that these corrective actions will be effective only with vigorous enforcement. We will continue to evaluate and review the actions and support Director Anastasio's enforcement of these actions.

In addition to the security issues discussed above, we directed the Laboratory management team to work with the State of New Mexico Environmental Department on their environmental concerns and have asked Director Anastasio to keep the Board informed of these activities.

Furthermore, we recognize that John Mitchell's retirement has raised questions about the leadership of business operations at the Laboratory. We also understand the critical importance of finding the highest caliber replacement as the Laboratory's Deputy Director. We are reviewing the job responsibilities and the credentials of candidates to determine their capability to perform these responsibilities at the highest level.

Finally, the Board agreed that more regular engagement with Deputy Secretary Sell and Acting Administrator D'Agostino would keep the Department better informed and allow us to hear your perspective on the progress LANS is making. At our meeting last week we asked two of our Executive Board Members, Craig Weaver and Bruce Darling, to do this. We would welcome, as well, the opportunity to brief you directly about the oversight activities of the Board and how the Board is assisting Director Anastasio in improving the performance of the Laboratory.

Sincerely,

Gerald L. Parsky
Chairman
Board of Governors
Los Alamos National Security, LLC

Thomas F. Hash
Vice Chairman
Board of Governors
Los Alamos National Security, LLC

Copies to:
Deputy Secretary Sell
Acting NNSA Administrator D'Agostino
LANS Board of Governors
Director Anastasio

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QUESTIONS AND ANSWERS SUBMITTED FOR THE RECORD

JANUARY 31, 2007

QUESTIONS SUBMITTED BY MS. TAUSCHER

Ms. TAUSCHER. Mr. Secretary, in your prepared testimony you said the FY 2000 NNSA Act has "created a significant obstacle in realizing the benefits of functional accountability and sound management between the NNSA and the broader Department."

Can you give specific examples of such obstacles?

Secretary BODMAN. Notable examples are the statutory prohibition of non-NNSA personnel being able, even with personal Secretarial authority, to direct or exercise any "authority, direction or control" over NNSA employees, including those of the weapons laboratories that are included as part of the NNSA by the NNSA Act, and the related unprecedented limitation of the Secretary's authority to delegate his authority to render guidance to NNSA personnel. These limitations have impeded the Department's ability to harmonize principled differences that inevitably can arise among respective NNSA and non-NNSA Departmental elements responsible for common or similar functions, such as environmental remediation at active NNSA sites, cyber security, physical security, and procurement.

Ms. TAUSCHER. Mr. Secretary, in your testimony you point to the National Oceanic and Atmospheric Administration (NOAA) as a model for a separately organized element of a larger Cabinet-level department, and note that it was offered as one model by the PFIAB report.

Why hasn't the Department patterned the NNSA on the Naval Reactors organization, since it is already within the Energy Department, and exhibits in many respects precisely the sort of autonomy Congress intended for NNSA?

Secretary BODMAN. NOAA does not function under a statutory preclusion of Secretarial direction, through delegates or otherwise.

Prior to the enactment of the NNSA Act (which for the first time imposed such restrictions with respect to Naval Reactors) the Naval Reactors program functioned quite effectively, and continues to do so. Its ability to function semi-autonomously (actually also quite independently) is a result of its record of superior performance in conducting a program and overseeing a research complex that also are quite focused.

Ms. TAUSCHER. The GAO report does not recommend any changes to the NNSA Act but rather finds that DOE and NNSA need to work together to better define working relationships and conflict resolution methods. You do not recommend any changes either, but in your prepared testimony you are critical of the Act in some fundamental respects.

Do you agree with GAO's assessment? Why or not?

Secretary BODMAN. The GAO report neglected altogether to address the limitations the NNSA Act imposes on the Secretary's authority to exercise authority, direction or control of NNSA personnel through non-NNSA delegates of his own choosing. It is the absence of this customary and otherwise uniformly-available authority in executive agencies that invites creation of the staff impasses that the GAO report faulted. As to the GAO report's observation that NNSA and non-NNSA elements that perform common or similar functions should strive to work together, that admonition merely replicates guidance from the Deputy Secretary and the NNSA Administrator rendered over a year ago. The fact remains that the NNSA Act withholds from the Secretary and the Deputy Secretary the means to resolve such differences through delegates of their own choosing.

Ms. TAUSCHER. The Defense Science Board recently recommended that the NNSA be reorganized as a "National Nuclear Weapons Agency" with the Administrator reporting to the President through a board of directors that would be chaired by the Secretary of Defense, with the Secretary of Energy, Secretary of Homeland Security, and Director of National Intelligence also serving on the board. Do you agree with the DSB recommendation? Why or why not?

Secretary BODMAN. No, I do not agree with the Defense Science Board's recommendation. Making the National Nuclear Security Administration (NNSA) into a separate agency reporting to a board of directors would make it considerably more difficult to provide the NNSA with cabinet-level management, oversight and consultation as well as access to departmental assets such as the Department of Ener-

gy's Office of Health, Safety, and Security which provides invaluable independent oversight. The proposed arrangement would also create the need for new support organizations to supply services that currently come from the Department of Energy.

In addition, the Secretaries of Energy, Defense, and Homeland Security, along with the Director of National Intelligence have significant demands on their time and would not likely be able to meet frequently so the normal benefit of a board of directors arrangement would in reality not add the value intended by the Defense Science Board's recommendation. The NNSA's missions are too important to U.S. national security to burden it with what would surely be a cumbersome management arrangement. We need the right management at NNSA, not necessarily a more complicated management structure.

Ms. TAUSCHER. You pressed vigorously for consolidation of the NNSA and DOE counterintelligence offices. What is your assessment of the results of this consolidation? What specific benefits have been achieved with regard to identifying, preventing, and addressing threats to the complex?

Secretary BODMAN. Consolidation is helping us become more streamlined and agile. When the CI analysis program decided recently to enhance collection against one country of CI concern to the Department implementation moved quickly through a single staff approval process, unhindered by competing management priorities. We have also taken some very promising steps, in direction of more rapid flow of CI 'best practices and initiatives' across the complex. For example, the Department has identified a need for more uniform application of limits to the retention of cyber information across the complex, and initiated two cyber pilot projects that will be evaluated for possible complex-wide application. DOE and NNSA field representatives working together have identified the need for more consistent implementation standards in areas such as the new CI evaluation process. Further, we are now adapting the NNSA CI office's effective performance management processes for use in evaluating CI effectiveness at contractor sites across the entire DOE complex. Consolidation is opening up opportunities for counterintelligence to enhance DOE security by introducing new potential for internal information sharing. A key example of this is the tracking of suspicious activities across the entire DOE complex, something that currently is done by security elements on a site-by-site basis. The consolidated CI program is compiling and sharing such information from several field locations, while evaluating how best to expand that practice and exploit the information across the complex.

Background:

President Bush signed the National Defense Authorization Act that consolidated NNSA and DOE counterintelligence offices on October 17, 2006.

Ms. TAUSCHER. You pressed vigorously for consolidation of the NNSA and DOE counterintelligence offices. Are there other offices you believe should be consolidated? Will the Department propose further modifications to the FY 2000 NNSA Act to authorize such consolidation?

Secretary BODMAN. As I indicated during my appearance before the Subcommittee, when there are problems that I believe cannot be overcome, I will send up legislation as I did with counterintelligence. At this time, I do not believe that there are any issues that need to be addressed by proposing legislation.

Ms. TAUSCHER. Why have the human capital and staffing problems within NNSA persisted—whether in the general counsel's office or among site office security personnel—despite being identified as a concern more than seven years ago?

Secretary BODMAN. I would like to take this opportunity to convey Acting Administrator D'Agostino's assessment that clarifies some misunderstanding about NNSA's staffing situation. First, let me say that NNSA does not have persisting human capital and staffing problems. As NNSA reported to the Congress in a November 2004 report on workforce restructuring, they have made great strides since its inception in March 2000 in rightsizing the enterprise and revitalizing management of the federal workforce.

NNSA has instituted aggressive approaches to recruitment and retention to ensure that critical staffing and leadership shortfalls in the future are not encountered. NNSA has occasional difficulty in filling positions in highly select circumstances, such as at remote locations like Los Alamos, New Mexico, or when seeking highly selective technical and business skills. Overall, NNSA is not experiencing anymore difficulty in attracting and retaining highly qualified candidates to fill critical skills positions in nuclear engineering, specialized security and Federal contracting than other highly technical organizations.

NNSA has made major innovations and improvements in NNSA's human capital management programs the past several years. These innovations cover the Adminis-

trator's statutory excepted service technical hiring authority and a complementary pay-for-performance system; an NNSA-wide performance management and recognition system; and various programs of monetary incentives relating to recruitment and retention, including a student loan repayment program. Two years ago, NNSA instituted a Future Leaders Program to hire and develop entry-level technical, project management, and business talent. So far, they have attracted 60 outstanding interns to our workforce, and are planning to recruit a third class of 23 more interns this coming June.

NNSA has streamlined its hiring process, making greater use of automation, devising better marketing strategies and recruiting tools, and encouraging greater managerial involvement in candidate evaluation and selection. They are making maximum use of government-wide recruitment incentives. NNSA's excepted service employment and pay-for-performance system has allowed them to successfully compete with the private sector for top technical workers.

Most recently, NNSA and the Office of Personnel Management are designing an NNSA Demonstration Project to modify and waive parts of the government's personnel laws and regulations to modify the General Schedule position classification and pay systems to establish pay bands. The project will test (1) the effectiveness of multi-grade pay bands in recruiting, advancing, and retaining employees, and in reducing the processing time and paperwork traditionally associated with classifying positions, and (2) the effectiveness of basing pay increases on meaningful distinctions in levels of performance made under a credible, strategically-aligned performance appraisal system, thereby improving the results-oriented performance culture in NNSA. The long-term goals of the project are to improve hiring by allowing NNSA to compete more effectively for high-quality employees through the judicious use of higher-entry salaries; motivate and retain staff by providing faster pay progression for high-performing employees; improve the usefulness and responsiveness of the position classification system to managers; eliminate automatic pay increases (i.e., annual adjustments that normally take effect the first day of the first pay period beginning on or after January 1 each year) by making increases performance-sensitive; and to integrate with, build upon, and advance the work of several key long-term human capital management improvement initiatives and projects currently underway in NNSA.

Taken together, these initiatives and projects are indicative of a healthy, aggressive, and progressive human capital program.

Ms. TAUSCHER. Why has NNSA been unable to meet its own targets for security officials at the NNSA site offices?

Secretary BODMAN. Despite our efforts over the past several years that have placed a high priority on hiring critical skills, security personnel are below our desired strength for security professionals at both Headquarters and the site offices. Part of our challenge has been locating highly qualified security professionals. Competition for these skills in the marketplace is intense, and to fill our immediate needs, NNSA has mainly recruited retired military personnel to fill vacancies. To meet future needs, NNSA has begun to recruit entry level security professionals through its Future Leaders Program.

Ms. TAUSCHER. The GAO report found various management and staffing deficiencies with the NNSA.

Can you describe the authority of the NNSA budget office, and the relationship of that office to the DOE CFO?

Secretary BODMAN. Upon the standup of the NNSA in 2001, it was determined that the number of staff and capabilities required for a standalone finance and accounting system for the NNSA would require far too many personnel and financial resources, and would not be an efficient way to work within the DOE management and operating contractor system where NNSA executes the majority of its mission programs. As such, NNSA uses the finance and accounting capabilities of the DOE, and has the same relationship as other Departmental entities with the DOE CFO. NNSA is fully integrated into the DOE budget and accounting systems and processes.

The financial aspects of the NNSA are handled through two NNSA entities. The Planning, Programming, Budgeting and Evaluation function at Headquarters is responsible for all internal NNSA budget processes and for integration with the DOE CFO's planning and budgeting activities for budget formulation, justification and execution. This office has administrative responsibility for all NNSA funds control prior to the actual funding allotment, except for Naval Reactors, which interfaces separately with the DOE CFO. The Office of Field Financial Management is responsible for the actual funding allotment from the DOE, and NNSA's financial interface with the M&O contractors and the DOE accounting system, and is legally responsible for funds control for programs and sites under its allotment.

Ms. TAUSCHER. In your view, does the DOE CFO have final authority over NNSA funds, including funds specifically appropriated by the Congress to the NNSA?

Secretary BODMAN. Yes, the DOE CFO has the authority by way of the Headquarters funding allotment and its interface with the OMB and Treasury for overall DOE funds control. Once the funds have been distributed to NNSA by allotment from the DOE CFO, NNSA (and other allottees as well) has the final authority to certify the funds in terms of the proper use, availability, and application consistent with Congressional intent, Agency policy, and guidance to prevent legal and administrative funds violations.

Ms. TAUSCHER. Why are NNSA offices such as the General Counsel, PPBE and Congressional Affairs much smaller as compared to DOE, when NNSA makes up 40 percent of the Department's budget?

Secretary BODMAN. When the NNSA was stood up they made a series of corporate "buy/borrow" decisions relative to the size of their staff organizations. This entailed determining which functions they would staff (buy) and the functions they would rely on the Department to support (borrow). For example, NNSA budget employees staff positions necessary to operate and manage their statutorily mandated five-year planning, programming, budgeting and evaluation systems and processes. The Department's Office of the Chief Financial Officer handles the financial, accounting, and over-all corporate level budget activities. This has served all parties well, especially the American taxpayer who has been spared the burden of paying for what would have been duplicative efforts.

Ms. TAUSCHER. The FY 2000 NNSA Act granted substantial authority over the nuclear weapons complex to the NNSA but ultimate authority remained with the Secretary of Energy. Secretary Bodman, what is the nature of the Department's responsibility for security within the nuclear weapons complex.

Secretary BODMAN. Congresswoman Tauscher, as Secretary of Energy, I am ultimately responsible and accountable for the performance of the NNSA. I expect the Administrator to keep me fully informed and to be fully accountable for the performance of all NNSA programs, facilities and employees. I expect the Administrator (and the NNSA) to be fully responsive to Departmental requirements and expectations.

Through the Office of Health, Safety and Security (HSS), I establish Departmental environment, safety, health and security policy which applies to all elements, including NNSA. All Departmental elements are required to conform to those policies as their terms specify. I also rely upon HSS to conduct corporate independent oversight of all safety and security disciplines and I have the expectation that NNSA responds to those findings with effective correction actions to eliminate any identified weaknesses. HSS also conducts enforcement investigations for safety and security violations throughout the DOE, including within the NNSA. HSS undertakes enforcement actions against non-NNSA entities, and recommends enforcement sanctions and works with NNSA to undertake enforcement actions against its contractors.

Under the Department of Energy's "Government Owned—Contractor Operated" (GOCO) model the Department is responsible for establishing the overarching security requirements that must be followed and conducting periodic inspections to assess compliance against those standards. Contractor organizations implement the security program according to Departmental or NNSA standards and guidance. NNSA's Office of Defense Nuclear Security (DNS) is responsible for the overall management and oversight of the field security program across the nuclear weapons complex. DNS establishes the strategic performance goals, develops complex-wide funding needs, and provides the security budget required by the contractors to operate their respective security programs. DNS, working through the Federal Site Office security staff, is also responsible for providing performance assessment of the contractor security programs, ensuring corrective action is taken and promoting cross-complex sharing of best practices and lessons learned.

The authority to grant security clearances under the Atomic Energy Act was not transferred to the NNSA under the NNSA Act. HSS is responsible for the investigation process, although NNSA officials evaluate with respect to NNSA personnel the results of those investigations and determine whether a clearance is appropriate.

Cyber security is part of the NNSA Chief Information Officer's responsibility, separate from the management of physical security and generally follows the same processes as those described above for other security programs.

Ms. TAUSCHER. With respect to adherence to security practices, what are the shortcomings of the Management and Operating Contractor?

Secretary BODMAN. Los Alamos National Laboratory's (LANL) volume of classified holdings is unnecessarily large, conducted in too many security areas, involves too many people, and is spread out over too large of an area. Within the LANL model

it is the line/program organizations that establish and operate vault type rooms, cyber networks, and other classified work areas, rather than security professionals. There is a lack of operational formality and a failure to employ strict conduct of operations in established classified work areas. There is also a lack of communication between the contractor and site office staff on cyber security implementation. Additionally, LANL security staff is stove-piped, does not have integrated operational oversight mechanisms, and the self-assessment program does not reach deeply into the organization.

Ms. TAUSCHER. What are the shortcomings of the federal workforce, both Department-wide, and NNSA specific?

Secretary BODMAN. The GAO recently commented on the staffing and skill shortfalls of the NNSA professional security workforce. I generally agree with this assessment and intend to conduct a near term review of the number of security professionals within NNSA, both at Headquarters and in the field. I also intend to improve the training and qualification requirements of Federal security personnel. Both of these actions will be completed by the end of Fiscal Year 2007.

Additionally, NNSA has just completed a detailed workforce planning and succession analysis and will use the results to make adjustments in workforce staffing to address the ever increasing workload in fundamental security programs and in contractor oversight expectations.

Ms. TAUSCHER. What do you see as the Department's role in establishing and maintaining both a proper cyber security policy and posture in the nuclear weapons complex?

Secretary BODMAN. I have tasked the DOE CIO, Tom Pyke, with the responsibility of developing cyber security policies for the Department. I have signed the order that delegates the responsibility for implementing these policies to the Under Secretaries, which includes the Administrator of the NNSA.

I understand there is a highly productive working relationship between DOE and NNSA cyber security management. This approach has proven very effective in expediting the development of many of the new and updated cyber security policies and their implementation to improve the cyber security posture of the Nuclear Weapons Complex.

Ms. TAUSCHER. How do you assess the Department's effectiveness in working with NNSA in the cyber security area?

Secretary BODMAN. The working relationship between the respective DOE and NNSA Chief Information Officers is a highly productive, collaborative partnership in managing cyber security. The Department and NNSA share the same goals for cyber security and have a successful partnership in developing and implementing polices. As DOE policies are developed, this partnership ensures that NNSA requirements are considered in developing these new policies and that the NNSA can implement these policies to meet its specific needs.

Ms. TAUSCHER. In creating NNSA, the Congress intended for the new agency to have substantial autonomy in executing the policies established by the Secretary of Energy, including substantial autonomy over budget execution. However, as the GAO report confirms, the NNSA and DOE budget offices have not clearly defined their roles, and there has plainly been interference by the Department on NNSA budget execution.

What is the value added by Departmental offices in execution of NNSA's programs and budget affairs?

Secretary BODMAN. There is value added in terms of "checks and balances" in the DOE CFO certifying funds availability for external transactions such as appropriation transfers or congressional reprogrammings. These are discrete transactions that occur on an as-needed basis—five to fifteen times annually.

Ms. TAUSCHER. This Committee, and the House, felt strongly enough about NNSA having authority to execute its own budget that the House-passed version of the FY 2005 National Defense Authorization Act, we included a provision that would have required that NNSA reprogramming requests come straight to the defense committees in Congress, without review by the DOE CFO.

What is the value added by having the DOE CFO review NNSA reprogramming requests?

Secretary BODMAN. There is value added in terms of "checks and balances" in the DOE CFO certifying that NNSA funds are available and put into reserve in the DOE financial system before requesting external transactions such as appropriation transfers or congressional reprogrammings. These are discrete transactions that occur on an as-needed basis—five to fifteen times annually.

There is no value in the CFO performing a programmatic review of the NNSA programmatic decisions that led to the requirement for the financial transaction, and little value in editorial review of the correspondence itself.

Ms. TAUSCHER. Does the FY 2000 NNSA Act allow DOE officials below the level of the Deputy Secretary to exercise authority over NNSA officials?

Secretary BODMAN. The NNSA Act (Public Law 106–65, as amended) does not allow DOE officials to exercise authority over NNSA officials.

Section 3220 of the NNSA Act contains a general prohibition against non-NNSA Departmental employees (other than the Secretary or Deputy Secretary acting through the Administrator) exercising "authority, direction and control" over NNSA's employees and contractors. However, Section 3220 was amended in 2006 to provide that NNSA employees are subject to the authority, direction and control of the Secretary acting through the Director of the Office of Intelligence or the Office of Counterintelligence with respect to intelligence and counterintelligence activities.

NNSA employees are responsible to, and subject to the authority of, the Secretary and the Deputy Secretary "acting through the Administrator." NNSA employees may receive direction from the Secretary and Deputy Secretary through the Administrator, and are responsible to the Secretary, Deputy Secretary and Administrator for carrying out the tasks they have been directed to perform.

In addition, the Secretary and his staff may direct officials of the Department who are not within the NNSA to review the programs and activities of the Administration and to make recommendations to the Secretary regarding NNSA's conduct of those programs and activities, including consistency with similar programs and activities conducted by other programs within the Department. To facilitate such oversight, DOE employees may request information from NNSA employees, and NNSA employees must provide the information requested expeditiously.

Ms. TAUSCHER. The GAO report identifies several areas of business operations/interfaces between the Department and NNSA that require improvement.

Can these improvements be made under the existing NNSA Act legislation or is a legislative remedy required to enhance and improve the relationship between the Department and NNSA?

Mr. ALOISE. We do not believe that legislative change is necessary to produce an organization that can provide effective federal oversight of the nation's nuclear weapons complex. All of GAO's recommendations can be implemented under the existing NNSA Act.

Ms. TAUSCHER. Given the difficulties in establishing the NNSA as a semi-autonomous agency within DOE, can you elaborate on why GAO disagrees with calls for a wholly independent NNSA?

Mr. ALOISE. We do not support amending the NNSA Act to create an independent NNSA because we do not believe that the NNSA Act has been given a real chance to work. As we document in our report, the Secretary of Energy at the time of NNSA's creation vigorously opposed the creation of the Administration. Consequently, DOE's Implementation Plan for the establishment of NNSA never identified how the two organizations would work together. In this environment, we found a patchwork of often dysfunctional relationships between NNSA and its counterparts in DOE. More recently, in his statement before the Subcommittee, the current Secretary of Energy expressed reservations about the NNSA Act, potentially undermining any attempts to make the act work. Finally, it is important to recognize that there is no perfect organizational structure. In our view, changing structures now would only cause more time to be spent reorganizing and realigning, taking time away from the important task of ensuring that our nation's nuclear programs are managed effectively and efficiently.

Ms. TAUSCHER. How critical are the management recommendations you make to the successful execution of such major initiatives as the Department's Complex 2030 plans and Reliable Replacement Warhead program? What are the risks to these initiatives if your recommendations are not implemented?

Mr. ALOISE. Over the last several years we have documented significant project and program management weaknesses associated with NNSA's largest efforts including the National Ignition Facility (NIF) project, the Stockpile Life Extension Program (SLEP), and NNSA's program for developing a process for certifying that the stockpile is safe and reliable, known as the Quantification of Margins and Uncertainty (QMU).[1] These weaknesses resulted in major cost increases and schedule slippages.

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[1] See, for example, *National Ignition Facility: Management and Oversight Failures Caused Major Cost Overruns and Schedule Delays*, GAO/RCED–00–271 (Washington, D.C.: Aug. 8, 2000); *Nuclear Weapons: Opportunities Exist to Improve the Budgeting, Cost-Accounting, and Management Associated with the Stockpile Life Extension Program*, GAO–03–583 (Washington, D.C.: July 28, 2003) and *Nuclear Weapons: NNSA Needs to Refine and More Effectively Manage Its New Approach for Assessing and Certifying Nuclear Weapons*, GAO–06–261 (Washington, D.C.: Feb. 3, 2006).

While NNSA has addressed some of our past findings, our January 2007 report for the Subcommittee found that additional effort will be needed to address the project and program management weaknesses that still exist at NNSA. Because the Reliable Replacement Warhead (RRW) and transformation of the complex represent a project and a program that vastly exceed the scale of the NIF and SLEP efforts, we believe that it is vital to improve project and program management in order to avoid the cost and schedule overruns that have characterized past NNSA efforts.

Ms. TAUSCHER. The Defense Science Board recently recommended that the NNSA be reorganized as a "National Nuclear Weapons Agency" with the administrator reporting to the President through a board of directors that would be chaired by the Secretary of Defense, with the Secretary of Energy, Secretary of Homeland Security, and Director of National Intelligence also serving on the board.

What are GAO's views on the Defense Science Board's recommendation to remove NNSA from DOE and establish it as a separate agency?

Mr. ALOISE. We reviewed the Board's recommendation as part of our work and met with the Chairman of the Board to discuss its proposal. We did not find any evidence that convinced us that implementing the proposed reorganization would necessarily improve the security or management weaknesses we identified. Moreover, as we noted above, such a large-scale reorganization would distract NNSA, or its successor, from addressing the root causes of its management problems which involve not having the right people, with the right skills, in the right places to provide effective federal security and management oversight of NNSA's contractors.

Ms. TAUSCHER. In its technical comments on your report, DOE's Office of General Counsel indicates that it believes that the NNSA Act's prohibitions on "authority, direction and control" have prevented DOE and NNSA from better defining their working relationship.

Do you agree with that view?

Mr. ALOISE. As discussed in our report, within the construct of the NNSA Act, several offices within DOE and NNSA have attempted to develop policies and agreements on how they will interact. While some of these policies and agreements were adopted, their adoption has not guaranteed good working relationships. Instead, because the officials in the involved offices have not followed the policies and/or have not communicated with each other effectively, organizational conflict has resulted. This outcome is not the result of the NNSA Act, but rather is the result of the actions of NNSA and DOE officials.

Ms. TAUSCHER. The 1999 report of the President's Foreign Intelligence Advisory Board (PFIAB) described a DOE management of the nuclear weapons complex as a "dysfunctional bureaucracy" that embodied "science at its best and security at its worst."

To what extent do you believe that NNSA has addressed the problems identified in the PFIAB report that led to its creation?

Mr. ALOISE. As we stated in our report to the Subcommittee, we believe that NNSA has made some progress in addressing the findings of the PFIAB report. Specifically, NNSA has streamlined its organization and improved the lines of authority and accountability. It has also implemented an improved financial management system through its Planning, Programming, Budgeting and Evaluation (PPBE) process. Moreover, in response to the revised Design Basis Threat, NNSA sites have made significant improvements in how they physically protect weapons grade material. Nevertheless, as we document in our report, significant weaknesses remain in NNSA's security and management programs, particularly with respect to cyber security.

Ms. TAUSCHER. As the Secretary testified, many of the security breaches that have occurred in the nuclear weapons complex have occurred at Los Alamos National Lab.

What should be done differently by the following entities to improve the security posture at the Los Alamos National Laboratory?

(1) Management and Operating Contractor?

(2) NNSA?

(3) Department of Energy?

Mr. ALOISE. We did not directly study the security activities of the Management and Operating (M&O) contractor as part of our work for the Subcommittee. However, we would note that the DOE Inspector General's recent Special Inquiry on cyber security at Los Alamos National Laboratory (LANL) found weaknesses throughout the lab's security program ranging from developing and implementing

security policy through ensuring adequate internal controls over persons handling classified information.[2]

Regarding NNSA, the key action NNSA needs to take to improve security at LANL is to have an adequate and effective security staff at the Los Alamos Site Office (LASO). However, as we documented in our report to the Subcommittee, LASO has consistently not had sufficient staff, with up-to-date training to provide effective oversight to ensure that LANL meets its obligations under DOE's security orders.

Turning to the Department of Energy, DOE needs to ensure that the Office of Independent Oversight in DOE's Office of Health, Safety and Security provides comprehensive periodic oversight of both the NNSA and the LANL security programs. While the Office of Independent Oversight has reviewed LANL frequently regarding physical security improvements in the wake of September 11, the DOE Office of Inspector General's recent report on cyber security failures at LANL determined that one of the causes of the problems had been infrequent inspections by the Office of Independent Oversight.

Ms. TAUSCHER. Cyber security policy has been identified as an area of weakness by a number of review panels, including your report.

What do you see as the Department's role in establishing and maintaining both a proper cyber security policy and posture in the nuclear weapons complex?

Mr. ALOISE. Under the construct of the NNSA Act, it is the Department's responsibility to establish policy—such as in the area of cyber security—and NNSA's responsibility to implement that policy effectively. In response to a cyber attack in 2005 that successfully penetrated and removed detailed personnel information on more than 1,500 employees, DOE's Office of Chief Information Officer (CIO) issued a February 2006 Revitalization Plan to systematically upgrade DOE's cyber security posture over a 12-month period. In light of the most recent failures at LANL, in our view, it remains an open question whether this plan has been effectively implemented. While we did not address the Revitalization Plan as part of our work for the Subcommittee, we have recently been asked to do so by the House Committee on Energy and Commerce.

Ms. TAUSCHER. How do you assess the Department's effectiveness in working with NNSA in the cyber security area?

Mr. ALOISE. In our report to the Subcommittee, we identified difficult working relationships between the NNSA CIO and the DOE CIO as an example of where organizational conflict has resulted. Since both offices have a major influence on the effectiveness of NNSA's implementation of DOE's cyber security polices, we would expect that this lack of effective working relationships has reduced NNSA's effectiveness in the cyber security area.

Ms. TAUSCHER. Your report lays out 21 recommendations to improve the operation of NNSA.

How do the management problems you found at NNSA compare with the rest of DOE?

Mr. ALOISE. Unfortunately, many of the same problems with cost and schedule slippage we see on NNSA's major projects also occur throughout the Department. The root causes are also the same—weak project and program management and oversight.[3]

Ms. TAUSCHER. Do you believe that if the Department of Energy (DOE) and NNSA implement your recommendations NNSA will become a more effective agency?

Mr. ALOISE. Our recommendations were intended to provide a targeted, but comprehensive solution to the major organizational; security; and project, program and financial management weaknesses at NNSA. If fully implemented, we believe our recommendations will result in more effective oversight of the nation's nuclear weapons programs.

QUESTIONS SUBMITTED BY MR. ROGERS

Mr. ROGERS. For more than 30 years, the International Nuclear Analysis (INA) program has provided the U.S. government with information and analysis to sup-

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[2] DOE, Office of the Inspector General, *Special Inquiry on "Selected Controls over Classified Information at the Los Alamos National Laboratory"*, (Washington, D.C.: Nov. 27, 2006).

[3] See, for example, *Hanford Waste Treatment Plant: Contractor and DOE Management Problems Have Led to Higher Costs, Construction Delays, and Safety Concerns*, GAO–06–602T (Washington, D.C.: April 6, 2006) and *Nuclear Waste: Absence of Key Management Reforms on Hanford's Cleanup Project Adds to Challenges of Achieving Cost and Schedule Goals*, GAO–04–611, (Washington, D.C.: June 9, 2004).

port various non-proliferation and intelligence efforts. This program has tracked the flow and modeled the use of nuclear materials throughout the world, and is considered by many users to be a critically important tool in monitoring materials that could be used by terrorist, including some 200,000 tons of spent nuclear fuel and 200,000 tons of plutonium. The National Nuclear Security Administration (NNSA) abruptly terminated funds for this program for fiscal year 2007 stating they will replace it with alternative freely available information. It is my understanding that many of the "freely available" databases do not have the detail or the most up-to-date information that is necessary in today's volatile non-proliferation arena. There is strong concern that termination of INA will break the uninterrupted chain of materials monitoring in raise the prospect that the validity and reliability of the program will be lost.

Please provide a detail plan on how the Department non-proliferation intelligence program would be projected to replace the capabilities and resources that INA currently provides. Please identify the number of Department personnel who would take the INA responsibility, and the allocated cost of their time and required support.

Secretary BODMAN. The Department of Energy (DOE) has been relying on public and internal nuclear related databases to provide DOE program managers and staff with valuable unclassified and classified information on the status and direction of nuclear and radiological activities around the world for many decades. While the attached list is by no means comprehensive it does illustrate the breath of data available from existing databases other than INA. These databases provide a more comprehensive overview of nuclear and radiological facilities and materials of national security and non-proliferation interest than is available from the INA database. The information in these databases is timely, accurate, comprehensive, and more directly valuable to DOE programs than the INA database. Data is verified to ensure integrity by the IAEA and the Department's laboratories and programs. Furthermore, the information in these databases is available to DOE programs on a need to know basis at little or no extra cost to DOE because the tracking of this information is a fundamental element of each programs day-to-day mission to implement their program. These databases include:

Database	Source	Classification of Data
Power Reactor Information System	International Atomic Energy Agency	Unclassified
Research Reactor Database	International Atomic Energy Agency	Unclassified
International Nuclear Information System	International Atomic Energy Agency	Unclassified
Foreign Fissile Material Data Inventory	Idaho National Laboratory	Unclassified
Nuclear Fuel Supply and Price Report	Department of Energy (NE–1)	Unclassified
Kazakhstan Spent Fuel Disposition	DOE/NA–21	OUO/FGI
Russian Research Reactor Fuel Return	NA–21	Official Use Only
Reduced Enrichment for Research and Test Reactors	NA–21	Official Use Only

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QUESTIONS SUBMITTED BY MR. JOHNSON

Mr. JOHNSON. Please identify and explain what the "freely available" sources for this information will be, and provide the justification that this activity will be as timely, accurate, and comprehensive as the information that INA has provided to

date. I am particularly concerned about how this open source information will be verified to ensure it is not being manipulated by any entity which would wish to hide the diversion of dangerous nuclear material.

Secretary BODMAN. The Department of Energy (DOE) has been relying on public and internal nuclear related databases to provide DOE program managers and staff with valuable unclassified and classified information on the status and direction of nuclear and radiological activities around the world for many decades. While the attached list is by no means comprehensive it does illustrate the breath of data available from existing databases other than INA. These databases provide a more comprehensive overview of nuclear and radiological facilities and materials of national security and non-proliferation interest than is available from the INA database. The information in these databases is timely, accurate, comprehensive, and more directly valuable to DOE programs than the INA database. Data is verified to ensure integrity by the IAEA and the Department's laboratories and programs. Furthermore, the information in these databases is available to DOE programs on a need to know basis at little or no extra cost to DOE because the tracking of this information is a fundamental element of each programs day-to-day mission to implement their program. These databases include:

Database	Source	Classification of Data
Power Reactor Information System	International Atomic Energy Agency	Unclassified
Research Reactor Database	International Atomic Energy Agency	Unclassified
International Nuclear Information System	International Atomic Energy Agency	Unclassified
Foreign Fissile Material Data Inventory	Idaho National Laboratory	Unclassified
Nuclear Fuel Supply and Price Report	Department of Energy (NE–1)	Unclassified
Kazakhstan Spent Fuel Disposition	DOE/NA–21	OUO/FGI
Russian Research Reactor Fuel Return	NA–21	Official Use Only
Reduced Enrichment for Research and Test Reactors	NA–21	Official Use Only

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