

The Regents of the University of California

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

July 16, 2009

The Committee on Oversight of the Department of Energy Laboratories met on the above date at UCSF–Mission Bay Community Center, San Francisco.

Members present: Regents Kieffer, Marcus, Ruiz, Stovitz, and Varner; Ex officio members Gould and Yudof; Advisory member Croughan

In attendance: Regents De La Peña, Garamendi, Island, Johnson, Kozberg, and Nunn Gorman; Regent-designate DeFreece, Faculty Representative Powell, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Vacca, Interim Provost Pitts, Executive Vice Presidents Darling and Lapp, Senior Vice Presidents Dooley, and Stobo, Vice Presidents Beckwith, Duckett, and Lenz, Chancellors Birgeneau, Block, Blumenthal, Drake, Fox, Kang, White, and Yang, Interim Laboratory Director Alivisatos, and Recording Secretary Harms

The meeting convened at 11:00 a.m. with Committee Vice Chair Varner presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of March 18, 2009 were approved.

2. CONFIRMATION OF APPOINTMENT OF A. PAUL ALIVISATOS AS INTERIM DIRECTOR, LAWRENCE BERKELEY NATIONAL LABORATORY

The President recommended confirmation of the appointment of A. Paul Alivisatos as Interim Laboratory Director, Lawrence Berkeley National Laboratory (LBNL). This interim appointment was made pursuant to Standing Order 100.2 (e), and approved by President Yudof on January 21, 2009.

The University has requested the Department of Energy's (DOE) approval of the total compensation and the appointment of the Interim Laboratory Director. DOE has approved the appointment but its approval of the compensation is still pending. As provided under the University's contract with DOE, any compensation amount approved by the Regents that is over the compensation amount approved by DOE will be paid from the fee earned under the contract.

[Background material was mailed to the Committee in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President Darling noted that when President Obama administered the oath of office to Steven Chu as Secretary of Energy, Mr. Chu immediately resigned his position both as Lawrence Berkeley National Laboratory Director and his faculty position on the Berkeley campus. At that point, President Yudof appointed A. Paul Alivisatos as Interim Laboratory Director. The Department of Energy concurred with this appointment. The University is now seeking confirmation by the Board for this appointment while a search for a permanent Director for LBNL proceeds. The compensation for Mr. Alivisatos was approved by interim action.

President Yudof reported that he has appointed a search committee for a permanent successor to Mr. Chu as Director of LBNL. That committee includes Regents Gould, Blum, Pattiz, Schilling, and Varner. The first meeting of the search committee will be on August 19; the President intends to invite candidates for interviews by early October, and to have a recommendation to present to the Regents in November.

Prior to his appointment, Mr. Alivisatos served as a Deputy Director of LBNL and the Laboratory's Chief Research Officer, overseeing the discretionary research budget, key research initiatives, and the technology transfer function. Mr. Alivisatos also assisted Director Chu in developing the overall strategic direction and institutional plan for the Laboratory. After receiving a Bachelor's degree with honors from the University of Chicago, Mr. Alivisatos earned a Ph.D. in chemistry at UC Berkeley. He served as a postdoctoral fellow at AT&T Bell Laboratories, and in 1988 joined the UCB chemistry faculty and became a principal investigator at Berkeley. Currently, Mr. Alivisatos is a professor in the Department of Materials Science and Chemistry. He is an active scientist researching the structural thermodynamic optical and electrical properties of nanocrystals. Recently, Mr. Alivisatos developed and served as the first director of the highly successful Molecular Foundry, a DOE National User Facility for nanoscience. He provided leadership for the LBNL Helios solar research initiative. Mr. Alivisatos' outstanding research has been recognized through numerous awards and honors including the E.O. Lawrence Award and election to the National Academy of Sciences and the American Academy of Arts and Sciences. He is the founder and coeditor of *Nano Letters*, the leading journal of nanoscience and nanotechnology.

As Interim Director, Mr. Alivisatos has actively promoted the safety culture of LBNL and led the Laboratory through a successful, in-depth DOE review of its safety programs. He has developed and directed a successful strategy to use federal stimulus funds to upgrade the Laboratory's facilities and to begin initiatives to take LBNL in exciting new research directions. The President stated that Mr. Alivisatos is a tremendously talented man of integrity and that he has his full confidence.

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

Mr. Alivisatos thanked the President and informed the Regents that the Laboratory was currently experiencing an incredibly exciting time in its history. From its origins in the study of high-energy physics and nuclear chemistry, it has become, over the years, a

multipurpose research laboratory with activities ranging from astrophysics to genomics and cancer research. Today, LBNL has a national calling: it is being asked to provide a new set of solutions for energy and environment research. Mr. Alivisatos explained that the Laboratory is beginning projects in building efficiency, carbon capture and sequestration, batteries, solar photovoltaics, and solar fuel.

The Interim Director noted that LBNL had been fortunate to receive some substantial stimulus funding in new research programs. He remarked that the entire Laboratory community is very grateful for having had the stewardship of the University of California, which has provided it with freedom to tackle important research problems.

At the President's suggestion, Mr. Alivisatos told the Regents that the LBNL budget was almost \$500 million a few years ago, and that it will be close to \$700 million this year. In addition to expanding its budget, the Laboratory has also grown substantially in terms the range of topical areas it is investigating. He observed that LBNL has been the home of the Advanced Light Source synchrotron for quite a few years, and that now it is working with the DOE try to develop a new free-electron laser light source. If it is successful, it would serve as a billion-dollar-scale project for the Laboratory.

Regent Ruiz expressed his concern about issues the University encounters regarding the Laboratory and its projects. He asked Mr. Alivisatos if he felt UC could make any progress in this area. Mr. Alivisatos replied it is critical to the future of LBNL to have a very strong relationship with its community. He observed that the Laboratory has made improvements in its interactions with the local residents. As an example, he cited work under way on a section of LBNL referred to as "Old Town" that the staff has wanted to renew for many years. The Laboratory has been working very closely with its partners in the East Bay; Mr. Alivisatos was pleased to say that several of the mayors and city councils have written to the DOE in support of the renewal. He said that the Laboratory should develop a strategy wherein it works diligently to make the community aware of its needs, and listens to residents' input before moving forward. He feels that such a tactic would do much to facilitate LBNL's ability to move forward on new projects effectively.

3. **AUTHORIZATION TO APPROVE AND EXECUTE MODIFICATION TO THE DEPARTMENT OF ENERGY CONTRACT FOR THE LAWRENCE BERKELEY NATIONAL LABORATORY AS A RESULT OF CHANGES TO THE FEDERAL ACQUISITION REGULATIONS AND THE DEPARTMENT OF ENERGY ACQUISITION REGULATIONS**

The President recommended that he be authorized to execute a modification to the provisions of LBNL contract DE-AC02-05CH11231 in order to incorporate clause updates and one clause deletion.

[Background material was mailed to the Committee in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President Darling explained that this item updates clauses in the LBNL contract to bring them into conformance with recent updates to the federal acquisition regulations and the DOE regulations. The Office of the General Counsel and the Division of Laboratory Management have reviewed it carefully and have determined that there is no material, financial, or legal risk to the University, and that there would be no adverse operational impact to the University as a result of adopting these clauses.

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

4. **RESOLUTION REGARDING ACCESS TO CLASSIFIED INFORMATION FOR INDIVIDUAL REGENTS**

The President recommended adoption of the following resolution pertaining to the University's respective Department of Defense and Department of Energy Facility Security Clearances, as follows:

WHEREAS, current Department of Defense and Department of Energy Regulations contain a provision making it mandatory that the Chairman of the Board, Chief Executive Officer, and those other officers and officials who are to have access to classified information meet the personnel clearance requirements established for a contractor's facility clearance; and

WHEREAS, said Regulations permit the exclusion from the personnel clearance requirements of certain members of the Board of Regents, provided that this action is recorded in the University Regents' Board Minutes;

NOW, THEREFORE, BE IT DECLARED that the Chairman of the Board, at least an official quorum of the Board of Regents, and the Chief Executive Officer at the present time do possess, or will be processed for, the required security clearance; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as Chairman of the Board, as a replacement for one of the cleared quorum of the Board, or as the Chief Executive Officer, such individual shall immediately make application for the required security clearance; and

BE IT RESOLVED FURTHER that the following members of the Board of Regents shall not require, shall not have, and shall be effectively excluded from access to all classified information in the possession of the Corporation and that the following members do not occupy a position that would enable him to affect adversely Corporate policies or practices in the performance of classified contracts for the Department of Defense, U.S. Department of Energy or contracts with other Federal User Agencies of the National Industrial Security Program:

| <u>NAME</u> | <u>TITLE</u> |
|---------------------|--------------|
| Jesse Bernal | Regent |
| Hadi Makarechian | Regent |
| Yolanda Nunn Gorman | Regent |

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

Regent Garamendi thanked the retired Lawrence Livermore National Laboratory (LLNL) employees for their patience, and commented that their statements regarding their retirement benefits during the public comment period were well presented. He expressed his belief that the University, the President, and the Council are in a position to work with the retirees to determine if the issue can be resolved. Mr. Garamendi stated that his research indicated that matters of unfairness and inequity did exist, and that it is incumbent upon the University to try to reach an appropriate solution. He noted that the issue appeared to have more fiscal implications for the DOE and the LLC than for UC. Mr. Garamendi thanked the President and the Council for their willingness to participate with the retirees. Mr. Garamendi drew the Committee's attention to the letter and PowerPoint he had distributed related to the LLNL employees' concerns on this issue.

[Regents were provided with a letter regarding health benefits for Lawrence Livermore National Laboratory retirees. Copies are on file in the Office of the Secretary and Chief of Staff.]

The meeting adjourned at 11:10 a.m.

Attest:

Secretary and Chief of Staff