



April 2021

# SEXUAL HARASSMENT

## NNSA Could Improve Prevention and Response Efforts in Its Nuclear Security Forces

Accessible Version

# GAO Highlights

Highlights of [GAO-21-307](#), a report to the Committee on Armed Services, House of Representatives

## Why GAO Did This Study

Federal law prohibits sexual harassment in the workplace. Besides being harmful to those harassed, sexual harassment can decrease organizational performance and increase turnover. In January 2019, public allegations of sexual harassment in NNSA's nuclear security forces drew attention to this issue.

House Report 116-120 provided that GAO review sexual harassment in NNSA's nuclear security force. This report examines (1) what NNSA and its contractors know about the prevalence of sexual harassment in their nuclear security forces, (2) the extent to which NNSA and its contractors implement EEOC recommendations to prevent and respond to sexual harassment, and (3) the extent to which EEOC found that NNSA and DOE meet its requirements relevant to sexual harassment.

GAO reviewed information on sexual harassment and programs to address such harassment at DOE and NNSA from fiscal years 2015 through 2020. GAO analyzed documents and data, conducted a literature review, interviewed NNSA officials, and compared NNSA and contractor actions with EEOC-recommended practices for preventing harassment.

## What GAO Recommends

GAO is making five recommendations, including that NNSA survey for sexual harassment prevalence and consider the same for its security contractors; consider adopting EEOC-recommended practices; and, with DOE, implement plans to address EEOC-identified deficiencies. NNSA and DOE concurred with the recommendations.

View [GAO-21-307](#). For more information, contact Allison Bowden at (202) 512-3841 or [bawdena@gao.gov](mailto:bawdena@gao.gov).

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## NNSA Could Improve Prevention and Response Efforts in Its Nuclear Security Forces

### What GAO Found

The National Nuclear Security Administration (NNSA)—within the Department of Energy (DOE)—and its contractors may have limited information on the prevalence of sexual harassment within the nuclear security forces. NNSA's nuclear security forces include federal agents in NNSA's Office of Secure Transportation (OST), which is responsible for transporting nuclear materials, and contracted guard forces at four of its sites. Federal officials at NNSA and contractor representatives at four NNSA sites that process weapons-usable nuclear material reported very few cases of sexual harassment from fiscal years 2015 through 2020. Research shows that the least common response to harassment is to report it or file a complaint. The U.S. Equal Employment Opportunity Commission (EEOC)—which enforces federal laws prohibiting harassment—suggests organizations survey employees to assess the extent to which harassment is a problem in their organization. NNSA does not survey employees on this topic, nor does NNSA call for such surveys in its contracts for security forces. Because NNSA relies solely on reported incidents, it may not have full knowledge into the nature or extent of sexual harassment in OST or by its contractors at its sites. Surveying employees would better position them to identify actions to effectively prevent and respond to harassment.

To varying degrees, NNSA and its contractors follow EEOC's recommended practices to prevent and respond to sexual harassment in their nuclear security forces. For example, with respect to recommended training practices, NNSA and its contractors provide antiharassment training to all employees, but only one force offers workplace-specific training that addresses sexual harassment risk factors relevant to the security forces. Because NNSA has not formally reviewed EEOC's practices and considered which to adopt for its nuclear security forces, or made similar considerations for its security force contractors, the agency may be missing opportunities to prevent and respond to sexual harassment.

### Selected EEOC Practices for Effective Training to Prevent and Respond to Sexual Harassment and Number of NNSA's Nuclear Security Forces That Reflect Those Practices in Training

EEOC Promising Practice	Number of forces that reflect the practice
Provided to employees at every level and location of the organization	5 of 5
Tailored to the specific workplace and workforce	1 of 5
Explains the complaint process, as well as any voluntary alternative dispute resolution processes	2 of 5
Explains the range of possible consequences for engaging in prohibited conduct	1 of 5

Source: GAO comparison of National Nuclear Security Administration (NNSA) and protective force contractor information with the U.S. Equal Employment Opportunity Commission's (EEOC) November 2017 *Promising Practices for Preventing Harassment*. | [GAO-21-307](#)

EEOC has found that NNSA and DOE do not meet all EEOC requirements relevant to preventing and responding to sexual harassment. For example, NNSA does not have an antiharassment program or a compliant antiharassment policy. According to EEOC officials, NNSA and DOE efforts to date have improved some aspects of their EEO programs, but because the agencies have not fully implemented their plans to address deficiencies identified by EEOC, DOE and NNSA may be missing opportunities to establish and maintain effective programs that include protection from and response to sexual harassment.

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**Abbreviations**

Co-Chair report	report from the Co-Chairs of the U.S. Equal Employment Opportunity Commission’s Select Task Force on the Study of Harassment in the Workplace
D&I Plan	Diversity and Inclusion Strategic Plan
DOE	Department of Energy
EEO	Equal Employment Opportunity
EEOC	U.S. Equal Employment Opportunity Commission
LANL	Los Alamos National Laboratory
MSPB	U.S. Merit Systems Protection Board
NNSA	National Nuclear Security Administration
NNSS	Nevada National Security Site
OCR	Office of Civil Rights
OST	Office of Secure Transportation
Pantex	Pantex Plant
SNM	special nuclear material
Title VII	Title VII of the Civil Rights Act of 1964
Y-12	Y-12 National Security Complex

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April 19, 2021

The Honorable Adam Smith  
Chairman  
The Honorable Mike Rogers  
Ranking Member  
Committee on Armed Services  
House of Representatives

Sexual harassment can produce harmful psychological, physical, occupational, and economic effects on harassed employees.<sup>1</sup> It can also affect the environment in which they work and lead to decreased organizational performance and productivity and increased employee turnover.<sup>2</sup> In national security settings, sexual harassment can undermine an organization's core values, cohesion, and readiness, as well as public goodwill.<sup>3</sup> Although reported sexual harassment cases have been rare, beginning in January 2019, there were national news reports about allegations of sexual harassment and assault at one of the National Nuclear Security Administration (NNSA) sites that protects materials that can be used in nuclear weapons. These allegations raised questions about the culture of its security force and other NNSA nuclear security forces.

The U.S. Equal Employment Opportunity Commission (EEOC) defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.<sup>4</sup> EEOC

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<sup>1</sup>In this report, we use the term sexual harassment broadly to include sexual assault, as well as behaviors that may or may not meet the legal criteria to constitute unlawful sexual harassment under Title VII of the Civil Rights Act of 1964, as amended.

<sup>2</sup>U.S. Equal Employment Opportunity Commission, *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* (Washington, D.C.: June 2016).

<sup>3</sup>See GAO, *Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors*, [GAO-18-33](#) (Washington, D.C.: Dec. 18, 2017); and Department of Defense, *Annual Report on Sexual Assault in the Military Fiscal Year 2019* (Washington, D.C.: April 2020), app. F: Sexual Harassment Assessment.

<sup>4</sup>Specifically, this behavior is considered sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. 29 C.F.R. § 1604.11 (a).

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enforces federal employment discrimination laws—including the prohibition of harassment. EEOC also makes recommendations to public and private organizations in the United States through published technical assistance documents to help organizations prevent and respond to sexual harassment and other forms of unlawful workplace harassment and conduct. EEOC also develops specific requirements for federal agencies and conducts reviews to ensure compliance with applicable federal sector employment discrimination laws, regulations, management directives, and guidance. EEOC last conducted a formal review of NNSA's Equal Employment Opportunity (EEO) programs, which apply to NNSA's federal employees, in 2017.

NNSA is a semiautonomous agency within the Department of Energy (DOE) that is responsible for the safety, security, and reliability of the U.S. nuclear weapons stockpile. Four NNSA sites are responsible for work with specified quantities of weapons-grade nuclear material, such as plutonium and highly enriched uranium. Weapons-grade nuclear material, when in specified quantities and forms (for example, nuclear weapons, nuclear weapons components, metals, and oxides), is known as Category I special nuclear material (SNM). Contractor employees at these four sites—Los Alamos National Laboratory (LANL), the Nevada National Security Site (NNSS), Pantex Plant (Pantex), and Y-12 National Security Complex (Y-12)—protect SNM from theft, diversion, or sabotage through contracted nuclear security forces, also called protective forces.

NNSA must also keep Category I SNM secure when in transit. NNSA's Office of Secure Transportation (OST) transports nuclear weapons, nuclear weapons components, and SNM between NNSA and DOE sites and military bases using the agency's federal agents. For purposes of this report, we collectively refer to these five forces—OST agents and the contracted protective forces at the four sites that work with Category 1 SNM—as NNSA nuclear security forces.

House Report 116–120, which accompanied the National Defense Authorization Act for Fiscal Year 2020, included a provision for GAO to review sexual harassment in NNSA's protective force. This report examines (1) what NNSA and its contractors know about the prevalence of sexual harassment in the nuclear security forces, (2) the extent to which NNSA and its contractors implement selected EEOC recommendations to prevent and respond to sexual harassment in the nuclear security forces, and (3) the extent to which EEOC has found that NNSA and DOE meet EEO program requirements relevant to sexual harassment.

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To address these objectives, we reviewed efforts to prevent and respond to sexual harassment in NNSA's nuclear security forces from fiscal years 2015 through 2020 within OST and the contracted protective forces at the four NNSA sites possessing Category I SNM: LANL, NNSS, Pantex, and Y-12.<sup>5</sup> To examine what NNSA and its contractors know about the prevalence of sexual harassment in their nuclear security forces, we reviewed information on complaints of sexual harassment reported to NNSA and its protective force contractors from fiscal years 2015 through 2020. We also reviewed policies and procedures from NNSA and its protective force contractors related to sexual harassment. We interviewed NNSA officials and contractor representatives on steps they have taken to understand the prevalence of sexual harassment within their forces.

To better understand sexual harassment prevalence among DOE and NNSA employees, we analyzed information from the results of a 2016 survey conducted by the U.S. Merit Systems Protection Board (MSPB) (the latest available), which asked federal employees about sexual harassment in the workplace, among other workforce questions. We assessed the reliability of these data by reviewing technical documentation, conducting electronic testing for obvious errors in accuracy and completeness, and interviewing MSPB officials. We also conducted our own nonresponse bias analysis to examine certain demographics in the MSPB survey. We determined that the data were sufficiently reliable for our purposes. In addition, we conducted a literature review of peer-reviewed studies on the prevalence of sexual harassment in NNSA nuclear security forces and in federal law enforcement generally, published from January 2010 through February 2020. We compared the information we gathered with leading practices for understanding the prevalence of sexual harassment from EEOC and the National Academies of Sciences, Engineering, and Medicine, as well as with leading practices from the Office of Management and Budget on survey research. For more information on the methodology used to analyze the results of the MSPB survey and in our literature review, see appendix I.

To examine the extent to which NNSA and its contractors implement selected EEOC recommendations to prevent and respond to sexual

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<sup>5</sup>We selected these four sites plus OST to focus on forces working with SNM that presents increased risk to national security. At LANL, during these fiscal years, protective force members were employees of the subcontractor Centerra Group, LLC. At NNSS, protective force members are employees of a contractor named SOC. Prior to March 2018, Centerra Group, LLC, was the protective force contractor at NNSS. At Pantex, and Y-12, protective force members are employees of a contractor named Consolidated Nuclear Security, LLC, which also manages and operates the two sites.

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harassment in their nuclear security forces, we reviewed policies and procedures from NNSA and its protective force contractors related to sexual harassment. To capture information from NNSA officials and protective force contractor representatives related to the nuclear security forces in our scope, we reviewed documents, conducted interviews, and administered a structured data collection instrument. We also conducted site visits to LANL, NNSS, and OST's headquarters in Albuquerque, New Mexico, in December 2019 and February 2020. We planned to conduct visits to all four NNSA sites that work with Category I SNM but, due to the onset of the Coronavirus Disease 2019 pandemic, we were unable to visit Pantex and Y-12 and instead conducted telephone meetings and gathered electronic documentation. During our site visits, we met with NNSA officials and protective force contractor representatives to understand how they prevent and respond to sexual harassment. During the visits, we also met with human resources professionals and union leaders. We interviewed NNSA human resources and EEO officials at the NNSA headquarters level to better understand how NNSA prevents and responds to sexual harassment among its employees. We then compared the information we collected with technical assistance that EEOC published on preventing harassment, which EEOC describes as "Promising Practices," and which are recommended, rather than required, practices.<sup>6</sup> We assessed the extent to which each security force's reported actions aligned with selected Promising Practices. We determined which practices to review based on whether the recommendation was worded explicitly enough for us to audit the extent to which it was implemented and whether the recommendation applied to NNSA nuclear security forces. For more information on our selection of Promising Practices for review, see appendix I. To communicate the results of our review, we used the terms "follows," "partially follows," and "does not follow." A determination of "follows" means that the security force provided evidence that it has adopted all elements of the practice. A determination of "partially follows" means that the security force provided evidence that it has adopted some elements of the practice. A determination of "does not follow" means that the security force did not provide evidence that it has adopted any elements of the practice.

To examine the extent to which EEOC has found that NNSA and DOE meet EEO program requirements relevant to sexual harassment, we reviewed EEOC's evaluations of NNSA's and DOE's compliance with

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<sup>6</sup>U.S. Equal Employment Opportunity Commission, *Promising Practices for Preventing Harassment*, EEOC-NVTA-2017-2 (Washington, D.C.: Nov. 21, 2017). These practices address harassment prevention broadly, including sexual harassment.

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regulations and management directives on EEO programs from 2017 through 2020, including NNSA and DOE documentation submitted to EEOC to aid in those reviews. Because EEOC's evaluations identified a variety of EEO program deficiencies, some of which did not relate to sexual harassment, we identified those relevant to sexual harassment and verified our work with EEOC. We then reviewed documentation and interviewed NNSA and DOE officials to learn what actions NNSA and DOE took to respond to those evaluations. Using input from EEOC on these actions, we provided additional contextual and status information. Additional detail on our methodology is presented in appendix I.

We conducted this performance audit from August 2019 to March 2021, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our 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 findings and conclusions based on our audit objectives.

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## Background

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### OST and Its Federal Agents

NNSA's OST transports nuclear weapons, nuclear weapons components, and SNM between NNSA sites, DOE sites, and military bases. OST employees are federal agents. OST has several sites. Its headquarters and Western Command are run from Albuquerque, New Mexico; its Central Command is run from Amarillo, Texas; its Eastern Command is run from Oak Ridge, Tennessee; and its Training Command is located at Fort Chaffee, Arkansas. OST federal agents' mission differs from that of NNSA's contracted protective forces, which are stationed at NNSA sites, in that OST agents operate convoys of special tractor-trailers and special escort vehicles to transport SNM and other controlled materials (see fig. 1). These agents travel on U.S. public highways that cross multiple federal, state, tribal, and local law enforcement jurisdictions. OST agent



expenses accounted for more than a third of NNSA's roughly \$300 million secure transportation budget in fiscal year 2020.<sup>7</sup>

**Figure 1: Federal Agents in NNSA's Office of Secure Transportation Transporting Controlled Materials**



Source: National Nuclear Security Administration (NNSA). | GAO-21-307

## Protective Force Security Elements at NNSA's Category I Sites

NNSA's contracted protective forces are one of the key elements in its sites' layered "defense-in-depth" protective systems (see fig. 2). Specific elements vary from site to site but usually include, in addition to protective forces,

- a variety of integrated alarms and sensors capable of detecting intruders;
- physical barriers, such as fences and antivehicle barriers;
- numerous access control points, such as turnstiles, badge readers, vehicle inspection stations, radiation detectors, and metal detectors;

<sup>7</sup>The secure transportation budget is part of NNSA's Weapons Activities Appropriation. As we found in January 2010, OST federal agents and contractor-operated protective forces differ significantly in other respects. For example, OST federal agents have different pay, benefit, and management structures and undergo more frequent training. OST also operates a small fleet of aircraft. For a full discussion, see GAO, *Nuclear Security: DOE Needs to Address Protective Forces Personnel System Issues*, [GAO-10-275](#) (Washington, D.C.: Jan. 29, 2010).

- operational security procedures, such as the “two-person” rule—which is designed to prevent any one person from having access to Category I SNM without a second person to act as a check; and
- hardened facilities and storage vaults to protect Category I SNM from unauthorized access.

**Figure 2: NNSA’s Contracted Protective Force Members Conducting Mission Operations and Training at the Pantex Plant and Nevada Nuclear Security Site**



Source: National Nuclear Security Administration (NNSA). | GAO-21-307

NNSA’s contracted protective forces make up a significant portion of the security budget, which accounted for more than 50 percent of NNSA’s \$750 million defense nuclear security operations and maintenance budget in fiscal year 2020.<sup>8</sup> The four sites that interact with weapons-grade nuclear material vary widely in characteristics such as primary mission, the size of the site, and approximate total number of employees, as shown in table 1.

<sup>8</sup>In contrast to OST federal agents, who are funded through NNSA’s Secure Transportation Asset portion of the Weapons Activities Appropriation, contracted protective forces are funded through the Defense Nuclear Security portion of that appropriation.

**Table 1: Characteristics of NNSA Sites with Weapons-Grade Nuclear Material**

	<b>Los Alamos National Laboratory</b>	<b>Nevada National Security Site</b>	<b>Pantex Plant</b>	<b>Y-12 National Security Complex</b>
<b>Primary mission related to weapons-grade materials</b>	Conducts research, design, and development of nuclear weapons; manufactures plutonium components.	Provides nuclear weapon science experimental support for stockpile stewardship and other national security missions.	Assembles and dismantles nuclear weapons and stores nuclear material in the form of weapons and surplus components containing plutonium.	Manufactures highly enriched uranium components for nuclear weapons.
<b>Size of site area (square miles)</b>	36	1,360	25	6.7
<b>Approximate number of total employees</b>	<b>12,800</b>	<b>3,300</b>	<b>3,800</b>	<b>4,400</b>

Sources: National Nuclear Security Administration (NNSA) and protective force contractors. | GAO-21-307

## Characteristics of NNSA's Nuclear Security Forces

NNSA's nuclear security workforces vary in several ways, including the proportion of women on each force, attrition, and whether a bargaining unit represents force members. Additionally, all of NNSA's nuclear security workforces are predominately male. Table 2 provides detailed information on selected characteristics of each of the forces in our scope relevant to our review.

**Table 2: Workforce Characteristics of NNSA Security Forces Responsible for Securing Weapons-Grade Nuclear Material, End of Fiscal Year 2020**

	<b>NNSA's Office of Secure Transportation</b>	<b>Los Alamos National Laboratory</b>	<b>Nevada National Security Site</b>	<b>Pantex Plant</b>	<b>Y-12 National Security Complex</b>
<b>Number of uniformed members<sup>a</sup></b>	316	315	245	494	485
<b>Number of uniformed members that are women<sup>b</sup></b>	0	14 (4.4 percent)	7 (2.9 percent)	38 (7.7 percent)	39 (8.0 percent)
<b>Attrition of uniformed members</b>	37 (11.7 percent)	27 (8.8 percent)	14 (5.7 percent)	20 (4.0 percent)	19 (3.9 percent)
<b>Members represented by a bargaining unit</b>	No <sup>c</sup>	Yes	Yes	Yes	Yes

Sources: National Nuclear Security Administration (NNSA) and protective force contractors. | GAO-21-307

<sup>a</sup>These counts reflect only uniformed members due to the scope of our review. We excluded administrative personnel, managers, and other nonuniformed members from these counts as they are outside the scope of this review.

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<sup>b</sup>Force members counted in these percentages are uniformed protective force members for NNSA's contractors or federal agents in NNSA's Office of Secure Transportation, rather than administrative or management personnel.

<sup>c</sup>Federal agents in the Office of Secure Transportation are prohibited from unionizing under Executive Order 11491, according to Office of Secure Transportation officials.

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## Definitions of and Risk Factors for Sexual Harassment

A number of federal laws and executive orders prohibit sex discrimination, including sexual harassment, in the workplace. In NNSA's nuclear security forces, federal agents in OST are subject to federal prohibitions against sex discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sexual harassment.<sup>9</sup> In addition, the Civil Service Reform Act of 1978, as amended, prohibits discrimination on the basis of specified protected classes, which include sex.<sup>10</sup> Similarly, federal contractors, including contracted protective force members, are generally prohibited from engaging in discrimination in employment on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin.<sup>11</sup>

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<sup>9</sup>Title VII generally covers private, state, and local government employers with 15 or more employees, as well as federal employers. See 42 U.S.C. §§ 2000e(b), (f), 2000e-1, 2000e-16. Title VII prohibits covered employers from discriminating against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a)(1). The Supreme Court has held that sexual harassment, when it meets certain criteria, is a form of sex discrimination prohibited by Title VII. See, e.g., *Meritor Sav. Bank v. Vinson*, 477 U.S. 57 (1986).

<sup>10</sup>5 U.S.C. § 2302(b)(1), (b)(10). Further, Executive Order 11478, as amended, generally prohibits discrimination in federal employment on the basis of race, color, religion, sex, national origin, handicap, age, sexual orientation, gender identity, or status as a parent and requires covered federal agencies to maintain an affirmative program of equal employment opportunity for employees and applicants. Exec. Order No. 11,478, 34 Fed. Reg. 12,985 (Aug. 8, 1969) (as amended by Exec. Order No. 13,152, 65 Fed. Reg. 26,115 (May 4, 2000) and Exec. Order No. 13,672, 79 Fed. Reg. 42,971 (July 23, 2014)).

<sup>11</sup>Specifically, Executive Order 11246 generally requires federal agencies to include a non-discrimination clause in government contracts. Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965). The executive order also generally calls for agencies to include in contracts a provision that requires contractors to take affirmative action to ensure that equal opportunity is provided in employment without regard to these protected characteristics. In general, federal contractors and subcontractors, as well as federally-assisted construction contractors and subcontractors that conduct more than \$10,000 in federal government business in a year are covered by Executive Order 11246. A current version of the executive order, incorporating subsequent amendments, is available at: <https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>.

In addition to such prohibited behaviors, MSPB defines sexual harassment as including behaviors that may not meet the legal definition of sexual harassment, such as an offhand remark based on sex. Additionally, criminal acts, such as sexual assault, are sometimes included in other definitions of sexual harassment. MSPB groups sexual harassment behaviors into three categories: gender harassment, unwanted sexual attention, and sexual coercion (see table 3). In 2016, MSPB surveyed federal employees on specific sexual harassment behaviors falling under those three categories and asked them to indicate whether they had experienced or observed such behaviors in the 2 years prior to the survey.<sup>12</sup>

**Table 3: Types of Sexual Harassment<sup>a</sup> Behaviors Reported from MSPB’s 2016 Merit Principles Survey**

Gender harassment	Unwanted sexual attention	Sexual coercion
<ul style="list-style-type: none"> <li>Derogatory or unprofessional terms related to sex or gender</li> </ul>	<ul style="list-style-type: none"> <li>Unwelcome invasion of personal space (e.g., touching, crowding, leaning over)</li> </ul>	<ul style="list-style-type: none"> <li>Offer of preferential treatment in the workplace in exchange for sexual favors (quid pro quo)</li> </ul>
<ul style="list-style-type: none"> <li>Unwelcome sexual teasing, jokes, comments, or questions</li> </ul>	<ul style="list-style-type: none"> <li>Unwelcome communications (e.g., emails, phone calls, notes, text messages, social media contacts) of a sexual nature</li> </ul>	<ul style="list-style-type: none"> <li>Pressure for sexual favors</li> <li>Pressure for dates</li> </ul>
<ul style="list-style-type: none"> <li>Exposure to sexually oriented material (e.g., photos, videos, written material)</li> <li>Exposure to sexually oriented conversations</li> </ul>	<ul style="list-style-type: none"> <li>Unwelcome sexually suggestive looks or gestures</li> </ul>	<ul style="list-style-type: none"> <li>Stalking (e.g., unwanted physical or electronic intrusion into one’s personal life)</li> <li>Sexual assault or attempted assault</li> </ul>

Source: U.S. Merit Systems Protection Board (MSPB), Office of Policy and Evaluation, Update on Sexual Harassment in the Federal Workplace (Washington, D.C.: 2018). | GAO-21-307

Note: Respondents also had the option to answer “other” and provide a description of the behavior. The survey also asked whether respondents experienced “different treatment based on sex/gender.” MSPB did not include different treatment as one of the 12 behaviors that constitute sexual harassment in its survey analysis because, according to MSPB, such behavior describes a form of sex discrimination that is distinct from sexual harassment.

<sup>a</sup>These behaviors may or may not constitute unlawful sexual harassment, depending on the circumstances.

<sup>12</sup>MSPB administers a periodic merit principles survey of federal employees based on a probability sample that covers a variety of workforce issues, prohibited personnel practices, and selected aspects of employee work experiences and work environments. The 2016 Merit Principles Survey included several questions on the incidence of sexual harassment in the workplace (e.g., whether respondents experienced or observed various sexual harassment behaviors in the preceding 2 years), actions taken by federal employees to address sexual harassment, and employee perceptions of federal agency policies and practices related to sexual harassment. See app. I and app. II for additional information on the MSPB survey and our analysis of MSPB survey data.

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When sexual harassment occurs, both the victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. For instance, in a March 2018 publication summarizing its 2016 survey, MSPB indicated that government-wide, approximately one in seven federal employees (about 20.9 percent of women and 8.7 percent of men) reported experiencing sexual harassment in the workplace.<sup>13</sup> In that publication, MSPB also reported that harassment by employees of the same sex or by more than one employee occurred, although harassment by a person or persons of the opposite sex from the person harassed was more greatly reported.

The EEOC Co-Chair report identified 12 risk factors for harassment in the workplace.<sup>14</sup> According to OST officials and protective force contractor representatives, some of these risk factors are relevant to their work environments, including:

- Homogeneous workforces where employees in the minority can be isolated and may actually be, or at least appear to be, vulnerable to pressure from others, and employees in the majority feel threatened by those they perceive as “different” or “other” or might simply be uncomfortable around others who are not like them.
- Workplaces with significant power disparities, where supervisors may feel emboldened to exploit low-ranking employees.
- Workplaces where work is monotonous or consists of low-intensity tasks, in which harassing or bullying behavior may become a way to vent frustration or avoid boredom.
- Physically isolated workspaces, where the workers may have few opportunities to work with others, and there are fewer or no witnesses to harassment.

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## EEOC Recommended Practices and Requirements on Sexual Harassment Prevention and Response

EEOC provides leadership and guidance to private and public sector entities on preventing and addressing discrimination in the workplace,

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<sup>13</sup>U.S. Merit Systems Protection Board, Office of Policy and Evaluation, *Update on Sexual Harassment in the Federal Workplace* (Washington, D.C.: March 2018).

<sup>14</sup>The report stated that the list of risk factors was not exclusive or exhaustive, but were readily identifiable by the authors.

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including discrimination based on sex. EEOC also oversees federal agencies' adherence to EEO program requirements. To provide leadership and guidance, EEOC issued a November 2017 document on *Promising Practices for Preventing Harassment*.<sup>15</sup> The Promising Practices, based primarily on the EEOC Co-Chair report, are not legal requirements but, according to EEOC, identify approaches employers can take to prevent and address harassment and may enhance employers' compliance efforts. The Promising Practices are organized into four areas: (1) leadership and accountability, (2) comprehensive and effective harassment policy, (3) effective and accessible harassment complaint system, and (4) effective harassment training.

Further, EEOC has issued regulations to implement federal EEO requirements in the federal sector.<sup>16</sup> EEOC ensures federal agency compliance with EEOC requirements through reviews of agencies' EEO policies and by providing assistance to identify and address deficiencies. Following review, agencies submit annual reports to EEOC on their plans to correct deficiencies and the status of activities under those plans.<sup>17</sup> Federal agencies must have a process for investigating and resolving formal EEO complaints of discrimination. Federal agencies must also have EEO affirmative action programs, which EEOC also monitors and evaluates. As part of such programs, EEOC expects federal agencies to have an effective antiharassment policy to aim to prevent harassing behaviors, in addition to having a formal EEO complaint process. If EEOC finds an agency's program not to be in compliance, and the agency does not successfully undertake efforts to achieve compliance, EEOC can publicly identify agencies' noncompliance.<sup>18</sup> EEOC last evaluated NNSA's programs to implement EEOC requirements in mid-2017. In addition, NNSA must follow DOE EEO policies and programs if NNSA has not

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<sup>15</sup>U.S. Equal Employment Opportunity Commission, *Promising Practices for Preventing Harassment*.

<sup>16</sup>See 29 C.F.R. pt. 1614.

<sup>17</sup>EEOC's Management Directive 715 requires federal agencies to annually submit a report on the status of activities undertaken pursuant to their EEO programs under Title VII of the Civil Rights Act of 1964, as amended, including a plan that sets forth the steps they will take in the future to correct deficiencies. See U.S. Equal Employment Opportunity Commission, *EEO Management Directive 715 (EEO-MD-715)* (Washington, D.C.: Oct. 1, 2003).

<sup>18</sup>29 C.F.R. § 1614.102(e).



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established more specific policies and programs to guide its activities. EEOC last conducted a review of DOE's EEO programs in July 2020.

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## DOE and NNSA Policies and Procedures That Address Sexual Harassment in NNSA's Nuclear Security Forces

For DOE and NNSA employees, including OST agents, the main policy document addressing sexual harassment is the Secretary of Energy's policy statement on EEO, harassment, and retaliation.<sup>19</sup> That policy document has been adopted by, and is employed within, NNSA. OST is to follow DOE and NNSA policies and procedures for sexual harassment prevention and response under the leadership of DOE and NNSA's Office of Civil Rights (OCR). NNSA's OCR is responsible for planning, coordinating, and implementing DOE's EEO policies and processes for the administrative portion of formal EEO complaints (including complaints from OST employees) within designated time frames. OCR also develops and delivers required EEO training to employees and managers (including to OST employees and managers). NNSA's OCR officials explained that their work intersects with the work of multiple offices within DOE. For example, one of OCR's responsibilities is to process and investigate formal claims of sexual harassment within NNSA.<sup>20</sup>

Additionally, NNSA's OCR can collect information on EEO orders and make recommendations, but final decision-making occurs at the DOE level. Other NNSA offices are involved in assisting NNSA employees, including OST employees, in preventing and responding to sexual harassment. For example, employees can make a complaint of sexual harassment with NNSA's Employee Relations Branch. In addition, according to NNSA officials, other offices or programs, such as the Office of the Ombudsman, the DOE Alternative Dispute Resolution Office, Employee Concerns Program, and Employee Assistance Program can guide and informally assist employees experiencing workplace conflict, including harassing conduct.

NNSA's contracted protective forces at each site follow the policies and procedures of the contractor organizations that employ each protective force. For example, to implement applicable requirements prohibiting

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<sup>19</sup>Department of Energy, *Secretary of Energy's Policy Statement on Equal Employment Opportunity, Harassment, and Retaliation* (Washington, D.C.: December 2020).

<sup>20</sup>According to NNSA officials, OCR processes and investigates claims related to unlawful discrimination and harassment under applicable federal laws, including Title VII of the Civil Rights Act of 1964, in accordance with 29 C.F.R. pt. 1614.

sexual harassment, each protective force contractor has its own policy, provides its own training, and conducts investigations based on the policies created by the company that holds the protective force contract.

## NNSA and Its Contractors May Have Limited Information on the Prevalence of Sexual Harassment in the Nuclear Security Forces

NNSA may have limited information on the prevalence of sexual harassment in both its federal and contracted nuclear security forces at the four sites that work with Category I SNM. Specifically, NNSA and its contractors rely on reported cases to understand prevalence, and employees have reported few cases of sexual harassment from fiscal years 2015 through 2020. For example, NNSA officials reported one sexual harassment complaint related to OST employees from fiscal years 2015 through 2020. Protective force contractors each reported two or fewer cases from fiscal years 2015 through 2020. See table 4 for information on the number of cases of sexual harassment reported by each nuclear security force in our scope for fiscal years 2015 through 2020.

**Table 4: Number of Cases of Sexual Harassment Reported by NNSA’s Nuclear Security Forces with Category I Special Nuclear Material, Fiscal Years 2015 through 2020**

Nuclear security force	Number of cases reported by the nuclear security force, fiscal years 2015 through 2020
NNSA’s Office of Secure Transportation	1
Los Alamos National Laboratory <sup>a</sup>	2
Nevada National Security Site	1
Pantex Plant	1
Y-12 National Security Complex	1

Sources: National Nuclear Security Administration (NNSA) and protective force contractors. | GAO-21-307

Note: Category I special nuclear material is nuclear material, such as plutonium and highly enriched uranium, in specified quantities and forms (for example, nuclear weapons, nuclear weapons components, metals, and oxides). A report of harassment does not necessarily constitute a finding of harassment.

<sup>a</sup>The current protective force contractor at Los Alamos National Laboratory has been in place since December 2015. We do not have information on reported complaints prior to that time.

However, according to the EEOC Co-Chair report, a low number of reported cases may not indicate that prevalence is low because studies have found that workers who experience sexual harassment often do not report it, and the least common response to experiencing harassment is

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to report the harassment or file a complaint.<sup>21</sup> Further, our review of literature on sexual harassment in federal law enforcement suggests that victims of sexual harassment are unlikely to report their experiences to management. For example, a 2019 study found a low rate of official reporting (19 percent) among those who experienced sexual harassment.<sup>22</sup> This study found that respondents did not report incidents primarily because of fear of retaliation.

Further, we analyzed responses to a confidential survey of DOE employees that MSPB conducted from July through September 2016—the latest available survey. This survey was administered to a stratified random sample of DOE federal civilian employees.<sup>23</sup> Although OST agents are included in the sampling frame and, hence, results based on the survey represent these agents, it does not identify the subset of DOE employees that are OST. In addition, the survey excludes employees of contractors, including protective forces, as those employees are not part of the sampling frame. However, it is currently the only data available capturing information on the prevalence of sexual harassment at DOE beyond information received from harassment reports. According to the MSPB summary of the results, the survey indicated that at DOE, about 17 percent of women and about 8 percent of men reported experiencing some form of sexual harassment in the 2 years prior to the survey, although, due to sampling error, we cannot conclude that these

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<sup>21</sup>The EEOC Co-Chair report cited a study by Cortina and Berdhal as support. See Lilia M. Cortina and Jennifer L. Berdahl, “Sexual Harassment in Organizations: A Decade of Research in Review,” in *The SAGE Handbook of Organizational Behavior*, eds. J. Barling & C.L. Cooper (SAGE publications: 2008), 469-96.

<sup>22</sup>Helen H. Yu and David Lee, “Gender and Public Organization: A Quasi-Experimental Examination of Inclusion on Experiencing and Reporting Wrongful Behavior in the Workplace,” in *Public Personnel Management*, vol. 49, no. 1 (2020 © the authors 2019), 3–28. Here, the term “experience sexual harassment” refers to individuals who self-report harassment in workplace surveys or other studies using definitions that the research team provided.

<sup>23</sup>MSPB officials told us that the response rate for DOE was about 40 percent. To assess for potential bias in the survey results based on sampled DOE employees who did not respond to the survey, we examined MSPB’s nonresponse bias analysis and conducted our own nonresponse bias analysis. Based on these analyses we concluded that if bias exists in the sample responses, it likely underestimates the prevalence of sexual harassment. Although our estimates are based on respondents to the MSPB survey, we analyzed the data using survey software that accounts for the sample design and survey weights, rather than presenting an unweighted analysis. As a result, our weighted estimates generalize to the population of DOE employees who were eligible for the survey, rather than only representing those who responded to the survey. For more information on our methods and nonresponse bias analysis, see app. I.

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percentages statistically differ.<sup>24</sup> The behaviors referenced in the survey may or may not be unlawful, depending on the circumstances. The survey information provides an indication that, despite the low number of reported cases at NNSA, some employees across DOE may have experienced conduct they believed to be sexual harassment. See appendix II for additional analysis of MSPB survey data.

EEOC's Promising Practices recommend that employers conduct anonymous surveys to assess whether harassment may be occurring in their organization. EEOC stated that organizations may find it helpful to solicit information anonymously so that employees may feel comfortable sharing sensitive information. In addition, according to a 2018 National Academies of Sciences, Engineering, and Medicine report, the prevalence of sexual harassment is best estimated using representative surveys and not by relying on the number of official reports of sexual harassment made to an organization.<sup>25</sup> Further, the Office of Management and Budget has developed leading practices for survey research.<sup>26</sup> These leading practices apply to federal agencies using data

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<sup>24</sup>The 95-percent confidence interval for the estimate of women experiencing sexual harassment is 10 to 27 percent. The 95-percent confidence interval for the estimate of men experiencing sexual harassment is 5 to 14 percent. In this report, we characterize employees as having experienced sexual harassment if they responded in the MSPB survey that they experienced any of the sexual harassment behaviors included in the survey. As noted previously, the definition of sexual harassment for the MSPB survey is not synonymous with the legal definition under federal employment discrimination laws and regulations, so the behaviors reported under the survey may or may not be unlawful, depending on the circumstances. According to MSPB officials, MSPB surveyed a sample of DOE employees that may have included NNSA employees but did not specifically survey NNSA employees. Because MSPB followed a probability procedure based on random selections, its sample is only one of a large number of samples that might have been drawn using the same sampling procedure. Since each sample could have provided different estimates, we express our confidence in the precision of this particular samples results as a 95- percent confidence interval (e.g., from "X" to "Y" percent). This is the interval that would contain the actual population value for 95 percent of the samples that could have been drawn.

<sup>25</sup>National Academies of Sciences, Engineering, and Medicine, *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine* (Washington, DC: The National Academies Press, 2018).

<sup>26</sup>Office of Management and Budget, *Standards and Guidelines for Statistical Surveys* (Washington, D.C.: September 2006). See also American Association for Public Opinion Research, *Best Practices for Survey Research*, <https://www.aapor.org/Standards-Ethics/Best-Practices.aspx>; and Federal Committee on Statistical Methodology, *Measuring and Reporting Sources of Error in Surveys* (July 2001).

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collection methods when conducting a census or sample survey of populations.<sup>27</sup>

There may be limited information on the prevalence of sexual harassment in NNSA's nuclear security forces in part because NNSA and its protective force contractors do not conduct such surveys, according to NNSA officials and contractor representatives. Instead, NNSA relies on employees to report allegations of sexual harassment—generally the least-common response to harassment—to understand the extent to which sexual harassment occurs in their forces. NNSA and its protective force contractors survey employees on topics that are related to, but not directly focused on, sexual harassment. Specifically:

- Along with other NNSA and DOE employees, OST agents complete the Office of Personnel Management's annual Federal Employee Viewpoint Survey, a confidential survey with questions on, for example, whether employees perceive that illegal discrimination is tolerated or that supervisors work well with employees of different backgrounds; NNSA officials said that they conduct analyses of employees' responses to this survey.<sup>28</sup> The survey can provide information about employees' perceptions of their workplaces, according to the Office of Personnel Management, but it does not specifically ask about sexual harassment topics and, therefore, cannot provide information on the prevalence of sexual harassment.

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<sup>27</sup>Leading practices for survey research examine total survey error and are designed to help produce reliable estimates for key reporting groups and that assess and address potential nonresponse bias and use statistical comparisons to draw conclusions. Sampling errors are errors associated with survey estimates that are due to sampling some, and not all, of the units in the sampling frame. Nonsampling errors are errors in sample estimates that do not stem from sampling, such as nonresponse error, coverage error, measurement error, or data processing error. Total survey error includes sampling and nonsampling error.

<sup>28</sup>NNSA officials said they review survey response information on topics that may relate to sexual harassment, including responses to the following questions: (Question 34) Policies and programs promote diversity in the workplace (for example, recruiting minorities and women, training in awareness of diversity issues, mentoring); (Question 38) Prohibited Personnel Practices (for example, illegally discriminating for or against any employee/applicant, obstructing a person's right to compete for employment, knowingly violating veterans' preference requirements) are not tolerated; (Question 45) My supervisor is committed to a workforce representative of all segments of society; (Question 55) Supervisors work well with employees of different backgrounds. NNSA officials said they also review the following Federal Employee Viewpoint Survey indices: Employee Engagement Index; Supervisors' Display of Trust, Respect, and Support; and the New IQ Five Behaviors and Habits of Inclusion.

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- Although not required to do so, protective force contractor representatives at three sites told us that they periodically survey employees. However, those surveys do not specifically ask about sexual harassment issues. For example, protective force contractor representatives at NNSS told us that they survey employees biennially about employee engagement and that they administered their last survey in 2019. According to these managers, the survey asks anonymous and open-ended questions about whether employees have experienced behaviors at work that they would consider inappropriate, and the results of the survey are distributed to protective force managers for review and action planning. Protective force contractor representatives at Pantex and Y-12 also reported that they periodically survey employees but not specifically on sexual harassment issues.
  - DOE's Office of Enterprise Assessments has reported that contractors at all four sites conduct surveys on safety culture.<sup>29</sup> According to the Office of Enterprise Assessments, sexual harassment is a component of safety culture, since it relates to psychological safety. A June 2020 evaluation from the office found that site leaders were supportive of efforts to gather survey data but that several sites were not able to provide statistics demonstrating that the surveys had proven validity and reliability.<sup>30</sup> In addition, none of the surveys included questions specifically about sexual harassment topics. The evaluation recommended that site contractors implement survey techniques that will produce credible safety culture assessment results. The assessment also recommended that DOE set expectations with its contractors for survey design, administration, and analysis.

Other federal agencies conduct surveys on sexual harassment similar to the 2016 MSPB survey. For example, since 1988—and most recently in 2018—the Department of Defense has conducted a confidential survey every 2 years that measures the frequency of unwanted sexual contact,

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<sup>29</sup>Safety culture includes a set of organizational competencies such as management initiating communications on safety to promote safe work performance. It also includes employee-led committees and teams that work to identify concerns, improvements, and effective practices. In addition, it includes the use of formal joint management and employee groups for analyzing and resolving safety issues to promote shared decision-making and responsibility for safe mission accomplishment. Last, it includes a variety of communication channels and media to help shape and sustain mutually respectful relationships and collaborative engagement.

<sup>30</sup>Department of Energy, Office of Enterprise Assessments, *Assessment of Safety Culture Sustainment Processes at U.S. Department of Energy Sites* (Washington, D.C.: June 2020).

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sexual harassment, gender discriminatory behaviors, and sex discrimination that service members experienced during the prior 12 months.<sup>31</sup> The department has stated that its surveys help monitor the progress of its programs and policies related to sexual harassment and help the department implement its goal of reducing and ultimately eliminating sexual harassment within the military. In addition, in 2019, the National Institutes of Health administered a confidential and anonymous survey on workplace climate and harassment to better understand the experiences of employees and others associated with the agency.<sup>32</sup> These surveys provide the federal agencies with information on the nature and extent of sexual harassment in their workforces that is based on direct employee input, and if conducted over time may provide information on trends.

From fiscal years 2015 through 2020, NNSA and protective force contractors have reported few incidents of sexual harassment. However, information from the 2016 MSPB survey of DOE employees and information from our literature review of studies of sexual harassment in law enforcement situations suggest that sexual harassment may occur in the NNSA's nuclear security forces and go unreported. The workplace climate, employee engagement, and safety culture surveys that NNSA and its protective force contractors conducted indicate that the agency and its contractors understand the importance of gathering and analyzing survey information and that they have the capability to conduct organization-specific surveys. However, NNSA and its protective force contractors are not using this data-gathering method to inform their understanding of the prevalence of sexual harassment in their workplaces and, as a result, they may not have more complete knowledge of the nature or prevalence of any such sexual harassment in their nuclear security forces. Surveying employees using leading practices for survey research would better position NNSA and its protective force contractors to identify what actions they could take to more effectively prevent and respond to any sexual harassment.

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<sup>31</sup>For the results of the most recent survey, see Department of Defense, Office of People Analytics, *2018 Workplace and Gender Relations Survey of Active Duty Members Overview Report*, OPA Report No. 2019-027(Alexandria, VA: May 2019).

<sup>32</sup>National Institutes of Health, *NIH Workplace Climate and Harassment Survey Summary Findings Report* (Bethesda, MD: September 2020).



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## NNSA and Its Contractors Follow Selected EEOC Recommended Practices to Varying Extents

NNSA and its contractors follow EEOC's Promising Practices, which are aimed at helping to prevent and respond to harassment and are recommended practices but not requirements, to varying extents. EEOC's Promising Practices are organized into four areas: (1) leadership and accountability, (2) comprehensive and effective harassment policy, (3) effective and accessible harassment complaint system, and (4) effective harassment training. See below for summary information and selected examples for each of these four areas.

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### Leadership and Accountability

NNSA nuclear security forces follow selected EEOC Promising Practices for leadership and accountability to varying degrees (see table 5).<sup>33</sup> Specifically, based on their reported actions, we found that NNSA fully follows five of six leadership and accountability practices for its employees, including for OST federal agents. The protective force contractor at NNSA fully follows five of six practices, while the contractor at Pantex and Y-12 fully follows three of six practices, and the contractor at LANL fully follows all six practices.

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<sup>33</sup>See app. I for a discussion of our selection methodology, and see app. III for more details on the extent to which NNSA and its contractors follow these recommended practices in NNSA's nuclear security forces.

**Table 5: Extent to Which NNSA’s Nuclear Security Forces Follow Selected EEOC Promising Practices for Leadership and Accountability in Preventing and Responding to Sexual Harassment**

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including Office of Secure Transportation)	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>a</sup>	Los Alamos National Laboratory
Incorporate enforcement of, and compliance with, the organization’s harassment and other discrimination policies and procedures in the organization’s operational framework.	Follows	Follows	Follows	Follows
Assess harassment risk factors and take steps to minimize or eliminate those risks.	Partially follows	Follows <sup>b</sup>	Partially follows	Follows
Engage organizational leadership in harassment prevention and correction efforts.	Follows	Follows	Follows	Follows
Acknowledge employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating and resolving harassment complaints.	Follows	Does not follow	Does not follow	Follows
Periodically evaluate the effectiveness of the organization’s strategies to prevent and address harassment.	Follows	Follows	Does not follow	Follows
Ensure that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures are implemented and communicated to employees.	Follows	Follows	Follows	Follows

Legend: ● Follows, ◐ Partially follows, ○ Does not follow

Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors, compared with U.S. Equal Employment Opportunity Commission’s (EEOC) November 2017 *Promising Practices for Preventing Harassment*. | GAO-21-307

Note: “Follows” indicates that the force has adopted all elements of the practice. “Partially follows” indicates that force has adopted some elements of the practice. “Does not follow” indicates that the force has not adopted any elements of the practice.

<sup>a</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

<sup>b</sup>The protective force contractor at the Nevada National Security Site assesses risk using internal complaint data rather than the risk factors for EEOC-identified sexual harassment.

For example, based on their reported actions and as shown in table 5, we found that the contracted protective forces at LANL and NNSS follow the Promising Practice to assess harassment risk factors and take steps to minimize or eliminate those risks. EEOC encourages employers to assess risk factors for harassment—such as having a homogeneous workforce or work that can be monotonous—and then take steps to minimize those risks—such as by increasing the diversity of the workforce or varying job duties to reduce boredom. Protective force managers noted that the monotony and isolation of the work at their sites stood out among risk factors as being particularly relevant to their work. Similarly, an OST

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official told us that there is quite a bit of monotony in the work performed by federal agents, who can be on the road for many days each month.

To assess for risk, the protective force contractor at LANL reported that its site reviews information on personnel engaging in conduct that is inconsistent with the company's core business ethics. According to the contractor, the results of this analysis drive the type of training they offer to LANL protective force employees. The protective force contractor at NNSA reported that it assesses for harassment risk factors through a process facilitated by the contractor's ethics and compliance committee, which meets quarterly to review and analyze significant trends in, and corrective actions taken in response to, calls to the company's ethics helpline. These meetings also act as a venue to recommend changes, if appropriate, in the company's policies, procedures, or programs related to legal or regulatory compliance. The protective force contractor at Pantex and Y-12 reported it does not assess for harassment risk factors. However, both sites reported taking action to minimize risk factors that managers have identified outside of the context of sexual harassment. For example, protective force managers at Pantex and Y-12 reported that they aim to relieve monotony by running response drills and having supervisors visit supervised employees while they are on post. NNSA officials reported that they employ numerous preventative measures, but they do not use a formalized methodology to assess risk.

Overall, EEOC's Promising Practices state that the cornerstone of a successful harassment prevention strategy is the consistent and demonstrated commitment of senior leaders to create and maintain a culture in which harassment is not tolerated. The EEOC Co-Chair report further provides that leadership and commitment to a diverse, inclusive, and respectful workplace in which harassment is simply not acceptable is paramount and that an organization must have systems in place that hold employees accountable for this expectation.<sup>34</sup>

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## Comprehensive and Effective Harassment Policy

NNSA nuclear security forces follow selected EEOC Promising Practices for a comprehensive and effective harassment policy to varying degrees (see table 6).<sup>35</sup> Specifically, based on our review of their policies and their reported actions, we found that NNSA fully follows four of 14 practices for

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<sup>34</sup>EEOC Co-Chair report.

<sup>35</sup>See app. I for a discussion of our selection methodology.

its employees, including OST federal agents. The protective force contractors at NNSS and LANL fully follow nine of 14 practices, and the contractor at Pantex and Y-12 fully follows six of 14 practices.

**Table 6: Extent to Which NNSA's Nuclear Security Forces Follow Selected EEOC Promising Practices for Comprehensive and Effective Policies in Preventing and Responding to Sexual Harassment**

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including OST) <sup>b</sup>	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>c</sup>	Los Alamos National Laboratory
Includes a statement that the policy applies to employees at every level of the organization, as well as to applicants, clients, customers, and other relevant individuals.	Follows	Follows	Follows	Follows
Includes an unequivocal statement that harassment based on, at a minimum, any protected characteristic will not be tolerated.	Follows	Follows	Follows	Follows
Includes an easy-to-understand description of prohibited conduct, including examples.	Partially Follows	Follows	Partially Follows	Follows
Includes a description of any processes for employees to informally share or obtain harassment information without filing a complaint.	Does Not Follow	Follows	Does Not Follow	Follows
Includes a description of the harassment complaint system, including multiple (if possible), easily accessible reporting avenues.	Partially Follows	Follows	Follows	Follows
Includes a statement encouraging employees to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may become prohibited harassment), even if they are not sure conduct violates policy.	Partially Follows	Partially Follows	Partially Follows	Follows
Includes a statement that the reporting system will provide a prompt, thorough, and impartial investigation.	Partially Follows	Partially Follows	Follows	Partially Follows
Includes a statement that the identity of those reporting harassment, alleged victims, witnesses, and alleged harassers will be kept confidential. <sup>a</sup>	Partially Follows	Partially Follows	Partially Follows	Partially Follows
Includes a statement that employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.	Does Not Follow	Does Not Follow	Does Not Follow	Does Not Follow
Includes a statement that information obtained during an investigation will be kept confidential. <sup>a</sup>	Partially Follows	Partially Follows	Partially Follows	Partially Follows
Includes an assurance that the organization will take immediate and proportionate corrective action if it determines that harassment has occurred.	Partially Follows	Follows	Partially Follows	Partially Follows
Includes an unequivocal statement that retaliation is prohibited and that individuals will not be subjected to retaliation.	Partially Follows	Follows	Follows	Follows
Is written and communicated clearly; easy to understand.	Follows	Follows	Follows	Follows
Is provided to employees upon hire and during harassment trainings, and posted centrally.	Follows	Follows	Partially Follows	Follows

Legend: ● Follows, ● Partially follows, ○ Does not follow

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Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors, compared with Equal Employment Opportunity Commission's (EEOC) November 2017 *Promising Practices for Preventing Harassment*. | GAO-21-307

Note: "Follows" indicates that the force has adopted all elements of the practice. "Partially follows" indicates that force has adopted some elements of the practice. "Does not follow" indicates that the force has not adopted any elements of the practice.

<sup>a</sup>To the extent possible and permitted by law, consistent with a thorough and impartial investigation.

<sup>b</sup>The policy used by the Office of Secure Transportation (OST) is the policy produced by the Department of Energy (DOE), to which all DOE employees, including NNSA employees, are subject.

<sup>c</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

For example, based on a review of their policies, we found that NNSA and all four contracted protective forces include in their harassment policies an unequivocal statement that harassment based on any protected characteristic is not tolerated, as recommended in the Promising Practices. However, we found that only the protective force contractors at NNSA and Los Alamos follow the practice to include easy-to-understand descriptions of prohibited conduct that include examples of what is not tolerated. The use of examples is particularly important because researchers have concluded that many individuals do not label certain forms of unwelcome sexually based behaviors—even if they view them as problematic or offensive—specifically as sexual harassment.<sup>36</sup>

In addition, we found that NNSA and all four contracted protective force policies either follow or partially follow the practice to include a description of the organization's harassment complaint system, including multiple, easily accessible reporting avenues. However, only two of the four policies describe processes for employees to informally share or obtain information about harassment without filing a complaint. As we and others have previously reported, the least common response to harassment is to take formal action—either to report the harassment internally or to file a formal legal complaint.<sup>37</sup> Therefore, according to EEOC, informal pathways may encourage more engagement from those experiencing or witnessing harassment.

Overall, in its Promising Practices, EEOC states that a comprehensive, clear harassment policy that is regularly communicated to all employees is an essential element of an effective harassment prevention strategy. The EEOC Co-Chair report states that employees in workplaces without

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<sup>36</sup>See, for example, Vicki J. Magley et al., "Outcomes of Self-Labeling Sexual Harassment," in *Journal of Applied Psychology*, vol. 84 (1999). 390, as reported in the EEOC Co-Chair report.

<sup>37</sup>See GAO, *Workplace Sexual Harassment: Experts Suggest Expanding Data Collection to Improve Understanding of Prevalence and Costs*, [GAO-20-564](#) (Washington, D.C.: Sept. 30, 2020) and the EEOC Co-Chair report.

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policies report the highest levels of harassment, further underscoring the reason for a clear and well-communicated policy.

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### Effective and Accessible Harassment Complaint System

NNSA nuclear security forces follow selected EEOC Promising Practices for an effective and accessible harassment complaint system to varying degrees (see table 7).<sup>38</sup> Specifically, based on their reported actions, we found that NNSA fully follows two of four practices for its employees, including for OST. The protective force contractor at NNSS fully follows two of four practices; the contractor at Pantex and Y-12 fully follows two of four practices; and the contractor at LANL fully follows one of four practices.

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<sup>38</sup>See app. I for a discussion of our selection methodology, and see app. III for more details on the extent to which NNSA and its contractors follow these recommended practices in NNSA's nuclear security forces.

**Table 7: Extent to Which NNSA’s Nuclear Security Forces Follow Selected EEOC Promising Practices for an Effective and Accessible Harassment Complaint System in Preventing and Responding to Sexual Harassment**

EEOC Promising Practices	NNSA Nuclear Security Force			
	NNSA federal employees (including OST) <sup>a</sup>	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>b</sup>	Los Alamos National Laboratory
Provides multiple avenues of complaint, if possible, including an avenue to report complaints regarding senior leaders.	Follows	Follows	Follows	Follows
May include voluntary alternative dispute resolution processes to facilitate communication and assist in preventing and addressing prohibited conduct, or conduct that could eventually rise to the level of prohibited conduct.	Follows	Does not follow	Does not follow	Does not follow
Includes processes to determine whether alleged victims, individuals who report harassment, witnesses, and other relevant individuals are subjected to retaliation, and imposes sanctions on individuals responsible for retaliation.	Partially follows	Partially follows	Partially follows	Partially follows
Includes processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, the preventative and corrective action taken.	Partially follows	Follows	Follows	Partially follows

Legend: ● Follows, ◐ Partially follows, ○ Does not follow

Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors, compared with the U.S. Equal Employment Opportunity Commission’s (EEOC) November 2017 *Promising Practices for Preventing Harassment*. | GAO-21-307

Note: “Follows” indicates that the force has adopted all elements of the practice. “Partially follows” indicates that force has adopted some elements of the practice. “Does not follow” indicates that the force has not adopted any elements of the practice.

<sup>a</sup>The harassment and complaint system that the Office of Secure Transportation (OST) uses is the system run by NNSA’s Office of Civil Rights for all NNSA employees.

<sup>b</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

For example, based on their reported actions, we found that the protective force contractors at NNSS, Pantex, and Y-12 follow the Promising Practice of conveying complaint resolutions and preventative and corrective action taken to both the complainant and the alleged harasser. Protective force contractor representatives at NNSS told us that any employees being investigated receive a memorandum outlining any possible findings and, if necessary, any resulting disciplinary actions. The complainant is verbally notified of the investigation’s findings and informed that the company took corrective action. Protective force contractor representatives at Pantex and Y-12 told us that when a complaint is resolved, information is conveyed to the complainant via email, phone call, or during a face-to-face meeting. The accused is informed that the investigation is complete (if unsubstantiated). The complainant will generally be informed of preventative and corrective

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actions, such as employee training. Specific disciplinary action pertaining to an individual employee is not routinely disclosed, according to contractor representatives.

We found that NNSA and the protective force contractor at LANL partially follow the Promising Practice for conveying complaint resolutions and preventative and corrective action taken to both the complainant and the alleged harasser. NNSA officials told us that an NNSA employee complainant receives a copy of any investigation completed by NNSA's Office of Civil Rights. However, officials stated that any discipline issued to a federal employee because of an EEO violation is protected privacy information that cannot be disclosed.<sup>39</sup> At LANL, protective force contractor representatives told us that the outcome of an investigation is conveyed to the complainant and the alleged harasser. However, if the alleged harasser is found to have engaged in prohibited conduct and receives discipline, the complainant is not informed as to the level of discipline.

Overall, the EEOC Co-Chair report states that reporting systems for allegations of harassment are among the most critical elements of a holistic antiharassment effort. Further, it states that if one employee reports harassment and has a bad experience using the system, one can presume that the next employee who experiences harassment will think twice before making a report. For example, one contractor employee told us that his personal experience with reporting an incident of sexual harassment led to him feeling let down. According to this employee, once the investigation of the complaint was complete, he received no information on its results or whether the alleged harasser received discipline. Due to this lack of information, the employee said he has changed his habits to avoid contact with the alleged harasser and noted that he did not feel a sense of comfort in the outcome.

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<sup>39</sup>According to EEOC's Promising Practices, to address potential Privacy Act concerns related to sharing corrective or disciplinary action with complainants, federal agencies may either (1) maintain harassment complaint records that include information about corrective or disciplinary action by complainants' names, or (2) ensure that the agency's complaint records system includes a routine use permitting disclosure of corrective action to complainants.



## Effective Harassment Training Practices

NNSA nuclear security forces' training reflects 15 selected EEOC Promising Practices for effective harassment training to varying degrees (see table 8).<sup>40</sup> Specifically, we found that training for NNSA employees, including employees at OST, reflects 13 of 15 selected harassment training practices. Training offered by NNSA's contracted protective forces reflects 12 of 15 practices at NNSA, 10 of 15 practices at Pantex and Y-12, and nine of 15 practices at LANL.

**Table 8: Information on Whether NNSA's Nuclear Security Forces Reflect Selected EEOC Promising Practices for Effective Training in Preventing and Responding to Sexual Harassment**

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including OST) <sup>a</sup>	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>b</sup>	Los Alamos National Laboratory
Provided to employees at every level and location of the organization.	Reflects	Reflects	Reflects	Reflects
Provided in a clear, easy to understand style and format.	Reflects	Reflects	Reflects	Reflects
Tailored to the specific workplace and workforce.	Does not Reflect	Does not Reflect	Does not Reflect	Does not Reflect
Conducted by qualified, live, interactive trainers or, if live training is not feasible, designed to include active engagement by participants.	Reflects	Reflects	Reflects	Reflects
Describes prohibited harassment and conduct that might rise to the level of prohibited harassment.	Reflects	Reflects	Reflects	Reflects
Informs employees about rights and responsibilities if they experience, observe, or become aware of conduct that they believe may be prohibited.	Reflects	Reflects	Reflects	Reflects
Encourages employees to report harassing conduct.	Reflects	Reflects	Reflects	Reflects
Explains the complaint process, as well as any voluntary alternative dispute resolution processes.	Reflects	Reflects	Does not Reflect	Does not Reflect
Explains the information that may be requested during an investigation.	Does not Reflect	Does not Reflect	Does not Reflect	Does not Reflect
Provides assurance that employees will not be subjected to retaliation.	Reflects	Reflects	Reflects	Reflects
Explains the range of possible consequences for engaging in prohibited conduct.	Reflects	Does not Reflect	Does not Reflect	Does not Reflect

<sup>40</sup>See app. I for a discussion of our selection methodology.

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including OST) <sup>a</sup>	Nevada National Security Site	PanteDoes not Reflect Plant & Y-12 National Security CompleDoes not Reflect <sup>b</sup>	Los Alamos National Laboratory
Provides opportunities to ask questions.	Reflects	Reflects	Reflects	Does not Reflect
Identifies and provides contact information for the individual(s) and/or office(s) responsible for addressing harassment questions, concerns, and complaints.	Reflects	Does not Reflect	Reflects	Does not Reflect
Organization considers whether to implement new forms of training, such as workplace civility or respectful workplace training, bystander intervention training, or both.	Reflects	Reflects	Reflects	Reflects
Organization provides additional training to supervisors and managers. <sup>d</sup>	Reflects	Reflects	Reflects	Reflects

Legend: ✓ Reflects, x Does not reflect

Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors, compared with the U.S. Equal Employment Opportunity Commission's (EEOC) November 2017 *Promising Practices for Preventing Harassment*. | GAO-21-307

<sup>a</sup>The training taken by employees in the Office of Secure Transportation (OST) is the training taken by all NNSA employees.

<sup>b</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

<sup>c</sup>The contractor at NNSS includes an explanation of consequences in its supervisor training but not in its employee training.

<sup>d</sup>EEOC suggests that because supervisors and managers have additional responsibilities, they may benefit from additional training. EEOC also suggests content for this training. We compared NNSA's and the contractors' trainings with EEOC's overarching recommendation for additional training.

For example, EEOC's Promising Practices for effective harassment training detail ways in which both the delivery and content of the training can best meet the needs of different workforces. Further, EEOC recommends that training be provided to employees at every level and location. Officials from all of NNSA's nuclear security forces told us they provide sexual harassment training to all employees. However, based on our review of training materials, we found that only NNSS' contractor training at NNSS is tailored to its security workforce.<sup>41</sup> The training materials that NNSA and other contractors use are not specific to the security workforce and miss opportunities to highlight the intersection of security work and sexual harassment. For example, one study from our literature review found that between 19 and 24 percent of female officers at different federal agencies reported experiencing sexual harassment,

<sup>41</sup>An NNSA official explained that when conducting civility training for OST's Eastern Command, which is separate from formal antiharassment training and by request only, there was discussion of sexual harassment in a security workforce setting.

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which in the study was defined as “a sexual advance or proposition with which women must comply or forfeit an employment benefit, and/or unwanted sexual behaviors such as touching, teasing, and making comments about women’s appearance or sexuality”.<sup>42</sup>

Additionally, we found that all trainings provided to NNSA employees and contracted protective forces include assurances that employees will not be subjected to retaliation for reporting harassing conduct, participating in investigations, or taking any other actions protected under federal employment discrimination laws. However, only the NNSA employee training includes an explanation of the range of possible consequences for engaging in prohibited conduct, which includes retaliation, against another employee.<sup>43</sup> Including this element in training may provide assurances to all employees that there will be consistent discipline applied to perpetrators.

Overall, according to EEOC’s Promising Practices, regular, interactive, comprehensive training of all employees may help ensure that the workforce understands organizational rules, policies, procedures, and expectations, as well as the consequences of misconduct. Additionally, according to the EEOC Co-Chair report, two further types of training—workplace civility training and bystander intervention training—show significant promise for preventing harassment in the workplace.

As described above, NNSA’s nuclear security forces follow or reflect the four areas of EEOC’s Promising Practices to varying degrees. When we discussed these practices with NNSA, officials told us the agency has not formally reviewed or considered which of the Promising Practices to implement based on the needs of their workforces. EEOC notes that although these practices are not legal requirements, they may enhance employers’ compliance efforts. According to an NNSA OCR official, OCR reviewed the EEOC Co-Chair report in 2017 and, based on that review, developed and began offering workplace civility training to employees in 2018. In addition, OCR is in the process of developing bystander intervention training, based on recommendations in the EEOC Co-Chair report. However, according to that same official, NNSA did not use a

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<sup>42</sup>Helen H. Yu, “Does Agency Type Matter for Female Federal Agents? Exploring the Offices of Inspectors General,” in *Public Personnel Management*, vol. 50, no. 1 (2021 © the author 2020): 3-24.

<sup>43</sup>The training at NNSA includes an explanation of consequences in its supervisor training but not in its employee training.

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systematic approach to determine which of EEOC's recommendations to implement. According to NNSA officials, NNSA also has also not evaluated its contracting practices to determine how it might incorporate Promising Practices as relevant to the needs of its contracted nuclear security workforces. As a result, NNSA and its protective force contractors may be missing opportunities to identify gaps in their practices to prevent and respond to sexual harassment and to implement practices that can bolster a culture of antiharassment.

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## EEOC Has Found That NNSA and DOE Do Not Meet Some EEOC Requirements Relevant to Preventing and Responding to Sexual Harassment

EEOC reviews of NNSA's and DOE's compliance with required EEO programs found that NNSA and DOE do not meet some EEOC requirements relevant to their efforts to prevent and respond to sexual harassment for all their federal employees, which includes OST employees.<sup>44</sup> EEOC's 2017 review of NNSA's EEO programs highlighted three deficiencies that are relevant to NNSA's efforts to prevent and respond to sexual harassment (see table 9).<sup>45</sup>

NNSA has raised concerns with EEOC's review, stating that it believes one identified deficiency has been addressed, and the other two identified deficiencies require DOE rather than NNSA action. However, as discussed below, based on its 2020 review of information from NNSA, EEOC considers all deficiencies still open.

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<sup>44</sup>These programs would only apply to federal employees. For purposes of our report, this includes OST employees.

<sup>45</sup>We worked with EEOC to identify which deficiencies are relevant to NNSA's efforts to prevent and respond to sexual harassment. The deficiency on its antiharassment policy is directly related, while the other two deficiencies are more indirectly related. EEOC officials told us that in the course of its reviews, it may identify a variety of deficiencies but focuses its feedback to agencies on those they determine are the most important to address. As a result, while NNSA follows DOE's EEO policies, EEOC may identify different deficiencies that are most important for either DOE or NNSA to address.

**Table 9: Deficiencies EEOC Highlighted in Its 2017 Review of NNSA’s Equal Employment Opportunity Programs Relevant to Sexual Harassment Prevention and Response**

Equal Employment Opportunity (EEO) principles are not integrated into the strategic mission.

Final agency decisions on EEO complaints not completed in a timely fashion.

Antiharassment policy is noncompliant.

Source: U.S. Equal Employment Opportunity Commission (EEOC). | GAO-21-307

Note: EEOC officials told us in December 2020 that they plan to conduct a new review of the National Nuclear Security Administration’s (NNSA) programs in 2021, at which time they will determine whether these deficiencies have been addressed.

Specifics on EEOC’s findings and NNSA’s concerns are as follows:

- EEO principles are not integrated into the strategic mission.** In its 2017 review, EEOC found that NNSA had involved its EEO Manager in some aspects of NNSA strategic planning efforts but that NNSA had not ensured that EEO goals were incorporated into NNSA’s next strategic plan. In 2019, NNSA reported to EEOC that it considers this issue to be resolved because it included EEO information in its recently published Strategic Vision and Governance & Management Framework documents.<sup>46</sup> EEOC officials noted that they plan to conduct another review of NNSA in 2021, at which point they will remove the deficiency, if it has been addressed.
- Final agency decisions on EEO complaints are not completed in a timely fashion.** In its 2017 review, EEOC found that NNSA did not issue its decisions on EEO complaints in a timely fashion.<sup>47</sup> NNSA disputed this EEOC finding, saying that it does not have authority or control over issuing these decisions because DOE makes the decisions. EEOC declined to remove the deficiency and instead stated that it expects NNSA and DOE to collaborate on a plan to correct the deficiency. NNSA stated that it has taken proactive measures to partner with DOE by, for example, hiring a contractor to draft final agency decisions before sending them to DOE for review,

<sup>46</sup>National Nuclear Security Administration, *Strategic Vision; Strengthening our Nation through Nuclear Security* (Washington, D.C.: December 2018); and *Governance & Management Framework* (Washington, D.C.: March 2019).

<sup>47</sup>A final agency decision refers to a written decision on a complaint of discrimination that is made by the agency’s EEO office without a hearing before an administrative judge. Agencies issue findings in response to the claims raised and, if discrimination is found, will issue a remedy. This may include agency decisions to dismiss claims, or agency decisions on the merits. A final agency decision is appealable by the complainant to the EEOC. Formal EEO complaints of sexual harassment would go through this process although, according to NNSA officials, no complaints at NNSA from fiscal years 2015 through 2020 relate to sexual harassment.

modification, and issuance. In December 2020, EEOC stated that until final agency decisions for NNSA employees are timely, it will continue to consider this a deficiency at NNSA regardless of whether DOE or NNSA is responsible for the lack of timeliness because, as a matter of practice, EEOC holds subagencies accountable for deficiencies in complaint processing related to those subagencies.

- **Antiharassment policy is noncompliant.** In its 2017 review, EEOC found that the DOE policy, which NNSA uses, is not compliant with EEO requirements. NNSA has stated that it is awaiting updates to a new antiharassment policy for all of DOE, which NNSA plans to implement for its employees as well. EEOC officials told us that they consider this to be a significant deficiency and that they will evaluate the policy for completeness when it is issued.<sup>48</sup>

In addition, NNSA must follow DOE's department-wide policies and programs.<sup>49</sup> For this reason, we also reviewed EEOC's 2020 evaluation of DOE's compliance with EEO requirements. As shown below, EEOC identified 10 deficiencies in DOE's EEO programs that are relevant to efforts to prevent and respond to sexual harassment in DOE and, therefore, NNSA.<sup>50</sup> DOE officials told us that they have experienced staffing challenges in recent years that have affected the Department's ability to address these deficiencies, but with recent hires they will be able to make faster progress.<sup>51</sup>

**Table 10: Deficiencies EEOC Highlighted in Its 2020 Review of Department of Energy (DOE) Equal Employment Opportunity Programs Relevant to Sexual Harassment Prevention and Response**

DOE does not have a compliant EEO policy statement.

DOE does not have antiharassment procedures.

<sup>48</sup>NNSA can issue supplemental directives of its own, as long as those directives are consistent with DOE policy. Specifically, the NNSA Administrator may establish administration-specific policies, unless disapproved by the Secretary of Energy. 50 U.S.C. § 2402(d). DOE Order 251.1C authorizes headquarters elements to publish supplemental directives for use by those organizations and their contractors, provided the supplemental directives do not contradict, delete, or duplicate provisions in any applicable policy, regulation, order, or notice.

<sup>49</sup>According to DOE Order 251.1C, this is true, unless NNSA has supplemented DOE policies with its own policies that are more stringent or that fill gaps in DOE policy.

<sup>50</sup>We worked with EEOC to identify which deficiencies are relevant to DOE's efforts to prevent and respond to sexual harassment. Some deficiencies are directly related and some are indirectly related.

<sup>51</sup>DOE officials reported to EEOC on its progress to address these deficiencies in February 2021.

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DOE does not conduct regular, internal audits of its field offices.

DOE does not maintain an efficient, fair, and impartial complaint resolution process.

DOE does not ensure that Equal Employment Opportunity (EEO) principles are implemented in agency culture.

DOE does not compare its performance in the EEO process to other federal agencies of similar size.

DOE does not regularly review sources of information to identify barriers.

DOE does not involve managers in implementing the EEO program.

DOE does not provide management and supervisory officials with regular EEO updates.

DOE does not evaluate managers and supervisors on their efforts to ensure equal employment opportunity.

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Source: U.S. Equal Employment Opportunity Commission (EEOC). | GAO-21-307

For example, EEOC found that DOE does not have antiharassment procedures. Federal agencies must establish an antiharassment policy that includes a complaint process that provides a prompt, thorough, and impartial investigation, as well as assurance that the employer will take immediate and appropriate corrective action if the agency determines that harassment has occurred.<sup>52</sup> DOE does not yet have such procedures for complaints made through an antiharassment program rather than through the agency's formal EEO process. EEOC officials told us that they consider this to be a significant deficiency. Absent its own more specific policies and procedures, NNSA must follow DOE's policies and procedures, and NNSA plans to follow DOE's antiharassment procedures once they are in place. Until then, NNSA does not have specific antiharassment procedures to follow to address relevant complaints from OST. OST managers may receive informal assistance in addressing such complaints from NNSA human resources professionals. In an annual report to EEOC for fiscal year 2017, DOE stated that it had self-identified the need for improvement in this area and planned to fully address the deficiency by June 2019. However, as of February 2021, DOE had not yet implemented its plans. A DOE official told us that, due in part to an internal reorganization, DOE's current plan is to publish these procedures by November 2021.

EEOC also found that DOE does not compare its performance in the EEO process to other federal agencies of similar size, which would include

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<sup>52</sup>U.S. Equal Employment Opportunity Commission, *Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors* (June 18, 1999). According to EEOC, following the U.S. Supreme Court's decision in *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), EEOC published requirements for federal agencies to establish antiharassment procedures that cover all protected bases of discrimination.

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comparing efforts to prevent and respond to sexual harassment.<sup>53</sup> In February 2021, a DOE official told us that the agency has made some progress to implement its plans to address this deficiency by comparing complaint data with federal agencies of similar size. This official said that the agency has plans to do more in-depth work in this area.

According to EEOC officials, NNSA and DOE's efforts to date to address identified deficiencies in their EEO programs have improved some aspects of the programs, including those related to sexual harassment. However, EEOC stated that it expects NNSA and DOE to show meaningful progress to address all of its EEO program deficiencies, including those relevant to sexual harassment.<sup>54</sup> Because the agencies have not fully implemented plans to address the identified deficiencies, they may be missing opportunities to establish and maintain effective EEO programs relevant to preventing and responding to sexual harassment in NNSA's federal nuclear security force.

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## Conclusions

Sexual harassment is harmful to employees and their organizations and, in national security settings, can undermine core values, cohesion, and readiness. Within NNSA's nuclear security forces, the extent to which sexual harassment exists may not be fully known because NNSA and its protective force contractors do not conduct anonymous or confidential surveys of employees—a recommended practice by the EEOC and the National Academies of Sciences, Engineering, and Medicine—that could provide useful information on the extent and nature of any such harassment. Doing so, using leading practices for survey research, would better position NNSA and its contractors to identify any actions they could take to more effectively prevent and respond to any sexual harassment. In addition, NNSA and its protective force contractors follow or include to varying extents the Promising Practices that EEOC recommends to help

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<sup>53</sup>Specifically, EEOC's Management Directive 715 provides that each agency should benchmark its performance in the EEO process against EEOC regulations and other federal agencies of similar size highly ranked in EEOC's annual report on the federal sector complaints process. See EEOC, *EEO Management Directive 715* (EEO-MD-715) (Washington, D.C.: Oct. 1, 2003).

<sup>54</sup>EEOC's Management Directive 715 requires federal agencies to annually submit a report on the status of activities undertaken pursuant to their EEO programs under Title VII of the Civil Rights Act of 1964, including a plan that sets forth the steps they will take in the future to correct deficiencies or further improve their EEO programs. See EEOC, *EEO Management Directive 715*.



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organizations prevent and respond to harassment. As a result, they may be missing opportunities to identify gaps in their practices to address sexual harassment and to implement practices that can bolster a culture of antiharassment. Further, NNSA and DOE have not yet fully implemented plans to address EEO program deficiencies identified by EEOC's 2017 and 2020 reviews. As a result, DOE and NNSA may be missing opportunities to establish and maintain effective EEO programs that include protection from and response to sexual harassment.

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## Recommendations for Executive Action

We are making four recommendations to the Administrator of NNSA and one recommendation to the Secretary of Energy:

The Administrator of NNSA should conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in OST and the nature of any such harassment. (Recommendation 1)

The Administrator of NNSA should evaluate its contracting practices and determine whether protective force contractors should conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in their organizations and the nature of any such harassment. (Recommendation 2)

The Administrator of NNSA should develop a process to consider which EEOC *Promising Practices for Preventing Harassment* to implement based on the needs of its federal nuclear security workforce in OST, informed by sexual harassment survey results. (Recommendation 3)

The Administrator of NNSA should evaluate its contracting practices and determine whether protective force contractors should further implement *Promising Practices for Preventing Harassment* relevant to the needs of its contracted protective forces, informed by sexual harassment survey results. (Recommendation 4)

The Secretary of Energy should fully implement plans to address the department's EEO program deficiencies relevant to sexual harassment and work with NNSA to fully implement plans to address the agency's EEO program deficiencies relevant to sexual harassment. (Recommendation 5)

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## Agency Comments

We provided a draft of this product to EEOC, NNSA, and DOE for comment. EEOC provided technical comments, which we incorporated as appropriate. We also received combined, formal written comments from NNSA and DOE, which are reproduced in appendix IV. NNSA and DOE concurred with our five recommendations. In these written comments, the agency stated that it welcomes opportunities for continuous improvement and that it has broadened its response to our recommendations to include all federal and contractor employees across the NNSA Enterprise. Further, the agency stated that DOE will work with NNSA to address issues and further strengthen practices. As part of their response, NNSA and DOE provided information on specific actions they plan to take to address each recommendation. They estimate that they will complete work to implement each recommendation between October 2021 and September 2022. In addition, NNSA and DOE provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Energy, the Acting Administrator of the National Nuclear Security Administration, the Chair of the Equal Employment Opportunity Commission, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841 or [bawdena@gao.gov](mailto:bawdena@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



Allison Bawden  
Director, Natural Resources and Environment

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# Appendix I: Additional Information on Selected Methodologies

This appendix provides additional information about selected methodologies, including our literature review to identify recent research on sexual harassment in federal law enforcement, our analysis of survey data from the U.S. Merit Systems Protection Board (MSPB), and our analysis of the use of the U.S. Equal Employment Opportunity Commission's (EEOC) *Promising Practices for Preventing Harassment*, by the National Nuclear Security Administration's (NNSA) nuclear security forces.<sup>1</sup>

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## Literature Review

To help determine what is known about the prevalence of sexual harassment in NNSA's nuclear security forces and in federal law enforcement more generally, we conducted a literature review of articles that we identified as relevant to our research and that met our methodological standards. To identify the literature, we searched a variety of databases, including ProQuest and Scopus for academic and other studies published from January 2010 through February 2020 that focused on the prevalence of sexual harassment within NNSA or law enforcement contexts in the United States. Two independent reviewers screened each abstract of 18 articles identified in this search, excluding 12 that were not relevant to our objective or did not meet our standards for empirical analysis. For the resulting studies, we reviewed six full articles to confirm relevance and assess methodological rigor. Based on this work, we included three articles in our final review. Those are:

- Kimberly A. Lonsway, Rebecca Paynich, and Jennifer N. Hall, "Sexual Harassment in Law Enforcement: Incidence, Impact, and Perception," in *Police Quarterly*, vol. 16, no. 2 (2012): 177-210;
- Helen H. Yu, "Does Agency Type Matter for Female Federal Agents? Exploring the Offices of Inspectors General," in *Public Personnel Management*, vol. 50, no. 1 (2021<sup>©</sup> the author 2020): 3-24; and

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<sup>1</sup>U.S. Equal Employment Opportunity Commission, *Promising Practices for Preventing Harassment*, EEOC-NVTA-2017-2 (Washington, D.C.: November 21, 2017).

- Helen H. Yu and David Lee, “Gender and Public Organization: a Quasi-Experimental Examination of Inclusion on Experiencing and Reporting Wrongful Behavior in the Workplace,” in *Public Personnel Management*, vol. 49, no. 1 (2020<sup>©</sup> the authors 2019): 3-28.

We extracted information relevant to our research, including prevalence rates of sexual harassment, demographic characteristics of the studied populations, and reasons for not reporting sexual harassment. We conducted a thematic analysis of this information and present the results of some of this analysis in this report. The three studies used different definitions and methods, but all found generally that female federal law enforcement officers reported higher rates of harassment compared with male officers, and all found that rates of sexual harassment may vary by agency culture.

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## Analysis of MSPB Data

MSPB administers a periodic Merit Principles Survey of federal employees that covers a variety of workforce issues, prohibited personnel practices, and selected aspects of employee work experiences and work environments. The 2016 Merit Principles Survey (the latest available) included several questions on the incidence of sexual harassment in the workplace (for example, whether respondents experienced or observed various sexual harassment behaviors in the preceding 2 years), actions taken by federal employees to address sexual harassment, and employee perceptions of federal agency policies and practices related to sexual harassment.<sup>2</sup>

MSPB developed a sampling strategy, using a stratified random sample, to provide a reliable measure of government-wide opinion among permanent, full-time, civilian federal employees. The sample was stratified by federal agency (and agency bureau or component for selected agencies) and supervisory status (nonsupervisor, supervisor, or executive). Agency participation in the survey was mandatory, but

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<sup>2</sup>According to MSPB survey documentation, the behaviors asked about in the survey were intended to provide survey respondents with concrete examples of behaviors that are potentially indicative of sexual harassment; the behaviors in the survey were neither exhaustive nor legally definitive. MSPB noted that the determination of whether a particular behavior constitutes sexual harassment within the meaning of antidiscrimination law depends upon the behavior’s circumstances and the context; therefore, their selected behaviors should not be construed as necessarily meeting the legal criteria for sexual harassment or sex discrimination.

individual response to the survey was voluntary.<sup>3</sup> The survey was launched in July 2016 and closed in September 2016. MSPB's reported government-wide response rate for the survey was 38.8 percent, and MSPB officials told us that the Department of Energy's (DOE) response rate was about 40 percent.

### Key Variables Analyzed

We analyzed a number of key variables to better understand the nature and extent of sexual harassment at DOE, which includes NNSA, as reported by sampled employees in MSPB's survey. We analyzed the data using survey software that accounts for the sample design and survey weights. Because MSPB followed a probability procedure based on random selections, its sample is only one of a large number of samples that might have been drawn using the same sampling procedure. Since each sample could have provided different estimates, we express our confidence in the precision of this particular sample's results as a 95-percent confidence interval (e.g., from "X" to "Y" percent). This is the interval that would contain the actual population value for 95 percent of the samples that could have been drawn.

### MSPB Reliability and Nonresponse Bias Analysis

To assess the reliability of MSPB data, we reviewed technical documentation, conducted electronic testing for obvious errors in accuracy and completeness, and interviewed MSPB officials. MSPB officials provided the agency's nonresponse bias analysis for selected features but noted that they were unable to link other characteristics to the survey respondents and, therefore, did not carry out a traditional nonresponse bias analysis. While MSPB did not find evidence of nonresponse bias, its analysis was limited to the data on supervisory status, sex, and minority status, so the potential for bias based on other factors, including agency, age, or federal tenure, is unknown. We therefore conducted our own nonresponse bias analysis to examine

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<sup>3</sup>MSPB drew the sample for this survey in summer 2015. The sample included nearly 126,000 employees from 25 federal agencies, representing all major departments and independent agencies. However, according to MSPB documentation, ultimately the Department of Health and Human Services could not be surveyed, for technical reasons, reducing the sample to 24 agencies.

additional demographics, as well as some demographics that MSPB analyzed.

We analyzed data from the Office of Personnel Management’s Enterprise Human Resources Integration-Statistical Data Mart, which was used to form the MSPB 2016 sample frame, to compare the weighted distribution of MSPB respondents with that for the federal workforce at the time the survey was carried out. We did the same for DOE’s subpopulation of respondents. To the extent that the distributions differ, there is the potential for bias. If those who did not respond to the survey differ from those who did respond on the outcomes measured in the survey, relying on survey respondents to represent the relevant population could be misleading. The distributions were similar, based on five of the characteristics: supervisory status, eligibility to retire, minority status, sex, and agency.

There were potential differences based on three of the characteristics: annual salary (lower-mid earning employees are underrepresented in the MSPB survey data), age, and federal tenure (employees with 3 years or less are underrepresented in the MSPB survey data). However, these three characteristics are generally associated with a higher likelihood of experiencing sexual harassment in the workplace; thus, if bias exists in the sample responses, it likely underestimates the prevalence of sexual harassment. We concluded that the MSPB survey data were sufficiently reliable for the purpose of providing a general description of the self-reported prevalence of sexual harassment that included as much of the population of DOE employees as possible.

Selected 2016 MSPB Survey Questions

For the MSPB analyses presented in our report, table 11 shows the survey question or prompt for each set of responses we analyzed, along with the available response options for each question.

**Table 11: Selected 2016 MSPB Survey Questions and Response Options for Federal Agency Employees Relevant to Gauging Prevalence of Sexual Harassment**

Survey question/prompt	Response options
In the past 2 years in your workplace, have any of the following behaviors been directed at you? <sup>a</sup>	Unwelcome communications (e.g., emails, phone calls, notes, text messages, social media contacts) of a sexual nature
	Unwelcome invasion of personal space (e.g., touching, crowding, leaning over)
	Unwelcome sexually suggestive looks or gestures

**Appendix I: Additional Information on Selected Methodologies**

Survey question/prompt	Response options
	Pressure for sexual favors Pressure for dates Unwelcome sexual teasing, jokes, comments, or questions The presence of sexually oriented material in any format (e.g., photos, videos, written material) People having sexually oriented conversations in front of others Someone offering preferential treatment in the workplace in exchange for sexual favors Use of derogatory or unprofessional terms related to a person's sex/gender Stalking (e.g., unwanted intrusion, physically or electronically, into your personal life) Rape or sexual assault, or attempted rape or sexual assault
In the past 2 years in your workplace, have you observed anyone being subjected to any of the following behaviors? <sup>a</sup>	Unwelcome communications (e.g., emails, phone calls, notes, text messages, social media contacts) of a sexual nature Unwelcome invasion of personal space (e.g., touching, crowding, leaning over) Unwelcome sexually suggestive looks or gestures Pressure for sexual favors Pressure for dates Unwelcome sexual teasing, jokes, comments, or questions The presence of sexually oriented material in any format (e.g., photos, videos, written material) People having sexually oriented conversations in front of others Someone offering preferential treatment in the workplace in exchange for sexual favors Use of derogatory or unprofessional terms related to a person's sex/gender Stalking (e.g., unwanted intrusion, physically or electronically, into your personal life) Rape or sexual assault, or attempted rape or sexual assault
My agency takes sufficient steps to prevent sexual harassment.	Strongly agree Agree Neither agree nor disagree Disagree Strongly disagree Don't know/NA
I am familiar with the formal complaint channels that are available to people who have experienced discrimination.	Strongly agree Agree Neither agree nor disagree Disagree Strongly disagree Don't know/NA
	Strongly agree Agree Neither agree nor disagree

**Appendix I: Additional Information on Selected Methodologies**

<b>Survey question/prompt</b>	<b>Response options</b>
If I filed an action charging sexual harassment, I am confident that it would be resolved in a fair and just manner by my organization.	Disagree
	Strongly disagree
	Don't know/NA
If a supervisor or manager in my organization was found to have committed sexual harassment, management would take appropriate action against that person.	Strongly agree
	Agree
	Neither agree nor disagree
	Disagree
	Strongly disagree
	Don't know/NA

NA stands for not applicable.

Source: GAO analysis of U.S. Merit Systems Protection Board (MSPB) information. | GAO-21-307

<sup>a</sup>The response options provided for these questions were intended to provide survey respondents with concrete examples of behaviors that are potentially indicative of sexual harassment, according to MSPB officials; the list of behaviors is neither exhaustive nor legally definitive. MSPB notes in its survey documentation that the determination of whether a particular behavior constitutes sexual harassment within the meaning of antidiscrimination law depends upon the behavior's circumstances and the context; therefore, these behaviors should not be construed as necessarily meeting the legal criteria for sexual harassment or sex discrimination.

## Analysis of Nuclear Security Forces' Use of EEOC Promising Practices

The Promising Practices come from the EEOC's *Promising Practices for Preventing Harassment*, issued in 2017.<sup>4</sup> The practices are based on a 2016 report from the Co-Chairs of EEOC's Select Task Force on the Study of Harassment in the Workplace and, according to EEOC officials, identify approaches employers can take to prevent and correct harassment and may enhance employers' compliance efforts.<sup>5</sup> The Promising Practices are organized into four areas: (1) leadership and accountability, (2) comprehensive and effective harassment policy, (3) effective and accessible harassment complaint system, and (4) effective harassment training.

We determined which practices to review based on the following criteria, including whether the recommendation was (1) worded explicitly enough

<sup>4</sup>U.S. Equal Employment Opportunity Commission, *Promising Practices for Preventing Harassment*.

<sup>5</sup>U.S. Equal Employment Opportunity Commission, *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* (Washington, D.C.: June 2016).



for us to audit the extent to which it was implemented and (2) applicable to the work of NNSA and its protective force contractors.

For instance, we included practices that required us to identify the presence of an activity, process, or training or policy element, such as acknowledging employees for their efforts to create an antiharassment culture, offering antiharassment training to employees at all levels of the organization, and including a description of prohibited conduct in their antiharassment policy. We excluded practices that required an evaluative judgment of practices such as timeliness, appropriateness, or effectiveness. Additionally, we excluded any practices that suggested approaches to resource allocation, which are management decisions to be made by the agency. Of the 69 practices, 39 met our criteria for inclusion and were selected for analysis.

We obtained information from NNSA and its protective force contractors through interviews, a structured data collection instrument, and document review. We developed decision rules for determining and communicating the extent to which each nuclear security force's reported actions aligned with a particular Promising Practice: "follows" (the security force has adopted all elements of the practice), "partially follows" (the security force has adopted some elements of the practice), and "does not follow" (the security force has not adopted any elements of the practice). For our review of EEOC's training recommendations, we determined whether security forces' training materials include recommended practices using "reflects" or "does not reflect."

One analyst compared the information provided by each security force with the relevant Promising Practice and then categorized the information based on our decision rules. A second analyst independently reviewed the categorization against the evidence. Any discrepancies were reconciled through discussion. We provided our initial assessments to NNSA and its protective force contractors and offered them an opportunity to provide any additional information. Based on additional information we received from NNSA and its protective force contractors, we updated and finalized our assessments, as appropriate.

## Appendix II: Analysis of U.S. Merit Systems Protection Board Survey Data

The U.S. Merit Systems Protection Board (MSPB) administers a periodic Merit Principles Survey of federal employees that covers a variety of workforce issues, prohibited personnel practices, and selected aspects of employee work experiences and work environments. This survey includes several questions on the incidence of sexual harassment in the workplace, actions employees take to address sexual harassment, and employee perceptions of federal agency policies and practices related to sexual harassment. The most recently finalized survey was administered in 2016 and asked whether respondents experienced or observed various sexual harassment behaviors in the preceding 2 years. The survey was administered to a stratified random sample of Department of Energy (DOE) federal civilian employees.<sup>1</sup> Although Office of Secure Transportation (OST) agents are included in the sampling frame and, hence, results based on the survey represent these agents, it does not identify the subset of DOE employees that are OST. In addition, the survey excludes employees that are contractors, including protective forces, as those employees are not part of the sampling frame. However, it is currently the only data capturing information available about the prevalence of sexual harassment at DOE beyond information received from harassment reports. In this report, we characterize employees as having experienced sexual harassment if they responded in the MSPB survey that they experienced any of the sexual harassment behaviors

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<sup>1</sup>MSPB officials told us that the response rate for DOE was about 40 percent. To assess for potential bias in the survey results based on sampled DOE employees who did not respond to the survey, we examined MSPB's nonresponse bias analysis and conducted our own nonresponse bias analysis. Based on these analyses we concluded that if bias exists in the sample responses, it likely underestimates the prevalence of sexual harassment. Although our estimates are based on respondents to the MSPB survey, we analyzed the data using survey software that accounts for the sample design and survey weights, rather than presenting an unweighted analysis. As a result, our weighted estimates generalize to the population of DOE employees who were eligible for the survey, rather than only representing those who responded to the survey. For more information on our methods and nonresponse bias analysis, see app. I.

included in the survey.<sup>2</sup> Such behaviors may or may not be unlawful, depending on the circumstances.<sup>3</sup> Our analysis of selected data for DOE respondents, and a comparison with data of other selected federal agencies, is presented below.

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## Characteristics of Sexual Harassment Experiences at DOE

### Information on Types of Sexual Harassment Behaviors

As shown in figures 3 and 4, an estimated 11 percent of DOE employees experienced sexual harassment, and an estimated 23 percent observed sexual harassment in the 2 years preceding the survey, according to our analysis of MSPB's survey data. The estimated percentages of DOE employees who experienced or observed specific sexual harassment behaviors are also detailed in figures 3 and 4.

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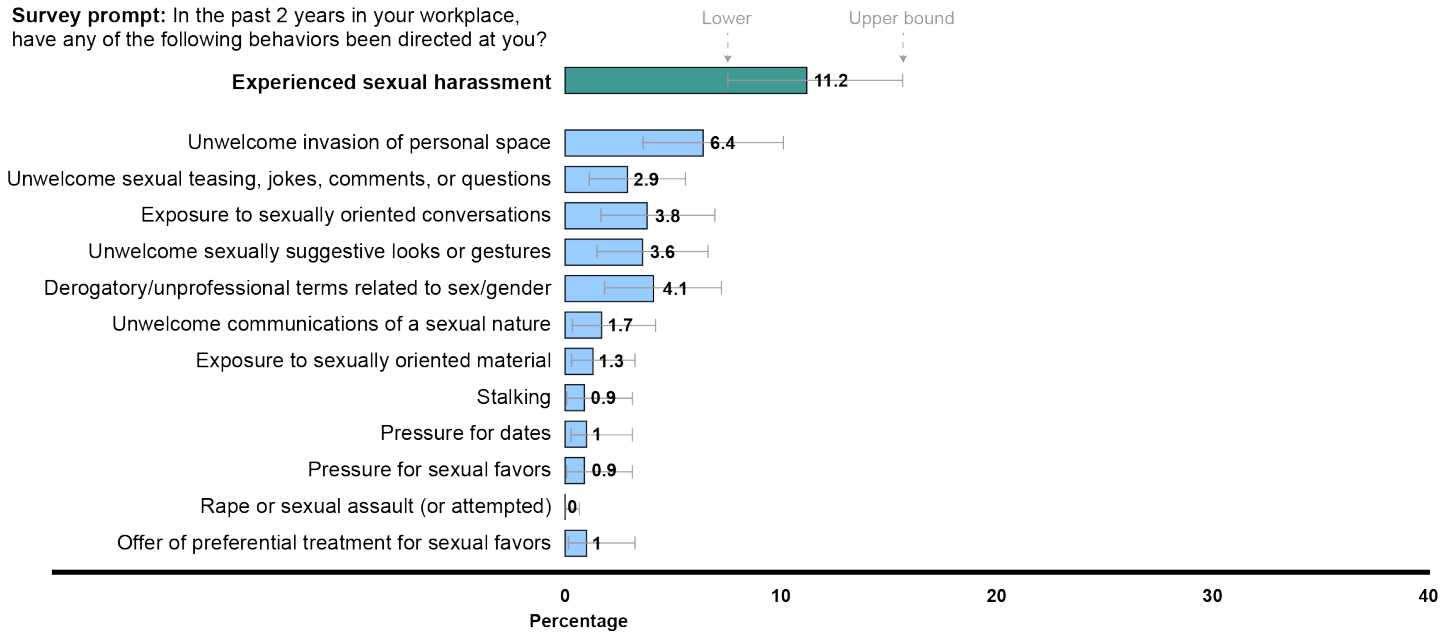
<sup>2</sup>Survey respondents were asked whether they experienced at least one of the following sexual harassment behaviors included in the MSPB survey: exposure to sexually oriented conversations; unwelcome sexual teasing, jokes, comments, or questions; derogatory or unprofessional terms related to sex or gender; exposure to sexually oriented material; unwelcome invasion of personal space; unwelcome sexually suggestive looks or gestures; unwelcome communications of a sexual nature; pressure for dates; stalking; offer of preferential treatment for sexual favors; pressure for sexual favors; and sexual assault or attempted sexual assault. MSPB's survey also asked whether respondents experienced "different treatment based on sex/gender." MSPB did not include responses for that specified behavior in their composite variable of whether respondents experienced one or more behaviors that constituted sexual harassment because, according to MSPB survey documentation, it describes a form of sex discrimination that is distinct from sexual harassment. Our analysis treats this variable in the same manner as MSPB and does not include it as one of the 12 sexual harassment behaviors.

<sup>3</sup>According to MSPB survey documentation, the behaviors asked about in the survey were intended to provide survey respondents with concrete examples of behaviors that are potentially indicative of sexual harassment; the list of behaviors in the survey were neither exhaustive nor legally definitive. MSPB noted that the determination of whether a particular behavior constitutes sexual harassment within the meaning of antidiscrimination law depends upon the behavior's circumstances and the context; therefore, their selected behaviors should not be construed as necessarily meeting the legal criteria for sexual harassment or sex discrimination.

**Appendix II: Analysis of U.S. Merit Systems  
Protection Board Survey Data**

**Figure 3: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior**

**Survey prompt:** In the past 2 years in your workplace, have any of the following behaviors been directed at you?



Source: GAO analysis of U.S. Merit Systems Protection Board's 2016 Merit Principles Survey data. | GAO-21-307

**Data table for Figure 3: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior**

In the past two years in your workplace, have any of the following behaviors been directed at you?	PERCENT	Lower Bound	Upper Bound
Experienced sexual harassment	11.2	7.6	15.7
Unwelcome invasion of personal space	6.4	3.7	10.1
Unwelcome sexual teasing, jokes, comments or questions	2.9	1.2	5.7
Exposure to sexually oriented conversations	3.8	1.8	7
Unwelcome sexually suggestive looks or gestures	3.6	1.7	6.8
Derogatory/unprofessional terms related to sex/gender	4.1	2	7.4
Unwelcome communications of a sexual nature	1.7	0.5	4.1
Exposure to sexually oriented material	1.3	0.3	3.4
Stalking	0.9	0.1	3.2
Pressure for dates	1	0.2	3.2
Pressure for sexual favors	0.9	0.1	3.2
Rape or sexual assault (or attempted)	0	0	0.8
Offer of preferential treatment for sexual favors	1	0.2	3.3

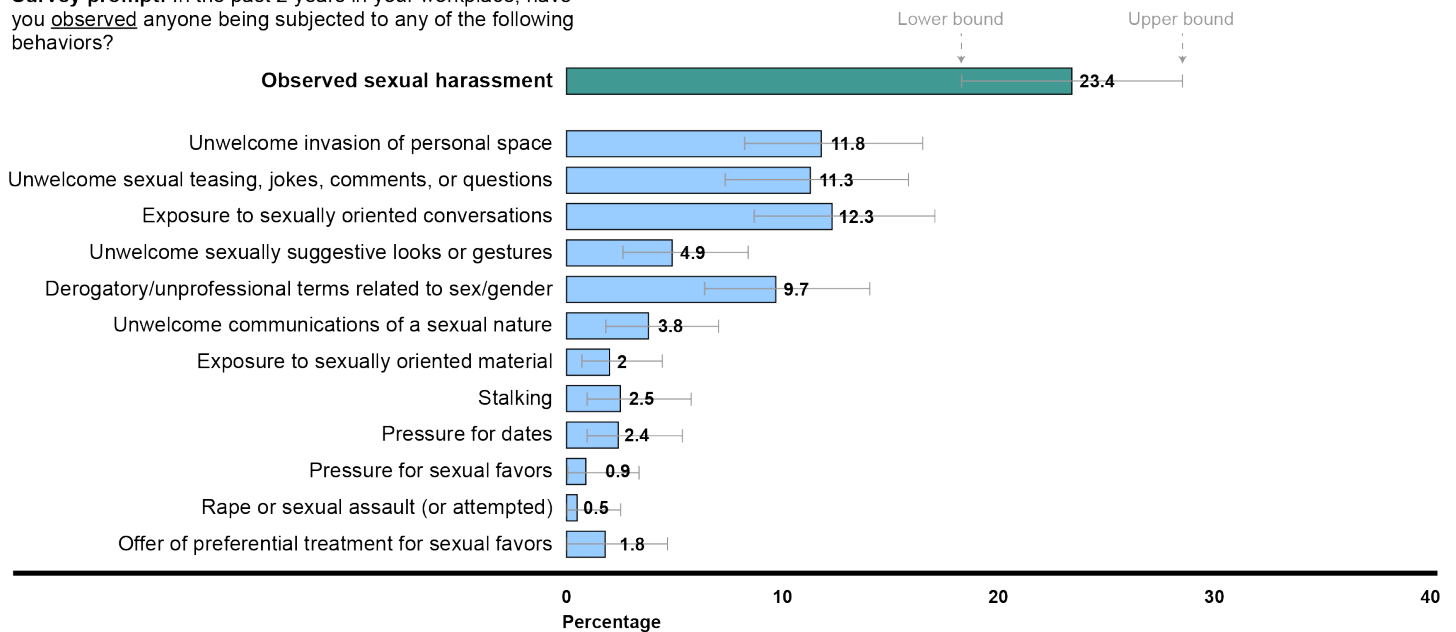
**Appendix II: Analysis of U.S. Merit Systems Protection Board Survey Data**

Notes: The most recent finalized U.S. Merit Systems Protection Board (MSPB) survey was administered in 2016 and asked whether respondents had experienced or observed various sexual harassment behaviors in the preceding 2 years; such behaviors may or may not be unlawful, depending on the circumstances. Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar.

The estimate of employees who “experienced sexual harassment” is the estimated percentage of employees who experienced at least one of the behaviors listed in this figure. Respondents could indicate that they experienced multiple behaviors; therefore, this estimate is not equal to the total of the individual behavior estimates.

**Figure 4: Estimated Percentage of Department of Energy (DOE) Employees Who Observed Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior**

Survey prompt: In the past 2 years in your workplace, have you observed anyone being subjected to any of the following behaviors?



Source: GAO analysis of U.S. Merit Systems Protection Board’s 2016 Merit Principles Survey data. | GAO-21-307

**Data table for Figure 4: Estimated Percentage of Department of Energy (DOE) Employees Who Observed Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior**

In the past two years in your workplace, have you <u>observed</u> anyone being subjected to any of the following behaviors?	PERCENT	Lower boundary	Upper boundary
Observed sexual harassment	23.4	18.2	28.5
Unwelcome invasion of personal space	11.8	8.1	16.4
Unwelcome sexual teasing, jokes, comments or questions	11.3	7.6	15.8
Exposure to sexually oriented conversations	12.3	8.6	17
Unwelcome sexually suggestive looks or gestures	4.9	2.6	8.2
Derogatory/unprofessional terms related to sex/gender	9.7	6.3	14
Unwelcome communications of a sexual nature	3.8	1.8	7
Exposure to sexually oriented material	2	0.7	4.4

**Appendix II: Analysis of U.S. Merit Systems  
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<b>In the past two years in your workplace, have you <u>observed</u> anyone being subjected to any of the following behaviors?</b>	<b>PERCENT</b>	<b>Lower boundary</b>	<b>Upper boundary</b>
Stalking	2.5	0.9	5.4
Pressure for dates	2.4	0.9	5.3
Pressure for sexual favors	0.9	0.1	3.2
Rape or sexual assault (or attempted)	0.5	0	2.5
Offer of preferential treatment for sexual favors	1.8	0.5	4.6

Notes: The most recent finalized U.S. Merit Systems Protection Board (MSPB) survey was administered in 2016 and asked whether respondents had experienced or observed various sexual harassment behaviors in the preceding 2 years; such behaviors may or may not be unlawful, depending on the circumstances. Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar.

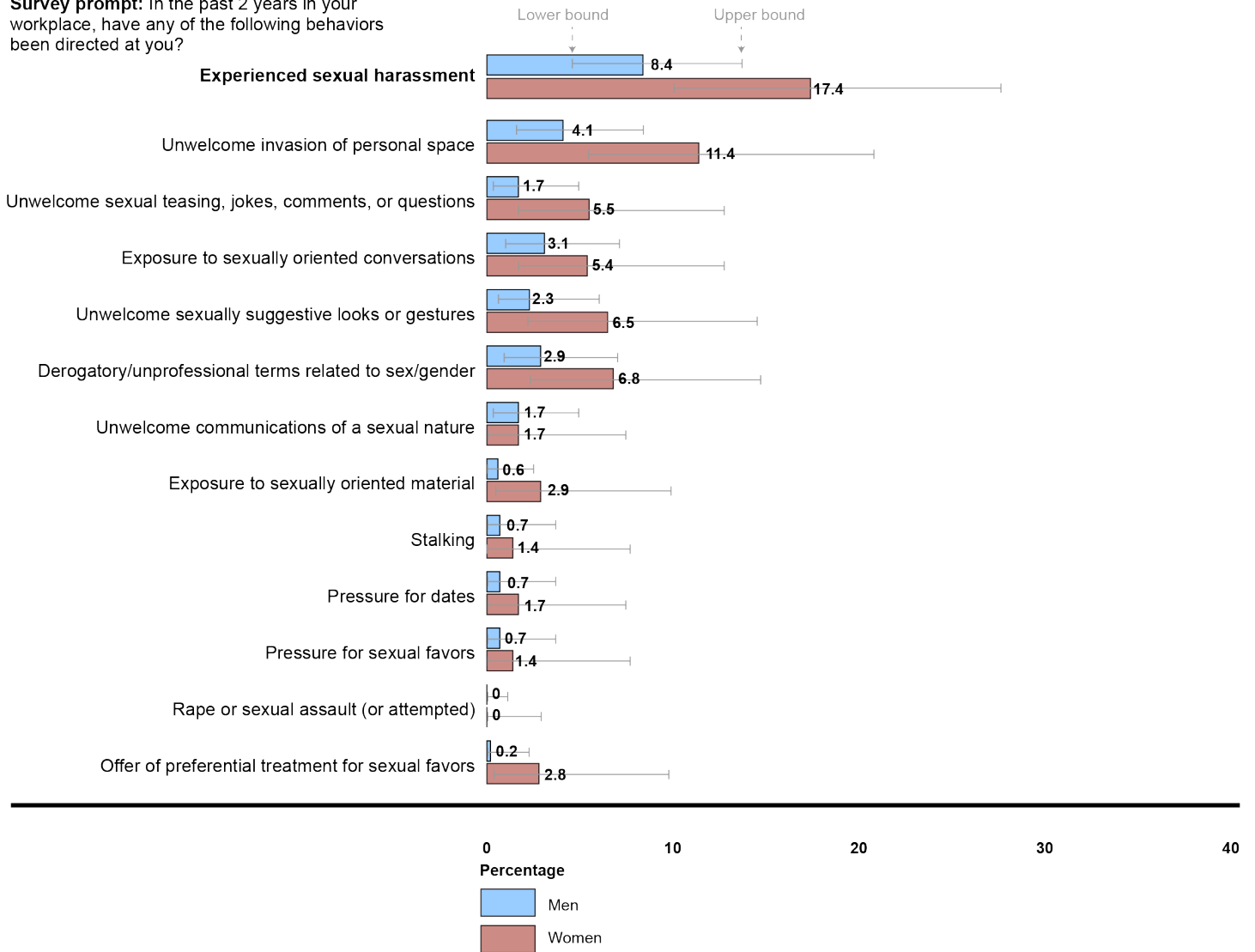
The estimate of employees who “observed sexual harassment” is the estimated percentage of employees who observed at least one of the behaviors listed in this figure. Respondents could indicate that they observed multiple behaviors; therefore, this estimate is not equal to the total of the individual behavior estimates.

As shown in figure 5, an estimated 17 percent of female employees experienced sexual harassment compared with an estimated 8 percent of male employees. However, due to sampling error, we cannot conclude that these percentages statistically differ.

**Appendix II: Analysis of U.S. Merit Systems  
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**Figure 5: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior and Sex**

**Survey prompt:** In the past 2 years in your workplace, have any of the following behaviors been directed at you?



Source: GAO analysis of U.S. Merit Systems Protection Board's 2016 Merit Principles Survey data. | GAO-21-307

**Data table for Figure 5: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced Sexual Harassment One or More Times in 2-Year Period, by Type of Harassing Behavior and Sex**

**Men**

In the past two years in your workplace, have any of the following behaviors been directed at you?	Percent	Lower Bound	Upper Bound
Experienced sexual harassment	8.4	4.7	13.6
Unwelcome invasion of personal space	4.1	1.6	8.3
Unwelcome sexual teasing, jokes, comments or questions	1.7	0.3	4.9
Exposure to sexually oriented conversations	3.1	1	7.1
Unwelcome sexually suggestive looks or gestures	2.3	0.6	6
Derogatory/unprofessional terms related to sex/gender	2.9	0.9	7
Unwelcome communications of a sexual nature	1.7	0.3	4.9
Exposure to sexually oriented material	0.6	0	2.6
Stalking	0.7	0	3.7
Pressure for dates	0.7	0	3.7
Pressure for sexual favors	0.7	0	3.7
Rape or sexual assault (or attempted)	0	0	1.2
Offer of preferential treatment for sexual favors	0.2	0	2.3

**Woman**

In the past two years in your workplace, have any of the following behaviors been directed at you?	PERCENT	Lower Bound	Upper Bound
Experienced sexual harassment	17.4	10	27.4
Unwelcome invasion of personal space	11.4	5.4	20.6
Unwelcome sexual teasing, jokes, comments or questions	5.5	1.7	12.7
Exposure to sexually oriented conversations	5.4	1.6	12.7
Unwelcome sexually suggestive looks or gestures	6.5	2.2	14.4
Derogatory/unprofessional terms related to sex/gender	6.8	2.4	14.6
Unwelcome communications of a sexual nature	1.7	0.1	7.4



**Appendix II: Analysis of U.S. Merit Systems Protection Board Survey Data**

<b>In the past two years in your workplace, have any of the following behaviors been directed at you?</b>	<b>PERCENT</b>	<b>Lower Bound</b>	<b>Upper Bound</b>
Exposure to sexually oriented material	2.9	0.4	9.9
Stalking	1.4	0	7.6
Pressure for dates	1.7	0.1	7.4
Pressure for sexual favors	1.4	0	7.6
Rape or sexual assault (or attempted)	0	0	2.9
Offer of preferential treatment for sexual favors	2.8	0.4	9.8

Notes: The most recent finalized U.S. Merit Systems Protection Board (MSPB) survey was administered in 2016 and asked whether respondents had experienced or observed various sexual harassment behaviors in the preceding 2 years; such behaviors may or may not be unlawful, depending on the circumstances. Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar.

The estimate of employees who “experienced sexual harassment” is the estimated percentage of employees who experienced at least one of the behaviors listed in this figure. Respondents could indicate that they experienced multiple behaviors; therefore, this estimate is not equal to the total of the individual behavior estimates.

MSPB has grouped sexual harassment behaviors into three broad categories—gender harassment, unwanted sexual attention, and sexual coercion.<sup>4</sup> In general, behaviors considered gender harassment or unwanted sexual attention were the most common type of sexual harassment behavior that DOE employees observed or experienced. MSPB’s report on these data suggest that these two categories of behaviors are associated with a hostile work environment, and their higher prevalence—compared with sexual coercion—may be due in part to greater agreement among employees that sexual coercion is an egregious form of sexual harassment and is therefore likely to be punished.<sup>5</sup> Thus, employees may be less likely to engage in sexual coercion. As shown in figure 6, an estimated 7 percent and 8 percent of DOE employees experienced gender harassment or unwanted sexual attention, respectively, compared with 2 percent who experienced sexual coercion. Similarly, an estimated 19 percent and 13 percent of DOE employees observed gender harassment or unwanted sexual attention, respectively, compared with 4 percent who observed sexual coercion.

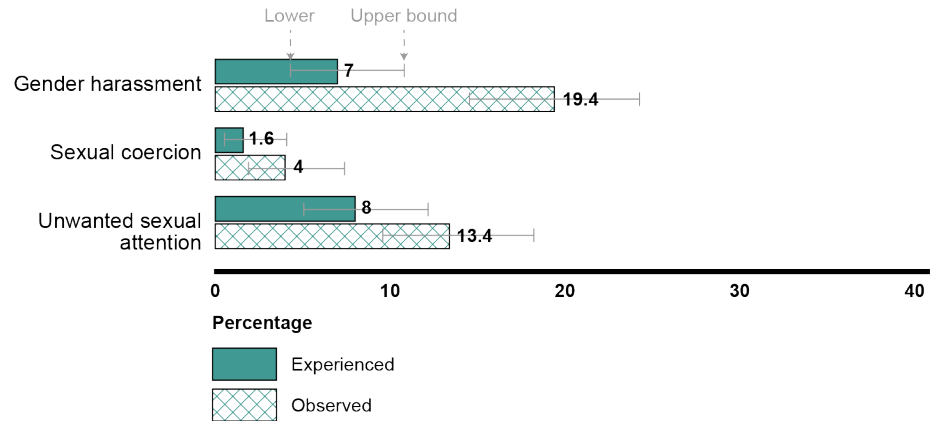
<sup>4</sup>Gender harassment includes exposure to sexually oriented conversations; unwelcome sexual teasing, jokes, comments, or questions; derogatory or unprofessional terms related to sex or gender; and exposure to sexually-oriented material. Unwanted sexual attention includes unwelcome invasion of personal space, unwelcome sexually suggestive looks or gestures, and unwelcome communications of a sexual nature. Sexual coercion includes pressure for dates, stalking, offer of preferential treatment for sexual favors, pressure for sexual favors, and sexual assault or attempted sexual assault.

<sup>5</sup>U.S. Merit Systems Protection Board, Office of Policy and Evaluation, *Update on Sexual Harassment in the Federal Workplace* (Washington, D.C.: March 2018).

**Appendix II: Analysis of U.S. Merit Systems Protection Board Survey Data**

**Figure 6: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced or Observed Specific Categories of Sexual Harassment in 2-Year Period**

**Survey prompt:** In the past 2 years in your workplace, have you experienced or observed any of the following behaviors?



Source: GAO analysis of U.S. Merit Systems Protection Board's 2016 Merit Principles Survey data. | GAO-21-307

**Data table for Figure 6: Estimated Percentage of Department of Energy (DOE) Employees Who Experienced or Observed Specific Categories of Sexual Harassment in 2-Year Period**

In the past two years in your workplace, have any of the following behaviors been directed at you?	PERCENT	Lower Bound	Upper Bound
Gender Harassment	7	4.3	10.8
Sexual Coercion	1.6	0.4	4
Unwanted Sexual Attention	8	5	12.1

In the past two years in your workplace, have you observed anyone being subjected to any of the following behaviors?	PERCENT	Lower Bound	Upper Bound
Gender Harassment	19.4	14.5	24.2
Sexual Coercion	4	1.9	7.3
Unwanted Sexual Attention	13.4	9.5	18.2

Note: The most recent finalized MSPB survey was administered in 2016 and asked whether respondents had experienced or observed various sexual harassment behaviors in the preceding 2 years; such behaviors may or may not be unlawful, depending on the circumstances. Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar.

## Employee Perceptions of Sexual Harassment at DOE

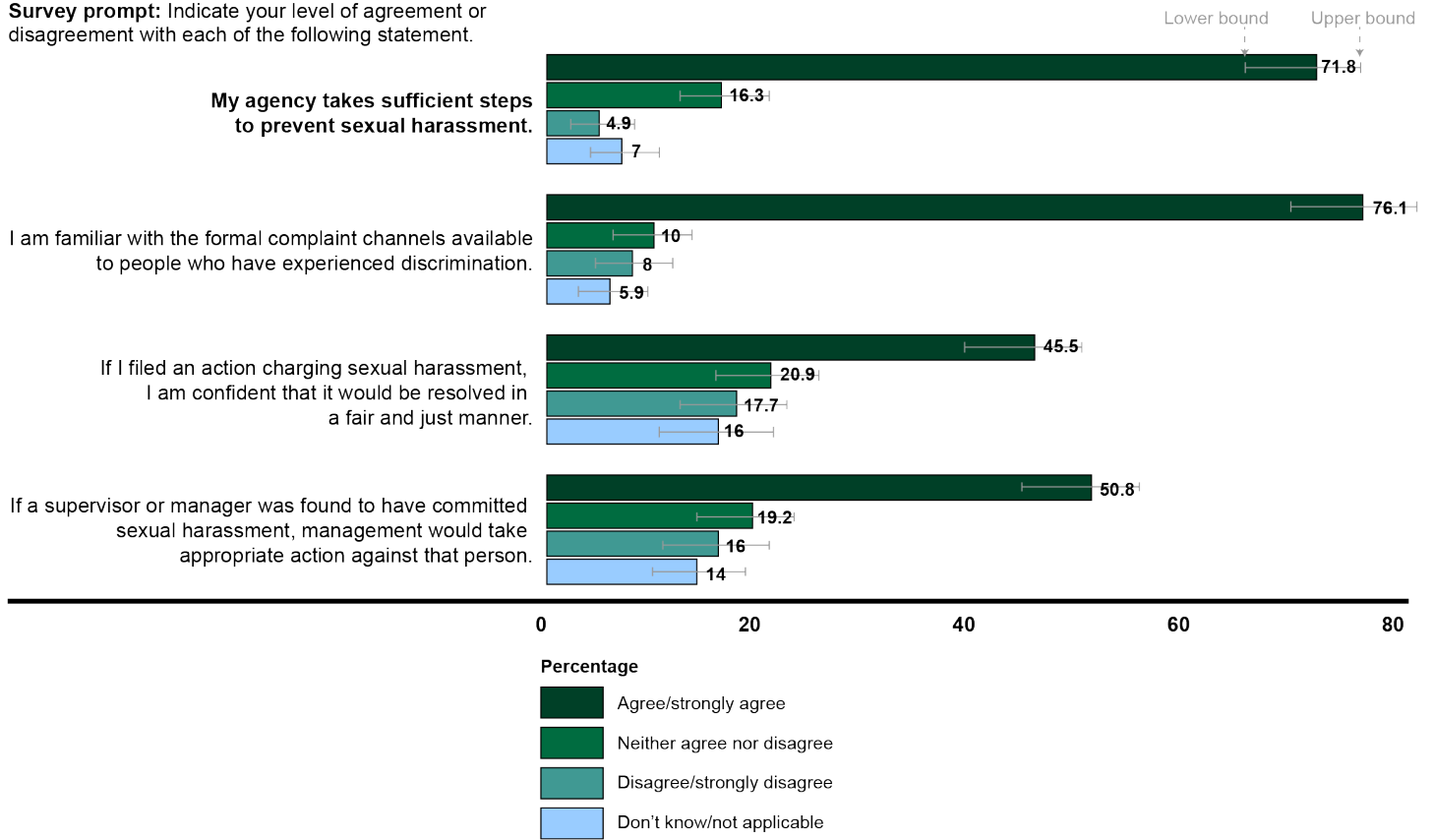
As shown in figure 7, a majority of DOE employees were familiar with the formal discrimination complaint channels and thought that DOE takes sufficient steps to prevent sexual harassment. However, a lower

**Appendix II: Analysis of U.S. Merit Systems Protection Board Survey Data**

percentage—approximately half—were confident that sexual harassment would be resolved fairly or that supervisors would be held accountable if they engaged in sexual harassment.

**Figure 7: Estimated Percentage of Department of Energy (DOE) Employees Who Agreed or Disagreed with Statements about Employee Perceptions of DOE’s Sexual Harassment Prevention Efforts**

Survey prompt: Indicate your level of agreement or disagreement with each of the following statement.



Source: GAO analysis of U.S. Merit Systems Protection Board’s 2016 Merit Principles Survey data. | GAO-21-307

**Appendix II: Analysis of U.S. Merit Systems  
Protection Board Survey Data**

**Data table for Figure 7: Estimated Percentage of Department of Energy (DOE) Employees Who Agreed or Disagreed with Statements about Employee Perceptions of DOE's Sexual Harassment Prevention Efforts**

	Agree/Strongly Agree			Neither Agree nor Disagree			Disagree/Strongly Disagree			Don't Know/NA		
	%	Lower Bound	Upper Bound	%	Lower Bound	Upper Bound	%	Lower Bound	Upper Bound	%	Lower Bound	Upper Bound
My agency takes sufficient steps to prevent sexual harassment.	71.8	66.5	77.1	16.3	12.1	21.2	4.9	2.7	8.2	7	4.2	10.8
I am familiar with the formal complaint channels available to people who have experienced discrimination.”	76.1	71	81.3	10	6.7	14.3	8	4.9	12	5.9	3.3	9.6
If I filed an action charging sexual harassment, I am confident that it would be resolved in a fair and just manner.	45.5	39.7	51.2	20.9	16.1	25.7	17.7	13.3	22.7	16	11.7	21
If a supervisor or manager was found to have committed sexual harassment, management would take appropriate action against that person.	50.8	45	56.6	19.2	14.5	23.8	16	11.9	20.9	14	10	18.9

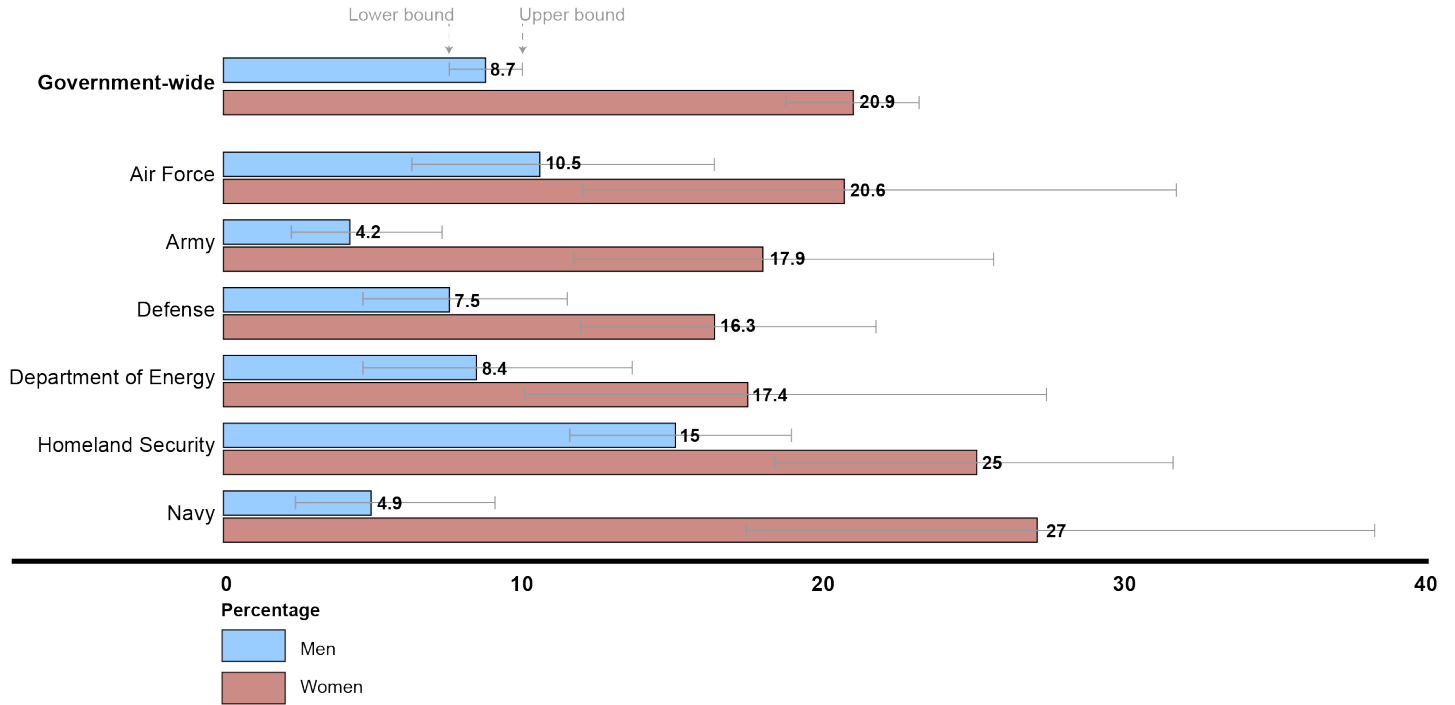
Note: Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar.

### Comparison of Sexual Harassment across Federal Agencies

In addition to DOE, MSPB also surveyed employees from 23 other major federal departments and independent agencies. As shown in figure 8, the estimated percentage of employees experiencing sexual harassment at DOE, within sex, was not significantly different from five other agencies with national-security-related missions, given the confidence intervals around the estimates. DOE overall is not statistically different compared with the government-wide percentage.

**Figure 8: Estimated Percentage of Federal Employees with National-Security-Related Missions Who Experienced Sexual Harassment in 2-Year Period, by Agency and Sex**

Survey prompt: In the past 2 years in your workplace, have any of the following behaviors been directed at you?



Source: GAO analysis of U.S. Merit Systems Protection Board's 2016 Merit Principles Survey data. | GAO-21-307

**Data table for Figure 8: Estimated Percentage of Federal Employees with National-Security-Related Missions Who Experienced Sexual Harassment in 2-Year Period, by Agency and Sex**

Agency/Department - <i>Male</i> Employees	PERCENT	Lower Bound	Upper Bound
Government-wide ('overall' in ARM output)	8.7	7.5	9.9
Air Force	10.5	6.2	16.3
Army	4.2	2.2	7.2
Defense	7.5	4.6	11.3
Energy	8.4	4.7	13.6
Homeland Security	15	11.6	18.9
Navy	4.9	2.3	9

Agency/Department - <i>Female</i> Employees	PERCENT	LB	UB
Government-wide ('overall' in ARM output)	20.9	18.7	23.1
Air Force	20.6	11.9	31.8

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Protection Board Survey Data**

<b>Agency/Department - <i>Female</i> Employees</b>	<b>PERCENT</b>	<b>LB</b>	<b>UB</b>
Army	17.9	11.6	25.7
Defense	16.3	11.8	21.8
Energy	17.4	10	27.4
Homeland Security	25	18.4	31.6
Navy	27	17.4	38.4

Notes: The most recent finalized U.S. Merit Systems Protection Board (MSPB) survey was administered in 2016 and asked whether respondents had experienced or observed various sexual harassment behaviors in the preceding 2 years; such behaviors may or may not be unlawful, depending on the circumstances. This figure represents the estimated percentage of employees who experienced at least one of the following sexual harassment behaviors included in the MSPB survey: exposure to sexually oriented conversations; unwelcome sexual teasing, jokes, comments, or questions; derogatory or unprofessional terms related to sex or gender; exposure to sexually - oriented material; unwelcome invasion of personal space; unwelcome sexually suggestive looks or gestures; unwelcome communications of a sexual nature; pressure for dates; stalking; offer of preferential treatment for sexual favors; pressure for sexual favors; and sexual assault or attempted sexual assault.

Estimates shown in this figure have margins of error at the 95-percent confidence level, as shown by bracketed lines on each bar. The Department of Energy's (DOE) confidence interval overlaps with the other agencies in this figure, indicating that DOE's estimated percentage of employees who experienced sexual harassment is not statistically different than that of these agencies.

## Appendix III: Information on Extent to Which NNSA Nuclear Security Forces Follow Selected EEOC Promising Practices

This appendix provides additional, amplifying information on two areas of the U.S. Equal Employment Opportunity Commission's (EEOC) *Promising Practices for Preventing Harassment* reported in the second objective of this report: (1) leadership and accountability and (2) effective and accessible harassment complaint system.<sup>1</sup> See below for additional information on the extent to which the National Nuclear Security Administration (NNSA) nuclear security forces—the Office of Secure Transportation (OST) and the four NNSA sites responsible for work with weapons-grade nuclear material in specified quantities, known as Category I special nuclear material—follow these practices.<sup>2</sup>

Table 12 shows the extent to which NNSA nuclear security forces follow EEOC's Promising Practices for leadership and accountability in preventing and responding to sexual harassment.

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<sup>1</sup>U.S. Equal Employment Opportunity Commission, *Promising Practices for Preventing Harassment*. We are focusing on these selected areas because additional details in these two areas may offer more insight on how the entity's reported actions met our criteria to determine whether the entity "follows," "partially follows," or "does not follow" that practice. We did not provide additional details on our assessment of harassment policies and harassment training because our assessment work in those areas involved less judgment. In the case of harassment training, the choice was binary—either training materials we reviewed included the recommended element, or they did not. Our assessment of harassment policies was similar: either the written policies we reviewed included the full language of the recommendation, some of the language of the recommendation, or none of the language of the recommendation.

<sup>2</sup>These four sites include Los Alamos National Laboratory (LANL), the Nevada National Security Site (NNSS), Pantex Plant (Pantex), and Y-12 National Security Complex (Y-12).

**Appendix III: Information on Extent to Which  
NNSA Nuclear Security Forces Follow Selected  
EEOC Promising Practices**

**Table 12: Extent to Which NNSA’s Nuclear Security Forces Follow Selected EEOC Promising Practices for Leadership and Accountability in Preventing and Responding to Sexual Harassment**

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including Office of Secure Transportation)	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>a</sup>	Los Alamos National Laboratory
Incorporate enforcement of, and compliance with, the organization’s harassment and other discrimination policies and procedures in the organization’s operational framework.	Follows	Follows	Follows	Follows
Assess harassment risk factors and taking steps to minimize or eliminate those risks.	Partially follows	Followsb	Partially follows	Follows
Engage organizational leadership in harassment prevention and correction efforts.	Follows	Follows	Follows	Follows
Acknowledge employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated, and promptly reporting, investigating and resolving harassment complaints.	Follows	Does not follow	Does not follow	Follows
Periodically evaluate the effectiveness of the organization’s strategies to prevent and address harassment.	Follows	Follows	Does not follow	Follows
Ensure that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures are implemented and communicated to employees.	Follows	Follows	Follows	Follows

Legend: ● Follows, ◐ Partially follows, ○ Does not follow

Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors compared to the U.S. Equal Employment Opportunity Commission (EEOC) 2017 Promising Practices for Preventing Harassment. | GAO-21-307

Note: “Follows” indicates that the force has adopted all elements of the practice. “Partially follows” indicates that force has adopted some elements of the practice. “Does not follow” indicates that the force has not adopted any elements of the practice.

<sup>a</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

<sup>b</sup>The protective force contractor at the Nevada National Security Site assesses risk using internal complaint data rather than the risk factors for harassment identified by EEOC.

Details follow for each Promising Practice listed above and the extent to which NNSA and its protective force contractors follow that practice, based on documentation and each of their reported actions in those areas:

- **Incorporating enforcement of, and compliance with, the organization’s harassment and other discrimination policies and procedures in the organization’s operational framework.** NNSA and all protective force contractors in our scope follow this Promising Practice (see table 12). NNSA employs the Department of Energy’s



(DOE) Diversity and Inclusion Strategic Plan (D&I Plan), which includes a charge to cultivate a supportive, welcoming, inclusive, and equitable work environment. DOE's D&I Plan was published in March of 2012 and covers the years 2012 to 2015. DOE has not updated the document, but a DOE official told us that the D&I plan is in the process of being updated. At the Nevada National Security Site (NNSS), the protective force contractor incorporates antiharassment into multiple operational documents, including the company's code of ethics and standards of business conduct. The protective force contractor at Los Alamos National Laboratory (LANL) reported that it incorporates antiharassment into the company's code of business ethics and conduct. At the Pantex Plant (Pantex) and the Y-12 National Security Complex (Y-12), the protective force contractor's code of business has a multipage discussion of policies relevant to conducting the contractor's business and includes examples of expected behavior in the areas of general standards, antiretaliation, whistleblower rights, and diversity and fair employment.

- **Assessing harassment risk factors and taking steps to minimize or eliminate those risks.** Based on their reported actions, the protective force contractors at LANL and NNSS follow, while NNSA and the protective force contractor at Pantex and Y-12 partially follow, the Promising Practice for assessing harassment risk factors and taking steps to minimize or eliminate those risk factors (see table 12). A report from the Co-Chairs of EEOC's Select Task Force on the Study of Harassment in the Workplace highlights a list of 12 nonexhaustive harassment risk factors and responsive strategies that employers are encouraged to use to assess and respond to their harassment risk.<sup>3</sup> Protective force managers noted that the monotony and isolation of the work stood out among risk factors as being relevant to their work. To assess for risk, the protective force contractor at LANL reported that its site employs a risk assessment process that focuses on analyzing variables related to personnel engaging in conduct that is not consistent with the company's core business ethics. These assessments drive the type of training offered to their employees. The protective force contractor at NNSS reported that it assesses for harassment risk factors through a process facilitated by the contractor's ethics and compliance committee, which meets quarterly to review and analyze significant trends in, and corrective actions taken in response to, calls to the company's ethics hotline. The assessment process aims to determine risk and

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<sup>3</sup>U.S. Equal Employment Opportunity Commission, *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace*.

recommend changes to company policies, procedures, or programs. NNSA officials reported that while they employ numerous preventative measures, they do not use a formalized methodology to assess risk. Similarly, the protective force contractor at Pantex and Y-12 reported that it does not engage in a risk assessment process. However, the contractor reported that it does take action in response to risk factors that it has identified outside of the context of sexual harassment. For example, protective force managers at Pantex and Y-12 told us that they aim to combat monotony by running response drills and having supervisors visit with supervised employees while they are on post.

- **Engaging organizational leadership in harassment prevention and correction efforts.** Based on their reported actions, all of NNSA's nuclear security forces at the sites in our scope follow this Promising Practice (see table 12). NNSA's Equal Employment Opportunity (EEO) Manager reported meeting on a monthly basis with OST senior leadership to discuss EEO activity within OST and to identify potential problem areas, including harassment prevention and response. The protective force contractor at NNSA reported that it annually trains managers on harassment and discrimination avoidance and related issues. The protective force contractor at LANL reported that it engages its leadership through yearly training and that leadership is involved in the company's response to harassment complaints. Contractor representatives at Pantex and Y-12 told us that they inform the company's Chief Executive Officer and Chief Operating Officer of high-risk cases identified through its Ethics and Employee Concerns Program, which would include harassment, during biweekly meetings.
- **Acknowledge employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated, and promptly reporting, investigating and resolving harassment complaints.** Based on their reported actions, NNSA and the protective force contractor at LANL follow, and the protective force contractors at NNSA and Pantex and Y-12 do not follow, this Promising Practice (see table 12). At NNSA, when supervisors and managers reach out to the agency's EEO Manager seeking guidance on addressing a harassment concern, the EEO Manager reported that these supervisors and managers receive a verbal commendation for their proactive and engaged response. The protective force contractor at LANL reported that it uses spot awards, certificates of appreciation, and other actions to ensure personnel receive recognition for conduct that reflects the organization's commitment to creating a workplace free of harassment. At NNSA, protective force contractor representatives

explained that they do not reward employees for creating and maintaining a culture of antiharassment because it is their baseline expectation for every member of our workforce, and failure to do so is subject to discipline.

- **Periodically evaluating the effectiveness of the organization’s strategies to prevent and address harassment.** Based on their reported actions, NNSA and protective force contractors at NNSS and LANL follow, and the protective force contractor at Pantex and Y-12 does not follow, this Promising Practice (see table 12). The NNSA EEO Manager reported monitoring the nature of EEO complaints filed within NNSA to identify EEO claims in which harassment is alleged, tracks and addresses any identified trends within particular offices and organizations, and works with management to prevent harassment through training and in-house expertise. The protective force contractor at NNSS reported that takes part in an annual ethics audit program. The audits involve interviewing randomly selected employees to assess the effectiveness of communication and training efforts around the company’s Code of Ethics and Standards of Business Conduct, including those provisions prohibiting harassment. The protective force contractor at LANL reported that it evaluates and provides metrics on complaints and concerns to their board quarterly and uses that information to determine their cadence for training and the topics that need to be reemphasized.
- **Ensuring that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures are implemented and communicated to employees.** Based on their reported actions, all of NNSA’s nuclear security forces follow this Promising Practice (see table 12). Specifically, all of NNSA’s nuclear security forces reported having individual employees or broader teams review, reconcile, and disseminate any changes to harassment policies, complaint systems, training or related policies, practices, and procedures.

Table 13 shows the extent to which NNSA nuclear security forces follow EEOC’s Promising Practices for an effective and accessible harassment and complaint system.

**Appendix III: Information on Extent to Which  
NNSA Nuclear Security Forces Follow Selected  
EEOC Promising Practices**

**Table 13: Extent to Which NNSA’s Nuclear Security Forces Follow Selected EEOC Promising Practices for an Effective and Accessible Harassment Complaint System in Preventing and Responding to Sexual Harassment**

EEOC Promising Practice	NNSA Nuclear Security Force			
	NNSA federal employees (including OST) <sup>a</sup>	Nevada National Security Site	Pantex Plant & Y-12 National Security Complex <sup>b</sup>	Los Alamos National Laboratory
Provides multiple avenues of complaint, if possible, including an avenue to report complaints regarding senior leaders.	Follows	Follows	Follows	Follows
May include voluntary alternative dispute resolution processes to facilitate communication and assist in preventing and addressing prohibited conduct or conduct that could eventually rise to the level of prohibited conduct.	Follows	Does not follow	Does not follow	Does not follow
Includes processes to determine whether alleged victims, individuals who report harassment, witnesses, and other relevant individuals are subjected to retaliation and imposes sanctions on individuals responsible for retaliation.	Partially follows	Partially follows	Partially follows	Partially follows
Includes processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, the preventative and corrective action taken.	Partially follows	Follows	Follows	Partially follows

Legend: ● Follows, ◐ Partially follows, ○ Does not follow

Source: GAO analysis of information from National Nuclear Security Administration (NNSA) and protective force contractors, compared with U.S. Equal Employment Opportunity Commission’s (EEOC) 2017 Promising Practices for Preventing Harassment. | GAO-21-307

Note: “Follows” indicates that the force has adopted all elements of the practice. “Partially follows” indicates that force has adopted some elements of the practice. “Does not follow” indicates that the force has not adopted any elements of the practice.

<sup>a</sup>The harassment and complaint system used by the Office of Secure Transportation (OST) is the system run by NNSA’s Office of Civil Rights for all NNSA employees.

<sup>b</sup>Pantex Plant and Y-12 National Security Complex have a consolidated contract, with one contractor providing services at both sites.

Details for each Promising Practice listed above, and the extent to which NNSA and its protective force contractors reported that they follow that practice, are discussed below:

- **Provides multiple avenues of complaint, if possible, including an avenue to report complaints regarding senior leaders.** Based on their reported actions, all nuclear security forces at the sites in our scope follow this Promising Practice (see table 13). NNSA and all the protective force contractors reported that they provided for multiple avenues of complaints, including the ability to report to a supervisor or manager, to ethics or EEO officers, and to complaint or concerns hotlines. Unionized protective force leaders at the four sites in our scope told us that members could also report complaints to them.
- **May include voluntary alternative dispute resolution processes to facilitate communication and assist in preventing and**

**addressing prohibited conduct or conduct that could eventually rise to the level of prohibited conduct.** Based on their reported actions, NNSA follows, and protective force contractors at the sites we reviewed do not follow, this Promising Practice (see table 13). NNSA has a voluntary alternative dispute resolution process for all NNSA employees that is capable of handling sexual harassment complaints for OST. Protective force contractor representatives told us that they do not provide alternative dispute resolution processes for their employees.

- **Includes processes to determine whether alleged victims, individuals who report harassment, witnesses, and other relevant individuals are subjected to retaliation, and imposes sanctions on individuals responsible for retaliation.** Based on their reported actions, NNSA and all protective force contractors in our scope partially follow this Promising Practice (see table 13). EEOC officials told us that processes to determine whether individuals are subjected to retaliation may include
  - tracking complaint data to determine if there is a pattern of retaliation complaints,
  - following up with sexual harassment complainants and witnesses to remind them of their right not to be subjected to retaliation,
  - asking if complainants and witnesses believe they have been retaliated against, and
  - using information from climate or exit surveys to better understand employee perceptions of the prevalence of retaliation.

NNSA's Office of Civil Rights tracks complaint data to look for patterns of retaliation related to formal EEO complaints, but NNSA officials told us that they do not track data on complaints made through other means, such as complaints made to in-line managers that may never go through the EEO process. At Pantex and Y-12, contractor representatives told us that employees who are interviewed in connection with investigations are reminded that that retaliation is not tolerated and are encouraged to contact their management or the investigation team if they feel they have been retaliated against. However, they do not analyze complaints for patterns and do not conduct climate surveys to find out about employee perceptions of retaliation. Protective force contractor representatives at NNSA told us that they conduct employee experience surveys to learn about perceptions, but they do not provide information on actions they take to determine whether retaliation is occurring. At LANL, protective force contractor representatives told us that hotline tips can be made anonymously and that investigations strictly limit dissemination of

complaint information to protect against retaliation, but they did not provide information on other processes.

- **Includes processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, the preventative and corrective action taken.** Based on their reported actions, NNSA and the protective force contractor at LANL partially follow, and the protective force contractors at NNS and Pantex and Y-12 follow, this Promising Practice (see table 13). At NNSA, officials explained that the complainant receives a copy of the NNSA Office of Civil Rights investigation. However, officials explained that, pursuant to DOE Orders, the particular details regarding the form of discipline or corrective action issued to a federal employee because of an EEO violation is protected privacy information that cannot be disclosed. At LANL, protective force contractor representatives told us that the outcome of the investigation is conveyed to the complainant and the accused. However, if the accused receives discipline, the complainant is not informed as to the level of discipline. Protective force contractor representatives at NNS told us that employees being investigated due to an allegation are provided with a memorandum outlining any possible findings and, if necessary, any resulting disciplinary actions. The complainant is verbally notified of the investigation's findings and assured that the company took corrective action. Further, at Pantex and Y12, protective force contractor representatives told us that when a complaint is resolved, information is conveyed to the complainant via email, phone call, or during a face-to-face meeting. The accused is informed that the investigation is complete (if unsubstantiated). The complainant will generally be informed of preventative and corrective actions, such as employee training or retraining, organizational changes, or communications that reinforce the contractor policies prohibiting harassment and/or retaliation. Specific disciplinary action pertaining to an individual employee is not routinely disclosed.

# Appendix IV: Comments from the Department of Energy and National Nuclear Security Administration



Department of Energy  
Under Secretary for Nuclear Security  
Administrator, National Nuclear Security Administration  
Washington, DC 20585



March 25, 2021

Ms. Allison B. Bawden  
Director, Natural Resources  
and Environment  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Ms. Bawden:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report "Sexual Harassment: NNSA Could Improve Prevention and Response Efforts in Its Nuclear Security Forces" (GAO-21-307). We appreciate the auditors' recognition that the Department of Energy's National Nuclear Security Administration (DOE/NNSA) protective forces have instituted many practices that mirror the Equal Employment Opportunity Commission Promising Practices for Preventing Harassment. Complementing the activities noted in the report, DOE and NNSA have also established other resources to guide and informally assist employees experiencing workplace conflict, including harassing conduct. These include the Office of the Ombudsman, the Alternate Dispute Resolution Office, the Employee Concerns Program, and the Employee Assistance Program. While we have a strong record in this area, we appreciate the auditors' observations and recommendations for further strengthening our practices and increasing information and insight on the effectiveness of those practices through surveys.

NNSA concurs with the auditors' recommendations, and the attached Management Decision outlines the specific actions planned to address each. We welcome these opportunities for continuous improvement and have broadened their scope to include all federal and contractor employees across the NNSA Enterprise. Subject matter experts have also provided technical and general comments under separate cover for your consideration to enhance the clarity and accuracy of the report. If you have any questions about this response, please contact Dean Childs, Director, Audits and Internal Affairs, at (301) 903-1341.

Sincerely,

Charles P. Verdon  
Acting Under Secretary for Nuclear Security  
and Administrator, NNSA

Enclosure

**Appendix IV: Comments from the Department  
of Energy and National Nuclear Security  
Administration**

Enclosure

**NATIONAL NUCLEAR SECURITY ADMINISTRATION**

**Management Decision**

**"Sexual Harassment: NNSA Could Improve Prevention and Response Efforts in Its  
Nuclear Security Forces" (GAO-21-307)**

The Government Accountability Office (GAO) recommends the Department of Energy's (DOE) National Nuclear Security Administration (NNSA):

**Recommendation 1:** Conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in the Office of Secure Transportation (OST) and the nature of any such harassment.

**Management Response:** Concur. NNSA will conduct anonymous surveys on sexual harassment of federal employees within the agency, including OST, to better understand the nature and extent of any such harassment. These surveys will adhere to leading practices for survey research. The estimated completion date for this action is October 31, 2021.

**Recommendation 2:** Evaluate its contracting practices and determine whether protective force contractors should conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in their organizations and the nature of any such harassment.

**Management Response:** Concur. NNSA's Office of Acquisition and Project Management will work with the NNSA Office of Civil Rights in evaluating contracting practices and determining whether to require contractors to conduct anonymous surveys of contractor employees, including protective force contractors, to better understand the nature and extent of any such harassment. The estimated completion date for this action is October 31, 2021.

**Recommendation 3:** Develop a process to consider which Equal Employment Opportunity Commission (EEOC) Promising Practices for Preventing Harassment to implement based on the needs of its federal nuclear security workforce in OST, informed by sexual harassment survey results.

**Management Response:** Concur. NNSA will develop a process to consider which EEOC Promising Practices for Preventing Harassment to implement, based on the needs of its federal workforce, including OST, informed by sexual harassment survey results. The estimated completion date for this action is January 31, 2022.

**Recommendation 4:** Evaluate its contracting practices and determine whether protective force contractors should further implement Promising Practices for Preventing Harassment relevant to the needs of its contracted protective forces, informed by sexual harassment survey results.



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**Appendix IV: Comments from the Department  
of Energy and National Nuclear Security  
Administration**

Enclosure

**Management Response:** Concur. NNSA's Office of Acquisition and Project Management will work with the NNSA Office of Civil Rights in evaluating contracting practices and determining whether it should require contractors to implement additional EEOC Promising Practices for Preventing Harassment. NNSA will consider the needs of NNSA's contractor workforce, including protective force contractors, as informed by sexual harassment survey results. The estimated completion date for this action is January 31, 2022.

GAO recommends the Secretary of Energy:

**Recommendation 5:** Fully implement plans to address the Department's Equal Employment Opportunity (EEO) deficiencies relevant to sexual harassment and work with NNSA to fully implement plans to address the agency's EEO deficiencies relevant to sexual harassment.

**Management Response:** Concur. The Department has completed actions to address two of the ten issues identified in the U.S. Equal Employment Opportunity Commission's July 2020 Technical Assistance Letter and has demonstrated meaningful and/or significant progress on the remaining eight items. While the issues referenced in the report do not, in and of themselves, have a direct correlation to the Department's efforts to prevent and respond to allegations of sexual harassment, the Department will continue to work with NNSA to address the issues and further strengthen our practices. Because some of the actions planned in response to the EEOC letter require a full year to demonstrate successful completion, the estimated completion date for this action is September 30, 2022.

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## Text of Appendix IV: Comments from the Department of Energy and National Nuclear Security Administration

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Page 1

March 25, 2021

Ms. Allison B. Bawden Director, Natural Resources and Environment

U.S. Government Accountability Office Washington, DC 20548

Dear Ms. Bawden:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report "Sexual Harassment: NNSA Could Improve Prevention and Response Efforts in Its Nuclear Security Forces" (GAO-21-307). We appreciate the auditors' recognition that the Department of Energy's National Nuclear Security Administration (DOE/NNSA) protective forces have instituted many practices that mirror the Equal Employment Opportunity Commission Promising Practices for Preventing Harassment. Complementing the activities noted in the report, DOE and NNSA have also established other resources to guide and informally assist employees experiencing workplace conflict, including harassing conduct.

These include the Office of the Ombudsman, the Alternate Dispute Resolution Office, the Employee Concerns Program, and the Employee Assistance Program. While we have a strong record in this area, we appreciate the auditors' observations and recommendations for further strengthening our practices and increasing information and insight on the effectiveness of those practices through surveys.

NNSA concurs with the auditors' recommendations, and the attached Management Decision outlines the specific actions planned to address each. We welcome these opportunities for continuous improvement and have broadened their scope to include all federal and contractor employees across the NNSA Enterprise. Subject matter experts have also provided technical and general comments under separate cover for your consideration to enhance the clarity and accuracy of the report. If you have any questions about this response, please contact Dean Childs, Director, Audits and Internal Affairs, at (301) 903-1341.

Sincerely,

Charles P. Verdon

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Acting Under Secretary for Nuclear Security and Administrator, NNSA

Enclosure

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NATIONAL NUCLEAR SECURITY ADMINISTRATION

Management Decision

"Sexual Harassment: NNSA Could Improve Prevention and Response Efforts in Its Nuclear Security Forces" (GAO-21-307)

The Government Accountability Office (GAO) recommends the Department of Energy's (DOE) National Nuclear Security Administration (NNSA):

**Recommendation 1: Conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in the Office of Secure Transportation (OST) and the nature of any such harassment.**

**Management Response: Concur. NNSA will conduct anonymous surveys on sexual harassment of federal employees within the agency, including OST, to better understand the nature and extent of any such harassment. These surveys will adhere to leading practices for survey research. The estimated completion date for this action is October 31, 2021.**

**Recommendation 2: Evaluate its contracting practices and determine whether protective force contractors should conduct anonymous surveys on sexual harassment issues that adhere to leading practices for survey research to understand the extent to which sexual harassment may occur in their organizations and the nature of any such harassment.**

**Management Response: Concur. NNSA's Office of Acquisition and Project Management will work with the NNSA Office of Civil Rights in evaluating contracting practices and determining whether to require contractors to conduct anonymous surveys of contractor employees, including protective force contractors, to better understand the nature and extent of any such harassment.**

The estimated completion date for this action is October 31, 2021.

**Recommendation 3: Develop a process to consider which Equal Employment Opportunity Commission (EEOC) Promising Practices for Preventing Harassment to implement based on the needs of its federal nuclear security workforce in OST, informed by sexual harassment survey results.**

**Management Response: Concur. NNSA will develop a process to consider which EEOC Promising Practices for Preventing Harassment to implement, based on the needs of its federal workforce, including OST, informed by sexual harassment survey results. The estimated completion date for this action is January 31, 2022.**

**Recommendation 4: Evaluate its contracting practices and determine whether protective force contractors should further implement Promising Practices for Preventing Harassment relevant to the needs of its contracted protective forces, informed by sexual harassment survey results.**

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Page 3

**Management Response: Concur. NNSA's Office of Acquisition and Project Management will work with the NNSA Office of Civil Rights in evaluating contracting practices and determining whether it should require contractors to implement additional EEOC Promising Practices for Preventing Harassment. NNSA will consider the needs of NNSA's contractor workforce, including protective force contractors, as informed by sexual harassment survey results. The estimated completion date for this action is January 31, 2022.**

GAO recommends the Secretary of Energy:

**Recommendation 5: Fully implement plans to address the Department Equal Employment Opportunity (EEO) deficiencies relevant to sexual harassment and work with NNSA to fully implement plans to address the agency's EEO deficiencies relevant to sexual harassment.**

**Management Response: Concur. The Department has completed actions to address two of the ten issues identified in the U.S. Equal Employment Opportunity Commission's July 2020 Technical Assistance Letter and has demonstrated meaningful and/or significant progress on the remaining eight items. While the issues referenced in the report do not, in and of themselves, have a direct correlation to the Department's efforts to prevent and respond to allegations of sexual harassment, the Department will continue to work with NNSA to address the issues and further strengthen our practices. Because some of the actions planned in response to the EEOC letter require a full year**

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**Appendix IV: Comments from the Department  
of Energy and National Nuclear Security  
Administration**

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**to demonstrate successful completion, the estimated completion date for this  
action is September 30, 2022.**

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## Appendix V: GAO Contact and Staff Acknowledgments

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### GAO Contact

Allison Bawden at (202) 512-3841 or [bawdena@gao.gov](mailto:bawdena@gao.gov)

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### Staff Acknowledgments

In addition to the contact named above, Jonathan Gill (Assistant Director), Candace Carpenter (Analyst-in-Charge), and Christina Sylvester Cantor made key contributions to this report. In addition, David Bennett, Jieun Chang, Sherwin Chapman, Melinda Cordero, Charles Culverwell, Suzanne Kaasa, Connor Kincaid, Gwen Kirby, Jessica Lewis, Patricia Moye, Patricia Powell, Constance Satchell, Sara Sullivan, Rebecca Kuhlmann Taylor, Jason Trentacoste, Sonya Vartivarian, and Rebecca Woiwode contributed to the report.

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