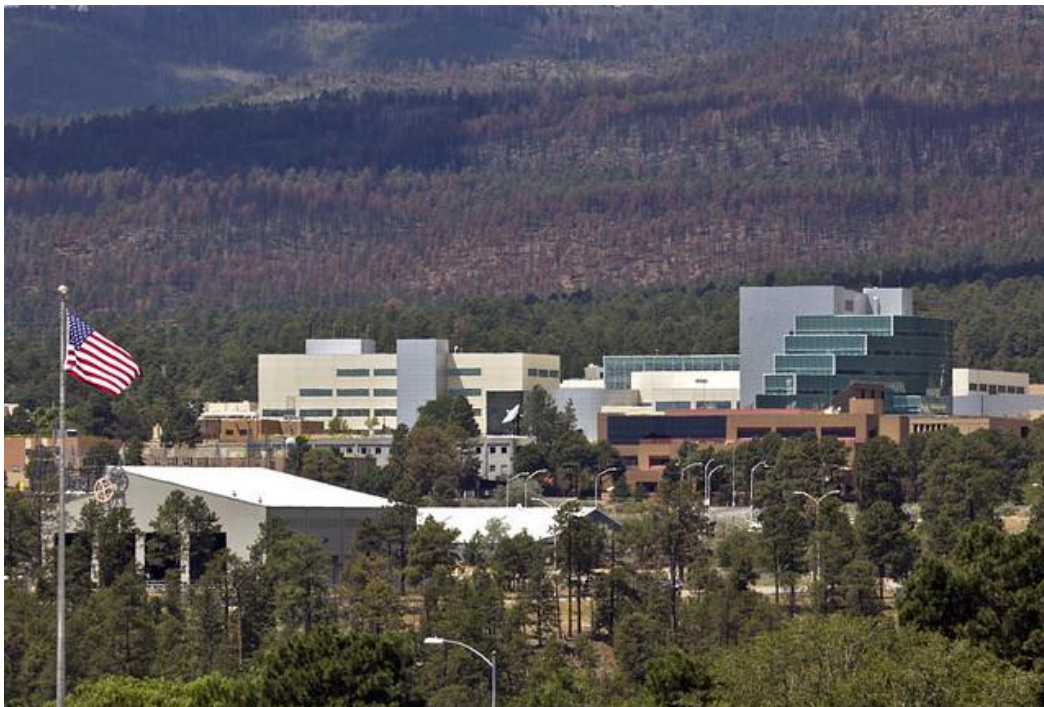




Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing the Defense Nuclear Facilities Safety Board in Fiscal Year 2022



Los Alamos National Laboratory (from lanl.gov)

At a glance

WHY WE DID THIS REPORT

The Reports Consolidation Act of 2000 (Public Law 106-531) requires us to annually update our assessment of the Defense Nuclear Facilities Safety Board's (DNFSB) most serious management and performance challenges facing the agency and the agency's progress in addressing those challenges.

WHAT WE FOUND

The DNFSB is an independent oversight organization within the Executive Branch created by Congress in 1988. The DNFSB is considered a critical oversight agency as it performs its mission to provide independent analysis, advice, and recommendations to the Secretary of Energy regarding the adequate protection of public health and safety at defense nuclear facilities in the U.S. Department of Energy (DOE). In its most recent congressional budget request, the Board proposed a funding level of \$31,000,000 and 115 full-time equivalents (FTEs) to carry out its mission in FY 2022. This request reflects a return to the agency's FY 2020 appropriation level of \$31,000,000. The DNFSB is continuing its effort to hire up from the current staff of 103 to the congressionally-mandated staffing floor of 110 in FY 2022.

This report presents each challenge we have identified, actions taken by the DNFSB, and continuing agency work applicable to the challenge. After consideration of agency input and Office of the Inspector General (OIG) reviews and audits, we have developed five key actionable challenges the DNFSB must continue to address in FY 2022:

1. Managing a productive organizational culture and climate;
2. Ensuring the safe and effective acquisition and management of mission-specific infrastructure, including cyber, physical and personnel security, and data;
3. Ensuring a systematic safety focus in the DNFSB's technical oversight and reviews;
4. Using the COVID-19 lessons learned to strengthen the DNFSB's readiness to respond to future mission-affecting disruptions; and,
5. Managing the DNFSB's efforts to elevate its visibility and influence and to assess and improve its relationship with the DOE.

By addressing these challenges, the DNFSB can execute its mission, advance toward its strategic goals, and maintain the highest level of accountability over taxpayer dollars.

AGENCY RESPONSE TO MANAGEMENT CHALLENGES FOR FY 2021

In FY 2021, the DNFSB implemented and closed out OIG recommendations from the audit of the DNFSB's COVID-19 Re-Entry Plan (DNFSB-20-A-08), the audit of DNFSB's Issue and Commitment Tracking System (IACS) and Related Processes (DNFSB-19-A-02), the Independent Evaluation of the DNFSB's Implementation of the Federal Information Security Modernization Act (FISMA) of 2014 for Fiscal Year 2019 (DNFSB-20-A-05), and the Independent Evaluation of DNFSB's Potential Compromise of Systems (Social Engineering) (DNFSB-20-A-07).

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Introduction

FROM THE INSPECTOR GENERAL

I am pleased to present our assessment of the most significant management and performance challenges facing the Defense Nuclear Facilities Safety Board (DNFSB) in FY 2022.

The Reports Consolidation Act of 2000 requires us to annually update our assessment of the DNFSB's "most serious management and performance challenges facing the agency... and the agency's progress in addressing those challenges." In this report, we summarize what we consider the most critical management and performance challenges to the DNFSB, and we assess the agency's progress in addressing those challenges.

ABOUT THE INSPECTOR GENERAL

In accordance with the Inspector General Act's Amendment of 1988, the OIG was established on April 15, 1989, as an independent and objective unit to conduct and supervise audits and conduct investigations pertaining to the Nuclear Regulatory Commission. Pursuant to the Consolidated Appropriations Act for Fiscal Year 2014 (H.R. 3547), the OIG of the Nuclear Regulatory Commission was assigned to also serve as the DNFSB's Inspector General. The purpose of the OIG's audits and investigations is to prevent and detect fraud, waste, abuse, and mismanagement, and promote economy, efficiency, and effectiveness in DNFSB programs and operations. In addition, the OIG reviews existing and proposed regulations, legislation, and directives, and provides comments, as appropriate, regarding any significant concerns. The Inspector General keeps the DNFSB Chairman and Congress current about problems, recommends corrective actions, and monitors the DNFSB's progress in implementing such actions.



Robert J. Feitel,
NRC and DNFSB
Inspector General

ABOUT THE BOARD MEMBERS

The DNFSB's decision-making body is legislated to be composed of five Board members, including a chairperson.

On January 21, 2021, President Biden appointed Ms. Joyce Connery as the DNFSB Chair. Ms. Connery has been a member of the Board since August 2015, and was reconfirmed by the Senate on July 2, 2020, for a term expiring October 18, 2024. Ms. Connery began her career at the national laboratories, first serving in Kazakhstan working on the shutdown of the BN-350 fast breeder reactor and then returning to Washington, DC, to work in the Office of International Safety in the DOE's National Nuclear Security Administration (NNSA). She has served in several capacities at the DOE, including as the senior policy advisor to the Deputy Secretary of Energy, and two tours with the National Security Council. From February 2008 through May 2010, she worked in the areas of nonproliferation and nuclear security, and from January 2012 through July 2015, she served as Director for Nuclear Energy Policy within the Office of International Economics.

On September 13, 2020, Mr. Thomas A. Summers, began serving as the DNFSB Acting Chair until Ms. Connery's subsequent appointment. Mr. Summers, of Rochester, Pennsylvania, was confirmed by the Senate on July 2, 2020, for service through October 18, 2025, and was appointed as vice-chairman on August 17, 2020. He previously served as Senior Advisor to the Deputy Administrator and as the Deputy for Research, Development, Test, & Evaluation in the Office of Defense Programs at the DOE's

National Nuclear Security Administration. He is a retired U.S. Air Force colonel with more than three decades of active duty in a variety of command, teaching, military staff, and scientific positions.

The third member of the Board is Ms. Jessie Hill Roberson, who has more than 30 years of experience in the nuclear field in the public and private sectors. She has managed field operations at several DOE nuclear plants and has served as Assistant Secretary of Energy for the Environmental Management Program in Washington, DC, where she had leadership responsibilities including operations, safety, financial, and policy matters across the DOE's Defense Nuclear Complex. Ms. Roberson has also served in management roles at several commercial nuclear facilities with responsibilities including plant engineering, regulations/licensing and compliance, nuclear operations, public interface, and emergency management. Ms. Roberson was confirmed by the Senate on July 2, 2020, for a term expiring on October 18, 2023.

Thus, as of the close of FY 2021, the Board is composed of three respected experts in the field of nuclear safety with demonstrated competence and knowledge relevant to its independent investigative and oversight functions.

ABOUT THE DNFSB

The DNFSB, an independent oversight organization within the Executive Branch, was created by Congress in September 1988 in response to growing concerns about the level of health and safety protection that the DOE was providing the public and workers at defense nuclear facilities. In doing so, Congress sought to provide the general public with added assurance that the DOE's defense nuclear facilities are being safely designed, constructed, operated, and decommissioned.

According to 42 U.S.C. § 2286a(a), the mission of the Board "shall be to provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary, in the role of the Secretary as operator and regulator of the defense nuclear facilities of the DOE, in providing adequate protection of public health and safety at such defense nuclear facilities, including with respect to the health and safety of employees and contractors at such facilities." A notable addition to the mission statement was issued in the January 2020 version of 42 U.S.C. § 2286a(a) as amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2020 (Pub. L. No. 116-92, December 20, 2019); that is, the last phrase, *"...including with respect to the health and safety of employees and contractors at such facilities."* This phrase reflects Congress' intent to ensure the Board and all stakeholders understand the DNFSB's mission clearly encompasses the health and safety of workers as well as the public. This clarification had not yet been incorporated in the Board's advertised mission statement on its website, a key point of interface with the public, as of late August 2021.



DNFSB Headquarters, Washington DC

In addition to evaluating the content and implementation of health and safety standards, the DNFSB reviews other requirements relating to the design, construction, operation, and decommissioning of the DOE's defense nuclear facilities. Beyond its regulatory oversight mission, as a federal agency, the DNFSB must be a responsible steward of taxpayer dollars.

The DNFSB's enabling legislation authorized a staff of up to 130 personnel in FY 2018. The Board's most recent congressional budget request identified a budget of \$31,000,000 and 115 FTEs necessary to carry out its mission in FY 2022. This request reflects a return to the agency's FY 2020 appropriation

level of \$31,000,000. The DNFSB is continuing its effort to hire up from the current staff of 103 to at least the congressionally mandated staffing floor of 110 in FY 2022. The DNFSB also reported it will be executing an aggressive staffing plan focused on hiring highly skilled engineers, scientists, and professionals to support the agency's mission. The Board's FY 2022 budget request underscores the significant proportion of its budget that funds the staff technical expertise necessary to conduct its work, with 68 percent of its budget allocated for salaries and benefits. The Board additionally noted these hiring levels will significantly reduce the carryover funding in FY 2022.

On May 17, 2021, the DNFSB Technical Director issued a planning memo to guide the Office of the Technical Director work plan for FY 2022. The goal of this planning effort was to identify and optimize a set of work and oversight activities that are in line with the Board's policies, priorities, and strategic plan. Planning was scheduled to be completed by September 2021 for a final Board review of the FY 2022 work plan. As of the first week of August 2021, the DNFSB technical staff had listed 117 items on the work plan and had completed 27 FY 2021 reviews, of which 16 had been carried over from the prior year. There have been 26 reviews cancelled and 24 added during FY 2021. A dozen of the new/emergent items added during FY 2021 were "deep dive" reviews or pandemic assessments of each of the facilities for which the DNFSB has oversight responsibility. This type of review requires significant DNFSB staff resources to conduct, and then present results to the Board. Ten of these deep dive and pandemic reviews number among the staff's completed FY 2021 work.

There are 52 active reviews that may carry over into FY 2022 for various reasons discussed below, but at least 19 more reviews, and potentially as many as 38, were projected by the Technical Director to be completed by the end of FY 2021. In accordance with its work planning process, any remaining uncompleted active reviews would be automatically carried over into FY 2022.

The Office of the Technical Director noted that carry-over work and cancellations are due to several factors, including changes to DOE schedules, pandemic limitations such as travel restrictions, emergent higher priority work, and resource limitations, especially when the workload called for certain more technically specialized staff than were available.

CLOSURE OF OIG AUDIT RECOMMENDATIONS TO THE BOARD

As of August 2021, the DNFSB closed seven OIG audit recommendations from four audit reports during FY 2021. Closing a recommendation means the Board has not only decided on an acceptable course of action to fulfill the intent of the recommendation, but also has documented its completion of the necessary work. Closure of the final recommendations supports closure of the associated reports, which were:

- Audit of the DNFSB COVID-19 Re-Entry Plan (DNFSB-20-A-08);
- Independent Evaluation of the DNFSB's Implementation of the Federal Information Security Modernization Act (FISMA) of 2014 for Fiscal Year 2019 (DNFSB-20-A-05);
- Audit of the DNFSB's Issue and Commitment Tracking System (IACS) and Its Related Processes (DNFSB-19-A-02); and,
- Independent Evaluation of DNFSB's Potential Compromise of Systems (Social Engineering), (DNFSB-20-A-07).

Along with the work to close OIG audit recommendations, the DNFSB made some progress in its plans to strengthen the organization's ability to execute its mission. The Board's 2020 annual report to Congress stated the DNFSB "continued to implement recommendations from a November 2018 report of the National Academy of Public Administration (NAPA) to improve agency operations and mission effectiveness."

POLICY AND STRATEGY

The Board reported in its 2021 Annual Report to Congress that it has developed a plan to review and update its internal policies in light of various developments over the last few years, such as the creation of the Executive Director of Operations (EDO) position, various congressional directions, interface issues with the DOE, and the NAPA report. This plan commenced in 2020 with the issuance of two new policy statements.

The first policy statement established the Board's expectations for collegiality among individual Board members in terms of policy setting and execution, maintenance of a quorum, and decision making on delegations of authorities assigned to the Board. This policy statement was responsive to several recommendations in the NAPA report regarding Board member relationships and collegiality.

The second policy statement established the Board's expectations regarding access to DOE facilities, personnel, and information to carry out its statutory responsibilities. This policy statement also helps implement statutory changes in the FY 2020 NDAA, and anticipates a new Memorandum of Understanding (MOU) that will establish procedures for information access with the DOE.

In December 2019, the Board had approved a comprehensive revision to its 2018–2022 strategic plan as recommended by NAPA. The revised plan established goals and objectives aimed at providing “high quality advice on the safety of the DOE defense nuclear complex efficiently, effectively, and transparently.” Additionally, the plan was intended to “cultivate a multitalented, dynamic staff that embodies the Board's core values, focuses on the mission, and continuously hones its skills through training and development.”

The Board's revised Strategic Plan notes the following strategic goals:

Goal 1— Provide proactive and independent safety oversight of the defense nuclear complex;

Goal 2— Enhance transparency of ongoing agency initiatives and state of safety within the defense nuclear complex;

Goal 3— Develop and maintain an outstanding workforce to achieve the agency's mission; and,

Goal 4— Maximize the DNFSB's performance by pursuing excellence in our agency culture and operations.

CULTURE AND CLIMATE

Previous OIG audit work and the NAPA report identified instances wherein the efficiency and effectiveness of DNFSB processes had been impeded by its unsupportive culture and climate. Both organizations' reports recommended ways to address these culture and climate deficiencies, especially in areas of hiring practices and succession planning.

Feedback from DNFSB staff and management indicated mixed success in FY 2021 in the Board's ability to follow through and fully implement the NAPA recommendations, and lack of action on some NAPA and OIG recommendations. The DNFSB has, however, sought to track and pursue completion of most of the recommendations, acknowledging that some involve longer-term efforts to improve the agency's culture, collegiality, and relationships with the DOE.

At the direction of Congress, the Board established and filled the Senior Executive Service level EDO position. On December 23, 2020, Mr. Summers announced that Mr. Joel Spangenberg had been selected as the DNFSB's EDO, effective January 4, 2021. The OIG received feedback from DNFSB staff and management during FY 2021 that pointed to some early challenges in establishing the roles, responsibilities, and authorities of this new position.

In April 2021, the DNFSB revised Directives Program D-21.1, which provides the framework of the directives and supplementary documents that support the Board's and its staff's activities subject to strategic plans, applicable statutes, regulations, Executive Orders, and Board policies. This revision was issued to delegate the approval of agency directives from the Chair to the EDO. DNFSB staff members are in the process of updating the agency's directives and supplementary documents.

WORKING RELATIONSHIP WITH THE DOE

In response to the challenges for access to meetings and information posed by the DOE's Order 140.1, Interface with the Defense Nuclear Facilities Safety Board, the Board reported that it improved communications with the DOE across all organizational levels through a series of ongoing and routine meetings. The DOE in turn revised Order 140.1 in response to many of the Board's interface concerns.

The Board stated in its June 30, 2021 report to Congress that the DNFSB has not experienced instances of denial of access by the NNSA or the DOE in the prior 6 months. In its prior reports in February and July 2020, the Board noted access to deliberations of the Nuclear Explosives Safety panel at the Pantex nuclear weapons facility had been denied to the DNFSB staff, and the DNFSB had encountered delays in receipt of information. The June 30, 2021 report did not mention any issues with delays in timely receipt of requested information.

There is a continued need to restore a more productive and positive working relationship between the DNFSB and the DOE. For example, the DOE issued a revised final rule update to 10 C.F.R. Part 830, Nuclear Safety Management, Associated Orders and Standards, and Implementation Thereof, in October 2020. This action was taken despite the DNFSB's February 21, 2020 Recommendation 2020-1, Nuclear Safety Requirements, in which the Board had warned the proposed change would "fundamentally undermine" the important nuclear safety processes established in the rule.

The Board's recommendation was intended to strengthen the DOE's regulatory framework, including the proposed changes to regulations in 10 C.F.R. 830, Nuclear Safety Management, as well as relevant DOE orders and standards. The Board received the DOE's response, which rejected most of the recommendations, on June 11, 2020. A key DNFSB concern involved the combination of a lack of an aging management plan for DOE facilities, and the proposed elimination of specific hazard category definitions from status as federal regulations. Such a deletion could allow contractors to increase radiological hazards present in older buildings without fully understanding the capability of facility safety structures, systems, and components to control the higher level of risk.

On October 22, 2020, the Board issued a letter on the formation of a joint working group with the DOE to develop an MOU intended to improve communication and transparency and to better define key interface points between the two agencies. The work to fully develop the MOU with the DOE has continued through FY 2021, experiencing some delays due to DOE and Board internal staff and management reviews and deliberations. Overall, the Board has reported to Congress that it is encouraged by these efforts, but acknowledges more work is needed to restore the Board's long-standing productive relationship with the DOE.

In April 2021, the Board's Policy Statement on Recommendations [2021-300-019] was issued to establish its policy on the development of recommendations to the Secretary of Energy for ensuring adequate protection of public health and safety, the execution of and the Board's oversight of the

DOE's response to and implementation of recommendations, and the Board's closure of recommendations.

Given the DOE's response to Recommendation 2020-1 and the DOE's completion of the rulemaking for 10 C.F.R. Part 830, the Board made the following revisions to Recommendation 2020-1 and, as revised, reaffirmed the recommendation to Secretary of Energy Jennifer Granholm in a letter dated June 1, 2021:

- Modified sub-recommendations related to facility hazard categorization to reflect the DOE's actions in the final rulemaking and the results of a subsequent Board review of the DOE's hazard categorization standards;
- Combined sub-recommendations on causal analysis reviews. This sub-recommendation was also revised to reflect the DOE's actions in final rulemaking to remove the annual approval requirement; and,
- Modified remaining sub-recommendations to reflect the DOE's completion of rulemaking, to incorporate additional relevant Board correspondence issued since the original recommendation was transmitted, and to provide additional clarity on the intent of the sub-recommendations.

In a September 8, 2021 letter to Board Chair Connery, Secretary of Energy Granholm reversed the DOE's prior rejection of Recommendation 2020-1 and indicated the DOE would review the rule changes in light of the DNFSB recommendation and undertake an independent review of current safety basis development processes.

COVID-19 PANDEMIC

The DNFSB reported that its operations were adjusted and adapted to allow maximum telework while continuing to prioritize the safety of employees during the pandemic. The OIG issued DNFSB-20-A-08, Audit of the DNFSB COVID-19 Re-Entry Plan, in September 2020, which reviewed the Board's documentation of actions in response to a single audit recommendation to develop and implement an employee re-entry plan that is in accordance with federal guidance and best practices. The OIG found the response to be satisfactory and closed this audit recommendation on February 4, 2021.

The DNFSB submitted its Workplace Reentry Plan to the Office of Management and Budget in July 2021. During the voluntary return to the workplace phased time periods, the Board noted the Office of the General Manager will confirm workplace readiness and restart operational support activities that were deferred during the maximum telework period.

DNFSB FY 2021 CHALLENGES

There are five ongoing actionable challenges the DNFSB must continue to address in FY 2022:

1. Managing a productive organizational culture and climate;
2. Ensuring the safe and effective acquisition and management of mission-specific infrastructure, including cyber, physical and personnel security, and data;
3. Ensuring a systematic safety focus in the DNFSB's technical oversight and reviews;
4. Using the COVID-19 lessons learned to strengthen the DNFSB's readiness to respond to future mission-affecting disruptions; and,
5. Managing the DNFSB's efforts to elevate its visibility and influence and to assess and improve its relationship with the DOE.

This report presents each challenge we have identified, along with the actions taken by the DNFSB and the Board's continuing work applicable to the challenge. By addressing these challenges, the DNFSB can not only execute its mission more efficiently and effectively, but also achieve progress toward its strategic goals and maintain the highest level of accountability over taxpayer dollars.

Challenge 1: Managing a Productive Organizational Culture and Climate

WHY IS THIS A SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGE?

This has been a longstanding, systemic challenge for staff and senior leadership that has adversely affected the DNFSB's ability to fulfill its mission.

CHALLENGE SYNOPSIS

The DNFSB has experienced significant challenges that have affected its work culture and climate. Over the past several years, the DNFSB's high employee turnover, inadequate succession planning, major reorganizations, and internal communication issues were further compounded by issues involving a lack of collegiality among the Board members themselves. These challenges negatively affected trust and employee engagement throughout the agency.

Previous OIG audit work and a report by the NAPA identified instances wherein the efficiency and effectiveness of DNFSB processes had been impeded by its unsupportive culture and climate. Both reports provided numerous recommendations to help address these culture and climate deficiencies, especially in the areas of hiring practices and succession planning.

In FY 2021, the OIG initiated a review of the DNFSB's Safety Culture and Climate Survey, which was administered in January 2021 and its final report issued that April. The survey found the DNFSB made significant progress since its last Safety Culture and Climate Survey in 2015. The historical comparison from 2015 to 2021 showed improvements across every category, with statistically significant increases in 6 out of the 12 comparable categories. The largest improvements compared to 2015 were in the categories of leadership, ethics and professionalism, change management, and diversity. This could be attributed, in large part, to the change in senior leadership and Board members in recent years.

ONGOING ACTIONS

The DNFSB created its first Diversity, Equity, and Inclusion Strategic Plan covering FY 2021 through 2025. One of the strategic goals is to cultivate a culture that encourages collaboration, flexibility, and fairness to enable individuals to contribute to their full potential and improve retention.

DNFSB staff members are working to address all six recommendations from the OIG's Audit of the DNFSB's Human Resources Program.

COMPLETED ACTIONS

The DNFSB created a policy statement establishing its expectations of collegiality for individual Board members in terms of policy setting and execution, maintenance of a quorum, and decision making on delegations of authorities assigned to the Board. This policy statement was responsive to several recommendations in the NAPA report regarding Board member relationships and collegiality.

The DNFSB hired an EDO in January 2021 to supervise all Board technical and administrative employees, and perform other duties formerly carried out exclusively by the Chair. This action was also in response to the NAPA report.



Looking ahead: The OIG will continue to monitor developments in this area, especially the DNFSB's implementation of the OIG's and NAPA's prior recommendations.

Challenge 2: Ensuring the Safe and Effective Acquisition and Management of Mission-Specific Infrastructure, Including Cyber, Physical and Personnel Security, and Data

WHY IS THIS A SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGE?

Centralized administrative functions in corporate support services will enable DNFSB management and staff to carry out the agency mission and operate efficiently and effectively. Furthermore, cybersecurity threats are constantly evolving and physical security over internal infrastructure is a continuing challenge for all federal entities.

CHALLENGE SYNOPSIS

The DNFSB must continue to use robust, proactive measures to protect its infrastructure—buildings, personnel, and information—from both internal and external threats. Criminals and foreign intelligence organizations pose continuous external threats, while trusted insiders who could maliciously or unintentionally compromise the security of facilities and information systems pose internal threats. Information security presents unique challenges by virtue of the imperative to balance information safeguards while helping legitimate users access information. Cybersecurity threats are constantly evolving and may take advantage of current trends such as the COVID-19 pandemic. DNFSB employees shifted to mandatory telework because of the pandemic and as a result, cybersecurity vulnerabilities increased.

The DNFSB should continue exploring ways to improve its administrative functions. To support the technical staff, the DNFSB provides corporate support services, such as contract and human resources support, financial reporting, and information technology services. Although the DNFSB has established these administrative functions to support agency staff, there is ongoing concern about employee morale, recruiting new hires, and retention. Over the years, one significant area of concern has been the provision of human resources support to the agency. As of June 2021, the DNFSB requested 115 FTEs to carry out its mission for FY 2022. The DNFSB must continue to effectively recruit new hires, strengthen performance management, and increase employee engagement and retention. This concern includes such functions as employee recognition and training new and current staff. These investments enable the staff to do mission-critical work more efficiently and effectively.

ONGOING ACTIONS

The DNFSB continues to implement OIG recommendations from past Federal Information Security Management Act (FISMA) reports.

The DNFSB continues to make enhancements to its physical and cybersecurity infrastructure.

The DNFSB is pursuing hiring actions to achieve a staffing level of 110 to 115 employees in FY 2022.

The DNFSB continues to implement up-to-date platforms, systems, and software with interoperability, where possible.

COMPLETED ACTIONS

The DNFSB made efforts to strengthen the skills and qualifications of its IT staff.

The DNFSB appointed a Manager of Board Operations and will centralize internal and external Board operations and communications.

The DNFSB created a fully electronic onboarding plan in response to the COVID-19 pandemic.

The DNFSB hired a number of management positions, including the Executive Director of Operations, Chief Financial Officer, Chief Information Officer, and Director of Operation Services.



Looking ahead: The OIG will continue to monitor the DNFSB's Human Resources systems and work with the Board in conducting future audits and evaluations that will enhance security over DNFSB internal infrastructure.

Challenge 3: Ensuring a Systematic Safety Focus in the DNFSB's Technical Oversight and Reviews

WHY IS THIS A SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGE?

The Board's mission is to provide independent analysis, advice, and recommendations to the Secretary of Energy in providing adequate protection of public health and safety related to defense nuclear facilities. The best way to ensure adequate protection and increase public confidence in the safety of nuclear weapons and waste is to maintain an independent safety oversight process.

CHALLENGE SYNOPSIS

When DNFSB technical staff evaluate safety at DOE facilities, they must employ specific analyses of many unique processes and hazards. The DOE's nuclear weapons program is technically challenging and hazardous. Complex operations critical to national defense include assembly and disassembly of nuclear weapons, fabrication of plutonium pits and weapon secondary assemblies, production and recycling of tritium, nuclear criticality experiments, and experiments to characterize special nuclear materials under extreme conditions.

Key technical program challenges for the Board include:

- Ensuring that operations are conducted in a manner that is accountable and transparent, and that directs the Board's resources toward oversight of the most significant potential safety risks in the DOE's defense nuclear complex;
- Maintaining open and effective communication with the DOE that enables problem solving through mutual understanding of safety issues that require action as well as factors that may constrain action to address safety issues;
- Ensuring that internal controls are fully understood and implemented; and,
- Continuing to attract, develop, and sustain a staff that earns the respect and confidence of the public and the DOE through its expertise in the field of nuclear safety and performance of its oversight functions.

ONGOING ACTIONS

The DNFSB has hired several new technical staff and senior management personnel over the past year. The agency continues to work toward hiring the congressionally mandated floor of 110 employees.

The DNFSB continues to apply lessons learned to improve its work planning process, such that the Board's resources are directed at the most significant potential safety risks in the DOE's defense nuclear complex.

COMPLETED ACTIONS

The DNFSB issued a technical report expressing its concerns on transuranic waste storage, handling, and processing across Los Alamos National Laboratory facilities. This report required a response from DOE within 120 days.

The DNFSB held a hearing on Tritium that brought DOE senior management online to discuss the adequate protection of co-located workers.



Looking ahead: The OIG will continue to monitor developments in this area throughout the year to inform its audit planning work.

Challenge 4: Using the COVID-19 Lessons Learned to Strengthen the DNFSB's Readiness to Respond to Future Mission-Affecting Disruptions

WHY IS THIS A SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGE?

During the COVID-19 pandemic, unprecedented actions were needed to allow the DNFSB's management and staff to continue to accomplish the agency mission and operate effectively. The lessons learned from COVID-19 are critical to the DNFSB's readiness for any other mission-affecting disruptions that may occur in the future.

CHALLENGE SYNOPSIS

On March 13, 2020, the President of the United States declared a national emergency associated with the COVID-19 outbreak. Soon thereafter, the Office of Management and Budget issued mandatory telework orders to federal employees, resulting in implementation of the DNFSB Continuity of Operations Plan (COOP) for COVID-19 Pandemic Response. This agency guidance directed most of its employees to work from home with agency-issued laptop computers to minimize "concerns for safety" leave claims or other disruptions to agency business. By June 2020, DNFSB staff began to return to headquarters, starting with Office Directors and a "skeleton" support staff to be present at headquarters twice a week. One month later, the DNFSB required more staff to return to headquarters.

On June 15, 2020, the DNFSB Inspector General received a letter from Congress requesting the examination of the DNFSB's plans and procedures for returning employees to federal offices in the wake of the COVID-19 pandemic. The final IG report, issued in September 2020, found that the DNFSB's plan for returning employees to work was not prepared in full accordance with governmentwide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings. The report recommended that the DNFSB "develop and implement an employee re-entry plan that is in accordance with federal guidance and best practices."

ONGOING ACTIONS

The DNFSB is providing Pandemic Response and Recovery Training as a part of new employee onboarding training.

The DNFSB is supporting maximum flexibility on the use of telework during the pandemic.

COMPLETED ACTIONS

The DNFSB developed a Pandemic Response and Recovery Plan.

In February 2021, the DNFSB implemented and closed out the OIG's recommendation from the audit of the DNFSB's COVID-19 Re-Entry Plan (DNFSB-20-A-08).



Looking ahead: The OIG will continue to monitor the DNFSB's actions to ensure technology is proactively upgraded in the remote work environment and effectively procured for timely installation of needed technology that functions properly.

Challenge 5: Managing the DNFSB's Efforts to Elevate its Visibility and Influence and to Assess and Improve its Relationship with the DOE

WHY IS THIS A SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGE?

The need for continued cooperation from the DOE is extremely important in light of the DNFSB's mission, and the controversy surrounding DOE Order 140.1 and the agency's rejections of two DNFSB recommendations in FY 2020.

CHALLENGE SYNOPSIS

In its 30th Annual Report to Congress, the Board noted a decline in its relationship with the DOE. One reason for this decline was the DOE's publication of DOE Order 140.1, Interface with the Defense Nuclear Facilities Safety Board, which was issued in May 2018 without formal input from the Board. The order codified a major policy shift and introduced significant changes to the DOE's interface with the Board, including restrictions placed on the Board's access to information that diminished the Board's ability to effectively perform its statutory mandate.

The NDAA for Fiscal Year 2020 amended the Atomic Energy Act of 1954 to clarify the Board's jurisdiction and the DOE's responsibilities for granting the Board access to information, facilities, and personnel. This revision to the Atomic Energy Act resolved many of the problems that the DOE's implementation of DOE Order 140.1 had on the ability of the Board to perform its mission.

While the Board is encouraged by the DOE's revision to Order 140.1 and the progress made on a joint MOU, more work is needed to fully restore the Board's long-standing productive relationship with the DOE.

ONGOING ACTIONS

The DNFSB-DOE working group continues to meet and work on developing and finalizing the MOU.

The Board received a letter from Secretary of Energy Granholm dated September 8, 2021, indicating the DOE would accept DNFSB Recommendation 2020-1, commit to a regulatory analysis to assess the need for rule changes, and update its June 11, 2020 responses with the intention of meeting safety improvement objectives of DNFSB's recommendation.

COMPLETED ACTIONS

In October 2020, the DNFSB staff and the DOE signed a charter that established a working group to develop an MOU that will provide the foundation to improve communication and transparency between the two agencies.

In April 2021, the Board issued a policy statement to establish its policy on the development of recommendations to the Secretary of Energy for ensuring adequate protection of public health and safety, the execution of and the Board's oversight of the DOE's response to and implementation of recommendations, and the Board's closure of recommendations.



Looking ahead: The OIG will continue to monitor developments in this area throughout the year to inform its audit planning work.

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COMMENTS AND SUGGESTIONS

If you wish to provide comments on this report, please email the OIG using this [link](#).

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