A REVIEW OF SECURITY INITIATIVES AT DOE NUCLEAR FACILITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES

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CONTENTS

Page

Testimony of:

Brian, Danielle, Executive Director on Nuclear Security, Project on Government Oversight 104

Brooks, Hon. Linton F., Administrator, National Nuclear Security Administration 22

Nanos, G. Pete, Director, Los Alamos National Laboratory 80

Podonsky, Glenn S., Director, Office of Security and Safety Performance Assurance, U.S. Department of Energy 30

A REVIEW OF SECURITY INITIATIVES AT DOE NUCLEAR FACILITIES

FRIDAY, MARCH 18, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2123, Rayburn House Office Building, Hon. Ed Whitfield (chairman) presiding.

Members present: Representatives Whitfield, Walden, Burgess, Blackburn, Stupak, and Inslee.

Staff present: Dwight Cates, majority professional staff member; Mark Paoletta, Chief Counsel; Alan Slobodin, majority counsel; Lisa Miller, deputy communications director; Chad Grant, legislative clerk; Chris Knauer, minority professional staff member; and Voncille Hines, minority research assistant.

Mr. WHITFIELD. Good morning, and I want to welcome everyone to this hearing today on the review of security initiatives at DOE nuclear facilities. We appreciate your being here.

The subcommittee will focus on several security matters at the Department of Energy's nuclear weapons laboratories, weapons production facilities, storage facilities, and environmental cleanup sites. The protection of nuclear facilities and weapons secrets is a priority for us and has been the subject of several subcommittee hearings over the years.

The Department has made several significant changes to its security policy in the year since the subcommittee's May 2004 hearing. For instance, last November, the Department made supplemental revisions to the Design Basis Threat, or DBT, that it had previously finalized in May 2003. The supplemental revisions to the DBT in October 2004 have significantly upgraded the characteristics of the postulated adversary. Consequently, additional security requirements will be necessary at each site.

These changes came about in response to extensive interagency discussions regarding the potential size and nature of the terrorists that may seek to attack a domestic nuclear facility. I welcome these additional changes, but I really would like to know how quickly each DOE and NNSA site will comply with these extensive new requirements. These upgrades will be expensive and they could take years to implement.

In the past, the conventional management response to increased security requirements was to hire a larger guard force. I am encouraged that the Department may consider a greater use of avail-

able security technologies that could increase security and reduce the cost of security management at each site.

At our May 2004 hearing, then-Deputy Secretary Kyle E. McSlarrow presented the subcommittee with a series of new security initiatives. Several of these proposals have already been completed or are under development, while some initiatives have not started. Mr. Glenn Podonsky, Director of Security and Safety Performance Assessment, will present testimony regarding the status of these initiatives.

I am particularly interested in the Department's efforts to consolidate nuclear materials across the complex, increase the use of new security technologies, and enhance protections to classified computer information. I would also note that Mr. Podonsky has been to my district on several occasions in the past few years to review safety matters in Paducah, at the Paducah site, and I welcome him here today.

Today, we will also hear from Ambassador Linton Brooks, Administrator of the National Nuclear Security Administration. Administrator Brooks has the responsibility for the weapons laboratories, including Los Alamos National Laboratory. Ongoing safety and security problems at Los Alamos are a serious concern for the committee. We have had numerous hearings on security, safety, and business management problems at Los Alamos. We hope Administrator Brooks and Lab Director Pete Nanos, who will also testify today, can explain how we can turn the tide on the bad news at Los Alamos.

This is the first of what I hope will be several hearings on the status of security at DOE nuclear facilities. Protection of nuclear materials within our borders is a critical line of defense against terrorists. In the future, I plan to focus on the DOE and NRC's efforts to secure sealed sources scattered across the country. These are radioactive materials found in a range of industrial equipment, including medical devices and devices used to gauge oil wells.

After today's third panel, we plan to move the hearing to a secure room where we can continue to discuss security matters in closed session with Administrator Brooks, Mr. Podonsky and Director Nanos. We look forward to your testimony today and thank you once again for being here.

At this time, Mr. Stupak is recognized for his opening statement.

Mr. STUPAK. Thank you, Mr. Chairman, and thank you for having this important hearing.

Today's hearing will be yet another glimpse by this committee into the myriad of issues surrounding the security status of DOE's weapons complex. I am very pleased to report that considerable progress has been made over the past 5 years. I remain concerned that a range of issues still requires attention by this committee, the Department of Energy, and the National Nuclear Security Administration. These matters, which I intend to delve into in closed session, will be the mainstay of this hearing.

I look forward to exploring with our witnesses why it is that we still haven't addressed certain known deficiencies at key sites and when we can expect some conclusions on these matters.

Mr. Chairman, as you know, there are a number of sites in this complex that receive very formidable attention. While I fully agree

that additional progress must be made to ensure that the DOE sites meet the new Design Basis Threat requirements, I intend to ask our witnesses to explain in detail where gaps remain.

For example, we will need to clearly articulate a list of top priorities needing attention and then offer a detailed explanation on what must occur to bring finality to these matters. Many of the problems that we have discussed today are the very same concerns that have plagued the complex for nearly a decade.

So let me pose to both to Mr. Brooks and Mr. Podonsky that you both succinctly tell us what is still vulnerable and why, what needs to be done to rectify any such vulnerabilities; and provide this committee with key dates on when it will get done.

During the course of this hearing, I am sure a number of key facilities and their security status will be discussed. I am also expecting that this committee will continue to examine this area and assess the ongoing progress throughout the next 18 months, as you have indicated, Mr. Chairman.

Mr. Chairman, I have urged that both of us personally visit a variety of these facilities as soon as possible. I would like to personally visit those sites where considerable progress has been made and those sites where there is considerable work going on. I would ask that Mr. Brooks work with us to set up such field visits in the near future.

If there is good news in today's discussion, it is the fact that the DOE complex, as compared to other potential targets across the United States, have considerably improved and are hardened. Of course, more can and should be done, and I will work with all parties to ensure that forward progress is made.

Nonetheless, as you know, over the course of the past 3 years, this committee has worked incredibly hard to address a range of other issues related to homeland security, specifically on the nuclear materials proliferation and smuggling fronts. It is my opinion that this Congress must be far more aggressive in addressing the many roles that DOE, the Department of Homeland Security, and NNSA are playing in that arena.

Specifically, I am interested in all aspects of how these agencies are securing the many sources of materials throughout the globe and the myriad of issues surrounding the identification and interdiction should such material fall into the wrong hands.

Mr. Chairman, this committee has already expended considerable time and effort on some of these matters, including spending considerable resources examining the roles DOE plays in setting up detection technology in foreign ports. In fact, as part of our effort, staff from this committee have visited almost 30 ports and border crossings to assess what kinds of equipment are being installed domestically to make sure there are no smuggled nuclear materials, and to assess what roles the national labs and DOE are playing in assisting the Department of Homeland Security in this capacity. It is my understanding that we will continue to work in this regard. I sincerely believe it is among the most important matters being addressed by this committee.

Finally, Mr. Chairman, it is my understanding that this committee will continue to examine these matters and that we will

soon hold additional hearings on these topics. I applaud the effort and will continue to lend my full support to this effort.

In closing, Mr. Chairman, I do have one housekeeping matter I would like to discuss. I note that Mr. Nanos from Los Alamos will be testifying today. I have a great deal of respect for his work and I look forward to his testimony. In particular, I am looking forward to hearing about how Los Alamos is progressing since the major events of last year.

Nonetheless, I do have documents that I hope he will be able to shed some light on. This is the White Paper which characterizes an audit by Mr. Don Brown. I know Mr. Nanos is familiar with this audit. Mr. Brown was apparently an auditor at that facility with considerable quality assurance, quality control expertise. Mr. Brown conducted a series of audits at Los Alamos; and according to this document, major issues involving quality control and quality assurance were found and may continue to plague the facility.

This document appears to have been created by an individual who, I am guessing, had at least some standing at the Los Alamos complex, at least enough to be allowed to do these kind of audits. I think we need more information on this matter, Mr. Chairman, and I would like to indulge your help in seeking some clarity about this audit.

I would also request that Mr. Nanos provide in writing a point-by-point response to each of the concerns laid out in this document. I assume this would not be too burdensome. While this may not be directly related to the site security, per se, I nonetheless believe that if the matters are true and they involve quality assurance and quality control issues, then those could indeed seriously affect how this lab is run and, ultimately, impinge upon both safety and security. I am hoping that Mr. Nanos will be able to provide the information to us and resolve this matter quickly.

Let me finish by again thanking you, Mr. Chairman, for having this hearing. I would greatly like to thank our witnesses, Mr. Brooks, Mr. Podonsky, who are certainly key players in this arena and both have been very supportive of the committee's work.

As the new ranking member of the subcommittee, I am indeed looking forward to working with you both over the course of this Congress. I would also again like to welcome Mr. Nanos from Los Alamos. As you know, while we do not always agree with some of the decisions made at your facility, I nonetheless look forward to working with you and appreciate the hard work you and your colleagues have put forth in the mission of protecting the United States and in the efforts of trying to get the facility back on track after the events of the last few years.

Finally, Mr. Chairman, I want to thank Ms. Brian from the Project on Government Oversight. Ms. Brian's organization has been a continuous source of information about what corrections are needed at the DOE complex. As always, we are pleased to be provided with her expertise and that of her organization, and I want to thank her for being here.

Mr. Chairman, I thank you again and yield back the balance of my time.

Mr. WHITFIELD. Thank you, Mr. Stupak.

Without objection, the document that the gentleman referred to will be made a part of the record, and we will ask that Mr. Nanos respond to those questions as you asked, and we look forward to his response on that.

[The information referred to follows:]

IN CONFIDENCE

Los Alamos
NATIONAL LABORATORY
memorandum
Audits and Assessments Division

To/MS: R.A. Marquez, ADA, A108
R. Mah, ADWEM, A107
From/MS: T.L. Brendlinger, DAA, A249
Phone/FAX: 665-3104/667-7340
Symbol: DAA/04-030
Date: September 2, 2004
Subject: Property Controls at TA-16

LACK OF PROCUREMENT AND PROPERTY CONTROLS AT TECHNICAL AREA 16 (CASE ID NO. 726)

The Audits and Assessments Division has completed a review of an allegation that the Laboratory failed to provide adequate controls over the purchase of 21 wooden sheds located in Technical Area 16 and the materials, supplies, and equipment stored in these buildings. The Engineering Sciences & Applications Division's Facility Management Group (ESA-FM) purchased the sheds from Mesa Equipment & Supply Co. (Mesa) in September 2001at a cost of $309,669.

The review disclosed significant weaknesses in procurement and inventory controls, enabling ESA-FM employees to circumvent Laboratory policies and procedures. As a result, ESA-FM employees made inappropriate purchases, and Mesa charged exorbitant prices for the sheds. Management should assess the consequences of these actions and determine whether disciplinary action is appropriate.

If you have any questions regarding the attached report, please call Gil Griego, Investigations Group Leader, at 5-6159 or Jim Kirkpatrick, Senior Auditor, at 5-9478.

TLB:jk

Cy: P.V. Reed, University Auditor, UCOP
J. Hirahara, Business and Finance, UCOP
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T. Forrester, SUP-1, M986
J.P. Johnson, CFO-DO, P119
S.P. Girrens, ESA-DO, P946
A.G. Jiron, SUP-DO, P201
Case 726 File
AA-4 Corresponence File
DAA Files

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Department of Energy review required before public release.
Name/Org: Terry Brendlinger, AA-DO, Date: 9/2/04.

IN CONFIDENCE

Los Alamos
NATIONAL LABORATORY
memorandum
Audits and Assessments Division

CASE 726
AA-4/04-048R

LACK OF PROCUREMENT AND PROPERTY CONTROLS AT TECHNICAL AREA 16 (CASE ID NO. 726)

Los Alamos National Laboratory
Audits and Assessments Division
AA-4/Investigations

R. Gil Griego, Investigations/AA-4

9-2-04
Date

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Exemption number and category: 2 – Circumvention of Statute and 5 – Privileged Information.
Department of Energy review required before public release.
Name/Org: Terry Brendlinger, AA-DO, Date: 9/2/04.

-IN CONFIDENCE-

AA-4/04-048R Case ID No. 726 September 2, 2004

ALLEGED LACK OF PROPERTY CONTROLS AT TECHNICAL AREA 16 (MANAGEMENT REFERRAL)

EXECUTIVE SUMMARY

Background
The Investigations Group (AA-4) of the Audits and Assessments Division has completed a review of an allegation that the Laboratory failed to provide adequate procurement and property controls over the purchase of 21 wooden sheds located in Technical Area (TA) 16 and the materials, supplies, and equipment stored in these buildings. The Engineering Sciences and Applications (ESA) Division's Facility Management Group (ESA-FM) purchased the buildings from Mesa Equipment & Supply Co. (Mesa) during September 2001 at a cost of $309,669. The sheds were being used by several KBR, Shaw, LATA (KSL) and Laboratory organizations to store a variety of items, including materials, supplies, furniture, equipment, records, and excess property. The allegation was based on concerns raised during a quality assurance audit conducted by the Performance Surety Division in May 2004.

Hypothesis/Allegations
Our preliminary review of the sheds and their contents raised the following concerns:

1. Storage sheds may not have been acquired or installed in accordance with DOE and Laboratory requirements (Procurement Impropriety);

2. Purchasing controls may have been bypassed in the acquisition of materials, supplies, furniture and equipment stored in the sheds (Procurement Impropriety);

3. Basic inventory controls may have been bypassed for items stored in the sheds (Lack of Internal Controls); and

4. Tools stored in the sheds may not have been appropriately marked and controlled through the KSL ToolWatch system (Lack of Internal Controls).

Conclusions
1. The storage sheds were not acquired or installed in accordance with DOE and Laboratory requirements. Specifically:

    - The sheds were inappropriately acquired outside the scope of Mesa's subcontracts. The subcontracts were awarded for the purchase and repair of air compressors and machine tools—not the purchase or installation of storage sheds.

- The sheds should have been subject to DOE requirements governing General Plant Projects (GPP) because the cost of the sheds exceeded the GPP threshold of $300,000.

- ESA-FM did not obtain Laboratory required space/site approvals before the sheds were installed.

- We identified $159,860 in questionable costs, including $56,385 above the manufacturer's current base price for the sheds: $55,275 for installation costs, even though the manufacturer's base price included installation; and $48,200 for upgrades that were not received.

2. ESA-FM bypassed Laboratory purchasing controls to inappropriately acquire materials, supplies, furniture, and equipment to be stored in the sheds. We found that:

- ESA-FM spent more than $2 million in organizational support funds in the last two months of FY 2001. The group averaged about $386,000 monthly during the first 10 months of FY 2001; however, it spent about $709,000 in August and about $1,384,000 in September (see **Attachment 1**).

- In September 2001, ESA-FM purchased $573,000 in materials, supplies, furniture, and equipment from Mesa, most of which were outside the scope of Mesa's subcontract. Also, the group acquired many of the items for use by Johnson Controls, Northern New Mexico (JCNNM), now KSL, to perform maintenance on ESA facilities, rather than ESA project uses.

- Mesa's subcontract was poorly written and did not include common internal control provisions, such as unit prices, names of individuals authorized to make releases, and ceiling prices of releases. Thus, the Laboratory had little control over procurements made under this subcontract.

- The subcontract did require the Contract Administrator's prior approval for purchases exceeding $5,000; however, approvals were not obtained.

- A subcontractor employee, who was a personal acquaintance of Mesa's sales manager, placed all orders and acknowledged receipt of all items ordered from Mesa on ESA-FM's behalf. ESA-FM gave the subcontractor employee the authority to order and receive materials in any dollar amount without independent review or approval. This was a major internal control weakness.

- Some of the items purchased in September 2001 have not been used and are currently stored in the sheds.

3. Materials and supplies in the sheds were not subject to basic inventory and property controls. Access to the sheds was spread over 4 organizations, with up to 22 keys being issued to some of the organizations. Also, we found a lawn tractor, portable air compressor, radial arm saw, and cable puller stored in or around the sheds that should have been bar-coded and entered into the Laboratory's Sunflower inventory system.

4. We found numerous tools and other equipment in the storage sheds and surrounding areas that were not marked with a ToolWatch® number[1]. The KSL process is to control tools by identifying each item with a unique number and assigning each tool to individual craftsman.

Recommendations

1. The Associate Director for Administration, with assistance from the Supply Chain Management Division, the Chief Financial Officer, and Laboratory Counsel should:

   a. Determine whether the $159,860 questioned in this report is unallowable; refund the amount determined to be unallowable to DOE; and seek recovery from Mesa.
   b. Require SUP-1 to comply with all requirements included in their procedures for blanket subcontracts (reference SP 16.2, *Blanket Subcontracts*). Prohibit all requesters from placing orders directly with a vendor unless they are specifically delegated the authority to issue releases against the blanket subcontract. Also, require segregation of duties between ordering and receiving materials and supplies. In addition, establish a process to ensure contract administrator approval for items priced at $5,000 or more on future blanket subcontracts. Finally, out-of-scope purchases should be prohibited.
   c. Require all Laboratory organizations to immediately cease acquiring materials, supplies, and equipment for use by KSL craft workers.
   d. Require KSL to:
      i. Establish a common work order process to purchase materials, supplies, and equipment. All deliveries should be to the KSL central receiving docks, located in TA-60-0002.
      ii. Take custody of all power tools and other non-controlled equipment items located in the TA-16 storage sheds and apply them to their operations. All tools used by craftsmen should be inventoried and entered into the ToolWatch system.
      iii. Conduct a Laboratory-wide inventory of all materials and supplies acquired for use by craftsmen and control them in accordance with Federal and DOE regulations.

2. The Division Leader, Engineering Sciences and Applications should monitor employee performance to ensure compliance with the Laboratory's procurement

[1] ToolWatch is an application used to determine the location of tools or equipment assigned to an employee.

and inventory policies, procedures, and practices, and to monitor year-end spending to avoid unnecessary costs.

DETAILS

Allegation 1: Storage sheds located in TA-16 were not acquired or installed in accordance with DOE & Laboratory requirements.

ESA-FM acquired 20 sheds in September 2001 with organizational support funds (program code XF70). The 21st shed was acquired in October 2001 and charged to the ESA Weapon Materials and Manufacturing Group using program code CRF1, HE Facility. Two subcontracts with Mesa were used to buy and install the sheds. (See **Attachment 2** for a photograph of the sheds.)

Blanket subcontract no. 24329 was used to purchase the storage sheds from Mesa at a cost of $232,785.00. This subcontract was also used to purchase shelving for the sheds at an additional cost of $21,608.75. We were informed that this subcontract was intended to be a short-term award, and it was supposed to be re-issued as a Just-in-Time (JIT) subcontract. However, the subcontract was never cancelled, and in fact, it was increased from an initial award of $100,000 to a final amount of $2,700,000. The period of performance was November 1, 2000 through October 31, 2002. The subcontract was based on an unsolicited proposal.

A Mesa letter to Laboratory management, dated November 8, 2000, refers to a March 2000 conference on developing Northern New Mexico. In this letter, Bryant Roybal, an employee of ESA-FM, was mentioned as assisting Mesa in identifying "the unfilled needs of the labs and match them with the strengths of our company." After other contacts with Laboratory personnel, Mesa submitted an unsolicited proposal. There is evidence in the purchasing file that Laboratory senior management was aware of the unsolicited proposal and the subcontract, and in fact, supported this effort. The blanket subcontract was for Laboratory-wide use to acquire air compressors, vacuum systems, machine tools and machine shop supplies. All Laboratory personnel were authorized to order against this subcontract.

Laboratory policy, as contained in "Procurement Supplemental Instructions" (SI) 16.2, *Blanket Subcontracts*, provides that these subcontracts must contain certain elements including unit prices, delivery instructions, and names of Laboratory personnel authorized to make releases. None of these elements were included in the subcontract. We were told that the intent was to make an initial award to Mesa and then have Mesa compete for a JIT subcontract.

The contract administrator stated that requesters placed all orders with Mesa, and the purchasing group did not place any orders with Mesa. She also stated that Bryant Roybal placed the order for the storage sheds.

The Laboratory procurement policy as contained in *Procurement Standard Practices (SP) 15.6*, "Cost or Price Analysis," states, "Supplies and services shall be obtained from responsible sources at fair and reasonable prices. This SP applies to all subcontracts." The Laboratory has an obligation to determine that the price paid for every subcontract is fair and reasonable. Normally an agreed-to price would be included in a blanket subcontract; however, in this case, this did not occur. Mr. Roybal stated that Mesa developed the price for the sheds and he just ordered the desired quantity. Roybal stated that he was not aware of any price breakdown or price analysis by the Laboratory. The contract administrator confirmed that a price analysis was not performed on the sheds. The purchasing files did not contain any pricing detail on the sheds, other than copies of the invoices.

Mesa purchased the sheds from Tuff Shed, a commercial supplier of storage buildings, garages, and carports. The base price charged to the Laboratory for each shed was $8,255, plus options for a total unit price of $11,085.00. Based on a telephone quote we received from the Tuff Shed distributor in Albuquerque, NM on July 26, 2004, the current base price (without options) for a building of this size was $5,570, or $2,685 less than the price paid by the Laboratory. The excess cost impact to the Laboratory was $56,385 (21 sheds @ $2,685).

The price included an upgrade to 16-inch center joist at $200 per building, a feature that was not installed in the sheds. Rather, the sheds were installed with 24-inch center joists. The overpayment by the Laboratory for 21 sheds is $4,200 (21 @ $200).

Another upgrade in the price was a $2,200 charge per building for additional fire protection paneling. We were told this upgrade was necessary for building #948, which became the repository for ESA records storage. This upgrade was installed in building #948. However, it was not installed in the other 20 sheds. The overpayment by the Laboratory is $44,000 (20 @ $2,200).

In summary, we identified the following questionable costs for subcontract #24329:

Excess purchase cost	$56,385
16-inch center joist not received	4,200
Paneling upgrade not received	44,000
Total	$104,585

Time & Material subcontract no. 24331 was used to pay Mesa to install the storage sheds at a cost of $55,275. Twenty sheds were charged to program code XF70 in FY 2001 totaling $53,277.60, and one shed was charged to program code CRF1 in FY 2002 at a cost of $1,997.91. This subcontract was to provide for the repair of the air compressors, vacuum systems, and various machine tools.

According to individuals we interviewed, Tuff Shed personnel installed the sheds during the first half of October 2001. The Laboratory was billed for the installation of the sheds at a rate of $79 per hour. According to the subcontract terms, this rate is for the repair of

hoists and machine tools, and it is the highest rate in the subcontract. The hourly rates varied from $58 to $79, depending on the equipment to be serviced.

The Tuff Shed home page states, "Our quality, professional construction crews will assemble your building at no additional cost." We asked Mr. Roybal why the Laboratory paid for installation of the sheds since Tuff Shed normally installs its sheds at no additional cost. Mr. Roybal stated that he did not know Mesa had billed the Laboratory for installation costs. He said he thought the shed price included installation, and he was not aware that Mesa had sent the Laboratory an invoice for installing the sheds. When showed the invoice, which he had signed for payment, he said it must have been in a pile of invoices and he signed it without realizing what he was signing.

The ESA-FM group leader also did not realize the Laboratory was billed for installation costs. Further, the contract administrator did not realize this subcontract was used for installation until we showed her the invoice. There was no evidence in the procurement files to explain why this subcontract was used to pay for the installation of the sheds.

We question the reasonableness of the $55,275 paid to Mesa for installation costs.

Cost of sheds and GPP consideration. The *Financial Management Handbook* section on Operating-Funded Construction Activities states "Projects estimated to cost more than $300k are reviewed on a case-by-case basis by PM to determine whether there is a significant betterment to an existing property. If it is determined that the project results in a significant betterment, it will be funded using GPP funds." We determined that the storage sheds cost at least $309,699; however, it was not subjected to a GPP funding evaluation. The following costs were identified:

Purchase price	$232,785.00
Shelving	21,608.75
Installation	55,275.51
Total	$309,669.26

In addition to the costs identified above, we determined through interviews with ESA-FM employees that JCNNM personnel delivered base material for the sheds and a retired ESA employee performed some of the site preparation work. However, we were unable to locate a work order for any of this effort in order to quantify costs.

Space and site approval. Laboratory policy, as contained in LIR & LPR series 210, requires that space and site approvals be obtained prior to construction or installation of new facilities to ensure compliance with Laboratory safety and security requirements. However, the Laboratory space and site approval process was not followed for the storage sheds. According to information obtained during our review, space approval was given on March 2, 2002, and site approval was given on January 15, 2003, after a special review of the sheds was conducted by the ADO. While the ADO acknowledged that a special review was conducted in FY 2002, the ADO staff could not locate a copy of a report or formal presentation on the results of the review.

Allegation 2: Purchasing controls were bypassed in order to spend available year-end funds.

ESA-FM spent more than $2 million in organizational support funds during year-end FY 2001, due to a lack of budgetary control and out-of-scope purchases through Mesa subcontract #24329. The group had been averaging $386,000 monthly in organizational support spending (program code XF70) for the first 10 months of FY 2001; however, it spent $709,000 in August and $1,384,000 in September 2001 (see **Attachment 1**). A large portion of this increase was due to increased purchases being made for materials, supplies, and equipment. For instance, the purchase orders for the year totaled $907,000, of which over $724,000 was attributable to September 2001 spending. Orders from Mesa accounted for $573,000 of the September 2001 figures.

A factor contributing to the September 2001 purchasing was that ESA-FM received an additional $516,500 internal budget allocation during the month. This amount had initially been allocated to ESA-FM, but there were some concerns as to whether the funding stream during the first half FY 2001 would support the full budget. The division withheld $516,500 during the year, and then reallocated the funds back to the XF70 budget in September. In order to spend these funds, a contractor employee, Bryant Roybal, was given the task of coordinating ESA and JCNNM/KSL requirements and buying what was needed to fulfill both organizations' needs in TA-16. In addition to spending $296,586 on the sheds, ESA-FM also spent $276,319 during September 2001 for purchases of equipment from Mesa as follows:

Heaters and office chairs	$ 23,627
Snow blowers, compressors, parking barricades, and generators	147,214
Compressors, bender, and carpenter shop equipment	105,478
Total other than sheds	$276,319

Most of these items appear to be out-of-scope purchases. Also, as stated earlier, Mesa's subcontract did not include common internal control provisions, such as unit prices, names of individuals authorized to make releases, and ceiling prices of releases. Thus, the Laboratory had little control over procurements made under this subcontract.

The contract did require the Contract Administrator's prior approval for purchases exceeding $5,000; however, approvals were not obtained for any of the purchases we reviewed, including the storage sheds.

A subcontractor employee, Bryant Roybal, placed all orders and acknowledged receipt of all items ordered from Mesa on ESA-FM's behalf in FY 2001. ESA-FM gave Mr. Roybal the authority to order and receive materials in any dollar amount without independent review or approval. Additionally, during an interview with PricewaterhouseCoopers

personnel, Mr. Roybal stated he was a personal acquaintance of Mesa's sales manager, Robert Garcia. The lack of supervision over Mr. Roybal's activities, coupled with his relationship with Mr. Garcia, was a major internal control weakness in the procurement process.

We did not pursue the potential conflict of interest involving Messrs. Roybal and Garcia, because this was not within the scope of this review.

Some of ESA-FM's organizational support funds were also spent on materials and supplies from Laboratory JIT vendors, including Frank's Supply, Summit Electric, and Dahl Plumbing. These were materials and supplies that would be used by JCNNM, now KSL, to support ESA maintenance operations in the future. According to personnel interviewed, some of these purchases comprise the stock currently stored in the storage sheds.

Allegation 3: Basic inventory controls were bypassed for items stored in the sheds.

ESA and JCNNM/KSL used the TA-16 storage sheds to store routinely used items or property such as maintenance supplies, records, furniture, and excess computer equipment. The only exception was building #950, which was also used to store equipment purchased for future use.

Building access. At the inception of this investigation, access to the 21 storage sheds was spread over 4 organizations, with up to 22 keys being issued to some of the organizations. AA-4 personnel performed a cursory review of the sheds and, on May 24, 2004, on the advice of the Associate Director for Administration, removed the existing locks and secured the sheds with new locks pending a more thorough evaluation of their contents. These actions were coordinated with ESA and Facility & Waste Operations Division management. After completion of a complete review of the contents of the sheds by the Laboratory's Property Management Group, custody of the sheds is being returned to ESA.

Materials and Supplies Withdrawals. Interviews with KSL electrical foreman indicated they withdraw materials and supplies from the sheds on an as-needed basis, but no records are kept as to what has been withdrawn. During an interview with the KSL area manager for TA-16, it was confirmed that access is widespread and that there are no inventory records maintained on the shed contents. The former ESA-FM group leader told us the building contents were purchased with Laboratory funds and KSL crafts were using the supplies in lieu of purchasing new materials. A KSL manager estimated the value of the materials and supplies in the sheds between $500,000 and $1 million. On a Laboratory-wide basis, KSL management estimated the value of materials and supplies in various storage locations to be about $4 million. In fact, this was the figure KSL was working with when they took over the contract from JCNNM.

Inventory of sheds. An inventory taken by Supply Management property personnel during June 2004 of the sheds and surrounding areas disclosed the following:

	Quantity	Notes
Bar-coded items	42	
Decontrolled items	27	
Requires additional research	45	(1)
Do not require bar-coding	557	(2)
Requires bar-coding	4	(3)
Total	675	

(1) Building 950 contained several new items to be used in a carpenters' shop (table saw, drill press, planer, sander, jointer) acquired by Mesa from *Powermatic Corp.* (See photograph at **Attachment 3**.) The Laboratory purchased these items from Mesa in September 2001, at a cost of $22,330, and the items have been in storage since that date. We were told by ESA-FM that this equipment would be installed in building 969 in the near future.

(2) These items do not meet the criteria for administratively controlled property. Additionally, we located power tools, generators (one used, one new), stepladders, shovels, vacuum cleaners, etc. in buildings 950, 953, 961, 965, 966, 967, 968, and in external locations around the storage sheds that were not marked as Laboratory/KSL items.

(3) These items should have property bar codes:

- John Deere lawn tractor with blade (value $5,149) purchased from Desert Green Equipment, Albuquerque, NM.
- Portable air compressor purchased for $24,900 from Mesa on September 27, 2001 (Mesa invoice no. 093001S). Property number 1144605 has been applied to this item.
- A Greenlee model 855-cable bender was purchased from Mesa on September 27, 2001, at a cost of $10,119. Property number 1144604 will be applied to this unit. This item is currently available from another vendor at a price of $6,923.
- A Delta radial arm saw, model 33-400, purchased for $5,789.96 from Mesa on September 27, 2001. This item is in building 950 and has never been placed in service. This model is currently available from other vendors from $5,185 to $5,200. It is not evident if shipping costs were included in the Mesa price. Property number 1144602 will be applied.

During our investigation, the Laboratory's Property Management Group (SUP-2) conducted a complete review of the storage area at TA-16 Buildings 948 through 968 and the surrounding area. The review resulted in several recommendations for corrective actions and improvements in property management practices. The report was addressed to the ESA Division Leader (SUP-2:04:104).

Policy. The DOE policy on inventory and related property items is contained in *DOE Accounting Handbook*, Chapter 9, "Accounting for Inventory and Related Property," which states:

"1) All DOE inventory and related property shall be controlled to ensure compliance with Federal requirements for prevention of waste, fraud, and mismanagement of resources.

(2) Inventory and related property under financial control shall be recorded as assets in balance sheet accounts from the time of acquisition until issued for use, sold, consumed, or disposed of in the normal course of operations.

(3) Inventory and related property controls shall include completion of physical counts at prescribed intervals and, when appropriate, control by use of perpetual records. Physical counts and quantity records shall be reconciled and adjusting entries prepared to bring physical and financial records into agreement. If products are too hazardous or inaccessible for a physical count, alternative means (such as perpetual records and measuring techniques) shall be used to establish quantities."

The *DOE Accounting Handbook* also provides the following guidance on establishing controls over inventory:

> "If an inventory or related property account does not already exist, it may be established with financial or stock controls when usage of an item is frequent enough that it becomes cost beneficial to stock quantities of the item rather than purchase it for direct turnover. This should be based on cost-benefit studies of requirements or statutory or oversight agency requirements. SFFAS No. 3 requires both disclosure of decision criteria for identifying categories to which inventory and materials are assigned as well as disclosure of changes in those criteria. Categorizing by criteria begins with initial acquisition and runs through the entire process until final disposition of inventory or related property. Inventory and material managers are a part of the criteria decision making process, they must monitor usage data and other factors to determine when an inventory should be established or an asset added to an established inventory and convey this information to appropriate financial staff. If inventory poses a danger to the environment or is subject to pilferage, misuse, or destruction, an inventory stock level should be established for management and control purposes even though usage may be low. Whether a physical inventory is established with or without financial inventory control will depend on cost-benefit, risk, and other factors."

Allegation 4: Tools stored in the sheds were not appropriately marked and controlled through the KSL ToolWatch System.

The storage sheds contained several power tools, generators, ladders, shovels, and other items that were not marked with a ToolWatch number. To determine if this condition went beyond the sheds, we also reviewed tools and equipment at other ESA locations in TA-16, with the following results:

- On a random basis, we inspected the tools located in service vehicles assigned to electricians. Eight power tools, plus approximately 8 to 10 ladders were located. None of these items were marked with a ToolWatch number.

- We inspected the electricians' power tools stored in two gang toolboxes located in building 202. There were approximately 50 to 60 tools in these containers; none of which were marked with a ToolWatch number. There were also three or four pieces of freestanding shop equipment in the main work area that were not marked with Laboratory or KSL numbers.

- At TA-16/951, we found a DeWalt cordless saw in vehicle #65597, assigned to the carpenter shop in TA-16, which did not have a ToolWatch number.

- We found the following items inside TA-16/203 without ToolWatch numbers: A new DeWalt sander in an unopened box; five new snow blowers (4 John Deere, 1 Yardman); and one used Yamaha generator.

- Outside building TA-16/209, we found five new John Deere snow blowers that were not marked with Laboratory or KSL numbers.

In addition, we inspected several vehicles assigned to KSL crafts located in TA-3. These crafts operate out of a central building, servicing several adjacent technical areas. We found that all of the tools in the service vehicles were marked with a ToolWatch number and were assigned, accountability-wise, to a craftsman.

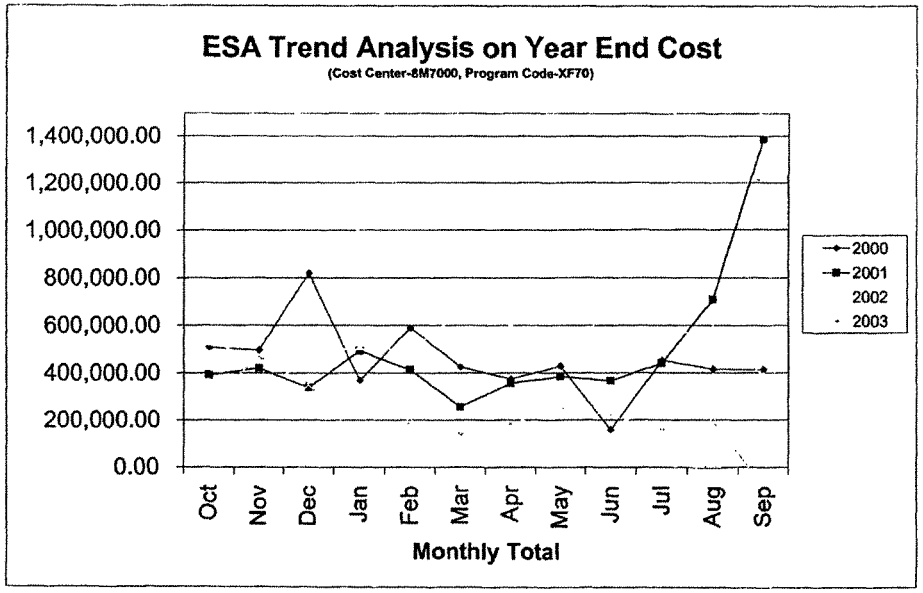
We were informed that whenever a craftsman in TA-16 needed a tool, the ESA-FM group would order and pay for the requested item. This practice has generally ceased, as KSL is now ordering all materials, supplies, and tools for their crafts.

Given the lack of procurement and inventory controls over tools and equipment, we cannot ensure management that all items have been accounted for and no items are missing in the sheds.

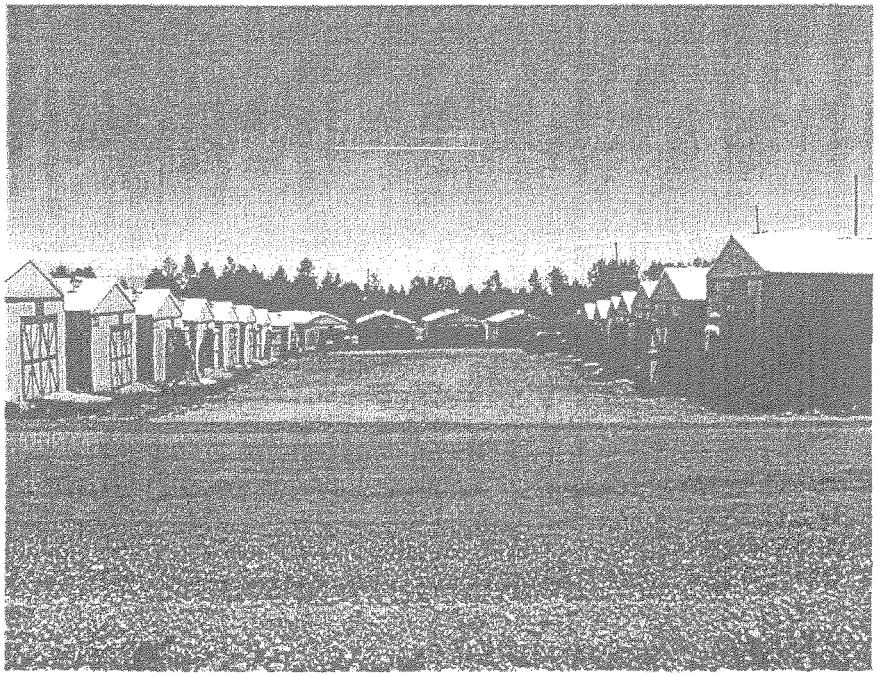
Attachments
Attachment 1: ESA Trend Analysis on Year End Cost
Attachment 2: Photograph of Storage Sheds at TA-16
Attachment 3: Photograph of Building 950

Data Warehouse Monthly Summaries

	Budget	Yrd	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2000	4,896.80	5,449,650.53	507,757.12	495,069.50	820,568.67	367,963.80	548,725.07	428,064.57	374,416.53	428,616.85	157,251.18	453,110.38	416,332.66	413,762.34
2001	6,372.70	3,955,197.38	391,786.37	421,118.94	338,194.06	493,627.50	413,748.74	255,725.01	355,948.15	364,938.42	366,300.52	440,968.83	708,634.59	1,384,206.25
2002	5,997.80	5,495,915.88	532,004.68	455,572.15	470,123.72	512,326.21	491,645.93	658,384.03	601,957.15	712,566.91	540,108.10	550,033.82	587,404.34	386,789.04
2003	2,462.50	2,465,225.68	281,990.27	468,566.64	350,848.86	114,412.43	190,873.38	136,573.90	183,295.20	250,838.26	218,969.82	155,596.56	191,088.82	(77,428.08)



Photograph of Storage Sheds at TA-16



Mr. WHITFIELD. At this time, I will recognize Dr. Burgess for his opening statement.

Mr. BURGESS. Thank you, Mr. Chairman, and thank you for calling the hearing. I will waive the opening statement. I have one I will put in the record, but in the interest of time and hearing from the witnesses, I will submit that for the record.

[The prepared statement of Hon. Michael C. Burgess follows:]

PREPARED STATEMENT OF HON. MICHAEL C. BURGESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you Mr. Chairman, and thank you for having this important hearing.

At this time in American history, our national security has become the most important issue facing our nation. It is critical that we do everything within our power to ensure that our nuclear weapons are highly secured and protected. We cannot allow our national security to be compromised because of inadequate safeguards that are poorly implemented. The recent security incidents at the Los Alamos National Laboratory illustrate that changes must be made to guarantee the safety of weapons and top clearance material.

I share my colleagues' deep concern with regards to the safety of nuclear sites in America and abroad. I look forward to the opportunity to review both the security status of nuclear weapon facilities and discuss security initiatives that can be implemented to better ensure that our nation is protected. I also hope that additional insight can be provided regarding the security matters at Los Alamos.

Again, Mr. Chairman, I thank you for this crucial hearing in which we can address some of these essential concerns regarding nuclear facilities and the security of our nation.

Mr. WHITFIELD. Thank you very much. At this time, I recognize Mr. Inslee for his opening statement.

Mr. INSLEE. Thank you. I just wanted to thank the Chair for his continued interest in this, because trust of the public is really paramount here, and we have some work to do to get to the level we need. Thank you.

Mr. WHITFIELD. I would also note that all Members will have 30 days to submit their opening statements for the record. The Chairman of the Energy and Commerce Committee, Mr. Barton, was not able to be with us today but did want me to emphasize his interest in this subject matter and that he will be submitting his opening statement as well.

[The prepared statement of Hon. Joe Barton follows:]

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

I thank the Chairman for holding today's hearing on security at the Department of Energy's nuclear facilities.

At the Subcommittee's DOE security hearing last year, DOE announced several important security initiatives. I look forward to testimony from Mr. Podonsky and Administrator Brooks on the status of each of these initiatives. I recently wrote to the new Secretary, Mr. Bodman, regarding these initiatives. I hope he will support them and ensure the Department follows through on all of them.

I also look forward to testimony from Los Alamos Director Pete Nanos. This past year has been another difficult year for the Lab. Last fall, Director Nanos told me that the recent stand-down at Los Alamos would cost the taxpayers $100 million. I was not convinced this would be the final figure, and DOE now estimates the cost of the stand-down at $370 million.

I supported the stand-down because of the severity of the security and safety problems at Los Alamos. However, the necessity for the stand-down and its duration are the direct result of recurring mismanagement by the University of California, and I believe UC should pay at least some of the stand-down costs.

The University of California's repeated mismanagement of security and safety matters has been the topic of several oversight hearings. At each hearing, the uni-

versity promised to fix the mismanagement, but these promises never seem to get implemented.

I hope Director Nanos can explain a recent audit report that discovered 21 unauthorized sheds built at Los Alamos to store millions of dollars of supplies and equipment that seem to have been accumulated by circumventing normal inventory controls.

Structures stashed with shiny new gear that is available to vanish without being missed—does this sound familiar? It should. The Subcommittee held three hearings in the Spring of 2003 that revealed weaknesses and outright fraud in procurement and inventory controls at Los Alamos.

In my opinion, it is just not fair to continue asking the taxpayers to pick up the tab for the university's ineptitude.

Probably the only real opportunity to begin to solve the problems at Los Alamos is to hire a new contractor, and I support DOE's decision to re-compete the Los Alamos contract.

I look forward to today's testimony, I thank the Chairman and I yield back.

Mr. WHITFIELD. At this time, I will recognize the witnesses. Our first panel includes, as I have already indicated, the Honorable Linton Brooks, who is Administrator of the National Nuclear Security Administration; and Mr. Glenn Podonsky, who is the Director of the Office of Security and Safety Performance Assurance at the United States Department of Energy.

As you know, it is the custom with our Oversight and Investigation Subcommittee to ask that the witnesses testify under oath, and advise you that also have a right to counsel if you wish to do that.

So I would ask both of you, are you willing to testify under oath this morning?

Mr. BROOKS. Yes, sir.

Mr. PODONSKY. Yes, sir.

Mr. WHITFIELD. Do either of you prefer to have counsel with you.

Mr. BROOKS. No, sir.

Mr. PODONSKY. No, sir.

Mr. WHITFIELD. Then, if you will rise.

[Witnesses sworn.]

Mr. WHITFIELD. Thank you. You are now sworn in, and at this time, I would call on Mr. Brooks for his opening statement.

TESTIMONY OF HON. LINTON F. BROOKS, ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION; AND GLENN S. PODONSKY, DIRECTOR, OFFICE OF SECURITY AND SAFETY PERFORMANCE ASSURANCE, U.S. DEPARTMENT OF ENERGY

Mr. BROOKS. Thank you, Mr. Chairman, and thank you for this opportunity to discuss this important issue. Before I give my opening statement, I would like to associate myself with the remarks of your ranking member. I would very much like to have members of this committee visit our facilities. They are large, they are complex, and it is a case where a visit is worth a thousand words.

I would be happy in the question period to answer questions on the broader subject of materials and would also be willing to do that at a later date.

I want to cover three areas, and I am abbreviating, with your permission, my formal statement. I want to talk about what we have done to improve physical security, to improve classified material security, and to improve Federal supervision of our contractors.

My basic message is simple. While we still need to improve, none of the national security assets entrusted to NNSA are at risk, and our security program is robust and effective. Physical security has been focused on the need to respond to the increased threat that you mentioned, Mr. Chairman, in your opening statement.

In May 2003, the Secretary approved the Design Basis Threat that increased the number and sophistication of attackers. We are scheduled to meet the Department's requirements to be fully compliant by the end of fiscal year 2006. In May of last year, we undertook a review of threat intelligence, and we made changes for still further enhancements and will meet this new standard by the end of fiscal year 2008.

We will be happy to discuss in closed session the intelligence that led us to those changes and what the changes are and the degree to which or the difficulty we will or won't have in meeting them.

In general, what we have done is, first, increase the number of uniformed protective forces and improved their weaponry. We have added barriers, we have closed roads, we have increased security patrols, we have increased access controls, and we have enhanced employee awareness of threats.

Now, our near-term solutions relied on the application of more guards and more guns. Those are costly measures we cannot afford to apply indefinitely, so we are also focusing on consolidation of special nuclear material, primarily right now within sites, but ultimately, by eliminating material at sites, and on the increased use of technology.

At the Y-12 plant, construction of a Highly Enriched Uranium Materials Facility has begun and is scheduled for completion in April 2008. That will lead us to consolidate all the special nuclear material in an exceptionally secure facility. It will be ultimately matched with a processing facility that will be within the same security perimeter and connected by an underground passageway so it is an effective single site. In the interim, the site has done some innovative efforts to use containers to form de facto forts in order to slow the potential path of an attacker.

At Los Alamos, we have removed nuclear material from five facilities since 2001. We are moving material from Technical Area 18 to a facility at the Nevada test site. Technical Area 18 will be empty of Category I and II special nuclear material by later this year.

At Sandia National Lab we will shut down the Sandia Pulsed Reactor in 2007, and that will end operations with special nuclear materials at Sandia.

Over the longer term, we have charged a congressionally mandated weapons complex review with looking at how we might end plutonium operations at Livermore while maintaining their capability to participate in the stockpile stewardship. These findings will be available in late April.

Now, consolidation is important, but it alone is insufficient. America's strength is technology, so we are deploying advanced concept armored vehicles, we are deploying remotely operated weapons systems, we are beginning integration of smart camera systems into security, and we are implementing new vehicle detection systems. In the longer term, we are looking at additional ac-

tive denial systems, more remotely operated weapons and more advanced detection systems. Finally, we are working with Mr. Podonsky's office to expedite the fielding of technology we had developed in the past but not fully implemented.

Now, consolidation and technology help, but security will always depend on well-trained protective forces. We are going to try to reduce the reliance on protective forces, but we will never eliminate it. Most of our protective forces are dedicated and competent but we have had problems.

Three years ago, for example, at Sandia, we had security officers sleeping on duty, we had incidents of racial tension, and we had an unprofessional attitude. Under our direction, Sandia took major steps to improve the leadership. To make sure they were adequate, I commissioned a retired Air Force major general to go out and personally observe the steps Sandia was taking. Based on his reports, my reports, and those of my observations, I think performance and morale at Sandia, in the protective force, are remarkably improved.

We have also had problems with lost keys. Keys didn't allow access to classified material or special nuclear material, but their loss showed—there were a series of incidents about 2 years ago that showed that security procedures needed improvement. Basically, we had too many keys. And so we are now in the process of moving to a keyless environment. At the Y-12 plant, we have reduced the number of keys by 85 percent.

Finally, working with Mr. Podonsky, we are working toward the creation of a true elite paramilitary force among our guards. Progress is steady but uneven. For example, Mr. Podonsky discovered substandard performance by the protective force at the Nevada test site last summer. The site manager was sufficiently concerned to turn over routine operation of her site office to her deputy and take personal supervision of the recovery plan.

Security of nuclear materials has to be matched by security of classified information. We have initiated efforts to reduce classified holdings at all facilities. Classified information for us is not just documents and computer disks but also a large number of classified parts. At Y-12, we have moved a million pounds of classified material to long-term secure storage.

In July of last year, Dr. Nanos, Director of Los Alamos, imposed a stand-down on essentially all operations at the lab. He did that because of a series of safety and security problems, including an inability to locate two classified computer disks. Three separate investigations have now convinced us that the missing disks never existed, but those investigations revealed significant security management problems. In essence, the problem is, it took us several months to realize what happened.

I provided the committee a copy of the report the former Deputy Secretary and I prepared, and a copy of the letter outlining the significant fee reduction imposed on the University of California for this decision. As a result of these problems, the Department has tightened restrictions on accountable classified material throughout the complex. We now require these items be maintained in centralized lending libraries with a formal checkout procedure and full-time trained custodians.

Once again, the key, however, is to reduce the amount of material. Los Alamos, for example, has reduced from over 90,000 pieces of accountable removable electronic media to about 23,000. We are now in the process, however, of enabling further reductions by working toward a so-called "diskless computing environment," where classified computing does not depend on removable hard drives, removable Zip drives.

When I came to this position 3 years ago, I became concerned that I did not have enough competent Federal security professionals. In March 2003, I asked retired Admiral Hank Chiles to look at our approach to staffing. As a result of his work, we are trying to revitalize the Federal security workforce. We are improving formal training and certification of security officials, we are about to implement an intern program to recruit for the long term, and we are improving training and management.

Under the structure that I have created, supervision of contractors is carried out by Federal site offices located at each of the eight NNSA facilities. Last summer, when the investigation at Los Alamos revealed significant security problems, I became concerned because the problems came as a surprise to the site office. This was in sharp contrast to the safety problems, where the site office had, I submit, at least as good an understanding as the laboratory and probably better.

Then, when we had the poor inspection at Nevada, I became concerned because the results were a surprise to the site office. I wasn't concerned that the inspection went poorly—if inspections never go poorly, they aren't tough enough—but I was concerned that my people were surprised by the result.

So I led a team of senior officials to visit each of my sites to look in depth at how we were providing our supervisory responsibility. I concluded I needed to fix four areas: I needed to fix leadership, I needed to fix the numbers and training of our security experts, I needed to improve hands-on involvement, and I needed to provide more help from headquarters.

I replaced two of the six senior site security officials. I had previously replaced one other. Some of my site managers had a tendency to think of security as somebody else's problem; I have corrected that misperception. We are working on improving training and qualification, and we are increasing the number of security professionals at the site offices.

I also became concerned with the way we were providing our supervision. In safety, we get out into the facility a lot. In security, we have a tendency to review reports. So we are gradually trying to move toward a more day-to-day, hands-on approach.

Finally, my only way to know my site offices were doing well was when Mr. Podonsky came every other year with a full-scale inspection. I concluded that I needed more frequent feedback. So I'm establishing an office to assess and validate security performance and provide assistance to the site managers as a supplement to what Mr. Podonsky does. I believe the steps we have put in place will improve our supervision of security, but I won't know that for a few more months.

Mr. Chairman, we remain committed to maintaining the security of the facilities and the materials and the information we guard.

I am as confident of the security of our facilities as at any time in my tenure. I am not, however, satisfied. It is essential we continue the improvements we have under way. Only by doing so can we ensure long-term security.

Thank you, and I look forward to your questions.

[The prepared statement of Linton F. Brooks follows:]

PREPARED STATEMENT OF LINTON F. BROOKS, UNDER SECRETARY FOR NUCLEAR SECURITY AND ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION

INTRODUCTION

Mr. Chairman, members of the Committee, thank you for this opportunity to address security at the National Nuclear Security Administration's nuclear weapons research and production facilities. I would like to cover three major areas:

- NNSA's progress on improving physical security
- NNSA's progress on improving the security of classified material
- NNSA's progress on improving Federal supervision of contractor security operations.

It is important to recognize that there are other important security areas such as material control and accounting, the management of personal security clearances and human reliability, counterintelligence, and cyber security. Mr. Podonsky and I would be happy to respond to questions in these areas but because they have not been contentious I will not cover them in my statement.

Let me begin by stating none of the vital national security assets entrusted to the NNSA—nuclear weapons, Special Nuclear Material, or classified materials—are at risk anywhere within the nuclear weapons complex. Our security program is robust and effective. Secretary Bodman has re-affirmed the Department's commitment to the security of the nuclear weapons complex.

At the same time, there have been significant security problems at some of our sites. Later in this statement I will describe what we have been doing to correct those problems and where we still have work to do.

PHYSICAL SECURITY

In the past three and one half years, physical security at NNSA sites has been dominated by the need to respond to the increased threat in the aftermath of the attacks of September 11, 2001. Prior to 2001 we assumed a relatively limited threat of attackers who sought to steal a weapon. For example, we could counter the threat by trapping the attackers in a weapons vault so they could not escape. 9/11 taught us that larger attacks were possible and that terrorists were willing to die to inflict massive damage. We shifted to a strategy of denying the attacker any access to nuclear weapons. In May 2003, based on an Interagency Working Group postulated threat, the Secretary approved a Design Basis Threat (DBT)that significantly increased the number of attackers against which we plan. Because the May 2003 DBT dramatically increased both the numbers and sophistication of the adversaries, it will take until the end of Fiscal Year 2006 for the Department to be fully compliant. That effort is on track within NNSA and all our facilities will meet the requirements of the May 2003 Design Basis Threat by the end of FY2006.

In May, 2004 the Department undertook a review of all available threat intelligence. Mr. Podonsky and I will be happy to discuss the results of that review in detail in closed session. As a result of that review, the former Deputy Secretary approved changes to our graded protection strategy for certain types of special nuclear materials and a further increase in the size of the attack against which we must defend. His decision was codified in an October 2004 revision of the Design Basis Threat. Once again, we will be happy to go into details in closed session. The revised threat sets an exceptionally demanding standard and uses very conservative planning assumptions. We plan to meet this new standard by the end of FY2008.

A new round of vulnerability assessments is under way across the complex to determine enhancements required to meet this threat. Sites will submit their implementation plans and resource requirements by the end of July 2005. Once these plans have been reviewed, we will be able to formulate the impact of these requirements on security costs, but almost certainly additional resources will be required in FY2007 beyond those shown in our budget projections.

Many will conclude that such an attack is highly unlikely. No matter how low the probability, however, the potential consequences demand that we deter our enemies and deny them access to nuclear weapons or special nuclear materials.

To deal with this threat we have increased the number of uniformed protective forces, added barriers, closed roads, increased security patrols and detection procedures, increased access controls, and enhanced employee awareness of potential threat concerns. We were forced by necessity to meet the increase in threat with proven near-term solutions that rely on the application of more guards and guns—costly measures that we cannot afford to apply indefinitely.

Because of this we are also focusing on consolidation of special nuclear material and on increased use of technology. At the Y-12 plant, one of our oldest sites, we are implementing a modernization strategy to consolidate special nuclear material storage and operations in facilities with designed denial features. Non-SNM operations will be moved outside high security areas to reduce costs. Construction of the Highly Enriched Uranium Materials Facility, which will provide us with more secure storage for SNM, has begun and is scheduled for completion in April 2008. In the interim, the site has provided for additional delay through an innovative use of large containers to form de facto forts protecting areas of greatest concern.

At Los Alamos National Laboratory, we have removed critical special nuclear materials from five facilities since 2001 and consolidated those operations within a single technical area. Material from Los Alamos' Technical Area 18 is currently being moved to the Device Assembly Facility on the Nevada Test Site—a facility designed for high levels of security in a more defendable area. Prior to the recent Los Alamos stand down, we expected TA-18 to be empty by September of this year. (Some of the material scheduled to go to Nevada will be stored on an interim basis within the protected area of the plutonium production facility.) We are still evaluating whether this schedule can be met without compromising safety. Any delay will be brief.

At Sandia National Laboratories in New Mexico, shut down of the Sandia Pulsed Reactor in 2007 will end operations with special nuclear material at that site. Over the longer term, I have charged the Weapons Complex Review Team to look into ending all plutonium operations at Lawrence Livermore National Laboratory in California, while still maintaining Livermore's capability to participate in the Stockpile Stewardship program. This team is examining the future of the entire weapons complex and will present its findings in late April.

NNSA has also begun to work with the Department's Office of Nuclear Energy, Office of Science and the Office of Environmental Management to evaluate the use of two facilities at the Idaho National Laboratories for interim storage of material from throughout the NNSA complex. One of these facilities was built to provide high levels of security for reprocessing of spent nuclear fuels; the other is a well-protected material storage building. We are in the opening stages of this evaluation and still must determine any legal barriers and additional physical security or construction requirements, but these facilities may offer exceptional opportunity to consolidate materials and components in a location with robust security features in place.

Consolidation is important, but it alone is insufficient for protecting nuclear materials from terrorists. America's strength is in technology. To continue the transformation of security in the nuclear weapons complex we must harness the technological prowess of the United States to reduce our reliance on manpower-intensive solutions. We have already begun deployment of advanced concept armored vehicles and remotely operated weapons systems at Y-12. We are beginning integration of smart camera systems into the existing security systems at two facilities. Y-12 will also be implementing new vehicle detection and assessment systems and a new access delay system that utilizes activated delay technology that will not damage facilities.

In the longer term, we are looking at employment of additional active denial systems, remotely operated weapons, and more advanced detection systems that will reduce our reliance on manpower and provide earlier detection and attrition of an adversary. The Nevada Test Site will serve as a test platform for developing these concepts. To ensure the effective use of technology and system design we have established a Safeguards and Security Engineering Team with representatives from each of our sites and several of our Federal components to share best practices for physical security and to conduct peer reviews of proposed new security line item construction projects. This Team has already completed reviews of projects at Los Alamos and Y-12. Finally, we are working with Mr. Podonsky's Office of Safety and Security Performance Assurance to expedite the fielding of technology developed in the past but not fully implemented.

While consolidation and technology help, security will always depend on well-trained protective forces. While most of our protective forces are dedicated and competent, we have had problems. Three years ago, for example, the Sandia protective force had significant problems with officers sleeping on duty, incidents of racial tension and a general unprofessional attitude. Under our direction, Sandia took major

steps to improve the leadership and supervision of the force. To ensure those steps are adequate, I commissioned a retired Air Force Major General to assist my local Site Office in overseeing corrective action. Based on both my personal observation and on those of my subordinates, I believe the performance and morale of the Sandia protective force is vastly improved.

Starting two years ago we had significant problems with lost keys at both the Y-12 plant and the Lawrence Livermore National Laboratory. Although in no case could these keys allow access to special nuclear material or classified information, we saw their loss as a sign that security procedures needed improvement. In addition to instituting improved procedures, we concluded we had too many keys. I therefore established an initiative to move to a "keyless" environment. At Y-12, for example, we have reduced the number of security keys by 85 percent and no key type security locks are used to protect special nuclear materials.

Working with Mr. Podonsky's Office of Safety and Security Performance Assurance, we are working toward creation of a true elite para-military force at all our sites. Progress is steady, though uneven. For example, an independent assessment by Mr. Podonsky's office last summer uncovered sub-standard performance by the protective force (and other contractor elements) at the Nevada Test Site. The NNSA Site Manager turned over the routine operation of the federal Nevada Site Office to her Deputy and took personal supervision of the recovery plan. While corrective action is well along, I am disturbed by what this incident says about the quality of NNSA's day-to-day supervision of our contractors. I will have more to say on this point in a few minutes.

CLASSIFIED MATERIAL CONTROL

Security of nuclear materials must be matched by security of classified information. To improve our ability to protect such information, we have initiated efforts to reduce classified holdings at all facilities by destroying excess classified material and moving some holdings to areas where they can be better controlled. At Y-12, for example, we have moved over 1 million pounds of classified materials to approved long-term storage containers. Similar efforts are underway at all facilities.

The Committee is well aware of the problems with classified removable electronic media (CREM) at Los Alamos National Laboratory. In July 2004 the Laboratory Director imposed a stand down on essentially all activities because of a series of safety and security problems, including an inability to locate two classified computer disks. While separate investigations by the University of California, NNSA, and the FBI all concluded that the missing disks never existed, they also revealed serious problems with security management at Los Alamos. I would like to provide the Committee for the record a copy of the report prepared by the former Deputy Secretary of Energy and myself that outlines the problems in detail. I would also like to submit for the record a copy of a letter outlining the significant reduction in the management fee awarded the University of California for the operation of Los Alamos that I imposed as a result of these deficiencies. In addition, the Laboratory took disciplinary action including terminating three individuals, demoting several supervisors and suspending several individuals without pay.

In addition to correcting the specific performance problems at Los Alamos, the Department has tightened restrictions on accountable CREM. We now require that these items be maintained in centralized lending libraries with formal checkout procedures enforced by full time trained custodians. Still, a contributing cause of the problem at Los Alamos was that we simply have too much classified material throughout NNSA and the rest of DOE. Los Alamos itself, for example, has gone from over 90,000 pieces of accountable CREM in January, 2004 to about 23,000 in September. To reduce this number further, we need to move to a diskless workstation computing environment. When classified information is stored on central servers with no desktop ability to remove such information, we will be able to significantly reduce the potential for inadvertent or intentional mishandling of classified information. We are now forming a task force under my supervision to accelerate the shift to diskless computing throughout the entire Department.

One element of both physical security and classified material control is control of access. We are conducting analysis of the current access control infrastructure throughout the nuclear weapons complex and examining technologies used by the private industry. This analysis will establish a baseline for enhancements to ARGUS, an access control and intrusion detection system that has become the standard application for NNSA facilities. We have also formed an Integrated Project Team for dealing with Homeland Security Presidential Directive 12—Policy for a Common Identification Standard for Federal Employees and Contractors, which re-

quires "smart cards" for physical and logical access to Federal sites, buildings and systems.

FEDERAL SUPERVISION

I would like now to turn to Federal supervision of security. Congress created NNSA in response to security lapses at our national security laboratories. While I believe we have had a number of successes in various areas, I am aware that this Committee and Congress as a whole will judge us by the degree to which we ensure adequate security throughout the weapons complex.

Shortly after assuming my current position, I became concerned that I did not have adequate competent security professionals to carry out my responsibilities. In the short term, I sought to deal with this problem by additional recruiting, but to ensure the long-term health of the Federal security community, in March 2003 I commissioned retired Admiral Hank Chiles to conduct an extensive review. Such a review had not been conducted previously. As a result, we are implementing a Human Capital Management Program to revitalize the Federal security work force that oversees security at our laboratories, plants, and storage facilities. In addition to provisions for the formal training and certification of Federal security officials, we will soon implement an intern program designed to attract and train the new Federal security officers who will provide leadership and guidance to the NNSA of the future.

To provide further focus and clear direction, in June, 2004 I created a new Associate Administrator for Defense Nuclear Security, reporting directly to me on an equal footing with the heads of my major programs. This office consolidated all NNSA security functions and is headed by a security professional with over 35 years of security experience both at Headquarters and in the field, as well as recent experience in the Nuclear Regulatory Commission's Office of Nuclear Security and Incident Response.

Under the NNSA structure I have established, supervision of contractors in all areas—security, safety, and business practices—is carried out by Federal Site Offices located at each of the eight NNSA facilities. Last summer, when investigation of the apparently missing disks at Los Alamos began to reveal significant security management problems, I became concerned not just by the problems themselves but by the fact that they came as a surprise to the security professionals at the Site Office. This was in marked contrast to the safety problems at Los Alamos, all of which we were aware of in advance.

My concern heightened when the contractor at Nevada performed poorly on a periodic inspection by Mr. Podonsky. I was not as concerned with the actual performance—if no one ever does poorly the tests are too easy—as with the fact that the Site Office expected much better performance. As a result of these two incidents I personally led a team of senior security officials to the six sites with special nuclear material. At each site I focused on security performance and, in particular, on how supervision of the contractor was conducted. The results varied widely. At some sites we had impressive supervision, with strong involvement of the Site Manager, an active program of surveillance and inspection, and an exceptional understanding of the strengths and weaknesses of the contractor performance. At other sites we were far poorer.

Following my review, I concluded that I needed improvements in four areas: leadership failures, inadequate numbers of trained Federal security experts, a lack of hands-on involvement, and failure to provide sufficient headquarters supervision. We took the following actions to correct these problems:

- Not surprisingly, the most important determinant of our effectiveness was the leadership provided by the senior security professional at each site. After consulting with the local federal Site Manager, I replaced two of the six senior security officials (I had previously replaced one other). A second leadership issue involved the local Site Managers themselves. Although they were the senior Federal official at each site, some had a tendency to leave supervision of security to their subordinates. I have corrected this.
- As a result of the Chiles Commission I referred to earlier, we were already working on improving training and qualification of our security professionals. In addition, we are just finishing a detailed review of staffing that will result in increases in the numbers of security professionals at most Site offices.
- A third problem concerned our method of supervising the contractor. In the area of safety our experts spend a great deal of time out in the facility observing operations. At the better sites, this is true for security as well, but at some sites our security experts spent much of their time reviewing paper rather than conducting hands on observations, except for an annual survey conducted over a

period of less than a month. We are gradually shifting our approach to emphasize continuous surveillance as a supplement to annual surveys.

- Finally, my only check on the performance of the Site Offices was the inspections conducted every other year by the Office of Security and Safety Performance Assurance. To provide assistance to Site Managers and assurance to me that our performance is adequate in between these inspections, I am moving to formally establish an Office of Performance Assurance under the Associate Administrator for Defense Nuclear Security. The Office will assess and validate security performance across the NNSA and identify opportunities for improvement. It will work closely with the Office of Security and Safety Performance Assurance in the conduct and response to annual security surveys and periodic independent oversight reviews. I am confident that this new Office will strengthen the capabilities of individual site offices to perform effective supervision of NNSA's security contractors.

In parallel with this effort, initially at my request and subsequently at the request of another Committee of Congress, the Office of Security and Performance Assessment conducted a review of NNSA supervision of security. Their conclusions validated my own and also indicated the need for greater attention to monitoring of corrective actions. I believe we have provided the Committee a copy of that review. I believe the steps we have put in place will dramatically improve our supervision of security at our sites.

CONCLUSION

NNSA remains fully committed to maintaining the security of the national treasures we guard. I am as confident of the security of our facilities as at any time in my tenure. I am not, however, satisfied. It is essential that we continue the security improvements we have underway, upgrade the protective forces, and improve Federal supervision. Only by doing so can we discharge our responsibilities, fix our problems as they occur, and ensure the long-term security of the nuclear weapons complex.

Thank you for your attention. I look forward to your questions.

Mr. WHITFIELD. Thank you, Mr. Brooks.

At this time, Mr. Podonsky, you are recognized for your opening statement.

TESTIMONY OF GLENN S. PODONSKY

Mr. PODONSKY. Thank you, Mr. Chairman and members of the subcommittee, for holding this hearing and for the invitation to testify today regarding the status of security at the Department of Energy.

The story of security at the Department of Energy over the past several years is one significantly affected by change, change in the global security situation and in the recognized threat we face; change in the missions and configurations of our weapons complex; and change in how we approach and practice our security responsibilities.

Today, I will summarize the progress made and the efforts to enhance the security posture of the DOE, and I will also discuss with the committee those areas where the efforts have fallen far short and require additional work. I have addressed these in some detail in my written testimony.

The DOE has made significant, but not sufficient progress in the past 3½ years. Following the September 11 terrorist attacks, the DOE took immediate actions to increase security, as Ambassador Brooks just said in his opening statement. We had an elevated security condition imposed; we added additional physical security measures, such as increasing protective force posts, enhancing access controls, and erecting barriers to increase standoff for vehicle bombs; and we modified some operational procedures.

Follow-on actions included initiating a review of our Design Basis Threat, and creating my office to increase the effectiveness of interaction on security matters between headquarters and the field.

Last May, the DOE initiated a wide-ranging set of security initiatives to address known security problems and to begin transforming our protection systems to meet our future security needs. These initiatives are central to the current security enhancement efforts and encompass four broad areas.

Information security initiatives involve efforts to improve our cyber security programs by expanding the performance testing and improving capabilities and procedures for recognizing, reporting, and disseminating and reacting to attacks on our cybersystems, as well as moving to a diskless desktop environment for classified computing.

Our security technologies initiatives are aimed at addressing specific problems, such as creating a keyless security environment and enhancing our protection programs through other technologies.

A third set of initiatives addresses our need to consolidate our inventories of special nuclear materials.

Our final set of initiatives involves improving our security of human capital and includes a range of activities to improve recruitment, training for security professionals, as well as the development, as Ambassador Brooks just mentioned, of the elite-level protective force at our more sensitive facilities.

These initiatives, 15 in all, represent an aggressive agenda to transform and enhance our protection programs and meet the requirements of our revised Design Basis Threat and to respond to emerging threats.

The Department is continuing to pursue these initiatives. Some have been completed, most are progressing, some significantly more slowly than we prefer. DOE must pursue these security initiatives aggressively, especially since we have continued to experience problems with implementation of our protection programs and related management systems.

For example, some local line management feedback and improvement mechanisms, such as Federal security survey programs and contractor self-assessment programs, have not been effective enough to detect and correct existing protection program deficiencies. This is verified by deficiencies found by our independent oversight office at sites such as Hanford, Oak Ridge National Laboratory, Sandia National Laboratories, Y-12, and Nevada test site. These problems, which included such things as poor protective force performance, deficient nuclear material control and accountability programs, inadequate classified document control, and deficiencies in physical security systems should have been identified and corrected by the local management before our independent oversight office found them during their inspections.

On a somewhat wider scale, we have experienced problems in the last year or two, as you know, with lock and key control systems and with maintaining adequate controls for classified removable of electronic media, or CREM, as we have learned to call it. Again, in many cases, line management control mechanisms at individual sites did not properly detect and correct the conditions.

We can expect that various problems are going to emerge from time to time in systems as large and complex as our protection programs. What is important is that we identify those problems as they are emerging and correct them before they do us harm. We depend on local DOE line management for this timely identification and correction. However, the local management, as I have stated, has not always been up to the task.

The most significant security-related changes we face today and in the near future are those associated with implementing our current Design Basis Threat. Meeting the elevated requirements of the revised DBT will require significant changes in many of our protection systems, and at a significant cost. This effort is going to require the identification, procurement, and integration of new technologies into our protection systems, significant efforts to raise the skill levels of some of our protective forces and other security professionals, and a concerted effort to reduce and consolidate our special nuclear material inventories.

To address the first of these efforts, we currently have a site-assistance visit activity under way that is intended to apply our best technological, analytical, and tactical expertise to assist our most critical facilities in identifying security technology applications and innovative strategies to effectively and efficiently meet the requirements of the DBT.

We are encouraged by the ideas resulting from these visits, but individual sites will have to follow up that effort to finalize the designs and compute the costs of their proposed protection system upgrades. Ultimately, Mr. Chairman, the Department will have to devise ways to integrate new security technologies, new protective force weapons, and tactics with operational needs and safety concerns; and we will need to find the funding sources for those enhancements.

We are upgrading the capabilities currently in the curricula at our National Training Center in Albuquerque, which will play a central role in elevating the skill levels of our protective force and other security professionals, as well as those managers responsible for the security and safety program implementation or oversight.

Consolidating the special nuclear materials to the greatest degree practicable may prove to be the most difficult challenge, because even after we identify consolidation opportunities and address the related programmatic issues, such as construction of storage facilities, funding, and relocation programs, we will be faced with Federal, State and local political obstacles to relocating these materials that the Department will not be able to solve internally.

In closing, we believe the Department is, in fact, actively pursuing initiatives that will improve the capabilities of the security systems. I am confident that Secretary Bodman and Ambassador Brooks are, in fact, committed to continuing these efforts. Unfortunately, Mr. Chairman, the Department has not always followed through on its commitments. However, it is my opinion that it is a new day with Secretary Bodman. He has made it clear he will not tolerate missed commitments and inadequate management controls, and that the Department will enact innovative and effective methods to foster the necessary changes in our security practices and cultures to counter the evolving threat.

While this effort is large and is difficult, it is not impossible. With support from this committee and others on Capitol Hill, and together in cooperation with our stakeholders at every level, we can and we will succeed.

Thank you, Mr. Chairman.

[The prepared statement of Glenn S. Podonsky follows:]

PREPARED STATEMENT OF GLENN S. PODONSKY, DIRECTOR, OFFICE OF SECURITY AND SAFETY PERFORMANCE ASSURANCE, U.S. DEPARTMENT OF ENERGY

Mr. Chairman and members of the subcommittee, thank you for inviting me to testify today regarding the status of security programs in the Department of Energy. The story of security in DOE over the past several years is one significantly affected by change—changes in the global security situation and in the recognized threat we face; changes in the missions and configurations of our weapons complex; and changes in how we approach and practice our security responsibilities. Today I will discuss the progress we have made, amidst those changing conditions, on our efforts to enhance our security posture. I will also discuss those areas in which our efforts have fallen short and in which additional work is needed, and discuss the major security challenges we face over the next few years.

Let me start by reaffirming what I hope the members of the subcommittee fully recognize: the Department understands that we have custody of some of the nation's most vital national security assets, in the form of both information and materials. We know that the protection of these assets is vital to our national security, and we are committed to protecting them. There is no item more important than security on the agenda of the Department's senior management. During the past four years, former Secretary Abraham and former Deputy Secretary McSlarrow championed the cause of security and actively guided our efforts to improve our protection posture. Secretary Bodman has continued that legacy by strongly affirming his commitment to protecting the Department's vital national security assets, facilities, and employees. While we remain convinced that we have in the past, and continue to adequately protect our vital national security assets, we have acknowledged all along that our efforts have not been flawless. We must continually adapt our security programs to a changing world and to an evolving threat environment, and we can and must find ways to further strengthen our security posture. It is with those convictions that we have been aggressively pursuing security improvements during the past four years.

SECURITY ENHANCEMENTS SINCE 9/11

The September 11th terrorist attacks made it painfully clear that our long held ideas of postulated threats had become all too real. To ensure that we were adequately protecting our assets against this elevated threat, we knew we needed to take immediate action. Let me summarize some of the things we have done since 9/11 to strengthen the Department's security posture and to contribute to the Nation's security efforts.

On September 11th, we imposed an elevated Security Condition, or SECON, and instituted a number of other actions to increase physical security measures at our facilities, and particularly around our most sensitive targets. These actions, which varied from site to site depending upon local needs and characteristics, included: increasing the number of protective force posts and patrols; closing key streets and parking areas; and, erecting additional barriers to increase stand-off distances for potential vehicle bombs. Because these enhanced security measures had to be implemented immediately, in many cases our line managers were forced to turn to manpower-intensive solutions involving increased protective force activity. We have been at a heightened state of alert at varying SECON levels, since 9/11.

Our protective forces could not bear this level of burden indefinitely so to relieve that additional burden and seek cost effective and efficient ways to maintain enhanced security, we turned to technology solutions. We selected the very best security technologies available to deploy at our sites, ranging from explosives detection to chemical defense and cyber security. At the same time, we evaluated the human factor associated with highest risk environments. Resulting changes in the Departmental Human Reliability Program have improved the measures by which we assess the physical and mental suitability of individuals who occupy our most critical positions.

We reassessed the Design Basis Threat—the planning basis for our protection requirements—in an effort to ensure that our increased security measures were re-

sponsive to our new understanding of the threat. A new Design Basis Threat policy was issued in May 2003. Each site developed implementation plans and began efforts to meet the requirements of the new policy. As a consequence of our efforts to upgrade security since 9/11, our security spending increased from $883M in 2001 to $1.44B in our 2006 request.

The series of Secretarial Security Initiatives announced in May of last year represents the most ambitious and comprehensive of our current security enhancement efforts. The initiatives are broad and far ranging, and impact most major elements of the Department's protection programs, including those of the National Nuclear Security Administration. The initiatives can be grouped into four broad program areas: information security; new security technology solutions; consolidation of materials; and strengthening security human capital expertise. Together, they directly or indirectly impact every aspect of our protection programs. These initiatives are so central to our current effort that is it worthwhile to briefly describe each one and its current implementation status.

One set of initiatives involves **information security.** Much of the information we possess today, including classified information, is created on computers and stored on computer media. Unfortunately, the fast pace of technological development of computer hardware and software seems to be equaled by the pace of development of methods for adversaries to exploit that hardware and software. If we are to continue to operate effectively, we have to actively protect the confidentiality, integrity, and availability of all of the information on our automated systems, and we have to be able to do that even while we are under cyber attack. Consequently, we have to be on the cutting edge of cyber security and must employ tools, systems, procedures, and configurations. Recognizing the urgency of this imperative and the potential consequences of falling behind in this area, we resolved to do more to ensure that our protection systems keep abreast of emerging threats. The three cyber security initiatives are aimed at: increasing testing used to identify (and eliminate) our cyber vulnerabilities before an adversary does; enhancing protection and training measures within our information security systems; and reducing the exposure of classified information stored on computer media. While these initiatives include some longer-term developmental activities, most can be implemented in the near term. The cumulative effects of these initiatives will significantly enhance our cyber protection abilities. A synopsis of each of these three initiatives and our current progress in achieving full implementation follows.

- Expand Cyber Security Performance Testing. This initiative expands our independent oversight organization's cyber security performance testing program for both classified and unclassified information systems by: expanding the scope and increasing the frequency of unannounced penetration testing; conducting continuous scanning of unclassified computer systems to reduce the exposure to Internet threats; and expanding testing of classified computer networks to ensure appropriate need-to-know protection boundaries are in place and are effective.

  The institutional structures necessary to implement this initiative have been put in place, and expanded testing has already begun. The necessary additional personnel, computer systems, and testing tools have been procured and operating procedures and testing protocols have been validated. Expanded unannounced penetration testing and enhanced testing of classified systems has commenced. We are preparing to begin continuous network scanning and penetration testing to reduce Internet exposure, starting with Headquarters and subsequently phasing in additional sites.
- Cyber Security Enhancements. This initiative consists of integrated steps intended to protect the confidentiality, integrity, and availability of our information systems by quickly disseminating cyber threat information, expanding intrusion detection systems that rapidly identify cyber attacks, reducing the exposure of our information systems to Internet threats, and improving workforce cyber security training.

  DOE's Chief Information Officer is leading the efforts associated with this initiative. To date, we have: increased inter- and intra-agency sharing of cyber threat and vulnerability data; incorporated intrusion detection and prevention into our cyber security enterprise architecture; completed independent reviews of Headquarters implementation of the Department's Cyber Security Management Program; upgraded cyber security training programs; and developed a methodology to identify inappropriate information on publicly accessible websites. This methodology was applied to an initial website cyber security analysis.
- Diskless Desktop Computing. The use of Classified Removable Electronic Media (CREM) to store information has been a persistent security challenge, primarily

due to the ubiquity of the media. This initiative seeks to eliminate or greatly reduce this challenge by moving, within a five-year period, to diskless workstations for classified computing. The National Nuclear Security Administration has been tasked to identify and implement appropriate diskless technologies. Successful technologies will then be implemented Department-wide.

A "tiger team" completed a review of potential technical and management solutions to this issue. The team identified requirements for providing high-speed desktop workstations and proposed a set of standard diskless workstation solutions, cost estimates, and related recommendations. On January 31, the former Deputy Secretary directed the formation of a Project Management Office within NNSA to manage implementation of this initiative.

Another set of initiatives involves the development and deployment of new **security technologies.** Two of the security initiatives are aimed specifically at enhancing our protection programs through increased use of security technology solutions. One is focused on addressing an area that has been associated with several security incidents—specifically, replacing lock and key systems in security areas with modern, keyless entry control systems. Although fairly narrow in scope, this initiative represents a massive undertaking, given the number of locks and keys currently in use at our security areas throughout the complex. The other security technology initiative is a much broader effort aimed at identifying, evaluating, or developing a broad range of useful technologies and facilitating deployment at DOE sites. We are particularly interested in identifying technologies that can help our protective forces better counter the ever-changing threats to our national security assets. Properly applied, such technologies can act as force multipliers to assist our protective forces by reducing the burden of routine activities, reducing the risk to them in case of an attack, and, through enhanced recognition, provide additional response time to meet and defeat an attack.

- Keyless Access Control Technology. NNSA is researching and identifying suitable technology that will enable the Department to transition, over a five-year period, to a keyless security environment where no single item that provides access to protected assets, can be lost or stolen.

  We are making progress in this area. My office has developed a current technology matrix that provides specific descriptions of keyless systems, their costs, and locations where they are currently in use. The NNSA formed a multi-organizational Technology Review Team to analyze these alternatives. Additionally, the efforts of the Integrated Project Team which is addressing HSPD-12—the Policy for a Common Identification Standard for Federal Employees and Contractors, which requires "smart cards" for physical and logical access to Federal sites, buildings, and systems, will complement these efforts.
- Blue Sky Commission. This initiative involves the identification of off-the-shelf security technologies available for rapid deployment and the establishment by NNSA of a Blue Sky Commission to evaluate promising emerging technologies that the Department can invest in or develop to enhance our future protection systems.

  While we are taking action to identify and apply existing technologies to enhance our protection systems, we have not yet taken the formal steps necessary to coordinate investment in emerging security technologies. The Technology Development Program, within my organization's Office of Security, has disseminated information about current off-the-shelf items suitable for integration into security systems. Last July we established the Center of Excellence for Technology Deployment at Pacific Northwest National Laboratory (PNNL) in Richland, Washington. The Center's mission is to find technologies with security applications that are deployable today; to assist in implementing pilot programs at DOE sites to test those technologies; and to assist in the further deployment at other DOE sites of those technologies that prove to be effective and useful. Let me emphasize that this Center's job is not to develop new technologies, but rather to seek out new technologies that are available today and to expedite their evaluation and, when appropriate, their speedy integration into security systems at DOE sites. In an effort to assist sites in choosing appropriate technologies to implement the current Design Basis Threat, we are in the final stages of a series of Site Assistance Visits to our facilities possessing Category I quantities of special nuclear materials. During these visits, our multi-organizational, multi-discipline teams work with site security personnel to analyze the existing and future site-specific protection systems and identify security technologies that could be employed to increase the effectiveness and efficiency of those systems. This effort, which I will come back to in my discussion of the Design Basis Threat, has been beneficial to the sites. Our progress in enhancing

our efforts to identify and invest in the development of emerging technologies has been somewhat slower. Although we anticipated that NNSA would formally establish the Blue Sky Commission last October, that action has yet to occur.

Before I leave this topic, let me mention some of the progress we have made in technology deployment. Several technologies have recently been deployed at sites throughout the complex to significantly improve their ability to mitigate our Design Basis Threat policy. For example, newly developed armored vehicles with advanced fighting capabilities are being deployed at two sites. These vehicles will allow protective forces to be forward-deployed and engage adversaries earlier, while relying on improved armor to increase their survivability and externally mounted weapons and optics to neutralize adversaries. Chemical agent detectors are also being deployed at six locations. These detectors are unique in that they are able to operate 24 hours a day for extended periods (years), require minimal maintenance, and provide sufficient time for response forces to don protective gear and engage the adversary. Unmanned Aerial Vehicles UAVs are also being deployed to help conduct surveillance of vast areas outside of a large remote site. The UAVs will be equipped with sensors that will detect the adversary earlier, and deny them the luxury of being able to pre-stage attackers and equipment and initiate an attack at a time that is advantageous to them. The UAVs will also be used to improve combat situational awareness should the site come under attack. One of the threats seen almost every day in the news is the large vehicle bomb, lending credibility to our need to defeat it. A new type of affordable ($300/ft) vehicle barrier has been deployed at one site, and is being installed at a second. What makes this barrier unique is its ease of installation, and its ability to stop very large vehicles moving at highway speeds. We are also in the final stages of deploying remotely operated weapons at one of our facilities, before expanding the deployment to other sites. These weapons are a formidable barrier for the adversary, particularly when deployed with visual obscurants. Not only do we expect them to improve our ability to neutralize adversaries, but they will also improve the survivability of protective forces in fire fights and situations where an adversary might use lethal chemicals. Our future plans call for assisted targeting to be integrated into these weapons, and we are hopeful that this will eventually lead to manpower savings by proving that an operator can control more than one weapon. We believe that the expanded application of security technologies, such as those just described, will be critical to the successful mitigation of the evolving and increasingly capable threats we will face in the future.

A third set of initiatives addresses our need to *consolidate our inventories of special nuclear materials.* Our successes in consolidating significant quantities of special nuclear materials have typically been limited to facility closure programs, such as at the Rocky Flats Environmental Technology Site. While we still need special nuclear materials at some sites to accomplish ongoing national security missions, both the amount of materials needed and the number of locations where they are needed have substantially decreased since the days of the Cold War when our production facilities were building our nuclear deterrent. Protecting these materials is among our most difficult security challenges, but it is also one of our most important missions, since the consequences of their loss are unacceptable. We can greatly reduce the difficulty, risk, and costs associated with protecting this material if we can consolidate that which we cannot safely and properly eliminate. This has become an increasingly important consideration with the increased difficulty and costs associated with defending against the elevated threats described in the current Design Basis Threat. Since reduction and consolidation of special nuclear materials has perhaps the greatest potential impact on our future protection requirements and programs, we have identified seven separate initiatives related to this subject. These initiatives range in scope from developing plans for terminating the use of a reactor to altering the configuration of the Department's weapons complex. This group of initiatives addresses the essential challenges we face in our efforts to reduce and consolidate our special nuclear materials inventories and to accurately assess the threats to these materials,

- Sandia Pulsed Reactor. This initiative involves completion of the Sandia Pulsed Reactor's mission and removal of the special nuclear material (reactor core) from Sandia National Laboratories-New Mexico.

  To enhance the reactor core's physical protection, Sandia has disassembled it and placed it in special protected storage until needed to support essential testing. The reactor will be re-assembled and used for a period of approximately one year to support testing and to qualify theoretical models and simulation methods that will eliminate future needs for the pulsed reactor. Upon successful completion of the test series, the reactor material will be returned to a secure storage condition that greatly reduces the security risks and cost. The testing

and modeling work is currently planned to support the cool down and completion of reactor defueling by March 2007.

- Highly Enriched Uranium Materials Facility (HEUMF). This initiative is to expedite the construction of the HEUMF project, which will provide a new state-of-the-art storage facility for highly enriched uranium now stored at various locations at the Y-12 National Security Complex. Its design will incorporate a robust denial strategy that includes passive design features to address the DOE Design Basis Threat Policy. Goals of completing facility construction and readiness activities by April 2008 and relocating existing material from current locations into the new facility by September 2009 will greatly enhance the security of highly enriched uranium within the United States and decrease long term operating and material safeguarding costs at Y-12.

  The primary facility construction contract was awarded on schedule on August 27, 2004. Construction is currently 9% complete, including site preparation. While construction is approximately two months behind schedule due to above normal rainfall and unanticipated soil conditions, it is expected that the original schedule will be met. Associated activities, such as storage container assessment and characterization and material movement and reduction of material in current storage areas are underway.
- Resolve Materials Criteria for Acceptance at Long-Term Storage Sites. This initiative addresses the need to resolve situations where nuclear materials are being stored at sites only because they do not meet the acceptance criteria at longer-term storage sites. Increases in the Department's Design Basis Threat necessitate creative approaches to maintain strong security for the Department's special nuclear material assets in a cost-effective manner.

  A Nuclear Material Consolidation Task Team studied the issue of materials consolidation with a focus on reducing the number of nuclear facilities that need high-level protection and reducing the number of potential terrorist targets. A draft report was issued in December 2004. The report identifies and prioritizes candidate materials for consolidation using a set of defined criteria which address security impact, schedule, cost, and programmatic use. The report also provides recommendations for implementation in both the near, mid, and long term. To formally institutionalize this important effort and to cut across programmatic lines, a multi-program senior-level steering group, under the direction of the Secretary's Senior Policy Advisor for National Security Matters, will provide guidance and recommendations to the Secretary on nuclear material consolidation issues.
- Weapons Complex Review. This initiative involves reviewing the requirements for the weapons complex for the next 20 years in light of the size of the stockpile, the new Design Basis Threat, and the opportunities for consolidation, with the goal in mind of reducing the footprint of the complex to the minimum needed to support long-term national security missions.

  The Secretary of Energy Advisory Board (SEAB) chartered a Task Force which consists of five members who were briefed by members of the Department of Defense, National Security Council and NNSA Program Offices in February. The Task Force has visited most of the weapons complex facilities and will complete their tour by mid-April. Once the study is complete and consolidation opportunities are identified, we anticipate that political (e.g., involving moving material between states) and programmatic (e.g., construction) barriers will remain to be confronted.
- Down-blend Large Quantities of Highly Enriched Uranium (HEU) to make it unattractive as a terrorist target. The goal of this initiative is to determine whether, via the early disposition and down-blending of up to 100 metric tons of HEU currently stored at the Y-12 National Security Complex, we could strengthen the security of existing HEU operations and storage at that facility.

  Review results recommended a course of action to increase the security of remaining HEU and promote the President's nonproliferation objectives. The review recommended that a substantial quantity of HEU be removed from any future use in nuclear warheads. This is in addition to the 174 metric tons of HEU declared in 1994 to be in excess of national security needs. The NNSA Administrator endorsed the recommendations of the study and directed coordination with the Departments of Defense and State.
- Design Basis Threat (DBT) Reexamination. This initiative reexamined the May 2003 DBT and the supporting intelligence data to ensure currency in relationship to the changing threat.

  Actions on this initiative are complete. The DBT was reexamined, changes were recommended, and on October 18, 2004, the Deputy Secretary approved DOE Order 470.3, "Design Basis Threat (DBT) Policy" for implementation. In

conjunction with the DBT revision, we revised the Adversary Capabilities List to reflect the most current intelligence information regarding the observed and postulated capabilities (e.g., weapons, equipment, tactics, etc.) of the adversary. Although this initiative is complete, follow-on activities through April 2005 are focused on conducting the Site Assistance Visits mentioned previously to provide sites with technology and protective force tactical options to address the requirements of the October 2004 DBT Policy. I will discuss the Design Basis Threat and its impact on protection strategies and systems in more detail later in this testimony.

- Removal of Category I/II special nuclear materials (SNM) from TA-18. The object of this initiative is to relocate programmatic SNM from Los Alamos National Laboratory's (LANL) Technical Area -18 to the Device Assembly Facility (DAF) at the Nevada Test Site.

  Implementation of this initiative is in progress. On March 31, 2004, NNSA directed the initial shipment of LANL TA-18 programmatic SNM to the DAF ahead of the previously scheduled date of March 2006. Three shipments of programmatic materials were completed as of December 2004. Approximately seven shipments are planned for FY2005. NNSA currently projects that approximately 50% of the TA-18 programmatic SNM will be moved to the DAF by March 2006 and 90% by the end of fiscal year 2007. Programmatic SNM needed by NNSA to maintain mission continuity, especially to support training for Emergency Response, will remain at LANL in other storage locations.

The final set of initiatives concern our security human capital. Of all the components of our protection systems, the human component is the most critical, and the performance of our people will largely determine the success or failure of our protection efforts. When we speak of security personnel in this context we refer to two groups of people: the people who develop, implement, maintain, and oversee our security programs; and the protective force personnel who are on the ground 24/7 protecting our assets. The robustness of our protection programs depend largely on the abilities and performance of these two groups of people. Three of our security initiatives deal with strengthening our security human capital. They include efforts to implement the recommendations of the Chiles Commission (regarding management of security expertise in the NNSA) within the NNSA and possibly throughout the entire Department. In addition, the initiatives also address options for protective force configuration and management, with special emphasis on determining the best approach for creating an elite force dedicated to protecting our most critical sites.

- Implement Chiles Report recommendations. The Chiles Report focused on the NNSA nuclear weapons complex and recommended several actions to resolve impending human capital shortfalls in safeguards and security and related disciplines. Specific recommendations involved: developing and executing a comprehensive human capital management program; improving the training, qualifications, and stature of the workforce; reengaging in national markets to hire security professionals; instituting a long-term practice of security staff rotation; identifying options for accelerating the security clearance process; improving security information flow; revising the NNSA Safeguards and Security Strategic Plan; identifying specific budget support and tracking recommendation progress.

  NNSA is actively pursing implementation of this initiative. For example, to address human capital management, workforce analysis methodologies and protocols—were—piloted at the Pantex Site Office. Five professional development data assessments were completed at the Pantex Site Office, Y-12 Site Office, Sandia Site Office, Nevada Site Office and the NNSA Service Center. This same assessment is also planned for the Los Alamos Site Office. NNSA is partnering with the DOE National Training Center to provide centralized training for safeguards and security professionals to meet qualification standards established for each safeguards and security functional area. Additionally, NNSA has developed a web portal to improve security information flow, implemented a process for rotating security management positions between headquarters and the field, and began recruiting for an Intern Program.

- Examine the Applicability of the Chiles Report recommendations to the Department. This initiative calls for an examination of the Chiles Report recommendations—which were addressed to the NNSA—to determine their applicability and appropriateness to enhance security human capital and training programs throughout the Department.

  The human resource challenges facing the Department were identified previously and analyzed in the context of the President's Human Capital Management Plan. Efforts have been underway at our National Training Center to promote skills development in identified critical areas through on-going Profes-

sional Development Program activities. The first four recommendations of the Chiles Report are being implemented through activities at the National Training Center and through the Human Capital Management Plans developed by my organization, the Office of Security and Safety Performance Assurance, and by the Under Secretary for Energy, Science, and Environment. Concerns regarding the lengthy clearance process are being addressed through ongoing implementation of the approved action plan entitled "Options for Accelerating the Security Clearance Process in the Department of Energy" signed by the former Deputy Secretary on January 7, 2005. My organization addressed security communications concerns following the completion of a Communications Study Report last July, and a DOE 25-Year Strategic Security Plan is pending review and approval by the Under Secretaries.

- Review Options for the Protective Force. This initiative directs the examination of existing protective force organizational structures (including existing contract mechanisms) to determine changes needed to develop an elite protective force. The ultimate goal is to transform the protective forces that guard our most critical national security assets into elite units, trained and equipped for advanced tactical operations, and comparable in capability to the nation's elite military units.

  Actions on this initiative are complete. This review was completed and a final report containing recommendations was provided to Senior DOE Management. A joint memorandum from SSA and NNSA was submitted to the former Deputy Secretary in January of this year, recommending that those actions that could be initiated within the current force structure be approved. The Deputy Secretary directed immediate implementation, which is now ongoing. Follow-on activities continue relative to implementation of the identified options resulting from the review.

Mr. Chairman and members of the Subcommittee, we have made significant progress in our efforts over the past several years to improve our protection systems. The security initiatives I have just outlined, and the ongoing and planned actions, represent a sizeable effort and significant commitment of resources by the Department aimed at addressing past security concerns and materially enhancing our present and future protection postures. Our work to implement many of these initiatives continues, and in some cases will continue for several more years. I believe that the progress we have made to date in implementing these far-reaching initiatives, while significant, will pale in comparison to the benefits that will accrue to our protection programs when the initiatives are fully realized.

ONGOING SECURITY CHALLENGES

The job of adequately protecting the Department's national security assets is an immense undertaking. While we are aggressively pursuing actions to address known deficiencies and improve the robustness of our protection systems, we recognize that we have a lot more to do.

As evidenced by our need for the security initiatives and other previously described enhancement activities, we continue to experience problems associated with both management systems and program implementation. Our independent oversight organization has indicated for years that many local line management feedback and improvement mechanisms, such as Federal security survey programs and contractor self-assessment programs, were not sufficiently comprehensive or adequately performance based to effectively detect and correct all existing protection program deficiencies. This is verified by problems we found at sites such as Hanford, Oak Ridge National Laboratory, Sandia National Laboratories-New Mexico, Y-12, and the Nevada Test Site. These problems, which included such things as poor protective force tactical performance, deficient nuclear material control and accountability programs, and inadequate classified document controls, should have been identified and corrected by local line management feedback mechanisms before we found them during our inspections. I must acknowledge, however, that once we identified problems at these sites the local line managers were responsive in taking action to correct them. Our Independent Oversight organization similarly reported slow progress in implementing Integrated Safeguards and Security Management processes, and we have continued to experience other protection system problems that are directly related to inadequate line management oversight, attention, and accountability.

For example, in the past few years we experienced several highly publicized incidents involving the loss of keys or key cards affording access to buildings or rooms within security areas at a few of our facilities. Although there is no indication that these losses resulted in compromise of classified information or other security assets, they are disturbing nonetheless. A review of lock and key programs revealed

that management attention to these programs was largely absent. As a result, there were too many spare keys, no strict accountability for all keys, and inadequate accountability/security training for lock and key program personnel and key custodians. These incidents were among the motivations behind our initiative to transition to a keyless security environment at some facilities.

Another recent problem involved control and accountability of Classified Removable Electronic Media (CREM)—computer floppy disks and such. As I am sure the members of the subcommittee are aware, last year the Department discovered that we had some deficiencies in our procedures and practices for handling and protecting the classified information contained on CREM. An incident at Los Alamos National Laboratory—which subsequent DOE and FBI investigations determined did not involve the loss of CREM—raised questions about accountability systems and control procedures for handling CREM. Even though our Independent Oversight organization had been reporting conditions that could lead to such an incident, local line managers in many cases failed to give sufficient attention to this matter. While we acknowledged the obvious fact that incidents such as this can occur, we do not concede that they must inevitably occur. We simply will not tolerate continued incidents of this nature. In order to ensure that conditions that would allow a similar incident to occur do not exist anywhere in the Department, the Department's senior management took a series of aggressive, even unprecedented actions. For the first time in the Department's history they ordered a complete cessation of all classified operations involving accountable CREM. Facilities were not allowed to resume those operations until they fully complied with a set of restart protocols, whose key aspects included:

- Ensuring and certifying that all employees who handle accountable CREM receive training in proper handling procedures and have reviewed information regarding the incidents at Los Alamos.
- Conducting a 100% physical inventory of all accountable CREM on hand and reconciling that physical inventory with baseline inventory records.
- Implementing strict requirements and procedures for the storage of CREM (pertaining to approved repositories, keeping repositories locked except when removing or replacing CREM, use of security seals on repositories, etc).
- Limiting access to each repository containing accountable CREM to one Custodian and one Alternate Custodian, and establishing and performance testing formal checkout processes for authorized users to obtain accountable CREM from a Custodian or Alternate.
- Conducting weekly physical inventories of all accountable CREM, and reconciling the inventories with accountability records.
- Establishing procedures which ensure that accountable CREM is destroyed only by approved DOE destruction procedures and which assure that accountable CREM is reproduced only if authorized by the specifically appointed Federal authority.
- Ensuring that a local CREM validation team independently verifies, using performance testing, the implementation and effectiveness of all restart protocol requirements.

The former Deputy Secretary, designated by the Secretary, was the only person who could authorize a facility to resume operations with accountable CREM, once they satisfied the restart protocols. All of our facilities have satisfied the stringent requirements and have resumed operations with accountable CREM.

Following this process, my Office of Independent Oversight and Performance Assurance sent teams of experts to our major facilities to perform additional independent validations, to make sure that that the restart protocol requirements were fully and effectively implemented. Various problems were observed during this validation step. For example, the Nevada Site Office/Nevada Test Site needs to establish a centralized accountability system to improve efficiency; Los Alamos required a lengthy period to achieve restart of classified operations and the quality of their revised procedures still requires validation.

As evidenced by these unprecedented measures, we are serious about protecting our classified information and about ensuring that additional incidents involving the protection of CREM do not occur at any of our facilities. While our intended move to a diskless desktop classified computing environment will largely eliminate the potential for such incidents, the use of CREM will be common for at least the next several years, and we will maintain strict enforcement and oversight of our current requirements for handling CREM.

As a final example of our experiences with insufficient line management attention to security programs, let me address the results of our Review of NNSA's Federal Line Management Oversight of Security Operations. Our Office of Independent Oversight and Performance Assurance conducted this review at the direction of the

Secretary. Data collection methodologies included reviews of the results of other recent studies that had examined this issue in whole or in part. These included Independent Oversight reports, the Chiles and (draft) Mies Reports, and the reports of internal focus groups studying various security-related Departmental management challenges. The review identified or confirmed a number of issues that reflect significant weaknesses affecting the performance of line management oversight responsibilities. These include:

- NNSA has insufficient personnel resources and expertise assigned, particularly at site offices, to effectively conduct the quantity and quality of oversight activities necessary to reliably determine or assure the effectiveness of site safeguards and security programs. The general aspects of the shortage of security expertise at appropriate locations in NNSA are multi-faceted, involving work force demographics, recruitment efforts, training and education opportunities, career path opportunities, and resistance to geographical relocation. The specific problem at NNSA site offices, where it currently has the greatest impact on security oversight, is manifested in two ways: in the numbers of security professionals available and in the skill mixes represented by currently assigned personnel.
- NNSA site office survey programs are not sufficiently effective in assessing the adequacy or effectiveness of site safeguards and security programs. Surveys are a primary oversight tool available to the site offices. Many survey programs are not effectively or reliably achieving their primary goal, which is to accurately determine the effectiveness of site safeguards and security programs.
- NNSA does not consistently apply or enforce appropriate corrective action program requirements on site contractors. DOE has specific requirements for the corrective action process that is to be applied to all formal findings assessed against safeguards and security programs by Federal oversight activities. NNSA oversight responsibilities are an integral part of that process, but in common practice, this process is often not fully invoked or enforced by the NNSA site offices.
- NNSA has not effectively taken advantage of the opportunity to use award fees and performance incentives to spur intended results in safeguards and security program performance. Site offices have generally been ineffective in appropriately emphasizing security through contractor performance incentives and in formulating performance indicators that are successful in achieving the intended results.

These issues have all been identified through internal oversight activities and/or through the efforts of independent teams commissioned by NNSA. DOE, including NNSA, managers have initiated the following significant actions to address these issues and to improve Federal line management oversight of NNSA security operations.

- DOE, including NNSA, is taking steps to address shortages in security manpower resources. As part of the security initiatives announced in May 2004, the Secretary of Energy directed NNSA to implement the recommendations contained in the Chiles Report, several of which deal with (security-related) human capital management. NNSA actions associated with this initiative were discussed above.
- NNSA has initiated actions to address the education and training needs of its Federal security workforce, including those specifically applicable to oversight responsibilities. NNSA is working closely with SSA's National Training Center to expand the course offerings in the Professional Development Program to encompass identified NNSA needs, including curricula in leadership and management development, incumbent training in safeguards and security technical disciplines, and training and orientation for security interns. In an immediate action to expand the experience level of security professionals, NNSA has implemented a rotation program to afford security professionals in the field the opportunity to work at headquarters and security professionals at headquarters the opportunity to work at field sites. At present, two individuals are participating in this program.
- DOE, including NNSA, is taking positive steps to clarify and strengthen Federal oversight responsibilities at various management levels. Draft DOE Policy 226.1, DOE Oversight, and a corresponding DOE Order are currently in the review process. They are intended to clarify and assign oversight responsibilities, including those of headquarters organizations. NNSA is currently implementing a Defense Nuclear Security Performance Assessment Program that integrates Federal line management oversight activities. In furtherance of this objective, NNSA has recently established an Office of Performance Assurance to head this effort.

- NNSA has increased its efforts to reorient day-to-day oversight of contractor security operations. Senior managers are involved in an effort to alter the previous philosophy of telling the contractor the ultimate goal (what to do) and allowing the contractor to decide how to reach the goal (how to do it). While avoiding actions that might stifle contractor initiative, NNSA is encouraging site office personnel to focus more attention on how contractors are performing security operations and to provide more input to contractors regarding preferred methods of operation.

Our review concluded that while these deficiencies in line management, and their underlying conditions, exist and have been adversely affecting NNSA's ability to exercise adequate line management oversight of security operations, the problems are known to NNSA and the Department, including NNSA, has initiated actions to address them. While solutions to these issues are being pursued, some of those solutions—such as increasing the security workforce and implementing necessary training and education programs—will take several years to implement fully, and will require the sustained support of DOE, including NNSA, senior managers.

We also acknowledge that, while protection programs at our sites are generally effective overall, potentially significant lapses in protection program implementation do sometimes occur at our NNSA sites as well as at sites under the purview of the Under Secretary for Energy, Science, and Environment (ESE). For example, at Oak Ridge National Laboratory (an ESE site) portions of the protection system lacked the defense-in-depth that we require, and the site relies on an agreement with a neighboring site for special response team (i.e., offensive combative) capabilities. Our most recent Independent Oversight inspection at the Hanford site (ESE) found that the protective force needed to improve its tactical training, planning, and skills, and that some local human reliability program processes required reexamination. Since that inspection, the Hanford site has implemented corrective actions designed to correct these deficiencies.

Our three most recent Independent Oversight inspections at NNSA sites (Sandia National Laboratories-New Mexico, Y-12, and Nevada Test Site) identified some common implementation problems, including insufficient frequency of large scale force-on-force performance testing/exercises and inadequate weapons and equipment to fully deal with today's threat (e.g., armored vehicles, anti-armor weapons, weapons with high rates of fire). Additionally, the Nevada Test Site exhibited deficiencies in protective force operations and material control and accountability procedures; Sandia exhibited deficiencies in physical security systems and in handling classified matter; and Y-12 exhibited significant deficiencies in most major protection program elements. Since those deficiencies were identified, line managers have been responsive and the sites have been engaged in corrective actions. Our Independent Oversight organization is currently inspecting Sandia-New Mexico to determine its current protection system status and the progress it has made in addressing deficiencies. It will inspect Y-12 in May and June and the Nevada Test Site in July and August of this year.

When implementation problems such as those described do occur, we do not ignore them. We employ a formal corrective action and validation process to ensure that identified problems are fixed, and in cases where a deficiency results in a potential vulnerability, immediate compensatory measures are required. I would also like to point out that as we continue to make Department-wide progress on the security initiatives discussed above and in our system upgrades in response to the requirements of our current Design Basis Threat, we expect that our protection programs will become more robust and the historically troublesome protection elements (e.g., locks and keys, CREM, training, etc.) will be addressed through these efforts (specifically through the application of technologies or other solutions).

The last security challenge I would like to discuss is perhaps our major challenge—implementing the requirements of our new Design Basis Threat. After a prolonged development process, the Department issued a revised DBT in May of 2003. In May of 2004—in response to internal concerns, Congressional concerns regarding the robustness of the threat portrayed in the DBT relative to that portrayed in the Defense Intelligence Agency's Postulated Threat, and questions raised by the General Accountability Office—the Secretary directed the NNSA Administrator, the Director of the Office of Intelligence, and me to reexamine the May 2003 DBT and its supporting intelligence data to ensure that it was still current in relationship to the changing threat. We formed a task team comprised of individuals with the expertise necessary to assist in conducting the review, and the results of that effort were reported to the Secretary in late August 2004. In October 2004 the former Secretary approved a revised DBT, one which included some significant changes from the previous DBT. Since the DBT is classified, I cannot discuss some of its specific

provisions in this open forum, but I will discuss some of its generic attributes and comment on some of the differences between the current and previous versions.

Our DBT policy is intended to provide consistent and appropriate safeguards and security system performance specifications that Departmental elements must meet. It delineates a graded threat scale based on the sensitivity of the asset being protected and the potential consequences of asset loss. Assets are categorized into one of four "Threat Levels" based on the general consequences of their loss or destruction, or the possible impact of their loss or destruction on the health and safety of employees, the public, and the environment. The protection requirements for those assets are graded in a commensurate manner. Performance-based standards must be met to protect Threat Level 1 (most critical), 2, and 3 facilities and assets. Threat Level 4 (non-critical) facilities and assets must meet compliance-based standards.

The most significant changes reflected in the current (October 2004) DBT are:

- The policy now exists as a formal DOE Order. Procedures requiring a formal annual review have been issued.
- The policy is more concise, and understandable, and the number of Threat Levels applying to various assets and facilities have been combined and simplified. Threats associated with improvised nuclear devices and radiological, biological, and chemical sabotage have been folded into the Threat Levels.
- The terrorist numbers and attributes associated with the threat levels were increased to reflect current intelligence and geopolitical assessments.

In December 2004 the former Deputy Secretary directed that all DBT implementation plans be revised to ensure that all requirements contained in the October 2004 DBT are met no later than the end of FY 2008. The NNSA Administrator has expressed his full support and intention to develop and execute implementation plans on schedule. However, full implementation of the DBT on schedule is a major task posing many difficulties. For example:

- At some facilities it will require fundamental departures from institutionalized protection strategies, such as shifting from a containment strategy (preventing an adversary from escaping with target material) to a denial strategy (preventing an adversary from reaching target material).
- The postulated impacts of the DBT mandate that the Department consider aggressive material consolidation efforts, which will likely encounter operational, programmatic, and political opposition.
- The adversary numbers and capabilities postulated in the DBT allow the adversary much greater tactical flexibility, causing significant planning and response difficulties for current security systems.
- The appropriate security technology solutions are still being identified and developed. Consequently, developing accurate budget estimates is difficult at this time.
- Sources of funding and alternatives to current operations that will be necessary to implement the DBT are still being explored.

We are fully cognizant of these difficulties and are prepared to deal with them. We believe that the current initiatives that will contribute most to our DBT implementation efforts are: increasing the use of security technologies, implementing the elite protective force concept at select facilities, and consolidating our special nuclear materials to the greatest practical degree. As mentioned earlier, our Site Assistance Visit effort—now underway and almost complete—is intended to apply our best technological, analytical, and tactical expertise to assist our most critical facilities in identifying security technology applications and innovative protective force strategies that will enable them to effectively and efficiently meet the requirements of the DBT. So far we are encouraged by the progress resulting from these visits. Individual sites will have to follow up that effort with detailed vulnerability analyses to finalize the designs and compute the costs of their proposed protection system upgrades. Ultimately, we will have to devise ways to integrate new security technologies and new protective force weapons and tactics with operational needs and safety concerns.

CONCLUSION

In closing, we believe the Department of Energy under the leadership of Secretary Bodman is, and will continue to, actively pursue initiatives that will improve the capabilities of our security systems and procedures, and we have forcefully responded when elements of those systems have not performed according to our expectations. We will continue seek innovative, effective, and efficient methods, as well as the resources, to foster the changes in our security programs and practices that are necessary to effectively counter the evolving threat.

Thank you.

Mr. WHITFIELD. Mr. Podonsky, thank you very much for your opening statement.

As is the custom with oversight investigations, we will have 10 minutes of questions for each of the members of the panel, and I will start off here.

Administrator Brooks, since 2000, we have talked about moving Category I and Category II nuclear materials out of Technical Area 18 at Los Alamos and move it out to Nevada. And there have been all sorts of delays, but I notice in your testimony this morning that you made the comment that you do intend to have Category I and II material out of TA 18 by the end of the year. Is that still your commitment?

Mr. BROOKS. That is correct. Before the Los Alamos stand-down, we were slated to complete removal by September 30. I now believe, as a result of the delays imposed by the stand-down, that it will be mid-November, about a 6-week slip.

We will have half of the material in Nevada by the end of the year. That is actually slightly earlier than we expected. The rest of the material will be moved from TA 18 to another location in Los Alamos temporarily, and then will be moved to Nevada over the next couple of years. So we are—we will have all Category I and II material out, middle of November.

Mr. WHITFIELD. But out of the site in a couple of years.

Mr. BROOKS. Out of Los Alamos in a couple of years, but out of the vulnerable site at TA 18 by November.

Mr. WHITFIELD. By the end of the year.

Mr. BROOKS. Yes, sir.

Mr. WHITFIELD. Okay. Good.

Now I would like to also review basically the relationship between the respective offices of the two of you gentlemen. Of course, Mr. Podonsky, you work for DOE?

Mr. PODONSKY. Yes, sir.

Mr. WHITFIELD. And you are in charge of independent oversight at all DOE and NNSA sites.

Mr. PODONSKY. That's correct, sir.

Mr. WHITFIELD. And, Ambassador Brooks, you are in charge of NNSA nuclear weapons labs and productionsites, including Los Alamos.

Mr. BROOKS. Correct.

Mr. WHITFIELD. Now, we have this memo dated December 2, 2003, which was signed by former Secretary Abraham, which established the Office of Security and Safety Performance Oversight, and I ask unanimous consent to enter this document into the record.

[The information referred to follows:]

Department of Energy
Washington, DC 20585

DEC 0 2 2003

MEMORANDUM FOR: THE SECRETARY

THROUGH: DEPUTY SECRETARY

FROM: JAMES T. CAMPBELL
ACTING DIRECTOR, OFFICE OF MANAGEMENT, BUDGET AND EVALUATION/ACTING CFO

SUBJECT: ESTABLISHMENT OF THE OFFICE OF SECURITY AND SAFETY PERFORMANCE ASSURANCE (SSA)

ISSUE: The purpose of this memorandum is to request your approval for the establishment of the Office of Security and Safety Performance Assurance.

BACKGROUND: The events of September 11th have caused the Department to reevaluate the way it protects all of our national security assets.

DISCUSSION: The Department continues to be scrutinized by the Congress, the national media, and other stakeholders regarding security at our sites. While we adequately protect all of our national security assets, we can and need to do a better job in some areas. We have the resources and the know-how to accelerate our progress and focus on the most important safety and security issues.

This new office would manage most of the missions, functions, and operations of the Office of Security and all of the missions, functions, and operations of the Office of Independent Oversight and Performance Assurance. The office would report to the Office of the Secretary and would be intended to improve the development, promulgation, evaluation, and enforcement of security programs within the Department, in addition to overseeing safety.

Under this proposal, the Office of Security Policy would consist of the current Office of Security minus its

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operational elements, which will be transferred to other Headquarters organizations: The Office of Independent Oversight and Performance Assurance would join the new organization intact. These subordinate offices would remain separate, but under unified leadership. While the separation is important to the maintenance of the independence of the oversight process, the unified leadership and management will promote the resolution of policy issues identified through the oversight process. Additionally, the Office of Security and Safety Performance Assurance would work closely with the NNSA, through the Office of Security Policy, to ensure that NNSA security policies emulate the intent of Departmental security policies; and through the Office of Independent Oversight and Performance Assurance to continue the independent oversight of NNSA's safeguards and security, cyber security, environment, safety and health, and emergency management programs.

Revised mission and function statements and an organizational chart are being prepared, along with a crosswalk of employees proposed for reassignment.

SENSITIVITIES: Separating the operational elements of the current Office of Security from the new SSA is important to maintain the independence of the oversight process. A separate proposal will be made shortly to realign those functions to an organization outside of the SSA.

The position of Director of the current Office of Security is vacant at present.

There are a number of bargaining unit employees in the two current organizations; the HQ NTEU chapters must be given 21 days to review the proposed changes and have the right to request bargaining on the impact and implementation of the proposed change.

POLICY IMPACT: None.

RECOMMENDATION: That you authorize establishment of the Office of Security and Safety Performance reporting to the Office of the Secretary, designate Glenn Podonsky as Acting Director of the Office; Marshall Combs as Acting Director of the Office of Security Policy; and Michael Kilpatrick as Acting

Director of the Office of Independent Oversight and Performance Assurance.

That you authorize proceeding with the activities necessary to make the Office operational by December 29, 2003, or as soon as possible thereafter. A detailed implementation plan of actions and milestones for establishing the Office will be developed and coordinated with appropriate Departmental elements to ensure that implementation complies with Federal personnel regulations and internal DOE directives, including collective bargaining obligations.

APPROVAL: Spencer Abraham DATE: 12/3/03

DISAPPROVAL: _____ DATE: _____

Mr. WHITFIELD. This memo clearly authorizes Mr. Podonsky's office to continue the independent oversight of NNSA's safeguard and security, cybersecurity, environment, safety and health, and emergency management programs.

Now, Mr. Brooks, you indicated in your testimony that you will create your own Office of Performance Assurance to conduct security oversight at NNSA sites. Have you created this office with the intention of replacing the work of Mr. Podonsky, or what was your goal there?

Mr. BROOKS. No, not at all. And part of the problem I have had is finding the right name for this office that doesn't allow that misperception.

Mr. Podonsky provides independent oversight. He provides it on behalf of the Secretary. He also provides it on behalf of me. We have an agreement that if I see a need for an outside observation, I can call on Mr. Podonsky; and I have done that from time to time. But Mr. Podonsky comes in at periodic intervals, and he is the verification to the Secretary that we are doing our job.

I don't want to replace that. I need that independent oversight.

What I did 2 years ago was to centralize authority and responsibility in site offices. That authority and responsibility was diffused before then. And to emphasize the importance of those site offices, I didn't provide periodic supervision from headquarters. And in two areas that was a mistake—nuclear safety, unrelated to the subject of this hearing, and security.

So what I want to do is provide a routine interaction between my office that the site manager can call on when they need help and that will make sure I know that when Mr. Podonsky comes, I don't have to wait the 2 years till his next visit to make sure that we are performing correctly. It is the difference between line supervision, which is my responsibility—and this is a tool to aid me in it—and independent oversight, which is Mr. Podonsky's. But the functions are quite separate.

Mr. WHITFIELD. Mr. Podonsky, do you agree with Mr. Brooks' assessment of the situation.

Mr. PODONSKY. I agree with how he describes it, and I certainly hope that it will be enacted that way.

My experience, Mr. Chairman, is that this Department does a lot of checking on itself without much improvement. I have every confidence that what Ambassador Brooks is talking about is reasonable and makes sense.

If I were in Ambassador Brooks' position, I would want to know how my sites were performing before independent oversight came as well. I just want to make sure we don't fall into the same predicament that we have had in past years, where previous Secretaries have created what we call "checkers checking checkers." That is not a good situation, because we get a lot of reports and not a lot of action.

I don't believe that is the intention, as Ambassador Brooks has described the program.

Mr. BROOKS. And I agree with that completely. One of the advantages Mr. Podonsky has is that we are both going to be in these jobs for the next few years, so we will be sure to make sure these get off.

Mr. WHITFIELD. I hope that is the case because, as Mr. Podonsky just said, we do seem to have a lot of checkers checking checkers, and we do need a lot more action. And there certainly seem to have been a lot of problems in these programs.

Mr. Brooks, the University of California stated that the cost of the stand-down at Los Alamos was around $160 million. However, we have an NNSA memorandum dated February 22, 2005, from the NNSA's chief financial officer in Albuquerque to the Los Alamos site manager, and according to this document, the total programmatic cost of the stand-down is about $367 million.

I ask unanimous consent to enter this document into the record.

[The information referred to follows:]

Department of Energy
National Nuclear Security Administration
Service Center
P. O. Box 5400
Albuquerque, NM 87185

FEB 8 2 2005

Edwin L. Wilmot, Manager, Los Alamos Site Office, Los Alamos, NM

SUBJECT: Report of Los Alamos "Stand-Down" Costs

The attached report contains our review of Los Alamos National Laboratory (LANL) "stand-down" costs.

Our review of LANL's accounting records disclosed that LANL did not establish unique accounts in the general ledger to capture "stand-down" costs. Therefore we could not separately identify program costs from "stand-down" costs and determine the actual costs on an objective and accurate basis. This report identifies the actual costs recorded in LANL's accounting system for the period of the "stand down." This report also identifies $6.3 million in questioned incremental costs.

This report recommends that the Las Alamos Site Office Contracting Officer:

- Perform a review and final determination on the cost allowability of the $6.3 million of questioned costs.
- Make a final determination on the reasonableness of the duration of the "stand-down" in relation to its impact on the overall allowability of the costs to the contract.
- Consider the degree of LANL's compliance with the Contracting Officer's July 30, 2004, letter of direction, for future action.

E. Dennis Martinez
NNSA Field Chief Financial Officer
Director, Office of Field Financial
Management

Attachment

cc: (see page 2)

cc:
Linton F. Brooks, NA-1, NNSA HQ
Jerald S. Paul, NA-2, NNSA, HQ
Michael C. Kane, NA-60, NNSA HQ
James J. Cavanagh, NA-60, NNSA HQ
Robert C. Braden, NA-63, NNSA HQ
Karen L. Boardman, OOD, NNSA SC, Albuquerque, NM
Deborah C. Miller, OBS, NNSA SC, Albuquerque, NM
Elizabeth L. Osheim, OCC, NNSA SC, Albuquerque, M

United States Department of Energy
National Nuclear Security Administration
Service Center
Financial Review & Performance Assessment Department

For Cause Review:

LANL's "Stand-Down" Costs

For the Period of July 16, 2004 through January 31, 2005

February 2005

Purpose:

On November 24, 2004, the National Nuclear Security Administration (NNSA) Office of Field Financial Management/Chief Financial Officer initiated a "for cause" review of Los Alamos National Laboratory's (LANL) "stand-down" costs to follow up on the direction provided by Los Alamos Site Office (LASO) on suspension activities and to report on the costs associated with this effort to the Site Manager and Contracting Officer.

Scope:

Our review included the review and analysis of the correspondence and documentation related to suspension and resumption activities of LANL's "stand-down." We reviewed LANL's methodology of cost estimating and reporting; interviewed several LANL cost center managers and financial accounting personnel to better understand the activities related to the suspension and resumption effort; reviewed and traced actual labor costs recorded in LANL's accounting system; and obtained and reviewed the resumption dates in the current system LANL used to control this activity. We also analyzed the actual and provisional indirect rates applicable to direct program labor for Fiscal Year (FY) 04 and 05.

Background:

As a result of several security and safety incidents, on July 16, 2004, LANL management decided to "stand-down" the Laboratory until a full review of all Laboratory operations had been accomplished. A restart plan (COMPASS) was then developed and implemented. The Laboratory then started the lengthy process of evaluating each and every function in order to ensure safe, secure, and compliant operations.

On July 30, 2004, the LASO Manager and Contracting Officer sent a letter to LANL advising that the costs associated with this "stand-down" would be subject to the allowability of cost requirements under the prime University of California (UC)/NNSA contract. As such, LASO directed LANL to separately track all of the costs incurred in connection with the suspension of Laboratory operations.

Our review, initiated on November 30, 2004, disclosed that LANL did not set up a mechanism in its formal books of accounts that identified and separately tracked all of the costs incurred in connection with the suspension of Laboratory operations. LANL reported "stand-down" cost activity utilizing a parametric estimating technique, with estimated fixed average daily labor costs, estimated risk level percentages, and resumption dates as the independent variables.

Using this methodology, LANL had estimated its total labor "stand-down" cost as $134 million as of November 10, 2004. During our review, we found many under and overstatements in all three of these independent variables in several of LANL's cost centers. LANL made retroactive corrections to all three of these variables through a data

call to all of its cost center managers, dated January 18, 2005. LANL's own revised estimate of the direct and indirect labor is $95.3 million plus incremental non-labor cost of $23.8 million for a total of $119.1 million. LANL used this methodology to estimate "stand-down" costs rather than use its normal labor cost distribution system.

For payroll purposes, LANL instructed employees to charge the same charge codes that they were normally charging prior to the "stand-down." Therefore, the labor cost associated with "stand-down" and resumption was not recorded at the time incurred either formally or informally on any time recording mechanism. As a result, the labor cost associated with any particular risk level or program activity cannot be objectively validated. Also, it is not possible to objectively validate which LANL employees may have or may not have worked on a particular risk level activity. Therefore, we believe that LANL's estimating methodology does not objectively allocate and report labor costs between "stand-down" and program activities.

We requested an estimate of the time and effort that it would require LANL to retroactively track these costs. On January 18, 2005, LANL responded that it would require 16,000 man-hours at an estimated cost of $1.6 million to retroactively capture and separate these costs in the accounting records. To date, NNSA has not directed LANL to make these retroactive adjustments (back to FY 04) because of the time and effort required, and because the adjustments would be based on subjective estimates at this point in time. In addition, the retroactive process would not provide reasonable assurance that LANL would achieve complete and accurate results. However, based on NNSA direction, LANL established unique cost accounts to separately identify time and effort associated with restart activities beginning January 3, 2005.

Results of Review:

Our review of LANL's accounting records disclosed that LANL did not establish unique accounts in the general ledger to capture and separate actual "stand-down" related costs. Therefore, we could not objectively separate and identify program costs from "stand-down" related costs and determine the actual costs of the "stand-down" on an objective and accurate basis.

Given this limitation, our approach to identifying the costs of the "stand-down" activity was to determine the actual recorded labor cost from the general ledger for the period each laboratory organization "stood down" to the point that full operations resumed. Based on this approach, the upper limit for total recorded labor cost for the "stand-down" and resumption activity was $255.6 million from the time frame of July 19, 2004, to January 28, 2005. In addition, LANL identified and we have reviewed approximately $23.8 million in various incremental costs (i.e., subcontract claims, cancelled travel and conference costs, etc.). Of the $23.8 million, small subcontractor claims and other incremental costs comprise $6.3 million and major subcontractor "stand-down" costs amount to $17.5 million ($7.6 million other direct costs plus $9.9 million indirect). These small subcontractor claims and incremental costs should be reviewed by the

contracting officer as potential questioned contract costs for final review and determination.

The upper limit of the costs incurred and recorded in the accounting records are shown below:

Program/Element	Recorded Unburdened Costs	Total Programmatic Cost
Labor:		
NNSA	$142.9 M	$256.0 M
DOE	23.5 M	42.1 M
Reimbursable	27.7 M	49.6 M
Indirect	61.5 M	N/A
Sub Total	$255.6 M	$347.7 M
Incremental Costs:		
Other Direct Costs	7.6 M	10.8 M
Indirect (KSL contract)	9.9 M	N/A
Claims, etc.	6.3 M	8.8 M
Sub Total Claims and Incremental Costs	$23.8 M	$19.6 M
Totals	$279.4 M	$367.3 M

During our review, LANL indicated that they believe $160.3 million ($255.6 million minus $95.3 million) of the unburdened costs are not associated with "stand-down" activities and therefore should not be considered part of the "stand-down" costs. As previously stated, LANL's current estimate of the direct and indirect labor associated with suspension and resumption is $95.3 million. However, since LANL did not separately track all the actual costs incurred in connection with the suspension in their accounting records, we were unable to identify or confirm objective data supporting the $160.3 million, and therefore have included it in the upper limits reported. LANL does not believe that it is appropriate in this case to apply indirect costs to the direct amounts that we confirmed in the accounting records. We believe that it is appropriate to show the "stand-down" programmatic impact consistent with FAR 31.201-1, which states that the total contract cost is the sum of direct and indirect costs allocable to the contract funding resources.

Our review of LANL's documents indicate that during the "stand-down", Laboratory personnel were engaged in analyzing the safety, security and environmental risks inherent in their tasks and in determining how to ensure that all programs conducted at LANL complied with all applicable regulatory criteria in those areas. This work dealt with evaluating the specific risks posed by each funded project, analyzing the overall safety,

security and environmental compliance of all work performed on site and formulating appropriate plans to ensure that the Laboratory rigorously adhered to all of the safety, security and environmental requirements mandated by the prime contract with NNSA. The types of activities supporting this work included developing/modifying procedures and work processes, training, and certifying activities.

Based on the NNSA Service Center review of the Terms & Conditions under DOE/NNSA Contract No. W-7405-ENG-36 with UC (Attachment 1), the Summary Agency Legal Position on LANL Suspension and Resumption (Attachment 2) and, subject to the final review and determination of the contracting officer, these costs (except for $6.3 million in questioned costs) appear to be of the nature and type that would normally be considered allowable under the terms and conditions of the contract. However, the duration of the "stand-down" has an impact on the reasonableness, allocability, and allowability of the overall costs. We recommend that the contracting officer make a final determination on the overall reasonableness of the duration of the "stand-down" in relation to its impact on the overall costs.

Summary of Recommendations:

Recommendation 1: The contracting officer should perform a review and final determination on the cost allowability of the $6.3 million of questioned costs.

Recommendation 2: The contracting officer should make a final determination on the reasonableness of the duration of the "stand-down" in relation to its impact on the overall allowability of the costs to the contract.

Recommendation 3: The contracting officer should consider the degree of LANL's compliance with the contracting officers' July 30, 2004, letter of direction, for future action.

Attachments (2)

Attachment 1

Terms & Conditions under DOE/NNSA Contract No. W-7405-ENG-36 with the University of California:

In reviewing the terms and conditions under Department of Energy (DOE)/National Nuclear Security Administration (NNSA) Contract No. W-7405-ENG-36 with the University of California (UC), relative to the allowability of costs during a contractor directed "stand-down," the provisions of the contract are silent. However, the following contract provisions are cited that give NNSA the ability to determine the allowability and allocability of costs. In this regard, Contract Clause H. 26 states that *"The determination of the allowability of cost shall be based on FAR 31.2, Contract Cost Principles and Procedures, as supplemented by DEAR 970.31 and as further described herein."* In reviewing the requirements under FAR Part 31, specifically Subpart 31.3, Contracts with Educational Institutions, OMB Circular No. A-21, Cost Principles for Educational Institutions, is cited as providing principles for determining the costs applicable to UC. Section C, Basic consideration, sub-paragraph, 2, Factors affecting allowability of costs, under the Circular specifically states that, *"The tests of allowability of costs under these principles are: (a) they must be reasonable; (b) they must be allocable to sponsored agreements under the principles and methods provided herein; (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items."* Therefore, in accordance with this provision UC, upon receipt of the Contracting Officer's July 30, 2004, memo was to conform to the "limitations" directed by NNSA to separately track all of the costs incurred in connection with the suspension of Laboratory operations.

With regard to the collection of unallowable costs under the DOE/NNS/UC Contract, subparagraph 8, under Section C of the OMB Circular A-21, Collection of unallowable costs, excess costs due to noncompliance with cost policies, increased costs due to failure to follow a disclosed accounting practice and increased costs resulting from a change in cost accounting practice states that *"The following costs shall be refunded (including interest) in accordance with applicable Federal agency regulations:*

a. *Costs specifically identified as unallowable in Section J, either directly or indirectly, and charged to the Federal Government.*

b. *Excess costs due to failure by the educational institution to comply with the cost policies in this Circular.*

c. *Increased costs due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs.*

d. *Increased costs resulting from a change in accounting practice."*

Regarding an NNSA determination of cost unallowability, contract clause I.067, DEAR 970-5204-3, Access to and Ownership of Report, provides NNSA the right to audit costs incurred during the LANL "stand-down" to validate allowable and allocability of "stand-down" costs identified by LANL.

Attachment 2

Summary Agency Legal Position on LANL Suspension and Resumption.

As stated in the attached report, because of safety and security incidents, the Los Alamos National Laboratory (LANL) management decided on July 16, 2004, to "stand-down" the entire Laboratory until a full review of all Laboratory operations had been accomplished. While such a decision by Laboratory management is not unprecedented, Contract No. W-7405-ENG-36 (Contract 36), for the management and operation of LANL, provides for the National Nuclear Security Administration (NNSA) Contracting Officer (CO) to suspend operations of work at the Laboratory, in whole or in part, under the clause entitled "Stop Work Order" (F.001 FAR 52-242-15 (AUG 1989) Alternate I (APR 1984)) as the more usual method of suspending activities. The clause provides for a written "stop work order" issued by the CO, with a definite period after which the work is resumed or terminated.[1] Since this process described in the "Stop Work Order" clause was not followed by either the CO or Laboratory management, the provisions of the clause relating to allowable costs and other administrative matters are not applicable, *per se*. However, by memorandum dated July 30, 2004, the CO acknowledged the Prime Contractor's decision to suspend all activities, the related restart plan, gave notice of the issues related to allowability of costs connected with the suspension of operations, and gave an order to separately track those costs. Thus, the central issues related to a suspension of operations ("stop work") and allowability of costs were delineated by the CO is his letter of July 30, 2004.

There is a peripheral legal issue as to whether the Laboratory management should have taken this action without a "stop work order" under the Contract. Clause G.001 of Contract 36 ("Additional Contract Administration Information") as paragraph (e) provides recognition of the appropriate balance between the conduct of world-class scientific and technical research and the conduct of activities necessary for the prudent operation of the facility, the management of the workforce, and the safe conduct of the research. Given the nature of the safety and security incidents, prudent operation of the facility can include a decision by Laboratory management to suspend operations until they are deemed safe and secure. The specifics of the responsibilities of the Laboratory management for safe and secure operation of the facility are set forth in the contract clauses I.049 entitled "Security," I.066 entitled "Laws, Regulations, and DOE Directives," and List B appended to the contract.

Questions and issues regarding allowability under specific contract provisions are discussed below. We have asserted that despite direction from the CO to do so, LANL had not properly segregated the costs associated with the suspension of operations until recently, creating issues of the amount of associated costs as well as questions of allowability. Resolution of these questions and issues requires close cooperation among the CO, financial elements of NNSA and their counterparts at LANL. For example, NNSA may want to verify whether particular operations were "stood-down" in a reasonable and orderly manner and in accordance with Laboratory procedures when making a determination on the reasonableness of specific incremental costs. Additionally, the incremental costs should be reviewed for allowability against the FAR Part 31 cost principles. There may also be issues of liability related to subcontractors at the Laboratory, and sponsors of non-NNSA work at LANL, who may have sustained financial losses due to the "stand-down." Depending upon the nature of

[1] There is no contract mechanism for the Prime Contractor to unilaterally issue a "Stop Work" order.

Attachment 2

the contractual or other funding agreements with LANL and the facts involved in the "stand-down" of their work, such parties may have to be made whole, resulting in further determinations of allowable costs. Allowability issues related to incremental costs and subcontractor costs will have to be reviewed on a case-by-case basis to determine reasonableness and allowability.

Mr. WHITFIELD. It seems the difference between those two estimates relates to whether we include indirect costs in the estimate.

Do you think this $367 million estimate from your staff represents the actual cost of the stand-down?

Mr. BROOKS. It represents an upper limit.

There are two points of difference, if I may. This gets into a little bit about how we account for costs with our contractors. There are two differences, and the application of indirect costs is actually the smaller.

Here is what we do: An individual laboratory is working on a project, and they keep a record with a little code of what project they are working on. We then take that labor cost, add whatever other direct costs, materials, and that is the cost, the direct cost of the project. We then apply to that the things you need to run a lab—the fire department, the salary of the laboratory director—and those are indirect costs.

There are two differences between the laboratory methodology and ours. At our direction, the laboratory kept track of the cost of the stand-down. But the way it chose to do so was to continue to have people charge to their projects and to apply an algorithm that estimated the amount of time that was purely stand-down. That is not auditable. It is not done with any malicious intent, but it is not auditable. What we did is, here is the period of the stand-down; here is what they charged to their projects. So that gave us a substantially larger direct labor cost.

Now, the truth is almost certainly somewhere in the middle. The laboratory assumes about $119 million of direct labor cost, we assume about $200 million direct labor costs, and there is no way to allocate between that as to what people would have been doing if there had never been a stand-down, because that is not the way the records were kept.

Then the laboratory chooses to say that indirect cost is inappropriate here. We believe that the way we compare cost is using indirect cost. So that is the difference. It is an accounting difference.

I believe that the assessment of Mr. Martinez, who is my field chief financial officer, is correct, but it is conservatively correct. In other words, it is an auditable accounting standard assessment of what can be documented. The actual-cost money that was spent only because of the stand-down is almost certainly less, but because there is no way to determine how much less, we do not accept the laboratory's—I would call it "estimate." Dr. Nanos would probably not use that same word.

The real cost of the stand-down, however, is not just monetary; it is what has happened to the programs. And we are working very hard with the laboratory to minimize that.

But I stand by that report. That's a good report.

Mr. WHITFIELD. That the costs are significant.

Mr. BROOKS. The costs are significant.

Mr. WHITFIELD. My time has expired here, but I notice that you did reduce the fees to the University of California. Do you feel like the University of California should pay some of these costs caused by the stand-down?

Mr. BROOKS. The determination of whether these are allowable charges to the government is a formal determination that will be

made by the contracting officer. In the report you referred to, the chief field financial officer offers an opinion that the bulk of these costs are allowable charges to the government.

Let me give you an analogy. If we at our lab go build something, anything, and it costs more than we expected, the government is responsible for that extra cost. We may decide to reduce the fee, we may decide to hire somebody else to run the lab, but we cannot change the rules of the contract in the middle. This may be an analogous situation.

Our recourse, first, is to reduce the fee, which as you know I have done; and second, this is a performance issue which will be taken account in the upcoming competition. I believe those are likely to be our recourse. But I want to be very careful not to prejudge the independent determination of the contracting officer who is responsible for deciding whether these are allowable costs.

Mr. WHITFIELD. Thank you very much.

Mr. Stupak.

Mr. STUPAK. If I may pick up right there, stand-down cost is not addressed at all in the contracts?

Mr. BROOKS. No, and that is what makes it more complex. But some of the stand-down costs can be regarded as the necessary cost of doing business.

I don't want to suggest that this is a completely black-and-white determination, and I don't want to suggest we have made a final judgment, but I also don't want to mislead the committee. Two independent looks have suggested that under the contract, these are probably going to be allowable costs.

Mr. STUPAK. How do you ever change the culture, then, if the security, the lax security, the quality assurance, then the stand-down costs.

Not only do we have the loss of work being done at the lab, but then you also have other costs for the cost of the stand-down. And you say, Well, that is part of doing business with the government, so the taxpayer has to foot the bill, while the University of California, that oversees this—how do you ever change this culture that you have to do things right or there is going to be some responsibility? And in this case, these costs should be borne by the university and not the taxpayer.

Mr. BROOKS. Well, first of all, sir, I think you change the culture on the ground in the lab. I believe that the very strong actions Dr. Nanos took to hold people accountable, including terminations and reductions, I think that the time spent in reviewing procedures and working on culture, those are going to pay off.

In essence, we have spent $300 plus million to make the lab better. Now, if we screw it up and the lab isn't better as a result of this, then that has been an enormous waste of time and energy. And we will not know for some period of time.

In the stand-down, for example, the laboratory uncovered some 350 issues that had to be corrected before they started. They uncovered another 3,000 issues of long-term improvement that are being built into this. If we follow through on that, we will have——

Mr. STUPAK. If you go in looking for 300 and you come out with 3,000 more, what does that say about the quality of the security and the quality assurance and quality control at the lab? It says,

it is pretty ridiculous, to put it mildly; and then these costs are just passed back to the taxpayer.

See, you are going to get 3,000 again when you go back down there in the next stand-down, and I hope you don't have another one, if we're not doing anything; if we're not holding anyone responsible. I guess that's the culture I'm looking for.

Mr. BROOKS. Yes, sir, and I understand.

Mr. STUPAK. The only one being held responsible is the U.S. taxpayer, because they are paying for all these indirect and direct costs. Aren't we really paying the University of California for their expertise so we don't have these stand-downs and all these costs to the taxpayers and so that labs can run.

Mr. BROOKS. Well, we are certainly paying them to manage the lab. We are certainly unhappy with their management, which is the reason for the significant reduction in fee. The university, as you know, operates the laboratory in a way that it neither benefits nor pays. That is, the fee it receives is plowed back into the lab and it does not go into its general area.

I believe there's no question at all that the university understands that it screwed up and that it is actively trying to make sure that the problems are really fixed.

Mr. STUPAK. But from where we sit, this is my tenth year on this oversight subcommittee, and I have heard this 10 years now, that we think they really understand, they really get it this time.

At Los Alamos, I have been there. When I said we should go see these, I have been there because of the problems there. I go there and they have these real strict procedures, and I think Dr. Nanos has really tried to put some strict procedures in there, but if the overseer, the University of California here, is going to have this relaxed attitude and there is no real cost to them because they can just put that cost back off to the taxpayer, I just think we are going to be here for another 10 years going over the same thing and hearing from you or someone else in your position that I think they really understand. I just don't see it.

Mr. BROOKS. The one difference, sir, I will submit, is the competition. I think that for the first time, as a result of past problems——

Mr. STUPAK. You bet.

Mr. BROOKS. We have made a decision, and we are working very hard to make sure this is a genuine, not a pro forma, competition; and I believe that is having a salutary effect.

Mr. STUPAK. I hope when you do these competitive bids you put in there that if there is a stand-down, you are going to be responsible for part of the stand-down, because we are relying upon your expertise so that we don't have these stand-downs that cause extra money.

You used the analogy, if we are building a project there and the project costs more money than what we anticipate, the government is responsible for it. Well, we pay to run these labs at a certain price. If it is going to cost more because of lack of quality control, I don't think the taxpayer should have to pay that price. I think the University of California should, or whatever is managing it.

In my opening, I mentioned that I wanted to ask each of you about some areas that you feel we need to address and address

now. So if you could generally do that—I don't want you to say anything classified; we will have that discussion later.

But, Mr. Podonsky, what do you think are the three or four most important issues we need to address and address them now? Is it the classified removal of electronic media? Is it the theft of nuclear material? What do you think our top three or four things are, just generally?

Mr. PODONSKY. Generally, Congressman, it is the consolidation of nuclear material that needs to be addressed now, and as rapidly as possible, as I said in my opening statement. It is the deployment of technology. We are in the 21st century, and we are still depending on more guards, gates and guns than technology. And so we definitely need to do that.

As Ambassador Brooks and I also mentioned, we are moving in that direction. We are just not moving as quickly as we would prefer to move.

The improvement of the existing security force, we talk about an elite force in former Secretary Abraham's initiatives; well, we need to establish a paramilitary group for our most valuable assets and Category I facilities. We need to continue to improve our physical security at many of our sites. And all this is rolled up into our DBT.

Last, I would say, Mr. Congressman, that Federal management and oversight of the sites needs to be improved. And as you have heard, Ambassador Brooks intends to do that at NNSA sites, and we need to do that also at the DOE sites.

Mr. STUPAK. Let me hit two points. You have mentioned consolidation and technology improvements. I was a little concerned when you said we're going to move this stuff out of, was it TA 18 there, and it is going to go up to Nevada. Part of it, we are going to take it out of the building it is in now and put it in another building; and then later on it will get shipped up to Nevada. Why is that taking so long? Why don't you just move it all to Nevada? Why are we hopping from spot to spot.

Mr. PODONSKY. I think that would with better answered by the program, which would be Ambassador Brooks.

Mr. STUPAK. Okay. Because when you say "consolidation now," what do you mean by "now"? This year.

Mr. PODONSKY. In my capacity for the Secretary and for Ambassador Brooks, looking at it independently, I don't have to worry about running the programs, so I can look at it and say, Why aren't we moving the material now?

Like the Sandia Pulsed Reactor, without getting into classified now, sure, we ought to just go ahead and terminate that activity. But, clearly, the program has other requirements that I'm not familiar with, and that would have to be Ambassador Brooks' decision.

But it seems to me, after a number of years in this agency and overseeing it, that we just don't move rapidly enough, for reasons that are not always clear. Some of them are legitimate and some of them, separate from Ambassador Brooks, I think are just more excuses as to why we don't do what we should be doing.

Mr. STUPAK. So TA-18, if I remember correctly, we have been talking about moving this for 10 years.

Mr. PODONSKY. That is correct. But, I would also say, and I was there in 2000 when it was first brought up with former Secretary Richardson. At least now they are doing something about it. Back then, it was still just talk.

Mr. STUPAK. You guys are starting to sound like the EPA. They told me the other day: Soon. Government moves slowly but should not move that slowly.

Ambassador Brooks, could you give us a little bit more on why this consolidation, why can't we just give it up to Nevada?

Mr. BROOKS. A couple of reasons. One is that there is a safety reason; that is packing and moving special nuclear material takes time. We have a couple of shipments that have already gone; we have several shipments that are going. But the problems of Los Alamos were, in my view, much more severe in the safety than in the security area.

And we are not going to do high-hazard operations other than in a safe manner. Second, there are programmatic issues. We need—this material exists in part because of some criticality training that we are going to have to ultimately replicate in Nevada.

We are trying to balance the requirements to get it out of TA-18, still maintain the program and do everything safely. And what we have come up with is to move out of TA-18 by the end of the year to an area where there is already a good deal of material and a very robust amount of security—I can talk a little bit more about that in the closed session—while continuing to move it as rapidly, as safely to Nevada.

So, even if I could, if I could press a button now and have it all in Nevada, probably will not want to do it, I need some of it to continue the criticality experiments that are important for our emergency management.

So what I am doing is putting it in a safer place in the interim until I can get the capability at Nevada.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. WHITFIELD. Dr. Burgess, you are recognized for 10 minutes.

Mr. BURGESS. Thank you, Mr. Chairman.

Mr. Podonsky, in your testimony, you discussed the importance of local Department of Energy site management to identify and correct security problems on their own. However, you also point out that local management has not always been up to the task. Los Alamos has had problems with managing their classified data inventories for many years.

Why do you think that Los Alamos, at the site level, has been unable to effectively identify and correct management weaknesses before the problems occur?

Mr. PODONSKY. I do not think that Los Alamos has a corner on that market of not being able to identify all of the problems at the site. What has traditionally happened, in my experience, in the Department is that the site offices have not always had the depth of capability among their Federal staff to go out and do the work that, for example, that my independent oversight office does.

And because of restrictions on the number of people that they can afford to have at these sites in the past, I think what we term oversight, I think oversight is a misnomer; it is really managing

and directing the M&O contracts is what we need to recognize. And there needs to be more of that.

I cannot give you a specific, Congressman, as to why they did not have a more robust management in the direction, but we have confidence, my oversight group now, has confidence in the team that Ambassador Brooks has there onsite. We also have confidence, and that is not to impugn people who have served in those capacities previously, but there are various degrees of talent that the Federal Government is able to attract and keep, and I think Ambassador Brooks has got some of the best that he can find for the management of that site right now Mr. BURGESS. Ambassador Brooks, is the problem primarily one of funding?

Mr. BROOKS. No. The problem is the things I tried to allude to in my statement. Los Alamos is a good example, because, for years, we have not developed security as a career progression. We have not built the cadre of very, very experienced and knowledgeable security professionals. We have some, but we do not have enough. And that is what Admiral Chiles has helped us to see for the long term.

So the people who are doing this at the Los Alamos site office, there were not enough of them. There are more now, and they were not as experienced as you would like. Second, there was the leadership issue within that group which no longer exists. Third, there has been a tendency at many of my site offices, including, I think, Los Alamos, to defer to the security people for security and to worry about all of the other things the site office had to do.

And my site managers now understand they cannot do that, that security is too important. And, fourth, in my responsibility of supervising the site offices, I did not have as good a mechanism to make sure that they were doing their job, and that is the purpose of this new office.

So it was all of the things that I alluded to in my statement; it was not an issue of funding. It was an issue of organization. We had, before 2002, an extremely—when you look back, there are a number of past reports—an extremely fragmented organization in the Department of Energy. It was very difficult to tell who is in charge.

And one of the things we have tried to correct is to make it clear that I am in charge, and under me, my site manager. You know, in all areas, we are still working to make sure that that concept is fully understood, but it is clearly the right way to run the complex.

Mr. BURGESS. Thank you. Mr. Podonsky, are there examples of other sites in the weapons complex where line management has been effective in identifying security matters before they emerge? Have we done it right in other places?

Mr. PODONSKY. From our perspective, yes, sir. Pantex is an excellent example.

Mr. BURGESS. A Texas facility, I might point out Mr. PODONSKY. I do notice that, Congressman, yes. But, and considering the mission that is there, that is also quite heartening to know that they have such a strong site management program.

Mr. BROOKS. If I may, Congressman. It is the same sized program. So that is why it is not primarily a question of resources; it

is a question of leadership and training. And we are trying to use those standards at Pantex as a model for the rest of my sites.

Mr. BURGESS. Well, Ambassador Brooks, do you feel that you are going to be able to convince Los Alamos and other sites to improve line management, attention to security matters, before they become further security problems?

Mr. BROOKS. On the Federal side, I am absolutely convinced. And I have no reason to doubt it on the contractor side. There are always going to be problems. I want to make it clear. There are always going to be problems. This is a huge complex enterprise. The point is, are the Federal officials responsible for providing the supervision finding those problems in time to make sure that they are corrected? And that is what I am—that is what we are going to be able to do.

Mr. BURGESS. Thank you, Mr. Chairman. I will yield back my time.

Mr. WHITFIELD. Mr. Inslee, you are recognized for 10 minutes.

Mr. INSLEE. Thank you.

Mr. Brooks, I wanted to ask you some questions about the Hanford site. If you can update us on consolidation efforts there and plutonium transfer efforts, I would be appreciative.

Mr. BROOKS. Hanford is not one of my sites, sir. I am going to have to take a pass.

Glenn, are you in a position to address that? We may need to answer that for the record, sir. We have the wrong people at the table.

Mr. PODONSKY. The Hanford site falls under the under secretary for ESE. I believe that nomination is up and has not been confirmed yet. So I do not have the information on that.

Mr. INSLEE. We will talk to some other folks.

What—I was reading an article about a year ago talking about security in a broad context. It was suggesting reference to the GAO report that precipitated a lot of our concerns. And the GAO report, as I recall it, basically suggested that there needed to be a new bar, a new standard, if you will, for security, that an original sort of standard was to prevent an intruder from seizing a weapon or plutonium and leaving the site and using it for nefarious purposes somewhere else, and that we really needed a system that would prevent intrusion and the ability to detonate and utilize in some way onsite.

How would you characterize efforts to meet that standard? Met? Unmet? Are there dates you can discuss with us in that regard?

Mr. BROOKS. Yes, sir. I will be able to say a little bit more about this in closed session. But we operationalize that through the so-called design basis threat. And you are absolutelycorrect. Before September 11, all of us assumed that the threat was somebody coming to steal highly enriched uranium or plutonium to take it some place else and use it. And therefore, we could afford to let them get to the vault as long as we could kill them on the way out. And so if we could contain them, and that was the term we used, containment, that was an adequate security standard.

After 9/11 we realized that there were people who were willing to die in order to cause harm to the United States, and it is hard to think of something that would have a greater effect than some

kind of nuclear detonation. So we needed to move to a situation where we prevented people from ever reaching the material.

That turns out to be a much more demanding problem. And it depends very much on how many people you think you are defending against and what kind of equipment they—we have made two judgments, one in May 2003 and then another in October of last year, about how many people.

And that is associated, May 2003, we made a determination, and we will be fully compliant with that standard by the end of next year.

The new, more demanding standard that we implemented in October 2004, the Department has established, it is an extremely conservative standard. I will talk about that in the closed session. Well, the Department has established the end of 2008.

The site assistance visits that Mr. Podonsky talked about are partly an attempt to figure out how we tailor to each site the best way to meet that threat. That may depend on money in the 2007 budget; that, I cannot quite know where it is yet. So we are on schedule and fully funded to meet the threat established in 2003. We have a schedule and a plan, but we still do not have enough fidelity to know exactly what it will cost for the more robust threat established in October of last year.

Mr. INSLEE. Now, maybe this is an unanswerable question, but that just seems to be a time period that just is something I cannot accept just sitting here. I do not have to do the hard work like you do, but if someone said I wanted to prevent terrorists from coming into this hearing room and eliminating some Members of Congress, they said we are going to finish the job at the end of 2008, I would not find that acceptable.

I think, look, there has got to be some mechanical ability to achieve this goal at an earlier period. Are budgetary problems a problem, really, getting this job done before——

Mr. BROOKS. Not all.

Mr. INSLEE. Let me finish my question. If you can try to characterize to us, if we said that is just not acceptable, to the demands of the public, and I do not think it is, what does it take to accelerate completion of that project?

Mr. BROOKS. A couple of things. First, we have, in some cases, put compensatory measures, which are manpower intensive, so that you have some confidence, but not enough confidence, before.

The answer, I think the honest answer, is, I do not know what it takes to accelerate 2008, because I do not know what it takes to do 2008. We established this standard, and we are now trying to gather the information through the site assistance visits. We will have inputs from each site this summer, and then we will see, as we prepare the 2007 budget, what has to be done.

At some sites, I believe it will actually be relatively easily. The highly enriched uranium material facility at Y-12, for example, was designed so that it was less sensitive to the size of the attacking force.

Nevada test site, the assembly facility, was designed so it is less sensitive to the size of the attacking force. And so we will be there probably relatively easy.

Other places, I think, are going to prove more complex. So I do not know. In some cases, I do not think it is money, because, in some cases, it takes a certain amount of time to build things. Let's take the Y-12 facility. If you went to Y-12 now, you would see a bunch of buildings, and in there are quote vaults.

But when you dug into it, you would find those vaults are just rooms, because they were built in a different era. And they are not located where you would locate them if you were going to have a quote vault; they are located where it was convenient to build. So they are on the outside of buildings closest to the fence.

Well, you have obviously got to fix that. And the way to fix it is to consolidate it into a very highly secure building. We are building that building, but it is going to take some years to build it. And to a certain limit, you cannot build a building faster by throwing more money at it. It takes what it takes.

Mr. INSLEE. So if somehow you got a Congressional White House mandate to accelerate that by 12 months, what would you do?

Mr. BROOKS. I would buy more guards, and I would do it with compensatory measures. It would be inefficient. But, that is sort of what we are doing now. We have established a regime where we do certain things with very heavy additional protective force, because we do not yet have the material in this secure building. In the short term, the only thing you can do is throw people at it.

In the longer term, you throw design and technology at it, and that is the solution we are working toward. And I would welcome the chance to explore this in closed session. I do want to stress, the design basis threat that we decided to impose on ourselves in October 2004 is an extremely conservative threat, more conservative than is being used elsewhere in the Government.

So I do want to assure you that we have set ourselves a real stretch goal in being able to defend against this threat, and it is a threat that I believe is unlikely to be mounted, but it is—the consequences are so severe that we have chosen to establish that as our standard.

Mr. INSLEE. Thank you.

Mr. PODONSKY. Congressman, if I might.

You should not leave the hearing thinking that the Department is not aggressively moving out to the denial strategy. The previous design basis threat of 2003, some sites are actually very close to completion in a lot of their efforts, and that is a continuation on to 2004. As Ambassador Brooks said, the next one is, in fact, a stretch.

But we all share the same concerns. And that is why we have these SAVs taking place, so that we can help the sites find the strategies, find the technology, and we can get it implemented as rapidly as possible. The 2008 date is when everybody has to be compliant. That does not mean they wait until September 2008.

Mr. INSLEE. Got you. Thank you.

Mr. WHITFIELD. The gentleman from Oregon, Mr. Walden, who is vice chairman of this subcommittee, is recognized for 10 minutes.

Mr. WALDEN. Thank you very much, Mr. Chairman. Gentlemen, I think you have heard pretty clearly from my colleagues a great frustration at the cost of the standdown, the delay in implementing

some of these requirements and security efforts. I know you have been working on it.

But it just seems to me that, if the University of California was hired to do the job and they did not do it and it resulted in a standdown that now costs taxpayers maybe upwards of $360 or $20 or $160 million and, I think I am hearing today, there is no penalty that can probably be extracted against them in the existing contract, something is broken.

And I know—I am sure—I know Chairman Barton feels this way, I know I do, that the University of California should have to pay something in this process. It is outrageous, when you look at the costs that we are absorbing to improve homeland security. And we have got a contractor that is supposed to be providing all of this, and you all have to step in and shut everything down.

What do the people do during this multi-month period of the standdown?

Mr. BROOKS. What—first, I do need to correct one thing. While it is almost certain that I would have stepped in and shut it down, the laboratory director who was the University of California employee is the one who imposed the standdown. And it to his credit that he recognized the problem.

Mr. WALDEN. I understand it was such a mess they had to shut it down. The duration, though, is the issue. Why does it take this long to figure out the problem?

Mr. BROOKS. It took the duration, which I believe surprised both the laboratory director and me—we thought it would be much closer to half that—was because, as you dig in to trying to do a very, very thorough job, we found that the problems within the organization were deeper and wider spread.

And so we made a decision, which I made, that, having gone this way, we were going to do it right, that is, we were going to find and fix the problems, because we did not want to go through this pain and this cost and not be able to say, we are going to make the lab better at the end.

Mr. WALDEN. I understand that. That is where you identify the 350 issues, followed by 3,000 issues. But that tells me, as a manager, and I own my own business and have for 19 years, that someone was not watching the store.

Mr. BROOKS. No question of that, sir.

Mr. WALDEN. That somebody—okay, so a few people maybe were let go or penalized, but the big somebody, the University of California, is not suffering, are they?

Mr. BROOKS. The university is suffering, I would submit to you, in three areas. One is the monetary penalty that I imposed as part of——

Mr. WALDEN. The reduction in fees?

Mr. BROOKS. The reduction in fees.

Mr. WALDEN. But you testified those come right back to the lab?

Mr. BROOKS. The university has traditionally taken its fee and used it for its own supervisory actions, and then anything that was left over has been poured back to the lab. So the university has never, in the 60 years that it has run the lab, used the fees for any purpose other than the lab.

Mr. WALDEN. How much was that reduction?

Mr. BROOKS. The reduction was $5 million, sir. There was a $3 million penalty. The full——

Mr. WALDEN. How much of that was related to the standdown?

Mr. BROOKS. $3 million was directly related to the standdown and was imposed punitively. An additional $2 million was the result of the grade of unsatisfactory in operations.

Mr. WALDEN. So like 1 percent, 1.5 percent on the loss. What is the total fee?

Mr. BROOKS. The total fee that they would have been eligible for was $8.8 million. They ended up at $3 million.

Mr. WALDEN. Okay.

Mr. BROOKS. So that is the first area.

Second, I believe that the university, which takes great pride in its reputation, has suffered an intangible but very real punishment. And, third, we are doing a competition. And the record, if the university chooses to compete, their record in this, their successes in areas and their failures will be part of the competition.

Mr. WALDEN. Is there not still lacking a final determination on the reasonableness of the duration of the standdown in relation to its impact on the overall allowability of the costs?

Mr. BROOKS. Yes, sir. That is what I was trying to make clear in response to an earlier question; that is a determination that is made by the contracting officer. I have been urged by the chairman to be personally involved in that. And I intend to. So there is a determination yet to be made.

But I do not want to mislead the committee; you are holding a report from probably our most knowledgeable individual in the field, who has offered an opinion that that determination will find that these are allowable costs. And so I did not——

Mr. WALDEN. You do not want to prejudice that?

Mr. BROOKS. I do not want to prejudice it, but I do not want to mislead the committee.

Mr. WALDEN. That is—I have a list of DOE security initiatives that was presented at a hearing before this subcommittee last May. I would like to ask unanimous consent that this list be entered into the record, Mr. Chairman. I believe the staff has a copy of that.

[The information referred to follows:]

Secretarial Security Initiatives
January 2005 Status Summary

#	Initiative	Summary of Initiative
	Information Security	
1	**Expand (Cyber Security) Performance Testing**	SSA is to expand its cyber security performance testing of DOE classified and unclassified information systems.
2	**Cyber Security Enhancement Initiatives**	OCIO is to implement enhancements to protect the integrity, confidentiality, and availability of all DOE information systems.
3	**Diskless Desktop Computing**	NNSA is to implement more secure approaches to high-speed computing than the current use of removable electronic media.
	New Security Technology Solutions	
4	**Keyless Access Control Technology**	To improve security through better access control, NNSA is to implement a plan to migrate to a keyless security environment.
5	**Blue Sky Commission**	DOE is to identify and deploy new security technologies to more efficiently and effectively meet DOE security requirements.
	Consolidation of Materials	
6	**Sandia Pulsed Reactor**	Terminate operations and transfer materials for safe and secure storage.
7	**Highly Enriched Uranium Materials Facility (HEUMF)**	Expedite construction of the HEUMF based on an integrated security design to provide more secure storage at the Y-12 Site.
8	**Resolve Materials Criteria for Acceptance at Long-Term Storage Sites**	This initiative addresses the need to resolve situations where nuclear materials are being stored at sites only because they do not meet the acceptance criteria at longer-term storage sites.
9	**Weapons Complex Review**	Conduct a review of the requirements for the weapons complex for the next 20 years in light of the size of the stockpile, the new DBT, and the opportunities for consolidation.
10	**Down-blend Large Quantities of Highly Enriched Uranium (HEU)**	Determine whether the early disposition and down-blending of substantial quantities of HEU can strengthen national security and the security of existing HEU operations and storage at Y-12.
11	**DBT Re-examination**	Re-examine the May 2003 DBT and the supporting intelligence data to ensure currency in relationship to the changing threat.
15	**Removal of Security Category I/II SNM from TA-18**	Remove TA-18 programmatic Special Nuclear Material (SNM) to the Device Assembly Facility (DAF).
	Strengthening Security Human Capital Expertise	
12	**Implement Chiles Report**	The Chiles Report, focusing on the NNSA weapons complex, recommended several actions to resolve impending human capital shortfalls in safeguards and security disciplines.
13	**Examine Applicability of Chiles to Department**	Enhance human capital and training programs relative to the Chiles recommendations throughout DOE.
14	**Review Options for the Protective Force**	Examine the existing protective force organizational structure to determine changes needed to develop an elite protective force.

February 3, 2005

Secretarial Security Initiatives
January 2005 Status Summary

Information Security:

1. **Expand (cyber security) performance testing:** The Office of Security and Safety Performance Assurance through its independent Office of Cyber Security and Special Reviews has expanded its performance testing of DOE information systems, including the use of unannounced penetration testing ("red-teaming"), no notice vulnerability scanning and penetration testing of unclassified information systems, and expanded testing of classified systems. This increased testing has been formalized through an approved Secretarial level authorization agreement that provides senior management direction to conduct the enhanced cyber security testing as well as establishing parameters and management controls. Coordination is in progress to fully implement this agreement through increased testing so that DOE can benefit from a much greater understanding of cyber security vulnerabilities and take action to secure DOE information technology assets against ever increasing cyber threats.

2. **Cyber Security Enhancement Initiatives:** The Office of the Chief Information Officer is leading the effort to implement a cyber security enhancement plan to protect the confidentiality, integrity, and availability of all DOE information systems. Efforts are in progress to ensure rapid dissemination of cyber threat information; expand intrusion detection systems; develop policies and procedures to minimize exposure to Internet threats; improve cyber security and cyber security awareness training; and refine policies and implement processes to assure that inappropriate collections of information are not available on web sites and servers.

3. **Diskless desktop computing:** A "tiger-team" review was completed to evaluate potential technical solutions and management approaches to implement more secure approaches to high-speed computing than the current use of removable electronic media. The Tiger Team identified requirements to provide high-speed desktop workstations and provided a set of standard diskless workstation solutions, cost estimates, and related recommendations for implementation. Implementation is pending the formation of a project office to manage this effort.

New Security Technology Solutions:

4. **Keyless Access Control Technology:** To improve security through better access control, the National Nuclear Security Administration has developed a plan to migrate to a keyless security environment where access is not afforded by any single physical item or object that can be lost or stolen. Analysis of current access control technology is in progress to identify and deploy the most appropriate automated access control systems in the proper locations.

5. **Blue Sky Commission:** The purpose of this initiative is to identify and deploy new security technologies to meet DOE requirements. In July 2004, the Center of Excellence for Technology Deployment was established to assure that new and recently developed security technologies are rapidly deployed to serve as force multipliers to help improve the effectiveness and efficiency of the DOE's protection programs, while at the same time reducing risk and cost. We have already found and are currently deploying such new technologies.

Consolidation of Materials:

6. **Sandia Pulsed Reactor:** The overall goal is for the termination of operations and transfer of materials. Sandia has disassembled the reactor core and placed it in special protected storage until needed to support essential testing. The reactor will then be re-assembled and used for a period of approximately one year to support essential testing and qualify theoretical models and simulation methods that will eliminate future needs for the pulsed reactor. Upon successful completion of the test series, the reactor material will be returned to a secure storage condition that greatly reduces the security risks and cost. The testing and modeling work is currently planned out to support the cool down and completion of reactor defueling by March 2007.

Secretarial Security Initiatives
January 2005 Status Summary

7. **Highly Enriched Uranium Materials Facility (HEUMF):** Expedite construction (based on integrated security design). The HEUMF project will provide a new state-of-the-art storage facility for highly enriched uranium now stored at various locations at the Y-12 Site. It will incorporate a robust design denial strategy that includes passive design features to address the DOE Design Basis Threat Policy. Completion of facility construction and readiness activities by April 2008 and relocation of existing HEU material from the current warehouse into the new facility by September 2009 will greatly enhance the security of HEU materials within the United States and decrease long term operating and material safeguarding costs at the Y-12 site. The primary facility construction contract was awarded on schedule on August 27, 2004. Construction is currently 8% complete including site preparation. Container assessment and characterization activities are on-going. Material movement and reduction of MAAs are underway.

8. **Resolve Materials Criteria for Acceptance at Long-Term Storage Sites**: This initiative addresses the need to resolve situations where nuclear materials are being stored at sites only because they do not meet the acceptance criteria at longer-term storage sites. Increases in the Department's Design Basis Threat necessitate creative approaches to maintain strong security for the Department's special nuclear material assets in a cost effective manner. A Nuclear Material Consolidation Task Team studied the issue of materials consolidation with a focus on reducing the number of nuclear facilities that need high-level protection and reduce potential terrorist targets. A draft report was issued in December 2004. The report identifies and prioritizes candidate materials for consolidation using a set of defined criteria which address security impact, schedule, cost and programmatic use. The report also provides recommendations for implementation in both the near, mid, and long term. The next step is to finalize the report and establish a multi-program senior-level steering group under the direction of the Senior Policy Advisor for National Security Matters to provide guidance and recommendations to the Secretary on nuclear material consolidation issues.

9. **Weapons Complex Review**: Examine missions to determine location of materials relative to security considerations. The study will be carried out by the Secretary of Energy Advisory Board (SEAB) under the leadership of an individual uniquely qualified to direct this review. The Administrator, NNSA, is continuing a search for outside experts to take on this assignment.

10. **Down-blend Large Quantities of Highly Enriched Uranium (HEU)**: Determine whether, via the early disposition and down-blending of substantial quantities (up to 100 MT) of HEU stored at the Y-12 National Security Complex, we could strengthen the security of existing HEU operations and storage at that facility. The review was completed and recommended a course of action to increase the security of remaining HEU, promote the President's nonproliferation objectives, and enhance national security. The review recommended that a substantial quantity of HEU be removed from any future use in nuclear warheads. This is in addition to the 174 MT of HEU declared in 1994 to be in excess of national security needs. The next step is to gain the Secretary of Energy's concurrence with the recommendations and his direction regarding an implementation strategy.

11. **DBT Re-examination:** Re-examine the May 2003 DBT and the supporting intelligence data to ensure currency in relationship to the changing threat. DBT re-examination actions are complete. On October 18, 2004, the Deputy Secretary approved DOE Order 470.3, "Design Basis Threat (DBT) Policy" for implementation. The Deputy Secretary's memorandum dated September 2, 2004, "Reexamination of the Design Basis Threat (U)," were incorporated into the 2004 DBT and the 2004 DBT transmittal memorandum. The Deputy Secretary's December 10, 2004 memorandum, "Extension of the Implementation Date – Department of Energy Order 470.3, Design Basis Threat" directs the current DBT implementation plans to be revised to ensure all requirements contained within this new DBT policy are met no later than the end of FY 2008. This initiative is complete; however, follow-on activities for November 2004 through March 2005 are focused on conducting Site Assistance Visits (SAVs) which are designed to provide sites with technology and protective force tactical options to address the October 2004 Design Basis Threat Policy.

Secretarial Security Initiatives
January 2005 Status Summary

15. **Removal of Security Category I/II SNM from TA-18:** On March 31, 2004, NNSA directed the initial shipment of Los Alamos National Laboratory (LANL) Technical Area (TA)-18 programmatic Special Nuclear Material (SNM) to the Device Assembly Facility (DAF), ahead of the previous schedule of March 2006. NNSA projects that approximately 90% of all the TA-18 programmatic SNM will move to the DAF by the end of fiscal year 2007 with roughly 50% of the programmatic SNM moving to the DAF by March 2006. Programmatic SNM needed by NNSA to maintain mission continuity, especially to support training for Emergency Response, will remain at LANL in other storage locations. Three programmatic shipments were completed as of December 2004. Approximately seven shipments are planned for FY2005.

Strengthening Security Human Capital Expertise:

12. **Implement Chiles Report:** The Chiles Report focused on the NNSA nuclear weapons complex and recommended several actions to resolve impending human capital shortfalls in safeguards and security and related disciplines. To address human capital management within NNSA, workforce analysis methodology and protocols were piloted at the Pantex Site Office (PSO). Four professional development data assessments were completed at: Pantex Site Office, Y-12 Site Office, Sandia Site Office, and the NNSA Service Center. Plans are in progress to collect information on organization, staffing and professional development programs for Federal NNSA safeguards and security staff at the Nevada Site Office on January 12-13, 2005. NNSA is partnering with the DOE National Training Center (NTC) to provide centralized training for S&S professionals to meet qualification standards established for each S&S functional area.

13. **Examine Applicability of Chiles to Department:** Examine recommendations and, as appropriate, enhance human capital and training programs relative to the Chiles recommendations throughout DOE. The human resource challenges were identified previously and analyzed in the context of the President's Human Capital Management Plan. Efforts have been underway at the National Training Center (NTC) to promote skills development in identified critical areas through on-going Professional Development Program (PDP) activities. The first four recommendations of the Chiles report are being implemented through the activities at the NTC and through the SSA and ESE Human Capital Management Plans. The SSA Plan has been developed and the ESE Plan is being developed. Concerns regarding the lengthy clearance process are being addressed through ongoing implementation of the approved action plan entitled "Options for Accelerating the Security Clearance Process in the Department of Energy" signed by the Deputy Secretary on January 7, 2005.

14. **Review Options for the Protective Force:** Examine existing protective force organizational structure to determine changes needed to develop an elite protective force (i.e., examine existing contract mechanisms and potential federalization). This review was completed and recommendations were provided to Senior DOE Management for approval. A joint memorandum from SSA and NNSA was submitted to the Deputy Secretary on January 4, 2005, recommending that those actions that could be initiated within the current force structure be approved for action. The Deputy Secretary directed immediate implementation which is now ongoing.

Mr. WALDEN. The list, last 14 security initiatives, and I understand that Mr. Podonsky has the responsibility to track the progress of these initiatives for the Department. And I understand from your testimony, sir, that the Department has fallen behind on several of these initiatives. Could you just apprise the committee, go through this list and identify for us these initiatives that have not been implemented and why?

Mr. PODONSKY. Yes, sir.

Mr. WALDEN. The key ones, at least.

Mr. PODONSKY. My office was given the responsibility to track the progress. And that is done monthly. Each of the initiatives were assigned to a program office by separate memorandum, either from the former Deputy Secretary, Kyle McSlarrow, or from Ambassador Brooks to his organizations.

And they report that progress—the program offices report the progress to us. Specifically, if we divided them up into four categories: information security, new technologies, consolidation of material and then strengthening human capital.

To answer your question specifically, the cyber enhancement is lagging.

Mr. WALDEN. That is No. 2 on this last?

Mr. PODONSKY. That is No. 2. The diskless desktop computing was lagging up until last month. That has been moving out quite nicely now. The keyless technology, that is in progress.

The Blue Sky Commission, that deserves a special note. This is something that both Ambassador Brooks and I have a responsibility for. But we both agreed, setting up a commission, while it is something that we would like to do long term, it has been difficult to find the people to serve on the commission.

But that did not stop us from looking at existing technologies and getting some of theme deployed to the field as we speak right now in pilot programs. The other lagging ones——

Mr. BROOKS. The weapons complex review?

Mr. PODONSKY. The weapons complex review is one that just recently got underway, but it still has a due date or report to the Congress of April 2005.

Mr. WALDEN. Are you going to meet that?

Mr. BROOKS. Yes, sir, we are going to meet it with a verbal report, with a final written report. We had more trouble than I expected to get the right people on that committee. It is an external review.

Mr. WALDEN. I see.

Mr. PODONSKY. The other one is the long-term storage. That is a complex matter.

Mr. WALDEN. Which number is that, sir?

Mr. BROOKS. Eight.

Mr. WALDEN. Okay.

Mr. PODONSKY. The problem with that is finding the material at different sites that no longer need to use the material at that site, and where do you send that material?

As I said in my opening remarks and in my written testimony, that involves more than just the Department of Energy.

Mr. WALDEN. Would this involve, for example, the universities elsewhere around the country that may have little amounts?

Mr. BROOKS. No, sir. There is a program to deal with that. That is moving fairly well.

No, here is the problem here. It is primarily a plutonium problem. We have plutonium that we do not need and we need to get rid of. And we do not have a fully identified path to eliminate it.

Some of it we are going turn into mixed oxide fuel under a separate program. But some of it is not suitable for that. We are barred from bringing that plutonium into the State of South Carolina for a complex reason that I can get into if you need to.

So now you are in a situation—without having a technically adequate path out, which we are still developing. So you have a situation where you would like to move material out of where it is to consolidate it in a separate place, but you do not have a separate place to consolidate it to.

So we are looking, for example, now, at a facility in Idaho built for another purpose. We are looking at whether that could be a place to consolidate material pending disposition.

For highly enriched uranium, it is much easier. You have a place to put that at Y-12. There the problem is that the highly enriched uranium that is around the complex we are largely using, and it is a question of when we can stop.

But, on plutonium, the issue is finding a place to put this stuff until we can figure out its long-term disposition, which is a technically difficult and somewhat emotional issue.

Mr. WALDEN. Thank you very much, gentlemen. I appreciate the work you are doing and your candor today.

Mr. WHITFIELD. Mrs. Blackburn, you are recognized for 10 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman. And thank you to our panel for being here. We appreciate this today.

We talked a lot about Los Alamos. But I have got a question. I want to ask you about Crystal River and about the Crystal River complex. And I think that probably many of my colleagues were really stunned to learn about the problems that occurred there and are curious to know whether or not, despite officials saying that they followed all of the proper regulations, if the worker verification program, which has been used in Florida, was followed with this, because the problem there was those who had gained unlawful entry to our country were working in that facility. And I am pulling this from a March 12 article that was in the Washington Times.

And what I would like to know is, do the current Department of Energy or NRC regulations require that contractors use the worker verification program? Because you all talk—have talked extensively this morning about increasing training, about the need for human capital security, the need to secure materials. But if you do not know who it is, if they are using false documentation, if they are using a false identity, how do you know who it is that you are allowing access?

So do you require them to use the worker verification program?

Mr. BROOKS. I cannot answer with respect to the Nuclear Regulatory Commissionsites, which I believe is the subject of that story. For us, because we generally require security clearances, we are in a much different world, because we therefore have to—first, we

have to have U.S. Citizens, and second, we have the investigative requirements that are associated with a Q clearance.

So for most of the people at our sites, this does not become an issue because of the requirement for U.S. Citizenship. With regard to what the NRC does, I will be happy to try to get you an answer for the record, ma'am.

Mrs. BLACKBURN. That is okay. That is fine. So what you are saying is that the NNSA has safeguards?

Mr. BROOKS. Yes.

Mrs. BLACKBURN. That would prevent anything from occurring like it did at the NRC site?

Mr. BROOKS. I believe so. I will—but I have not studied the particular occurrence. I will look at that. If that is not right, I will get you a corrected answer for the record. But certainly, we have safeguards that ensure that we only have U.S. Citizens who have been investigated and granted the proper clearance. That is an extremely important part of our security approach.

Mrs. BLACKBURN. Wonderful. Thank you, sir.

I have another question for you. You have mentioned, when we talk about the security initiatives in the new DBT—and this kind of goes in with what Mr. Walden was just speaking to you about—you have talked about having a tracking progress and having routine interactions. But do you have a time line that would implement the security initiatives and the new DBT? I am not seeing a document or have not been able to find a document that says this is our time line, these are our benchmarks. You alluded to, possibly, that there may be something.

Mr. BROOKS. We have, for the May 2003 DBT, the end of fiscal year 2006, we monitor progress. A couple of my sites are essentially there. For the October 2004 further enhancements, we have set ourselves a goal of the end of 2008. We do not have a detailed schedule yet, that is what we will be developing this summer as a result of the site assistance visit process that Mr. Podonsky was describing.

Mrs. BLACKBURN. Okay. And GAO has said that you all lack a formal program management structure and need to implement guidance for directing the work of its contractors. What specific actions are you taking to address that situation?

Mr. BROOKS. The former deputy secretary required, in response partly to that and partly to just general concern, we establish a formal program management structure. It is in its early stages. And I think the jury is still out on whether what we have done so far is adequate. We are very good at project management. I mean, we can point to you some examples where we have not been, but, basically, we have the structure and the procedures and the training and the qualification to be good at project management.

But to manage overall programs, we have in NNSA I think that we have about 54 programs, and to look at each of those, we do annual reviews by me, we have—the Department has a series of milestones under a system called the jewel. But we were also looking at a quarterly snapshot of each program for the deputy secretary to make sure that we are starting to manage programs as overall entities and not just focusing on individual projects?

Mrs. BLACKBURN. Are you using the PMA or the PART, the rating tools there?

Mr. BROOKS. I use PART. The President's Management Agenda was very important to the previous Secretary and the deputy. And there is every evidence they will be even more important to the current Secretary, who has a very strong management background.

I use PART. The Department uses PART as required by the Office of Management and Budget. In addition, I have established PART as the internal NNSA review tool. So when I go through my annual reviews, we do a PART assessment for every program every year, even though the Office of Management and Budget will only have us assess two or three of them.

Our initial experience with that was that our internal assessments were rosier than OMB. More recently, we have been coming much closer. And what you do is you look at what you said, and then when OMB gives you their grade, you look at the comparison and what you want to make sure is that your self assessment is honest.

If it is honest, you will come out pretty close to the OMB grade. For the last cycle, I came out very close on the four projects.

Mrs. BLACKBURN. Well, if you are going through 54 programs a year; you are a busy man.

Mr. BROOKS. Yes, ma'am.

Mrs. BLACKBURN. Mr. Podonsky, a couple of questions. The Y-12 plant in Oak Ridge, which is in Tennessee, my State, the initial plans there were for an underground storage facility. And this was changed to an above-ground facility.

So if you will please address why that was changed to an above-ground facility, why DOE approved it and—even though the inspector general said it was going to cost more and be less secure.

Mr. PODONSKY. I would like to answer that. But since the facility is actually owned by Master Brooks, I would suggest that he would give you those answers as to why those decisions were made. I can only give you a view of how robust we think the plans are.

Mrs. BLACKBURN. Okay.

Mr. BROOKS. There were two competing designs, neither of them were actually underground. The water table at Y-12 makes it difficult to do a true underground facility. So there were two competing designs, one which has been referred to as the berm design, essentially had an earth cover, and one that did not.

Those were not the only differences between the designs. I can get into a little more detail in closed session. But the design had—the designs had a number of features that differed. We concluded that the so-called bermed design was not likely. First, it was subject to single-point failure. That is, there is a particular vulnerability that if people were able to penetrate, we did not have a good back-up.

And, second, we were concerned that it was very sensitive to assumptions about the size of the attacking force. That is a big deal. Because, as we can talk about more in closed session, when I talk about changes in the design basis threat, one of those changes is how large the attacking force we assume is. So what you would like is a facility that does not depend on the intelligence judgment of the day about how big the force was.

We, therefore, shifted to the second design. We could have added to that a berm. We chose not to. We chose not to because our assessment was that it was adequate, that it would cost another—I think the estimate is $35 million in design costs and delay construction 2 years to redesign it.

And it sounds easy to just put dirt over it, but when you put 22 feet of dirt on top of a building, it turns out that you have to build a different building. And that the improvements in security did not outweigh the importance of moving forward.

You know, there are alternate views. The inspector general report, and I can—we had an assessment done, I want to be very precise on what was done, by Sandia, which convinced me that the design we have was adequate. Sandia was not asked to say in a perfect world what they would do.

And my guess is, they would have wanted some kind of combined design. But we concluded that the design we had was adequate—it was superior to the alternate design for reasons unrelated to the amount of earth—and that it was more important to get on with building it. That is the judgment we made.

Mrs. BLACKBURN. Thank you.

Mr. WHITFIELD. Thank you.

Thank you very much for participating in this panel this morning. We appreciate the testimony of both of you. I would make one other comment.

Ambassador Brooks, when do you anticipate that you will make this final determination on the reasonableness of the duration of the standdown in relation to its impact on the overall allowability of the cost of the contract?

Mr. BROOKS. I am sorry, sir. I actually do not know the answer to that. I will let your staff know and provide it formally for the record. But I am not sure of the schedule on which the contracting officer is slated to make it. I just suddenly realized on the way over here that I did not know the answer to that. I did not have time to check.

Mr. WHITFIELD. We look forward to hearing from you on that. I would also ask you unanimous consent to enter into the record a letter that we sent to Secretary Bodman just recently on these 14 initiatives that were initiated by Secretary Abraham in which we asked the Secretary to give us an update on all 14 of those initiatives.

And so I expect that the two of you may be involved in that as well. We look forward to your response to that letter as well.

We are going to reconvene after our next two panels. We have two more panels. We have an individual on each panel, but we will be reconvening in room 2218 as soon as we finish the other two panels. So thank you all. We look forward to seeing you upstairs.

At this time, I would like to call our next witness Mr. Nanos, Peter Nanos, who is the director of the Los Alamos National Laboratory.

And Mr. Nanos, we appreciate your being with us here today. As you know, it is the custom of the Oversight and Investigations Subcommittee to have witnesses testify under oath.

And I would ask you, do you have any difficulty doing that this morning?

Mr. NANOS. No, sir.

Mr. WHITFIELD. Do you wish to have legal counsel with you when you testify?

Mr. NANOS. No, sir.

Mr. WHITFIELD. Then if you will stand, I will swear you in.

[Witness sworn.]

Mr. WHITFIELD. Mr. Nanos, thank you very much. And you are now under oath. And with that, we would welcome you to give your opening statement.

TESTIMONY OF G. PETE NANOS, DIRECTOR, LOS ALAMOS NATIONAL LABORATORY

Mr. NANOS. Thank you, sir. Chairman Whitfield, ranking member Stupak, and distinguished members of the committee, thank you for the opportunity to appear before you this morning to update you on the status of security at Los Alamos.

My name is Dr. Pete Nanos, and I have served as director of the Department of Energy's Los Alamos National Laboratory since 2003. I came to the laboratory from the Navy where I retired as a vice admiral.

Before I begin, I wanted to thank Chairman Barton and the committee for your support of the improvements that we have made at the laboratory.

Congressman Stupak, I would be happy to respond to any questions you have today regarding audits conducted by one of our contract employees, Dan Brown. We have thoroughly supported his investigation and drafting of his white paper, and have gone through a lot of detailed analysis of all of the elements of that white paper.

Some of the ones, like welding and QA of plutonium fabrication and all, I have been personally involved in. And of course, some—we can even talk about the boundaries in the closed session of some of the aspects. Because of his clearance level, he was not in some cases able to see the whole operation. But we can go into that in detail later.

I want to emphatically state that the employees of Los Alamos National Laboratory are dedicated to the national security mission of this great Nation, and they take very seriously their responsibilities to personally safeguard America's secrets.

The laboratory conducts important work for the Nation, most notably ensuring the safety and reliability of the Nation's strategic deterrent. Clearly, a component of that mission is the need to safeguard the national security information entrusted to our care. I am here today to tell you that I believe we are doing a good job in security, and I want to reaffirm to you our commitment to do even better.

Los Alamos National Laboratory is a safer, stronger, more secure laboratory than when I last addressed this committee. The first point I would like to make is that the suspension of lab operations in July 2004 was necessary, and the employees who were at fault in the security and safety incidents that led to the suspension have been held accountable by the laboratory and the University of California.

My decision to suspend laboratory operations was not easy, and I would like to spend some time here explaining what led to the

suspension. At the outset, it is important to note that, during the suspension, the laboratory was open and employees were required to come to work throughout. No new funds were required during this time. We used existing funds.

I would also like to clarify a little bit on the cost issue. I think Ambassador Brooks is entirely right, that the estimate that you referred to him, the higher estimate, was an upper bound, a very conservative upper bound. Our method of bidding costs for our number was based on mutual agreement between us and the site manager, in other words the NNSA contracting officer.

And we decided to use an accepted accounting practice of determining those costs based on the manager's estimates of where people were working, and did not go to the higher cost option of introducing thousands of new accounts and a great amount of administrative cost. And that was a decision we mutually made.

Also, we, as people started to work on programmatic work again, we put their charges on that programmatic work. For example, after about a month, approximately two-thirds of our labor costs were back on their normal programmatic work. That was recognized under our procedure, was not recognized under the Albuquerque procedure. So there, clearly, is an opportunity to go into great detail on this and satisfy you in that regard.

During this period, employees did productive work, either program work or work related to safety and security in support of our mission. Additionally, at no time did we suspend activities that were immediately critical to national security and/or the continuity of operations, security, and environmental compliance and protection.

Many of you have heard that two major incidents led to my decision to suspend operations. The July classified removable electronic media or CREM incident, which I will describe further below, as well as a safety incident just days later where a student's retina was burned by a laser.

What many people do not know is that these two incidents took place against a background of a recent rise in safety and security incidents as well as growing correlations showing that our employees who were poor safety performers were also—proved to be poor in security and compliance.

Further, I was concerned that the July CREM incident showed clear signs of a behavior problem versus any sort of honest mistake. Confronted in July with back-to-back cases of seeming disregard for basic safety and security rules, I did not have a good feel for the safety and security of lab operations, and therefore, I had no choice but to suspend all operations at the lab.

During the suspension of operations and the subsequent restart, we learned that there were many good reasons to have taken the action we did. In partnership with UC, the DOE and NNSA, we followed a rigorous restart process. As a matter of fact, it was codified in great excruciating detail, and conducting that—and the most important thing is that we conducted management self-assessments of all of our organizations, that identified more than 3,000 issues, ranging from safety compliance issues to permitting violations that needed to be addressed, including 340 prestart issues that we felt had to be addressed before the activities could restart.

We fixed the 350 prestarts and have created a project to implement and track the remaining fixes and changes. We resumed operations as quickly as possible with 100 percent of our lowest-risk operations, which, by the way, represent 89 percent of all lab activities, and as I have previously stated, roughly two-thirds of our labor costs were resumed by August 18 and the majority of operations up and running by late September, early October. Some of our highest-hazard operations did not resume until February 2005.

I want to go back now and focus on the July CREM incident for a moment. This incident began when employees were unable to locate two barcoded pieces of accountable CREM. As the result of independent investigations conducted by the DOE, the FBI and a joint scab lab UC investigation, we now know with high confidence that the disk never existed and that the incident was the result of an unauthorized practice, barcode numbers that were entered into our accountability system but never affixed to actual media.

We had no way of knowing this initially, and we were further led astray by two employees who falsified an inventory sheet incorrectly indicating that the disk had actually existed at one point in time.

We concluded that, although human error and improper action were the direct cause of the incident, there were additional systemic contributing weaknesses, among them are the sheer size and geographic spread of our CREM operations, which included an inventory of accountable CREM that exceeded 80,000 pieces at its high point. More than 4,500 employees had daily direct access to CREM, and classified operations spread over roughly 40 square miles.

Upon thorough review of the investigation, I made the decision to terminate three employees as a result of their involvement in the incident. Additionally, four employees received written reprimands and suspension without pay, and I removed the division leader from that position and had the individual reassigned to nonsupervisory duties.

My second point is that Los Alamos has made real lasting changes in the way we handle CREM that significantly reduce the likelihood of future problems. After meting out discipline, I turned our attention to completely revamping the classified control system to help prevent a recurrence of this incident. With concurrence of the University of California, we acted to remove all media, to move all media into secure, centralized libraries, to establish full-time CREM custodians, and to fund expanded classified media lists or diskless computing.

The major elements of our efforts include the following: All accountable CREM has been moved from the hundreds of previous locations into one of 20 centralized base libraries. Additionally, we established 14 satellite libraries to provide secure storage of media, in close proximity to operational work areas. All CREM is under the direct ownership of approximately 40 custodians, a 99 percent reduction compared to the previous 4,500 employees who had direct access to CREM.

Trained and certified classified library custodians are assigned to each library. They are responsible for checking items out and conducting daily transactional inventories to ensure classified media is

positively accounted for at all times. The library custodians are deployed security professionals reporting directly to the security division.

To ensure the libraries maintain a high level of performance, we began no-notice inventory inspections. The laboratory is pushing hard on line organizations to destroy unneeded accountable CREM. We have destroyed over 7,000 items in the past 2 months, with many more entering the destruction pipeline.

As of March 4, the lab has 20,074 pieces of CREM and expects to further reduce this to less than 2,000 by the end of fiscal year 2006, a 97 percent decrease from our earlier high point.

With significant funding support from Congress, we are also moving to a diskless environment through the expansion of our classified computing network.

My third and final point this morning is that, thanks to significant investments in physical security, the laboratory's physical site remains secure from threats.

As you know, DOE has recently revised their Design Basis Threat, which articulates the adversary force size and capabilities that we must be able to defend against. We have been working literally from September 11, 2001, to fundamentally change the security posture for our site.

An amazing array of upgrades and improvements has been made, all for the singular goal of safeguarding the people and security interests under our control. I am particularly proud to point out that the most recent DOE inspection of the protective force performance at TA-18 clearly shows that the facility is well defended and the nuclear materials housed there are secure.

The Department has made the decision to relocate the TA-18 mission and the nuclear materials to Nevada, and we are fully committed to making this happen as quickly as possible. Nonetheless, I am confident in our ability to defend the site, and that confidence is reinforced by DOE assessments that tell me we are good and getting better. I personally attended, as an observer, the force-on-force exercises last year in this regard.

In conclusion, I want to emphasize that the investments made at Los Alamos during the suspension have created a Los Alamos that is stronger, safer and more secure. I cannot sit here today and tell you that we will never have another safety or security incident at Los Alamos, but what I can guarantee is that the management at Los Alamos and the University of California is doing everything possible to continue the improvements to both safety and security.

We will continue to deliver on our commitment to the safety and security of this Nation. I promise you that. Again, thank you for allowing me the opportunity to address you. And I would be glad to answer any questions you may have for me.

[The prepared statement of G. Pete Nanos follows:]

PREPARED STATEMENT OF G. PETE NANOS, DIRECTOR, LOS ALAMOS NATIONAL LABORATORY, U.S. DEARTMENT OF ENERGY

INTRODUCTION

Mr. Chairman and members of the Committee, thank you for the opportunity to discuss the security program at Los Alamos National Laboratory. My name is Dr. Pete Nanos and I have served as Director of the Department of Energy's Los Alamos

National Laboratory since 2003. I came to the Laboratory from the Navy where I retired as a Vice Admiral.

To begin, I want to emphatically state that the employees of Los Alamos National Laboratory are dedicated to the national security mission of this great nation and they take very seriously their responsibilities to personally safeguard America's secrets. Our contributions to the safety and security of the American people are significant, and we continue to serve on the front lines of the effort to build and sustain our collective defense. Clearly a component of that mission is the need to safeguard the national security information entrusted to our care. I am here today to tell you that I believe we are a better Laboratory today as it relates to security, and I want to reaffirm to you our commitment to be even better.

I have spent considerable time since assuming leadership of the Laboratory evaluating our strengths and weaknesses and working with the University of California to improve the overall direction of the Laboratory. As you know, I suspended Laboratory operations last summer. This was not an easy decision. I would like to spend some time here explaining what led to the suspension of operations. At the outset, it is important to note that during the suspension of operations, the Laboratory was open and employees were required to come to work throughout the entire suspension. During this period, employees did productive work related to safety and security, in support of our mission. I will get into additional detail on this later in my testimony.

Let me emphasize that at no time did we suspend activities that were immediately critical to national security and or the continuity of operations, security and environmental compliance and protection.

Many of you are familiar with the two major incidents that led to my decision to suspend operations: the July Classified Removable Electronic Media (CREM) incident, which I will describe further below, as well as a safety incident just days later where a Lab student's retina was burned by a laser due to faulty safety practices. What many people do not know is that these two incidents alone did not lead to my decision. I would like to provide some additional context, and start by noting that my decision was made in close consultation with the University of California, the Department of Energy and the National Nuclear Security Administration. Prior to these incidents, my management team and I were tracking a recent rise in safety and security incidents. In addition, we were noting correlations in performance in the areas of safety, security, and compliance. Those employees who performed poorly appeared to do so in all of these areas. The other major factor that concerned me with the July CREM incident is that it showed clear signs of a behavior problem. This was in sharp contrast to earlier incidents where it was clear that for the most part good people who were trying to do the right thing had made honest mistakes. Given this backdrop, when I was confronted with back-to-back examples of seeming disregard for basic safety and security rules, I had serious concerns regarding the security and safety of Laboratory operations and therefore, in good conscience, had no choice but to suspend all operations at the Laboratory.

During the suspension of Laboratory operations, and the subsequent restart, we learned that there were many good reasons to take the actions we did. In partnership with DOE and NNSA, we followed a rigorous and strategic process, dividing the entire Laboratory into risk levels:

- Risk Level 1, the lowest level, which is general office work;
- Risk Level 2, medium risk, which represents moderate-hazard work such as construction; and
- Risk Level 3, high risk, which includes our high-hazard programmatic work involving CREM and special nuclear materials (SNM).

We conducted Management Self Assessments of all of our operations, and all of our Level 2 and 3 operations had to present their findings to a Resumption Review Board (RRB), which was made up of personnel from the Laboratory, the National Nuclear Security Administration's Los Alamos Site Office, as well as the DOE Office of Assessment who observed and assisted in all aspects of the review. For Level 3 work, an additional internal review was conducted by a Laboratory Readiness Review (LRR) panel, prior to approval by myself, and ultimately resumption. The LRR consisted of Laboratory personnel who were from outside of the organization being reviewed. The NNSA site office in Los Alamos worked very closely with us on all aspects of the restart. We resumed operations as quickly as possible, with 100% of our Level 1 work up and running on August 18, 2004, one month after the suspension of operations began, and the majority of operations up and running by late September/early October. Some of our highest-hazard operations did not resume until February 2005. It is important to note that 89% of the Laboratory's activities were classified as Risk Level 1.

What we found in our assessments validated our decision to suspend Laboratory operations. We identified more than 3,000 issues (ranging from safety compliance issues to permitting violations) that need to be addressed, including 350 "pre-start" issues that we felt had to be addressed before an activity could restart. We fixed the 350 pre-starts and have created an Operational Efficiency Project to implement the remaining fixes and changes over the coming years.

Below, I'd like to spend a few minutes covering the July 2004 incident, and more importantly, what we have done to correct the shortcomings that allowed the incident to occur.

THE ACCOUNTABLE CREM INCIDENT

First, and perhaps most importantly, we know with high confidence that the disks never existed. Rather, what we had was an issue of barcode labels entered into our accountability system but never affixed to actual media, which was compounded by the falsification of an inventory sheet by two employees indicating that the disks did exist. This conclusion is supported by independent investigations completed by the DOE and the FBI. Given the identification of the most likely cause, we are left with the questions—why did it happen and how did we get ourselves into this situation?

Our analysis of the incident led us to the following conclusions regarding the direct causes:

- The direct cause of this incident was placing unattached barcodes into accountability (an unauthorized practice) without confirming their actual use. Simply put, the classified matter custodian issued the barcodes and entered them immediately into the accountability database. Unfortunately, the employee who received the barcodes failed to realize that the barcodes were accountable and should be tracked. The employees subsequently destroyed them without reconciling the discrepancy with the custodian.
- We also missed the opportunity to discover and reconcile the problem in an annual inventory of accountable classified matter conducted in April 2004. This inventory failed to identify the "missing" barcodes because the custodians did not properly complete the inventory and subsequently falsified the inventory records. In addition, line managers responsible for the operation failed to ensure the inventory was properly conducted and subsequently verified that the inventory was complete and accurate, and that all items were accounted for. That was clearly not the case.

In the process of conducting the root cause analysis of the incident we reached the conclusion that while human error and improper action were the direct causes, there were additional systemic weaknesses that contributed to this incident, and that would allow similar incidents to occur again:

- The sheer size and geographic spread of accountable CREM operations increased the likelihood of an incident.
  - The inventory of accountable CREM exceeded 80,000 pieces at its high point.
  - There were over 4,500 employees with daily direct access to the media.
  - Our classified operations are widely dispersed, spread over 40 square miles.
  - The transaction volume is large, with daily movement of classified items between organizations within LANL and throughout the DOE Complex.
- The lack of detailed supporting documents (e.g. checklists and plans) to serve as job aids for employees engaged in classified work activities hindered effective performance.
- Custodians responsible for safeguarding and controlling classified items suffered from a variety of organizational ailments, including:
  - Lower job status
  - Lack of authority
  - Part-time job for many
  - Lack of training specific to CREM handling and control
  - Lack of support/conflict of interest within their parent organizations
- The absence of a DOE or LANL standard accountability system increased the potential for classified items to "drop through the cracks" as they moved between organizations. In March 2004 this problem was recognized, and with the concurrence of the University of California, the Laboratory is implementing a single site-wide accountability system.

THE RESPONSE TO THE ACCOUNTABLE CREM INCIDENT—HOLDING PEOPLE ACCOUNTABLE

In light of what we learned during our inquiry it was necessary to take very drastic steps, both in terms of holding people accountable for their actions and in changing the classified control program to help prevent a recurrence of the incident.

In terms of personnel actions, three employees had their employment terminated as a result of their involvement in this incident. Four employees received written reprimands and suspension without pay, including the Division leader who was also removed and reassigned to non-supervisory duties. All seven employees received administrative sanctions in the form of security infractions, which are permanently filed in their personnel security records and factor into the DOE's decision process for granting continued access to classified information. The infractions were issued for causes including:

- Failure to properly conduct classified media inventories and falsification of records;
- Failure to reconcile accountable CREM with inventory records; and
- Management failure to provide adequate oversight.

The NNSA also exercised its right to hold the University accountable for the incident. LANL received an "unsatisfactory" performance rating in the "operations" area of the annual performance assessment. As a result, in January, 2005, NNSA withheld 67% of UC management fee, with a penalty assessment of $5.8M out of a possible $8.7M performance fee pool. This represents the largest DOE-directed management fee cut in history.

THE RESPONSE TO THE ACCOUNTABLE CREM INCIDENT—CHANGING THE CLASSIFIED CONTROL SYSTEM

It is safe to say that we have learned a great deal from this recent incident. After holding people accountable for their actions, we turned our attention to completely revamping the classified control system to help prevent a recurrence of this incident. With the concurrence of the University of California, LANL acted to move all media into secure centralized libraries, to establish full-time custodians and fund expanded classified media-less computing. The major elements of our efforts include the following:

- All accountable CREM has been moved into one of 20 centralized "base" libraries. Fourteen "satellite" libraries have also been established to provide as-needed secure storage of media in close proximity to operational work areas. These "satellites" are each associated with a "base" library and are under the strict control of the "base" library custodians. The new configuration represents a significant reduction in the number of CREM storage locations across the Laboratory. Where previously CREM was stored in 89 buildings with 733 rooms, the new CREM libraries are housed in 29 buildings with 37 rooms. This represents a 95% reduction in the number of rooms.
- Each library was put through a rigorous inspection and certification process prior to commencing operations.
- Trained and certified Classified Library Custodians are assigned to each library—they are responsible for checking items out and conducting daily transactional inventories to ensure classified media is positively accounted for at all times.
- The library custodians are deployed security professionals reporting directly to the Security Division.
- To ensure the libraries maintain a high level of performance we began no-notice inventory inspections.
- To solve the issue of fragmented accounting systems we have begun the procurement of a Lab-wide inventory/accountability system.
- We are pushing hard on line organizations to destroy unneeded accountable CREM, we have destroyed over 7,000 items in the past two months, with many more entering the destruction pipeline. As of March 4, 2005, the Laboratory has 20,074 pieces of CREM.
- To help further reduce the accountable CREM holdings we are continuing our effort to replace stand-alone classified computers with "media-less" computer networks.
- LANL is rapidly driving towards the goal of having less than 2,000 pieces of accountable CREM. We believe this number reflects the long-term static inventory and once achieved will represent more than a 97% reduction in accountable CREM holdings. With continued investments in "media-less" networks, we hope to hit this goal by the end of FY06.

I believe it also very important to point out that many of the problems we have had in the past regarding difficulties with safeguarding classified information can be tied to two over-arching issues. The first is the failure to invest in what I would term "engineered" solutions. In many cases we have had good employees trying to do a difficult job without the benefit of the right tools. The best example is the shortage of classified networks that do not rely on high-risk portable CREM—simply put, the more we invest in classified networks the more we reduce the likelihood of losing control of classified information. It is important to note that technology enhancements alone will not solve the entire problem. Along with engineered solutions we are ensuring that strong management oversight is in place to detect problems and solve them before they become a crisis. Thanks to funding support from Congress, we are moving to finish our expansion of media-less computing systems. This support is paving the way for continued improvements in our security infrastructure and will position us to more effectively meet our security challenges.

The second over-arching issue is that we have not done as much as we could to provide our scientists and engineers with the necessary security resources. As with any large operation involving highly classified information, the rules and requirements for security can be difficult to understand and implement. We are deploying security experts to our line organizations for the sole purpose of helping them to continue to build solid security programs. Our security experts are focusing on building better security plans, providing real-time training, and wading through the security rules to find the right solutions to adapt to our operations. The feedback I'm receiving is that this model is a resounding success—we will continue to put a great deal of effort into building this partnership and we have high hopes for its ability to substantially improve security performance across the Laboratory.

HOW THESE CHANGES ARE IMPROVING OUR OPERATIONS

While we are continuing to make enhancements to the new model for controlling accountable classified media, initial indications reveal that the system is working well, with tangible benefits for both improved security control as well as operational efficiencies resulting from the economies of scale we are seeing in the library approach. The major benefits include:

- Substantial improvement in daily control and accountability for CREM—it is under the direct ownership of approximately 40 custodians. This represents a more than 99% reduction from the approximately 4,500 employees who previously had direct access.
- Clear requirements and training for handling accountable CREM when it is checked-out of the library—a rigorous training process is required before you can be assigned as a "borrower" of the media.
- Line organization managers and staff are now able to concentrate on their mission—they are still responsible for protecting the media when it is checked out, but they do not have to spend countless hours maintaining individual accountability and control systems.

Apart from the very tangible benefits we are seeing from our efforts to change the security model, we are also starting to see the intangible benefits tied to attitudes and perceptions of the workforce. As a result of the incidents we have had over the past several years there was a real concern among our employees that the task of doing their job safely and securely was getting increasingly difficult, with the addition of more and more policies and procedures to follow. With each new set of policies and procedures came the perception of increased risk in inadvertently violating the rules. I am particularly proud of the fact that instead of making the job even more difficult to do, our response to this most recent incident has actually simplified the work and clarified the responsibilities our workers have in protecting classified information. As a result of this simplification our workforce is becoming increasingly confident in taking personal responsibility for safety and security—as with any human endeavor, personal responsibility is the linchpin of performance. I'm confident that we are rebuilding the sense of trust and mutual support that is absolutely essential to sustaining our operations and delivering on our national security mission.

PHYSICAL SECURITY INITIATIVES

Finally, I want to take this opportunity to tell you what we are doing on upgrading the physical security of the Laboratory to deal with the post-9/11 world. As you know DOE has recently revised their Design Basis Threat (DBT), which articulates the adversary force size and capabilities that we must be able to defend against. I will tell you quite honestly that this new DBT represents a significant challenge to nuclear sites, but it is a challenge we must meet. We have been working literally

from September 11, 2001, to fundamentally change the security posture for our site. An amazing array of upgrades and improvements has been made—all for the singular goal of safeguarding the people and security interests under our control. I am particularly proud to point out that the most recent DOE inspection of the protective force performance at TA-18 clearly shows that the facility is well defended and the nuclear materials housed there are secured. The Department has made the decision to relocate the TA-18 mission and the nuclear materials to Nevada and we are fully committed to making this happen as quickly as possible.

To address the recently revised DBT we are developing a comprehensive project plan designed to guide our long-term strategy for meeting the new challenges. The project plan, which is due to NNSA in July of this year, includes new initiatives to control access to the site, upgrades in the size and lethality of our protective force, consolidation of nuclear operations to achieve economies of scale for our protection operations, and new construction of barriers and alarms at key facilities. I am confident in our ability to defend the site, and that confidence is anchored by DOE assessments that tell us we are good and getting better. We will continue to spare no effort in our quest to ensure the security of Los Alamos and the national security mission with which we are charged.

SUMMARY

As I mentioned in my opening comments, the decision to suspend Laboratory operations was not an easy one. The decision has caused great turmoil within the Laboratory and generated a fair amount of second guessing. From my vantage point the suspension of Laboratory operations was absolutely the right thing to do—the pain we have experienced is more than offset by the long-term gain we will see from this investment. Today we have a solid grasp on safety and security risk areas within the Laboratory based on comprehensive risk analyses. As a result, we are better situated to understand the safety and security implications of the work we do. The suspension of operations has introduced a formality of operations to an institution that desperately needed it. I cannot sit here today and tell you that we will never have another safety or security incident at Los Alamos; our operations are too large and too complex to ever be able to give you a 100% guarantee. But what I can guarantee is that the management at the Laboratory and the University of California is committed to continuing its improvements to both safety and security. We will take an outstanding operation and make it even better, and we will continue to deliver on our commitment to the safety and security of this nation, I promise you that.

Again, thank you for allowing me the opportunity to address you and I would be glad to answer any questions you may have for me.

Mr. WHITFIELD. Thank you very much, Dr. Nanos. We appreciate your testimony.

And I have with me here some transcripts from three oversight and investigative hearings that the Congress—this subcommittee—conducted back in 2003 regarding procurement and property mismanagement failures at Los Alamos.

And you can see from the size of these transcripts that this committee spent a lot of time on mismanagement at Los Alamos. And I know that you were not hired to be responsible for this program by the University of California until 2003, which was sometime right after these hearings were conducted.

But, then, in September 2004, we received a copy of an audit that was performed by the equivalent of the inspector general for the University of California, regarding lack of procurement and property controls at an area called Technical Area Number 16. And, specifically, they were talking about the fact that 21 unauthorized sheds were built at Los Alamos and filled with unauthorized materials, supplies and equipment.

And it went on to say that the University of California overpaid on these sheds. These sheds cost the University of California $8,255 per shed. The base price was $5,570. So the unauthorized

sheds were built and overpaid by the University of California, $56,000.

Now, I know that these sheds were, my understanding, built prior to your arrival. But this became public knowledge only in September. And I guess I would have two points to my question here. One, there continues to be, seems to be this problem of mismanagement at Los Alamos regarding the University of California.

Two, this audit performed by your inspector general that found these sheds 3 years after they were built, that were unauthorized, inflated prices were paid for them, unauthorized materials being kept in them, why would it take so long for you all to recognize that these were unauthorized and containing unauthorized materials?

Mr. NANOS. Sir, you were correct, I believe, in pointing out that those were sheds that had been previously looked at. When they were raised in the audit, in—last year, we went back and immediately looked at the material. And we found out that the material was in fact proper material to be used at the site and in the laboratory.

That—in distinction from previous things that you were made aware of, there was no unauthorized material there in the sense that that was all legitimate material for use at the laboratory.

Mr. WHITFIELD. When you say—are we talking about what was stored in the sheds?

Mr. NANOS. In the sheds. Yes, sir. And some of it had been procured at the time of the sheds and some of it had been procured subsequently and the sheds were used for storage.

Mr. WHITFIELD. But you would agree that the sheds themselves, at least that process, was not properly conducted?

Mr. NANOS. Well, the—it was clear that that contract was one that had been previously looked at, had a fairly substantial increase in scope, growth and scope over the years. And that was one that our current procedures and process preclude from happening again.

No one is authorized to increase the scope or the ceiling on contracts to the extent that that one had in the past. Also, we are reviewing the costs and the close-out process on that contract. We are reviewing the charges and deciding to what level we are going to dispute it.

I am almost positive that we will end up disputing these charges and putting in a claim against the contractor for overcharges. In the normal closeout process of the contract, we, of course, go through and audit all of the costs to make sure that they are right and proper and we are not being overcharged.

Mr. WHITFIELD. So you do intend to go back against the contractor for the overcharges on these?

Mr. NANOS. Yes, sir. We have not yet finished the close-out audit on that contract. So that is still an open issue that we will deal with.

Mr. WHITFIELD. You do agree with this audit report, though, that shows the irregularities as it pertains to the building of these buildings outside of the scope and so forth?

Mr. NANOS. Yes, sir. Let me just take a minute and tell you what we are doing now. You can increase—we had a problem with non-

contract people, nonbuyers making commitments for the laboratory with contractors, and making constructive changes to contracts.

In my first year, I changed our instruction to make it very clear that you had to have contract authority in order to make scope changes to contracts, formal contract mods, and that could not be done casually in the laboratory.

We also have made it clear that all purchases under these contracts now have to go through authorized buyers and that even an authorized buyer cannot bump up the ceiling more than $200,000 on any large contract without going through a contract official.

In other words, we did not set that at zero because we did not want to be administratively adding burden to everything. Often, when we buy things, it is important to get it in a timely manner, because we do not want to be building up personnel costs for want of a nail.

But, on the other hand, we do not want people increasing the ceiling on contracts without going through our proper contracting channels. So we have established a policy that that has to be formally done now. And that will preclude this type of activity from occurring in the future.

Mr. WHITFIELD. Now, there are allegations that there are other types of structures out there that may have been built under the same circumstances. Do you expect that we will have some other revelations as we move along?

Mr. NANOS. Sir, we have a tremendous number of temporary structures and transportables at the laboratory. It is one of the big difficulties that I have to face is that I have an awful lot of substandard space that we are trying to move out of.

And each one of those, though, is cataloged, has a building number, even if it is a trailer. So we are not—and many of our structures go back to the 1950's. So it is not—I would not say it is a modern well-ordered site in general. And we are trying to manage our way through that, coalesce, consolidate, get rid of unneeded space and reduce the cost of our footprint, our facility footprint.

And so there are—it is hard to go to Los Alamos and view the site and not come away with the feeling that there are a lot of temporary-looking structures.

Mr. WHITFIELD. Chairman Barton recently sent a letter to Ambassador Brooks saying that he thought the University of California should pay a portion of the cost of the standdown. And you heard our discussion earlier about the cost figure.

But, from your perspective with the University of California, do you feel like the Department of Energy can legally charge the University of California with a portion of those costs, pursuant to the terms of your contract?

Mr. NANOS. Sir, I do not want to get—I am not qualified to talk about the legal issues. I spent 8 years running major contracting activities in the DOD. So I do have some experience.

I feel that all of the work that we did during the period of the standdown was work that was authorized under the statement of work. And I know there is some parts of the charges that—or the costs that we have exposed to our contracting officer that are still being looked at in the normal course.

In other words, they have not finished their review. But, to my knowledge, everything that we did, which was management self-assessments, which is called for under contractor assurance, and, you know, identification of deficiencies. And, frankly, correcting deficiencies is all work that we are called upon to do in the normal course.

We just normally do not do it in such a concentrated way. Also, other than that work, which was, I think, the main heavy lifting of the management self-assessment, the assessment of risks and correction of deficiencies, the rest of the work that was going on at that time was all our normal programmatic work.

I am happy to say that the laboratory, I expect that within the next month, the laboratory to be back on schedule with their major programs. In other words, we have been able to immediately reapply ourselves back to our mainline DOE programs and get back on schedule.

Mr. WHITFIELD. As a result of the standdown, how far was your programmatic work delayed or how long?

Mr. NANOS. The programmatic—I would have to go back and look at the exact change in milestones. But if you look at the—where these milestones—in other words, there were some deliverables at the end of the fiscal year that we did not meet, and that got continued into the next fiscal year.

But, we are catching up on those particular areas of production, and tests that are required to support major life-extension programs for our systems. The most critical part of the work, which was safety, security and assessment of the stockpile for the country, we kept on schedule despite the standdown.

So we did slip some milestones, and I will give you an example. The tests in support of the major life-extension program that were delayed are—the experimental set up has been completed. And we expect, by the end of the month, to be back on schedule with that testing. And that was in an area, that was with a division that had—that was the one that had the security problems, and many of the compliance problems, and took us the longest to rebuild. So I am very proud of their intense effort to get back on schedule and meet the national need.

Mr. WHITFIELD. Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

Dr. Nanos, it is good to see you again. I think we met when you just started at Los Alamos, when we were out there that time for the visit.

Mr. NANOS. Yes, sir.

Mr. STUPAK. Let me see if I can get this right. You are an employee of UC, University of California?

Mr. NANOS. Yes, sir, I am.

Mr. STUPAK. We would hope that when we see you again, it is not in a situation where we are talking about another slip up at Los Alamos. So we would really like to, I am sure I speak for everybody on the committee, have better dialog with the lab. I know you have an office here and things like that. So you have got the University of California. You have got your law firm and DOE, and we should really have more interaction and dialog so we can work together more on some of these things.

I know your lab just come up in an announcement the other day on that muon—am I saying that right, sir?

Mr. NANOS. Muon radiography. Yes, sir.

Mr. STUPAK. That is stuff that—let us know so we can help work together on some of these things. That is what we would like to do instead of always being here when things are not going too well for you.

Let me ask you this. Mr. Brown, and I know we mentioned the white paper. He has been at Los Alamos for over 18 months and had observed the practices and drawn some comparisons based upon his 30 years of experience in assessing adequacy of nuclear industry practices at various organizations that are under the oversight of DOE and the NRC. So was Mr. Brown a qualified auditor?

Mr. NANOS. As far as I know, within his experience, he was qualified to do the job that we gave him. He was obviously working for my Performance Surety Division, and had been assigned to that work by the—by the division leader, who I have great confidence in by the way.

So I have—I am confident that, you know, it is the point I am making here is that I do not have any issue with Mr. Brown and what he did, and we have taken his comments seriously.

Mr. STUPAK. Have you discussed them with Mr. Brown?

Mr. NANOS. I have not personally, but I have been involved in some of the issues. I can give you an example of one for example.

Mr. STUPAK. No.

Mr. NANOS. But the work—in other words, I have not talked to him. But his reports have come to me.

Mr. STUPAK. I guess what I am looking at is, if he wrote his letter on October 22, 2004, has anyone gotten back with Mr. Brown and said, hey, you might be mistaken on this weld point? That was an issue that you brought up.

Mr. NANOS. We would—the weld point is a good one. Because that one I know a lot about. He was not mistaken.

Mr. STUPAK. The point I am trying to say, has anyone even gotten back with Mr. Brown?

Mr. NANOS. That is good. I do not know. I have not personally.

Mr. STUPAK. See what I mean about the mix up in the dialog. I wish someone would have sat down, because when we go into closed session, we are going to ask you a little more specific stuff in here. But you see, no one gets back with the guy. And then there is back and forth with us. And now that is why we need to work together on these things, because if he is qualified, obviously, he has some concerns, and he still is not satisfied, and no one has gotten back with him. So can you see how the things gets sort of out of control?

Mr. NANOS. Yes, sir. The only part I am short on, is since I did not talk to him personally, and nobody reported to me that they had talked to him personally, I cannot tell you the degree to which he has been gotten back to. But I will get that answer.

Mr. STUPAK. Okay. He goes on and he says: The University of California faces precarious times. Management's lack of emphasis on nuclear quality assurances increases the risk of a clear and present danger to employees and to public health. Ineffectual management practices, an air of superiority, complacency to normal nu-

clear industry practices/procedures combined with serious cultural biases equate to an environment fraught with potential for dangerous consequences similar to the Challenger or Chernobyl disasters.

And, you know, like I say, I have been on this committee for 10 years. And just looking at Los Alamos' track record, it is—without further dialog between us, it is hard to say who is correct here, Los Alamos or Mr. Brown.

Mr. NANOS. Well, let me make the following comment. I think—I would probably have a discussion with him about the issue of something akin to Challenger or Chernobyl. But, it is clear from my observations at the laboratory, that we had to do something about our safety and compliance culture. Because of our record in Price Anderson violations, because of our record in safety, and because the correlation—and what the security brought to it, was that there was a behavorial aspect of people not wanting to go along with the rules that we had to deal with.

So the shutdown was necessary to do that. We are also continuing—to follow the shutdown with something we call operational efficiency, which is to take what we learned during the shutdown and institutionalize it. And also, I have introduced the Dupont STOP program, Safety, Training, Observation Program, which is a behavioral-based safety program because of our belief that we have to drive this—these kinds of concerns into the culture.

But, if he says that there is work to be done at the laboratory to improve the culture for safety and compliance, I agree with him. That is why I said shut the laboratory down.

Mr. STUPAK. It is that culture, I used the same word earlier about the culture there, that we have these repeated problems related to security, trustworthiness and safety that we are very, very concerned about.

You indicate in your opening that you would get back to us. I had asked for a detailed point-by-point accounting of Mr. Brown's allegations. And we would really like someone to get that to us and bring it back to this committee. Are you committed to do that?

Mr. NANOS. Yes, sir.

Mr. STUPAK. As soon as you can?

Mr. NANOS. Yes, sir.

Mr. STUPAK. At the same time, why not stick one in the mail to Mr. Brown, if that would be appropriate there, or if you want the committee will? I just think that he needs to see that there is a culture of change.

I was a little concerned, Mr. Burgess asked about the other plant there, nuclear plant, similar size, I think Ambassador Brooks said, which seems to run well, better than Los Alamos obviously.

And Los Alamos has been a lab for a long, long time, probably one of the first ones that we had. So I would think the expertise in security and all of this would be at Los Alamos, not at a relatively new lab in Texas.

So it is that culture I think that we are trying to break. And it sounds like—I know you have only been there 2 years. You are starting to get to it. I was surprised but pleased to see that when you started your shutdown, there were 350 prestart issues that you identified, and then, once you got in there, you saw about 3,000,

I think it was, issues that have to be addressed. So you have got a big job ahead of you.

Let me ask you this. When you do this standdown, does anyone from the outside come in to assist, or is this just an internal standdown, and these 3,000 things you have identified internally? How does that work? Do you bring in outside experts?

Mr. NANOS. What we did, first, and I have got a copy of it here, our restart instructions, in great detail on what we want people to look for. We covered everything in terms of safety, security, personnel, leadership, everything.

Then we convened something we called a Restart Review Board, which incorporated some outside consultants, my people, people sitting on it from the NNSA site office. In other words, the other thing I want to emphasize, that this was not the lab and UC standing alone, standing up our laboratory, it was a cooperative effort with NNSA. So we got all eyes. Then they reviewed all of the documentation for restart for the entire laboratory, for the two highest levels, level two and level three.

And I reviewed all of the documentation on their work, and personally approved the restart in every area. I saw that they had done a very good job of bringing, in other words, of striking a balance of risk across the laboratory. In other words, they were very——

Mr. STUPAK. You said they did a good job.

Mr. NANOS. The RRB, the Restart Review Board. They did an extremely good job of assessing risk and striking a balance. In other words, I was not taking extreme risks in one part of the lab and no risk in another. It was very well done and well documented across the laboratory.

Mr. STUPAK. So if I understand your answer, in this shutdown, you bring in people from NNSA?

Mr. NANOS. Yes, sir.

Mr. STUPAK. And then outside consultants?

Mr. NANOS. They were members of this review board. I had some outside consultants that I had known in my previous life that I had confidence in and were able to——

Mr. STUPAK. As a result of the shutdown and bringing in these consultants, let me ask, do you think that would be a fair cost for the taxpayers to pay, or is that one that you guys should eat that cost of the outside consultants and NNSA?

Mr. NANOS. It was—the outside consultant in particular is one I had brought in to help with the formality of operations in the laboratory before the shutdown. So what I did is I just had him sit on this panel as part of his duties.

Mr. STUPAK. What—what are the challenges you face now specifically as the lab director? You have been there for 2 years. You have been through a shutdown. What are your challenges to get it so we do not have you come back here in a year or 2 years for another shutdown for some reason?

Mr. NANOS. Well, I think—it is hard for me. I am not asking for any mercy or anything. But the—I think if you look at the examples of similar turnarounds and culture changes in industry in other areas, I remember the model I was looking to when I was doing change in my last job in the Navy was the IBM model, where

it took them seven areas to reform their corporate culture and organization and change the fundamental focus.

It is hard to know how long this is going to be. I estimate that a change of this magnitude in an organization this size could take maybe 5 to 7 years. So I am counting that I am about 2 years into at least a 5-year process. So we are hopefully approaching the tipping point and coming down the back side of the mountain. But it is—with the variety of operations and having to drive a corporate focus, and not a—in other words, the laboratory people used to joke that Los Alamos was 19 laboratories combined by a common janitorial service.

But now, I think the laboratory is working cooperatively as an entire institution to work its problems. And I think we have gotten to that point of unity and are now, as an organization, as a cohesive organization, starting to work our way through this. And it will take a number of years, I think, to get it out to every part of the laboratory.

But I think the change, the pace of change has been very aggressive. And I have to tell you, I am very pleased with where we have come in a relatively short time during my tenure. I am very proud of what the people have been able to accomplish.

So I have confidence we are going to get there. Unfortunately, I think the record of other organizations and industries say that culture change of this magnitude is a long process.

Mr. STUPAK. One of the entities we deal with a little bit, and we have dealt with in dealing with Los Alamos, is the firm of Covington and Burling, if I said that right. Does the University of California pay them, or is it part of the budget?

Mr. NANOS. I do not pay them.

Mr. STUPAK. It does not come out of the lab budget?

Mr. NANOS. No, sir. I do not. I assume that that is the University of California. I have no knowledge of that.

Mr. STUPAK. Very good.

Mr. NANOS. They talk to me occasionally, but as far as I know, I am not paying for them.

Mr. WHITFIELD. Dr. Burgess, you are recognized for 10 minutes.

Mr. BURGESS. Thank you, Mr. Chairman. Doctor, many of the instances of security mismanagement at Los Alamos over the years, including the recent incidents that we are talking about this morning last year, occurred within one specific program, the DX division. Can you explain why this division has had so many ongoing security problems?

Mr. NANOS. Well, it is hard for me to go back before my tenure. I can tell you, in the current situation, I made the determination, once I found that something had happened, first of all, I want to separate the security problems into two bins.

We had a number of security problems that I take personally—personal responsibility for as management at the laboratory, because, you know, when you have got somebody in bad lighting conditions doing a destruction, trying to read the small numbers off a barcode and transposes a number and gets it wrong, makes a human error, I feel that management has failed that individual, that we have given them a system to work with that they cannot deal with.

What was unique about this case was that it involved behaviors, people who knew the rules, who did not follow the rules or who falsified documents and signed off improperly. And I think the key point that we made in this particular incident, as I went into it, compared to previous ones, is I said, remember I put 19 people on administrative leave or investigatory leave at the beginning of this.

And the statement I made was that, unless I find the answer of who did what with this material, these 19 people will never touch another piece of classified information at this laboratory again. I will never take the risk until I find out what was done and how it was done properly.

I think that would—and we did find people who actually did things improperly. We terminated those people. And then we actually took action. I think that that established clearly the laboratory's standard of personal accountability.

And, frankly, I think where, the university, it has not been as strong about personal accountability for classified information and safety and compliance and the environment. And we made that clear at this time.

So I cannot go back and talk about before my term and how that was done. But I can tell you that I was dealing with those two types of things. And I was trying to do what I needed to do as the manager of the laboratory to protect people from simple administrative errors while at the same time hold people that were accountable for malfeasance, accountable for their actions.

And I think we drew that line successfully in this last incident, and hopefully that will drive the culture.

Mr. BURGESS. Well, of course, the whole purpose of a bar code is so that you will not transpose a digit.

Mr. NANOS. Yes, sir.

Mr. BURGESS. But I will accept that. I guess I am disturbed about the comment, human error versus a behavioral problem. I mean, a behavioral problem at that level of security clearance, I mean, it seems to me it goes beyond just being put on administrative leave or having the security clearance removed. Was there ever any thought given to prosecuting the individuals involved?

Mr. NANOS. We did exercise the full authority that we had in that regard, and we, in fact, terminated the employees that were involved, not just put them on leave. Once we found the facts and the people who actually—in other words, we had a graded approach. Basically people were held accountable for it and disciplined for what they, in fact, did. And those who operated falsely were terminated, and those who took shortcuts with the administrative procedures, in other words, accepted a bar code when they knew they shouldn't, were, in fact, suspended without pay. So there was discipline and there was—for each infraction based on the level of involvement.

Mr. BURGESS. So you believe it was—that there wasn't criminal intent when you say "adverse behavior" or "unacceptable behavior."

Mr. NANOS. Well, when two people say, hey, we're supposed to do the inventory; let's not do the inventory, let's sign the document and say we did it.

Mr. BURGESS. I am new here, but that is bothersome to me. We are talking about a big deal here, aren't we? Los Alamos.

Mr. NANOS. Yes, sir; yes, sir.

Mr. BURGESS. That is where they built the bomb.

Mr. NANOS. Yes, sir. We, in fact, terminated those people.

Mr. BURGESS. Mr. Chairman, I would just ask the question is termination enough when you have someone whose behavior is that aberrant in that type of facility?

Mr. NANOS. Well, I don't have—I don't have police powers. The people who were—in other words, the FBI was there with us doing the investigation. They are the ones that generally in this case would take that to the attorneys.

Mr. BURGESS. I will accept that. And I thank you for your candor.

I just have to ask how in the world do you have a laser injury of that magnitude in a laboratory?

Mr. NANOS. It was terrible, frankly, and the person who had that laboratory and was operating with that student was terminated because it was egregious. I had—I had docked the pay, or I had adjusted—we had—this was in a division where they had had previous safety difficulties in the previous year because of other safety incidents. Both the associate director and the division leader had had their pay adjusted downward to send a clear message that I expected better performance. And in this particular incident, I fired the individual who had control of the laboratory. His immediate supervisor was put on leave without pay. The division leader was removed from that position. I didn't terminate him because I felt he was trying to do the right thing, but he was ineffective. But because of his lack of effectiveness, I removed him from this position. And the associate director, who I felt did not spend the proper amount of attention on operational matters, I removed.

Mr. BURGESS. What has been the outcome of that injury? Has that person lost his sight?

Mr. NANOS. That person has—has lost a large percentage—basically it destroyed the center part of her retina, and she has lost the center part of her vision and some of her depth perception as a result of that. And that's a permanent injury.

Mr. BURGESS. Yes, sir. As far as the—obviously the laboratory bore the cost of the medical treatment?

Mr. NANOS. Yes. And we have continued to follow up with her and her family.

Mr. BURGESS. And presumably some type of compensatory offer?

Mr. NANOS. I don't have the detail. I can get the—I don't know the detail information. I just got a recent report on her condition from my head physician who had just been up to visit her and the family, but I don't know the final result of compensation that she was given. I think we provided basically all the—I believe we provided all the medical care, but I don't want to get too far into that without getting the data for you.

Mr. BURGESS. Was the expense of the medical care and whatever compensation was going to be offered, is that borne by the university or by the taxpayer?

Mr. NANOS. That is costs under the contract, you know, for the care that we provide in that case. Those services that we provide under the contract we provide for all injuries. And we had—by the way, that is another indicator that we had that things were not

going well. We had a fairly substantial number of injuries last year that we had to deal with. But they are treated like all the rest of the industrial injuries.

Mr. BURGESS. I thank you for your candor.

I yield back my time, Mr. Chairman.

Mr. WHITFIELD. Mr. Walden.

Mr. WALDEN. Thank you very much, Mr. Chairman.

I assume you have workers' comp coverage.

Mr. NANOS. Yes, we have workers' comp.

Mr. WALDEN. Does this fall under that, then? Workplace injury?

Mr. NANOS. I don't know—I think we responded immediately. So I would have to go back. I don't want—as I said, I don't have the data sheet in front of me, but I can get that for the record.

[The information referred to follows:]

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Arrive
Jackie
Mark
Kurt
Anne
Dwight

Department of Energy
National Nuclear Security Administration
Washington, DC 20585

February 14, 2005

OFFICE OF THE ADMINISTRATOR

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515-6015

Dear Mr. Chairman:

On January 27, 2005, the Department of Energy approved the last of 20 libraries established for the control of accountable classified removable electronic media (CREM) at the Los Alamos National Laboratory (LANL). That action cleared the way for the laboratory director, Dr. George P. "Pete" Nanos, to end a stand down he declared on July 16, 2004, in response to security lapses and a serious safety incident. Over the past several months, the laboratory has resumed operations on a staged basis as different organizations met specific criteria for restart established by the National Nuclear Security Administration (NNSA).

Resumption activities involved a long and arduous process, during which the laboratory and NNSA's Federal site office identified more than 3,000 findings requiring corrective action. About 350 of the most significant findings were addressed before approval was given to restart individual operations. The remainder will be completed over time as the laboratory fulfills its mission.

For each laboratory organization to achieve restart, the director had to assure NNSA that it had:

- Completed all significant or compensatory corrective actions
- Completed needed self assessments and readiness reviews
- Put in place detailed corrective action plans to address findings
- Established CREM libraries

Printed with soy ink on recycled paper

Prior to establishing the libraries, the laboratory inventoried and verified all CREM. This alone was a major undertaking. The amount of CREM was reduced from over 80,000 pieces to around 23,000. Twenty libraries, each approved by the Deputy Secretary of Energy on the recommendation of NNSA, now control all accountable classified removable electronic media at the laboratory. Individual accountability is strictly maintained for any CREM used outside of a library. All users have been trained in the new approach to protecting CREM.

I believe that we have made great strides at the laboratory, but I also know that much remains to be done in order to maintain appropriate levels of performance for safety, security, and environmental compliance. Both laboratory and NNSA oversight officials must continue to be vigilant and diligent in completing the corrective action plans generated during the stand down. It is easier to create such plans than to complete them. NNSA will maintain proper Federal oversight at Los Alamos to ensure that the laboratory stays on the course it has charted for safety and security.

If you have any questions about resumption activities, please feel free to contact me or C. Anson Franklin, Director, Office of Congressional, Intergovernmental and Public Affairs, at 202/586-8343.

Sincerely,

Linton F. Brooks
Administrator

cc: The Honorable John Dingell
Ranking Minority Member

Mr. WALDEN. I don't envy your task.

You have how many employees.

Mr. NANOS. We have about a little over 8,000 University of California employees and probably between 12,000 and 13,000 employees on the Hill.

Mr. WALDEN. Twenty-one thousand.

Mr. NANOS. I total of 12,500 to 13,000, including our support contractors.

Mr. WALDEN. How many management staff out of that?

Mr. NANOS. Let's see.

Mr. WALDEN. Ballpark.

Mr. NANOS. I would say down to the division level it is probably like a number like 60 or 70.

Mr. WALDEN. Managing 12,000 or 13,000?

Mr. NANOS. Yes, but we have a lower level of group leader which is below that division level. So, actually part of the issue that we are addressing is that we have a very—in some areas a very broad span of control, which is probably part of the issue that we're facing.

Mr. WALDEN. It is the balance between how much middle management do you have and need and the costs of all of that.

Mr. NANOS. We tend to be on the low side, I believe.

Mr. WALDEN. I think that is what we are seeing perhaps as a problem, in the sense that it strikes me on this issue of accountability on the bar codes, mismatched numbers, or the decision that they were just going to falsify the data—given the importance of what they deal with, that there is no check and balance. I spent 5 years on a community bank board, and a teller making 14,000 a year moving money has got a check and balance. Has to balance their till every night, and if you are going in and out of the vault, there are certain checks and balances.

Mr. NANOS. Yes, sir. As a matter of fact, if you look at the business process, one of the immediate actions I took when I took over the laboratory was to go down to the group level and add administrative people that had been taken out—that were the ones that were doing some of this administrative checking. There had been no much burden put on at least at the group level, the managers, that they were unable to manage the science and manage the administrative part at the same time.

So we have, in fact—and you will see that a lot in my testimony—a lot of what we are doing now is by going to diskless computing, improving the classified network, and, frankly, by shrinking the number of locations for classified material now from hundreds to tens, we are in the process—we are able—we have much more resources in terms of being able to conduct inventories and do checks and balance.

Mr. WALDEN. You have less to inventory.

Mr. NANOS. Less to inventory, and fewer people doing it, and much tighter control. In other words, we do transactional inventories on the safe. You are the custodian responsible for the safe. I come and draw my electronic media in the morning; I bring it back by the end of the day. You know what was in the safe, what was withdrawn, what was put back, and so you keep track on a

transactional basis and at periodic intervals do a complete inventory.

Instead of having hundreds of locations, you now have 20 with a staff that is concentrated, that is professional, that has a career path doing that.

Mr. WALDEN. And isn't that where people would take off from lunch and leave it unattended and—or asleep or whatever? I mean, wasn't that where that problem was in the process?

Mr. NANOS. That wasn't our lab. We didn't have guards, for example, that were asleep. But what we did have, we did have people who were custodians. In the old system, if you were a scientist, you had your own safe with your own classified media in it, and that was spread all over the laboratory, and there was a collateral duty classified material custodian that would come by every once in a while and inventory your safe to make sure that everything was okay.

What we have done now, that has been done away with. You do not keep your own classified material anymore. It is in the library. When you come to work, you stop by the library, you withdraw it if you need to use it that day. And if you do not need to use it, it stays in the library, it is not distributed, it is concentrated.

Mr. WALDEN. Is there—do they have to turn in their media before they are allowed out the door?

Mr. NANOS. Yes, sir. As a matter of fact, in some areas you will find people walking around with chains around their neck with a big orange card on it. It's called the M-card, or the moron card. It is to remind you that you have withdrawn classified material, and until that is off, you can't go home.

We are taking very direct measures to make sure that people are reminded of their responsibilities, and, frankly, if you try to go home, and the custodian—the custodian can't go home until it is all back, and if they see you heading for the door, they will say, wait a minute. Somebody will go back that night and look for the material.

Mr. WALDEN. Do you feel like you have the buy-in of the rank and file, of those 12,000?

Mr. NANOS. I think that there has been a great deal of consternation at the laboratory. There are people who have felt that what we have gone through has not been necessary. It has fallen to me to take the message, the collective message of you all and others, to the laboratory. They have not been happy. And some, I believe a minority in the laboratory, have not been happy with that and have been very vocal.

Mr. WALDEN. What do they say?

Mr. NANOS. There are people who think that the safety was doing just find, and we didn't need have a shut-down for safety, and that, in fact, you know, that this is a burden on science, and that our science will suffer. And I don't believe that, and I think the majority of the workers and the scientists at Los Alamos don't believe that.

But—and I think that moralewise we took the laboratory down to a very low level in terms of employee morale. And I think the combination of the shut-down and the suspension of operations, and the one-two punch of that and the contract competition has

caused a great deal of personal unease on the part of many, many employees.

Mr. WALDEN. So is that resulting in them buying into the improved security?

Mr. NANOS. I think that the pressure that the laboratory has been under with the impending competition and the issues associated with first business and now safety and security has caused the kind of disquiet that has allowed me to implement a lot of change, probably more rapidly than would otherwise be the case.

Mr. WALDEN. During the shut-down were you able to identify kind of the groups or individuals who just seem really reluctant to adopt these increased safety and security improvements?

Mr. NANOS. Yes, sir. As a matter of fact, as part of the restart process, I asked every supervisor to interview their employees at the next level down and to make judgments about the capability of the employee, the level of training, and their willingness to supervise or—if they were supervisors—or to conduct operations in that way. And if it looked like there was a disconnect, in many cases we got employees additional training; in some cases we actually moved employees, changed them to more suitable roles if it appeared that they were not able to conduct business in the way that it needed to be done.

Mr. WALDEN. Of the people that you dismissed, have you kept track of what happened to them? Do they reappear somewhere in the government?

Mr. NANOS. I have not personally tracked them. There were a mix. There were some very high-level employees and some very low-level employees. I do not know—I don't personally know where they have reappeared. They certainly are not working on our staff.

Mr. WALDEN. Okay. I don't believe I have any more questions. Thank you, Mr. Chairman.

Thank you, sir.

Mr. WHITFIELD. Thank you Mr. Walden.

That concludes the testimony of Dr. Nanos. We appreciate——

Mr. STUPAK. Could I interrupt for a minute? Could I ask a question or two, if I may? I finished my statement by saying that you should at least get ahold of Mr. Brown and mail him a copy, but the more I sit here and listen to the testimony here today, I would hope that you would call him in and sit down or find a half-hour or an hour to go through this. You are telling us that you want to make the lab safe. Mr. Brown in his paper is saying he wants to make the lab safe. I think the goal is the same. I hope you guys can work together and work it out.

You said you had a dispute or two with one of the things he said, but I think it would be in everyone's best interest. There is no doubt in our minds you are trying to do the best you can. So with Mr. Brown. And I would hope you would do that.

The other thing that bothers me a little bit, Mr. Brown is now sort of considered a whistleblower, so he comes under the Government Accountability Project protections of whistleblowers. Why would Mr. Brown have to turn into a whistleblower if he is your auditor and he is trying to bring out deficiencies? It seems to me you would not want him to go under whistleblower, but rather work with you to help you out.

Mr. NANOS. Sir, I don't consider him a whistleblower. He has selected himself as a whistleblower. We don't consider them a whistleblower. He is still employed and still doing audits. We have taken what he said seriously. We haven't retaliated against him in any way, and he is still a valued employee.

So he is being cast—I am puzzled by why he is being cast in this position of being a whistleblower. Usually when you are a whistleblower, you are a whistleblower because you are either being retaliated against, or people are not taking you seriously. And I don't think that is true—either of those things are true in this case.

Mr. STUPAK. The Brown letter, the letter at least is on the GAP Web site, the Government Accountability Project. That is why I called him a whistleblower. Why would his letter be on an act that protects whistleblowers if he is not a whistleblower? That is why I used the word.

Mr. NANOS. Maybe he had a fear of that eventually being the case. But it is certainly—there is no action on our part that I know of. One of the things I did when I took over at the laboratory, if you remember, 2 years ago, there were lots of claims of retribution. So I have been screening all these things that have come up, anonymous or otherwise, that indicate there is something wrong or there is retribution going on, and I run down and investigate every last one of those. So we are making sure that the communications are as open as possible in the laboratory.

Mr. STUPAK. I believe in your previous testimony you indicated you have an open-door policy if someone wants to go in, a whistleblower or whatever, who has some concerns.

Mr. NANOS. Yes, sir.

Mr. STUPAK. So I take it from your testimony you will sit down with Mr. Brown?

Mr. NANOS. Yes, sir.

Mr. WHITFIELD. Dr. Nanos, thank you.

Mr. WHITFIELD. At this time we will have our third panel, which consists of one witness, who is Ms. Danielle Brian, who is Executive Director with the Project on Government Oversight.

Ms. Brian, we welcome you and look forward to your testimony. As you know, it is the custom of the oversight investigation subcommittee that you are able to have an attorney if you want one; if you don't, if you will stand, I would like to swear you in at this time.

Ms. BRIAN. Yes, sir.

[Witness sworn.]

Mr. WHITFIELD. Thank you, Ms. Brian. You are now sworn in, and if you would give us your opening statement.

TESTIMONY OF DANIELLE BRIAN, EXECUTIVE DIRECTOR ON NUCLEAR SECURITY, THE PROJECT ON GOVERNMENT OVERSIGHT

Ms. BRIAN. Thank you very much for having me to testify, Mr. Chairman. Last year we testified that we were cautiously optimistic that then-Secretary Abraham's initiatives would be implemented. As it turns out, our caution was well placed. The major problem is that the former Secretary failed to establish timely

deadlines for their implementation, and, as a result, many of these initiatives have now stalled.

To get back on track, we believe Secretary Bodman needs to set strict deadlines and needs to assign trusted staff to constantly follow up on their progress. Security experts' greatest fear is very distinct. A terrorist could successfully reach its target at one of these facilities and, within an extraordinarily short timeframe, use the highly enriched uranium to create an improvised nuclear bomb onsite, known as an improvised nuclear device, or an IND. It only takes a critical mass of HEU, which is about 100 pounds, to create an IND. To put this in perspective, one site alone stores about 400 metric tons of HEU.

Why should we care about this? According to the Department of Homeland Security, this is exactly what worries them. The detonation of a 10-kiloton nuclear bomb would destroy everything within half a mile and contaminate 3,000 square miles of land. The nuclear weapons complex creates these homeland security vulnerabilities right here at home.

By far the most successful Abraham initiative was the reexamination of the Design Basis Threat. Under the new DBT, security forces will be required to repel more than three times the number of attackers than they were required to protect against prior to 9/11. But they will not be fully implemented until 2008, which I want to remind you is 7 years after 9/11.

I would just focus comments on the initiatives that we believe require the committee's immediate intervention for the sake of brevity. With regards to TA 18. As we know, TA 18 is scheduled to be deinventoried of weapons-grade nuclear material by the end of September 2005. But currently, LANL is actually pushing to further activities at TA 18. And I understand Ambassador Brooks didn't have the opportunity to get briefed yet from the lab because he was in England, but these additional experiments are going to postpone the move for at least another 6 months. So POGO has been told that despite promises from the lab that they will meet the schedule, a choice is going to have to be made. Either these experiments will continue and they will not meet the deadline even by the end of the year, or they will have to pause in conducting these experiments and be able to move the materials to the Nevada test site on schedule.

With regard to the initiative to review the necessity of retaining Lawrence Livermore special nuclear materials, this has really stalled completely. I think I know why. Just 1 month prior to Secretary Abraham's speech, NNSA Director Brooks testified before another House committee that he opposed suggestions of deinventorying Livermore; and, in fact, the NNSA has proposed doubling Livermore's plutonium.

I understand from the testimony this morning that this particular initiative was combined with a larger initiative of looking in general at consolidation in the complex. But Secretary Abraham, in his speech, singled out Livermore as worthy of particular notice, and I think it was with very good reason. Roughly 7 million people live within a 50-mile radius of the Livermore lab. Many residential homes now exist across the street from the lab's fence line. And new townhouses with minivineyards are being built along the edge

of the fence line. These homes sit only 800 yards from the superblock which houses the lab's plutonium.

If I could direct the Congressmen to the photograph, the first photograph at the end of my testimony, which is from Livermore's Web site, you will see that Livermore lab is actually a mile across, and so you get a sense then of the distance. These are all houses now.

Many of you live in areas which are getting overdeveloped. I live in Loudoun County, which is the fastest-growing area. This is the kind of thing that happens. But this is really unique in the complex, what is happening at Livermore, and these are $600,000 houses within 800 yards of the plutonium. So we are recommending that a particular focus be placed on Livermore and that special nuclear materials be removed from there.

With regards to the highly enriched uranium materials facility at Y-12, the Department is currently breaking ground for an above-ground building, as we heard earlier, to store Y-12's hundreds of tons of HEU. But the Department of Energy's inspector general has criticized the design and cost of this new building, concluding it will cost more and be less secure than the original plan for the bermed, partially underground facility.

I direct you to my the other two photos that I have provided to the Congressmen. The first photo is of the Nevada test site's device assembly facility. This is a bermed design where you see that there is only one side that has to be protected; everything else is underground. In comparison, the current design for the facility at Y-12 has all these sides. You have the roof and the four sides. And actually, with the design, there is more than four sides.

Now, it was ultimately Sandia's approval of this design that persuaded the Department of Energy headquarters to give the green light for this designed above-ground building, but POGO has learned that Sandia never compared this design to an underground design. And I understand from the testimony to the Congresswoman from Tennessee, who was asking the questions, there is no reason for a 2-year delay if there is a changed decision that maybe it should be underground. The government already has the design.

Originally there was already a design for an underground facility at Y-12. It already exists. So we would recommend the committee suggest to DOE that they stop, because they have actually broken ground for the above-ground facility, and at least have Sandia compare that design to the security of an underground facility.

Former Secretary Abraham also proposed the down-blending of 100 additional metric tons of Y-12 surplus HEU. We believe this move is essential so that these materials no longer create an unnecessary homeland security vulnerability, and will, very importantly, significantly help in reducing the enormous costs associated with protecting these materials at the new Design Basis Threat.

It appears, though, that DOE does not have the stomach to live up to its promises. The U.S. Has only currently down-blended 34 of the 174 metric tons that have already been declared excess. The remaining down-blending is not scheduled for completion until 2016 or beyond. So we believe that DOE should both dramatically speed up the current down-blending schedule and affirm former

Secretary Abraham's initiative of increasing the amount of HEU declared excess by another 100 metric tons.

With regard to Secretary Abraham's encouragement of consolidating nuclear materials, I understand that this study is just beginning to get under way 9 months after the initiative was assigned to NNSA. My organization, POGO, is in its final stages of preparing a report with recommendations of how to shrink the numbers of facilities across the country that house special nuclear materials from 13 sites to 7 at a cost savings of nearly $3 billion over 3 years.

In conclusion, I would be remiss if I did not report to the committee that while not a part of former Secretary Abraham's initiatives, the treatment of whistleblowers throughout the complex remains abysmal, and I have to particularly make the point, given Dr. Nanos' comments, that retaliation really remains the norm and not the exception.

In addition to Dr. Brown, another case in point is that of Tommy Hook and Chuck Montano, who have both worked at Los Alamos for decades. After the committee's three hearings on financial fraud at Los Alamos, the University of California was telling the public that all of those issues were resolved, while at the same time retaliating against these two men who knew otherwise.

Hook and Montano were responsible for providing audit support for UC and uncovering ongoing irregularities and outright misconduct amounting to millions of taxpayer dollars. Their audit reports were withheld from the Department of Energy. Their treatment? Their work was taken away from them, they were given no work for 9 months, and are now being handed menial assignments. Even the head of the Los Alamos site office tried to intervene on behalf of Tommy Hook, only to be rebuffed by an arrogant University of California.

Under the current system, DOE contractors have no incentive to treat whistleblowers well, as all their legal fees are reimbursed by the Federal Government.

In conclusion, the Department of Energy does not need new offices, does not need new commissions, does not need new studies. The DOE needs to follow through on its existing commitments. I believe the committee should remain apprised of SSA Director Podonsky's important ongoing work, but even with the strongest leadership from the Secretary's office, the only way these initiatives will be enacted is with your continued vigilance. DOE's history has shown that without pressure from Congress, and in particular this subcommittee, these initiatives will fail.

And I would just like to draw your attention to one more thing. One of my staff people was doing research and found a front page New York Times story from 1984 about a hearing in this subcommittee. And if you could indulge me, the first two sentences of this article were: "the government has put into effect a sweeping new program to improve the security of Federal facilities where nuclear warheads are designed and made. The program has come about because of a new perception of the threat of terrorism and because congressional investigations have disclosed serious lapses of nuclear security."

So I don't think your work is going to end any time soon.

[The prepared statement of Danielle Brian follows:]

PREPARED STATEMENT OF DANIELLE BRIAN, EXECUTIVE DIRECTOR, PROJECT ON GOVERNMENT OVERSIGHT

Thank you for asking me to testify today. The Project On Government Oversight (POGO) is an independent government watchdog group. We have been investigating and working to improve security at the Department of Energy's Nuclear Weapons Complex for over five years.

In May 2004, then-Secretary Abraham announced some bold initiatives for improving the security of the entire nuclear weapons complex. Last year we testified that former Secretary Abraham's initiatives were an important step toward addressing the key weaknesses in security in the nuclear weapons complex, and we were cautiously optimistic that they would be implemented. As it turns out, our caution was well placed. The major problem with the initiatives: The former Secretary failed to establish timely deadlines for their implementation and, as a result, many of these initiatives have now stalled. To get back on track, DOE Secretary Samuel Bodman has several issues he needs to address. First, he needs to set strict deadlines and, because officials throughout the nuclear weapons complex have strongly resisted any change, he needs to assign trusted staff to constantly follow up on the progress.

Adding to the current bureaucratic inertia is the belief by those inside the complex that they can just wait out any new directives until the current Secretary has moved on, and the status quo can be maintained. The revolving door between the Department of Energy and the privately-run weapons labs creates a lack of incentive to change. There is an insular environment in which people coming into the DOE, and particularly the National Nuclear Security Administration (NNSA), bring with them their biases in favor of the status quo: No one likes to criticize their own actions.

An array of concerns arises when it comes to securing America's nuclear material. But security experts' greatest fear is very distinct: a terrorist group successfully reaches its target at one of the facilities, and within an extraordinarily short time, uses the highly-enriched uranium (HEU) to create an improvised nuclear bomb on site (known as an Improvised Nuclear Device, or IND). It only takes a critical mass of HEU (about one hundred pounds) to create an IND. To put this in perspective, one site alone stores about 400 metric tons of HEU. According to Princeton University's Frank von Hippel, "a 100-pound mass of uranium dropped on a second 100-pound mass, from a height of about 6 feet, could produce a blast of 5 to10 kilotons." [1] The blast from the Hiroshima atomic bomb was about 12 kilotons, killing over 200,000 people.

Why should we care about this? According to the Department of Homeland Security, this is exactly what worries them—the detonation of a 10-kiloton nuclear bomb would destroy everything within half a mile and contaminate 3,000 square miles of land. The nuclear weapons complex creates these homeland security vulnerabilities right here at home.

By far, the most successful Abraham initiative was the re-examination of the Design Basis Threat (DBT), or security standards. Under the new DBT, security forces will be required to repel more than three times the number of attackers than they were required to protect against prior to 9/11. Furthermore, it will be assumed that adversaries will be using far more lethal weapons and much larger truck bombs than had previously been considered. Yet the new standards will not be fully implemented until 2008—seven years after 9/11.

While there were very significant improvements to the Design Basis Threat, the follow-through on the other initiatives, for the most part, is tepid at best. For the sake of brevity, the rest of my testimony will only focus on what we consider the most urgent initiatives that need your immediate intervention.

Some key weapons facilities, including Los Alamos' TA-18 and Lawrence Livermore National Lab, will not be able to protect against the new threat level no matter how much money is spent. Removing all Special Nuclear Materials from those facilities eliminates security vulnerabilities at those facilities while dramatically decreasing security costs.

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[1] Wald, Matthew L. *"Suicidal Nuclear Threat Is Seen at Weapon's Plants,"* New York Times, January 22, 2002.

LOS ALAMOS NATIONAL LAB'S (LANL) TA-18

Widely recognized as the most vulnerable site in the nuclear weapons complex, TA-18 is scheduled to be de-inventoried of weapons-grade nuclear materials by the end of September 2005. It is worth noting that in 2000 then-Secretary Bill Richardson had ordered the facility to be de-inventoried by the end of 2004, but somehow Los Alamos was able to ignore him. Currently, LANL is pushing to continue activities at TA-18, further postponing the move at least six months. POGO has been told that despite promises from the Lab that they will meet the schedule—this can not happen as long as these activities continue to be performed there. In addition, much of the material will be stored at the Los Alamos' Technical Area 55 for an unknown period of time. Security costs are beginning to mount, as the delays continue.

POGO recommends that NNSA honor the former Secretary's initiative, and halt these experiments so that the material can be moved to the Device Assembly Facility at the Nevada Test Site on schedule.

LAWRENCE LIVERMORE NATIONAL LAB

Another of former Secretary Abraham's May 2004 initiatives was to review the necessity of maintaining Livermore's Special Nuclear Materials. This initiative has stalled completely. I think I know why. Just one month prior to Abraham's speech, NNSA Director Linton Brooks testified before the House Government Reform Committee that he opposed suggestions of de-inventorying Livermore, and in fact, the NNSA has proposed doubling Livermore's plutonium to 1,500 kilograms.

Roughly seven million people live within a 50 mile radius of the Livermore Lab. Many residential homes now exist across the street from the Lab's fence line, and new townhouses with mini-vineyards are being built along the edge of the fence line. These homes sit only 800 yards from the Superblock, which houses the Lab's plutonium.

Surprisingly, the protective forces at Livermore are issued less lethal weapons than protective forces at other sites that store Special Nuclear Material.

POGO recommends removing all weapons-grade plutonium and highly-enriched uranium from Livermore. If Livermore continues to need some amount of this material for its mission, the required material should be stored at the Device Assembly Facility in Nevada, only an hour's plane ride away. Livermore scientists who need to work with the material can travel there to conduct research, something they did for years during the nuclear testing program.

HIGHLY-ENRICHED URANIUM MATERIALS FACILITY (HEUMF) AT Y-12

Until four years ago, while Lockheed Martin still managed Y-12 near Oak Ridge, Tennessee, there were plans to build an underground or bermed storage facility. Virtually all modern storage facilities are underground, including the Device Assembly Facility (DAF) and KUMSEC at Kirtland Air Force Base. An underground facility would be much harder to penetrate and would serve as a greater deterrent to terrorists. U.S. Special Operations Command personnel have told POGO that an above-ground facility is a substantially more vulnerable design and that the underground option is the only credible one. Yet the current contractor, BWXT, changed the plan to build an underground or bermed facility to that of an above-ground facility.

The Department is currently breaking ground for the above-ground building known as the Highly-Enriched Uranium Materials Facility (HEUMF) to store the plant's hundreds of tons of HEU. The DOE Inspector General has criticized the design and cost of this new building, concluding that it will cost more and be less secure than the original plan for a bermed (partially underground) facility.

In 2004, Sandia National Lab was asked by NNSA to evaluate the HEUMF plans. It was ultimately Sandia's approval of this design that persuaded DOE Headquarters to give the green light for the above-ground building. POGO has learned, however, that the Sandia study never made a comparison of the HEUMF design to an underground or bermed design, explaining in the small print they did not want to have to consider an entire redesign for the building. Ironically, it was an earlier Sandia study that had recommended using existing designs from two other government-owned underground facilities to solve the Y-12 storage problem.

There are also plans to build a second building identical to the HEUMF to house the manufacturing of weapons parts from HEU. It is a poor security practice to create two targets, and inefficient at best to have two separate buildings between which the materials must be transported regularly, creating further risk as well as dramatically increasing security costs.

DOE should immediate stop work on the above-ground HEUMF storage facility. NNSA should quickly move to construct an underground or bermed facility to store both the non-surplus HEU as well as the new modern manufacturing facility. This would result in only one double fence line, known as a Perimeter Intrusion Detection Assessment System (PIDAS), for both operations, as well as provide substantially better security against terrorist attack. A modified DAF design could accommodate both functions.

DOWNBLEND ADDITIONAL HIGHLY-ENRICHED URANIUM

In his May 2004 speech, then-Secretary Abraham proposed the downblending of 100 additional metric tons (beyond the surplus 174 metric tons) of Y-12's surplus highly-enriched uranium. The disposal of excess HEU is essential so that these materials no longer create an unnecessary homeland security vulnerability. In addition, downblending the HEU will significantly help in reducing the enormous costs associated with protecting these materials.

However, according to DOE officials, the initial program review of HEU stockpiles across the complex initiated by former Secretary Abraham was stymied by complaints from the Office of Naval Reactors, a nearly-autonomous arm of the DOE, claiming they may need it some day for their reactors. The long-held territorialism by Naval Reactors dates back to its origins under Admiral Hyman Rickover, and presents a formidable bureaucratic hurdle to the downblending of HEU. Currently Y-12 alone stores over 400 metric tons of HEU.

DOE does not seem to have the stomach to live up to its promises. The United States has only downblended 34 of the 174 metric tons already declared excess. The remaining downblending it is not scheduled for completion until 2016 or beyond.

POGO recommends dramatically speeding up the current downblending schedule, and affirming former Secretary Abraham's initiative of increasing the amount of HEU declared excess by another 100 metric tons.

REVIEW COMPLEX FOR CONSOLIDATION OPPORTUNITIES

Former Secretary Abraham also encouraged consolidating nuclear materials: "Ultimately, I believe we need to both reduce the number of sites with Special Nuclear Material to the absolute minimum, consistent with carrying out our missions, and to consolidate the material in each of those sites to better safeguard that material." He asked NNSA Director Brooks to head up a study of consolidation options. I understand that this study is just beginning to get underway—nine months after the initiative was assigned to NNSA. POGO decided not to wait for them. We are in the final stages of preparing a report with recommendations of shrinking the number of facilities across the country that house Special Nuclear Materials from thirteen sites to seven, at a cost savings of nearly $3 billion over three years.

CONCLUSION

I would be remiss if I did not report to the Committee that, while not a part of former Secretary Abraham's initiatives, the treatment of whistleblowers throughout the complex remains abysmal. Retaliation remains the norm, not the exception, as can be seen in the case of Tommy Hook and Chuck Montano, who have both worked at Los Alamos for decades. After the Committee's three hearings on financial fraud at Los Alamos, the University of California was telling the public that all was resolved, while at the same time retaliating against these two men who knew otherwise. Hook and Montano were responsible for providing audit support for UC and uncovered ongoing irregularities and outright misconduct amounting to millions of taxpayer dollars. Their audit reports were withheld from DOE. Their treatment? Their work was taken away from them, they were given no work for nine months, and now they are only being handed menial assignments. Even the head of the Los Alamos Site Office tried to intervene on Tommy Hook's behalf, only to be rebuffed by an arrogant University of California. Under the current system, DOE contractors have NO incentive to treat whistleblowers well—as all their legal fees are reimbursed by the federal government.

The Department of Energy does not need new offices such as the NNSA's new Office of Performance Assurance, new commissions, or new studies. The DOE needs to follow through on its existing commitments. Safety and Security Performance Assurance Director Glenn Podonsky is keeping tabs on the progress of these initiatives, and is noting where there is no progress at all. His office's Site Assistance Visits are providing new insights into important consolidation opportunities. The Committee should remain apprised of this ongoing work. But even with the strongest leadership from the Secretary's office, the only way these initiatives will be enacted is with your continued vigilance. DOE's history has shown that without pres-

sure from Congress and specifically from this subcommittee, these initiatives will likely fail.

Mr. WHITFIELD. Well, thank you, Ms. Brian, for reminding us of that. Would you please explain to me the Project on Government Oversight? How old is the Project on Government Oversight, and how is it funded and so forth?

Ms. BRIAN. We were created in 1981. At the time we were actually the Project on Military Procurement, working with people inside the Pentagon who were concerned about wasted money as well as weapons that were not working adequately.

We expanded our focus and changed our name in 1990 to the Project of Government Oversight. We work with whistleblowers and other people inside the system who work with us on an unclassified basis to get us information that needs to get out to improve the way the Federal Government operates.

We take no money from the government, no money from corporations, and no money from unions.

Mr. WHITFIELD. And you have an expertise in nuclear security, I take it?

Ms. BRIAN. No. Actually, I am a good government person who, at this point, has been working on this issue for 5 years, so I feel I have developed it over time.

Mr. WHITFIELD. Absolutely. Now, in your testimony you made a reference to Mr. Brown. Do you feel like Mr. Brown was retaliated against by the University of California?

Ms. BRIAN. I know my colleagues at the Government Accountability Project, who are working on his case, very strongly feel that way. I must say I am not as familiar with the details of his case.

Mr. WHITFIELD. You also made the comment in here that there is an insular environment in which people coming into the DOE and particularly the NNSA bring with them their biases in favor of the status quo. Now, why do you make a statement like that?

Ms. BRIAN. Well, if you look at the people who will leave the NNSA, you see them showing up at the lab; and then you see the people leaving the labs and showing up at NNSA. It is not unique, of course. It happens around the government. But I have really never seen it as regularly as I have seen it with this particular universe.

Mr. WHITFIELD. You made the comment also that it is the normal practice that the government will pay legal fees for the contractor in the event of a whistleblower lawsuit; is that correct?

Ms. BRIAN. It is in the case of the Department of Energy contractors. That is not the case across the government. It is unique to the Department of Energy. And there have been some legislative initiatives to change that, which I would encourage further consideration and passage. It just creates a terrible incentive.

Mr. WHITFIELD. Right. It is my understanding that in the energy bill, which this committee will be taking up soon, that we are going to try to change that.

Ms. BRIAN. I think that would just really change the dynamics for whistleblowers.

Mr. WHITFIELD. Right.

Well, I genuinely appreciate your being with us this morning, and we certainly have read your testimony.

At this time I will recognize Mr. Stupak for any questions he might have.

Ms. BRIAN. Thank you.

Mr. STUPAK. Thank you, Mr. Chairman.

And thank you for testifying.

Have you seen Mr. Brown's paper, the 22 pages?

Ms. BRIAN. I have not, I'm sorry.

Mr. STUPAK. Do you know him at all, from his work at the labs?

Ms. BRIAN. I do know we had brief conversation with him. He was already working with the Government Accountability Project, and I felt he was in good hands.

All of our organizations are short-staffed. I know he has good people working with him, and we have other people we need to help.

Mr. STUPAK. I understand. I have asked the other witnesses, and it is fair to ask you, what do you feel are the most important issues that we really need to address right now? You mentioned TA 18, and that was supposed to be done in 2004, now in 2008, but is that the most pressing thing you see?

Ms. BRIAN. Clearly that was the site we had focused most attention on over the past few years. I think that we are coming to closure on that one. It has taken, as I think someone mentioned, perhaps it was you—it was actually Secretary Abraham that began this—I'm sorry, Secretary Richardson, trying to get that place closed.

I think, honestly, the most important thing now is for there to be two things. One is the consolidation review. There needs to really be consideration of why there are still 13 sites. Even assuming TA 18 closing, and Sandia, and far too long, in our opinion, from closing, you still have a number of sites out there that should not continue to house these nuclear materials. So shrinking the complex will help to address the extraordinary cost that is being caused by the increase in the Design Basis Threat.

The other part of that that I think is critical is really a move to down-blend the HEU. It is stalled, that initiative, again, and that will help to reduce the cost to store this.

Mr. STUPAK. From your testimony, I get the impression that whether it is Secretary Richardson or Abraham, they both had some good suggestions, but those suggestions went out to the labs and just sort of never went anywhere. Is that a fair way of saying it?

Ms. BRIAN. And part of that is what you asked, actually the other Congressman asked earlier, which is this revolving door, because you have the people at headquarters who are all coming from the labs who don't want this change. Every lab wants to keep all the materials there. Livermore does not want to give up their materials.

Mr. STUPAK. Sure.

Ms. BRIAN. So unless you have some new ideas and people who aren't beholden to the old system, that is why we are going to keep seeing this push back.

Mr. STUPAK. You said this Congress, this committee, this subcommittee in particular, should keep on this to make sure that reforms take place, whether it is consolidation or TA 18. But more

than this committee, doesn't that really lie with the Department of Energy? Isn't it their responsibility?

Ms. BRIAN. Of course it's their responsibility to provide the leadership. As you see, however, Secretary Abraham laid out, this is what I want to have done. I have learned over time that a secretary—it seems extraordinary to say this, but a secretary of a department doesn't necessarily have the power to make his department do what they do not want to do, and they typically have a shorter time in office than Members of Congress. So I think the bureaucracies just wait out the political appointees.

Mr. STUPAK. We feel that way, too, at times, believe me.

TA 18. Do you believe that that move could be expedited before 2008? Do you think that could be done by the end of 2006, at the most?

Ms. BRIAN. Well, the schedule is actually currently for the end of fiscal year 2005, and my understanding——

Mr. STUPAK. They are just moving to another building.

Ms. BRIAN. To TA 55; correct.

Mr. STUPAK. Then they are to go to Nevada with it. And they are shipping things, and you have to handle it. I would think if you are shipping from TA 18 to building number 55, and then to Nevada, you are shipping it, packaging it and shipping it twice, so you could really—I'm just trying to figure out this delay.

As I said earlier in my statements, it has been 10 years when we talk about TA 18. I have been on this committee 10 years.

Ms. BRIAN. Exactly. I am worried about the plans to keep it at building 55 because its feels like it is Los Alamos' efforts to keep it onsite and then hope people will forget about TA 18 and the plans to move it, as tends to happen, and then they will be able to maintain it there.

I still don't understand why all the facilities feel almost an emotional attachment to keeping the materials; that they just can't say, let's go, let's move it somewhere where it is more secure.

Mr. STUPAK. Thank you. I have no further questions. Mr. Chairman. Thank you.

Mr. WHITFIELD. Dr. Burgess.

Mr. BURGESS. I will pass on the questions, Mr. Chairman.

Mr. WHITFIELD. Mr. Walden.

Mr. WALDEN. I yield, Mr. Chairman, on the questions.

Mr. WHITFIELD. Well, I'm shocked, no more questions.

Ms. Brian, thank you so much for your testimony and for taking the time to be with us. As I stated earlier, we are going to go in a recess now and reconvene in room 2218 for a closed session.

It is now 1 o'clock, so I think we will reconvene in room 2218 at 1:15. That will give people about 9 or 10 minutes. With that, we stand in recess.

[Whereupon, at 1:05 p.m., the subcommittee recessed to proceed in closed session.]

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