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"DOE's Nuclear Weapons Complex: Challenges to Safety, Security, and Taxpayer Stewardship."

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Mr. Chairman and Members of the Subcommittee, I am pleased to be here at your request to testify on matters relating to the Department of Energy's oversight of the nuclear weapons complex.¹

The National Nuclear Security Administration (NNSA) was established under the National Defense Authorization Act of 2000 as a separately organized agency within the Department of Energy. This action was intended to allow NNSA to concentrate on its defense-related mission, free of other Departmental distractions. Its creation was in large measure a reaction to highly publicized concerns about the management of the weapons complex.

NNSA, a nearly \$12 billion per year enterprise, is charged with critically important national security missions relating to nuclear weapons, nuclear non-proliferation, science and technology. NNSA manages a number of major facilities, including three prominent national security laboratories: Los Alamos National Laboratory; Lawrence Livermore National Laboratory; and, Sandia National Laboratories. Using a business model initiated in the late 1940's as part of the Manhattan Project, virtually all of NNSA's operations are conducted by contract using a fairly unique management and operating contractor arrangement, including special provisions regarding contractor indemnification (Price-Anderson Amendments Act of 1988).

Los Alamos, Livermore and Sandia are designated as Federally Funded Research and Development Centers (FFRDC). In addition to their primary weapons responsibilities, over the

¹ The Office of Inspector General has used the term "oversight" in this testimony; however, we prefer to make the distinction between "oversight," clearly the prerogative of the Congress, for example, and "contract administration," which describes the Department of Energy's responsibilities to administer the laboratory contracts in all respects.

years they have advanced research and development in a number of disciplines. These include discoveries involving medical diagnostics and treatments, supercomputing, and combating terrorism. The national laboratories have a recognized track record of achievements that includes a significant number of prestigious awards, among them 12 R&D 100 Awards in 2012.

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In spite of the notable successes, the directors of the national security laboratories and other independent review groups have expressed concern that the Department and NNSA have micromanaged the laboratories, thereby, adversely impacting the effectiveness and efficiency of their operations. The heart of the assertions has been that oversight of contractors has been excessive, overly prescriptive and burdensome. The intensity of oversight in the areas of safety and security was cited as being of special concern. The findings of one external review, apparently based at least in part on the testimony of current and former contractor officials and Federal executives, used terms like “dysfunctional” and “a lack of trust” to describe the working relationship among the Department, NNSA, and the contractors that manage and operate the nuclear weapons complex. The laboratory directors and others have recommended changes in the relationship between the parties, with the most radical recommendation being to take NNSA outside the Department’s purview entirely.²

² Our November 2011 Department of Energy Management Challenges Report actually recommended that the Department consider consolidating a number of currently separate Department of Energy and NNSA functions.

Office of Inspector General Activities

Because NNSA's operations represent nearly 40 percent of the Department's budget and include some of the Department's most sensitive, high profile and vulnerable missions, the Office of Inspector General (OIG) treats NNSA's activities as a priority. Thus, the OIG has developed an extensive body of work identifying opportunities to improve the effectiveness, economy and efficiency of various aspects of NNSA's functions, including its management of the national security laboratories. I want to provide the Subcommittee with a brief synopsis of several recent reports concerning issues at the weapons complex. A complete list of our work can be found on our website.

- Management of Worker Disability and Return to Work Programs

In June 2012, we reported that NNSA contractors had not always managed their worker disability programs effectively, efficiently and in the Department's best interest. For example, we found that in purchasing its guaranteed cost workers' compensation insurance, Livermore incurred and charged NNSA \$1.26 million in insurance broker compensation, even though NNSA's contracting officer had specifically advised Livermore in writing that broker fees would not be reimbursable. We noted that by improving oversight of contractor disability programs, NNSA could save more than \$3.3 million annually in contractor disability compensation programs. (*The National Nuclear Security Administration Contractors' Disability Compensation and Return-to-Work Programs*, DOE/IG-0867).

- Worker Safety in the Nuclear Weapons Complex

We reported in May 2012 that Sandia had not fully addressed the root causes of long-standing weaknesses in implementing its Integrated Safety Management (ISM) system – a system designed to prevent and/or reduce occupational injuries, illnesses and accidents. We determined that Sandia had not always effectively managed line supervisors by holding them accountable for implementing ISM. Sandia’s problems in implementing ISM were exacerbated by NNSA's failure to establish effective goals to monitor and/or evaluate the efficacy of Sandia’s corrective actions. (*Integrated Safety Management at Sandia National Laboratories*, DOE/IG-0866).

The OIG has also issued a number of reports on contractor controls over beryllium – a metal essential to nuclear operations, but one that can cause serious disease among those exposed. While the Department established a prevention program to reduce exposures, we concluded that ineffective oversight allowed the failure to identify and alert workers to the presence of beryllium in certain areas to persist at Livermore. We also found that weaknesses in NNSA’s Y-12 National Security Complex beryllium prevention program that potentially endangered workers were caused, at least in part, by a lack of Department standards over surface contamination found outside confirmed beryllium areas.

(*Implementation of Beryllium Controls at Lawrence Livermore National Laboratory*, DOE/IG-0851, June 2011; and *Beryllium Surface Contamination at the Y-12 National Security Complex*, DOE/IG-0783, December 2007).

- Information Technology Data Centers

We found that NNSA had not actively managed a government-wide effort to consolidate data centers. The data centers use massive amounts of energy and are very costly to operate. In May 2012, we reported that NNSA lacked visibility over the number of data centers it funded at contractor sites and that it had not fully developed and implemented plans to identify and consolidate data centers. At just the four sites we visited, NNSA contractors maintained data centers occupying 160,000 square feet, 14 percent of which was unused or not used for its intended purpose. A lack of coordination among and between organizations also contributed to poor progress in minimizing duplicative infrastructure. As a result, NNSA missed opportunities to consolidate data centers and reduce overall costs and energy use. (*Efforts by the Department of Energy to Ensure Energy-Efficient Management of its Data Centers*, DOE/IG-0865, May 2012).

- National Security Information

Problems with the management of national security information also persisted because of insufficient performance monitoring by Department and NNSA officials. In April 2011, we found that the risk of compromise of national security information at Livermore could be reduced by improving security planning and policies. We found that NNSA had not always performed sufficient monitoring of activities involving national security information at Livermore. (*Security Planning for National Security Information Systems at Lawrence Livermore National Laboratory*, OAS-M-11-03, April 2011).

Contract Oversight Principles

The issues that have been raised most recently concerning contract oversight in the NNSA laboratory management model are not new. They have been topics of discussion for many years. We recognize that it is difficult to strike the right balance between the contractors' stated desire to use their management expertise without undue oversight and the government's need to proactively ensure that the taxpayer's interest in the operation of the laboratories is protected. In seeking the necessary equilibrium, we believe that there are several basic principles in which virtually all parties would likely agree:

1. The government's oversight should be neither overly prescriptive nor unnecessarily burdensome;
2. Oversight mechanisms should be targeted to avoid duplication, redundancy and overlap;
3. Oversight efforts should be cost effective and risk-based; and,
4. The oversight regime should encourage intelligent risk tolerance, which is especially important in a research and development setting.

This having been said, the primary principle remains: The Department, NNSA and all responsible Federal representatives have an overriding obligation to the U.S. taxpayers to ensure that the terms and conditions of the various NNSA contracts are satisfied in all material respects, national security mission goals are met, and the weapons complex is operated in an effective, efficient, safe, and secure manner. These are not insignificant tasks, especially given the fact that the contracts for the three NNSA laboratories alone are valued at about \$5 billion per year,

NNSA missions and functions are highly complex, and that they include a number of inherently risky operations.

Observations

The Office of Inspector General devotes a substantial portion of its time and resources to matters relating to NNSA operations and, by definition, the administration of NNSA's prime contracts. A routine part of our audit and inspection tradecraft is to conduct root cause analyses of the concerns we have identified. As it relates to the subject of this hearing, we have developed no evidence, empirical or otherwise, to suggest that what has been described as overly burdensome oversight on the part of the Department and/or NNSA has had a causal relationship to the problems identified in our reviews. In fact, in many cases, we found that the Department and NNSA have not been as thorough as we felt necessary in exercising their contract administration responsibilities.

Further, NNSA and the Department are currently dealing with a number of major project management issues. These include, for example, concerns with the \$3.5 billion National Ignition Facility (NIF) operated by Livermore – specifically, the ability of NIF to meet certain essential program goals; project cost and schedule concerns regarding the Chemistry and Metallurgy Research Replacement – Nuclear Facility (CMRR-NF), managed by Los Alamos that could cost over \$5 billion; and, delays and cost overruns associated with completion of the \$5 billion Mixed Oxide Fuel Fabrication Facility (MOX) at the Department's Savannah River plant. The cost and

complexity of such projects, as we have seen, require robust Federal oversight to ensure that taxpayer dollars are well spent and that national security is protected.

In addition, the unique contractor indemnification provisions of the management and operating contracts place special burdens on the Federal management team. The Department/NNSA bears ultimate financial responsibility for contractor activities which are nuclear-related. The practical reality of this situation argues for effective Federal oversight of contractor operations.

Finally, the governance concerns that have been raised are serious and should be addressed. Improvement is always possible. However, the Laboratories consistently describe their performance, including a demonstrated record of successful outcomes, in such glowing terms that we found it difficult to reconcile the fairly dire descriptions of the governance concerns with the successes the Laboratories report with understandable pride.

Proposed Changes to NNSA Governance Model

Any decision to materially change Department/NNSA/contractor relationships should be founded on analytically-based research and facts. There are a number of threshold questions which, to the best of our knowledge, have not been answered with specificity and empirical support. For example, has the current oversight model hindered mission accomplishments and, if so, to what extent; how would a new model lead to tangible improvements in the quality and quantity of scientific and technological advancements; and, how would a new model improve accountability and transparency, and better protect the interests of the American taxpayer.

Should a decision be reached to modify the NNSA weapons complex governance model, it is important to ensure that: (1) historic safety and security concerns regarding weapons complex management are treated as a priority; (2) the synergies that result from the numerous collaborations between the national security laboratories and the Department of Energy's 13 other FFRDCs and other energy functions are not impeded; (3) there is no bifurcation of the Department's intelligence and counterintelligence efforts throughout the complex; (4) expectations of the contractors are as clear and precise as can be; (5) metrics are in place to provide a sound basis for evaluating contractor/program performance, including the effectiveness of any new governance model; (6) any new operating formulation established as part of this process will be lean and mean, reflecting current budget realities; and, (7) contractors have in place a fully functioning internal governance system.³

Path Forward

The question of how to provide the most effective contractor oversight is of vital importance especially given the degree to which NNSA relies on contractor support to accomplish its national security missions. We support efforts to find better ways to serve the taxpayers' interest. But, based on the currently available information, we concluded that a “scalpel rather than a cleaver” approach ought to guide this effort. Further, the government needs to be sure that before action is taken the problem is well defined, the remedy is cost effective, and core mission is not harmed.

³ The Office of Inspector General is currently completing a review of the NNSA's implementation and execution of its Contractor Assurance System.

This concludes my testimony and I look forward to your questions.