



OFFICE OF THE INSPECTOR GENERAL

U.S. NUCLEAR REGULATORY COMMISSION
DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Audit of the DNFSB's Implementation of Its Governing Legislation

DNFSB-18-A-05
May 29, 2018



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**DEFENSE NUCLEAR FACILITIES
SAFETY BOARD**

WASHINGTON, D.C. 20004-2901

OFFICE OF THE
INSPECTOR GENERAL

May 29, 2018

MEMORANDUM TO: Glenn Sklar
General Manager
Christopher Roscetti
Deputy General Manager

FROM: Dr. Brett M. Baker */RA/*
Assistant Inspector General for Audits

SUBJECT: AUDIT OF THE DNFSB'S IMPLEMENTATION OF ITS
GOVERNING LEGISLATION (DNFSB-18-A-05)

Attached is the Office of the Inspector General's (OIG) audit report titled *Audit of the DNFSB's Implementation of Its Governing Legislation*.

The report presents the results of the subject audit. Following the March 26, 2018, exit conference, the Board provided formal comments, which have been included in Appendix B, "DNFSB Formal Comments." OIG's response to the formal comments are in Appendix C, "OIG Analysis of DNFSB Formal Comments."

Please provide information on actions taken or planned on each of the recommendations within 30 days of the date of this memorandum.

We appreciate the cooperation extended to us by members of your staff during the audit. If you have any questions or comments about our report, please contact me at (301) 415-5915 or Beth Serepca, Team Leader, at (301) 415-5911.

Attachment: As stated
cc: R. Howard, OGM



Office of the Inspector General

U.S. Nuclear Regulatory Commission
Defense Nuclear Facilities Safety Board

DNFSB-18-A-05

May 29, 2018

Results in Brief

Why We Did This Review

In 1988 Congress created the Defense Nuclear Facilities Safety Board (DNFSB) as an independent executive branch agency to provide independent analysis, advice, and recommendations to the Secretary of Energy regarding adequate protection of public health and safety at the Department of Energy (DOE) defense nuclear facilities.

There are 14 major defense nuclear facilities under DNFSB's jurisdiction. As of March 31, 2018, DNFSB has 117 full time employees, including 4 Board members. DNFSB is supported by an annual budget of approximately \$31 million.

DNFSB's enabling statute allows it to establish reporting requirements for DOE. These reporting requirements are binding upon the Secretary of Energy, may accompany a report DNFSB staff have prepared on safety issue, may request a briefing from DOE, or be a standalone request for information from a Board member.

Our audit objective was to review the role and structure of DNFSB to determine whether the Board is (1) operating in accordance with applicable laws and (2) whether the role and structure is effective to facilitate the agency's mission.

Audit of the DNFSB's Implementation of Its Governing Legislation

What We Found

The Office of the Inspector General (OIG) did not find any evidence that DNFSB is not operating in accordance with its enabling statute, the *National Defense Authorization Act*, Fiscal Year (FY) 1989, and any amendments thereto. However, OIG identified improvements DNFSB should make in order to more effectively accomplish its mission. Specifically, OIG noted a stark disagreement among Board members, on how and when reporting requirements should be issued, as illustrated by the FY 2016 and 2017 notational voting records.

Additionally, OIG identified that multiple agency-wide surveys consistently illustrate low employee and a lack of collegiality and/or cohesion among the Board members. While OIG did not identify any specific instances of DNFSB's mission being impacted by these two issues, they should be of concern to the Board. Low employee morale and lack of Board collegiality are significant organizational challenges for DNFSB. Moreover, the Board sets the "tone at the top" for DNFSB's guidance values and principles. Whatever tone the Board members set as an effect on DNFSB employees.

What We Recommend

We make two recommendations that address the findings identified during the audit work.

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ABBREVIATIONS AND ACRONYMS

DNFSB	Defense Nuclear Facilities Safety Board
DOE	Department of Energy
FEVS	Federal Employee Viewpoint Survey
FY	Fiscal Year
GAO	United States Government Accountability Office
LMI	Logistics Management Institute
NAPA	National Academy of Public Administration
OIG	Office of the Inspector General

I. BACKGROUND

Establishment of the Defense Nuclear Facilities Safety Board (DNFSB) and Agency Mission

In 1988 Congress created the Defense Nuclear Facilities Safety Board as an independent executive branch agency to provide independent analysis, advice, and recommendations to the Secretary of Energy regarding adequate protection of public health and safety at the Department of Energy (DOE) defense nuclear facilities. Congress established DNFSB in response to growing concerns about the level of health and safety protection DOE was providing the public and workers at defense nuclear facilities.

DNFSB was established to provide the public with assurance that DOE's defense nuclear facilities are being safely designed, constructed, operated, and decommissioned. To accomplish this, the agency is assigned 5 major functions (see Table 1, §2286.a(b)(1) – (5)) and granted a series of powers in the statute (see Table 1, §2286.a(c)(2)(A) – (C)). DNFSB must review and evaluate the content and implementation of health and safety standards, as well as other requirements, relating to the design, construction, operation, and decommissioning of DOE's defense nuclear facilities.

As of March 31, 2018, DNFSB has 117 full time employees, including 4 Board members¹. DNFSB is supported by an annual budget of approximately \$31 million.

¹ Chairman Sean Sullivan resigned from DNFSB effective close of business on February 2, 2018. Under DNFSB's enabling statute, the Vice Chairman, Bruce Hamilton, is Chairman on an acting basis.

Agency Jurisdiction

There are 14 major DOE defense nuclear facility sites under DNFSB's jurisdiction, 10 of which are active and 4 are closed. Figure 1 depicts the location of the 14 sites.

Figure 1: DOE Defense Nuclear Facilities



Source: DNFSB's public Web site.

Board Responsibilities

The Board² (when at full capacity) is composed of 5 members appointed by the President and confirmed by the Senate, who are respected experts in the field of nuclear safety. The President designates one member as Chairman. No more than 3 Board members may be of the same political party. Individual Board members have equal responsibility in establishing decisions and determining actions of the agency, and have full access to all information relating to the performance of the agency's functions, powers, and mission.

² The term "the Board" refers to the presidentially appointed, Senate-confirmed Board members serving staggered 5 year terms. Any reference to the Defense Nuclear Facilities Safety Board or "DNFSB" refers to the entire agency.

Agency Functions

DNFSB's enabling statute sets forth specific functions it must perform. These functions are set forth in Table 1.

Table 1: Agency Functions Articulated in Enabling Statute

Statute Section	Agency Function
§2286.a(b)(1)	Review and evaluate content and implementation of standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities.
§2286.a(b)(2)	Investigate any event or practice at DOE defense nuclear facilities that may adversely affect public health and safety.
§2286.a(b)(3)	Systematically analyze design and operational data, including safety analysis reports. ³
§2286.a(b)(4)	Review of facility design and construction for new DOE defense facilities.
§2286.a(b)(5)	Make recommendations to the Secretary of Energy, which the Secretary is not required to accept, but is required to answer.
§2286(c)(2)(A)	Establish policies regarding the appointment and supervision of DNFSB employees.
§2286(c)(2)(B)	Establish policies regarding the organization of any administrative units established by the Board.
§2286(c)(2)(C)	Establish policies regarding the use and expenditure of funds.

Source: *National Defense Authorization Act*, Fiscal Year 1989.

³ This section states, "The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility." This section was referenced with a footnote because it uses to the term "may" to describe Board action.

DNFSB Communication of Issues to DOE

The Board and its staff routinely communicate with DOE and its contractors about various aspects of DOE's operations and oversight of the defense nuclear complex through formal and informal communications. Recommendations, reporting requirements, technical reports, and public meetings are considered more formal communications and occur less frequently, whereas staff-to-staff interactions are informal and happen more frequently.

In any given year DNFSB issues several formal correspondences via official letters to DOE. Generally, these letters (a) transmit a formal recommendation, (b) issue a reporting requirement, (c) provide a report to DOE, (d) advise DOE that DNFSB is conducting or has completed a safety review, (e) notify DOE that DNFSB has identified specific safety issues, and/or (f) identify concerns with the implementation of a previously issued recommendation. For example, on October 12, 2017, DNFSB provided DOE with a technical report that included an analysis of DOE's proposed strategies to address safety issues associated with flammable gas and criticality.

In the past 2 fiscal years (FY), the following were issued by the Board to DOE:

- In 2016, 1 recommendation and 26 formal correspondences. Analysis and Information Papers. Of these 26 formal correspondences, 13 included a staff request to issue a reporting requirement, and 8 were approved by the Board.
- In 2017, 15 formal correspondences.⁴ Of these 15 formal correspondences, 5 included a staff request to issue a reporting requirement, and 2 were approved by the Board.

⁴ These 15 formal correspondences, include a draft recommendation on Emergency Preparedness at Los Alamos National Laboratory. On June 23, 2017 the Board decided not to transmit a final recommendation.

Power of DNFSB – Reporting Requirements

Under its enabling statute, DNFSB may establish reporting requirements for DOE. Specifically, “[T]he Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary.” Reporting requirements require a response from the Secretary of Energy and can include requests for classified information.

Reporting requirements may accompany a report DNFSB staff have prepared on a safety issue or request a briefing from DOE. Or, could be a standalone request for information, initiated by a Board member, not accompanying a staff report. In May 2017, the staff proposed a formal letter that would require DOE to report to the Board supplemental actions planned to ensure safety oversight is not degraded at defense nuclear facilities prior to implementing a DOE Order. This reporting requirement was approved by the Board. In contrast, in July 2017, DNFSB staff proposed a Board correspondence that requested a briefing from DOE on practices at the Savannah River Site. This reporting requirement was not approved by the Board.

II. OBJECTIVE

The audit objective was to review the role and structure of DNFSB to determine whether the Board is (1) operating in accordance with applicable laws and (2) whether the role and structure is effective to facilitate the agency's mission. Appendix A contains information on the audit scope and methodology.

III. FINDINGS

OIG did not find any evidence that DNFSB is not operating in accordance with its enabling statute, the *National Defense Authorization Act*, Fiscal Year 1989, and any amendments thereto. However, OIG identified improvements DNFSB should make in order to more effectively accomplish its mission. Specifically, OIG noted a stark disagreement among Board members, on how and when reporting requirements should be issued, as illustrated by FY 2016 and FY 2017 notational voting records.

Additionally, OIG identified that multiple agency-wide surveys consistently demonstrate low employee morale and a lack of collegiality and/or cohesion among the Board members. While OIG did not identify any specific instances of DNFSB's mission being impacted by these two issues, they should be of concern to the Board. Low employee morale and the lack of Board collegiality are significant organizational challenges for DNFSB. Low employee morale leads to a challenging organizational culture, lack of cohesion, and possibly hampered mission effectiveness. Moreover, the Board sets the "tone at the top" for DNFSB's guiding values and principles. Whatever tone the Board members set has an effect on DNFSB employees.

A. Lack of Agency Policy for Issuing Reporting Requirements

DNFSB's enabling legislation allows it to establish reporting requirements, without considering administrative burden to DOE. However, Board members possess conflicting viewpoints on how and when reporting requirements should be issued as there is no internal policy identifying the circumstances that warrant issuance of a reporting requirement. Thus, when reporting requirements are not approved, there is no formal and transparent assurance DOE will provide the information sought to DNFSB. Even if DNFSB staff then obtained the requested information through informal communication with DOE, the information would not be transparent to the public.⁵

What Is Required

DNFSB Enabling Legislation

42 U.S.C. § 2286.b(d) of DNFSB's enabling legislation grants the Board authority to establish reporting requirements for the Secretary of Energy. Reporting requirements can include requests for classified information, safeguards information, and information protected from disclosure. Most importantly reporting requirements require a response from the Secretary of Energy. DNFSB's enabling legislation is silent regarding whether administrative burdens to DOE should be considered when issuing reporting requirements.

What We Found

Notational Voting

OIG analyzed notational voting records for FY 2016 and FY 2017, and identified a sharp decline in the Board approved reporting requirements from FY 2016 to FY 2017. In FY 2016, 13 reports with reporting requirements were put forth to the Board for review and approval, and 8

⁵ OIG acknowledges that there is no legal obligation for DNFSB to make public informal inter-agency communications or its internal deliberations. However, OIG notes that a reporting requirement issued by the Board, would be made public as would DOE's response thereto.

were approved. However, in FY 2017, 5 reports with reporting requirements were presented to the Board for review and approval, and only 2 were approved. Thus, 9 proposed reporting requirements (for the last 2 FYs) were disapproved by the Board that may have provided DNFSB with important insight on the adequacy of DOE actions at defense nuclear facilities.

Divisive Board Members' Action on Issuing Reporting Requirements

Currently, there is stark disagreement among Board members, on how and when reporting requirements should be issued. This is illustrated by the FY 2016 and FY 2017 notational voting records pertaining to reporting requirements. Two Board members routinely disapproved staff reports that included reporting requirements and instead proposed amendments to remove the reporting requirements. Board member comments that accompanied these notational votes indicated an unwillingness to issue reporting requirements. Specifically, one Board member repeatedly maintained the Board should practice a narrow interpretation of the enabling legislation's reporting requirement authority, while the other Board member stated that reporting requirements are an "undue administrative burden to DOE."

In contrast, two other Board members typically supported staff reports containing reporting requirements and did not agree with other Board members' proposed amendments to remove them. The remaining Board member generally approved staff proposed reports with reporting requirements in FY 2016; however, in FY 2017, this Board member routinely abstained from voting on reporting requirements. Consequently, those staff proposed reports with reporting requirements were not approved by the Board.

Why This Occurred

No Internal Policy

DNFSB has no internal policy that identifies the circumstances that warrant issuance of a reporting requirement. Currently, the only basis for issuance of reporting requirements is the enabling legislation, which is not specific, and has been interpreted differently among Board members.

Why This Is Important

Lack of Accountability and Transparency

A reporting requirement creates a formal DOE commitment to provide DNFSB with information related to the adequate protection of public health and safety at DOE defense nuclear facilities, or any information that it deems necessary in fulfillment of its mission.⁶ In addition, a reporting requirement provides transparency to the public on the issue identified by DNFSB and DOE's commitment to provide a response. In contrast, an informal request to DOE for the same information, which could occur between DNFSB and DOE staff, does not hold the same level of accountability, because DOE is not required to formally respond.⁷

Recommendation

OIG Recommends that DNFSB

1. Develop and implement agency guidance for issuing reporting requirements.

B. Employee Morale is Low and the Board Does Not Demonstrate Collegiality

It is the responsibility of agency management to demonstrate attitudes and behaviors that are expected of all agency employees. Employee surveys are an excellent tool for gaining insight and data that deserves attention by agency management. However, employee morale is low and the Board does not demonstrate collegiality. This is because the Board has not taken sufficient action to address issues identified through employee

⁶ OIG acknowledges that the Board can hold a public hearing to gain information it needs to accomplish its mission.

⁷ DNFSB staff routinely communicate with DOE at both headquarters and field offices. These exchanges could provide a means for gathering the information requested by a reporting requirement that was not approved by the Board. OIG acknowledges that there is no legal obligation for DNFSB to make public informal inter-agency communications or its internal deliberations.

surveys. As a result, DNFSB's culture can impact its ability to attract and retain highly qualified staff.

What Is Required

Agency Management Leads By Example

The *Standards for Internal Control in the Federal Government* (Green Book), published by the United States Government Accountability Office (GAO), GAO-14-704G, states,

The oversight body and management⁸ lead by example that demonstrates the organization's values, philosophy, and operating style. The oversight body and management set the tone at the top and through the organization by their example, which is fundamental to an effective internal control system.

Thus, agency management has the responsibility to demonstrate attitudes and behaviors that are expected of all agency employees. Management should reinforce the commitment to doing what is right, not just maintaining a minimum level of performance to comply with applicable laws and regulations, so that these priorities are understood by all stakeholders.

Additionally, employee surveys are an excellent vehicle for gaining insight and data that deserve attention by agency management. Agency management should be committed to listening to and, most importantly, acting on what employees are saying through surveys.

⁸ The Green Book defines management as "Personnel who are directly responsible for all activities of an entity, including the design, implementation, and operating effectiveness of an entity's internal control system."

What We Found

Survey Data Indicates Low Employee Morale and Lack of Collegiality

Multiple surveys conducted by various entities, one of which was retained by DNFSB management, consistently indicate (1) low employee morale and (2) a lack of collegiality among Board members.

1. Employee Morale is Low

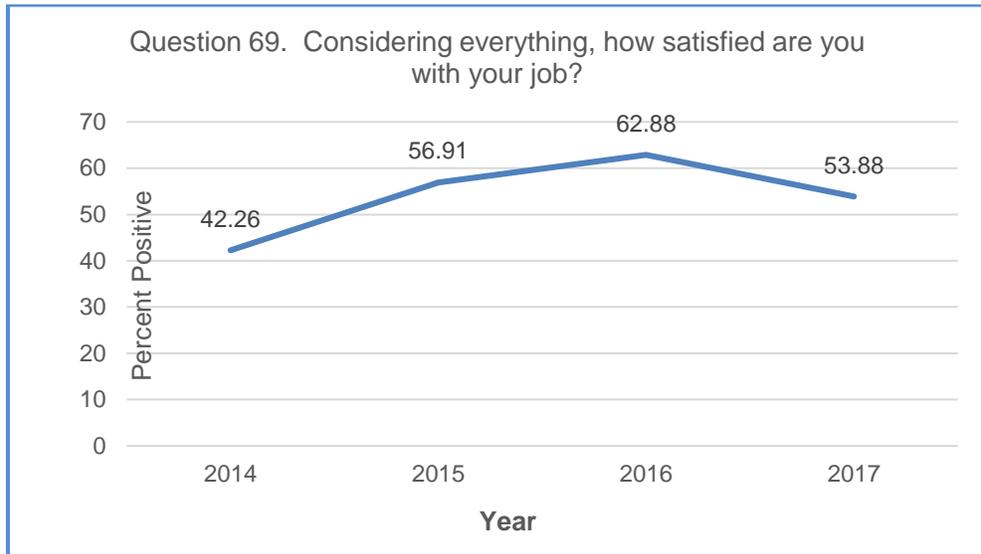
Employee morale at DNFSB is low and has been for the past several years. Survey data from the Federal Employee Viewpoint Survey (FEVS) for FYs 2014 - 2017 demonstrates that employee morale has been low and diminished further in the last year. Specifically, FEVS questions 40, 69, and 71 demonstrate how DNFSB employees feel about their organization and job.

Figure 2: Employee Responses to FEVS Question 40



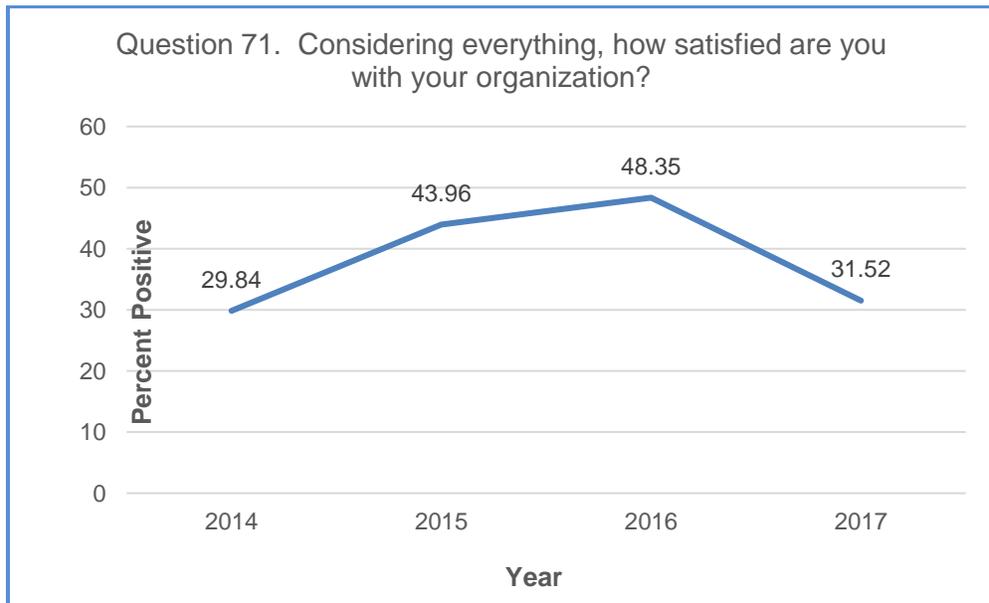
Source: OIG Analysis of FEVS Results.

Figure 3: Employee Responses to FEVS Question 69



Source: OIG Analysis of FEVS Results.

Figure 4: Employee Responses to FEVS Question 71



Source: OIG Analysis of FEVS Results.

Additionally, in the spring of 2015, OIG hired an independent contractor, Towers Watson, to conduct a survey to evaluate the culture and climate of DNFSB and to facilitate identification of its strengths and opportunities for

improvement.⁹ As part of its work, Towers Watson prepared a report (Towers Watson Report) of key findings and identified that “morale is low.” Interviews with Board members and agency employees, support that employee morale continues to be low and that Board collegiality remains an issue for DNFSB.

2. *Lack of Board Collegiality*

Reports generated from survey data identified a lack of collegiality among Board members as an organizational challenge for DNFSB.

In December 2014, the Logistics Management Institute (LMI), contracted by DNFSB management, published an “Assessment of the Defense Nuclear Facilities Safety Board Workforce and Culture,” (LMI Report). Specifically, LMI was tasked to independently assess DNFSB’s workforce, with emphasis on the relationships between “management~leadership” and employees and the culture of the workplace. The LMI Report conveys the results of the assessment.

The LMI Report made recommendations that address the underlying causes and impacts of the agency’s organizational challenges. Interviews with Board members and agency employees, support that employee morale continues to be low and that Board collegiality remains an issue for DNFSB. One of the recommendations addresses the lack of cohesion and collegiality of the Board members:

“Recommendation 2: Improve the cohesion of board members and increase the board’s capacity to act as a unified body. Personnel perceptions of the board’s lack of cohesion and collegiality are contributing to and exacerbating organizational instability.”

Additionally, the Towers Watson Report indicates an issue with Board collegiality stating,

“There are opposing views amongst members of the Board, creating a disjointed leadership team. There is also a belief that the Board and staff relationship is not as professional as it should be. There is

⁹ The full report name is “DNFSB 2015 Culture and Climate Survey Executive Overview and Key Findings” and it is located at <https://www.nrc.gov/docs/ML1524/ML15245A515.pdf>.

concern that some Board members are over-stepping their role and trying to control more than is allowable.”

Finally, the Partnership for Public Service annually publishes *The Best Places to Work in the Federal Government*, which is drawn from the FEVS results, and ranks the agencies based on the results. *The Best Places to Work* offers an assessment of how Federal public servants view their jobs and workplace, providing employee perspectives on leadership, pay, innovation, work-life balance, and other issues.

Over the last 2 FYs, DNFSB has ranked low, compared with other small agencies.¹⁰ In 2016, DNFSB posted an index score of 53.6. In 2017, DNFSB's index score dropped to 38.6, ranking it last in the small agency category.

Why This Occurred

The Board Has Not Taken Sufficient Action To Adequately Address Low Employee Morale and Lack of Collegiality

The aforementioned issues are longstanding because the Board has not taken sufficient action to adequately and directly address these issues. Specifically, the Board has not, to date, addressed (a) the recommendations in the LMI Report; (b) the 2014 – 2017 FEVS results, or (c) the findings of the Towers Watson Report. Interviews with Board members and agency employees, support that employee morale continues to be low and that Board collegiality remains an issue for DNFSB.

¹⁰ Agencies are categorized based upon their size. Agencies with more than 100 and fewer than 1,000 employees are included in the small agency category.

Why This Is Important

Organizational Culture Challenges and Potential Inability to Attract and Retain Highly Qualified Candidates

Low employee morale and the lack of Board collegiality are significant organizational challenges for DNFSB. Low employee morale leads to a challenging organizational culture, lack of cohesion, and possible hampered mission effectiveness. Moreover, low employee morale leads to employee disengagement, which is costly to an organization, as disengaged employees have higher absenteeism and lower productivity.

Additionally, there is the potential inability for DNFSB to attract and retain highly qualified candidates, based upon its agency ranking in the *Best Places to Work*, as compared with other Federal agencies. Specifically, the DNFSB Partnership for Public Service 2017 ranking – number 28 out of 28 small agencies – could deter qualified and talented applicants from seeking a position with DNFSB. It also presents DNFSB with the challenge of retaining highly qualified staff.

Lastly, the “tone at the top” sets an organization’s guiding values and principles. If properly implemented, it is the foundation upon which the culture of an organization is built. Whatever tone the Board members set has an effect on DNFSB employees.

National Academy of Public Administration (NAPA)

On March 26, 2018, DNFSB contracted with NAPA to provide an organizational assessment of its operations. The assessment will consider the current state of DNFSB and assess opportunities to improve effectiveness and efficiency. Areas for evaluation and potential recommendations include “DNFSB’s focus, execution of its statutory mission, organizational alignment of human capital, and agency culture.”

Recommendation

OIG Recommends that DNFSB

2. Develop and implement a plan of action to address the issues of (1) low employee morale and (2) Board collegiality as documented in the FEVS Surveys, LMI report, and Towers Watson Report.

IV. CONSOLIDATED LIST OF RECOMMENDATIONS

OIG recommends that DNFSB

1. Develop and implement agency guidance for issuing reporting requirements.
2. Develop and implement a plan of action to address the issues of (1) low employee morale and (2) Board collegiality as documented in the FEVS Surveys, LMI report, and Towers Watson Report.

V. DNFSB COMMENTS

On March 5 2018, OIG provided DNFSB with a discussion draft of this report prior to the exit conference which was held on March 26, 2018. Board members and agency management provided supplemental information via informal written and verbal comments that have been incorporated into this report, as appropriate.

On May 15, 2018, the Board provided formal comments to the draft report that indicated general agreement with the findings and recommendations. Appendix B contains a copy of DNFSB's formal comments. Appendix C contains OIG analysis of DNFSB's formal comments.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit objective was to review the role and structure of DNFSB to determine whether the Board is (1) operating in accordance with applicable laws and (2) whether the role and structure is effective to facilitate the agency's mission.

Scope

The audit focused on DNFSB's implementation of its governing legislation. OIG conducted this performance audit from June 2017 to December 2017 at DNFSB headquarters in Washington, DC. Internal controls related to the audit objectives were reviewed and analyzed.

Methodology

To accomplish the audit objective, OIG reviewed relevant Federal laws, regulations, reports, and guidance including

- Enabling Statute of the Defense Nuclear Facilities Safety Board, 42 United States Code, 2286 et seq.
- The *Atomic Energy Act of 1954*, as amended
- *National Defense Authorization Act for FY 2013*, Stat. 1632, Public Law 112-2239
- *National Defense Authorization Act for FY 2016*, Legislative text and Joint Explanatory Statement. Stat. 1356, Public Law 114-192

- *Improving the Identification and Resolution of Safety Issues During the Design and Construction of DOE Defense Nuclear Facilities, A Report Prepared Jointly by DNFSB and DOE*
- *Defense Nuclear Facilities Safety Board: The First Twenty Years*
- *DNFSB Strategic Plan FYs 2014 – 2018*

Additionally, OIG reviewed and analyzed the following surveys, reports, and rankings:

- DNFSB 2015 Culture and Climate Survey Executive Overview of Key Findings (August 2015) (Towers Watson Report)
- Federal Employee Viewpoint Survey (FEVS) results for 2014, 2015, 2016, and 2017
- Assessment of the Defense Nuclear Facilities Safety Board Workforce and Culture (December 2014) (LMI Report)
- *Best Places to Work in the Federal Government*, agency rankings, published by the Partnership for Public Service

OIG performed an analysis of the Board's notational votes for FYs 2015-2017 on staff proposed reports with reporting requirements.

To gain an understanding of the role, responsibilities, and structure of the agency, auditors interviewed the Board members and staff from the Office of the Technical Director, the Office of the General Counsel, and the Office of the General Manager.

Throughout the audit, auditors considered the possibility of fraud, waste, and abuse in the program.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a

reasonable basis for our findings and conclusions based on our audit objectives.

The audit was conducted by Beth Serepca, Team Leader; Kristen Lipuma, Audit Manager; Felicia Silver, Senior Auditor; Chanel Stridiron, Auditor; and Magdala Boyer, Management Analyst.

DNFSB FORMAL COMMENTS

Bruce Hamilton, Acting Chairman
Jessie H. Roberson
Daniel J. Santos
Joyce L. Connery

**DEFENSE NUCLEAR FACILITIES
SAFETY BOARD**
Washington, DC 20004-2901



May 15, 2018

The Honorable Hubert T. Bell
Defense Nuclear Facilities Safety Board
Office of the Inspector General
Mail Stop O5-E13
11555 Rockville Pike
Rockville, MD 20852

Dear Inspector General Bell:

In your draft report, *Audit of the DNFSB's Implementation of Its Governing Legislation*, you presented two findings for the Board's consideration.

A. The first finding was a "Lack of Agency Policy for Issuing Reporting Requirements."

Comment:

First, it is important to distinguish the difference between "Request For Documents" from DOE and the imposition of a reporting requirement, which is a statutory function provided to the five member board. The Board Members play no role in the approval of staff requests for documents with two potential exceptions: (1) If the staff-requested documents involve classified information then the approval of the Chairman is required, but not that of other Board Members. This process is documented and routinely used. (2) If DOE rejects a staff request for documents, the Board can consider the option of levying a reporting requirement for said documents, whether it is presented with a staff-proposed reporting requirement or not. The Board should consider DOE's basis for the initial rejection in this decision. Such a Board decision would occur through an oral or notational vote and Board Members are not required to issue any reporting requirement unless voting to do so in accordance with the enabling statute.

Second, the primary reason for the reporting requirement, as the Board has historically used it, is to request DOE to generate information—not simply provide existing documents (which the Board and DOE have a documented process to obtain). Indeed, Board Members have individual views as to the burden the Board should impose on DOE's resources and time to generate information specified by the Board. This would appear to be consistent with Congress' expectations when it designed the Board.

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Finally, the Board has established adequate expectations for transparency through its policies and procedures. The Board also makes DOE documents transparent when they meet the expectations currently documented in Board Policies and Procedures and when they are communicated to DOE.

Response:

The Chairman will direct the Technical Director to develop or modify operating procedures as necessary to ensure guidance to the technical staff is clear on both requesting documents from DOE and when to propose reporting requirements to the Board.

B. The second finding was "Employee Morale Is Low and the Board Does Not Demonstrate Collegiality."

Comment:

The Board acknowledges low employee morale as has been found in a series of surveys and reviews over recent years, including the IG's 2015 DNFSB Culture and Climate Survey. At least three of the Board's past and current Chairmen have undertaken many actions in response to surveys and reviews over recent years, including: hiring, reorganizations, training, mentoring initiatives, performance management changes, documented processes and procedures for clarity of roles and responsibilities, and use of various other human resource tools.

The Board is designed to be a voting Board, as with other Boards and Commissions. It is indisputable that different Board Members have differing views on the same issue. Board Members vote for and against actions based on their individual knowledge, experience, and evaluations. Board Members have a professional relationship with each other, but that in no way means all Board Members agree on a matter or all Board Members submit to the views of any one Board Member. The Board Members vote to resolve different views—this was the design of the Board.

Finally, the entire Board is not management. The enabling statute makes clear that the Executive Manager of the entire staff is the Chairman of the Board. The remaining Board Members have a policy setting role but do not have a managerial role.

Response:

The Board acknowledges actions taken thus far have not effectively identified or addressed the underlying reasons for low employee morale, although in some cases they may not have had adequate time to demonstrate effect. The Board will take the issues identified in this report and in the Board's ongoing National Academy of Public

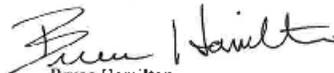
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Administration review to develop a more comprehensive path forward. This effort may also benefit from the IG's follow-up FY2019 DNFSB Culture and Climate Survey.

Yours truly,



Bruce Hamilton
Acting Chairman

OIG ANALYSIS OF DNFSB FORMAL COMMENTS

DNFSB provided formal comments, which are included in Appendix B “DNFSB Formal Comments” of this report, which generally agree with the audit findings and recommendations. OIG feels that the comments in Appendix B are responsive to the audit recommendations.

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COMMENTS AND SUGGESTIONS

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

In addition, if you have suggestions for future OIG audits, please provide them using this [link](#).