

The Regents of the University of California

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

January 20, 2011

The Committee on Oversight of the Department of Energy Laboratories met on the above date at Price Center, San Diego campus.

Members present: Regents Blum, DeFreece, De La Peña, Marcus, Pattiz, and Varner; Ex officio members Gould and Yudof; Advisory member Simmons

In attendance: Regents Cheng, Crane, Hime, Island, Kieffer, Lansing, Lozano, Makarechian, Newsom, Ruiz, Schilling, and Zettel, Regents-designate Hallett, Mireles, and Pelliccioni, Faculty Representative Anderson, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Chief Compliance and Audit Officer Vacca, Provost Pitts, Executive Vice Presidents Brostrom and Taylor, Senior Vice Presidents Dooley and Stobo, Vice Presidents Darling, Lenz, and Sakaki, Chancellors Block, Blumenthal, Desmond-Hellmann, Drake, Fox, Kang, Katehi, White, and Yang, and Recording Secretary McCarthy

The meeting convened at 9:10 a.m. with Committee Chair Pattiz presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of September 15, 2010 were approved.

2. UPDATE ON THE DEPARTMENT OF ENERGY LABORATORIES

Committee Chair Pattiz updated the Committee on the December board meetings of the limited liability companies (LLCs) that operate the Los Alamos National Laboratory (LANL) and the Lawrence Livermore National Laboratory (LLNL).

The New Strategic Arms Reduction Treaty (New START) for bilateral arms reductions with Russia has been ratified. The treaty is in keeping with President Obama's Nuclear Posture Review, which recommended moving to a smaller nuclear stockpile and modernizing the remaining nuclear arsenal and its supporting complex. In conjunction with the New START, President Obama has proposed significant budget increases to support the infrastructure of the nuclear arsenal, restore stockpile surveillance, support the Stockpile Life Extension Program for aging nuclear warheads, and modernize the science base of the nuclear security enterprise. This increased support would build confidence in a smaller, more modern nuclear stockpile and promote the goals of nuclear deterrence and non-proliferation. Committee Chair Pattiz pointed out that many nations

depend on the nuclear deterrent of the United States. The Laboratories were important consultants to the government on the New START.

Both LANL and LLNL project healthy budget increases, including a 16 percent increase in funding from the federal government, providing the University with significantly more fee income for research at the campuses in many areas including new energy sources and global climate modeling. LANL has had steady increases in its budget since 2006, and is currently funded at \$2.2 billion. Including funding carried forward from the prior year, LANL conducted \$2.5 billion in program spending, a new record.

Committee Chair Pattiz stated that this increase in funding indicates sponsors' confidence in the Laboratories' ability to perform high-quality work in a cost-effective and timely manner. Both LANL and LLNL received excellent scores in recent performance evaluations by the Department of Energy (DOE) and were granted one-year extensions of their contracts.

Committee Chair Pattiz reported that LANL Director Anastasio has announced that he will step down in June. Mr. Anastasio was director of LLNL beginning in 2002, and led the UC/Bechtel bid for management of LANL in 2005. He was instrumental in the development of the nation's Stockpile Stewardship Program. His commitment to national security and his personal integrity have made Mr. Anastasio a trusted advisor to many national administrations. Committee Chair Pattiz stated that Mr. Anastasio's service to the University has been exceptional. The LLC plans to begin its search for a new director.

Vice President Darling reported that the Lawrence Berkeley National Laboratory (LBNL) is working on a \$1 billion project to build the next generation light source, the successor to its Advanced Light Source. Unique characteristics of the soft x-rays produced would enable major advances in a range of fields, including physics, chemistry, and biology. This new light source would enable scientists to observe biological processes in real time in living cells for the first time. LBNL Director Alivisatos is briefing the Undersecretary of the DOE on the project in Washington, D.C. on this date, an important step in gaining DOE approval.

Mr. Darling discussed progress in developing a second campus for the LBNL. In addition to its site on the Berkeley campus, LBNL currently operates at five other widely-dispersed East Bay locations. Following Mr. Alivisatos' November report to the Committee, the Laboratory issued a Request for Qualifications early in the current month, asking communities who are interested in hosting the second site and have land available to submit statements of interest by March 4, 2011.

Mr. Darling turned to recent Laboratory performance reviews and ratings by the DOE. He reported that the DOE awarded UC 94 percent of total available fee for its management of the LBNL, based on scientific progress over the course of 2010 and overall management of the Laboratory. DOE extended the award term for the LBNL's contract for one additional year as a result of its good performance. LBNL has earned a total of six performance-based contract year extensions. The contract is now for 11 years,

to 2016, and continued good performance would enable the contract to be extended up to 20 years.

For LANL, the LLC earned 88 percent of the potential performance fee and as a result earned an additional year's contract extension. The LANL total contract now extends ten years, to 2016, with the potential for up to 20 years of extensions based on good performance.

LLNL made a major improvement, with its LLC earning 92 percent of available fees in 2010, up from 82 percent the prior year, and a one-year contract extension, for a total of nine years, to 2016.

Mr. Darling summarized that the DOE has judged the Laboratories' performance to be extremely strong. He noted that Committee Chair Pattiz, as chair of the limited liability companies, and the Laboratory directors have done an exceptional job. The University will receive \$4.2 million in fees from LBNL, and combined fees from LANL and LLNL of about \$31.8 million, an increase from the prior year of nearly \$2 million from LANL and LLNL. Those funds will be available to the University for collaborative research between the University and the Laboratories, as well as for covering other costs.

Committee Chair Pattiz complimented the work of the Laboratory directors and the limited liability companies. He recalled that the government had confidence in the Laboratories' ability to perform large-scale scientific research, but had mandated formation of the limited liability companies with the University and private sector partners because of some past concerns about management of the Laboratories. Committee Chair Pattiz stated that the private sector partners have been very helpful in managing the day-to-day operations of the Laboratories. The combination of the University's ability to conduct scientific research with the private sector management has been very successful, resulting in increased fees and contract extensions for UC. He pointed out that the Laboratories are involved in research involving not only nuclear stockpile security, but also broader areas of national security such as climate modeling, alternative energy sources, the National Ignition Facility at LLNL, which is the world's most powerful laser, and fusion research. Committee Chair Pattiz invited the Regents to visit the Laboratories to understand the full breadth of their endeavors.

Chairman Gould noted that he was extremely impressed by his recent visit to LLNL. He asked what contract extensions are possible for each of the Laboratories, since the durations of the contracts at all three Laboratories were currently only until the year 2016. Mr. Darling explained that the original contract for LBNL was for five years, as it had been traditionally throughout UC's management of the Berkeley laboratory. In the past, that contract had to be renewed every five years by the DOE. As part of the request for competitive proposals for the LBNL contract, the DOE changed that process and awarded a five-year contract, with the added provision that, based on good performance, the DOE could unilaterally extend the contract up to a maximum of 20 years. UC has already earned 11 years and could earn an additional nine years. Each year, the DOE will decide whether to award a one-year contract extension based on performance.

The initial contract for LANL was for seven years, eligible for extensions up to 20 years based on a unilateral decision by the DOE that the LLC is performing well in fulfilling contract requirements. Three additional one-year extensions have been earned; the contract could be extended an additional ten years. The contract at LLNL is similar to the Los Alamos contract, except that the Livermore contract began one year later.

Regent Pattiz added that the University bid for these contracts against other universities and private contractors. He expressed his opinion that no other entity is capable of performing the level of scientific research that the Laboratories perform and as long as the Laboratories continue to achieve high performance scores, the contracts will continue to be renewed.

As an advisory member of the LLCs, Regent Varner agreed with Committee Chair Pattiz about the importance of the Laboratories. He stated that UC has opportunities to significantly enhance its revenues through the Laboratories. He commended Committee Chair Pattiz on his performance as chair of both LLCs, forging UC's relationship with its private sector partners.

President Yudof asked about the substantial funding that President Obama and the Congress had set aside under the New START for refurbishing the nation's nuclear arsenal. Committee Chair Pattiz responded that the Laboratories are involved in many ways that are vital to the nation. He noted that the University is particularly fortunate that Secretary of Energy Steven Chu is a former director of LBNL, since he understands the unique capabilities of the Laboratories.

Regarding development of a second site for LBNL, Regent Zettel asked if that move presumed that the DOE would go beyond the 20-year contract term, because under the current contract and possible extensions, the new site could have a life cycle of only nine years. Mr. Darling agreed that risk must be considered, and stated that he is working with Executive Vice President Brostrom, Chief Financial Officer Taylor, General Counsel Robinson, and Vice President Lenz. After the site proposals are submitted, UC would consider questions of financing by the University and by third-party developers. He agreed that the University would have to decide if it is willing to take the financial risk of the development of the second site, given the current contract duration. Regent Zettel asked if the DOE would reconsider the contract in light of the plans for the new Laboratory site. Mr. Darling responded that only the Congress can make such commitments. He reiterated that it would be necessary to consider risk trade-offs as the site proposals are considered.

In response to President Yudof's prior question, Faculty Representative Simmons stated that funding of the Chemistry and Metallurgy Research Replacement (CMRR) Project at LANL was part of the New START. Mr. Simmons applauded the work of Mr. Anastasio, and stated that both the University and the nation owe him a debt of gratitude.

Committee Chair Pattiz stated that a group of staff at LLNL is involved in a leadership development program with UC Berkeley's Haas School of Business. Mr. Darling added that during deliberations over the New START, the Senate was concerned that, as the United States reduces its number of nuclear weapons, the nation must be able to rely on its remaining weapons, many of which were designed in the 1940s to 1960s. In addition, the nation must be assured that its nuclear stockpile would remain safe and secure; therefore a significant amount of funding will be devoted to extending the life of the existing nuclear weapons. LANL's CMRR, slated for replacement, is the nation's premier plutonium research facility. Committee Chair Pattiz reiterated that security features of nuclear weapons would be updated and commended Mr. Darling's work at the National Laboratories.

Regent Blum recalled that the University had come close to losing its contract at LLNL five or six years prior, and complimented the work of University representatives in turning this situation around. Regent Blum noted that the New START calls for spending \$80 to \$90 billion over the upcoming ten years. Regarding the length of the Laboratory contracts, Regent Blum stated that UC has had the LBNL contract for over 60 years and that the reason that the contracts were in question was because of management problems at LANL. He stated that the government concluded that there were no other facilities capable of performing the level of science done at the three National Laboratories. He encouraged the Regents to visit the Laboratories, especially the Berkeley Laboratory, where fascinating research is being done regarding alternative energy sources. He expressed his opinion that, as long as the Laboratories are well-managed, the contracts should continue indefinitely.

3. RESOLUTION TO EXCLUDE ACCESS TO CLASSIFIED INFORMATION FOR CERTAIN REGENTS

The President recommended that the Regents adopt 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 RESOLVED that the Chairman of the Board, at least a quorum of the Board of Regents, and the President 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 positions that would enable them 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 Cheng	Student Regent
Bruce Hallett	Regent-designate
Lori Pelliccioni	Regent-designate
Odessa Johnson	Regent
John A. Pérez	Ex-officio Regent

[Background material was mailed to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Pattiz stated that certain Regents, some of whom have shorter terms, have asked to be excluded from the federal security clearance process necessary to have access to the Laboratories and some briefings.

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

The meeting adjourned at 9:40 a.m.

Attest:

Secretary and Chief of Staff