The Regents of the University of California

COMMITTEE ON OVERSIGHT OF THE DEPARTMENT OF ENERGY LABORATORIES
May 19, 2004

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

Members present: Regents Blum, Bodine, Dynes, Marcus, Montoya, Moores, Pattiz, Preuss, and Seigler; Advisory members Ornellas and Blumenthal

In attendance: Regents Connerly, Hopkinson, Johnson, Lansing, Lee, and Murray, Regents-designate Anderson and Novack, Faculty Representative Pitts, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost Greenwood, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome and Foley, Chancellors Bishop, Carnesale, Tomlinson-Keasey, Vanderhoef, and Yang, Acting Chancellor Chemers, and Recording Secretary Bryan

The meeting convened at 3:52 p.m. with Committee Chair Preuss presiding.

1. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of March 18, 2004 were approved.

2. **UPDATE ON NATIONAL DOE LABORATORIES AND SEARCH FOR LAWRENCE BERKELEY NATIONAL LABORATORY DIRECTOR**

Vice President Foley reported that the University continues to improve the business and management practices at the Department of Energy laboratories. The UC Laboratory Management Council strengthens the internal governance system. The Council, which involves University of California vice presidents and associate vice presidents, addresses not only management but also finances, audits, human resources, and legal affairs.

Mr. Foley commented on a series of Inspector General and General Accounting Office reports and internal and external audits. He reported that a DOE Inspector General audit at the Los Alamos laboratory concerning misuse of the purchase card program determined that the problem had not been widespread. Practices for the use of purchase cards at the laboratories have been revised and implemented, and follow-up audits have disclosed that these reforms have been effective.

Security issues continue to be examined closely. Mr. Foley reported that Congress, the Department of Energy, and the General Accounting Office had conducted reviews. He stated that he had been impressed by the security training drills he had witnessed at the

laboratory. The Secretary of Energy has unveiled some initiatives to expand the capabilities of security personnel and has discussed enhancing classified computer information, upgrading all facilities, and making managers more cognizant of safety issues. The University supports these initiatives and incentives.

Mr. Foley reported that the DOE Office of Assessments had reviewed the control of locks and keys at the Lawrence Livermore National Laboratory. The system was found to be the best in the entire DOE complex. Also, the weapons laboratories have disclosed their own initiatives based on security technology they have developed. He emphasized that strong safeguards and security remain a principal focus of the University.

Upon hearing Committee Chair Preuss's recollection that cyber security had been a concern, Mr. Foley reported that the subject was receiving increased focus and was the target of at least one initiative.

Mr. Foley turned to the subject of preparation for competing for the laboratory management contracts. He reported that on April 14, in response to a DOE request, President Dynes had declared the University's interest in competing for the Lawrence Berkeley National Laboratory management contract. This response does not require the University to compete, but it preserves its option to do so upon approval by The Regents following discussion of the Request for Proposal. Proposals must be submitted within 45 days of the release of a draft RFP, which is expected in July. Because of the short time frame, the Office of the President is proceeding on the assumption that the University will enter the competition. Because the LBL contract expires on January 31, 2005, a decision must be made by the end of the year. The next proposal to follow will be for the Los Alamos laboratory, for which a draft RFP is expected in the autumn. Both the Los Alamos and Livermore contracts expire in September 2005.

Mr. Foley reported that the National Research Council had released a report containing suggested approaches for the evaluation of proposals by DOE and the National Nuclear Security Administration. The report acknowledged the importance of continuing the coordination and constructive competition between the Los Alamos and Livermore laboratories.

Mr. Foley then commented on the national search for a director for the Berkeley laboratory. The University, following the Regents' procedures for appointing laboratory directors, established an advisory committee that includes five Regents appointed by Chairman Moores, five members appointed by President Dynes, and a screening committee, headed by retired Senior Vice President Frazer, the members of which represent a wide cross section of the scientific and academic community. The screening committee provided recommendations to the advisory committee concerning potential candidates to be interviewed. An executive search firm was retained to vet the final candidates. He expected that, with the concurrence of the DOE, President Dynes would present a candidate to the Regents relatively soon.

Mr. Foley spoke about scientific accomplishments of the DOE laboratories, noting that the National Research Council report confirmed that the laboratories' scientific programs are widely regarded in the scientific community as being world class. He discussed some of the laboratories' non-weapons-related activities such as cleaning up the environment, improving health, decoding the human genome, studying global warming, and exploring the Universe. He noted that the DOE Commission on Science and Security estimates that about 50 percent of the work of the Los Alamos laboratory is unclassified; at the Livermore laboratory, up to 60 percent is unclassified. The future success of the laboratories depends on their ability to collaborate with other universities and scientists and requires first-rate research programs that include publication in open literature, attendance at scientific meetings, and research collaborations with non-laboratory scientists. Unclassified research is essential, therefore, for recruiting scientists and engineers.

Some of the research done at the laboratories has commercial promise. Mr. Foley reported that *R&D Magazine*, which sets the standard for research and development awards, last year gave eight awards to the Los Alamos laboratory and six to the Livermore laboratory. The previous year, the Berkeley laboratory won two awards. He noted that two Livermore and two Berkeley scientists were awarded the Presidential Early Career Award, the highest honor that young scientists and engineers can earn. All the laboratories work in collaboration with other universities. They are University resources and are of great benefit to the states of California and New Mexico and to the nation. He emphasized that their work extends beyond stockpile stewardship to basic energy, physics, chemistry, biology, material science, and homeland security.

Committee Chair Preuss commented that, although the laboratories and University both conduct science, the science of the University is department- and specialty-oriented. By tradition, the science done at the laboratories is project-oriented across specialities and because of this provides opportunities for the University's scientists to work collaboratively in environments that are not found in universities. President Dynes elaborated on this point, noting that the laboratories not only fulfill an important mission for the nation, they take on projects of a scope not possible within universities.

Regent Montoya asked whether once the RFPs for the Livermore and Berkeley laboratories had been received, the University would have only 45 days to respond to each. Mr. Foley confirmed that this is the norm. Committee Chair Preuss noted that the process for responding would have to be approved formally by The Regents despite that it has already begun because of the limitations on response time. It may be necessary to call a special meeting to accomplish this.

Regent Lee suggested that the Regents be given a presentation on key laboratory projects that benefit the state and nation.

Regent Pattiz asked whether the fact that the competition response period was only 45 days could be beneficial to the University, based on its experience, and less costly than

to other competitors. Mr. Foley believed that there were both advantages and disadvantages to the short turnaround time. He noted that there are companies that do proposals all the time and have a cadre of in-house employees dedicated to their preparation, while bidding on the laboratory contracts is a new undertaking for the University.

Regent Marcus noted that sometimes the wrong enterprise can win an opportunity by creating the right proposal. Mr. Foley responded that the University has hired people familiar with the process whom competitors have also tried to hire. The University has internal project managers in place and has identified appropriate teams in preparation for the task.

Regent Murray noted that the issues surrounding whether the University should compete for the contracts are complex. He requested further in-depth discussions that include invited pro and con speakers and that the Board be presented with polls of students and lecturers. He believed that the faculty and Academic Senate should be engaged in the discussion.

[For speakers' comments, refer to the May 19 minutes of the Committee of the Whole.]

3. **REPORT ON THE RESULTS OF THE POLL OF SENATE MEMBERS ON COMPETITION FOR LOS ALAMOS NATIONAL LABORATORY AND LAWRENCE LIVERMORE NATIONAL LABORATORY AND DISCUSSION OF ISSUES REGARDING THE DEPARTMENT OF ENERGY LABORATORIES**

Faculty Representative Pitts presented a report on the results of a faculty poll concerning the possibility of competing for the DOE laboratory management contracts. He recalled that the faculty had determined earlier in the year that it needed to be more involved than it had been historically in the period leading up to any renewal of the contracts. A committee created to educate the faculty about the laboratories presented 11 white papers that were available on the internet. Many campuses held town hall meetings to discuss the issue, often in a pro and con format. The culmination of the Academic Senate's efforts was an informal poll of the faculty. The ballot, which was the first large electronic ballot the Senate had ever done, was linked to the Senate's website to enable faculty members to switch easily to the white papers and gather information as they voted on the individual topics.

Faculty Representative Blumenthal, chair of the Academic Senate committee on the laboratories, presented the results of the poll. He reported that the Senate had undertaken an electronic poll because it would provide opportunities for posing complex questions concerning faculty attitudes. He noted that, because it does no classified research and is allied closely with the campus, questions pertaining to the Lawrence Berkeley National Laboratory contract were not included in the poll. Only the Los Alamos and Livermore laboratories were addressed.

Mr. Blumenthal reported that the Senate sent out over 12,000 electronic ballots and received 3,271 responses. Historically, there have been votes of the Senate faculty prior to contract renewals. In 1996, when polled, the faculty voted in favor of contract renewal for the laboratories by a margin of 61 percent to 39 percent. The vote prior to that was in 1990 and was against renewal of the contracts by 64 percent to 36 percent. He reported that the new poll indicated overwhelming support for renewing the contracts. The vote of those who responded was 67 percent in favor, 21 percent opposed, and 13 percent who took no position but did complete the ballot. In other words, by more than a three- to-one margin the Senate faculty favored competing for both the Los Alamos and Livermore contracts. He remarked that the result was neutral with regard to various demographic groups within the faculty who voted. For example, men and women voted in almost identical fashion for renewal of the contracts. There were almost indiscernible differences in the voting patterns among academic fields and assistant professors versus full professors. There were some minor differences among the campuses, but even the campus that least supported competing still supported competition by a substantial majority.

Professor Blumenthal commented that one of the questions asked had been whether the University should bid to retain both laboratories, neither laboratory, or only one of them. Roughly the same number of faculty who voted to compete voted to compete for both laboratories; however, about 1 percent voted to compete only for the Los Alamos laboratory. In toto, about 9 percent suggested competing for the Livermore laboratory only. Among the campuses, that number was larger for the northern California campuses, in which 13 percent suggested that the University compete only for Lawrence Livermore.

Mr. Blumenthal emphasized that this was an informed vote. Hits on the informational website corresponded with when votes occurred. The poll was sophisticated in that it asked how faculty members felt about the laboratories and what conditions they would like to see placed on the University's management of them. He described some of the issues that came to light. Ninety percent of the respondents felt that science and technology were the most important factors in judging the quality of the laboratories both for the DOE and the University. Two-thirds felt strongly that there should be Academic Senate involvement in oversight of the laboratories and in critical personnel decisions such as promotions. Only one-quarter felt that it was appropriate to manufacture nuclear weapons components. One example of such activity is the production of plutonium pits at Los Alamos. He emphasized that despite the fact that the overwhelming majority of faculty supports competing for the laboratories, a similar majority does not support the University's overseeing manufacturing activities. There was strong support for additional collaboration between University and laboratory researchers. There was a very strong feeling that it is incumbent upon the University to maintain academic freedom and freedom of inquiry to the extent possible. Although roughly half of the research conducted at the laboratories is classified, University faculty is dedicated to the free dissemination of ideas. Only about one-quarter of the faculty were supportive of the idea of delegating business practices, environmental health issues, or safety and security issues at the laboratories to an industrial business partner. Mr. Blumenthal noted that he had

only highlighted the issues and that more information was available. It was his intention that a full report be posted on the website.

Mr. Blumenthal stated that faculty cited two main reasons for being in favor of competition. One was the opportunity for UC faculty and graduate and post-doctoral students to collaborate with laboratory personnel and use their facilities. The second was the high quality of the unclassified research that takes place at the laboratories, such as the human genome project. Further, almost two-thirds felt that managing the laboratories is an historic public service to the nation. They felt that maintaining the nuclear stockpile could be done more effectively by the University than by an industrial partner. A majority of those who voted affirmatively felt that the UC name and an association with the University of California was an important tool to recruit and retain the best scientists at the laboratories.

Faculty Representative Pitts explained some of the reasons why those faculty who voted against competing did so. He reported that of the reasons, the most prominent, at 80 percent, was that they felt that the mission of the laboratories was fundamentally different from and not consistent with that of the University. About half felt that the University's name and reputation had suffered from adverse publicity during the past five years because of events at the laboratories. They felt that senior management and other University staff spent an inordinate amount of time in the management of the laboratories and that this was not in the University's interest. They felt that, although collaboration with the laboratories was important for students and faculty, those collaborations could continue without an association with the laboratories, pointing out that the laboratories have important associations with other major universities. Only one in nine of the nay sayers felt that the reason they said no was because the University was being asked to bid. The fact that the University had not bid previously was not a reason not to do so in the future. They also observed that management involving the University, the DOE, the laboratories themselves, and perhaps future industrial partners would be so complex that it would be hard to get right. A comment section at the end of the ballot was filled out by about 25 percent of the voters. Dr. Pitts read several of the comments in order to provide a feel for the spectrum of opinion. He emphasized that the poll reflected faculty opinion on philosophical questions. If the DOE were to present the University with an RFP that was antithetical to what the University stands for, faculty opinion could change dramatically.

Committee Chairman Preuss observed that such a clear result concerning faculty opinion was unexpected.

Regent Montoya noted that collaboration among the laboratories and campuses was extremely important. She suggested initiating a quick study into how collaboration might be enhanced and putting it into the proposal if the Regents decide to bid.

Regent Blum commented that there was a possibility that the federal government would embark on designing new weapons. He asked whether attitudes about the possibility of

being expected to do that type of research and development were measured. Mr. Blumenthal responded that, although the question was not addressed specifically, the poll did ask to what extent the University should be involved in setting policy and research goals for the DOE for these laboratories. The vote of the faculty was overwhelmingly in favor of the notion that UC should not just regard itself as a scientific machine that does whatever it is told but that it should play a significant role, to the extent possible, in determining what the laboratories should be doing. Dr. Pitts added that some faculty believe that, while policy is set at the administrative level, the University may have the opportunity to be a participant. To the degree that it can affect policy, the University would have a better chance to do so in a management role. Vice President Foley observed that, although academic freedom is built into the contract, it is not the role of the laboratories to make public policy; therefore, it would not be realistic to expect that the University would be given the discretion to accept or decline assignments.

Regent Murray thanked the Faculty Representatives for presenting their information about faculty opinions. He noted that the issues are complex and that there are nuances in how the faculty responded. He was hopeful that the faculty could continue to be involved in the discussions concerning possible contract negotiations.

The meeting adjourned at 4:45 p.m.

Attest:

Secretary