N1

Office of the President

TO MEMBERS OF THE NATIONAL LABORATORIES SUBCOMMITTEE:

ACTION ITEM

For Meeting of July 18, 2018

ALLOCATION OF LOS ALAMOS NATIONAL SECURITY, LLC AND LAWRENCE LIVERMORE NATIONAL SECURITY, LLC FEE INCOME TO BE EXPENDED IN FISCAL YEAR 2018-19

EXECUTIVE SUMMARY

The University has an ownership interest in two limited liability companies (LLCs) that currently hold contracts to operate a Department of Energy/National Nuclear Security Administration National Laboratory: Los Alamos National Security, LLC for Los Alamos National Laboratory, and Lawrence Livermore National Security, LLC for Lawrence Livermore National Laboratory.

The net fee income earned by the University under these contracts in calendar year (CY) 2018 is currently projected to be $24.6 million. The President of the University recommends that an allocation of this fee income be expended in the University's fiscal year (FY) 2018-19 as summarized below:

Estimated Funds Available		
Estimated Net Fee Income for CY 2018	$24.6	M
Total Funds Available	**$24.6**	**M**
Recommended Allocation		
A. Non-Reimbursable Compensation for LLC Employees in UC-Designated Key Personnel Positions	$ 2.2	M
B. UCOP Oversight	$ 5.2	M
C. Post-Contract Contingency Fund	$ 3.5	M
D. LLC Fee Contingency Fund	$ 0	M
E. UC Laboratory Fees Research Program	$12.4	M
F. Livermore Lab Foundation	$ 0.3	M
G. ATOM	$ 1.0	M
Total Allocation for FY 2018-19	**$ 24.6**	**M**

RECOMMENDATION

The President of the University recommends that the National Laboratories Subcommittee recommend to the Regents that the President be authorized to expend an estimated $24.6 million from the University's net share of Los Alamos National Security, LLC (LANS) and Lawrence Livermore National Security, LLC (LLNS) income earned between January 1, 2018 and December 31, 2018,[1] as projected by the Limited Liability Companies (LLCs), for the purposes and in the amounts described below:

1. The University's contractually-required share of compensation-related costs for LLC employees in UC-designated key personnel positions that are not reimbursed by the federal government under the prime contracts, estimated at $2.2 million ($2.2 million in fiscal year [FY] 2017-18).

2. An appropriation to the Office of the President's budget for federally unreimbursed costs of University oversight of its interests at Los Alamos National Laboratory (LANL) and Lawrence Livermore National Laboratory (LLNL), paid or accrued July 1, 2018 through June 30, 2019, including, but not limited to, an allocable share of the costs of the President's Executive Office, the Provost, the Academic Senate, Human Resources, Compliance and Audit, Financial Accounting, UC National Laboratories, Federal Government Relations, Office of Research and Graduate Studies, Office of the General Counsel, Office of the Secretary and Chief of Staff to The Regents, Office of the President facility charges, and the University-appointed Governors on the Boards of the LLCs, in the amount of $5.2 million for FY 2018-19 ($5.2 million in FY 2017-18). Any unspent funds allocated for this purpose will be transferred to the UC Laboratory Fees Research Program (paragraph 5 below).

3. An appropriation to the Post-Contract Contingency Fund (PCCF), in the amount of $3.5 million for FY 2018-19 ($2.9 million in FY 2017-18). Any income generated by the PCCF under the University's Short Term Investment Pool (STIP) shall be reserved exclusively for the PCCF. The balance in the PCCF as of May 31, 2018 is $12.8 million, which does not reflect the $2.9 million allocated in FY 2017-18. The target balance for the PCCF approved by the Regents in 2013 is $27 million.

   No further funds would be added to the Contract Bid and Proposal Reserve (CBPR) through approval of this Action Item. Any remaining CBPR funds unused in FY 2018-19 would be returned to the PCCF.

4. The Regents have approved a funding target for the LLC Fee Contingency Fund of $7 million. The LLC Fee Contingency Fund is currently fully funded with a balance of $8.1 million as of April 30, 2018. No allocation to the Fund is required for FY 2018-19. Funds remaining in the LLC Fee Contingency Fund will be carried over to FY 2019-20,

[1] The University is also a member of Triad National Security, LLC, which was selected to be the follow-on contractor to LANS. However, due to the uncertainty regarding the timing of the transition from LANS to Triad, the estimated fee income for CY 2018 does not include any Triad income.

to maintain the $7 million funding target. Any income generated by the LLC Fee Contingency Fund under the University's STIP shall be reserved exclusively for the LLC Fee Contingency Fund.

5. An appropriation in the amount of $12.4 million for FY 2018-19 for the UC Laboratory Fees Research Program and other research relevant to the missions of the National Laboratories and the University, including the UC-National Laboratory Graduate Student Fellowship Program, subject to any adjustment up or down required after the end of CY 2018 as a result of reporting by the LLCs of actual net fee income earned by the University in order to meet the ongoing appropriations under paragraphs 1 through 4 above and 6 and 7 below. In the event all or part of this funding for the UC Laboratory Fees Research Program is not needed in FY 2018-19, the funding will be carried over to FY 2019-20 for the same purpose.

6. An appropriation in the amount of $300,000 for FY 2018-19 ($300,000 in FY 17-18), to fund an affiliation agreement between the University and the Livermore Lab Foundation, a 501(c)(3) nonprofit organization formed in 2016 to support LLNL and other scientific and educational purposes. Unspent funds will be carried over for the same purpose.

7. An appropriation in the amount of $1 million for FY 2018-19 for the Accelerating Therapeutic Opportunities for Medicine (ATOM) collaboration.

BACKGROUND

The University has an ownership interest in two limited liability companies (LLCs) that currently hold contracts to operate a Department of Energy/National Nuclear Security Administration (DOE/NNSA) National Laboratory:

- Los Alamos National Security LLC (LANS) for Los Alamos National Laboratory (LANL), and

- Lawrence Livermore National Security LLC (LLNS) for Lawrence Livermore National Laboratory (LLNL).

Both LANS and LLNS will generate net fee income to the University during CY 2018 operations at the National Laboratories. Each year, the Regents have allocated LLC income based on estimates and projections of the expected revenue for that year only. LANS and LLNS have fiscal years matched to the calendar year. Because of that, and also because the DOE/NNSA fee determination is made after the end of the federal fiscal year, typically in December, substantial fee income is not distributed to the University and its LLC partners until December 31 of each year. As a consequence, the estimates of University net fee income are on a calendar-year basis as projected by the LLCs, even though the appropriations to be approved are for the upcoming University fiscal year.

The LANS prime contract is currently expected to terminate on October 31, 2018. The University bid on the follow-on LANL prime contract as part of Triad National Security, LLC.

In June 2018, Triad was announced as the selected offeror. Given the current uncertainty regarding both the timing of transition from LANS to Triad, and the amount of any fee income earned by Triad in CY 2018, the University's share of CY 2018 Triad fee income is excluded from the fee income projection. The estimate of fee income from LANS assumes an October 31, 2018 LANS prime contract end date.

The fee income projection for the University provided by the LANS and LLNS LLCs for CY 2018 is estimated to be $24.6 million (LLNS – $12.6 million; LANS – $12 million).

One of the Regents' actions in September 2006 was the *Approval of a University Procedure for Appropriating Net Fee Income Received as Owner of a Limited Liability Company Managing a Department of Energy National Laboratory*. In July 2011 the Regents approved the use of LANS and LLNS net income for research projects, including National Laboratory research projects as well as other research projects.

The allocations documented in paragraphs 1 through 7 below are submitted for approval in accordance with prior Regents' approvals.

The President has developed the following plan for the FY 2018-19 allocations:

1. In a series of actions dating back to May 2005, the Regents have approved the payment of the University's contractual share of federally unreimbursed compensation costs for LLC employees in UC-designated key personnel positions. Unreimbursed compensation consists of those compensation costs approved by the LLC Boards of Governors in accordance with the LLC Agreements that are not reimbursed by the federal government under the terms of the prime contracts. UC's contractual share of federally unreimbursed compensation costs for LLC employees in UC-designated key personnel positions is deducted from UC's share of fees earned by the LLCs. The requested allocation for FY 2018-19 is $2.2 million, the same amount as last year. This amount is required to cover UC's share of costs not reimbursable under the DOE/NNSA contracts for agreements approved by the LLC Boards of Governors to retain critical key personnel during a period of extensive contract competition associated with other DOE/NNSA National Laboratories and LANL senior management in particular during the final years of the LANS contract to ensure minimal impact on LANL execution of its DOE/NNSA mission..

2. The President requests authorization to appropriate $5.2 million to the FY 2018-19 budget of the Office of the President to cover expenses for oversight of the University's interest in the LLCs: approximately $2.7 million for the unreimbursed costs of the UC National Laboratories and $2.5 million for other UC Office of the President costs incurred for LLC oversight, including, but not limited to, personnel time and effort associated with carrying out LLC-related activities of the President's Executive Office, the Provost, the Academic Senate, Human Resources, Ethics Compliance and Audit, Corporate Accounting, Office of the National Laboratories, Federal Government Relations, Office of Research and Graduate Studies, Office of the General Counsel,

Office of the Secretary and Chief of Staff to The Regents, Office of the President facility charges, and the University-appointed Governors on the Boards of the LLCs associated with the University's ownership interest in the LLCs, and for the provision of corporate secretary services to the LLCs, all to the extent not federally reimbursed. Any portion of this $5.2 million unspent in FY 2018-19 will be transferred to the UC Laboratory Fees Research Program (paragraph 5 below).

3. Pursuant to the Regents' approval in September 2007, the President established a Post-Contract Contingency Fund (PCCF) associated with the LLC contracts that will enable the University to fund potential residual liabilities to the LLCs upon expiration or completion of the contracts or to the DOE/NNSA under the University's performance guarantees. The initial PCCF funding level approved by the Regents for the LLC contracts was $9 million, covering the seven base years of the respective LLC contracts. Since that time, the LANS contract has been extended through 2018. The LLNS contract currently extends through September 30, 2022. If LLNS receives all future one-year award-term extensions, its contract can be extended through September 30, 2026.

   In July 2013 the President proposed, and the Regents approved, the target for the PCCF to be increased from $9 million to $27 million to account for inflation, potentially higher closeout costs based on changing principles governing the management and oversight of these contracts by the federal government, and creation of a reserve to allow the University to compete again for one or both of these contracts at a later point in time should the University choose to do so. Approximately $23 million of the proposed PCCF is to be collected from the LLC income and the remaining $4 million funded using the University's share of the equity balance at both LLC-managed National Laboratories. Collections for the PCCF are assessed annually by the University to determine the appropriate amount. The current balance in the PCCF as of May 31, 2018 is $12.8 million, which does not include the $2.9 million allocated in FY 2017-18.

   In order to preserve the rights of the University to bid for the LANL follow-on contract, explore options and prepare for a possible University bid proposal, the Regents in July 2016 approved the set aside of $5 million of the PCCF in FY 2016-17 as a Contract Bid and Proposal Reserve (CBPR), with unused funds to be carried forward in the CBPR. These funds have been expended to facilitate the Triad bid. No additional PCCF funds would be allocated to the CBPR in FY 2018-19. Any CBPR funds unused in FY 2018-19 would be returned to the PCCF, with the completion of the LANL contract competition.

   The PCCF is part of the University's Short Term Investment Pool (STIP). Any STIP income generated by the PCCF shall be reserved exclusively for that fund in order to build up the fund. This approach will allow the University to ensure that its income earned from LLC fees, plus any income from the STIP, is appropriately balanced with funding commitments for UCOP oversight, supplemental compensation, UC research, the LLC Fee Contingency Fund, and other commitments.

4. Pursuant to the Regents' approval in May 2009, the President established the LLC Fee Contingency Fund (previously called Contingency for Factors Affecting Final Fee) associated with the LLC contracts, to enable the University to adjust for factors affecting the estimated fee as a result of: (1) the DOE/NNSA rating of LANS' and LLNS' performance for the federal fiscal year; (2) the amount of unreimbursed costs incurred by the LLCs in the performance of each contract; and (3) retained earnings or other contingency funds authorized by the LLC Boards of Governors. The funding target for the LLC Fee Contingency Fund approved by the Regents is $7 million. The LLC Fee Contingency Fund is currently funded at $8.1 million as of May 31, 2018. As a result, no allocation is requested for FY 2018-19.

   The LLC Fee Contingency Fund is part of the University's STIP. Any STIP income generated by the fund shall be reserved exclusively for the fund. In the event all or part of the LLC Fee Contingency Fund is not needed in FY 2018-19, that reserve will be carried over to FY 2019-20 to build up to or maintain the $7 million funding target.

5. The LLCs have projected $24.6 million in UC earned income for CY 2018. The President's proposed allocations for 2018-19 listed in paragraphs 1 through 4 above and paragraphs 6 and 7 below total $12.2 million. As a result, the current anticipated allocation for the UC Laboratory Fees Research Program, and other research relevant to the missions of the National Laboratories and the University managed by the Research Grants Program Office, is $12.4 million. This appropriation includes the UC-National Laboratory Graduate Student Fellowship Program, which was approved by the Regents in May 2014 and is managed by the Research Grants Program Office as part of the UC Laboratory Fees Research Program. In the event all or part of the $12.4 million is not needed in FY 2018-19, that amount will be carried over to the UC Laboratory Fees Research Program for FY 2019-20.

   In the event actual LLC fee income earned by UC in CY 2018 is more or less than $24.6 million, funding for the UC Laboratory Fees Research Program will be adjusted accordingly, either up or down, as authorized by the President or her designee.

   Any unspent allocation under paragraphs 1 and 2 above will be transferred to the UC Laboratory Fees Research Program Fund and carried over to FY 2019-20.

6. Pursuant to the Regents' approval in July 2016, an annual allocation of $300,000 was granted to fund the Livermore Lab Foundation, a California nonprofit public benefit corporation. The Livermore Lab Foundation was formed to receive support from donors and to distribute such funds to support LLNL and other scientific and educational purposes, and received tax-exempt status in 2016 as a 501(c)(3) charitable organization. Pursuant to her delegated authority, the President approved an affiliation agreement between the Regents of the University of California and Livermore Lab Foundation, which will provide the funding as approved by the Regents. Pursuant to the terms and conditions of the affiliation agreement, the Livermore Lab Foundation is considered an affiliate of the University while the agreement remains in effect. The requested allocation

for FY 2018-19 is $300,000, consistent with the two prior years. Any amounts unspent in FY 2018-19 will be carried over for the same purpose.

7. Pursuant to the Regents' approval in May 2017, an annual allocation of $1 million was granted for the Accelerating Therapeutic Opportunities for Medicine (ATOM) collaboration. This funding enables UCSF to be a partner in and home for the ATOM collaboration center in partnership with LLNL. The ATOM collaboration was announced in June 2016 as part of the National Cancer Moonshot and aims to dramatically accelerate the discovery and development of drugs with an aspiration to go from target to first-in-human experimental medicine precision trials in twelve months. The partnership will be enabled by the leading capabilities in high-performance computing at LLNL and the deep expertise and leadership in cancer research, precision medicine, and big data at UCSF to accelerate the drug discovery process through the application of predictive simulation and machine learning integrated with state-of-the-art experimental systems. The $1 million per year allocation was anticipated for a total of three years (FY 2016-17 through FY 2018-19) and provides essential foundational funding for the collaborative research space at the UCSF Mission Bay campus and other student, faculty, and clinical researcher participation to enable UCSF and LLNL to become full partners in ATOM. The requested allocation for FY 2018-19 for ATOM is $1 million.

Key to Acronyms

ATOM	Accelerating Therapeutic Opportunities for Medicine
CBPR	Contract Bid and Proposal Reserve
DOE	Department of Energy
FY	Fiscal Year
LANL	Los Alamos National Laboratory
LANS	Los Alamos National Security, LLC
LLC(s)	Limited Liability Company(ies)
LLNL	Lawrence Livermore National Laboratory
LLNS	Lawrence Livermore National Security, LLC
NNSA	National Nuclear Security Administration
PCCF	Post-Contract Contingency Fund
STIP	Short Term Investment Pool