

The Regents of the University of California

**NATIONAL LABORATORIES SUBCOMMITTEE**

September 13, 2017

The National Laboratories Subcommittee met on the above date at the Price Center, San Diego campus.

Members present: Regents Mancina, Napolitano, Newsom, Ortiz Oakley, and Pattiz; Ex officio member Pérez; Chancellor Block; Advisory member White

In attendance: Regents Blum and Lozano, Secretary and Chief of Staff Shaw, General Counsel Robinson, Vice Presidents Brown and Budil, Chancellor Leland, and Recording Secretary McCarthy

The meeting convened at 3:55 p.m. with Subcommittee Chair Pattiz presiding.

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

Upon motion duly made and seconded, the minutes of the meeting of July 12, 2017 were approved.

**2. UPDATE ON THE LOS ALAMOS NATIONAL LABORATORY CONTRACT**

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

Subcommittee Chair Pattiz stated that the Director of Los Alamos National Laboratory (LANL) would be retiring at the end of the year. Given that the rebidding of the management contract would make it difficult to recruit a permanent director, an acting director would be appointed no later than early December. It was unclear how long the rebidding process would take.

President Napolitano informed the Subcommittee that she spent a day in August at LANL meeting with its leadership team, staff, and community leaders. Each of these groups expressed deep appreciation for UC's many contributions to LANL and to the local community over many years. During that visit, President Napolitano reaffirmed the University's longstanding commitment to LANL that goes back 74 years and expressed her hope that UC's association with the Laboratory would continue for many years to come. She affirmed UC's belief that LANL is an important part of its public service, research, and education missions. She reaffirmed the University's belief that its most important role at LANL is to safeguard and steward its research environment, and expressed her belief that the Laboratory's missions must be underpinned by world-class science, technology, and engineering, which are clearly enhanced by its partnership with the University of California.

President Napolitano said that, from her perspective, the process that the National Nuclear Security Administration (NNSA) initiated for this contract competition represented somewhat of an improvement over other recent contract competitions, and spoke better to the elements most important to the continued vitality and success of LANL. The new process strongly emphasizes the importance of the leadership team that would be responsible on a daily basis for the Laboratory's critical missions.

Subcommittee Chair Pattiz pointed out that both LANL and the Lawrence Livermore National Laboratory (LLNL) were run by the same LLC, which had received award term extensions for LLNL. The University would remain with the same team to manage LLNL, while creating a different team to bid for the LANL contract. He expressed his firm belief that the LANL leadership would prefer to retain their relationship with UC, which goes back many years.

Regent Blum asked why the LANL contract was being rebid, while the LLNL contract was not. Subcommittee Chair Pattiz responded that there had been a number of miscues at LANL, while LLNL had performed flawlessly. These two Laboratories are very different; LANL is much larger than LLNL. The LLC construct places responsibility for certain types of operations in the hands of UC's private sector partners and most problems have been in those areas. UC would bid for the LANL contract with a different group of private sector partners.

Vice President Budil agreed and stated that she had emphasized this point to U.S. government officials as they considered competing the LANL contract. The NNSA was very dissatisfied with the LLC management and operations contractor at LANL. Ms. Budil pointed out that the situation at LANL was a complex combination of the circumstances on the ground, the leadership team, and external forces, which are all very different at LANL than at LLNL. LANL had a number of operational problems, including the incident of the venting of a waste barrel, a shipping issue, and a number of issues about capital project construction, all unique to the LANL environment.

Ms. Budil provided an update on the LANL contract competition. On July 12, 2017, the NNSA released the draft Request for Proposals (RFP) for the contract competition. In recent years, the NNSA had created a streamlined contract procurement process with the goal of encouraging increased competition for such contracts by reducing the cost of mounting a proposal effort and providing simpler evaluation criteria. This short-form process had been used twice, for the Nevada National Security Site and most recently at the Sandia National Laboratories.

That process had three primary evaluation criteria. Past contractor performance comprised 60 percent of the evaluation; key personnel and organizational approach comprised 25 percent; and approach to small business participation in the operation of the Laboratory comprised 15 percent. These simple criteria were heavily weighted toward the past work done by the parent organizations. UC had some significant concerns about this process, in particular the lack of emphasis on the people and leadership team. The process of evaluation of key personnel and organizational approach was largely paper-based, with no

time during the process when the team was brought together and required to present to the Evaluation Board; nor were teams presented with challenge problems as had been typical in prior contract competitions. Interestingly, competitors for the contract were not required to provide any technical approach or vision for the Laboratory.

At the release of the Sandia contract competition results, UC provided a great deal of feedback on the process, both written and through discussions with the government, with the hope of rebalancing the evaluation criteria and to raise what UC considers the most important considerations for running an organization as complex and highly technical as LANL. Of particular interest to UC was one aspect of the review process according to which any parent company that was part of an LLC would receive the same score as all the other partners for their past performance under a contract. Even though there is a division of responsibilities under the LANL LLC, with UC having primary responsibility for science, research, and mission execution, and its industrial partners having primary responsibility in areas of operations, UC and its industrial partners would be given the same grade. In recognition of that, UC had taken a much stronger role in operational activities at LANL, to good effect.

Ms. Budil reported that UC has a consistent record of excellence in its scientific and mission execution throughout the many decades of its participation at LANL. However, there have been numerous weaknesses in operations at LANL. A key consideration in a potential bid for the LANL contract was to devise a partnership strategy that allows UC's areas of unquestioned excellence to be supported by partners that could bring the necessary operational excellence. In its feedback to the draft RFP, UC suggested that the process as it was constructed undervalued the people responsible on a daily basis for running LANL. It was surprising that in the case of Sandia, a \$3 billion research and development organization, the decision was made to hire a new leadership team without ever interviewing the chief executive officer.

A number of important changes were made in the draft RFP issued in July, validating UC's and others' efforts to improve the process. The evaluation criteria were the same, but their weighting was very different, with past contractor performance, key personnel and organizational approach given equal weighting, and those criteria given more weight than small business participation. Oral interviews have been reintroduced into the process and could include both presentations by the team and the provision of challenge problems by the Source Evaluation Board to test a team's ability to work together. The draft RFP has a strong emphasis on organizational culture change. In the area of past performance, teams would be evaluated in two ways: (1) the relevance of past performance, particularly in size, scope, complexity, and organizational culture change experience, and (2) quality of performance. Ms. Budil said that UC has the most relevant past performance at LANL, although that would be balanced with the many organizational challenges it had there. Ms. Budil commented that LANL's staff had an extremely positive reaction to President Napolitano's recent visit and feel a strong connection to UC. She asserted that UC's ability to assemble a first-rate key personnel team to run the Laboratory is unparalleled.

When the draft RFP was released, two weeks were allowed for feedback, which UC provided. Because of the major changes that had been made to the process, some peculiarities needed to be addressed. In particular, the RFP gave no evaluative weight to contractor governance of the Laboratory, which had been an issue of great concern to the government, or a detailed evaluation of the workings of the organizational approach. Some further changes were made.

During the week of August 27, NNSA hosted the site visit to LANL for potential bidders and one-on-one meetings with them. UC's team of Ms. Budil and three other representatives met with a group from the Source Evaluation Board, and had a productive exchange with the federal staff who would manage the procurement. UC raised a number of questions and concerns that it hoped would be addressed in the final RFP, which she anticipated would be released by the end of the month. Under this short-form process, Ms. Budil anticipated that full proposals would be due within approximately 60 days of release of the final RFP. UC was developing its strategy, its teaming approach, and the components of a proposal which would be brought to the Regents for approval and an authorization to proceed with a bid. UC was completing foundational work including gathering its past performance data, identifying and assembling a winning team of partner companies, and building a key personnel team of Laboratory leadership. Finally, LANL Director Charles McMillan announced his intention to retire at the end of the year and the LLC would identify an interim director to finish the term of the contract, which is scheduled to end September 30, 2018.

Regent Blum commented that when the LANL contract was rebid previously it was feared that UC would lose the contract, but UC prevailed. He asked to what extent UC was concerned that the upcoming decision could be influenced by politics. Ms. Budil commented that UC had learned a great deal over its 74-year participation about what it takes to run LANL. Over the past 12 years, many aspects built into the management construct did not work as intended. One such aspect was how to combine the expertise and approach of a university and a private sector partner. It had not been workable in practice to have one group responsible for operations and another responsible for the science. These aspects need to be combined more seamlessly. Regarding politics, the current political situation resembled that in 2005 during the last rebidding. Ms. Budil noted that to date the process has been constructed to be protected from interference by political appointees within the Department of Energy (DOE). The University of Texas (UT) had announced publicly its intention to bid. While Ms. Budil anticipated that bid would be formidable, UT had no prior experience managing an organization as large and complex as LANL. She acknowledged that UC may not prevail in securing the contract, but affirmed that UC would put forth the strongest possible case that it should be selected.

Regent Blum asked if the decision would be made by President Donald Trump. Ms. Budil said the decision would typically be made by a Source Selection Official, typically a career federal employee within the DOE for reasons of integrity of procurements and concern about possible conflicts of interest. In the last two procurements, political officials learned the results only after the decisions were final.

3. **UPDATE ON THE LAWRENCE BERKELEY NATIONAL LABORATORY CONTRACT REFORM**

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

Vice President Budil said the Lawrence Berkeley National Laboratory (LBNL) had embarked on a contract reform effort that would result in a complete rewriting of the LBNL contract for the University. The current contract runs through 2022 with the potential for extension via award terms through 2025. The Department of Energy (DOE), under the prior federal administration, undertook an effort to reform the contracting process, to rebuild the relationship between its laboratories and contractors, and to return to the original intent of the government-owned contractor-operated model. This reform initiative grew out of an effort that was piloted at SLAC National Accelerator Laboratory, operated by Stanford University, where its revised contract had been in effect for approximately one year. Under that model, the DOE set high-level goals and the laboratories and contractors had a great deal more flexibility to determine how to do the work and more freedom to use their own internal systems and processes, with less transactional character to the DOE oversight. The contractors were still ultimately accountable for their performance.

The primary objectives of the contract reform effort are to restructure and reorganize the contract so that it can be a useful document; to clarify ambiguities and remove redundancies; to focus on high-level guidance and reduce transactional guidance; and to allow reliance on UC systems and policies rather than on DOE-mandated approaches. This would provide more flexibility and allow UC to be more effective in directing its resources toward science. In return for this increased flexibility, the University would agree to be held to a higher standard of accountability for performance at the Laboratory. UC's performance would be more explicit in performance evaluations and there could be more variability in the fee earned based on this increased level of accountability. UC would ask for relief from some aspects of the federal acquisition regulations or some of the DOE acquisition regulations.

Regent Blum asked if the DOE would agree to this approach. Ms. Budil responded that the DOE leadership was strongly aligned with this approach.

UC would benefit by being able to tailor the contract specifically to the circumstances of LBNL, making processes and policies between LBNL and the rest of the University more consistent, and improving its relationship with DOE. This process would build trust between the University and the DOE. The work done at LBNL to build its organizational culture was a factor in its being chosen for this reform initiative. There would be an increased expectation for oversight on the University's part. For example, the DOE directive on cyber security would be replaced with a LBNL-specific plan. LBNL was viewed within the DOE complex as a leader in sophisticated cyber security. The DOE cyber security directives were overly broad for LBNL. LBNL would tailor its policy to meet cyber security objectives that would be more suited to the open research and development environment of LBNL.

Ms. Budil said the modified contract, with a start date of January 1, 2018, would be presented to the Regents for approval.

Regent Blum requested a presentation at a future meeting on the work of LBNL.

The meeting adjourned at 4:35 p.m.

Attest:

Secretary and Chief of Staff