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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

February 22, 2015

To: Subcommittee on Oversight and Investigations Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on "DOE for the 21st Century: Science, Environment, and National Security Missions"

On Wednesday, February 24, 2015, at 11:30 a.m. in 2322 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing titled "DOE for the 21st Century: Science, Environment, and National Security Missions." The hearing will focus on the findings and recommendations of two reports on the Department of Energy's (DOE) governance and management of its nuclear security mission and the National Labs. The reports are titled, "A New Foundation for the Nuclear Enterprise," and "Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories."[1]

I. BACKGROUND

The mission of DOE is to "ensure America's security and prosperity by addressing its energy, environmental, and nuclear challenges through transformative science and technology solutions."[2] The nuclear security enterprise and the national laboratories are central to this mission and to the nation's security. To fulfill its mission, DOE relies on a host of management

[1] Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise, *A New Foundation for the Nuclear Enterprise* (Nov. 2014); Commission to Review the Effectiveness of the National Energy Laboratories, *Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories* (Oct. 28, 2015).

[2] Department of Energy, *Mission* (online at http://energy.gov/mission) (accessed February 18, 2016).

and operating (M&O) contractors to operate, maintain, or support government-owned or controlled facilities.[3]

A. Nuclear Security and the Creation of the National Nuclear Security Administration

Enhancing nuclear safety and security through the development of nuclear weapons, ongoing testing, and the clean-up and management of resulting nuclear materials is a key part of DOE's mission.[4] The National Nuclear Security Administration (NNSA) manages the country's nuclear weapons, nuclear nonproliferation programs, and naval reactor programs. NNSA currently maintains seven field offices that are responsible for providing day-to-day oversight of M&O contractor activity at each of the eight sites in the nuclear security complex.[5] NNSA's FY 2016 funding was $12.53 billion, which accounts for over 40 percent of the total DOE budget.[6]

Following a series of high-profile mishaps involving information security at certain weapons facilities, the National Defense Authorization Act (NDAA) for FY 2000 established NNSA as a quasi-independent, "separately organized" agency within DOE.[7] However, some concerns were raised regarding this restructuring. For example, in his signing statement for the FY 2000 NDAA, President Clinton said that the creation of NNSA would limit the Secretary of Energy's "ability to employ his authorities to direct—both personally and through subordinates of his own choosing—the activities and personnel of the NNSA. Unaddressed, these deficiencies of the Act would impair effective health and safety oversight and program direction of the Department's nuclear defense complex."[8]

B. The National Laboratories

The national laboratories support long-term, complex research and development programs across basic and applied research areas. More specifically, the labs conduct research of the highest caliber in physical, chemical, biological, and computational and information

[3] Government Accountability Office, *National Nuclear Security Administration: Actions Needed to Clarify Use of Contractor Assurance Systems for Oversight and Performance Evaluation* (May 2015) (GAO-15-216).

[4] *See* Note 2.

[5] Government Accountability Office, *National Nuclear Security Administration: Actions Needed to Clarify Use of Contractor Assurance Systems for Oversight and Performance Evaluation* (May 2015) (GAO-15-216).

[6] Department of Energy, *FY 2017 Congressional Budget Request* (Feb. 2016).

[7] Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise, *A New Foundation for the Nuclear Enterprise* (Nov. 2014).

[8] President William J. Clinton, *Statement on Signing the National Defense Authorization Act for Fiscal Year 2000* (Oct. 5, 1999).

sciences. Additionally, they advance U.S. energy independence and leadership in clean energy technologies and ensure the safety and reliability of the U.S. nuclear weapons program.[9]

There are currently 17 national labs, categorized by their research focus and the supervising DOE office. DOE's Office of Science oversees ten science laboratories, while NNSA oversees three. The remaining four are managed by other applicable DOE program offices.[10] The laboratories vary in funding levels and personnel, from the Ames National Laboratory, which employed 280 individuals and received $53 million in FY2014, to Sandia National Laboratories, which employed 11,000 individuals and received $2.75 billion in FY2014.[11]

C. Continuing Management Challenges at NNSA and the National Labs

Numerous panels and commissions, the U.S. Government Accountability Office (GAO), the DOE Inspector General, this committee, and others have previously uncovered serious management and governance problems at NNSA and the national labs. Some of these issues have led to high profile safety and security incidents. This subcommittee held hearings to investigate the July 2012 security breach at Y-12 National Security Complex in Oakridge, Tennessee.[12] At a June 2015 hearing, the subcommittee examined the February 2014 accident and radiological release at the Waste Isolation Pilot Plant (WIPP) in New Mexico.[13] In addition, GAO placed NNSA's contract management on its High Risk List as being at increased risk for fraud, waste, and mismanagement.[14] The "High Risk" designation focuses on NNSA's struggles to stay within cost and schedule estimates for most major projects.

II. CONGRESSIONAL ADVISORY PANEL ON THE GOVERNANCE OF THE NUCLEAR SECURITY ENTERPRISE

The Congressional Advisory Panel on the Governance of the National Nuclear Security Enterprise was established by Section 3166 of the FY 2013 NDAA and tasked with offering

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[9] Department of Energy, *About the National Labs* (online at energy.gov/about-national-labs) (accessed Feb. 18, 2016).

[10] Commission to Review the Effectiveness of the National Energy Laboratories, *Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories* (Oct. 28, 2015).

[11] *Id*.

[12] Committee on Energy and Commerce, *Hearing on DOE's Nuclear Weapons Complex: Challenges to Safety, Security, and Taxpayer Stewardship*, 112th Cong. (Sept. 12, 2012); Committee on Energy and Commerce, *Hearing on DOE Management and Oversight of Its Nuclear Weapons Complex: Lessons of the Y-12 Security Failure*, 113th Cong. (Mar. 13, 2013).

[13] Committee on Energy and Commerce, *Hearing on Oversight Failures Behind the Radiological Incident at DOE's Waste Isolation Pilot Plant,* 114th Cong. (June 12, 2015).

[14] Government Accountability Office, *High-Risk Series: An Update* (Feb. 2015) (GAO-15-290).

recommendations "with respect to the most appropriate governance structure, mission, and management of the nuclear security enterprise."[15] The Advisory Panel released an interim report in April 2014 and a final report with recommendations in November 2014.

The Advisory Panel concluded, "NNSA governance reform, at least as it has been implemented, has failed to provide the effective, mission-focused enterprise that Congress intended."[16] The final report also determined that "the relationships among NNSA, the Secretary of Energy, and the DOE headquarters are not properly aligned with mission needs today and are therefore in need of major reform."[17] It further stated, "the nuclear enterprise would be most effective in performing its missions if it were led by a knowledgeable, engaged Cabinet Secretary and if ownership of the mission were Department-wide."[18] The Panel thus recommends that Congress amend the NNSA Act and related legislation to reintegrate NNSA into DOE. They suggest creating an Office of Nuclear Security within the Department to perform the missions currently assigned to NNSA.

The Advisory Panel also identified a number of systemic problems that Congress and the Executive Branch should address.[19] These include, for example: (1) a lack of sustained national leadership and focus on the nuclear mission; (2) overlapping staffs at both DOE and NNSA headquarters, and (3) a lack of clarity in ownership and accountability for the nuclear enterprise and mission between the two agencies. These have created confusion and friction regarding the way contractors operate and the way the labs manage important projects.

The Advisory Panel determined that a dysfunctional relationship currently exists between the government and its on-site M&O contractors. This has encouraged burdensome hands-on oversight and decreased focus on executing the overall mission of maintaining a safe, secure and effective nuclear deterrent; advancing nonproliferation; and promoting international nuclear safety. Similarly, insufficient collaboration between DOE/NNSA and the Department of Defense has generated misunderstanding, distrust, and frustration between the agencies.[20] The Panel offers a number of recommendations across a range of operational and management areas. These include that NNSA should empower leadership with well-defined roles and responsibilities and that DOE and DOD should strengthen collaboration at the secretary-level.[21]

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[15] Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise, *A New Foundation for the Nuclear Enterprise* (Nov. 2014).

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

III. COMMISSION TO REVIEW THE EFFECTIVENESS OF THE NATIONAL ENERGY LABORATORIES

Section 319 of the Consolidated Appropriations Act of 2014 directed the Secretary of Energy to establish a commission to review the efficiency and effectiveness of the national laboratories (the Commission).[22]

The Commission issued an interim report in February 2015 and released its final report in October 2015. The Commission concluded that the labs are a "unique scientific resource and national security asset providing a vital experimental infrastructure to the Nation's research community and sustaining the nuclear weapons expertise critical to modern American security."[23] The Commission also found that research and development at the labs is high quality and that their costs are appropriate.[24]

The Commission, however, did underscore a range of challenges facing the DOE labs, including its findings that the relationship between DOE and certain labs had eroded over time, which "has resulted in a less-than-optimal working relationship" and reduced efficiency on important projects.[25] The Commission strongly suggested that DOE and the labs rebuild trust in this relationship by jointly establishing annual operating plans "that delegate clearly defined authority to the laboratories in exchange for transparency and successful mission performance."[26]

The report also makes a number of other important recommendations. Some of these include, for example, that DOE delegate more authority and flexibility to the laboratories regarding how they perform research and development and that DOE reform the fee structure of the M&O contracts for the labs. Finally, the Commission recommends that DOE establish a standing body to track implementation of its recommendations.[27]

IV. WITNESSES

Norman Augustine
Co-Chairman

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[22] Commission to Review the Effectiveness of the National Energy Laboratories, *Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories* (Oct. 28, 2015).

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise
Former CEO of Lockheed Martin

Admiral Richard Mies
Co-Chairman
Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise
Former Head of U.S. Strategic Command

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Commission to Review the Effectiveness of the National Energy Laboratories
Former Deputy Secretary and Chief Operating Officer of the Department of Energy

Jared L. Cohon
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Commission to Review the Effectiveness of the National Energy Laboratories
President Emeritus, Carnegie Mellon University