

The Regents of the University of California

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

March 16, 2005

The Committee on Oversight of the Department of Energy Laboratories met on the above date at Covell Commons, Los Angeles campus.

Members present: Regents Blum, Dynes, Johnson, Marcus, Ornellas, Parsky, Pattiz, Ruiz, and Wachter; Advisory members Rosenthal and Brunk

In attendance: Regents Anderson, Hopkinson, Kozberg, Lansing, Lee, Lozano, Novack, and Sayles; Regents-designate Juline and Rominger, Faculty Representative Blumenthal, Secretary Trivette, General Counsel Holst, Treasurer Russ, Provost Greenwood, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Foley, Gomes, and Hershman, Chancellors Birgeneau, Bishop, Carnesale, Cicerone, Córdoba, Fox, and Vanderhoef, Laboratory Director Anastasio, University Auditor Reed, and Recording Secretary Bryan

The meeting convened at 1:45 p.m. with Committee Vice Chair Blum presiding.

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

Upon motion duly made and seconded, the minutes of the meeting of January 20, 2005 were approved.

2. **STATUS OF COMPETITION AND OTHER MATTERS AT THE DEPARTMENT OF ENERGY LABORATORIES**

Vice President Foley began his remarks by reporting on the status of the contract for the Lawrence Berkeley National Laboratory. He recalled that, as authorized by The Regents in January 2005, the University had submitted a bid for the contract on February 8. Oral support for the proposal was presented on February 23 by a team of key personnel. There may be a decision by the end of March, with an award following by the first of April. The current contract runs through the end of May; a new contract could be in place by June 1.

Mr. Foley turned to the Lawrence Livermore National Laboratory contract. He reported that the National Nuclear Security Administration (NNSA) had expressed an intention to extend its contract for two years. The University has had initial conversations with the contracting officer. Some changes are likely to be recommended in the extension of the contract, but it is believed they will be primarily routine. In order to focus on the contract for the Los Alamos laboratory, the University intends to defer further conversation of the

Lawrence Livermore contract until the contract competition for Lawrence Berkeley is complete and a final Request for Proposal is released for the Los Alamos laboratory.

Mr. Foley reported that there have been significant changes concerning the competition for the Los Alamos laboratory contract. He recalled that there had been a draft RFP, there had been discussions with the Source Evaluation Board, and on February 18 the NNSA had issued a substantially revised draft RFP. Two proposals of particular importance to the University are under consideration. The first is that the NNSA may require that the prime contractor be a special purpose corporation established specifically to perform the contract, in other words a limited liability corporation. It may require also that all pension and benefit programs be specific to the Los Alamos site and not be part of a larger corporate pension and benefits program. These are only proposals; the issues continue to be debated; however, they have caused concern among the laboratory's employees and their representatives. Mr. Foley believed that the University should enhance its connectedness to the Los Alamos laboratory should The Regents decide to submit a bid upon receipt of a final RFP.

Vice President Foley reported that other changes being considered for the Los Alamos RFP are doubling the proposed fee; assuring that Los Alamos retirees, including those who are in the UCRP, continue to have access to local healthcare insurance; increasing the base contract term from five to seven years; increasing the proposal preparation time from 60 to 90 days; and increasing the transition period to as much as six months to make sure that the Los Alamos employees have sufficient time to decide whether to retire, become inactive in UCRP, or transfer UC service credit to a new pension program. The final RFP could be out in early April, with bids due in early July. The contract would need to be extended beyond September 30 to enable NNSA to conclude the competition and get a new contract in place. There are many unknowns until the final RFP is released. If the bids are due by July 1, NNSA would hope to make an award on October 1.

Mr. Foley reported that the University is continuing to conduct discussions with potential partners in preparation for a bid for the Los Alamos contract. It is hoped that those discussions can be concluded soon. There is one other issue which involves activities in Washington, D.C. The House Energy and Commerce's Subcommittee on Oversight and Investigations is holding a second hearing focusing on security throughout the Department of Energy's NNSA complex. NNSA Director Linton Brooks, his chief of security for the DOE, and Director Nanos have been called as witnesses. It is expected that Director Nanos will be asked about all issues associated with the safety and security upgrades during the time that the laboratory had suspended activities. Following the hearing, Director Nanos' testimony will be distributed to the Regents.

Regent Pattiz reported that he recently had made an interesting and stimulating visit to the Los Alamos laboratory which reaffirmed his view that the University needs to make sure that its interests and responsibilities are protected in whatever contract arrangement is made. He believed that the wide variety of work being done at the laboratory is essential to the nation's wellbeing.

Regent-designate Juline recalled that questions had arisen about longstanding agreed-upon practices with regard to overhead charges to the contracts. He asked whether there was a risk regarding those practices that could be cause for concern. Mr. Foley responded that discussions with the Source Evaluation Board had addressed the University's concerns about overhead charges, but he could not predict whether this issue would be problematic until the final RFP is released.

Regent Ornellas agreed with Regent Pattiz's assessment of the importance of the work being done at the Los Alamos laboratory. His own recent visit to the Livermore laboratory had brought him to a similar conclusion.

Regent Lee asked who the University's competitors might be for the Livermore and Los Alamos contracts. Mr. Foley responded that it is the policy of the DOE and NNSA that the identity of the other competitors or their number not be disclosed. It was his firm belief that it would be difficult for other entities to present stronger proposals than the University's.

Regent Lansing asked whether the University had found an industrial partner. Mr. Foley responded that the University was well on the way to arranging a final team, assuming an arrangement can be made that is satisfactory to The Regents. He was confident that the University could form a strong partnership.

Chairman Parsky noted that the contract process remains fluid and that the Regents would be notified as information becomes available. He commented further on the importance of assuring the Regents that errors committed in the past at the laboratories have been corrected and that they will not recur. He emphasized that the employees at the Los Alamos laboratory are important to the University. Issues such as their pension plan will be scrutinized, and unless the retirement and benefits of employees can be protected, the University will not submit a bid.

Vice President Foley emphasized that, should The Regents decide to submit a bid, it must be acknowledged that in order to protect the science and technology of the University and keep them at the forefront, the University will need to be actively involved with the laboratories. Chairman Parsky agreed that if it is decided to submit a bid, the Regents must be assured that the University will remain in control of the science and technology.

Committee Vice Chair Blum commented that, although it is not unlikely that issues will appear from time to time, he was pleased with the positive changes relative to security and culture that have taken place, particularly at the Los Alamos laboratory.

Regent-designate Rosenthal asked that if the final RFP for the Los Alamos laboratory is disclosed before the May meeting, the Regents meet in person to discuss the possibility of submitting a bid. Chairman Parsky noted that the decision concerning the possibility of bidding was a number of months away. Before that, there may be teaming arrangements to discuss that would put in place a joint bid with a number of entities.

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The meeting adjourned at 2:10 p.m.

Attest:

Secretary