



February 13, 2019

Dr. Thom Mason, Director  
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AND TECHNICAL  
EMPLOYEES

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Dear Dr. Mason:

University Professional and Technical Employees (UPTE), which represents approximately 17000 research staff, technicians, and health care workers at all ten campuses and five research hospitals of the University of California and the adjunct faculty at three California community colleges, and represents the Skilled Trades employees at Lawrence Livermore National Laboratory (LLNL), also includes as members a few hundred staff members at LLNL and Los Alamos National Laboratory (LANL). We are writing to follow up on the letter we sent to the three principals of Triad last June, just after Triad was selected as the new LANL management contractor.

As you know, the LANL M&O contract was re-bid because there grew to be a widespread recognition that the for-profit model of the previous contract had failed. Under that model the lack of transparency, micromanagement, budget atomization and perverse incentives to meet superficial project milestones rather than longer term strategic goals, led to declining morale, a drop-off in both the quantity and quality of scientific output, a consequent deterioration of the lab's science-driven national security mission focus, and several well-publicized safety lapses.

UPTE played a key role over several years in arguing to return LANL and LLNL to not-for-profit management, and applauded the DOE/NNSA decision awarding the new M&O Contract to Triad, at the same time urging the new contractor to adopt some basic reforms to address the systemic problems Los Alamos has had, offering to partner with Triad to change the safety culture and rebuild trust between LANL technical and support staff, and its management.

We believe that with this new contract, Triad has an ideal opportunity to engage the lab's technical and support staff in a cooperative effort to refocus LANL on its core science and national security missions. In UPTE's view, the key to success in this endeavor is a recognition that the scientific and engineering staff of the laboratories, along with the technical and support staff, are stakeholders in the success of the laboratory's missions. The **Framework for a New Management Structure and M&O Contract at LANL** (a copy of which is also attached) and other documents outlining the reforms we ask you to consider may be found on or linked to our website, <http://www.upte.org/local/lanl/>.

Dr. Thom Mason  
February 13, 2019  
Page 2

Among other reforms, UPTe has advocated establishing a clear Long-Range (10-year) Strategic Plan for Los Alamos, a Strategic Leadership Council composed of LANL's scientific and technical staff to help implement this Plan in conjunction with Laboratory management, and a Scientific and Engineering Employees Council, consistent with Section 8(a)(2) of the National Labor Relations Act. We have also attached a **Fact Sheet on Employee Councils**, which includes their history, their basic structure, and how such a Council might be set up at LANL to work cooperatively with the new Triad management to meet its contractual goals.

With LANL tasked to provide up to 30 Pu pits for the US nuclear arsenal, it is particularly imperative that the safety culture at LANL be improved, not by more training and perfunctory exercises for all 12,000 employees --- most of whom never come anywhere near fissile material --- but by attention to the real concerns of LANL's safety engineers. As a minimum, there should be a joint management-union safety committee such as that which already exists at LLNL. This committee has been instrumental in achieving an improved safety culture at LLNL, and a much better safety record. In addition to making possible LANL's fulfillment of its national security mission in the specific PF-4 facility, such a reform would immediately send the message to LANL's scientists and engineers that the new management is listening and engaging with them in tackling real problems rather than going through superficial box-checking exercises. This would have a very positive effect on morale, dispersing cynicism and making possible numerous other reforms.

We would be glad to answer any questions you may have, to meet with you at your convenience, and to work with you to achieve our common goal of making LANL the premier national laboratory as well as the safest and most productive workplace it can be.

Sincerely,



Jamie McDole  
UPTe-CWA President



Jeffrey Colvin  
Chairman, UPTe Tri-Labs Committee

# **Proposed Framework for a New Management Structure and M&O Contract at Los Alamos National Laboratory**

**University Professional & Technical Employees  
UPTE**

## **Preface: Purpose of this document**

It is expected that the National Nuclear Security Administration (NNSA) will issue a Request for Proposals (RFP) within the next few months for a new LANL Management & Operations (M&O) contract to take effect in FY19--beginning October 1, 2018. In anticipation of this RFP, this document is a draft of principles for a Proposed Framework for any future LANL contract. It is addressed to all stakeholders, LANL science and engineering staff, operations and administrative personnel, and project and line management, as well as local community, state and US congressional leaders. Its purpose is identify the critical deficiencies of the present contract, propose a framework for the new contract that will address and remedy these deficiencies, and initiate an open discussion among all stakeholders to find the best concrete methods to implement these reforms. We believe that in order to have an impact, this discussion of principles and criteria for the management framework under a new LANL contract should begin now, before the RFP is issued by NNSA sometime later this summer.

LANL is a complex enterprise, with a broad spectrum of activities, from the fundamental science and engineering research supporting its primary mission of maintaining the safety and reliability of the US nuclear weapons deterrent, to non-proliferation and advanced sensor technology, to environmental remediation. Because of this breadth LANL is a unique national resource, vital to the nation's security today, which must also remain flexible enough to meet future national needs. This flexibility begins with LANL's fundamental scientific base. If this base is allowed to atrophy and decay, the loss and damage to national security will surely be recognized when the next unforeseen crisis appears. It is the intent of this document to motivate critical changes in the next LANL contract that are needed for mission success by recognizing the primary importance of LANL's fundamental science and engineering base.

The Proposed Framework takes as its point of departure several reviews and reports from the National Academy of Sciences, recent Laboratory Science, Engineering and Technology evaluations, the Government Accounting Office and other sources. A recurring theme of these reports is the critical breakdown in the laboratory's science mission, related to micromanagement, perverse incentives, and outmoded and inadequate funding structures. This document recognizes that the origin of some of these issues predate the present for-profit contract that began in 2006, but holds that many problems have been exacerbated and become critical under the present contract and fee structure. It attempts therefore to establish principles and structures that any future LANL contract should adhere to.

Since our goal is for LANL to be the best it can be, which will require a broad consensus and commitment from all involved, we encourage sharing this document widely, and welcome comments and input from all stakeholders. Feedback can be provided through the University Professional and Technical Employees' Union ([lanl@upte-cwa.org](mailto:lanl@upte-cwa.org); 505-603-9034).

## **Failure of the Present for-Profit M&O Contract Model at Los Alamos National Laboratory and Rationale for Recommendations**

The failure of the present contract for Los Alamos National Laboratory (LANL) has been widely reported and recognized [1,2]. Deterioration of morale, decline in scientific output and quality, as well as several well-publicized safety lapses has been the unfortunate result. The Report of the National Academy of Sciences [3], as well as other in-depth examinations [4-7] by other groups have identified the key problems at Los Alamos.

### **Key Problems**

- A *Broken Relationship* and lack of trust between the DOE/NNSA in Washington, the DOE Site Office, and Laboratory management, as well as between LANL management and its scientific/technical staff and employees.
- Over-compensation for this lack of trust by increasing DOE/NNSA *Micromanagement* of every aspect of LANL. The NNSA has gradually replaced contractor accountability with an increasingly rigid and inflexible form of *Burdensome Transactional Oversight* of virtually all effort at LANL. The 'stove-piping' of projects or *Budget Atomization* by thousands of strictly monitored cost codes and funding slivers, with sometimes conflicting rules and requirements, by which the Laboratory and its staff are funded and attempt to carry out their work, has led to substantial inefficiencies and growing frustration of technical staff members, employees, sub-contractors and managers alike.
- The award of a Fee and Bonus based M&O contract to a management team, primarily responsible to an outside corporation, has led to *Perverse Incentives*, in the emphasis of short term milestones or 'box-checking' compliance exercises in order to collect the NNSA management fee and bonuses, at the expense of any long-term vision, or scientific accomplishment of strategic goals in service of the primary national security mission.
- *Rapid Proliferation of Multiple Management Layers* and Divisions, diffusing and effectively decreasing accountability by individual managers and divisions for their decisions. Los Alamos succeeded for decades with a small number (fewer than a dozen) of well-focused divisions with clear domains of expertise. It now has over a hundred.
- *Chronic Problems with Recruitment and Retention* of LANL's most talented scientists and engineers. This makes for a \$2.4 billion Laboratory that is substantially underperforming its potential both for its national security mission and as an engine of economic development and entrepreneurship in its local community and the state of NM.
- *Lack of Transparency* of the M&O contractor, given full reign over a vital national security resource in the public trust, but holding most of its decisions in secret and critical information as proprietary contributing to an atmosphere of rumor, mistrust and fear, and finally dysfunction at Los Alamos.

The present M&O contract management fee structure was instituted in an attempt to increase contractor accountability for sound and effective management of a National Laboratory. It has led instead to perverse bonus incentives, growth of multiple management layers, budgetary inflexibility, and loss of a strategic Laboratory capabilities and vision. The starving of basic science and technology at LANL has now reached a critical stage, with seriously eroded ability to carry out LANL's national security mission, and be prepared for future challenges.

In the report, “Securing America’s Future” it is recommended that; “DOE should abandon incentive award fees in the M&O contracts of the National Laboratories in favor of a fixed fee set at competitive rates with risk and necessary investment in mind. In addition, DOE should adopt a broader and richer set of incentives and consequences to motivate sound laboratory management and enforce accountability” [4]. In this same report an earlier study [8] concluded that, “the relationship between the NNSA laboratories and the government has been eroded by the fee structure and contract approach that invited detailed tactical and transactional oversight rather than a strategic, performance-based management approach.”

There is widespread agreement both within and outside LANL and DOE that the current system and contractor model needs substantial reform and should be re-examined from the ground up, in order to restructure and refocus LANL as a unique national resource to meet the national security threats and adapt to the innovation economy of the 21<sup>st</sup> Century [5].

## **Recommendations for a New Management Contract at Los Alamos National Laboratory**

The following broad recommendations are proposed for the management structure under the new contract. These recommendations assure that strategic planning for mission success is based on a strong Science and Technology base supported, not undermined by M&O contractor incentives. The new M&O contractor should be one that recognizes and subscribes to the principle that scientific capabilities are critical to mission success, and that mission success is paramount. By defining the contractor’s role in the RFP, NNSA could require all potential contractors to agree to necessary reforms as a condition for submitting a contract bid.

### **A. Structural Reforms**

- 1) **Strategic Leadership Team**: Establish a permanent and enduring Strategic Leadership Council (SLC), as a Governing Board to steer Los Alamos National Laboratory (LANL), accountable directly to the Secretary of Energy. The SLC shall be chaired by the Laboratory Director, appointed by DOE/NNSA. The SLC shall include representatives from the principal LANL directorates and Project Leaders, as well as LANL Laboratory Fellows, and scientists and engineers from both LANL and NM and other universities.
- 2) **LANL Long Range Plan**: The SLC in conjunction with DOE/NNSA shall develop a clear Long-Range (10 year) Plan for LANL, in order to identify, nurture and maintain the core technical scientific and engineering competencies necessary to fulfill the national security mission of LANL. The Plan should be updated annually or bi-annually with independent employee surveys as input to updated planning, with decadal top-to-bottom review.
- 3) **Integrated Project Management**: DOE/NNSA should set broad goals and policies, but cede technical decision making responsibility to the LANL SLC, and effect a transition to a performance based direct accountability model of ‘eyes on, hands off.’ Instead of funding many small projects and micromanaging with incremental goals based on top-down prescribed methodologies, LANL should be funded to work on larger integrated projects focused on achieving the strategic goals in the Long-Range Plan, allowing LANL technical research and management teams the flexibility to devise the best means to that end. The SLC should likewise cede responsibility for achieving strategic goals to the technical Divisions, making clear *what* the goals are, holding Divisions and staff responsible and

accountable for achieving those goals, but not dictating *how* to achieve them.

- 4) **Streamline Management:** The number of Directorates and Divisions (now over 100) should be sharply reduced to no more than about a dozen, with the Division Leaders accountable directly to the SLC for performance and annual evaluation.
- 5) **Management Transparency:** All unclassified information about LANL management structure, review criteria and procedures, salaries, benefits, compensation, increases, including any special adjustments shall be in the public domain and non-proprietary, except for any information in personnel files that is protected by privacy laws.

## **B. Scientific and Technical Base**

- 6) **Laboratory Directed Research and Development (LDRD):** The removal of top-down accounting rules to allow LANL greater latitude to support project and mission success should include especially removing the cap on and maximizing of LDRD funds. Studies conducted by the DOE and the Government Accountability Office have found that projects funded by LDRD are among the most productive and innovative, despite its very small budget [5,6]. The SLC together with DOE shall set the appropriate level of LDRD funding. All LDRD awards shall be subject to rigorous peer review, including external reviewers.
- 7) **New Mexico Institute for Advanced Studies:** The new Contract shall provide for the establishment and funding of a New Mexico Institute for Advanced Studies (**NMIAS**), with appointment of LANL scientists selected by rigorous academic standards from the essential disciplines of Physics, Chemistry, Biology, Engineering and Mathematics, to form and retain the stable long-term scientific personnel base of the Laboratory, strengthening and broadening the existing NM Consortium and including open computing resources. The NMIAS Director shall be a member of the LANL SLC and be responsible to the Laboratory Director for conducting research with long time horizons, aligned with the Long-Range Plan. NMIAS members shall be part-funded, incentivized (but not required) to obtain the remainder of their salary by direct contribution to LANL programs. All essential scientific and technical questions should be referred to NMIAS, with no retribution for espousing or publishing critical or dissenting technical opinions.
- 8) **University Partnership and Collaborations:** The NMIAS shall provide for joint collaborations with the 3 principal New Mexico universities and others, be responsible for educational programs and student internships, and establishing workforce pipelines for future Laboratory technical staff in scientific and technical fields. The LANL post-doctoral program and additional joint post-docs and visiting positions from the NM universities shall be funded through the NMIAS, at substantially lower overhead rates and free of all unnecessary restrictions on security and foreign visitor access. All staff members shall not be impeded for seeking funding for their research from DOE or other funding agencies.
- 9) **New Mexico Center for Innovation and Technology:** The new Contract shall provide for the establishment and funding of a New Mexico Center for Innovation and Technology (**NMCIT**), with a Director also responsible directly to the Laboratory Director and SLC. NMCIT members, whose number will be determined by the SLC in consultation with DOE shall be selected on the basis of promise and ability to obtain patents and attract private sector funding to develop new technologies arising from LANL research, and incubate new businesses primarily (but not exclusively) in the State of NM. Members will be provided with partial funding for 3-5 years, developing a business plan subject to NMCIT

approval, to transition to the private sector at the end of the plan. LANL and the NMCIT should be allowed autonomy to establish and implement Collaborative Research and Development Agreements (CRADAs), Work for Others or other partnerships, with maximum flexibility permitted by law to achieve success, without prior DOE pre-approval.

- 10) **Science & Engineering Employees Council**: The contract shall provide for the establishment of a Science & Engineering Employees Council (**SEEC**) consistent with Section 8(a)(2) of the National Labor Relations Act composed of freely elected LANL technical staff and employees to participate in the ongoing planning and decision-making process. A least one member of the SEEC shall be selected for the SLC.

### **C. Contractor for Management & Operations**

- 11) **Primary M&O Contractor Responsibilities**: The M&O contractor shall be responsible for safety, security and day-to-day maintenance and facility operations, particularly high-hazard operations such as environmental cleanup and waste management. In this clearly defined and delimited role, the M&O contractor shall be accountable and make an annual report of all LANL operations and budget to the LANL Director and NNSA, for an annual *fixed* fee. There shall be no performance incentive fee, and no bonuses awarded, the promise of M&O contract extension being a sufficient incentive for good performance. Any extension or renewal of the M&O contract beyond its initial term shall be subject to LANL SLC approval. The M&O contractor shall not do management self-assessments. These shall be performed by DOE/NNSA, in consultation with the LANL Director and SLC.
- 12) **Safety Training and Safety Competence**: The M&O contractor shall provide the proper training to all employees who work with any hazardous or nuclear materials, or can be potentially exposed to these or other hazards in the normal course of their work. All such work shall not be sub-contracted out to workers who do not have equivalent training.
- 13) **Business Plan and Taxes**: In cooperation with the SLC the M&O contractor shall establish and implement a business plan, covering any agencies with which LANL has interactions, such that actual costs are recovered for contractual work or work for others. This business plan will include costs for manpower, equipment, depreciation, and consumables. Any reduction from Gross Receipts Taxes (GRT) currently paid to the State of NM shall be compensated by substantially equivalent contributions to NM educational institutions and local governments in consultation with the Regional Coalition of LANL Communities.
- 14) **Nuclear and Environmental Safety Audits**: All audits and assessments of nuclear and environmental safety will be performed independently by the Defense Nuclear Facilities Safety Board (DNFSB) and the DOE Office of Health, Safety, and Security (HSS), with input and support by the relevant DOE program offices, the M&O contractor and relevant experts drawn from LANL scientists and engineers. The M&O contractor shall not do management self-assessments of nuclear safety. The M&O contractor will abide by all State Regulatory agencies having oversight of environment, safety, and health.
- 15) **Workforce Development and Community Relations**: The M&O contract should recognize the impact of LANL operations on local and New Mexico interests, the importance to LANL of the development of a well-educated and high caliber local workforce, its role in incubating and supporting small businesses capable of supporting LANL missions and operations, and the broad benefits of recruitment and retention of scientists and engineers in NM. The M&O contractor is expected to maintain constant

lines of communication and strong working alliances with the three major NM universities, NM state representatives, and the Regional Coalition of LANL Communities.

#### **D. Employee Relations, Compensation and Benefits**

- 16) **Continuity and Employee Retention**: Under the new Contract the M&O contractor shall offer employment to all non-line-management employees of the predecessor contractor (LANS-LLC) who as of the start of the contract period are in good standing. The M&O contractor is prohibited from conducting layoffs or transferring employees during the initial term of the contract, unless program terminations and budget cutbacks are specifically required by DOE/NNSA. The total compensation package for transferring employees should be substantially equivalent to that provided by LANS as of the last day of the transition term of the contract. Transferring employees shall carry over the length of service credit and vacation and sick leave balances accrued under the predecessor contractor as of the date of transfer.
- 17) **Pension Plans and Benefits**: The new contract shall continue the LANS TCP-1 and TCP-2 plans for transferring employees. Both TCP-1 and TCP-2 shall also be made available to new employees. The new contract shall provide for a retiree medical benefit plan that will provide medical insurance benefits, including dental, that are substantially equivalent to the medical and dental insurance benefits provided to active employees. For members of UCRP the contract shall provide retiree medical benefits substantially equivalent to those to which the employees are entitled under the UCRP benefits regime.
- 18) **Technical Staff and Employee Assessments**: The annual performance review process shall be based on clear, objective criteria, developed in coordination with the Employee Council (SEEC), and include an opportunity for all employees to submit letters, including self-assessments and information addressing points of a formal review to be included in their personnel files, without any negative consequences or reprisal.
- 19) **Labor Relations**: The M&O contractor shall respect the right of employees to organize and to form, join, or assist labor organizations and unions, to bargain collectively through their chosen labor representatives, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. The provisions of the Davis-Bacon Act on prevailing wages shall apply to any and all applicable work performed by LANL employees or contractors under the new contract.
- 20) **Complaint Resolution**: Management shall establish a transparent complaint resolution process that includes binding arbitration on any disciplinary action affecting pay or job classification, and establish a just cause standard for any such disciplinary action.

#### **Summary**

The foregoing document lays out principles of a Proposed Framework for a systematic reorganization of LANL management structure. It proposes an enduring Strategic Leadership Council, Institutes for world-class scientific research and technology transfer to the private sector, and a Science and Engineering Employees' Council, independent of the M&O Contractor, delimiting the specific roles and responsibilities of each.

The scientific and technical leadership of Los Alamos should rest with LANL's scientists and engineers, represented by the SLC and SSEC, and through them be held directly accountable

to the public trust by the DOE/NNSA. By carefully delineating the responsibilities of the SLC/SEEC and the M&O contractor, DOE/NNSA can assign each the tasks to which each is best suited, and better hold each accountable for the accomplishment of those tasks, while requiring both to work together to achieve the Laboratory's strategic national security goals, with better stewardship of taxpayer dollars.

Recognizing the complexity of the LANL mission, and the stakeholders' role in its success, it is recommended that DOE/NNSA and present management encourage and support a platform and venue for open input from all stakeholders—LANL staff, employees and the local community—to this Proposed Framework, prior to and as part of preparing for the RFP.

## **References**

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# FACT SHEET

## Employee Councils

### Goal

Fundamental to the success of any organization is effective communication and information sharing between leadership and those tasked with implementing organizational goals. The organization should want the broad goals developed and articulated by leadership to be effectively and consistently implemented throughout. Meanwhile, leadership should search for honest feedback from all those tasked with implementation on the wisdom of the goals and any necessary refinements to achieve the organization's mission. Feedback is thus critical to identifying and overcoming obstacles to the attainment of organizational goals.

Communications structures work on a continuum from "top-down" to "bottom up." Even the most authoritarian workplace will have a mix of features. Otherwise, there would never be feedback on the relative success of the goals articulated by leadership. Here we will explore the concept of an employee council as an attempt to reduce communication breakdowns and information asymmetries.

### Historical Background

Employers have experimented with various types of bottom-up communication structures in the United States. Shop councils in the 1920s and quality circles in the 1970s were both attempts to capture the workplace knowledge of employees to improve the production process. Even the Chamber of Commerce enthused about the benefits of employee councils. Ultimately, however, both shop councils and quality circles were less than successful because they failed to provide an even exchange for employees who were not incentivized to participate. Workers discovered that top-down decision-making structures overrode the consensus developed within councils. Quality circles at times led to efficiencies that stimulated job cuts.

High performance workplaces have been more successful. The lean production system, developed in Japan and imported to the U.S. in the 1980s has been based on a system of trust whereby management shared with employees the true state of the business while employees shared with management best work practices. The gradual adoption of high performance workplaces has led to the convergences of work processes in the industrial world. The key is the rapid communication of problems and their resolution, enabling a reduction of waste, production based on best practices, and a smooth work process.<sup>1</sup> The lean production system, however, is not necessarily the best choice for an organization like LANL that is focused on R&D rather than production.

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<sup>1</sup> James P. Womack, Daniel T. Jones, and Daniel Roos, [The Machine that Changed the World: The Story of Lean Production](#) (New York: Free Press, 2007, originally published 1991).

Employee or works councils exist in different forms around the world. Although they have different formats and functions in each country, they are designed to bring together management and employees to support the organization in the interest of all stakeholders. In general, they perform functions that would be undertaken by human resource departments – scheduling and vacation scheduling – or performed by lower level management – work pace, force reductions, etc. They are not involved in investment issues. Because the council controls much of the workflow, management rarely imposes decisions in a unilateral manner. This is both cultural and legal.

The Europeans discovered that information sharing was critical to economic development in the aftermath of the destruction of the Second World War. Like their American counterparts, German reformers in the 1920s had raised the idea of workers councils as a way to mitigate social antagonisms. After 1945, reformers (including their U.S. advisers) were interested in maintaining a permanent role for labor in decision-making and adopted works councils to attenuate authoritarian decision-making at the corporate level.

The German experiment was codified in the Works Constitution Act of 1952: works councils must be informed and consulted on key issues affecting the workplace and certain decisions cannot be made without the approval of the works council. Not surprisingly, decision-making is much more cooperative than in the U.S. as a result. German workers elect their own works councilors, ensuring a level of trust between elected and represented. They do not bargain wages and benefits.

Councils are not without controversy. They have been criticized as cooptation into the decision-making of the company. Likewise, they have been criticized as introducing rigidities into the labor market, especially around the issues of hiring and firing.

However, there is an important efficiency argument that has surfaced, especially since the Great Recession of 2008.<sup>2</sup> Works councils and co-determination in general – this would include employee participation on company boards – have been credited by the German mainstream (including Chancellor Angela Merkel) with maintaining growth with low unemployment all the while facilitating the continued integration of the East German states that began when the Wall fell in 1989. The German mainstream would say that “social partnership” is the preferred method of organizational decision-making over the hierarchical decision-making (and consequent “adversarialism” between management and labor) of the United States.

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<sup>2</sup> Richard B. Freeman and Edward Lazear, “An Economic Analysis of Works Councils,” in Works Councils: Consultation Representation, and Cooperation in Industrial Relations, ed. Joel Rogers and Wolfgang Streeck (Chicago: University of Chicago Press, 1995).

### **Implementation at LANL**

The “social partnership” method of organizational decision making would work best in an R&D environment like the one at LANL.

Some form of labor-management partnership --- such as an employee council --- would be ideal for the LANL. It would inform and facilitate integrated project management, bringing problems to the fore and thereby increasing organizational efficiencies. It would increase transparency. It would facilitate the streamlining of management by increasing accountability. It would improve morale because employees would be choosing representatives to address the petty bureaucratic irritants of the M&O system. An employee council would help marshal the collective wisdom of the 7,200 employees of the LANL.

The general legal consensus in the United States is that an employee council, strictly speaking, can only exist in the presence of a union. Otherwise, it is assumed to be a company creation infringing on the right to freedom of association. UPTe is willing to provide the legal backbone to ensure the functioning of an employee council.