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January 6, 2005

VIA E-MAIL: LANLRecompetehelp@doeal.gov

Mr. Tyler Przybylek, Chairman
Source Evaluation Board
U.S. Department of Energy
1000 Independence Avenue, S.W.
Room #7G-046, NA-3.1
Washington, D.C. 20585

Re: Comments on the Draft Request for Proposals for the Selection of a Management and Operating Contractor at Los Alamos National Laboratory

Dear Mr. Przybylek:

I am writing to provide comments on the “Draft Request for Proposals for the Selection of a Management and Operating Contractor at Los Alamos National Laboratory (LANL).” This letter is written on behalf of the University Professional & Technical Employees/Communications Workers of America Local Union No. 9119/UPTE Local 1663 (UPTE), an employee organization representing scientific, technical, administrative, and office support personnel at LANL. We are writing to address concerns of the employees at LANL regarding the draft RFP. The three primary areas of concern that will be addressed in this letter include: (1) serious deficiencies in the proposed Evaluation Criteria that will undermine the outcome of the contract competition; (2) the need for maintenance of salary and benefit levels; and (3) the importance of recognition and preservation of the representative employee organization.

**Revision of the Draft Evaluation Criteria
Required to Fulfill National Goals**

Los Alamos National Laboratory is widely recognized for its world-class science and technology programs. Recent geopolitical events make the maintenance of a safe, secure and reliable nuclear stockpile even more crucial, and other LANL programs are also essential to the accomplishment of key U.S. goals. In order to fulfill these important

national goals, Los Alamos National Laboratory must continue its unquestioned world-class leadership in science and technology while improving its business and laboratory operations to outstanding levels. We do not believe that the current evaluation criteria contained in Section M-3 and M-4 (and the related proposal requirements in Section L-4) accomplish these objectives.

In fact, we are very concerned that the current evaluation criteria would result in a decline in the laboratory's long-standing science and technology leadership. In Section M-3 of the draft RFP, a weight of 75 points is assigned to past performance in the combined areas of science and technology, laboratory operations, and business operations. This weighting is totally insufficient compared to other criterion, particularly criterion 1 for the new "approach to and experience in managing" science and technology work, which is weighted at 325 points. The current draft RFP would allow a "slick presentation" of a new approach to science and technology more than 4 times more weight than the past performance of a contractor. In addition, by combining the past performance in science and technology with past performance in laboratory and business operations, the draft RFP dilutes the contribution of world-class science and technology with business and operational weaknesses in the past five years. Moreover, the draft RFP would limit consideration of past performance to a five-year period, limiting consideration of the historic contribution of a bidding organization to top-notch work in numerous scientific fields.

We strongly believe that the evaluation criteria contained in Section M-3 and 4 (and the related proposal requirements under Section L-4) should be revised to result in the selection of a Management and Operating Contractor that can deliver not only improved business and laboratory operations but also maintain the highest levels of science and technology work. To accomplish this objective, the evaluation criteria and their weighting should be revised substantially. In addition, the evaluation process would be enhanced by combining the evaluation of experience and past performance into a single factor rather than separating past performance from experience – the approach taken in the current draft RFP. The following revisions would accomplish these objectives:

- 175 pts - Science and Technology Approach & Transition Plan
- 275 pts - Science and Technology Experience & Past Performance
- 100 pts - Business & Lab Operations Approach & Transition Plan
- 150 pts - Business & Lab Operations Experience & Past Performance
- 200 pts - Laboratory Organization and Key Personnel
- 100 pts - Oral Presentation

In addition, the proposal requirements (Section L-4) and the evaluation criteria regarding past performance should be revised in two ways. First, these sections should evaluate

past performance for a period of at least 20 years in selected areas that can be clearly defined, such as the number and breadth of Nobel Prize awards; the number of patents granted; the breadth and depth of the scientific disciplines covered by the patents; the number of publications and citations in peer-reviewed journals; and employee retention rates. The short, five-year limitation contained in the draft RFP will bias the outcome of the contract competition. Second, the draft RFP is deficient in its treatment of proposals in which “the information on relevant past performance is not available.” The Draft RFP would allow the proposer to receive a neutral rating and receive half the available points if the information is “not available.” This approach would appear to allow a bidder to omit information on significant, past deficiencies on the grounds that the “information is not available” and receive only a limited penalty for such omissions.

The evaluation criteria in the draft RFP also need to be revised to provide adequate consideration to the planned treatment of UPTE by the bidding team in its proposed approach to business operations (criterion 2) and its transition plan (criterion 8). Decades of experience in the American workplace have demonstrated that protection of worker rights is essential in ensuring worker health and safety and providing effective avenues for workers to promote management improvements. When problems arise in the workplace, the organized worker has established venues for righting the wrongs. If the continuation of an independent labor organization is not assured, the American taxpayer is much more vulnerable to management cover-up of waste, fraud, and abuse.

The organization of UPTE occurred only within the last few years, and we strongly believe that the success of the future management contractor will be heavily dependent on maintaining effective outreach and continuity in dealings with this union. Strong labor rights will enhance worker retention, facilitate continued success in science and technology and improvements in laboratory and business operations as well as reduce workplace disruptions.

Finally, specific refinements are needed in evaluation criterion #1 related to science and technology. Paragraph 5 (and a related section of the Statement of Work – p. 3) presents an inappropriate statement of the goals of the solicitation and evaluation criterion. This provision requires DOE to give substantial weight to the following activity under the evaluation criteria: “[b]alancing and integrating the performance of world-class science and technology with laboratory operations, business practices, and laboratory management.” Paragraph 5 and page 3 of the Statement of Work should be rewritten to reflect the superior language found on page L-12 of the solicitation: “integrating excellence in laboratory operations and business operations with the performance of world-class science and technology.” This preferred language makes clear that strong science should not be balanced against and possibly weakened by improved laboratory and business operations. Instead, laboratory operations and business practices should be

improved without damaging world-class science and technology.

**Mission of the Laboratory will be Better Served with
Substantially Equivalent Salary, Pension and Benefits**

Clearly, the mission of the Laboratory can only be achieved through the hiring and retention of top-rate scientists and technical staff. The connection between employee salary, pensions and other benefits in recruitment and retention of a highly skilled workforce is recognized in the draft RFP and many other DOE contracts throughout the country. In the Acquisition Plan for the Laboratory, the Secretary of Energy made a commitment to ensure that pension benefits are fully protected, recognizing the importance of retaining “the vital national asset that the Los Alamos workforce represents.”

Unfortunately, the language contained in the draft RFP would undermine the laboratory’s ability to recruit and retain the best scientists, technicians and other highly skilled employees. Of significant concern to the employees is the reference to comparable pay and benefits. Section H-36(d)(1) of the draft RFP requires the contractor to “provide a total compensation package for all employees transferring from the predecessor contractor to this Contract with respect to salaries, health/welfare benefits, pensions comparable to that provided by the predecessor contractor.” This language does not sufficiently safeguard the salary, pension and benefit levels for retained employees. In comparison, strong precedent exists for much stronger protection of salary and benefits in other major DOE contracts covering the management and operation of the national laboratories. For example, Section H-12(b) of the DOE’s prime contract for the management and operation of the National Renewable Energy Laboratory (NREL), the world’s premiere energy efficiency and renewably energy laboratory, specifically requires the prime contractor to “minimize unnecessary disruption to the existing work force and to minimize severance costs” by retain[ing] substantially equivalent base pay and employee benefits.”¹ This section further emphasizes that company service credit and retirement benefits, as well as companion retiree medical benefits, will remain substantially equivalent.²

¹See, § H-12(b) of DOE Prime Contract Number DE-AC36-98GO10337, Workforce Transition and Management, <http://www.go.doe.gov/pdfs/readingroom/primecontract/primesection.pdf>

²In New Mexico, the DOE also has precedent for using the “substantially equivalent pay and benefits” language. In the Honeywell FM&T Contract No. DE-AC04-01AL66850 this contract language was included to “support the Contractor’s ability to attract and retain critically skilled employees.” Section H.18.

The language in Section H-36(d)(1) of the draft RFP should require the Contractor to provide substantially equivalent salaries, employee and retiree health benefits and pensions for all employees transferring from the predecessor contractor to this Contract. Likewise, Section H-36(e) should reaffirm that the pension benefits will not be diminished under the new Contractor.

Draft RFP Does Not Sufficiently Protect Incumbent Labor Organization

UPTE/CWA Local 1663 is an “employee organization” under California law. It exists for the purpose of representing scientific, technical, administrative and office support personnel employed by the University of California at LANL, regarding wages, hours and other terms and conditions of employment, including advancing employee grievances and addressing labor disputes. The Union is an affiliate of Local 9119, the certified bargaining representative of technical and professional employees at the University of California, which represents over 10,000 employees at over nine campuses, five medical centers and at three national laboratories.

Unfortunately, the Draft RFP does not adequately preserve the rights and privileges of the Union, which is the only independent employee organization of the University of California at LANL. Although Section H-36(c) of the Draft RFP preserves employees’ rights to organize collectively, this provision does not protect the incumbent Union, which has a special status under California law and as a result of past practices with LANL contractor management. Although the Union is not certified as the bargaining representative and is not operating under a collective bargaining agreement, the Union has played a crucial role in representing employees at LANL. It interfaces with high-level contractor management routinely to discuss issues of concerns, employee complaints, and other terms and conditions of employment. It represents employees through the grievance/ arbitration process. The Union has the right of access to areas where employees work as well as access to institutional bulletin boards, mailboxes and other means of communication. Union representatives are compensated for the time that they spend in grievance hearing, investigatory meetings and “meet and discuss” sessions. UPTE/CWA Local 1663 enjoys all of the rights and privileges of representation with the full concurrence, cooperation and support of the present contractor. In addition, the contractor deducts membership dues from employee compensation and forwards it directly to the Union for those who have provided authorization. The final RFP should affirmatively require the successful contractor to extend to UPTE/CWA Local 1663 all of the rights and privileges, which it currently enjoys in its representation of LANL employees.

The following additional language is necessary to supplement Section H-36(c) to avoid workplace disruptions and maintain continuity in the status of the Union in the workplace. Section H-36(s) should be expanded to include the following paragraph:

(3) The Contractor shall maintain recognition of employee organizations currently representing those employed at Los Alamos National Laboratory, and shall extend to UPTE/CWA Local 9119/UPTE Local 1663 all rights and privileges currently enjoyed by the Union including, but not limited to, representation of employees in the grievance/arbitration process; access to institutional bulletin boards, mailboxes and other means of communication; compensation for time spent in grievance hearings, investigatory meetings and "meet and discuss" sessions; and membership dues deductions.

For many of the dedicated employees of the University of California employed at Los Alamos National Laboratory, revision of the RFP to accommodate these concerns may be determinative of whether they remain at the Lab, retire or seek other employment. These modest changes will minimize unnecessary disruption to the existing workforce and preserve the world-class science and technology for which LANL is respected worldwide. We appreciate your kind attention to these important matters.

Very truly yours,



Manuel Trujillo
President, UPTE/CWA Local 1663

Cc:
Senator Pete Domenici
Senator Jeff Bingaman
Representative Tom Udall
Governor Bill Richardson
Jelger Kalmijn, UPTE 9119 President
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