

The Regents of the University of California

**COMMITTEE ON OVERSIGHT OF THE  
DEPARTMENT OF ENERGY LABORATORIES  
COMMITTEE ON FINANCE**

May 25, 2005

A Special Meeting of the Committees on Oversight of the Department of Energy Laboratories and Finance was held on the above date at UCSF–Laurel Heights, San Francisco.

Members present: *Representing the Committee on Oversight of the Department of Energy Laboratories:* Regents Blum, Dynes, Marcus, Ornellas, Parsky, Pattiz, Preuss, and Ruiz; Advisory members Rosenthal and Brunk

*Representing the Committee on Finance:* Regents Blum, Dynes, Kozberg, Lee, Ornellas, and Parsky; Advisory members Juline, Rominger, and Blumenthal

In attendance: Regents Anderson and Novack, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost Greenwood, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Foley, and Hershman, Chancellors Bishop, Córdova, Denton, Fox, Tomlinson-Keasey, Vanderhoef, and Yang; Laboratory Directors Anastasio and Kuckuck, University Auditor Reed, and Recording Secretary Bryan

The meeting convened at 8:10 a.m. with Chairman Parsky presiding.

1. **READING OF NOTICE OF MEETING**

For the record, it was confirmed that notice was given in compliance with the Bylaws and Standing Orders for a special joint meeting of the Committees on Oversight of the Department of Energy Laboratories and Finance, for this date and time, for the purpose of considering a University bid to manage the Los Alamos National Laboratory.

2. **PUBLIC COMMENT**

Chairman Parsky conducted a public comment period in order to permit members of the public to comment on University-related matters and matters on the Committees' agenda. He announced that the session would be extended due to the number of people who had indicated their wish to appear. The following persons addressed the Board concerning their opposition to the University's management of the Los Alamos National Laboratory:

- A. Ms. Katherine Flanigan, a UC Santa Cruz student, charged that Vice Chairman Blum had a conflict of interest in voting on Los Alamos laboratory matters because he is vice chair of the board of directors of URS Corp. of San Francisco,

which, she said, stands to earn \$25 million per year as part of a five-year Los Alamos contract. (General Counsel Holst stated that Mr. Blum had no such conflict of interest.)

- B. Mr. Darwin Bond-Graham, a UC Santa Barbara student, believed that the federal government was preparing to develop new nuclear weapons at the laboratory. He was opposed to the University's involvement in any type of weapons work.
- C. Ms. Tara Dorabji, representing Tri-Valley Cares, believed that the laboratories should change their focus from manufacturing weapons parts to developing ways of cleaning up the environment and other civilian-related causes. She believed that forming a partnership with Bechtel would promote an increase in weapons-related work.
- D. Mr. Josh Kearns, a UC Berkeley graduate student, believed the laboratory would become involved in building a new pit-producing facility with the help of Bechtel and UC scientists. He saw the University as becoming integrated with the nuclear complex weapons industry.
- E. Ms. Loulina Miles, representing Tri-Valley Cares, believed that the Livermore laboratory was prepared to support a return to nuclear testing. She was opposed to the Director's management in that he had failed to move the laboratory away from nuclear-related work.
- F. Mr. Garrett Wright, representing Tri-Valley Cares, was opposed to the University's involvement in the nuclear complex. He supported a shift towards research on environmental protections. He referred to mistakes, personnel complaints, and industrial accidents as evidence of the University's gross mismanagement of the laboratories.
- G. Ms. Kelly Franger, representing Tri-Valley Cares, stated that a partnership with Bechtel would be an affront in that the company has a history of war profiteering.
- H. Ms. Steve Stormoen, representing UC Santa Cruz Students Against War, believed that for the University's management of the laboratories to be in the public interest, their resources should be directed toward education. He asserted that UC graduates would no longer wish to work at Los Alamos if its work remains weapons-related.
- I. Mr. Will Parish, representing the Coalition to Demilitarize UC, was opposed to Bechtel as a UC partner in that the choice would be a confirmation of his belief that the Los Alamos laboratory is moving towards the manufacture of nuclear arms.

- J. Ms. Erin Gilday, speaking also on behalf of Ms. Julia Trist and Mr. Jalal Hallal, students at UC Santa Cruz, believed that the University's interest in students was being eclipsed by its desire to make money from the DOE contracts. She saw the University's participation in weapons work as providing a platform for violence and a partnership with Bechtel as an alliance with war profiteers.
- K. Ms. Rebecca Clough, a UC Santa Cruz student, stated that any connection between the University and the Los Alamos laboratory damaged the University's integrity. She hoped the University would set aside a desire for financial gain and reject the proposal to bid on the laboratory contract.
- L. Mr. Mr. Bill Hogan was opposed to bidding on the Los Alamos management contract. He urged the Regents to keep in mind as they vote that they are supposed to be representing students.
- M. Mr. Ryan Wadsworth believed the student body was disgusted by the possibility that the University would form a partnership with war profiteers like Bechtel. He believed the University should decline corporate profit.
- N. Ms. Katie Perez opined that there was no such thing as the safe stewardship of nuclear weapons.
- O. Mr. Mike Kwan, a UC student, hoped the Regents would acknowledge that a group of dedicated students had made an effort to attend the meeting. He was opposed to a partnership with Bechtel.
- P. Mr. Aaron Dankman believed that the University's management of the DOE laboratories generated negative publicity and undermined its educational mission. He urged the student Regent to vote against bidding for the Los Alamos contract.
- Q. Mr. Tom Fleming viewed it as unfair that the Regents had chosen not to meet at campuses where undergraduates are present. He noted the logistical problems faced by students who had come to protest a contract bid.
- R. Mr. Juan Reardon, a UC Santa Cruz student, believed there were moral implications in a partnership with Bechtel, which he commented had supported the war in Iraq.
- S. Ms. Clara Ackerman, a UC Santa Cruz student, did not believe that the University would use its profits from managing the DOE laboratories to further its educational mission. She was opposed to doing work that supported violence and war.

At this point, a recess was called due to a disruption.

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The Committees reconvened at 9:00 a.m. with Committee on the Oversight of the Department of Energy Laboratories Chair Preuss presiding.

3. **APPROVAL TO PARTICIPATE IN A RESPONSE TO A DEPARTMENT OF ENERGY/NATIONAL NUCLEAR SECURITY ADMINISTRATION REQUEST FOR PROPOSAL TO MANAGE AND OPERATE THE LOS ALAMOS NATIONAL LABORATORY**

The President recommended that the Committee on Oversight of the Department of Energy Laboratories and the Committee on Finance recommend to The Regents that (a) the University participate in submitting a responsive proposal to the Department of Energy (DOE)/National Nuclear Security Administration (NNSA) Request for Proposal, dated May 19, 2005, for the management and operation of the Los Alamos National Laboratory and (b) in connection therewith the President be authorized, with the concurrence of the Chairman of the Board and the Chair of the Committee on Oversight of the Department of Energy Laboratories and following consultation with the General Counsel, to execute the proposal and enter into such agreements and execute such other documents as are necessary in the course of submission of such proposal, or as a consequence of DOE/NNSA acceptance of the proposal, including, but not limited to, creation of a separate corporation to act as the prime contractor.

It was recalled that the future management and operating contract for the Los Alamos National Laboratory is being competitively awarded as required by Section 301 of the Energy and Water Appropriations Act for Fiscal Year 2004. A Request for Proposal (RFP) was issued by the Department of Energy/National Nuclear Security Administration on May 19, 2005, asking for proposals to be submitted no later than July 19, 2005.

The Los Alamos National Laboratory (LANL) is a nuclear weapons research facility operated for the National Nuclear Security Administration within the Department of Energy. Since its inception, LANL has been managed by the University, based upon a federal sole source determination that the University was uniquely qualified for the job. As a matter of federal policy, however, the Congress directed DOE/NNSA to open to competition all contracts that had not been open to bid in excess of 50 years. Accordingly, the future contract for Los Alamos will be awarded competitively.

In accordance with the January 2004 authorization by The Regents, the University has entered into a number of agreements to form a group of educational institutions and industrial organizations that will propose to accomplish the objectives of the new prime contract. The principal team members are the University and Bechtel Corporation, acting through its Bechtel National, Inc. subsidiary. The University and Bechtel will form a special purpose legal entity to act as the prime contractor. Other members of the team include a second industrial organization – WBOS, LLC, formed by BWXT, and

Washington Group International – and the New Mexico Consortium of Research Universities formed by University of New Mexico, New Mexico State University, and New Mexico Institute of Mining and Technology. These team members will be subcontractors to the prime contractor and have roles as described in the competitive proposal. There may be other organizations added to the team as subcontractors consistent with the terms of the solicitation.

It is anticipated that an award will be made by December 1, 2005.

Due to federal regulations associated with competitive procurement, the future contract for management and operation of LANL will not have certain negotiated terms that have been a part of the University's past contracts but which cannot be offered to all potential bidders:

- A right to terminate the contract at the election of the University
- Unrestricted application of the University's corporate practices and programs to the laboratory
- Exemption from termination for default

Instead, the University's team and all offerors must submit proposals that conform to the requirements of the solicitation. In such a process the University must be prepared to accept standard terms and conditions in order to be eligible to receive the contract. The principal features of the solicitation are:

- Standard contract clauses that conform to the requirements of the Federal Acquisition Regulations and the Department of Energy Acquisition Regulations as published in the Federal Register and applicable to management and operating contracts
- Special terms associated with the Los Alamos contract to include:
  - o Creation of a separate corporate entity to act as prime contractor
  - o Creation of at least two site specific pension plans – one for transferring UC employees who are not retiring under UCRP or going inactive under UCRP, and another for new employees and rehired UCRP retirees and inactives
  - o A contract compliance assurance process
  - o Commitment to use best practices
  - o An opportunity to substitute DOE orders with external regulatory and industrial standards
  - o An opportunity to extend the contract performance period from 7 years to 20 years without an extend or compete decision by DOE/NNSA

- o An opportunity to earn a fee of between a maximum of \$53.4 million and \$79.7 million per year during each year in the initial 7-year period
- o DOE/NNSA approval of human resource practices and employee pensions and benefits

It was noted that General Counsel Holst had provided separate advice to the Regents on the legal implications of the requirements of the RFP and the resulting contract.

President Dynes reported that a legal analysis of the RFP has been completed and the University is prepared aggressively to pursue the management contract with the team it has formed. He believed that the team is positioned perfectly to preserve the world-class scientific mission of Los Alamos while maximizing the quality and accountability of the laboratory's business, management, security, and operational functions. The team will rely on Interim Laboratory Director Bob Kuckuck and Laboratory Director Mike Anastasio, who will serve as team leader for the competition, and, should the University win the competition and upon Regental approval at the May 26 meeting, also as the new director of the Los Alamos laboratory.

President Dynes recalled that throughout its 62-year relationship with the University, Los Alamos has made some of the most significant scientific contributions anywhere in the world: the quality of the science at Los Alamos has never been questioned by anyone. The challenges have come in meeting the security requirements of such a complex institution in the 21st century, post-9/11 environment, and in maximizing the accountability of the operational functions of the laboratory. The University has brought to these issues a clear commitment to reform and to action, and although it has made substantial progress, the University has recognized that the management of these laboratories in the 21st century requires a team effort, one bringing together skills that are greater than what the University alone can offer.

President Dynes cited the excellence in science that it brings to the table, the strength of the management team that has been assembled, and the contribution this unique combination of players can make to the nation as reasons for the University to bid on the contract. He believed that the team arrangement is unique among the competitors in the primacy it accords to the scientific mission of Los Alamos. In this competition, the nation will have a clear choice between a partnership with scientific excellence at its core and other options with defense contracting at their core. At the same time, this partnership brings the substantial experience of Bechtel, BWXT, and Washington Group International in effective project management, facilities management, safety and environmental management, business management, and nuclear and national security operations. He stated that he supports competing for the contract because he believes the University can make an important contribution to the nation by virtue of the scientific excellence it brings to national security research. Submission of the bid will be contingent upon the final, mutually satisfactory resolution of the formation of the

limited-liability corporation between the University and Bechtel that is required for submission of the bid.

Vice President Foley outlined some milestones for the competition. The final RFP was issued on May 19 with a proposal due date 60 days later. Oral presentations by the key personnel in the proposal will be conducted around mid-August. Award of a new contract is expected by about December 1, with full operations being assumed about June 1, 2006. This schedule will necessitate an extension of the existing contract with the University for an additional eight months. The University expects to see this extension proposal from the DOE/NNSA soon.

Mr. Foley introduced Mr. Tom Hash, President of Bechtel National, Inc., the principle partner in the competition, who noted Bechtel's proven track record as a major contractor for DOE/NNSA in both national security and nuclear environmental clean-up missions. Bechtel has taken on two industrial partners, BWXT and Washington Group International. The industrial team is committed to providing their best resources. Bechtel is skilled at managing large, complex projects safely and with integrity.

Mr. Hash introduced Mr. Roland Knapp, President of Washington Group BWXT operating services. Mr. Knapp stated that BWXT is a complex high-consequence nuclear operator. It has been a partner of Bechtel and the Washington Group in previous projects and has been engaged at Los Alamos in the past five years in providing advisory and technical support services to the laboratory. It has also supported the Department of Defense for 50 years in manufacturing major critical components for the construction of submarines and aircraft carriers. Its main goal in the integrated management approach to operating the Los Alamos laboratory is to facilitate the accomplishment of the mission in a safe and secure manner. Its effort has demonstrated that it is possible to increase productivity while improving safety and maintaining security. Together, the industrial partners provide a mission support organization that capitalizes on their collective strengths. He recalled that the mission support areas at Los Alamos are where a number of issues have arisen over the years. He believed that BWXT can address those issues.

Mr. Knapp introduced Mr. Preston Rahe, president of the energy and environmental sector for Washington Group International. Mr. Rahe stated that Washington Group International, as one of the original six industrial partners in the Manhattan Project, has seen the benefit of the University's science broadly applied. The evaluation criteria of DOE reflect the opinion that great science springs from an institutional culture of safety and disciplined operation. He reported that the Washington Group has been asked previously to apply its knowhow at the Lawrence Livermore and Los Alamos laboratories and is familiar with the University's work there. He believed that the team can help the country face the strategic security challenges of the next century.

Vice President Foley called on Mr. Kuckuck, who is a former Deputy Administrator for the NNSA, former Deputy Director at the Lawrence Livermore laboratory, and Interim

Laboratory Director of the Los Alamos laboratory. Mr. Kuckuck believed that the Los Alamos laboratory was an example of science conducted in the public interest. He observed that in his brief introduction to the Los Alamos laboratory he had had numerous interactions with laboratory employees. He had met with senior management, had attended program reviews, all-hands meetings, a laboratory-wide management meeting, and had interacted with individuals. He observed that, while the laboratory has a competent, capable, and committed group of employees, they are struggling with morale issues and uncertain about their future. He hoped to position the laboratory optimally for success. He praised his management team, whose goals are to continue the operational safety and security progress that has been made and to advance a program of openness, respect, and trust that the staff needs.

Vice President Foley noted that it had been recommended by the proposal team that Mr. Anastasio, who is Director of Lawrence Livermore National Laboratory, become Director of the Los Alamos laboratory if the University is successful in its bid. Laboratory Director Anastasio discussed the next steps that the University will be taking to ensure that science and technology continue to underpin Los Alamos laboratory. He believed that the competition for management of the laboratory had implications for the future not just for Los Alamos but for the country, which faces the choice of whether to have the laboratory managed by an academic institution in partnership with industry, ensuring that innovative science and technology, enabled by strong management, are delivered, or to risk the past 60 years of great scientific accomplishments for national security by moving to a defense-contractor-dominated facility. He believed that an academic institution is critical to the continued successful management of Los Alamos laboratory, because it preserves an environment of objective scientific inquiry. Further, the request for proposal makes it clear that the scientific capabilities that the University has provided for Los Alamos continue to be the most important criteria in the selection of the contractor. He expressed confidence that the UC-Bechtel team represents the best assurance of innovation and objectivity in inquiry in support of the national interest.

Faculty Representative Blumenthal recalled that the previous year he had reported to the Regents that a poll was conducted of all University faculty regarding whether the University should compete for the laboratory management contracts. Campuses held forums, and eleven white papers describing the laboratories were posted on the Academic Senate website as background before the poll. By a three-to-one majority, the Academic Senate faculty voted in favor of competing to retain management of the Los Alamos and Livermore laboratories. Roughly 3,300 faculty participated. The results were independent of the campus from which those faculty came and of the discipline in which they participated; humanities and social science faculty voted just as favorably as did science and engineering faculty. There was slightly more support among the faculty for continued management of Lawrence Livermore than Los Alamos. In addition, the faculty said that they did not support UC involvement in the manufacture of nuclear weapons components such as plutonium pits. They strongly supported all efforts to maintain the maximum possible academic freedom and freedom of inquiry for scientists at the Los



Alamos laboratory. They expressed a strong belief that the quality of science and technology should be the dominant measure of the laboratories' success. They opposed an industrial partnership for management and favored increased UC-laboratory collaboration in science. Mr. Blumenthal noted that since the time that poll was taken, Lockheed Martin and the University of Texas had announced that they would not compete for Los Alamos and then decided that they would; the DOE, having decided that it was important to maintain science at the laboratories, solicited the National Academy of Sciences to conduct a study on how best to value science and technology at the laboratories and then ignored the first recommendation contained in its report; the University chose Bechtel as a partner for the competition; the Lawrence Berkeley laboratory competition occurred; there was an extended shutdown of operations at Los Alamos; an RFP for Los Alamos released by the DOE included the requirement of a limited liability corporation, something that will ensure that the UC employees at the Los Alamos laboratory will not remain UC employees; and the University changed laboratory leadership. He noted that the RFP includes fees and taxes which total more than \$100 million more than under the old contract the DOE paid the University for its management of the laboratories. The RFP allocates the greatest number of points to science and technology, but that is only 325 points out of 1,000 in terms of the valuation of the proposal. Also in the ensuing year, the Academic Senate faculty have maintained a laboratory committee to monitor developments. Recent faculty opinion indicates that, although UC does not benefit sufficiently to justify managing the laboratories, the country does. It does a national service by offering to the country the choice of having a university-dominated partnership or a defense contractor as manager. He believed that in operating the laboratories, the University is pursuing its key mission of service.

Mr. Foley noted that about 60 percent of the points within the proposal involve scientific and technological activities.

Regent Blum recalled that in the past he had questioned whether the University should continue its management of the DOE laboratories. He had concluded that the dangers of the world make the laboratories' work increasingly important. They monitor around the world the transporting, trading, and manufacture of nuclear weapons. Their contribution to national security is enormous. The University has managed these properties well for 60 years. It is not clear that its competitors could do as well. He expressed concern, however, about the development of strategic nuclear weapons that could be in violation of international agreements. Developing new weapons will spur another worldwide nuclear arms race. He asked where the University stands on the issue of weapons production and what its involvement would be in the development of "bunker busters." Laboratory Director Anastasio responded that the statement of work that is expressed in the RFP is consistent with the work that the Livermore and Los Alamos laboratories are doing. It does not ask for any change in their roles. He recalled that the development of weapons such as the Robust Nuclear Earth Penetrator requires explicit approval by Congress. Regent Blum asked how much money was to be appropriated for the project. Mr. Anastasio reported that the amount remains under debate. For this fiscal year, a small

amount of money is being used to continue the study. Whether the study gets completed will be decided in the context of next year's fiscal year budget. There is no Congressional authorization to go beyond the study, nor has the Administration requested to do that.

Regent-designate Rosenthal asked about the corporate partners' nondiscrimination policies with respect to sexual orientation, religious minorities, and the disabled. He feared that by entering into a partnership there is the risk of a conflict of laws between the University's regulations and those of its corporate partners. He asked how conflicts would be mitigated. Mr. Hash reported that the policies of Bechtel are consistent with the City of San Francisco. Regent-designate Rosenthal asked if the LLC would be considered a State actor for constitutional purposes and if so, were there ramifications. University Counsel Eklund informed him that the LLC will be a jointly owned and managed limited liability corporation, not an instrumentality of the State of California. Management will be through a board consisting of representatives of both members. Regent-designate Rosenthal noted that LLCs are relatively new. He was concerned about the level of liability. Mr. Eklund responded that the LLC represents a public-private joint venture between the University and Bechtel. It is the most appropriate legal vehicle for enabling the complementary characteristics of the entities and their separate identities jointly to manage and control a national laboratory. The risks, costs, and responsibilities under the contract can be allocated to the two parties according to their respective capabilities, expertise, and purposes. The LLC can be incorporated in any state, although California, Delaware, and New Mexico have their relative advantages for this purpose.

Regent-designate Rosenthal expressed the concern that one day some nuclear device will be deployed by the government, and the University will have contributed to its development. He believed that the University has slightly more standing than its competitors to influence the government against deploying nuclear weapons. He believed the University also was the most capable of maintaining the non-proliferation treaty and that it had a duty to the country to safeguard the nuclear stockpile in the nation's security interests. For these reasons, he supported bidding for the Los Alamos contract.

Regent Novack believed it was necessary to determine what is best for the University. He agreed that the University was conducting high-quality science and would be the best manager of the Los Alamos National Laboratory; however, he did not believe it was in the best interests of the University to continue its management. Any infraction at Los Alamos has the potential disproportionately to dilute the public perception of the University's high quality. Although he was confident in the ability of the senior management of the University to do an excellent management job, he believed that their energies and skills would be better spent on issues within the University's core business, such as enhancing the quality and efficiency of its ten campuses, elevating the quality of K-12 education in the state, and better understanding the diversity in the world that leads to conflicts that deprive populations of economic success.

Regent Pattiz noted that concerns about manufacturing weapons had been expressed. He asked whether there were any possibility of the Los Alamos laboratory's being turned into a weapons plant in the future. Executive Director Nelson recalled that when Rocky Flats was shut down in the 1980s, the Los Alamos laboratory took on the mission of capturing the technology and as a result is capable of producing a small number of plutonium pits. He believed, however, that the RFP was consistent with that limited role of capturing technology and perfecting it. Committee Chair Preuss noted that manufacturing components for nuclear weapons is something the laboratory has always done.

Regent Lee recalled his experiences as a child in war time. He noted that most Americans have never lived through bombing raids. He believed that the decision of whether to bid should be based solely on whether it would be best for the country to have the University manage the laboratory.

Regent-designate Juline noted that the corporate structure for the LLC provides for three directors to be appointed by the University, three by Bechtel, and a chair by the University, and those seven will have the opportunity to appoint additional directors. With this corporate structure, if the Regents were to disagree with a proposed course of action of the LLC, it would appear that they would have only indirect influence over the LLC's actions. University Counsel Eklund responded that the executive committee consisting of the six board members would decide by vote. For general purposes, the chairman would have tie-breaking authority; for limited purposes, the executive committee must vote unanimously. The process for appointing representatives has not been decided. Chairman Parsky stated that the Regents would have direct responsibility for decisions through the executive committee of the board.

Regent-designate Juline noted that the financial agreements of the new structure result in less protection than previously. He asked what assurances could be provided that, outside of the LLC, the University will be adequately protected from the costs and liabilities of the new structure. General Counsel Holst responded that the activity will be concentrated in the LLC, which will be the body with responsibility for responding for issues that arise under the contract in terms of unallowable cost determinations, any possible fee reductions, or any fines might be imposed as a result of Price-Anderson Act provisions. The larger fee revenue will offer protection from potential liabilities.

Regent-designate Juline asked about the terms of the transfer of pension assets for UCRP participants who transfer to an LLC plan and whether the assets transferred would be limited to the actuarial liabilities or would include some of the excess funds of UCRP. Chairman Parsky responded that some areas related to pensions remain under consideration. It is clear from the RFP that there will need to be a different approach and a transfer with respect to different categories of employees. The Regents intend to have any new plan mirror for existing employees the pension plan that exists, to the extent possible. The University will propose that the Treasurer of The Regents will continue to

manage any new plan or plans. Regent Juline explained that he was concerned about the effect on non-laboratory members of UCRP. Senior Vice President Mullinix responded that no employees would be disadvantaged by a transfer of assets; however, he noted that the transfer of the assets is subject to rulings by the Internal Revenue Service as well as agreements with the DOE. Both groups of employees will be treated as fairly as possible.

Regent Ruiz asked why employees at the Los Alamos laboratory should want the UC team as opposed to other contractors. President Dynes believed that the true strength at the Los Alamos and Livermore laboratories was the environment of academic freedom the University brings. Scientists have the opportunity to pursue science in a way that is consistent with a university environment. That kind of environment does not exist in much of corporate America. Director Anastasio agreed. He emphasized the importance for the country's policy makers to have institutions that can bring forward with integrity new technical ideas. The University maintains an environment that is committed to that goal.

Regent Anderson agreed that the issues of laboratory management related not only to national security and service and the University's role in them but also to the question of what is in the University's best interests. She believed that entering the competition was a national service and provided choices to the nation. She believed also that the nation was better off with the University of California playing a strong role in the laboratory's management. Although she was concerned about the consistency of the laboratory's work with the mission of the University, she believed her concern was tempered by the issue of national interest and security and the responsibility the University has to provide service to the nation. She sought clarification as to the role of the laboratories in future production of nuclear weapons. President Dynes responded that the language of the RFP is consistent with the service that the University has been performing for at least the last decade for the DOE and the nation. He did not see any implication that there would be further weapons manufacturing involvement. Vice President Foley noted that there are physical limitations to increasing manufacturing at the Los Alamos site.

Director Anastasio emphasized that Los Alamos has not manufactured weapons, only some of their components.

Regent-designate Rominger reported that a recent visit to Los Alamos had convinced him that employees there want the University to continue managing the contract. He expressed some concerns about the RFP, which he believed would expose the University to greater liability. With regard to claims of DOE/NNSA against the LLC for unallowable costs and the like, immunity will not exist, because DOE/NNSA routinely requires member owners of its contracting entities to execute a performance guarantee by which the member owners agree to assume all the obligations and responsibilities of the entity with respect to DOE/NNSA. He believed it was possible that the laboratory will be required to increase its production of plutonium pits. He agreed with Regent

Novack that the President and others would have to devote time to laboratory management that could be used better on other pursuits.

Although Regent Marcus expressed concern about the negative publicity over the last few years that had damaged the University's reputation and harmed its ability to recruit and retain the finest employees, he was confident in the management team that Vice President Foley had assembled. He noted that the University has an obligation to the employees at the Los Alamos laboratory, who did not foresee a change of management. He believed that the University was the most qualified competitor for the contract.

Regent Ornellas commented that he appreciated the concerns expressed by students and other Regents who advocated focusing on the University's core mission and concentrating its resources on the campuses. He was confident, however, that the formulation of the LLC would segregate laboratory management in a separate entity under Regental oversight. He encouraged those responsible for developing the LLC to focus on providing dispute resolution provisions and exit strategies.

Regent Kozberg believed that, while their core function is to defend the nation, the secondary results produced by the laboratories had been of benefit to the health of its citizens. She acknowledged that laboratory issues sometimes had demanded the attention of the Regents and been a distraction, but she emphasized the benefits to the world of the important scientific developments that go on there.

Committee Chair Preuss recalled that he had been very involved in laboratory issues from the start of his term as a Regent. He believed that bidding for the contract was the University's duty for the long-term security of the country. The moral strength, atmosphere of free exchange of opinions, and independence made it the best choice for the job. He did not view managing the laboratories as a commercial undertaking but rather as a service to the country requiring the committed minds of some of the country's best thinkers.

Chairman Parsky believed that the quality of the University's scientific research, technical innovation, and intellectual curiosity were unparalleled. For more than 135 years the faculty, staff, and alumni have sought out the most difficult problems to solve and the most promising opportunities for improving the quality of life. For nearly half that time the University has been entrusted by the nation with the responsibility of managing the laboratory at Los Alamos. He expressed gratitude for the sacrifice and dedication of all the men and women who have served there. Their achievements are a powerful and enduring legacy of the public mission of the University. He expressed appreciation also to the current employees, who have endured scrutiny and uncertainty as the management contract has been opened to competition. Their positive efforts in recent months have made it possible for the University to consider competing for the contract. He recalled that the previous year, when he and President Dynes had visited the Los Alamos laboratory, employees there had assured them that they understood that great

science and research needed to be coupled with a sensitivity to, appreciation of, and commitment to safety and security. He was pleased that Director Anastasio would lead the competition team if The Regents decides to compete for the contract. Mr. Anastasio commands respect in the scientific community, throughout the DOE complex, and in Washington.

Chairman Parsky noted that the Regents spend many hours addressing the challenges of and potential for sustaining world-class scientific research at the campuses and the national laboratories. He reported that what impresses him most often, besides the brilliance of faculty and students, is the interdisciplinary nature that lies at the core of new scientific discovery. As the Regents have deliberated about the Los Alamos contract, he had contemplated the future of science at the laboratory rather than its past. He was excited about the prospects for the new horizons of scientific activity. He noted that, just as scientific endeavors have become interdisciplinary, the lessons of the past few years at Los Alamos have shown that laboratory management must also become interdisciplinary. The University has prudently sought industrial collaborators whose management practices and track records match the scientific excellence of the University. He believed that Bechtel, BWXT, and the Washington Group provided the correct balance. They will add operational rigor and accountability to the scientific mission of the Los Alamos laboratory. The team reflects the new realities of laboratory operations and the demands that are placed on maintaining peace and national security. He believed that the scientific effort at Los Alamos was inseparable from the research character of the University - finding solutions to the most complex problems with the greatest stakes on the line. If the University decides to bid, it must make the case to Washington, the DOE, the NNSA, Congress, and the White House. Inherent in the decision to compete is taking into account and recommitting to the concept of shared governance. He reported that a recent survey had disclosed that approximately 11 percent of the UC student body responded to a survey about the University's continued management of the laboratories. Slightly more than half of the respondents were either undecided or felt they did not have enough information to have an informed opinion. Of the responses with a preference, 40 percent favored and 31 percent strongly favored the University's bidding to continue management of the laboratories. Of those who favored bidding for the contract, the most frequent reason given, 79 percent, was that the University's management of the laboratories allows for greater public oversight than would management by a private contractor. Of those who opposed the bidding, the most frequently cited reason, 70 percent, was that the national security mission of the laboratories, in particular in relation to nuclear weapons stockpile stewardship, conflicts with the University's research and public service missions.

Chairman Parsky emphasized that science and technology will continue to be the foundation of the work of the laboratory. What is being proposed to the Regents is that authorization be given to the President, the Chairman of the Regents, and the Chair of the Committee on Oversight of the Department of Energy Laboratories to ensure as the bid is prepared that they are convinced that representation holds true.

General Counsel Holst noted that the revised recommendation that was under consideration expressed the resolution in the manner summarized by Chairman Parsky. The recommendation is from both Committees.

Upon motion duly made and seconded, the Committees approved the President's recommendation and voted to present it to the Board.

The meeting adjourned at 10:55 a.m.

Attest:

Secretary