



Office of the Inspector General
U.S. Nuclear Regulatory Commission
Defense Nuclear Facilities Safety Board

**Inspector General's Assessment of the Most
Serious Management and Performance
Challenges Facing the Defense Nuclear Facilities
Safety Board in Fiscal Year 2021**

DNFSB-21-A-01
October 16, 2020



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WHY WE DID THIS REPORT

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

WHAT WE FOUND

The DNFSB is an independent oversight organization within the Executive Branch created by Congress in 1988. The DNFSB is considered a critical oversight agency as it performs its mission to provide independent analysis, advice, and recommendations to the Secretary of Energy in providing adequate protection of public health and safety at defense nuclear facilities in the Department of Energy (DOE). The Board requested \$28,836,000 and 114 full-time equivalents (FTEs) to carry out its mission in Fiscal Year (FY) 2021. This is a 7 percent decrease from the agency's FY 2020 appropriation level of \$31,000,000. The DNFSB achieved a staffing level of 97 by the end of FY 2020 and is planning to hire enough employees to reach a staffing level of 110 in FY 2021.

This year we have again used the new design for the Management Challenges report we developed last year, in which we identify each challenge, actions taken by the DNFSB, and continuing work applicable to the challenge. We list below the five key actionable challenges the DNFSB must continue to address:

1. Management of a healthy and sustainable organizational culture and climate
2. Management of security over internal infrastructure (personnel, physical, and cyber security)
3. Management of administrative functions
4. Management of technical programs
5. Management of the DNFSB's COVID-19 pandemic response

As it responds to these challenges, the DNFSB will strengthen progress towards the effective and efficient execution of its mission as well as achievement of its strategic goals and the highest level of accountability over taxpayer dollars.

AGENCY RESPONSE TO MANAGEMENT CHALLENGES FOR FY 2020

During FY 2020, the DNFSB completed actions in response to recommendations from three different audits: DNFSB-20-A-02: Audit of DNFSB's Compliance under the Digital Accountability and Transparency (DATA) Act of 2014; DNFSB-19-A-02: Audit of DNFSB's Issue and Commitment Tracking System (IACTS) and its Related Processes; and DNFSB-17-A-05: Audit of DNFSB's Resident Inspector Program.

FOR FURTHER INFORMATION, CONTACT US AT:

U.S. Nuclear Regulatory Commission, Office of the Inspector General, Mail Stop O5-E13, 11555 Rockville Pike, Rockville, MD 20852 Telephone: 301-415-5930 Fax: 301-415-5091 For this and other OIG reports on the DNFSB, click [here](#).

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Introduction

From the Inspector General:

I am pleased to present our assessment of the most significant management and performance challenges facing the Defense Nuclear Facilities Safety Board (DNFSB) in FY 2021.

The *Reports Consolidation Act of 2001* requires us to annually update our assessment of the DNFSB's "... most serious management and performance challenges facing the agency ... and the agency's progress in addressing those challenges." In this report, we summarize what we consider the most critical management and performance challenges to the DNFSB, and we assess the agency's progress in addressing those challenges.

About the Office of the Inspector General:

In accordance with the 1988 amendment to the *Inspector General Act of 1978*, the Office of the Inspector General (OIG) was established on April 15, 1989, as an independent and objective unit to conduct and supervise audits and conduct investigations of the Nuclear Regulatory Commission. Pursuant to the *Consolidated Appropriations Act for Fiscal Year 2014* (H.R. 3547), the Office of the Inspector General of the Nuclear Regulatory Commission was assigned to also serve as the DNFSB's Inspector General (IG). The purpose of the OIG's audits and investigations is to prevent and detect fraud, waste, abuse, and mismanagement, and promote economy, efficiency, and effectiveness in DNFSB programs and operations. In addition, the OIG reviews existing and proposed regulations, legislation, and directives, and provides comments, as appropriate, regarding any significant concerns. The IG keeps the DNFSB Chairman and the Congress fully and currently informed about problems, recommends corrective actions, and monitors the DNFSB's progress in implementing such actions.

About the Defense Nuclear Facilities Safety Board:

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

According to 42 U.S.C. § 2286a(a), the mission of the Board "...shall be to provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary, in the role of the Secretary as operator and regulator of the defense nuclear facilities of the Department of Energy, in providing adequate protection of public health and safety at such defense nuclear facilities, including with respect to the health and safety of employees and contractors at such facilities."

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

The decision-making body of the DNFSB is legislated to be composed of five Board Members. On August 27, 2020, Chairman Hamilton announced his resignation from the DNFSB, effective September 12, 2020 and Vice Chairman Thomas A. Summers, began serving as Acting Chairman the following day. Mr. Summers, of Rochester, Pennsylvania, was confirmed by the Senate on July 2, 2020 for service through October 18, 2025 and was appointed as Vice Chairman on August 17, 2020.

Mr. Summers previously served as the Senior Advisor and as the Deputy for Research, Development, Test, & Evaluation Office in Defense Programs for the National Nuclear Security Administration. At the close of FY 2020, the Board is composed of three respected experts in the field of nuclear safety with demonstrated competence and knowledge relevant to its independent investigative and oversight functions.

In August 2018, the then-Acting Chairman of the DNFSB had announced a plan to reorganize and reduce staff at the DNFSB, with a targeted increase of 80 percent in the number of on-site Resident Inspectors and an approximately 40 percent decrease in DNFSB headquarters staff to 79 employees, but Congress did not approve this action. The DNFSB's enabling legislation authorized a staff of up to 130 personnel in FY 2018.

In its most recent Congressional budget request, the Board requested \$28,836,000 and 114 full-time equivalents (FTEs) to carry out its mission in FY 2021. This is a 7 percent decrease from the agency's FY 2020 appropriation level of \$31,000,000. The DNFSB came close to reaching their staffing level target of 100 FTEs by the end of FY 2020, with 97 FTEs on board and the agency is planning to hire enough employees to reach a staffing level of 110 FTEs in FY 2021. The DNFSB staff submitted a proposed FY 2021 Work Plan and Staffing Plan to the Board on August 31, 2020.

The FY 2020 Office of the Technical Director (OTD) section of the Work Plan developed by the DNFSB in August 2019 and approved September 24, 2019, included a significant planned body of work: 48 new reviews and 37 FY 2019 carry-over reviews turned on to start (in) the year, including non-discretionary (ND) activities. The status of 137 total reviews in the FY 2020 Work Plan as of August 31, 2020, indicates 36 reviews were completed, 54 reviews were carried over into FY 2021 and 34 reviews were turned off (stopped/cancelled). There were 11 reviews projected to be completed by the end of FY 2020.

DNFSB staff stated the carry-over work and cancellations were due to several factors, including changes to DOE schedules, limitations on travel, and emergent high priority work, but acknowledged that work was also impacted by staff shortages the DNFSB had been experiencing. The DNFSB Work Plan contains a section titled FY 2020 Performance Goals, with the note that DNFSB Performance Goals would be developed upon completion of the FY 2020-2024 DNFSB Strategic Plan, which was approved at the end of FY 2020.

The DNFSB closed six OIG audit recommendations from three audit reports during FY 2020. Closing a recommendation means the Board has not only decided on an acceptable course of action to fulfill the intent of the recommendation, but also has documented its completion of the necessary work.

- DNFSB-20-A-02: Audit of DNFSB's Compliance under the Digital Accountability and Transparency (DATA) Act of 2014
- DNFSB-19-A-02: Audit of DNFSB's Issue and Commitment Tracking System (IACTS) and its Related Processes
- DNFSB-17-A-05: Audit of DNFSB's Resident Inspector Program

Along with the work to close OIG audit recommendations, the DNFSB made progress in several areas to strengthen the organization's ability to execute its mission. As noted by the Board in a recent annual report to Congress, the DNFSB "...continued to implement recommendations from a November 2018 report of the National Academy of Public Administration (NAPA) to improve agency operations and mission effectiveness. In December 2019, the Board approved a comprehensive revision to its 2018–2022 strategic plan as recommended by NAPA. The revised plan is designed to maintain the Board's technical excellence, foster continuous improvement, and enable nimble response to a challenging environment. The plan establishes goals and objectives aimed at providing high quality advice on the safety of the DOE defense nuclear complex efficiently, effectively, and transparently. Additionally, the plan will help cultivate a multitalented, dynamic staff that embodies the Board's core values, focuses on the mission, and continuously hones its skills through training and development. The Board engaged NAPA to develop a Communication and Change Management Implementation Strategy, delivered in November 2019, to inform its approach for engaging the Board's staff in implementing the revised plan."

On January 9, 2020, Board Chairman Bruce Hamilton announced a new key position within the Agency's staff: Manager of Board Operations, as well as a selectee for this position. The Manager of Board Operations will centralize internal and external Board operations and communications. Responsibilities include the administration of external relations with the Board's Congressional oversight committees and other interested Congressional offices, the Nuclear Regulatory Commission's Inspector General (who serves as the DNFSB's Inspector General), the Government Accountability Office, the press, and interested members of the public. Management of the Board's internal deliberations and external correspondence processes will also be a principal responsibility of this position. The creation of the Manager of Board Operations position was a direct result of recommendations made in November 2018 by the NAPA Defense Nuclear Facilities Safety Board Organizational Assessment. The Board had engaged the Academy in early 2018 to study Board effectiveness and to recommend ways to improve staff consensus and communication.

At the direction of Congress, the Board has also initiated the process to establish and fill the new executive level position of Executive Director for Operations (EDO). The DNFSB has advertised the position, conducted interviews and anticipates hiring someone on board soon.

The DOE had initiated proposed rulemaking on August 8, 2018 to update Title 10, Code of Federal Regulations (CFR) Part 830, and the DNFSB has indicated it has serious concerns for the changes envisioned by the DOE in this part, which is titled “Nuclear Safety Management, Associated Orders and Standards, and Implementation Thereof.” In keeping with its mission, the DNFSB published Recommendation 2020-1 to the Secretary of Energy on February 21, 2020. The DNFSB recommended the DOE revise its regulatory framework, to include requirements in 10 CFR 830. The Recommendation included specific concerns regarding the DOE’s aging infrastructure, hazard categories, approvals process, and safety basis process and requirements. This recommendation is intended to strengthen the DOE’s regulatory framework in its current form, including the DOE’s orders, standards, and implementation. The Board noted that it agreed with the DOE that 10 CFR 830 requires an update, but it believes the Notice of Proposed Rulemaking on the subject would actually erode the regulatory framework. The DNFSB’s recommendation analysis provided in the Federal Register (Federal Register / Vol. 85, No. 50 / Friday, March 13, 2020) expressed concern for the DOE’s ability to maintain decades old infrastructure and facilities while also proposing in their rulemaking for 10 CFR 830 to remove the definitions of nuclear facility Hazard Categories. The DNFSB recommendation warned this proposed change would “fundamentally undermine” the important nuclear safety processes established in the rule.

A key DNFSB concern involved the combination of a lack of an aging management plan for DOE facilities and the proposed elimination of specific hazard category definitions from status as federal regulations. Such a reduction in regulatory requirements could give contractors the ability to increase the radiological hazards present in older buildings without adequately understanding the ability of the facilities’ safety structures, systems and components to control the higher level of risk. Nonetheless, the DOE issued a Federal Register Notice (FRN) stating it accepted some of the recommendations in DNFSB recommendation 2020-1, but in effect rejected most of them. The FRN was published by the DOE June 19, 2020. The DOE response to the DNFSB said the Department looks forward to working with the Board and its staff as the DOE prepares the Implementation Plan.

DNFSB FY 2021 Challenges:

There are five ongoing actionable challenges the DNFSB must continue to address to accomplish its mission:

1. Management of a healthy and sustainable organizational culture and climate
2. Management of security over internal infrastructure (personnel, physical, and cyber security)
3. Management of administrative functions
4. Management of technical programs
5. Management of the DNFSB’s COVID-19 pandemic response

Challenge 1: *Management of a healthy and sustainable organizational culture and climate*

Why is this a serious management and performance challenge?

This is a longstanding, systemic challenge that impinges effective and open communication between staff and Board Members, which adversely affects the DNFSB's ability to fulfill its mission.

In recent years, the DNFSB has experienced significant challenges that have affected its work culture and climate. For example, the DNFSB has experienced high employee turnover, inadequate succession planning, major reorganizations, and communication issues. These challenges have been further compounded by issues involving the Board Members themselves through a lack of collegiality. These challenges have negatively affected trust and employee engagement throughout the agency. In FY 2020, DNFSB began to address some of the issues by hiring more staff and developing a Board Policy Statement on Collegiality.

OIG audit work has identified instances wherein the efficiency and effectiveness of DNFSB processes have been impeded by its inadequate culture and climate. For example, in the audit of the DNFSB's human resources program (DNFSB 20-A-04), OIG concluded that the DNFSB's hiring process has been ineffective and inefficient as the DNFSB has suffered significant losses throughout the agency without sufficiently replacing those vacancies. This occurred because there is a lack of consensus and communication throughout the agency regarding the DNFSB's hiring practices. Furthermore, the DNFSB still has vacant Senior Executive Service (SES) positions and needs to continue to fill these important roles. As such, the OIG continues to see management of a healthy and sustainable organizational culture and climate as a serious challenge, and therefore initiated a review of the DNFSB's Safety Culture and Climate Survey in the fourth quarter of FY 2020.

Completed Actions

- The DNFSB created a new position of "Manager of Board Operations." This position is responsible for internal communications across the agency, including developing and implementing communication processes between all agency offices, the Chairman, General Manager, and Board Members.
- Board Members have met with facilitators from the Federal Mediation and Conciliation Service to help strengthen communication and trust within the Board and with the SES employees at DNFSB.

Ongoing Actions

- The DNFSB is working to develop a path forward to implement the OIG's six recommendations from the Audit of the DNFSB's Human Resources Program.
- The DNFSB has created and will execute an Employee Engagement Plan that includes a diverse set of trainings designed for all levels of the agency's staff.



Looking Ahead: The OIG will continue to monitor the DNFSB's actions to improve culture and climate and the trend of available data in this area.

Challenge 2: *Management of security over internal infrastructure (personnel, physical, and cybersecurity)*

Why is this a serious management and performance challenge?

Security over internal infrastructure is a continuing challenge for federal entities. In addition, cybersecurity threats are constantly evolving.

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

Key security challenges for the DNFSB include the following:

- Ensuring that cybersecurity is a crucial aspect of the DNFSB’s overall security posture and that cybersecurity protective measures keep pace with evolving threats, given the importance and sensitivity of the DNFSB’s activities, and the current pandemic environment
- Maintaining robust internal controls over classified information and the systems that process, store, and transmit it to protect against breaches of classified information by federal employees and contractors in the current environment
- Maintaining IT equipment up to date and free of vulnerabilities in a remote environment

Completed Actions

- The DNFSB hired an independent contractor to review information technology infrastructure.
- The DNFSB made efforts to strengthen skills and qualifications of its IT staff.

Ongoing Actions

- The DNFSB continues to implement OIG recommendations from past FISMA reports.
- The DNFSB continues to make enhancements to its physical and cybersecurity infrastructure.



Looking Ahead: The OIG will continue to work with the Board in conducting audits and evaluations that will enhance security over DNFSB internal infrastructure.

Challenge 3: *Management of administrative functions*

Why is this a serious management and performance challenge?

This challenge is important to provide centralized administrative functions in corporate support services and enable the DNFSB's management and staff to accomplish the agency mission and operate efficiently and effectively.

The DNFSB should continue exploring ways to improve its administrative functions. To support the technical staff, the DNFSB provides corporate support services such as contract support, human resources support, financial reporting, and information technology services. Although the DNFSB has established these administrative functions to support agency staff, there is still ongoing concern regarding employee morale, recruiting new hires, and retention. Over the years, one significant area of concern has been the provision of human resources support to the agency. Late in FY 2019, the Board approved a staffing plan to increase the number of staff. As of July 2020, the DNFSB has 97 positions occupied, an increase of 10 positions since October 2019, but still below the target of 115 FTEs documented in the FY 2020 staffing plan and the 114 FTEs documented in the FY 2021 Budget request. The DNFSB must continue to effectively recruit new hires, strengthen performance management and increase employee engagement and retention. This concern includes functions such as employee recognition and training new and current staff. Key DNFSB administrative function challenges include the following:

- Continuing to improve internal control documentation and practices for the DNFSB's financial and administrative functions
- Implementing effective employee engagement and recognition techniques
- Providing current staff with the training and tools to maintain and/or improve the skills needed to effectively perform their jobs
- Continuing efforts to keep DNFSB policies and procedures current

Completed Actions

- The DNFSB established a new key position within the Agency's staff in January 2020: Manager of Board Operations.
- The Manager of Board Operations was selected and will centralize internal and external Board operations and communications.

Ongoing Actions

- The Board continues to implement NAPA recommendations and the Board is taking steps to hire an Executive Director for Operations to address organizational and administrative challenges.
- The Board is pursuing hiring actions to achieve a staffing level of 110 employees in FY2021.



Looking Ahead: The OIG will continue to monitor the DNFSB's Human Resources systems to develop future audits and/or evaluations.

Challenge 4: *Management of technical programs*

Why is this a serious management and performance challenge?

The DNFSB's technical positions require highly qualified experts, yet staff turnover and the inability to quickly backfill these positions has reduced the overall experience level. The need for cooperation from the DOE is also extremely important, especially considering the DOE's recent rejection of a DNFSB recommendation.

OIG audit work has identified instances wherein the efficiency and effectiveness of the DNFSB's technical processes may have been impeded by insufficient hiring practices. For example, in the Audit of DNFSB's Human Resources Program (DNFSB 20-A-04), the OIG found that the DNFSB's human resources program is currently not designed and implemented to effectively support the execution of its mission. The DNFSB has suffered most of its staff turnover in the Office of the Technical Director (OTD). The OTD is the agency's sole technical office consisting primarily of technical experts and engineers.

In June 2019, the DNFSB issued three recommendations to the DOE regarding worker and public safety concerns connected to the tritium facilities at Savannah River Site. DOE rejected one of the recommendations in September 2019. After the DNFSB reaffirmed its recommendation upon further review in December 2019, the DOE again rejected the recommendation in January 2020. As a result, the DNFSB's recommendation has come to its conclusion without being implemented or amended. This was the first time this has occurred in the DNFSB's history. Additionally, the DNFSB made another recommendation in February 2020, of which the DOE rejected significant portions in June 2020. This recommendation and the DOE's response are currently under further Board evaluation.

Completed Actions

- Since the start of FY 2020, the DNFSB has hired several new staff in various positions including technical (engineers), IT, operations, budget, and legal.
- The DNFSB contracted with the NAPA to completely overhaul its strategic plan and help provide the agency a more unified direction relative to DOE safety oversight.
- The DNFSB updated its FY 2018-2022 Strategic Plan on December 10, 2019.

Ongoing Actions

- The DNFSB is updating and finalizing policies and procedures relative to determining the technical qualifications of OTD applicants. These are expected to be finalized by late FY 2020.
- Per the audit of the DNFSB's IACTS and its related processes, the DNFSB is currently developing a tracking system for Board actions. This was expected to be completed prior to FY 2021.



Looking Ahead: The OIG will continue to monitor the DNFSB's management of technical programs. This includes a planned audit of the DNFSB's work planning processes in FY 2021.

Challenge 5: *Management of the DNFSB's COVID-19 pandemic response*

Why is this a serious management and performance challenge? During the COVID-19 pandemic, in order to ensure the health and safety of staff, the DNFSB switched to widespread telework. Unprecedented actions were needed in order to allow the DNFSB's management and staff to continue to accomplish the agency mission and operate effectively.

On March 13, 2020, the President of the United States declared a national emergency associated with the COVID-19 outbreak. Soon thereafter, the Office of Management and Budget issued mandatory telework orders to federal employees, resulting in implementation of the DNFSB Continuity of Operations (COOP) for COVID-19 Pandemic Response. This agency guidance directed most of its employees to work from home with agency-issued laptop computers to minimize "concerns for safety" leave claims or other disruptions to agency business.

In June 2020, DNFSB staff began to return to headquarters, starting with Office Directors and a "skeleton" support staff to be present at headquarters twice a week while other staff continued to telework 5 days a week. During the week of July 13, 2020, the DNFSB required more staff to return to headquarters. The DNFSB's Chairman provided staff updates via weekly emails that included information on employee re-entry. Key DNFSB COVID-19 challenges include the following:

- Achieving effective operation while under widespread telework status
- Ensuring health and safety standards
- Following government wide guidance for effective reopening

Completed Actions

- The DNFSB activated its COOP plan and the Board approved the DNFSB Pandemic Response and Recovery Plan.
- The DNFSB started widespread telework and has allowed select staff to return to the office.

Ongoing Actions

- The DNFSB staff will implement the DNFSB Pandemic Response and Recovery Plan, as currently written.
- The DNFSB has continued to telework while adjusting resident inspectors' schedules in accordance with local conditions.



Looking Ahead: In FY 2020, the OIG issued the *Audit of DNFSB COVID-19 Re-Entry Plans* and will continue to monitor the actions the Board will take to address the report's findings and recommendations.

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