

The Regents of the University of California

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

March 15, 2000

The Committee on Oversight of the Department of Energy Laboratories met on the above date at UCSF - Laurel Heights, San Francisco.

Members present: Regents Atkinson, Davies, S. Johnson, Khachigian, Leach, Montoya, Moores, Preuss, and Vining; Advisory member Miura

In attendance: Regents Hopkinson, O. Johnson, Kozberg, Lee, Nakashima, Pannor, Sayles, and Taylor, Regent-designate Kohn, Faculty Representatives Coleman and Cowan, Secretary Trivette, Provost King, Senior Vice President Kennedy, Vice Presidents Broome, Darling, and Gomes, Director Nation representing Vice President Hopper, Chancellors Berdahl, Bishop, Carnesale, Cicerone, Dynes, Greenwood, Orbach, Tomlinson-Keasey, and Yang, Laboratory Directors Brown and Shank, and Recording Secretary Bryan

The meeting convened at 8:45 a.m. with Committee Chair Leach presiding.

1. **AUTHORIZATION TO APPROVE AND EXECUTE MODIFICATIONS TO THE DEPARTMENT OF ENERGY CONTRACTS FOR LAWRENCE BERKELEY NATIONAL LABORATORY, LAWRENCE LIVERMORE NATIONAL LABORATORY, AND LOS ALAMOS NATIONAL LABORATORY TO AMEND CLAUSES AS A RESULT OF CHANGES TO THE FEDERAL ACQUISITION REGULATIONS AND THE DOE REGULATIONS**

The President recommended that he be authorized to approve and the Secretary be authorized to execute a modification to the provisions of contracts W-7405-ENG-36, DE-ACO3-76SF00098, and W-7405-ENG-48 in order to incorporate revisions to the following clauses:

CLAUSE 3.2 - ALLOWABLE COSTS (MANAGEMENT AND OPERATING)

Text of clause remains the same.

Date change in title from JUN 1997 to MAR 1998.

CLAUSE 3.8 - COST ACCOUNTING STANDARDS

Minor text changes. Date change in title from APR 1996 to APR 1998.

CLAUSE 3.13 - LEGISLATIVE LOBBYING COST PROHIBITION

Clause text will remain the same.

Title will change to "Political Activity Cost Prohibition (DEC 1997) (Modified)."

CLAUSE 6.11 - WASTE REDUCTION PROGRAM

Updates definition of "waste reduction."

Updates Executive Order number.

Adds a specific reference to the Resource Conservation and Recovery Act.

CLAUSE 6.20 (LLNL/LANL) and CLAUSE 6.21 (LBNL)

POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION

New FAR clause referencing Executive Order 12856.

Requires compliance with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

**Clause 8.4 - ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE
PRODUCTS AND SERVICES**

Updates Executive Order number.

CLAUSE 9.4 - EQUAL OPPORTUNITY

FAR clause updated to allow a preference in employment to Indians living on or near an Indian reservation.

FAR clause updated to change language regarding Executive Order 11246 and Office of Federal Contract Compliance Programs (OFCCP).

Minor text changes.

Date change in title from APR 1984 to FEB 1999.

**CLAUSE 9.5 - AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND
VIETNAM ERA VETERANS**

"Special disabled" changed to "disabled veterans."

CLAUSE 9.6 - AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

"Handicapped workers" changed to "workers with disabilities."

**CLAUSE 9.7 - EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS
AND VETERANS OF THE VIETNAM ERA**

Minor text changes as a result of 9.5 and 9.6 above.

**CLAUSE 9.9 - WHISTLEBLOWER PROTECTION FOR CONTRACTOR
EMPLOYEES**

Date change to April 1999 and rewording of the two paragraphs.

**CLAUSE 12.3 - FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER
CONTRACTOR (FOCI)**

Date change to April 1999 with approved "Deviation."

Language added so that Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests*, which is used for collecting FOCI information will be used by all agencies.

As a result of the changes the table of contents for each contract will be revised accordingly.

It was recalled that the Department of Energy contracts for LANL, LBNL, and LLNL were executed on September 18, 1997. Since that time, UC and DOE review have indicated the need to make minor corrections and clarifications to the contract clauses as a result of updates to the Federal Acquisition Regulations and the Department of Energy Acquisition Regulations. The changes do not involve any substantive difference to the underlying agreement between the University and DOE and are administrative in nature. The clause changes identified reflect the most accurate and up-to-date language agreed to between the parties. The laboratories concur with the DOE-proposed changes for all three contracts.

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

(For speakers' comments, refer to the minutes of the March 15 morning session of the Committee of the Whole.)

**2. ANNUAL REPORT OF THE PRESIDENT'S COUNCIL ON THE NATIONAL
LABORATORIES**

In accordance with the Schedule of Reports, Mr. William L. Friend, who was appointed Chairman of the President's Council on the National Laboratories in December 1999, presented the Council's seventh annual report.

Mr. Friend recalled that the Council is a vehicle for providing a knowledgeable external view that can help the University and the laboratories with their work. He noted that Chancellor Dynes was the Council's new vice chair. The Council has been busy with new statements of purpose, operations, and organization. The Council must relate to the laboratories' two core missions of fundamental science and national security in order to fulfill its reporting goals.

The President's Council's science and technology panel handles performance evaluations required by the contracts. Mr. Friend reported that the Council rates the laboratories' individual performances from excellent to outstanding. The national security panel, which is in close touch with programs at the Livermore and Los Alamos laboratories, has been strengthened by the recent addition of academic and military personnel.

Mr. Friend reported that the laboratories' functional skills, which cover everything from accounting to personnel administration, need to be excellent. Most of the support for the functional areas comes from the Office of the President, which practices performance-based management implemented by Senior Vice President Kennedy and Director Van Ness. He noted, however, that in certain areas the laboratories need the benefit of expert panelists not tied to the University. Such a panel has existed in the area of environmental safety and health. It has improved performance in this critical area and is a model for other areas needing similar help, including security and project management.

Security issues at the Los Alamos laboratory have come under scrutiny, as cost and schedule problems have emerged in connection with the National Ignition Facility project at the Livermore laboratory. Last year the Council established ad hoc panels in those areas to evaluate the problems and make recommendations for improvements. The security committee recommended the establishment of another standing panel to work on all such matters, including physical and personal security, special nuclear material, and classified parts and information. That panel has been established under the chairmanship of a retired Chief of Naval Intelligence and boasts a distinguished membership. Although Mr. Friend noted that the laboratories' recent evaluations achieved a rating of satisfactory, it is hoped that the panel will be able to improve performance even more.

A third functional panel has been established to study the problems encountered in project management and to provide advice. That panel also boasts a wealth of knowledgeable and distinguished experts who will work with the major projects that flow from science and technology into large-scale demonstration. Mr. Friend noted that significant additional funds beyond what was budgeted will be needed to complete the National Ignition Facility. The Department of Energy is investigating ways of financing the overruns.

Mr. Friend discussed some highlights of the past year's activities at the laboratories. The Livermore and Los Alamos laboratories addressed stockpile stewardship to certify to the President of the United States that the country's nuclear deterrent continues to be safe and reliable. Their ability to do that is gained through surveillance and diagnosis of the aging weapons in the stockpile by analyzing test data using large-scale computing. The task is very demanding, and the University's ability to attract intellectual talent is central to meeting the challenge.

Mr. Friend reported that the Livermore laboratory has successfully completed the first three-dimensional simulation of a nuclear weapon primary explosion using the laboratory's IBM Blue Pacific supercomputer. What took twenty days to accomplish with this computer would have taken thirty years on a conventional desk top computer. These computing advances are making an impact in medical and pharmaceutical research and in global climate modeling. The Los Alamos laboratory is working with the United Kingdom's weapons program on making a motion picture of an implosion using a proton beam. A timed series

of eleven images can be taken in one ten-thousandth of a second. The laboratories also spend time on fundamentals. The Livermore and Los Alamos laboratories together earned thirteen of *R & D Magazine's* 100 Awards given to the top industrial high technology inventions yearly. One award recognized Peregrine, a new tool for analyzing and planning radiation treatments for cancer patients. Another activity is the Joint Genome Institute, which combines the capabilities of all three laboratories to analyze human genomic sequencing. The institute has exceeded its sequencing goals in the past year, and the Council is now working with the laboratories to focus their attention on choosing a strategic direction in biology.

Mr. Friend reported that, in chemistry, the Berkeley and Livermore laboratories created three elements. These discoveries were cited by the American Chemical Society as among the five top achievements in chemistry in 1999. One of the other top five achievements was the determination of the structure of the ribosome by a UC Santa Cruz professor using the Advanced Light Source at the Berkeley laboratory. More than eighty UC scientists are conducting research at the ALS, and five additional crystallography beam lines are under development. The ALS is evaluated as the most productive in the world in the discovery of protein structures. Also, a Livermore team of researchers that includes scientists from UC Berkeley and UCLA produced the best earth-based images ever taken of Neptune. They were among the first using new adaptive optics technology developed largely at the Livermore laboratory and installed at the Keck Telescope.

In conclusion, Mr. Friend mentioned that the Department of Energy has determined that the Los Alamos laboratory's performance in its probationary areas has improved enough to comply with the most recent contract's special provisions.

Regent Lee observed that many Chinese-Americans have expressed concern about the way in which the Los Alamos laboratory has treated the case of a Chinese scientist suspected of leaking classified information to China. Their concerns center around what they perceive as race discrimination by the laboratory and the Department of Energy. He hoped that the process used to handle this situation will be changed so as to make it clear to the general public that racial discrimination does not exist at the laboratories. Mr. Friend could not forecast what would happen in the investigation of the scientist in question, but he commented that the University, the laboratories, and the DOE leadership, including Secretary Richardson, are strongly committed to avoiding racial profiling and to assuming a working environment where people of all backgrounds can function effectively as a team. The laboratory security panel and the President's Council will work with all the laboratories to encourage diversity, outreach, and an environment where people will be comfortable. Chancellor Dynes reiterated this view. He believed that the University has handled the case in an exemplary way, standing up for the rights of the individuals involved.

Regent Montoya noted that the county bordering the Los Alamos laboratory is experiencing high unemployment and drug addiction rates. She hoped that the University would address the problem directly. Mr. Friend noted that a special provision of the laboratory management contract addresses outreach to local communities. Laboratory Director Browne reported that the University sponsors outreach programs at Northern New Mexico Community College that are identified to provide entry level jobs at the laboratory, and that a welfare-to-work program has been established.

Regent S. Johnson commented on the importance of maintaining the public trust. She was adamant that in making sure that security is at a maximum level a degree of openness at the laboratories must be maintained so that the world's best scientists will continue to find them attractive places in which to work. Mr. Friend agreed that this was a crucial factor in the continued health of the laboratories.

Regent S. Johnson asked whether there is private competition with the Joint Genome Institute. Laboratory Director Shank reported that the public effort is not in competition with the private effort. The work of the two is compatible. He hoped that a combination of technologies developed in both the public and private sectors will reduce the cost of genome sequencing in the future. Regent Johnson asked whether the private sector will seek to use its information to create products. Mr. Shank explained that the raw research data on sequencing will be in the public domain. It will be possible to search that database to find pieces of the genome in which genes may be identified and used to make commercial products.

Committee Chair Leach noted that problems arise periodically in organizations as large and complex as the DOE laboratories. He believed the Regents should take comfort in the way in which the problems that have arisen recently had been addressed by the President's Council.

OVERSIGHT OF THE DEPARTMENT
OF ENERGY LABORATORIES

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The meeting adjourned at 9:30 a.m.

Attest:

Secretary