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Major Management Challenges and Program Risks

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The President of the Senate
The Speaker of the House of Representatives

This report addresses the major performance and management challenges that have limited the effectiveness of the Department of Energy (DOE) in carrying out its mission. For many years, we have reported significant management challenges at DOE. These challenges include difficulties in completing large projects, making the transition to external regulation, modifying the Department's organizational structure to correct challenges, reforming its contracting practices, and maintaining sufficient technical and managerial skills. These challenges cut across DOE's programs.

To address its performance and management challenges, DOE developed a strategic plan for departmentwide improvement, as well as a specific plan for contract reform in 1994. In addition, during the 1990s, DOE conducted or commissioned several studies of the missions and organization of its national laboratories. However, DOE has not always implemented reform recommendations and has been slow in acting on others. Therefore, we will continue monitoring DOE's contract management as a high-risk area. Furthermore, some challenges facing DOE are long-standing, and the solutions to some may lie beyond the scope of DOE's current reform efforts.

This report is part of a special series entitled the Performance and Accountability Series: Major Management Challenges and Program Risks. The series contains separate reports on 20 agencies—one on each of the cabinet departments and on most major independent agencies as well as the U.S. Postal Service. The series also includes a governmentwide report that draws from the agency-specific reports to identify the performance and management challenges requiring attention across the federal government. As a companion volume to this series, GAO is issuing an update to those government operations and programs that its work has identified as "high risk" because of their greater vulnerabilities to waste, fraud, abuse, and mismanagement. High-risk government operations are also identified and discussed in detail in the appropriate performance and accountability series agency reports.

The performance and accountability series was done at the request of the Majority Leader of the House of Representatives, Dick Armey; the Chairman of the House Government Reform Committee, Dan Burton; the Chairman of the House Budget Committee, John Kasich; the Chairman of the Senate Committee on Governmental Affairs, Fred Thompson; the Chairman of the Senate Budget Committee, Pete Domenici; and Senator Larry Craig. The series was subsequently cosponsored by the Ranking Minority Member of the House Government Reform Committee, Henry A. Waxman; the Ranking Minority Member, Subcommittee on Government Management, Information and Technology, House

Government Reform Committee, Dennis J. Kucinich; Senator Joseph I. Lieberman; and Senator Carl Levin.

Copies of this report series are being sent to the President, the congressional leadership, all other Members of the Congress, the Director of the Office of Management and Budget, the Secretary of Energy, and the heads of other major departments and agencies.

David M. Walker
Comptroller General of
the United States

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Overview

Today's Department of Energy (DOE) is a multibillion-dollar enterprise with multiple missions in energy and science. It is also an agency with multiple performance and management challenges. We, DOE's Inspector General, the National Performance Review, and the Department itself have documented these challenges and recommended reforms. DOE has taken corrective actions, but major performance and management challenges remain.

The Challenges

DOE Has Had Difficulty Completing Large Projects

DOE has had difficulty completing large projects on time and within budget. From 1980 through 1996, DOE terminated 31 of 80 major system acquisitions (mission-critical projects costing over $100 million) after expenditures of over $10 billion, and completed only 15, most of which were behind schedule and over budget. For example, DOE spent $6.5 billion over 15 years for a permanent disposal site for highly radioactive waste at Yucca Mountain, Nevada. This project is currently 12 years behind schedule, and DOE has not yet determined whether the site is suitable for a repository.

DOE's Transition to External Regulation Is Slow

With few exceptions, DOE's facilities are not licensed or inspected by independent regulators to help ensure safe operations. The Department's own advisory committee concluded that "Widespread environmental contamination at DOE facilities and the immense costs associated with their cleanup provide clear evidence that self-regulation has failed."[1] While DOE agreed to external regulation in these areas, its commitment appears to be lagging.

DOE's Organizational Structure Allows Challenges to Go Uncorrected

DOE's ineffective organizational structure blurs accountability, allowing problems to go undetected and remain uncorrected. At Brookhaven National Laboratory on Long Island, radioactive tritium leaked into groundwater for years because DOE's weak organizational structure discouraged effective oversight of the contractor's operations. DOE eventually terminated its relationship with the organization managing this facility because the laboratory lost public trust.

[1]Total environmental liabilities reported in DOE's 1997 financial report were $181 billion.

Contract Management Remains Vulnerable to Risk

DOE relies on contractors to perform about 90 percent of its work. Recently, it has increased its use of competition in selecting contractors to manage and operate its major facilities, but it should do more. However, it is still not competitively awarding contracts for environmental restoration work at its national laboratories, even though it does so at other facilities. In addition, although DOE originally planned to shift risk from the federal government to private contractors as a means of enhancing their performance, it now considers risk-sharing more appropriate. At its Hanford site in Washington State, for example, DOE assumed much of the risk that it initially planned to shift to the contractor.

DOE's Staff Lack Technical and Management Skills

DOE's staff lack technical and management skills needed to oversee complex operations. At an Idaho facility, DOE turned to a private contractor, in part, because it lacked the in-house expertise needed to evaluate technical cleanup proposals. At the Hanford site, where DOE entered into a multibillion-dollar fixed-price contract for the next 20 years, DOE has no experts in fixed-price contracting. Finding enough staff with the necessary skills presents a serious

challenge to DOE, particularly in light of recent downsizing initiatives.

Progress and Next Steps

To correct performance and management challenges such as these, DOE developed a strategic plan for departmentwide improvement, as well as a specific plan for contract reform in 1994. In addition, during the early 1990s, DOE conducted or commissioned several studies of the missions and organization of its national laboratories. Most recently, DOE completed strategic and annual performance plans under the Government Performance and Results Act. These plans responded to reported criticisms of the Department's operations and established goals and measures for improved performance.

DOE's strategic plan articulates what the Department regards as its primary missions. This plan gives the Congress and the administration an opportunity to affirm or change DOE's missions and reach agreement on long-term priorities for the Department. Together with the contract reform initiative, the strategic plan establishes a framework for improving DOE's performance and management. However, DOE's challenges are deeply entrenched, and the solutions to

some may lie beyond the Department's control. If the Congress is not satisfied with the pace and scope of DOE's reform efforts, it may need to provide further direction to the Department through legislation.

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Major Performance and Management Challenges

DOE is a large agency with critical missions and serious challenges in carrying out these missions. In fiscal year 1998, DOE obligated almost $18 billion to maintain the nation's nuclear weapons stockpile, manage the largest environmental cleanup in history, support research and development at 23 national laboratories, and accomplish other missions in energy and science. Despite recent downsizing, DOE employs over 11,000 federal employees and is the largest civilian contracting agency in the federal government, retaining about 108,000 contract employees at over 50 major installations in 35 states.

Over the years, we, DOE's Inspector General, and the National Performance Review have documented challenges with DOE's performance and management and recommended reforms. This report summarizes findings from our issued reports on the effectiveness of DOE's efforts at managing large mission-critical projects; protecting the environment, safety, and health at its own facilities; clarifying its organizational structure; reforming its contracting practices; and obtaining needed technical and management skills to oversee complex operations. This report also indicates, where applicable, how DOE has

responded to recommendations of the National Performance Review and addressed weaknesses through the strategic plan that it developed in response to the Results Act.

DOE Has Had Difficulty Completing Large Projects

To support its missions, DOE often requires large projects costing hundreds of millions of dollars, many of which it designates as major system acquisitions. DOE's projects are often first-of-a-kind and involve substantial risk, as well as substantial funding for construction. For example, DOE's programs in high-energy physics and nuclear physics require accelerators (large machines that propel atomic particles near the speed of light) that can range in cost from hundreds of millions of dollars to billions of dollars.

DOE has had difficulty completing large projects on time and within budget. From 1980 through 1996, the Department conducted 80 major system acquisitions whose actual or planned costs totaled $65 billion. Thirty-one of these projects were terminated before completion, after expenditures of over $10 billion, and only 15 were completed, the majority of which were usually behind schedule and over budget. For the 34 ongoing projects, we found that 27 had cost overruns averaging over 70

percent and 16 were behind schedule.[2] One large project, a repository at Yucca Mountain, Nevada, for permanently disposing of highly radioactive waste, including the by-products of nuclear power generation, has already cost $6.5 billion, and DOE has not yet determined whether the site is suitable for a repository. In addition, the project is at least 12 years behind schedule. Because of this delay, many nuclear power plants have had to construct their own temporary waste storage facilities.

Some of the challenges in managing large projects were attributable to factors beyond DOE's control, including world events (especially the end of the Cold War), incomplete technologies, and changes in the administration's policy. Nevertheless, weaknesses in DOE's management and oversight also contributed to the challenges. Overall, we identified four factors underlying the cost increases, delays, and terminations.

- Changing missions for DOE have made it difficult to sustain departmental and congressional support for long-term, high-cost projects. For example, today's emphasis on conducting environmental

[2]Completion dates and costs were not available for 14 of these 34 projects.

cleanups at DOE sites is very different from DOE's focus in the 1970s on developing alternative sources of energy. With changing missions, projects such as the Gas Centrifuge Enrichment Plant and the Clinch River Breeder Reactor were terminated after expenditures of $2.8 billion and $1.6 billion, respectively.

- Incremental funding for projects has delayed their construction and increased their costs. Because budget authority for the total cost of a project is not provided at the time the project is approved, annual funding for the project is often less than requested. For example, the Fermilab Main Injector Project in Illinois (for use in high-energy physics experiments) received only 40 percent of its planned funding for the first 3 years. As a result, according to DOE officials, the project fell behind schedule and incurred additional costs.
- A flawed system of incentives does not always reward employees and contractors appropriately. For years, DOE's culture encouraged employees to complete projects but not to question the need for them or to raise management issues. Thus, participants in the Superconducting Super Collider project tried to keep it going even when expected foreign contributions did not materialize and the total projected costs rose

from $5.9 billion to over $11 billion. Additionally, DOE managers have often failed to penalize contractors for poor performance and have sometimes even rewarded inadequate performance. For example, during the 1980s and early 1990s, DOE paid millions of dollars in bonuses to the contractor at its Rocky Flats Plant in Colorado, despite well-documented safety and health deficiencies at the facility.

- Finally, inadequate technical and managerial skills have resulted in higher costs and delays. For example, according to DOE, the Defense Waste Processing Facility in South Carolina cost about $900 million more than planned and opened about 6 years late, in large part because the project's managers lacked experience with large-scale technology projects and did not focus sufficient attention on technical, institutional, or management issues.

There are no quick, easy solutions to DOE's challenges in keeping large projects on schedule and within budget; however, changes made by the Congress, the executive branch, and DOE could help. First, two acts—the Federal Acquisition Streamlining Act of 1994 and the Federal Acquisition Reform Act of 1996—encourage federal agencies to establish goals and

incentives for managing acquisition projects and to improve education and training for their acquisition workforce. Second, starting in 1996, the Office of Management and Budget has required all federal agencies to request full funding for fixed assets, which would include DOE's large projects. Finally, departmental initiatives in the areas of contract reform, asset management, strategic planning, information systems management, and financial planning should strengthen DOE's ability to manage large projects. For example, DOE's strategic plan incorporates performance measures, as the National Performance Review recommended, requiring the Department to annually meet baselines established for the scope, schedule, and cost of its projects.

While these changes may strengthen DOE's management, the fate of DOE's acquisitions also depends on direction from the Congress and the administration. Now that DOE has developed its first strategic and annual performance plans under the Results Act, we believe the time is right for reviewing its missions and agreeing on long-term priorities for the Department.

DOE's Transition to External Regulation Is Slow

With few exceptions, DOE's research and nuclear facilities are not inspected or licensed by independent regulators to help ensure safe operations. For national security reasons, DOE relied historically on its own staff to ensure safety at these facilities. We and others have criticized DOE for weaknesses in its self-regulation. In 1995, for example, a DOE advisory committee concluded that the widespread environmental contamination at DOE's facilities and the immense costs associated with their cleanup is evidence that self-regulation has failed. In 1998, the Defense Nuclear Facilities Safety Board, an independent group that oversees but has no regulatory authority over DOE's defense facilities, criticized the Department for failing to correct worker health and safety hazards.

With several exceptions, DOE is subject to environmental protection statutes enforced by the Environmental Protection Agency (EPA) and the states. But DOE is still the only federal agency whose facilities are generally exempt from regulation by the Nuclear Regulatory Commission (NRC) for nuclear safety and by the Occupational Safety and Health Administration for worker safety. In 1993, the Secretary of Energy announced

that the Department would seek external regulation for worker safety. Two years later, DOE created advisory groups to help formulate its policies and implement plans to eliminate self-regulation for both nuclear and worker safety at its facilities. Although these advisory groups endorsed external regulation, DOE has backed off from its initial plans and is now conducting pilot programs to simulate external regulation at selected facilities and determine whether it is warranted.

Although DOE's pilot programs may provide useful insights, they will not yield much of the information that managers need to make well-informed judgments about the value and practicality of external regulation at DOE's vast nuclear complex. For example, NRC estimates on the basis of one pilot project that it would need about one-fifth of one staff person's time per year to regulate nuclear safety at the Lawrence Berkeley National Laboratory in California. However, this estimate does not fairly represent the cost of external regulation for the majority of DOE's nuclear facilities because the Lawrence Berkeley National Laboratory does not have the nuclear reactors, weapons plants, or heavily contaminated facilities found at the defense and environmental

cleanup sites that make up 80 percent of DOE's complex.

DOE's current plan to conduct pilot programs to simulate external regulation is inconsistent with its former plan to move forward immediately with external regulation. Although DOE maintains that its current plan reflects appropriate caution, we believe that the Department is wavering in its commitment to external regulation. We recommended in May 1998 that DOE set forth its position on the external regulation of nuclear and worker safety at its facilities and develop an implementation strategy consistent with its position.

DOE's Organizational Structure Allows Challenges to Go Uncorrected

DOE's organization includes a dozen headquarters program offices, 10 major field offices with many smaller offices located near DOE's facilities, and over 50 major facilities owned by the government and operated by DOE's contractors. As we reported in 1981, DOE does not have clear lines of authority linking the Department's units, and as we reported in 1993 and again in 1998, the roles and responsibilities of DOE's headquarters and field offices are not clearly defined. Contractors, such as those operating the large national laboratories,

receive policy guidance from many different program offices but are managed and evaluated by field offices that are not accountable to the program offices. Several program (and staff) offices can direct a single contractor, bypassing the field office and other program offices. This uncoordinated direction limits DOE's ability to hold contractors accountable for their activities and ultimately affects their performance.

In 1997, we ultimately attributed leaks of tritium (a radioactive element) into groundwater from a research reactor at the Brookhaven National Laboratory on Long Island, New York, to weaknesses in DOE's organizational structure. These leaks went undetected for many years and then remained uncorrected for several more years because the contractor assigned low priority to them, despite public concern and local environmental regulations requiring corrective action. DOE did not hold the laboratory accountable for meeting its regulatory commitments but eventually terminated the contract because the laboratory lost public trust. We found that DOE's organizational structure prevented effective accountability over the Department's on-site field office—the office

with the most immediate responsibility for ensuring the laboratory's compliance with environmental, safety, and health requirements. Because the on-site office was part of a chain of command with no explicit responsibility for environmental, safety, and health issues, it did not report directly to either of two other offices with such responsibility—one of these offices was in another chain of command, and the other was an independent office. In 1998, the Defense Nuclear Facilities Safety Board recommended that DOE establish clear lines of authority and responsibility to ensure the resolution of safety issues.

DOE's own oversight offices have reported similar weaknesses in the Department's organizational structure. For example, in 1997, DOE's Laboratory Operations Board reported inefficiencies in both headquarters and the field resulting from the Department's complicated management structure. The Board recommended that DOE undertake a major effort to rationalize and simplify its headquarters and field management structure to create a more effective line management. DOE's strategic plan includes a performance measure designed to create a line of accountability by requiring (1) links in annual performance budgets between

resource requirements and plans, (2) independent validations of projects' costs, and (3) crosscutting evaluations of performance.

Contract Management Remains Vulnerable to Risk

DOE is the largest civilian contracting agency in the federal government. In fiscal year 1997, it obligated about $16.2 billion, or about 91 percent of its obligations, to contracts. We have reported on weaknesses in DOE's contracting practices, including noncompetitive awards and lax oversight of costs and activities. In 1990, we designated DOE's contracting as a high-risk area. Three years later, the Secretary of Energy established a Contract Reform Team, which reviewed DOE's contracting practices and, in February 1994, published a report with 48 recommendations to make contracting work better and cost less.[3] Among these were recommendations to award contracts competitively, incorporate performance-based incentives, and increase the use of fixed-price contracts. While DOE was reviewing its contracting practices, it was also developing its strategic plans. Together, the contract reform and strategic planning initiatives helped to shape the

[3]Some of these recommendations also were made by the National Performance Review and were included in DOE's strategic plan as performance measures.

framework for contract reform that DOE has since put in place. While these reforms are generally steps in the right direction, DOE has had some problems in implementing them, and in some instances, their effectiveness will not be known for several years. Therefore, we will continue monitoring DOE's contract management as a high-risk issue.

Since 1996, DOE has increased its use of competition in awarding contracts for managing and operating its facilities, but it could do more, particularly at its national laboratories. In 1996, we reported that from July 1994 through August 1996, DOE had awarded 8 of 24 management and operating contracts (33 percent) competitively. For fiscal year 1996 through fiscal year 1998, DOE reported that it had awarded 14 of 26 such contracts (54 percent) competitively and extended the other 12 noncompetitively. (The total value of these 12 contracts was $102 billion.) According to DOE, 8 of these 12 contracts were eligible for noncompetitive renewal under the Competition in Contracting Act, which exempts contracts for federally funded research and development centers from the requirements for competition. However, as we reported in 1996, only about half of the funds spent by management and operating contractors at

the national laboratories went for research and development; the remainder went for other work, such as environmental restoration. At other facilities, DOE awards contracts for environmental restoration work competitively. In our view, DOE could improve its contracts with the national laboratories by separating and competitively awarding the portion of the work that is not related to research.

In 1994, DOE began incorporating performance-based incentives in its management and operating contracts to better link contractors' fees to the satisfactory accomplishment of specific tasks. In 1997 and 1998, DOE's Inspector General found problems in the Department's implementation of these incentives, and in 1997, a departmentwide assessment identified other concerns, such as limited guidance on developing and administering the incentives. Our July 1998 report indicated that DOE had taken steps to correct these problems, including issuing guidance, conducting training, and incorporating lessons learned into the fiscal year 1998 incentives. However, it was too early to assess the effectiveness of these incentives because DOE's technical, financial, and contracting personnel had not yet completed

their reviews, which they perform at the end of the fiscal year. Moreover, as we reported in April 1998, DOE incorporated performance-based incentives for fiscal year 1998 in 16 of the 20 contracts we reviewed after the contractors had started their work. Thus, the incentives were less effective than they might have been in guiding and enhancing the contractors' performance.

To control costs and shift risks from the government to contractors, DOE has begun to use fixed-price contracts for environmental cleanups in place of the cost-reimbursement contracts that the Department routinely used in the past. Under this "privatization" initiative, DOE planned to pay its contractors a fixed amount for acceptable goods and services, regardless of the costs they incurred, and shift most financial risks to the contractors. While DOE has used fixed-price contracts for some well-defined projects, such as cleaning up some contaminated soils and decontaminating workers' uniforms, it has not met its initial goals for more complex environmental cleanups, as the following examples show:

- Pit 9, a project to clean up radioactive waste at the Idaho National Engineering and Environmental Laboratory, incurred nearly

$200 million in cost overruns. The project, which we characterized as a failure, was at least 26 months behind schedule when we reported on it in July 1997. Issues surrounding this project, such as the type and amount of waste to be cleaned up and who will pay for the increased costs, are currently in litigation.

- At the Hanford site in Richland, Washington, DOE planned to make the contractor fully responsible for the financial risk associated with constructing a facility to treat highly radioactive waste, currently stored in leaking underground tanks. However, because lenders told DOE that the contractor would not be able to obtain affordable financing without government backing, DOE agreed to pay much of the project debt if the contractor defaulted on its loans. The extent of the liability retained by the contractor remains uncertain. While this financing approach appears reasonable for this project, DOE faces a financial risk not initially contemplated that could be in the billions of dollars.

Before DOE decides whether to award fixed-price or cost-reimbursement contracts, it needs to consider several factors, including the cleanup and financial risks involved, the adequacy of the competition

among qualified firms, the types of financing available, and the skills of the DOE staff responsible for designing and overseeing the contracts.

DOE's Staff Lack Technical and Management Skills

A lack of staff with the requisite skills is an underlying cause of problems in several areas. As previously noted, insufficient staff with the appropriate management skills was one of the four key factors underlying the cost overruns, delays, and terminations associated with DOE's major system acquisitions. Inadequate technical and management skills have also hampered DOE's self-regulation and contract management. DOE and its Inspector General have identified the need for stronger technical and management skills, and the National Performance Review recommended strengthening this area. DOE included performance measures in its strategic plan to address the problem.

A lack of staff with the requisite technical skills limited the effectiveness of DOE's self-regulation and contributed to the environmental problems at many of DOE's facilities. The Defense Nuclear Facilities Safety Board, in its annual reports to the Congress, has repeatedly stated that the lack

of appropriate technical expertise in DOE is a significant problem. As we have reported since 1991, managers throughout DOE have told us that the lack of skilled staff in program, project, and contracting oversight positions is one of the most fundamental challenges in the Department. In March 1997, we reported that DOE did not assign enough staff with the proper technical capability to oversee the early stages of a project at the Fernald site in Ohio, resulting in major cleanup problems that could have been avoided.

In 1994, DOE's Contract Reform Team acknowledged that DOE's staff were not prepared to effectively oversee contractors. According to the team, DOE lacked "sufficient and adequately trained personnel in such areas as contract administration, cost estimation, and financial management." As we reported in July 1997, DOE's Idaho facility turned to privatization, in part, because it did not have the in-house expertise to evaluate technical cleanup proposals. However, delays and cost overruns at both the Idaho and the Hanford facilities suggest that DOE may likewise lack expertise in administering fixed-price contracts. Both the Director of Contract Reform and Privatization and the contracting officer at Hanford acknowledged

that the DOE staff at Hanford are not experts in fixed-price contracting. As DOE stated in a 1997 study, the use of fixed-price contracts for privatizing cleanups will require its employees to become more involved in the early stages of procurement development and to acquire more skills in corporate budgeting, capital market analysis, and the financing of employee benefits.

Finding enough staff with the necessary skills presents a serious challenge to DOE, particularly in light of recent downsizing. At Hanford, for example, DOE plans to ensure adequate oversight of the tank waste cleanup by putting about 80 technical and managerial staff in place. However, as of August 28, 1998, DOE had not yet filled 30 positions, including 5 of the 9 DOE staff responsible for contract management. DOE officials told us that they plan to hire these and other needed staff during fiscal year 1999.

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