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Energy Reorganization
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**DEPARTMENT OF
ENERGY**

**Views on DOE's Plan to
Establish the National
Nuclear Security
Administration**

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G A O

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Mr. Chairman and Members of the Special Panel:

We are pleased to be here today to provide our observations on the Department of Energy's (DOE's) Implementation Plan for the newly created National Nuclear Security Administration (NNSA). In an act of the same name, the Congress established NNSA as a semi-autonomous agency within DOE with responsibility for the nation's nuclear weapons, nonproliferation, and naval reactors programs.¹ The agency was established to correct long-standing management problems at DOE, which were most recently highlighted by major security problems at its national laboratories. The law that established NNSA also required that DOE develop an Implementation Plan to specifically describe how DOE plans to carry out the provisions of the law and achieve its objectives.

As you know, GAO and others have raised concerns over many years about weaknesses in DOE's management structure and processes that have resulted in security problems. Our testimony today is based on numerous reviews of DOE and our past and ongoing work on a wide variety of DOE programs. In summary, Mr. Chairman and Members of the Special Panel, the Implementation Plan establishes a framework for the creation of the NNSA, but it is not really a detailed roadmap that would position NNSA to correct DOE's longstanding problems. DOE's Implementation Plan simply transfers many of DOE's historic shortcomings to NNSA. In particular:

- NNSA's organizational structure does not establish clear lines of authority or streamline the field structure.
- NNSA is taking a "business as usual" approach to planning, programming, budgeting and securing skilled technical staff instead of affecting needed change as part of the Implementation Plan.
- While NNSA was to be distinct from DOE, they have duplicative and overlapping functions.

- Significant questions remain about the relationship between NNSA and DOE's organizations that oversee NNSA and DOE's line management to ensure effective security and environmental, safety, and health programs.

Although we recognize that the Implementation Plan is just the first step in an evolving process, we believe the best time to address these past problems is when the organization and systems are being laid out for the first time, before inefficiencies become second nature and commitments to old ways harden. While NNSA is a new organization within DOE, it will be made up of DOE and contractor employees. These employees have worked in a culture that has led to the myriad of management problems that NNSA was created to address. For the new organization to be more effective, it must break out of the culture and mindset that permeates DOE. To do this, for example, DOE must hold contractors as well as its employees more accountable for their performance. Otherwise, problems inherent in DOE will continue in NNSA if the DOE culture is carried to the new agency along with the activities and personnel.

Background

Since its creation in 1977, DOE has conducted technically complex activities at its facilities across the country. These activities include developing, producing, and maintaining nuclear weapons; performing research and development to enhance energy efficiency and develop innovative nuclear, renewable, and other energy sources; and cleaning up environmental contamination from its past weapons production operations. However, in conducting these activities, DOE has a long history of problems that have indicated a need for organizational and managerial improvement. DOE's history of failures in managing major projects that are critical to its mission have resulted in significant cost overruns, schedule delays, and failure to complete and operate those projects. These problems continue with the recent failure of the in-tank precipitation project at DOE's Savannah River Site after cost overruns of nearly \$400 million and a 10-

¹ National Nuclear Security Administration Act, Public Law 106-65, Oct. 5, 1999.

year schedule slippage and with cost overruns and schedule delays with the National Ignition Facility project.

Over the past year, revelations that foreign countries obtained nuclear weapons designs and classified information renewed concerns about DOE's management of its nuclear weapons program. The underlying causes of these problems have been the subject of advisory groups such as the Institute for Defense Analyses and the President's Foreign Intelligence Advisory Board and various internal DOE studies. In general, they too have identified basic flaws in DOE: a complicated, dysfunctional organizational structure, an unclear chain of command, and a lack of accountability. In particular, unclear lines of authority throughout DOE have long resulted in weak oversight of contractors and poor accountability for program management. For years, DOE has failed to respond to reports that highlight these weaknesses. To resolve these organizational and managerial weaknesses, several reorganization options were proposed and studied over the years. For example, in June 1999, the President's Foreign Intelligence Advisory Board proposed a semi-autonomous nuclear agency within DOE with a streamlined management structure and field operations. On October 5, 1999, the President signed Public Law 106-65, the National Nuclear Security Administration Act. This act created NNSA, a separately organized agency within DOE. As required by the law, in January 2000, DOE issued its Implementation Plan for the creation of NNSA.

The Implementation Plan calls for three program offices within NNSA—Defense Programs, Defense Nuclear Nonproliferation, and Naval Reactors. The Plan sets up support offices and the field office organization. In terms of support, NNSA will have an Office of the Administrator, a General Counsel, an Office of Defense Nuclear Counterintelligence, an Office of Defense Nuclear Security, an Office of Personnel and Administrative Services, and an Office of Environment, Safety and Health. While some of DOE's field offices--Albuquerque and Nevada--will be part of NNSA, others--Oakland, Oak Ridge, and Savannah River--will not. However, a number of NNSA activities are performed at the field offices that are not part of NNSA or managed through these offices. Overall, the Implementation Plan establishes a structure quite similar to DOE's.

NNSA'S Organizational Structure Does Not Establish Clear Lines of Authority Or Streamline the Field Structure

One reason for NNSA's establishment was to correct the confused lines of authority and responsibility within DOE's nuclear weapons complex that contributed to a wide variety of problems at the Department such as cost overruns and schedule slippages on large projects and security lapses. However, the Implementation Plan lays out an organizational structure for the NNSA programs that is virtually the same as it was for these programs before the agency was established.

Past advisory groups, internal DOE studies, and GAO have reported over the years on DOE's dysfunctional structure, with unclear chains of command among headquarters, field offices, and contractors. The following are examples:

- A 1997 DOE internal study noted a "lack of clarity, inconsistency, and variability in the relationship between headquarters management and field organizations. This is particularly true in situations when several headquarters programs fund activities at laboratories."²
- A congressionally mandated 1997 study by the Institute for Defense Analyses addressed DOE's organizational structure by criticizing DOE's Defense Programs for having two "headquarters" offices--one in Washington and one in Albuquerque. This has resulted in confusion over who sets policy and duplication of management functions.³
- We reported on the consequences of organizational confusion and accountability lapses at the Brookhaven National Laboratory (N.Y.) in 1997. The Secretary of

² See *DOE Action Plan for Improved Management of Brookhaven National Laboratory*, DOE (July 1997).

³ See *The Organization and Management of the Nuclear Weapons Program*. Institute for Defense Analyses (Mar. 1997).

Energy at the time—Frederico Peña—fired the contractor operating the laboratory when he learned that the contractor had breached the community’s trust by failing to ensure that the laboratory could operate safely. DOE’s own oversight report on Brookhaven concluded that the Department did not have a clear chain of command over environment, safety, and health matters and, as a result, environmental problems were allowed to go uncorrected.

Unfortunately, the Implementation Plan does little to address these problems. The reporting authority and chain of command for nuclear matters is the same as it was before NNSA was established. The Implementation Plan simply moves DOE’s Defense Programs and the field offices that were associated with Defense Programs to NNSA. This means that the Los Alamos National Laboratory (N. Mex.) and the Sandia National Laboratory (N. Mex.) will report through the Albuquerque Operations Office to NNSA’s Deputy Administrator for Defense Programs. This still puts the operations office in the chain of command, continuing to blur who is accountable. A more complicated situation will exist for NNSA programs at Savannah River, Oak Ridge, and Oakland. They will report through Operations Offices that are not part of the NNSA field structure. For example, personnel working on NNSA activities at the Lawrence Livermore National Laboratory (Calif.) will report administratively to the Oakland Operations Office that is responsible to DOE’s Office of Science. However, nuclear activities at Lawrence Livermore National Laboratory will be programmatically a part of NNSA and operated by NNSA employees. This situation continues the problem of laboratory and facility contractors--and the field offices that oversee them--receiving funding, program direction and oversight from different headquarters offices, which sometimes have potentially conflicting missions. It is not clear how reporting through an Operations Office that will now have to deal with at least two “bosses”—NNSA and the Office of Science--provides the mission focus and streamlined structure that was envisioned with the establishment of NNSA.

Other Management Weaknesses Also Not Addressed

The establishment of NNSA was also intended to improve management practices. However, in the areas of planning, programming and budgeting; upgrading the technical competence of its staff; and procurement; DOE's implementation plan does little to make improvements.

The NNSA Act directed the NNSA Administrator to establish procedures to ensure that NNSA's management systems--planning, programming, and budgeting--are sound. The Implementation Plan pays only minimal attention to this requirement and adopts in whole the existing planning, programming, and budgeting mechanisms of DOE, arguing that these mechanisms are functioning well. However, recent DOE studies identify weaknesses in its planning, programming, and budgeting and highlight where improvements are needed.

With respect to planning, in the National Defense Authorization Act for fiscal year 1997, the Congress required the Defense Programs Office to conduct a study of how it managed the nuclear weapons program. This study, often called the 120-day study, pointed out, among other things, that while the Stockpile Stewardship Program represented a well-articulated vision for dealing with the stockpile, it lacked sufficient high-level planning and guidance. Two years later, the 30-day review of DOE's November 1999 Stockpile Stewardship Program noted that while improvements had been made to the program's planning process through the introduction of the "campaigns" approach, more work was required to improve this process, especially with respect to requirements and priority setting. DOE's "campaigns" are technically challenging, multi-year efforts designed to develop and maintain specific critical capabilities needed to achieve weapons stockpile certification confidence.

In the area of programming, the fiscal year 1999 report of another congressionally mandated panel—the Panel to Assess the Reliability, Safety, and Security of the United States Nuclear Stockpile—found that certain programs that were key to maintaining a

reliable stockpile needed high-priority attention. In particular, the Panel cited (1) future nuclear parts production, (2) archiving the results of previous nuclear test experience, and (3) maintaining and improving the surveillance of nuclear weapons as programs needing management's attention.

In the area of budgeting, the 30-day review noted that the process for generating program requirements needed significant attention. Program requirements are the drivers that determine what parts of the nuclear weapons stockpile will be refurbished and at what cost. The study found that DOE's lack of a process for assessing program requirements, developing implementation plans, and setting priorities has caused significant stress on the program.

The law that created NNSA also provided mechanisms for NNSA to restructure and improve the technical competence of its staff. It provides hiring and salary flexibility for, among other things, 300 positions for scientific, engineering, and technical staff. These positions, coupled with the hiring flexibility, could assist NNSA in addressing some long-standing issues concerning the lack of technical capability. For example, in numerous reports, we and others have concluded that the lack of DOE personnel with such technical skills as project and contract management have led to poorly managed projects that are late and over budget.

In addition, several studies, including the March 1999 report of the Commission on Maintaining United States Nuclear Weapons Expertise, have pointed to the need to deal comprehensively with a personnel challenge before it reaches crisis proportions by the end of this decade. The challenge is the aging of the experienced designers and engineers who built the weapons and understand how they work. While the 300 positions could be used to increase the technical competence of NNSA's workforce, the Implementation Plan offers no insight into how NNSA will use these positions.

In accordance with the NNSA Act, NNSA's Administrator is also the agency's Senior Procurement Executive. The Procurement Executive is an agency's head authority on

procurement and manages the agency's acquisition regulations, workforce, and acquisition process. However, DOE's Implementation Plan for NNSA does not discuss how DOE's Procurement Executive and NNSA's Administrator will interface. As a result, it is not clear if the Administrator will write NNSA acquisition regulations and policies for NNSA that differ from those of DOE or whether the Administrator will adopt DOE's acquisition regulations. Since at times NNSA and DOE will be using the same contractors, NNSA and DOE could end up with different acquisition regulations and policies being applied to the same contractor. Clear guidance and sound oversight of contracting practices are of particular concern to us, given our past work on DOE's contracting—we have designated it as a “high risk” area because of DOE's history of weak oversight of contractors and its heavy reliance on contractors to fulfill its missions.

NNSA and DOE Have Overlapping Functions

NNSA was established as a semi-autonomous agency that was to be distinct from DOE. To clearly show the separation of NNSA management from DOE's organization, the Act laid out chains of command in both DOE and NNSA that would insulate NNSA from DOE management and decision making, except at the level of the NNSA Administrator. This is because the Administrator is under the immediate authority of the Secretary. However, the Implementation Plan fills numerous key positions within NNSA with DOE officials—thus, these officials have DOE and NNSA responsibilities and have been dubbed “dual-hatted.”

The Implementation Plan calls for dual-hatting of virtually every significant statutory position, including the Deputy Administrators for Defense Programs and Nuclear Nonproliferation. Other dual-hatted positions include: the Directors of NNSA's Office of Defense Nuclear Security, Office of Defense Nuclear Counterintelligence, Office of Emergency Operations, the General Counsel and Deputy General Counsel, and Field Office Managers in charge of the Oak Ridge, Savannah River, and Oakland offices. The Field Office Managers will supervise employees and functions that were specifically

transferred to NNSA by the Act and will also supervise employees and functions that report to elements of DOE.

The Implementation Plan explains that the “dual-hatted” positions were established to ensure consistent policy implementation, to ensure seamless DOE and NNSA responses to emergencies, and, in the case of the field managers, to assure that the managers have adequate authority to oversee and manage all activities at a facility. However, in our view, officials holding similar positions concurrently in DOE and NNSA is contrary to the legislative intent behind the creation of NNSA as a separate entity within DOE. Moreover, to reinforce the two separate channels of management, the Act states that no NNSA officer or employee shall be responsible to, or subject to the authority, direction, or control of any DOE officers or employees other than the Secretary and the Administrator.

Whether DOE and NNSA have dual-hatted managers or not, the Implementation Plan does not clearly define how the field office managers that are responsible for both NNSA and DOE activities will operate. Furthermore, whether NNSA security officials will establish their own set of policies and procedures is not clear. As a result, these Field Office Managers, who are responsible for NNSA and DOE programs, could implement two sets of policies and procedures. Additional complications could ensue from NNSA employees supervising DOE employees in the Albuquerque and Nevada Operations Offices, which the Implementation Plan assigned to NNSA.

Role of Oversight Organizations Is Unclear

The Implementation Plan’s discussion of the role of the existing DOE organizations that oversee such areas as environment, safety, and health and safeguards and security is unclear, and significant questions remain. The Implementation Plan states that these oversight organizations, as well as the Inspector General, will remain in DOE. According to the Implementation Plan, the oversight organizations will continue to review all DOE

sites and activities and will report their findings and recommendations to the Secretary. How the recommendations are handled, however, is not clear. For example, DOE's safeguards and security oversight organization, the Office of Independent Oversight and Performance Assurance, has raised concerns that unless specifically directed by the Secretary, NNSA is not required to act on oversight findings and recommendations. The Office of Independent Oversight and Performance Assurance is attempting to change DOE Order 470.2, "Safeguards and Security Independent Oversight Program," to require NNSA to correct safeguards and security problems identified during the Office of Independent Oversight and Performance Assurance's inspections. However, while amending the order may require NNSA to act on findings and recommendations from that office, it will not fix the problems for other oversight offices, such as the office overseeing environment, safety, and health. Additionally, depending on how the order is changed, such a requirement may contradict the provisions in the Act that prohibit NNSA personnel from being subject to the authority, direction, or control of any DOE staff other than the Secretary and the Administrator.

The day-to-day working relationship between oversight organizations and NNSA is also unclear. For example, the Office of Independent Oversight and Performance Assurance inspects DOE facilities and when safeguards and security problems are found, works with the operating contractor at the facility in developing a corrective action plan. The Implementation Plan provides no guidance on whether such relationships between oversight organizations and NNSA should continue to exist.

Our work was performed during February 2000 in accordance with generally accepted government auditing standards. Mr. Chairman, this concludes my testimony. We would be happy to respond to any questions that you or Members of the Special Panel may have.

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