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DOE MANAGEMENT

**Management Problems at the Three DOE
Laboratories Operated by the University of
California**

Statement of
Victor S. Rezendes
Director, Energy Issues
Resources, Community, and Economic
Development Division

Before the
Subcommittee on Investigations and Oversight
Committee on Science, Space, and Technology
House of Representatives



Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to discuss management issues relating to the University of California's operation of three Department of Energy (DOE) laboratories--Lawrence Livermore National Laboratory, Los Alamos National Laboratory, and Lawrence Berkeley Laboratory. As you are aware, DOE has decided to extend the contracts it has with the University for operating the laboratories (which will expire on September 30, 1992). As you requested, my testimony summarizes the weaknesses in both laboratory management and DOE oversight that we reported in a number of reports issued during the past 16 months.

In summary, these three DOE laboratories have received considerable praise for their research activities. However, our reports have identified a number of problems related to the management of these laboratories. Specifically, we found problems with

- University of California controls over laboratory operations such as managing property, protecting classified documents, and ensuring that subcontractors are not subject to foreign influence that might potentially result in the uncontrolled transfer of nuclear weapons-related technology or material to foreign countries;
- DOE oversight to ensure that the University of California complies with DOE rules and regulations; and
- clauses in the University of California contracts that hamper DOE's ability to effectively manage the laboratories.

DOE's Office of Inspector General (IG) has reported similar weaknesses.

DOE has recognized that management weaknesses exist and that actions are needed to address them. DOE's negotiations with the University on the contracts' content provide an opportunity to obtain an increased commitment to effective management by the University of California and to implement changes to the contracts to better enable DOE to ensure that the laboratories are effectively managed.

I would now like to describe the laboratories and discuss some of the specific problems that we have reported.

BACKGROUND

The University of California serves as the management and operating (M&O) contractor for three DOE multiprogram laboratories--Lawrence Livermore, Los Alamos, and Lawrence Berkeley. In fiscal year 1990, DOE obligated approximately \$2.3 billion to these contracts--\$1.1 billion to Lawrence Livermore, \$1 billion to Los Alamos, and \$200 million to Lawrence Berkeley. The University also operates the DOE Laboratory of Radiology and Environmental Health, a much smaller facility. The multiprogram laboratories serve as DOE's primary mechanism for conducting energy and defense research and development (R&D). Laboratories involved primarily in energy research, such as Lawrence Berkeley, are under the cognizance of DOE's Director of Energy Research. On the other hand, laboratories concentrating on defense research, such as Los Alamos and Lawrence Livermore, are under the cognizance of DOE's Assistant Secretary for Defense Programs.

INADEQUACIES FOUND IN UNIVERSITY MANAGEMENT OF LABORATORY OPERATIONS

Several reports that we have issued in the past 16 months have pointed out weaknesses in the University of California's

operation of Lawrence Livermore and Los Alamos. These weaknesses included inadequate controls for managing property, protecting classified documents, and ensuring that subcontractors are not subject to foreign influence.

Property Management

In April 1990, we reported that a substantial amount of government-owned property was missing from the Lawrence Livermore laboratory. Specifically, 16 percent, or 27,528, of the items recorded in the laboratory's property management data base could not be located. The acquisition cost of this equipment was \$45 million. We also found that the laboratory did not have adequate controls to ensure that property in its custody is safeguarded against theft, unauthorized use, or loss. For example, the laboratory had not tagged, marked, or otherwise identified as government property some of the items it had acquired for conducting weapons and energy R&D. In addition, we found that there were insufficient physical controls to prevent laboratory employees and subcontractors from taking government property from the premises without proper authorization.

Following our April 1990 report on property controls, Lawrence Livermore reported to the press that it had found virtually all of the equipment--approximately 99 percent. The laboratory, however, excluded over 20,000 noncapital equipment items costing between \$500 and \$5,000--such as cameras, television equipment, printers, and modems--that are still missing. The laboratory calculated the percentage of located items based on cost, whereas the percentage of items that we reported as missing was based on the number of missing items. In actuality, the laboratory had located only about 3 percent of the equipment. About 13 percent of the inventoried equipment, acquired at a cost of \$18.6 million, is still missing.

Rather than being strengthened, the laboratory's property accountability controls, overall, have actually been weakened since April 1990. In response to our report recommendations, DOE required the laboratory to develop a property management system. As a first step, the laboratory developed a property policy manual. While the policies outlined in this manual may improve equipment management in some areas, accountability controls will be eliminated over noncapital equipment. These items, costing between \$500 and \$5,000, account for 81 percent of the government-owned property items previously accounted for in the laboratory's property management data base. They also constitute over 92 percent of the items that we reported as missing in April.

Furthermore, laboratory management has not offered a sound basis for its actions to eliminate accountability controls over noncapital equipment. For example, according to laboratory management, one reason for eliminating accountability controls is that they are not cost-effective. Yet the University of California requires the accountability of its own property at the \$500 level--not the \$5,000 level now used on government-owned property at the laboratory. This inconsistency provides greater protection to University property than is afforded to the government-owned property at Lawrence Livermore.

Classified Documents

In February 1991, we reported on the inadequacy of accountability for secret classified documents in Lawrence Livermore's custody. We reported that the laboratory could not locate a substantial number of secret documents--approximately 10,000 out of 600,000 such documents were missing. Adequately safeguarding and controlling secret documents is vital to the national security interests of the United States. If, for example, information on nuclear weapons design were disclosed to unauthorized sources, the potential would exist for serious

consequences to national security. We also reported that the laboratory had not assessed the potential for compromise to the national security for the documents as required. As a result, neither the laboratory nor DOE could provide assurance that national security had not been damaged.

Likewise, we reported that accountability for secret documents in the laboratory's custody was inadequate. Because control over secret documents at the laboratory was decentralized and diverse, practices varied. As a result, laboratory management could not readily ensure that secret information was being effectively managed or controlled laboratorywide.

Foreign Ownership, Control,
or Influence of Contractors

In March 1991, we reported that three of DOE's contractor-operated weapons laboratories, including Lawrence Livermore and Los Alamos, had not fully complied with DOE regulations and procedures for determining whether contractors are owned, controlled, or influenced by foreign individuals, governments, or organizations and whether that influence might potentially result in the uncontrolled transfer of nuclear weapons-related technology or material to foreign countries. DOE procedures require that potential contractors that would have access to classified information or to significant quantities of special nuclear material complete a questionnaire about their foreign involvement. The contract can be awarded only after the DOE contracting officer determines either that there is no undue risk to national security or that the contractor has provided a satisfactory plan of action to prevent foreign access to the classified matter.

About 98 percent of the classified subcontracts awarded from October 1987 to March 1990 by the Lawrence Livermore, Los Alamos, and Sandia national laboratories (the latter operated by AT&T

Technologies, Inc.) did not fully comply with DOE regulations and procedures. For example, when potential contractors indicated that they had no foreign involvement, the laboratories awarded the contracts without obtaining the required DOE contracting officer's determination that no undue risk to national security existed. We also estimated, on the basis of the sample of contracts reviewed, that 15 percent of the classified contracts were awarded without the contractor's completing the required questionnaire. Further, the three laboratories did not require individual consultants performing classified work to disclose foreign interests.

The three laboratories also could not readily identify all classified contracts awarded at their facilities. Lawrence Livermore had a computerized system, but the data in the system were incomplete--we identified 20 classified contracts that were not on the list of classified contracts provided by Lawrence Livermore. Los Alamos did not have a data system to identify such contracts.

DOE OVERSIGHT NOT SUFFICIENT TO ENSURE THAT CONTRACTORS COMPLY WITH DOE RULES AND REGULATIONS

DOE also did not ensure that procedures were in place to protect the government's interest, and DOE headquarters and field offices did not carry out adequate on-site reviews of contractor operations. Our reports on classified documents, conflicts of interest, and discretionary R&D illustrate these problems. In addition, some of our reports raised questions as to whether DOE had adequate resources to carry out its oversight responsibilities.

Classified Documents

In our February 1991 report on classified documents, we found DOE oversight over the University of California's classified document activities to be inadequate. We found, among other

things, that although DOE's San Francisco Field Office annually evaluates the laboratory's secret document program, none of these reviews had identified the problems we reported with missing secret documents. This was, to a great extent, attributable to inadequate statistical sampling. Similarly, though DOE's Office of Security Evaluations periodically evaluates the laboratory's management of facility security, including the control of and accountability for classified documents, the sample sizes and number of groups audited had not been sufficient to allow the office to reach any overall conclusions about the laboratory's program to control secret documents.

Conflicts of Interest

In December 1990, we reported that contrary to DOE procedures, DOE's Albuquerque Field Office had allowed the contractors operating the Sandia and Los Alamos national laboratories to review subcontracts for possible conflicts of interest. DOE procedures require that a DOE official review information submitted by potential subcontractors--either their certification that they know of no relevant information bearing on possible conflicts of interest or their disclosure regarding possible conflicts of interest. This review is to determine if a potential conflict of interest exists and, if so, decide the proper course of action. We found three subcontracts--two of which were at Los Alamos--with possible conflicts of interest that might have been avoided if DOE's Albuquerque staff, instead of the contractors, had made the required determinations.

Neither DOE headquarters' procurement management system nor Albuquerque's procurement oversight reviews identified the conflict-of-interest problems we found. Further, even when Albuquerque identified problems, it did not effectively follow up to ensure its recommendations were acted on.

Discretionary R&D

In a December 1990 report, we cited problems with the management of discretionary R&D at Lawrence Livermore and Los Alamos national laboratories. Under section 303 of Public Law 95-39, the Energy Research and Development Administration fiscal year 1977 authorization act, DOE has the authority to approve the use of a reasonable amount of laboratory funds to conduct R&D projects suggested by employees and selected by the laboratory directors--discretionary R&D. In fiscal year 1989, the nine DOE multiprogram laboratories conducted discretionary R&D costing approximately \$123 million. About two-thirds of this was spent at Lawrence Livermore and Los Alamos.

We found significant weaknesses in DOE oversight of the discretionary R&D program. For example, we found that the guidance in the DOE order on exploratory R&D was not clear enough to ensure that laboratories use these funds appropriately. Further, we found that DOE lacked effective controls over laboratories' discretionary funds. Weaknesses included (1) DOE headquarters not conducting annual program oversight reviews, (2) DOE field offices not adequately reviewing projects carried out by the laboratories, and (3) the lack of DOE guidance covering the use of funds for basic research--the major component of Los Alamos' discretionary R&D program. Even more significantly, DOE officials allowed Los Alamos to inappropriately use over \$2.6 million of its discretionary R&D funds to pay uncollected costs for three canceled projects the laboratory carried out for non-DOE sponsors --two for the U.S. Army and one for a private company.

Adequacy of Oversight Resources

Some of our reports also questioned whether DOE had adequate resources to carry out its oversight activities. For example, our report on DOE controls to identify contractors subject to foreign

influence noted that DOE has limited resources devoted to carrying out the required reviews.

DOE'S ABILITY TO EFFECTIVELY MANAGE THE
LABORATORIES HAMPERED BY CONTRACT CLAUSES

DOE's ability to effectively manage the contracts for the University-operated laboratories is also impaired because the contracts contain clauses that provide DOE with less authority than the standard clauses in the DOE Acquisition Regulation (DEAR) and the Federal Acquisition Regulation (FAR). Many of these nonstandard clauses contain the concept of mutuality, which restricts DOE from unilaterally requiring policy and procedural changes in contractor operations, unless the changes are required by law or executive order.

For example, in our April 1990 property management report, we noted that DOE did not require its standard property management provision in the contract with the University. The standard property management provision, normally included in all DOE M&O contracts, requires that a contractor maintain and manage a property management system in accordance with sound business practice and with DOE property management regulations. According to the DOE Contracting Officer at the field office, DOE tried to insert its standard provision into the contract, but the University opposed its inclusion. The University argued that such a requirement would impose a superior-subordinate relationship between the government and contractor rather than the historical relationship of mutuality and consent. DOE subsequently dropped this as a negotiating point.

In lieu of the standard property management provision, the contract between DOE and the University provides for establishing a "mutually approved system" for property management. The terms of this system, however, had not been developed nor agreed upon. As a

result, the system at the laboratory did not ensure that property was adequately safeguarded, and DOE could not provide assurance that government-owned property at the laboratory was being adequately safeguarded.

A number of other standard DEAR clauses are not included in the contracts, including the following:

- The DEAR requires that the system of accounts employed by the contractor be satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied. The contracts with the University, however, specify that the University's system of accounts shall be changed only as mutually agreed. According to a DOE memorandum, the University of California and laboratory management had refused to accept DOE directives pertaining to generally accepted accounting principles and DEAR cost principles because the contracts are silent as to their application.
- The contracts with the University also do not include the standard DEAR clause requiring that the contractor conduct internal audits and examinations satisfactory to DOE of the records, operations, expenses, and transactions with respect to the costs claimed to be allowable under the contract. In a March 1991 memorandum on internal controls at Lawrence Livermore, DOE's IG stated that the lack of the internal audit clause and its requirements were a material internal control deficiency.
- The DEAR requires a contractor to maintain a purchasing system acceptable to DOE. The contracts with the University specify that the system must be acceptable to the University and DOE. This may hamper DOE's ability to mandate needed changes to the purchasing system.

REPORTS BY DOE'S IG HAVE ALSO
IDENTIFIED MANAGEMENT PROBLEMS

DOE IG reports issued during the past year have also identified a number of weaknesses in DOE oversight of laboratories operated by the University of California. In particular, the IG's general management inspection of DOE's San Francisco Field Office pointed out a number of significant management weaknesses. The report found, among other things, the following:

- DOE's review of indirect costs incurred by M&O contractors was limited. According to the report, in fiscal year 1987, indirect expenditures at Lawrence Livermore accounted for approximately \$350 million, or 35 percent of its funding.
- Problems existed with DOE oversight of \$18 million in National Institute of Health grants performed at Lawrence Berkeley. For example, contrary to DOE policy, the San Francisco Field Office approved the work even though it was not accounted for in DOE's financial management system.
- San Francisco Field Office officials were not aware of what requirements Lawrence Livermore and Lawrence Berkeley employees would have to meet to be eligible for post retirement health benefits.
- Lawrence Livermore implemented a voluntary separation program without the required prior approval by DOE. The program covered 371 employees and cost DOE \$6.6 million.

The report also cited inadequate resources and nonstandard contract clauses as being impediments to effective contract administration.

DOE HAS ACTED TO IMPROVE CONTRACT MANAGEMENT

Our reports have made a number of recommendations to DOE to correct the problems we identified in the areas of property management, classified documents, conflicts of interest, discretionary R&D, and controls over foreign influence over subcontractors. DOE has acted on many of these recommendations. In addition, DOE has recognized the need for overall improvements in contract management, particularly in its administration of M&O contracts. In the Secretary of Energy's fiscal year 1989 and 1990 Federal Managers' Financial Integrity Act reports, the Department's evaluation of its management control system, contract management was cited as a material weakness. Initiatives to correct this weakness include changing the procurement system reviews and developing a work authorization process for DOE's M&O contractors. In addition DOE has developed new regulations on contractors' accountability and award fees (finalized in June 1991), but these regulations do not apply to nonprofit contractors such as the University of California.

DOE is also considering actions to strengthen the contracts with the University as part of the agency's process for negotiating the extension of the contracts. Specifically, DOE has identified 10 key management areas needing improvement. These include controls over property management, internal audit procedures, financial systems, and increased University attention to management of the laboratories. DOE officials told us that they discussed these issues with the University prior to deciding to extend the contracts.

CONCLUSIONS

Our work, as well as work carried out by DOE's IG, points out the need for substantial improvements in the University of California management of the laboratories and DOE oversight of

that management effort. DOE has taken action to address many of the specific problems that we have identified and to improve overall contract management.

Negotiations with the University of California to extend the laboratory contracts will be another opportunity for DOE to take a firm stance regarding the need for management improvements, including

- obtaining a commitment for improved management by the University and

- obtaining agreement that the new contracts will contain clauses giving DOE clear authority to administer the contracts in a manner that will protect the government's interest.

Having appropriate procedures and resources in place would also help DOE carry out its responsibilities for administering the contracts.

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Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or Members of the Subcommittee may have.

RELATED GAO PRODUCTS

Nuclear Security: DOE Oversight of Livermore's Property Management System Is Inadequate (GAO/RCED-90-122, Apr. 18, 1990).

Energy Management: Better DOE Controls Needed Over Contractors' Discretionary R&D Funds (GAO/RCED-91-18, Dec. 5, 1990).

Energy Management: DOE Needs to Better Implement Conflict-of-Interest Controls (GAO/RCED-91-15, Dec. 26, 1990).

Nuclear Security: Accountability for Livermore's Secret Classified Documents Is Inadequate (GAO/RCED-91-65, Feb. 8, 1991).

Nuclear Nonproliferation: DOE Needs Better Controls to Identify Contractors Having Foreign Interests (GAO/RCED-91-83, Mar. 25, 1991).

Nuclear Security: Property Control Problems at DOE's Livermore Laboratory Continue (GAO/RCED-91-141, May 16, 1991).