

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
Office of the General Counsel

FISCAL YEAR 2018 WORK PLAN
SEPTEMBER 2017

**Office of the General Counsel
Fiscal Year 2018 Work Plan**

The Office of the General Counsel (OGC) at the Defense Nuclear Facilities Safety Board provides direct legal support to the Board in the conduct of its independent investigative and oversight functions. OGC supports the Technical Director and General Manager and their staff in the execution of the Board functions. OGC is the repository of legal resources for the agency and supports the agency's compliance with all legal requirements. The Office processes all legal and ethical matters for the agency. The majority of work handled by OGC is to provide responsive legal support to the Board and the other two offices within the agency. OGC also has the lead on several important cross-cutting agency functions.

OGC Overview

OGC is currently staffed with a General Counsel, two full-time attorneys and a contract secretary. The Deputy General Counsel position, three attorney positions, and one paralegal position are vacant. The office is in the process of filling one vacant attorney position and has initiated the process to fill a second attorney position and the paralegal position. The Deputy position will be filled upon Board approval. The office also relies on contracted legal support to cover administrative functions within the office including workload intake and processing, record processing, document preparation, and other administrative matters. Being only half staffed for the majority of FY2017 has prevented the office from being fully functional. Because of this, workloads have shifted to FY2018 to complete and implement discretionary process improvement tasks. Employee training and development opportunities have been limited. Reliance on contract attorney support was used in FY2017 to supplement coverage of employment law workloads. In order to meet agency legal support needs and reduce the reliance on contracted support, the DNFSB Staffing Plan proposes to fill the fifth attorney position. Upon approval of the Staffing Plan and barring any restrictions on hiring, the office will stay on course for bringing staffing levels up to 100% in FY2018, which will improve responsiveness to Board support requests, quicker processing of green folders, and allow for attorney development. The OGC input to the agency staffing plan provides the staffing level justification for the office for planned work activities. Unanticipated emergent work will be completed in FY2018 only if non-discretionary or high priority, in which case, it will cause lower priority work to be deferred or delayed. The work OGC traditionally performs is virtually all non-discretionary, i.e., work required by law or necessary for agency operation, or high priority, which includes direct mission work and Board Directed work. Some level of discretionary work is traditionally performed depending on resource constraints (e.g., available funding, effective personnel strength) for continual organizational improvement.

OGC Planned Work Activities

This work plan is divided into two sections describing the key responsibilities that constitute the majority of the work of the office. The first section is an overview of the work performed as a support services office. The second section is a descriptive list of discretionary work planned for FY2018.

SECTION I **DIRECT SUPPORT SERVICES**

These key responsibilities support the agency mission and the strategic goals of the agency. The majority of this work does not change significantly from year-to-year.

- I. Support to the Board
- II. Support to the Technical Director and Technical Staff
- III. Support to the General Manager and General Manager’s Staff
- IV. Cross-Cutting Legal Support

Within each key responsibility, priority is assigned to non-discretionary, mission critical, and Board Directed work. Work to support individual Board Members or to support efficiency enhancements to operation of the agency will be adjusted to accommodate priority work.

Overview

I. Support to the Board

| Item | Description |
|------------------------|--|
| Hearings | Board Hearings conducted pursuant to AEA |
| Closed Meetings | Board meeting closed under Sunshine Act exemptions |
| Public Meetings | Meeting of the Board to publicly conduct agency business |
| Congressional Briefing | Quorum of Board Members conducting Congressional briefing |
| Board Gatherings | Gathering of a quorum of Board Members to receive office information or schedule agenda and calendar items |
| Board Briefings | Informational Briefings of the Board on safety or administrative matters |
| Board Travel | Review of travel authorizations |
| Board Nominations | Nomination and confirmation of Board Members |
| Legislation | Tracking legislation of interest to the Board that can potentially impact the agency mission or operations |

Additional direct support to the Board is provided on Board votes and proposed requests for Board action and proposed amendments to pending items. OGC provides support on ethics issues specific to the Board related to conflicts of interest, speaking engagements, attendance at widely attended gatherings, and ethics pledges.

II. Support to the Technical Director and Technical Staff

| Item | Description |
|----------------------|--|
| Board Correspondence | Review of Board correspondence on safety issues |
| DOE Directives | Review of DOE directives of interest to the Board |
| SES Travel | Review of travel authorizations for SES members of OTD |

OGC also coordinates with DOE on behalf of the agency on access to information issues for technical staff reviews.

III. Support to the General Manager and General Manager's Staff

| Item | Description |
|---------------------------------------|---|
| Contracts | Review of contracts having significant potential risk to agency operations |
| IAA, MOU, MOA | Review of all interagency agreements and agreements with outside entities on cooperative, personnel, or support matters |
| Security | Support the processing of security matters for personnel security, facility security, and information security |
| FOIA / Privacy Act | Provide direct legal support on responses to all FOIA or Privacy Act requests |
| Office of the Inspector General / GAO | Legal coordination for audits and investigations |
| Internal Controls | Participate in coordinated evaluation of internal controls to avoid waste, fraud, abuse, and inefficiency |
| Employment | Advise on selection and appointment to agency positions. Support agency processes for conduct and performance actions. Support agency processes for claims of discrimination. |
| Directives and Operating Procedures | Review revisions and new directives and procedures for conformance with legal requirements and Board policy |

OGC also provides advice on other subject areas as issues arise such as budget, appropriations, and continuity of operations.

IV. Cross-Cutting Legal Support

| Item | Description |
|------------------------------|--|
| Ethics | Provide advice and recusal information on seeking employment opportunities, advise on widely attended gatherings, advise on the Hatch Act prohibition on political activities, advise on ethical code of conduct |
| Financial Disclosure | Review the filing of all public, confidential, and transactional financial disclosures, advise on divestiture of prohibited assets |
| Safety Allegations | Coordinate all safety allegations from receipt to disposition in conformance with the agency mission, report on each item to the Board |
| Safety Investigation | Lead investigation of safety issues as directed by the Board. |
| DNFSB Performance Goal 4.1.3 | Within OGC, develop and implement formal procedures and internal controls prescribing effective and efficient support of the Board's mission. |

In support of DNFSB Performance Goal 4.1.3 and pursuant to ECIC recommendation, OGC will review the Alternative Dispute Resolution Program and Reporting of Safety Allegations. These two work processes continue to need adequate staffing resources to fully implement. OGC will also add a new operating procedure on closed meetings with a focus on an appropriate process to obtain Board input on redaction and posting of transcripts.

SECTION II OGC PLANNED DISCRETIONARY WORK

Discretionary work includes business process improvements and enhancements to workflow and office practices not required by law or regulation and not driven by Board direction.

Discretionary work includes updating and compiling OGC legal opinions. Discretionary work also includes work for individual Board Members for which resources are available to the extent that the work will not delay or defer priority workloads.

| Item | Description |
|----------------------|---|
| Knowledge Management | Develop the database of OGC memoranda and documented advice for comprehensive research capabilities. |
| Records Processing | Transition to electronic storage and processing of agency record systems to enhance compliance with NARA requirements, allow search capabilities, and continue to ensure proper handling. Utilize the system for safety allegations and ethics inquiries. |

| Item | Description |
|-----------------------------------|---|
| Staff Recruitment and Development | Continue developing a pipeline of legal staffing resources |
| Professional Outreach | Coordinate with DOE and NNSA legal staff on shared issues of concern regarding DNFSB and DOE interactions. Outreach to other agencies and legal organizations for identifying and adopting best practices within the legal community. |
| Legal References | Review and assess the utility and cost of legal references. Maintain current resources for agency access. Prepare and publish an agency legal desk reference. |
| Legal Memoranda | Identify core legal memoranda and update key memos for support of the Board's mission. Develop new memoranda on issues of concern to the Board operations. |

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: FY 18 OGC Work Plan

Doc Control#2017-300-118

The Board, with Board Member(s) Sean Sullivan, Bruce Hamilton, Jessie H. Roberson, Daniel J. Santos, Joyce L. Connery *approving*, Board Member(s) none *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, have voted to approve the above document on October 16, 2017.

The votes were recorded as:

| | APRVD | DISAPRVD | ABSTAIN | NOT PARTICIPATING* | COMMENT | DATE |
|--------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|----------|
| Sean Sullivan | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10/12/17 |
| Bruce Hamilton | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10/12/17 |
| Jessie H. Roberson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10/16/17 |
| Daniel J. Santos | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10/12/17 |
| Joyce L. Connery | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 10/12/17 |

*Reason for Not Participating:

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Board Members.


Assistant Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

cc: Board Members
OGC
OGM Records Officer
OTD

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Sean Sullivan

SUBJECT: FY 18 OGC Work Plan

Doc Control#2017-300-118

Approved *Y* **Disapproved** **Abstain**

Recusal – Not Participating

COMMENTS: **Below** **Attached** **None** *Y*



Sean Sullivan

 10/12/17
Date

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET**

FROM: Bruce Hamilton

SUBJECT: FY 18 OGC Work Plan

Doc Control#2017-300-118

Approved X Disapproved Abstain

Recusal – Not Participating

COMMENTS: Below Attached None X


Bruce Hamilton

12 OCT 2017
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET


FROM: Jessie H. Roberson

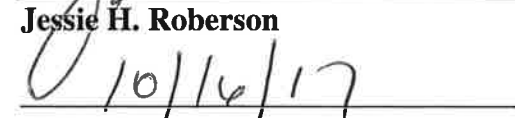
SUBJECT: FY18 OGC Work Plan
Doc Control#2017-300-118

Approved X Disapproved _____ Abstain _____

Recusal – Not Participating _____

COMMENTS: Below _____ Attached _____ None X



Jessie H. Roberson


Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Daniel J. Santos


SUBJECT: FY 18 OGC Work Plan

Doc Control#2017-300-118

Approved **Disapproved** _____ **Abstain** _____

Recusal – Not Participating _____

COMMENTS: **Below** _____ **Attached** _____ **None**



Daniel J. Santos
10/12/17

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

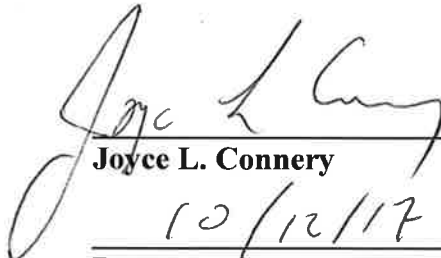
SUBJECT: FY 18 OGC Work Plan

Doc Control #2017-300-118

Approved **Disapproved** **Abstain**

Recusal – Not Participating

COMMENTS: **Below** **Attached** **None**



Joyce L. Connery
10/12/17

Date