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February 15, 2007

The Honorable Robert S. Mueller, III
Director
Federal Bureau of Investigation
J. Edgar Hoover Building
935 Pennsylvania Ave., NW
Washington, D.C. 20535-0001

Dear Director Mueller:

The Committee on Energy and Commerce is writing to request a briefing for members and staff regarding the scope of the FBI investigation of a recent security breach at the Department of Energy's (DOE) Los Alamos National Laboratory (LANL) involving the unauthorized access and removal of classified information. The FBI commenced an investigation in October 2006.

Over the past eight years, the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce has held 12 hearings regarding security failures, safety breaches, and dysfunctional management at LANL.

A January 30, 2007, hearing focused on the October 17, 2006, discovery of 1,588 pages of classified and unclassified documents at a LANL subcontractor employee's home by the Los Alamos County Police during the investigation of a domestic disturbance. This employee had downloaded classified information onto a thumb drive by plugging it into a USB port in a classified computer that was located in an unlocked cage at LANL. But for the accidental discovery by local police, this glaring weakness in LANL's cyber security would never have been exposed. The DOE's Inspector General testified: "the full extent of damage or dispersion of classified material may never be known." It is quite possible that other classified documents could have been removed in the same way.

The Inspector General reviewed the DOE/National Nuclear Security Administration's (NNSA) security clearance process in a November 2006 report. In response to this review, the Secretary wrote: "The recent incident at LANL, and the findings in the Inspector General's report, indicate there may be significant deficiencies involving the application of personnel

security policies and standards within the Department. While this particular incident occurred at one site, I am concerned that similar problems may exist throughout the DOE complex."

Weaknesses in the NNSA's oversight of security were also identified in GAO's testimony on January 30 before the House Committee on Armed Services, Subcommittee on Strategic Forces (National Nuclear Security Administration: Security and Management Improvements Can Enhance Implementation of the NNSA Act). GAO pointed to the fact that the Los Alamos Site Office (LASO) experienced staffing shortfalls—limiting its "ability to effectively oversee contractors' security activities." On February 8, 2007, Secretary Bodman testified that two headquarters employees knowledgeable about security will be transferred to LASO on an interim basis.

While we understand there is an ongoing criminal investigation, the Committee requests a briefing on the scope of the FBI's investigation. The Committee also requests a briefing on the FBI's views regarding the efficacy of the DOE/NNSA's security clearance system at LANL, and its implications with respect to security throughout the DOE/NNSA complex. For example, has the FBI examined the process used to the adjudicate the security clearance for the individual involved with the removal of classified information, and has the FBI evaluated NNSA's process for adjudicating security clearances at the NNSA's Albuquerque Service Center and at other sites? In cases where there are questions about an individual's background, should there be a reinvestigation more frequently than once every five years, and if such reinvestigations are necessary, should there be a system that ensures these are actually performed?

The FBI receives approximately $1 million per year from the DOE's Office of Health, Safety and Security for initial background investigations, periodic reinvestigations and reimbursement of fingerprint and name checks for Federal employees. The Committee would also like to be briefed on the work performed for DOE, and the standards it applies with respect to its background investigations.

Please contact Chris Knauer with the majority staff (202-225-2927) or Dwight Cates with the minority staff (202-225-3641) of the Committee on Energy and Commerce to schedule this briefing. We appreciate your assistance with this matter.

Sincerely,

Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

Ed Whitfield
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable John D. Dingell, Chairman
Committee on Energy and Commerce

The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce