

BROKEN PROMISES

THE WHITE HOUSE, SPECIAL INTERESTS, AND NEW START

"All of us running for president ... will trumpet those qualities we believe make us uniquely qualified to lead the country. But too many times, after the election is over, and the confetti is swept away, all those promises fade from memory, and the lobbyists and the special interests move in, and people turn away, disappointed as before."

— Senator Barack H. Obama (February 10, 2007)

Why did the Department of Defense (DoD), Department of Homeland Security (DHS), and Office of the Director of National Intelligence (ODNI) approve an under-the-radar process for transferring money each year to the nuclear weapons labs of the Department of Energy (DOE)? Why did the DoD do this when it has its own labs and partners with the nuclear labs as needed, already funding them with about \$900 million annually? Normally fiercely protective of their budgets, why did the heads of these agencies move so swiftly in June 2009 to implement what was a mere proposal made only three months earlier by a DOE-sponsored think tank? Was it just a coincidence that these agencies signed a formal charter setting up the funding scheme *nine days* before the nuclear lab directors appeared on Capitol Hill to give their expert testimony on the administration's New START treaty?

Adequate budgets must be provided to the nuclear labs — but there is a right and wrong way to do it. The right way is through the congressional appropriations process because it provides accountability. The wrong way is via an interagency charter that allows the labs to expand beyond their missions, awards funding non-competitively, drains resources from the donor agencies' missions, and gives tax dollars to highly paid private contractors without oversight.

Why, given the considerable negatives, was the new funding stream created? The timeline below provides evidence that the private contractors running the DOE nuclear weapons labs (Los Alamos, Lawrence Livermore, and Sandia) got the coveted interagency charter *by helping the president win a major foreign policy victory*.

FACTS

1995 – 2005: Labs Resisted Downsizing After the Cold War

In 1995 the Secretary of Energy's advisory board proposed closing components of the nuclear weapons complex. The lab system was deemed "oversized," due to "excess capacity in areas associated with nuclear weapons design and development."¹ Also in 1995, a presidential panel declared the lab system was "bigger and more expensive than it needs to be" with "excessive duplication of capabilities among the labs."² In 2005 a second advisory board to the Secretary of Energy echoed the first, raising the prospect that one of the design labs might close.³ In the end there were no closures. Instead, Congress privatized them.⁴

2006 - 2008: Operational Costs Soar

The price for work done by the DOE nuclear weapons labs costs "an average of two to three times more" than other industrial firms.⁵ This is partly due to high overhead costs following their privatization in 2006 and 2007. *American Physical Society News* reported that by 2009 the fees paid to administer Los Alamos and Lawrence Livermore had swelled by 850 and 600 percent due to the conversion.⁶ Executive salaries soared (e.g., the Los Alamos director's salary jumped from \$348,000 to \$1.1 million, with the Sandia director making \$1.7 million).⁷ Linton Brooks, former director of DOE's National Nuclear Security Administration (NNSA), and a prime mover in privatizing the labs, believed competition and the infusion of industrial partners would bring more efficiency, which would in turn pay for these additional costs.⁸

After privatization the lab directors were given an additional hat serving as CEOs of the contractor firms. Los Alamos National Security LLC (LANS LLC) is a conglomerate of the University of California, Bechtel, Babcock &

Wilcox, and URS. Lawrence Livermore National Security LLC (LLNS LLC) is composed of the same firms, plus Battelle. Sandia Corporation has been a Lockheed Martin company since 1993.

2009: The Hunt for New Funding Sources

January. Michael Anastasio, Los Alamos' CEO lab director, said the DOE labs would pursue a piece of the president-elect's economic stimulus plan.⁹

1 Feb. Word leaked that the president was nominated for the Nobel Peace Prize — after only 12 days in office.¹⁰ The news likely added pressure within the White House to achieve something to justify the prize.

4 Mar. A think tank study by the Stimson Center urged that, "other agencies should now accept the responsibility to maintain and nourish the programs" of the DOE's nuclear labs.¹¹ Its report proposed an interagency charter whereby the ODNI, DHS, and DoD support the labs with capital investments and annual funding commitments.¹² The Center looked at other approaches, such as the DOE Work For Others program and memorandums of agreement, but determined that the dollar commitments lacked by being "non-binding" and unlikely to "offset even minor declines in nuclear weapons funding." DOE's NNSA funded the Stimson Center study.¹³

5 Apr. In Prague, the president spoke of his vision of "a world without nuclear weapons."¹⁴

18 May. The Senate confirmed the appointment of Andrew Weber as Assistant Secretary of Defense for Nuclear, Chemical and Biological Defense Programs. In this position, Weber advised Ashton Carter, the Under Secretary of Defense for Acquisition, Technology and Logistics (USD AT&L), on matters involving nuclear arms control. As USD AT&L, Carter chaired the Nuclear Weapons Council (NWC) established by Congress to resolve issues between DoD and NNSA involving stockpile management. Weber and Tom D'Agostino, the NNSA administrator, were NWC members.¹⁵

June. A DoD memo (Attachment A) reported that a group of DoD, DHS, ODNI, and DOE personnel began developing the interagency charter in June 2009, just *three months after the Stimson Center's report was released*. Only orders given by top administration officials can spark such a fast bureaucratic response to a mere proposal by a think tank. The author of the DoD memo was John Fischer, the Pentagon's Director of Defense Laboratory Programs, who represented DoD on the interagency group. His boss was Zachary Lemnios, the Director, Defense Research and Engineering (DDR&E), who worked for Ashton Carter.

26 Jun. Rep. Ellen Tauscher left Congress to be the Under Secretary of State for Arms Control and International Security. Tauscher, a 12-year representative from the district home to Lawrence Livermore, took the job to "continue working to eliminate nuclear weapons."¹⁶ However, anti-nuke groups call her the "Mother of Nuclear Weapons Complex Modernization."¹⁷ With Tauscher onboard, the administration's New START team had an avowed arms control advocate who was also a seasoned political operator, well experienced in steering money to the nuclear weapons labs.

9 Oct. To global bewilderment, the president won the Nobel Peace Prize for his "vision of and work for a world without nuclear weapons."¹⁸ At this point the pressure within the White House to attain a nuclear arms treaty must have soared 1,000-fold.

30 Oct. Written upon an internal memo pertaining to DoD's own labs, Zachary Lemnios penned instructions to see "what we really need from the laboratories (DoD & DOE)" (Attachment B). His early attention to DOE labs is curious. The memo was issued eight months before Defense Secretary Gates approved the interagency charter, so Lemnios was already acting on top-level guidance to integrate the DOE labs into DoD's resource planning.

4 Sep. The president announced that, "For the first time in history, records of White House visitors will be made available to the public on an ongoing basis. We will achieve our goal of making this administration the most open and transparent administration in history not only by opening the doors of the White House to more Americans,

but by shining a light on the business conducted inside it. Americans have a right to know whose voices are being heard in the policy-making process.”¹⁹

2 Nov. Michael Anastasio visited the White House.²⁰ He met with George Look who coordinated the White House’s efforts on New START.²¹ Look worked for Gary Samore, Special Assistant to the President, who “helped Obama craft the New START treaty.”²²

16 Dec. The three CEO lab directors (one with a \$1.7 million salary)²³ visited the White House to discuss their money problems. In a speech given a few months later at the National Defense University (NDU), Vice President Biden spoke for the president when he said:

“... Secretary Chu and I met at the White House with the heads of the three nuclear weapons labs. They described the dangerous impact these budgetary pressures were having on their ability to manage our arsenal without testing. They say this situation is a threat to our security. *President Obama and I agree* (emphasis added).”²⁴

There were others at the White House gathering besides the Vice President, Secretary Chu, and the three CEO lab directors. According to a Los Alamos press release, they were: Deputy Energy Secretary Daniel Poneman, NNSA administrator D’Agostino, as well as some unnamed officials from the Departments of State and Defense.²⁵ DoD’s Andrew Weber, in a later speech, confirmed he was present.

Curiously, Anastasio’s visit in November is documented in the White House visitors database, *but no record exists for December’s big meeting.*²⁶ This is an important point because the CEO lab directors were private contractors who lobbied public officials, in the “peoples’ house”, for larger public budgets and favorable public policies in an area of vital national interest. That this meeting went unrecorded in a public database is strange given the president’s promise to make his administration the most open and transparent in history. At least the Board of Governors for Los Alamos National Security, LLC, was not so shy. Its annual report for 2010 featured a photograph of December’s White House meeting.²⁷

2010: Administration Delivers the Charter — and the Directors Endorse the Treaty

20 Jan. In a speech at a conference, Weber noted the “really extraordinary” enthusiasm at the White House’s December gathering:

“I had the privilege before Christmas of participating in a meeting where Secretary Chu and the directors of the three nuclear weapons laboratories, Livermore, Sandia and Los Alamos, briefed the Vice President and the level of enthusiasm and energy in that meeting was really extraordinary.”²⁸

25 Jan. “In a challenge to the White House”,²⁹ the CEO lab directors warned in letters to the House Armed Services Committee (HASC) that an earlier report released by the administration downplayed the risk of maintaining the nuclear arsenal without building newly designed weapons systems or warheads.³⁰ The anti-nuke Los Alamos Study Group interpreted the letters as falling into a long line of generally successful efforts:

“... by the nuclear laboratories to spin their technical ‘needs’ in a manner that protects and enhances their budgets ... the two physics labs directors have launched a very public verbal blitzkrieg at the Administration. It is aimed at the [Nuclear Posture Review] NPR process, a potential START treaty ratification later this year in the Senate, as well as at the authorization and appropriations bills wending their way through Congress. *They are calculating that the Administration does not have the courage to do battle with them, and they may be right* (emphasis added).”³¹

28 Jan. Tauscher, Carter, D’Agostino, and Weber were the administration’s speakers at the 4th annual conference on the future of strategic weapons, hosted by the CEO lab directors.³² The timing of their letters to the HASC, followed only days later by this high-visibility industry conference featuring these four key government policymakers, showed that the nuclear labs were playing hardball.

1 Feb. The administration announced plans to increase investment in the nuclear weapons complex to \$7 billion in FY11. A \$624 million increase over the prior year, former NNSA Administrator Linton Brooks observed, “I’d have killed for that budget and that much high-level attention in the administration.”³³

18 Feb. Vice President Biden delivered his NDU speech with Secretaries Gates and Chu, Undersecretary Tauscher, and NNSA Administrator D'Agostino in attendance.³⁴ Biden asserted that, "tight budgets forced more than 2,000 employees of Los Alamos and Lawrence Livermore from their jobs between 2006 and 2008" because the nuclear complex had been "neglected and underfunded." Missing from his speech is the fact that the layoffs took place during the enormous jump (850 and 600 percent) in costs to administer the two labs due to their conversion from non-profit to for-profit operation. Moreover, the CEO lab directors' salaries ranged up to \$1.7 million and the cost of work averaged two to three times more than other industrial performers according to the Stimson Center. In other words, neglect and underfunding do not appear to be the root problems.

8 Apr. Presidents Obama and Medvedev signed the New START agreement, a treaty that the U.S. president said, "will set the stage for further cuts."³⁵

15 Apr. Stephen Young, a nuclear expert with the Union of Concerned Scientists, observed that to achieve success in nuclear arms limitations, "The administration needs to work with the lab directors very closely to make sure they are happy." Many experts saw the administration's increases in the FY11 budget "as an effort to please the leadership at the weapons labs."³⁶

3 May. Defense Secretary Gates signed a Memorandum of Agreement (MOA) to transfer \$5.7 billion to DOE over a five-year period (Attachment C). One of its stated purposes was "to help ensure support for the ratification of the New Strategic Arms Reduction Treaty." DoD's USD AT&L was designated as the senior staff contact for this agreement. It is important to recall that the Stimson Center's NNSA-funded report examined the usefulness of MOAs and found them to be inadequate. The interagency charter was the prize.

5 May. John Fischer submitted his key memo. After ten months on the interagency working group, Fischer reported to Lemnios that the DOE labs wanted a supplemental funding process as a way to maintain their size in the face of diminishing nuclear weapons workloads. Lemnios, Carter, or both, rejected his concerns. Carter was probably the lead official on the issue of the interagency charter given his position as the NWC chair and he was the designated DoD contact for the MOA. His draft memo to DOE Deputy Secretary Poneman on the subject of the charter further supports that idea (Attachment D). It is significant that Fischer's memo reveals that *Lemnios relieved him of his interagency working group duties and reassigned them to Weber*.

13 May. The New START treaty was submitted to the Senate.

23 May. *The New Mexican* reported that Michael Anastasio's idea of pursuing federal stimulus dollars paid off. His lab received \$277 million for environmental cleanup and renewable energy research, such as studies of tree mortality.³⁷ Together the three nuclear weapons labs garnered 110 awards for a combined \$357 million.³⁸

6 Jul. Steven Chu (DOE), Dennis Blair (ODNI), Jane Holl Lute (DHS), and Robert Gates (DoD) signed the interagency charter to "foster coordination of individual investments" at the nuclear labs (Attachment E). [Note: DHS Secretary Janet Napolitano recused herself because her brother worked at Sandia.]³⁹ But why would the political appointees at ODNI, DHS, and DoD (which has its own labs and had just signed a MOA to transfer \$5.7 billion to NNSA) commit to making under-the-radar non-competitive annual budget transfers to the DOE labs? Why do this when pressures to cut their own budgets were growing? Why sign when their agencies already fund projects at the labs through DOE's Work For Others program, which has been an open and competitive process since 1954?

Only a critical political interest within the White House could force these bureaucracies to approve the charter.

NINE DAYS LATER ...

15 Jul. At a Senate hearing, *the three CEOs, in their role as directors of the nuclear weapons labs, supported the administration's strategic arms treaty with Russia.*⁴⁰

22 Dec. The U.S. Senate gave its advice and consent to ratification of the treaty.

2011: Whitewashing the Public Story

May. NNSA released a plan to “by 2012, streamline funding mechanisms to promote interagency partners’ use of NNSA’s ST&E base”⁴¹ (i.e., the three nuclear labs). The co-chair of the Stimson Center study, Frances Townsend, had that same focus on dollars when she argued that the charter was necessary because the rest of government is anxious to buy wine by the glass, but no one wishes to invest in the vineyard.⁴² But her clever analogy is false. Since 1985, customer agencies like DoD, DHS, CIA, and NASA have been charged a tax on project funding (up to 8 percent) for “keeping the laboratories vibrant, cutting edge and creative”, which “*benefits all programs doing work at a laboratory*” (emphasis added). According to DOE, about \$370 million was paid by defense customers in FY11 alone.⁴³ These sizeable taxes show that customer agencies do make big investments in the “vineyard.”

Unlike NNSA’s candid talk of the charter’s central purpose in obtaining more money, administration officials blandly say that the charter will better coordinate interagency planning. Such coordination is no doubt desirable, and the charter mentions it as a goal, but evidence shows the charter was created out of a simple desire for more money. The important point here is that the administration’s appointees, in public testimony, neglect to cite the charter’s chief function as a supplemental funding mechanism. They instead peddle a whitewashed story for public consumption. For example:

Zachary Lemnios (DoD): “The Department is identifying DOE capabilities, which can be leveraged for future DoD mission support. This relationship is formalized in the ... Charter, which is expected to promote an increase in the level of partnership and joint activities between our respective organizations.”⁴⁴

Daniel Gerstein (DHS): “The increased visibility across the national security community of our joint needs in response to evolving threats fosters a sounder and more efficient planning and operating environment.”⁴⁵

Actually the Work For Others (WFO) program, authorized back in 1954, already meets the fine purposes of coordinating and addressing national needs. DoD funded such projects to the tune of about \$900 million at the three nuclear labs in FY08.⁴⁶ The following is a description of the WFO program (excerpted from a DOE report to Congress). Note its similarity to the words Lemnios and Gerstein chose to explain the rationale for the charter:

“[WFO] creates opportunities to leverage non-DOE Federal and non-Federal resources to accelerate scientific discovery and deploy solutions to the dual benefit of DOE and the sponsoring entity. WFO plays an important role in the laboratories’ efforts to develop, strengthen, and sustain unique S&T capabilities deemed critical by the Government and, in many cases, represents a coordinated set of activities that seek to address large and complex national needs. This leveraging of DOE and WFO activities enables the laboratories to deliver national solutions in a cost-effective manner.”⁴⁷

WFO at the Sandia lab already constitutes 41 percent of its total budget.⁴⁸ But it is important to recall that the Stimson Center’s NNSA-funded report found WFO to be insufficient. The interagency charter was the prize.

2012: Toward Nuclear Zero — with “More Flexibility”

15 Feb. A panel of the National Research Council (NRC) reported itself “pleased to see that a governance charter has been established among the Departments of Energy, Homeland Security, and Defense, plus the Office of the Director of National Intelligence.”⁴⁹ The NRC, chaired by a former director of DOE’s Lawrence Berkeley lab (where Energy Secretary Chu was also director), called upon Congress to make permanent the expanded missions of the nuclear weapons labs and elevate their status by legislating their evolution to “National Security Laboratories.” The proposal was predictable. Seven of the 12 panelists were former DOE officials or lab managers.

16 Feb. Paul Robinson, former director of the Sandia lab, called upon Congress to move the nuclear weapons labs into the DoD and expand their missions into homeland security and intelligence operations. He believed that a:

“... newly recreated and reformed NNSA-like organization within the Department of Defense should have a stand-alone, independent existence, similar to the DARPA structure in that sense. For example, I would expect that its budget would continue to be planned and responsibly managed from within that new organization, rather than flowing from the unformed military controllers ... Let me also cite here the additional responsibilities that in recent years have been given to the nuclear weapons labs, beginning with Sandia Labs, but which are now expanding to Los Alamos and Livermore, to function more fully as ‘national security laboratories.’”⁵⁰

26 Mar. At the Nuclear Summit in South Korea, President Obama, unaware that his words were being recorded, asked President Medvedev to convey the following to Vladimir Putin:

"On all these issues, but particularly missile defense, this, this can be solved but it's important for him to give me space ... This is my last election. After my election I have more flexibility."⁵¹

4 Apr. The White House Office of Science and Technology Policy (OSTP) tasked Steven E. Koonin, former Under Secretary of Energy, to lead an Institute for Defense Analyses (IDA) study with the goal of "better understanding various governance structures, including those in the Departments of Defense, Energy, and Homeland Security; how they are implemented; and governance characteristics that most effectively support national security missions."⁵² Later that day an anonymous visitor to the blog "LLNL: The True Story" posted:

"LLNS/LANS is going to put and (sic) END to this study by offering Koonin a lucrative Management position. Mark my words. Betchel (sic) can buy anything or anyone they want."⁵³

18 Apr. The Project on Government Oversight (POGO), an independent watchdog group, recognized the interagency charter's real function. POGO voiced concern that it "could allow the agencies to funnel funding into DOE nuclear projects without congressional approval."⁵⁴ It urged in a letter to Congress, "that additional funding for the DOE nuclear weapons laboratories be awarded competitively, rather than allowing agencies to circumvent congressional intent."⁵⁵ POGO's letter was based on "a devastating internal Pentagon memo"⁵⁶ written by a Navy official, Don DeYoung, who worked for John Fischer.⁵⁷

15 Jun. LLNS/LANS LLCs named Steven Koonin an independent governor on the LLNS and LANS Boards of Governors, which oversee the Los Alamos and Lawrence Livermore labs. He was selected to chair the Boards' Mission Committee.⁵⁸ With the interagency charter in hand, his committee will likely pursue the expansion of missions into non-nuclear business. Months later, when IDA issued its fairly innocuous governance report, it did not bear Koonin's name as chairman or committee member.⁵⁹ He had left the task as predicted.

27 Aug. Ellen Tauscher, the "Mother of Nuclear Weapons Complex Modernization", was named as an independent governor on the LLNS and LANS Boards. She joined Koonin's Mission Committee.⁶⁰

2013: Missions in Perpetuity

3 Jan. The president signed the National Defense Authorization Act (NDAA) for FY13 into law. The Act is Congress's response to the NRC and Stimson Center proposals to make permanent the expanded missions of the nuclear weapons labs and elevate their status by legislating their evolution to "National Security Laboratories."

Section 1040 established the *Interagency Council on the Strategic Capability of the National Laboratories* and enlarged its membership beyond the charter's current parties to include any others designated by the president. Each agency will provide "the appropriate level of institutional support" and "establish processes to streamline the consideration and approval of procuring the services of the national laboratories." The Council is required by September 2013 to report actions taken to implement the charter and describe "ongoing and planned measures for increasing cost-sharing and institutional support investments at the national laboratories from other agencies."

Section 3148 mandated that NNSA commission "an independent assessment regarding the transition of the national security laboratories to multiagency federally funded research and development centers with direct sustainment and sponsorship by multiple national security agencies." The law identified those agencies to be the DoD, DHS, DOE, and the intelligence community. It also stipulated that the panel "leverage" the 2009 Stimson Center report and the 2012 NRC study.

Section 3166 established the "Advisory Panel on the Governance of the Nuclear Security Enterprise." The panel is funded up to \$3 million to make recommendations with respect to "the appropriate missions of the nuclear security enterprise, including how complementary missions should be managed while ensuring focus on core missions." It would not be surprising if the panel proposes a new non-DOE home for the nuclear labs.

7 Jan. Libby Turpen (author of the Stimson Center report and former legislative assistant to New Mexico's Sen. Domenici) argued that the nuclear labs' health would be ensured by a reorganization of governance that allows funding from "at a minimum, four agencies — Defense, Energy, Homeland Security, and the Office of the Director of National Intelligence." This is necessary, Turpen claimed, because "the world has shifted beneath their foundations" and they "now operate in an institutional straitjacket." Turpen believes that, "Taking these actions could extend the viability and enhance the responsiveness of the national labs in perpetuity."⁶¹

CONCLUSION

"We need to end an era in Washington where accountability's been absent, oversight has been overlooked, your tax dollars have been turned over to wealthy CEOs in well-connected corporations. You need leadership you can trust to work for you. Not for the special interests who have had their thumb on the scales."

— Senator Barack H. Obama (October 1, 2008)

The administration needed support from the CEO lab directors of Los Alamos, Lawrence Livermore, and Sandia to win ratification of New START. The public record shows the labs got \$357 million in stimulus dollars. In addition, the White House hiked investment to a level, in constant dollars, nearly 70% more than the Cold War average,⁶² causing a former NNSA administrator to say he would have, "killed for that budget and that much high-level attention in the administration." And DoD agreed to kick in nearly \$6 billion over a five-year period to modernize nuclear weapons infrastructure. But this was not enough to satisfy the CEO lab directors. They wanted more.

The corporations (Bechtel, Babcock & Wilcox, URS, Battelle and Lockheed Martin) that run the nuclear labs coveted *non-nuclear missions with binding long-term financial commitments from multiple federal agencies*. Why? Because they foresaw a smaller nuclear stockpile as a result of the administration's arms control initiatives, and without new projects to replace old warheads, this meant less workload, greater excess capacity, and higher overhead costs — all of which would spark more calls for downsizing, like that made in 2011 by the DOE Inspector General.⁶³ So the CEO lab directors, with assistance from DOE/NNSA and the NNSA-funded Stimson Center, lobbied aggressively for a *politically sanctioned expansion into non-nuclear missions*.

To win an interagency charter that would open the spigots to a steady stream of tax dollars, the CEO lab directors appear to have dangled their endorsement of New START. They knew the White House needed and desired their technical affirmation. They were not disappointed. The charter was delivered nine days before their congressional testimony. What should have been a purely objective technical assessment of the nuclear arsenal's long-term safety and reliability was tainted with at least the appearance of a *quid pro quo* and at worst the reality of one.

What did the president get? A lot. He got a ratified treaty handing him a foreign policy victory less than two months after what he called a "shellacking" in the midterm elections. He got a platform from which to trumpet his increasingly hollow "reset" with Russia. He got a face-saving accomplishment to justify (however faintly) his Nobel Peace Prize. And he got a modest reduction in nuclear weapons that, as he said, "set the stage for further cuts."

Why was the enthusiasm "really extraordinary" at the White House on December 16, 2009? One obvious possibility is that thrills will abound when the Oval Office embraces the Iron Triangle (a term that refers to the relationship between congressional committees, federal agencies, and special interest groups seeking to benefit from public policy).⁶⁴ There in the "peoples' house", a gathering of administration officials and corporate contractors indulged their sizeable appetites for political gain, commercial profit, and personal advancement. It is not clear the nation's interests were so well served. This is likely why the event and its participants were not disclosed in the visitors database, despite the promises to shine a light on the business conducted inside the White House and let us know whose voices are being heard in the policy-making process. The nonpartisan watchdog group, POGO, is right to worry about the charter's threat to good government.

During the 2008 presidential primaries then-Senator Obama said, "When I hear other candidates say they'll stand up to the special interests on the issues that matter to you ... I'm reminded that the test of leadership isn't what you say, it's what you do."⁶⁵ By that measure the president has — thus far — failed a serious, but generally unnoticed, test of leadership in managing the nuclear weapons complex. In fact the outcomes of his failure are best described with the

words he used to criticize the previous administration — accountability's been absent, oversight has been overlooked, tax dollars have been turned over to CEOs in well-connected corporations, and special interests have had their thumb on the scales.

In its second term the administration will seek deeper cuts to the nuclear arsenal.⁶⁶ And the same special interests will lobby for greater commitments to expand missions, increase workloads, build new facilities, and move more public money into the pockets of private firms. Unfortunately, such commitments will likely be made off-the-radar within the *Interagency Council on the Strategic Capability of the National Laboratories*, basically a top-level pressure group designed to serve the interests of the Iron Triangle.

If it follows the playbook on how to publicly justify a predetermined goal, the Council will assemble a slick strategic plan making full use of dynamic phrases like “core technical competencies”, “capabilities assessment”, “gap analysis”, and “cross-cutting areas of national security interest.” Its decisions will pull resources out of programs conducted within the donor agencies based on assertions that they are broadly duplicative and lack connectivity with more relevant national-level needs. The Council will say the big winners are the donor agencies and American public because precious resources will be used more effectively and efficiently by consolidating duplicative sub-optimal work in world-class “national security laboratories” (a title it will cite as established by law). When the dust settles, tons of taxpayer money will be non-competitively shoveled into the nuclear weapons labs.

However, strength for a firm stance against the power of special interests can fortunately be found in the wisdom of the 1983 White House Science Council, which included David Packard (recipient of Presidential Medal of Freedom), John Bardeen (the only person to have won the Nobel Prize in Physics twice), D. Allan Bromley (recipient of the National Medal of Science), and Edward Teller (“Father of the Hydrogen Bomb”). These distinguished scientists visited Los Alamos, Lawrence Livermore, Sandia, and 13 other laboratories. They offered this advice more than 20 years before privatization and soaring levels of non-DOE work, such as Sandia’s WFO level of 41%.

“The Panel observed that some of the laboratories did have a clearly defined mission for a part—often a major part—of their work, but the balance of the work was often fragmented and unrelated to their main activity. This phenomenon frequently occurs when a national need that justified the original mission of a laboratory becomes of lower priority. The laboratory then tends to diversify into other work to occupy its staff and preserve institutional stability ... The size of each Federal laboratory should be determined by its missions and the quality of its work. That size should be allowed to increase or decrease (to zero, if necessary) depending on mission requirements ... Preservation of the laboratory is *not* a mission.”⁶⁷

As citizens, what must we do? A good start would be to support POGO’s proposals that, “The DOE must follow DoD’s lead—and the advice of numerous experts—and downsize its lab system”, and that “the DOE inspector General’s recommendation to establish a BRAC-like commission to conduct a long-overdue review of DOE’s oversized and costly weapons laboratories be mandated by law.”⁶⁸ The expense of ignoring the 1995 DOE advisory board’s advice, and that of subsequent panels, has been enormous. And the cost increases with every passing day.

Other useful actions would be to urge that Congress repeal Sections 1040, 3148, and 3166 of the FY13 NDAA, and eliminate all statutory references to the nuclear weapons labs as “national security laboratories”, a designation chosen to convey some official legitimacy to their quest for new missions. And then we need to prepare for the Iron Triangle’s big campaign — moving the nuclear weapons labs into a new independent agency, or into the DoD, with a special reporting authority to the Oval Office. This may be the current market price for securing a president’s legacy.

Doing the above things should help to ensure that future arms control policies are not tethered to deals brokered with the special interests of the nuclear weapons complex — where CEO lab directors make \$1.7 million a year and complain they are “underfunded.” Where the labs’ Work for Others can exceed 40 percent of the program, yet they beg release from an “institutional straitjacket.” Where the labs were privatized to increase efficiency and strengthen business practices, only to have their corporate bosses pursue non-competitive funding “in perpetuity.”

— DIENEKES

Washington, D.C.
February 5, 2013

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- ¹³ Frances Townsend and Donald Kerrick, "Supporting Science at the Nuclear Weapons Labs", *Bulletin of the Atomic Scientists* (10 March 2009). [<http://www.thebulletin.org/web-edition/op-eds/supporting-science-the-nuclear-weapons-labs>]
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- ²⁰ White House visitors database for 2 November 2009. [<http://apps.washingtonpost.com/svc/politics/white-house-visitors-log/>]
- ²¹ Speech, "New START Awards", As Delivered by Secretary of Defense Robert Gates at the Pentagon on 18 February 2011. [<http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1538>]
- ²² "Who Runs Government Series: Gary Samore", *Washington Post*, [http://www.washingtonpost.com/politics/gary-samore/gIQAf5ZCAP_topic.html]
- ²³ The directors' salaries were reported as a condition of accepting federal stimulus money.
- ²⁴ Vice President Biden, "The Path to Nuclear Security", remarks at the National Defense University, (18 February 2010). [<http://www.whitehouse.gov/the-press-office/remarks-vice-president-biden-national-defense-university>]
- ²⁵ Project for the Comprehensive Test Ban Treaty, "Vice President Briefed by Lab Directors", (20 December 2009). [<http://www.projectforctbt.org/Bidenbriefing>]
- ²⁶ The records show Vice President Biden met with 38 visitors, but none of them from the nuclear weapons labs. See White House visitors database for 16 December 2009. [<http://apps.washingtonpost.com/svc/politics/white-house-visitors-log/>]
- ²⁷ 2010 Los Alamos National Security LLC Board of Governors Annual Report, "Delivering Excellence in National Security Science", p. 7 [http://www.lansllc.com/_assets/docs/annual-report-LANL-2010.pdf].
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- ²⁹ William J. Broad, "Nuclear Labs Raise Doubts Over Viability of Arsenals", *New York Times*, (26 March 2010). [<http://www.nytimes.com/2010/03/27/us/27nuke.html>]
- ³⁰ Jen DiMascio and Josh Gerstein, "Lab Chiefs Share Nuke Safety Doubts", *Politico*, (25 March 2010), [<http://dyn.politico.com/printstory.cfm?uuid=989CFC09-18FE-70B2-A8DF8984999FB92C>]
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- ³² "Strategic Weapons in the 21st Century: Implications of Change and Our Priorities", Washington DC, (28 January 2010). [<http://www.lanl.gov/conferences/sw/2010>]
- ³³ Kingston Reif, "New START and Nuclear Modernization", Center for Arms Control and Non-Proliferation (15 December 2010). [http://armscontrolcenter.org/policy/nuclearweapons/articles/new_start_and_nuclear_modernization/]
- ³⁴ Vice President Biden, "The Path to Nuclear Security".
- ³⁵ White House Press Release [<http://www.whitehouse.gov/the-press-office/remarks-president-obama-and-president-medvedev-russia-new-start-treaty-signing-cere>]

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[<http://www.nature.com/news/2010/100413/full/464965a.html>]

³⁷ Kate Nash, "Los Alamos Lab's New Golden Age: Federal Stimulus Money Fuels Jobs for Cleanup, Research", *The New Mexican*, (23 May 2010). [http://www.santafenewmexican.com/Local_News/LANL-A-new-golden-age-1]

³⁸ Recovery.Gov: Track the money [<http://www.recovery.gov/Transparency/RecipientReportedData/Pages/RecipientSearch.aspx>]

³⁹ Profile of Janet Napolitano, Homeland Security Director [<http://usliberals.about.com/od/stategovernors/p/Napolitano.htm>]

⁴⁰ Center for Strategic & International Studies, "Final Public START Hearing Focuses on Stockpile Stewardship" (16 July 2010). [<http://csis.org/blog/final-public-start-hearing-focuses-stockpile-stewardship>]

⁴¹ National Nuclear Security Administration, "Strategic Plan: Making the World a Safer Place", (May 2011), 13.
[<http://nnsa.energy.gov/mediaroom/pressreleases/2011strategicplan51811>]

⁴² Frances Townsend, remarks at the Nuclear Deterrence Summit, "Ensuring the Science Component of the Weapons Labs is Maintained", (4 December 2008).

⁴³ Townsend failed to acknowledge that the DOE labs are authorized by Congress, under their Laboratory Directed Research and Development (LDRD) programs, to tax funds received from non-DOE customers by 8 percent to be used for internally directed R&D funding. DOE's own report to Congress states:

"The maximum funding level established for LDRD must not exceed eight percent of a laboratory's total operating and capital equipment budget, *including non-DOE funded work*, for the year...LDRD is a cost of doing business that is accumulated through a percentage of the overhead rate charged by a laboratory; this is based on the premise that LDRD is a cost for keeping the laboratories vibrant, cutting edge and creative in ideas and new fields, and thereby benefits all programs doing work at a laboratory. LDRD is considered an allowable cost in accordance with the terms of the laboratory management and operating contracts and is identified in the laboratories' accounting systems."

See Department of Energy, FY 2011 Report to Congress: Laboratory Directed Research and Development at the DOE National Laboratories, (28 February 2012), 4. [<http://www.mbe.doe.gov/cf12/reports/ldrd/LDRDReport2011.pdf>]

⁴⁴ Testimony of Zachary Lemnios, Before the Subcommittee on Emerging Threats and Capabilities, Senate Committee on Armed Services, Prepared Remarks (17 April 2012), 8.

⁴⁵ Testimony of Daniel Gerstein, DHS Deputy Under Secretary for Science and Technology, Before the House Committee on Homeland Security, Prepared Remarks (19 April 2012), 8.

⁴⁶ DOE, *Work for Others Performed by the Department of Energy for the Department of Defense*, DOE IG-0829, (October 2009), 1.
[<http://energy.gov/ig/downloads/work-others-performed-department-energy-department-defense-ig-0829>]

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⁴⁸ Union of Concerned Scientists, "Fact Sheet: Sandia National Laboratory", November 2012.

⁴⁹ National Research Council, "Managing for High-Quality Science and Engineering at the NNSA National Security Laboratories", Committee to Review the Quality of the Management and of the Science and Engineering Research at the Department of Energy's National Security Laboratories – Phase I, (15 February 2012), 3 [<http://www.upse.org/spse/NASfindings2012.pdf>].

⁵⁰ Statement of C. Paul Robinson, President Emeritus and Director of Sandia National Laboratories to the Committee on Armed Services of the U.S. House of Representatives, Subcommittee on Strategic Forces on 16 February 2012, 10-11.

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[<http://www.reuters.com/article/2012/03/26/us-nuclear-summit-obama-medvedev-idUSBRE82P0J120120326>]

⁵² *Nuclear Weapons & Materials Monitor*, "White House Requests Study of National Lab Governance", 4 April 2012; and David Kramer, "Nuclear Security Agency and Weapons Labs at Odds", *Physics Today*, May 2012, 26.

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⁵⁴ Mia Steinle, "Stuck in the Past? DOE's Cold War Mindset Leads to Blown Bucks on Nuclear Labs", Project on Government Oversight (POGO), (18 April 2012). [<http://pogoblog.typepad.com/pogo/2012/04/stuck-in-the-past-does-cold-war-mindset-leads-to-billions-blown-on-nuke-labs.html>]

⁵⁵ POGO Letter to Congress, 18 April 2012. [<http://www.pogo.org/pogo-files/letters/nuclear-security-safety/nss-nwc-20120418-nuclear-weapons-labs.html>]

⁵⁶ John Fleck, "On Nukes, Labs, and Budgets," *Albuquerque Journal*, 24 April 2012.

[<http://www.abqjournal.com/main/2012/04/24/news/on-nukes-labs-and-budgets.html?paperboy=loggedin>]

⁵⁷ Don DeYoung, "New Missions for the Nuclear Weapons Labs", (19 November 2011) [<http://pogoarchives.org/m/nss/new-missions-for-the-nuclear-weapons-labs-11-16-2011.pdf>]. Relevant material from this memo was fact-checked and used to a great extent in this paper, along with its timeline format.

⁵⁸ LANL News Release, "Steven E. Koonin has been named as an Independent Governor on the LLNS and LANS Boards of Governors, 15 June 2012" [http://www.lanl.gov/newsroom/news-releases/2012/june/06_15_koonin-independent-governor.php].

⁵⁹ Susannah Howieson, Christopher Clavin, Elaine Sedenberg, *Federal Security Laboratory Governance Panels: Observations and Recommendations*, IDA Paper P-4940, January 2013, [https://www.ida.org/upload/stpi/pdfs/ida_paper_p-4940_final_1_29_13.pdf].

⁶⁰ Lynda Seaver, "Tauscher Named to Lawrence Livermore and Los Alamos Board of Governors," (27 August 2012), [http://www.llnl.gov/news/aroundthelab/2012/Aug/ATL082812_tauscher.html]

⁶¹ Libby Turpen, "Revitalizing the National Security Labs: Beyond the Nuclear Deterrent", *Bulletin of Atomic Scientists*, (7 January 2013), 55, 57.

⁶² Nuclear Watch New Mexico, (24 November 2010); data from the Section 1251 Report.

⁶³ DOE, Special Report: Management Challenges at the Department of Energy, DOE IG-0858, (November 2011). [<http://energy.gov/sites/prod/files/IG-0858.pdf>]

⁶⁴ A revealing metric for this relationship is the number of “revolving door” lobbyists. For example: In 2012, the top 14 nuclear weapons contractors employed: 96 lobbyists who worked for key members of Congress or key congressional committees; 26 who worked for one of the military services; and 24 who worked for the DoD or DOE. There are 19 such lobbyists working for major nuclear weapons contractors who were staffers for members of the Energy and Water Subcommittee of the Senate Appropriations Committee — the committee that controls spending on the nuclear weapons complex. See William D. Hartung and Christine Anderson, “Bombs Versus Budgets: Inside the Nuclear Weapons Lobby”, *Center for International Policy*, (6 June 2012).

⁶⁵ Dave Murphy, “Obama Campaign Stop at Factory Farm Propaganda Site, Billed as ‘Grassroots Event’”, *HuffingtonPost.Com*, (25 May 2012) [http://www.huffingtonpost.com/dave-murphy/obama-campaign-iowa_b_1543765.html].

⁶⁶ Michael Winter, “AP: Pentagon Drafts Plans for Cuts in U.S. Nuclear Arsenal”, *USA Today*, (14 February 2012).

[http://content.usatoday.com/communities/ondemand/post/2012/02/ap-obama-weighing-deep-cuts-in-us-nuclear-arsenal/1 - .T-ea9b_IU6U]

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⁶⁸ POGO Letter to Congress, 18 April 2012.

ATTACHMENT A

DDR&E/RD/Laboratory Office (Dr. John Fischer) input to SECDEF Correspondence Routing Slip

Control #: OSD 05249-10

Subj: Interagency Strategic Governance Charter Concerning the DOE National Laboratories

From June 2009 through March 2010, I served as a DoD member of the DoD/DHS/DNI/DOE working group which developed the subject document. In April, 2010 I was directed by DDR&E to transition this duty to the office of the ATSD(NCB), Mr. Andrew Weber. The purpose for this change was the DOE National Laboratories provide highly specialized technical products and support which are of most interest to ATSD(NCB) and this effort would be better served by Mr. Weber's staff.

During the development of this charter, I and a number of other members of the working group expressed concerns about the intent and implementation plan of this agreement. The DOE National Labs have developed a strategic plan which clearly details their goal to have the DoD, DHS, and DNI provide them with technology requirements which their leadership would use in the development of new strategic thrusts/business areas within their laboratory system. Once new technology strategic thrusts are identified, the DOE expectation is for these agencies work to work with the OMB and appropriate congressional committees for the transfer of funding to the DOE labs for the development of necessary infrastructure and personnel to execute new tasking. This plan is in direct response to the diminishing workload associated with the maintenance of the country's nuclear stockpile. Without new investment, the DOE labs believe they may not be able to maintain their laboratory system as it currently exists.

There are three primary concerns with this plan. First, the DOE labs are government owned and contractor operated facilities with legal restrictions on the type of work which they may accept. Tasking outside of their contracts may be problematic. Second, if their contracts were modified to accept new types of work, there may be legal issues with sole sourcing new tasking to these labs without first proceeding through the normal full and open competition contract process. Third, the existing DoD in-house laboratory system is meeting the requirements of the military services and increased utilization of the DOE labs may not be required. The DoD labs and military services, when required, have developed partnerships which use the DOE labs for their highly specialized skills and infrastructure on special projects which are within the scope of their contracts. A DoD laboratory enterprise strategic plan is currently in development which will address increased use of the DOE labs and is outside the purview of the proposed governance charter.

For further discussion, please contact Dr. John Fischer at (703) 588-1476 or john.fischer@osd.mil.

ATTACHMENT B



OFFICE OF THE DIRECTOR OF
DEFENSE RESEARCH AND ENGINEERING
3030 DEFENSE PENTAGON
WASHINGTON, DC 20301-3030

ACTION MEMO

October 27, 2009, 12:30pm

FOR: DIRECTOR, DEFENSE RESEARCH AND ENGINEERING

THROUGH: Principal Deputy, DDR&E *1A - updated for Service Comments; Please*

FROM: Dr. André van Tilborg, Acting Director, Research *SMP*

SUBJECT: Establishment of Laboratory Joint Analysis Team (LAB JAT) *M*

- TAB A recommends the establishment of a Laboratory Joint Analysis Team.
- TAB A1 is the Terms of Reference for DoD Laboratory Joint Analysis Team.
- This team will develop recommendations to ensure the technical health of the DoD Laboratory workforce, condition of laboratory infrastructure, and foundation for a DoD Laboratory strategic plan.

RECOMMENDATION: Approve the establishment of the Laboratory Joint Analysis Team by signing the memo in TAB A.

COORDINATION: None

Attachment:

As stated

Andre - Signed.

*I'd like to see an analysis
of what we really need
from the laboratories (DoD
+ DoE) as part of the
overall assessment*

Prepared By: Dr. John Fischer, ODDR&E RD/LO, 703-588-1476

John



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OCT 30 2009

MEMORANDUM FOR SERVICE ACQUISITION EXECUTIVES

SUBJECT: Establishment of the DoD Laboratory Joint Analysis Team

Since the end of the Cold War, DoD laboratories have faced numerous challenges to their ability to conduct world-class Science and Technology. There is a general perception across the Department of Defense, Capitol Hill, Academia, and Industry that DoD laboratories need to be more effective sources of innovation, invention, and creativity. Because of their unique nature, DoD labs often support long-term research or high risk programs that industry or academia do not pursue. There is a risk of our military losing its technology edge against future adversaries if we do not maintain a robust and productive in-house laboratory system.

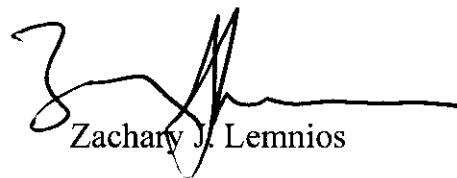
To ensure the Department is properly focused on the technical health and productivity issues of its laboratories, I have directed the establishment of a Laboratory Joint Analysis Team (LAB JAT) which will examine three essential components of the laboratory system:

- Facilities and infrastructure, including MILCON investment;
- Personnel, including quality of workforce and personnel policies; and
- Technical intelligence in the strategic planning and execution of laboratory programs.

The team should have representatives from each of the Services' laboratory and S&T communities, as well as the Office of the Director for Defense Research and Engineering (DDR&E). The Terms of Reference are included in attachment 1. This effort will provide the baseline from which a more detailed study will commence in early CY2010 and expand to include DoE labs, FFRDCs, and UARCs. Results of both studies will serve as a guide for the formation of policies and programs for DDR&E's Laboratories Office. Because most of the information required by the LAB JAT is readily available, the initial report will be due no later than 15 December 2009.

Request that you nominate members for the LAB JAT by COB, November 6.

Point of contact for the LAB JAT is Dr. John Fischer, 703-588-1476,
[\(john.fischer@osd.mil\)](mailto:(john.fischer@osd.mil)).



Zachary J. Lemnios

A handwritten signature in black ink, appearing to read "Zachary J. Lemnios". The signature is fluid and cursive, with a prominent "Z" at the beginning.

Attachment:
TOR for DoD Laboratory JAT

ATTACHMENT C

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE
AND
THE DEPARTMENT OF ENERGY
CONCERNING
MODERNIZATION OF THE U.S. NUCLEAR INFRASTRUCTURE**

I. Introduction

Consistent with the recommendations from the 2010 Nuclear Posture Review (NPR), the Secretaries of the Department of Defense (DoD) and the Department of Energy (DOE) agree that it is necessary to modernize the nuclear weapons infrastructure of the United States. This infrastructure is maintained by the National Nuclear Security Administration (NNSA) – an organization located within DOE. Modernization of the infrastructure is needed to ensure safe, secure, sustainable and cost-effective operations in support of scientific and manufacturing activities. It is also necessary to bolster key scientific, technical and manufacturing capabilities needed to ensure that the U.S. nuclear weapons stockpile remains safe and effective while avoiding the requirement for new nuclear tests. Finally, a strengthened stockpile management program is needed to address known technical problems and to help ensure support for ratification of the New Strategic Arms Reduction Treaty and Comprehensive Test Ban Treaty.

This Memorandum of Agreement (MOA) documents the program and budgeting commitments made by DOE and the DoD (collectively herein the “Parties”) in connection with this initiative. The MOA also specifies annual reviews of the program to be carried out jointly by the two Departments under the auspices of the Nuclear Weapons Council (NWC).

II. Statutory Authority

1. DoD enters into this MOA under the authority of 10 U.S.C 113.
2. DOE enters into this MOA under the authority of section 646 of the Department of Energy Organization Act (Pub. L. 95-91), as amended; 42 U.S.C. § 7256.

III. Agreements

1. DoD agrees to work with the Office of Management and Budget to transfer to DOE \$5.7 billion of budget authority in Fiscal Years 2011-15 for NNSA’s nuclear weapons and Naval Reactors programs. This includes a transfer of \$4.5 billion of budget authority to the Weapons Activities/Nuclear Security Enterprise appropriation, including \$561 million in FY 11. This also includes transfer of an additional \$145 million of budget authority to the Weapons Activities/Nuclear Security Enterprise appropriation for science, technology and engineering activities in the Enhanced Stockpile Stewardship program in FY 12-15 to match an identical DOE investment. If the transfer of budget authority is approved, the modernization activities identified in Attachment 1, which is attached to and constitutes an

integral part of this MOA, will be fully funded through 2015 within the base NNSA budget plus this transfer. Separate from nuclear weapons program activities, DoD intends to transfer an additional \$1.1 billion of budget authority for FY 11-15 for Naval Reactors, including \$80.6 million in FY 11. These transfers of budget authority are intended to be reflected in the President's Budget for FY 11-15. Attachment 1 details the transfers by year and program.

2. As noted in Attachment 1, DOE agrees to use this transferred budget authority to supplement NNSA funding in order to fully fund the following:
 - Complete the design and begin construction of the Chemistry and Metallurgy Research Facility Replacement (CMRR) nuclear facility (NF) at Los Alamos National Laboratory (LANL) – a facility that conducts plutonium research and development and provides analytical capabilities in support of pit surveillance and production. Plan and program to complete construction by 2020, and ramp up to full operations in 2022.
 - Increase pit production capacity and capability at the adjoining PF-4 facility (part of the main plutonium facility) at LANL to demonstrate pit reuse by 2017 and production by 2018-2020. Plan and program to ramp up to a minimum of 50-80 pits/year in 2022.
 - Complete the design and begin construction of the Uranium Processing Facility (UPF) at Y-12 to support production and surveillance of highly-enriched uranium components. Plan and program to complete construction by 2020; ramp up to a minimum of 50-80 Canned Sub Assemblies (CSAs) per year in 2022.
 - Complete the ongoing Life Extension Program (LEP) for the W76 warhead (to be completed by 2017) and LEP for the B61 bomb (first production unit [FPU] by 2017). Completion will free up capacity for other life extension programs.
 - Ensure that capabilities are available so that future warhead life extension programs will allow for increased margin and enhanced warhead safety, security and control.
 - Begin LEP study by FY 11 to explore the path forward for the W78 and the W88 systems (anticipated FPU following the completion of the B61 LEP, currently scheduled for 2020)—one option for which is a common ICBM/SLBM warhead.
3. DOE agrees to provide the resources necessary to fund at sufficient levels scientific, technical and engineering activities related to maintenance assessment and certification capabilities for the stockpile. All budget authority will be identified and designated for this use prior to submission of the President's Budget for FY 2011. Among other things, this budget authority will be prioritized to:
 - Restore sufficient funds for warhead surveillance and for the science and technology that support stockpile assessment and certification in the absence of nuclear testing.
 - Adequately fund directed stockpile work including maintenance, assembly, disassembly and dismantlement activities.
 - Protect the human capital base at U.S. nuclear weapons laboratories—including the ability to design nuclear warheads as well as development and engineering expertise and capabilities—through a stockpile stewardship program that fully exercises these capabilities.

4. Naval Reactors will use \$1.1 billion in increased FY 11-15 budget authority to:
 - Design/develop the new reactor plant for the OHIO Class submarine replacement,
 - Design/construct a reactor core and refuel the DOE Land Based Prototype Reactor Plant in New York with technologies and capabilities planned for OHIO replacement core—this will test the manufacturability of the replacement reactor and thereby mitigate technical, cost and schedule risks.
5. DOE also agrees to strictly limit the use of transferred budget authority to support only those elements identified in Attachment 1 in its budget throughout the period from FY 11-15. The DoD target transferred budget authority will become part of the baseline funding for (1) Weapons Activities/National Security Enterprise appropriation aligned to programs in Directed Stockpile Work, Campaigns and Readiness in the Technical Base and Facilities, and (2) Naval Reactors appropriations. Both DoD and DOE agree to make every effort to ensure that Congress appropriates the funds in the amounts and for the purposes identified in this agreement.
6. DOE agrees that the transfer of budget authority from DoD is planned to be a one-time transfer during the period FY 2011-2015 consistent with the 2010 NPR recommendations. During this period, no additional transfer from DoD to DOE for purposes of this MOA shall be effected. NNSA's budget for FY 11-15 reflects planning for these recommendations approved by the President. If future Presidential decisions do not support the activities specified, then this MOA will be revised accordingly. Funding requirements for budgets submitted beyond FY 2015 will be negotiated as needed.
7. NNSA will not require additional resources during this period from DoD to meet the requirements of the NPR, so long as those requirements remain as stated in this MOA. If available funds fall below target amounts, or if costs grow, DOE agrees to work with DoD to adjust target dates so as to carry out the intent of these initiatives as quickly as possible but without any additional DoD funds.

IV. Reviews

1. In order to implement this agreement, and ensure its effective operation, the two Secretaries agree to direct their staffs to conduct and participate in the following reviews:
 - Semi-annual programmatic reviews by the NWC,
 - Annual NNSA programming and budgeting reviews which are conducted at the weapons program element level and include the items in this MOA. Specifically, NNSA will engage the NWC regarding its program of work for the items in Attachment 1, and the annual proposed funding necessary to support this work, to ensure agreement that the commitments of this MOA are being fulfilled. Any disagreements identified by the NWC will be brought to the attention of the Secretaries of Defense and Energy and will be resolved jointly.

2. The Secretary of Defense designates the Under Secretary of Defense (AT&L) as the senior staff contact for carrying out this agreement, in coordination with the Under Secretaries of Defense for Comptroller and for Policy. The Secretary of Energy designates the Under Secretary for Nuclear Security as the senior staff contact for carrying out this agreement, assisted by the Chief Financial Officer.
3. The Secretaries of Defense and Energy agree that the modernization of the U.S. nuclear infrastructure and effective support to the nuclear stockpile are critical to achieving President Obama's vision for a safe, secure and effective nuclear deterrent. The Secretaries fully support this agreement, which represents a key step toward accomplishing required modernization and advancing the national security of the United States.

V. General Provisions

1. This MOA in no way restricts either Party from participating in any activity with other public or private agencies, organizations, or individuals.
2. This MOA is neither a fiscal nor a funds obligation document. Nothing in this MOA authorizes or is intended to obligate the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.
3. This MOA is strictly for internal management purposes for each Party. It is not legally enforceable and shall not be construed to create any legal obligations on the part of either Party. This MOA shall not be construed to provide a private right or cause of action for or by any person or entity.
4. All agreements herein are subject to, and will be carried out in conformance with, all applicable laws, regulations and other legal requirements.
5. This MOA enters into effect upon signature. It may be modified by mutual agreement of the Parties in writing.
6. The Parties may discontinue participation in this MOA in writing at any time.

Signed in duplicate.

FOR THE DEPARTMENT OF DEFENSE:



Robert M. Gates
Secretary of Defense
Date: MAY 3 2010

FOR THE DEPARTMENT OF ENERGY:



Steven Chu
Secretary of Energy
Date: APR - 1 2010

Attachment 1

DoD Budget Authority Target Transfer to NNSA

Item	Added Funding Above NNSA Base (\$ millions)					Total	
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		
Weapons Activities/Nuclear Security Enterprise Appropriation							
Infrastructure							
CMRR-NF	151.4	255.0	260.0	242.2	300.0	1,208.6	
Uranium Processing Facility	59.8	55.4	135.9	193.4	320.0	764.5	
High Explosive Pressing Facility	30.0	30.4	-	-	-	60.4	
Neutrons for Material/ Nuclear Science	-	-	-	-	-	-	
Life Extension Programs (LEPs)							
B61 Bomb Stockpile Systems	160.0	131.0	133.0	169.0	192.0	785.0	
Follow-on LEP	26.0	56.0	102.0	300.0	300.0	784.0	
W76-1 Warhead Quantities	40.0	46.0	46.0	46.0	46.0	224.0	
Plutonium Sustainment	36.0	38.0	38.0	39.0	30.0	181.0	
Advanced Certification	57.8	85.6	110.6	111.3	79.6	444.9	
Enhanced Stockpile Stewardship	0	39.0	33.0	48.0	25.0	145.0	
Subtotal, Transfer to Weapons Activities/Nuclear Security Enterprise	561.0	736.4	858.5	1,148.9	1,292.6	4,597.4	
Naval Reactors Appropriation							
Reactor Design and Development							
Trident Replacement Reactor	45.4	83.0	122.7	153.8	192.9	597.8	
Land-based prototype	35.2	67.9	101.0	125.0	158.0	487.1	
Subtotal, Transfer to Naval Reactors	80.6	150.9	223.7	278.8	350.9	1,084.9	
Total DOD transfer to NNSA	641.6	887.3	1,082.2	1,427.7	1,643.5	5,682.3	

ATTACHMENT D



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR DEPUTY SECRETARY OF ENERGY

SUBJECT: Proposed Governance Model for DoD-DOE Science and Technology Interactions

In the early discussions of the Mission Executive Council (MEC), both the Department of Defense (DoD) and Department of Energy (DOE) recognized the need to establish a process that provides insight into the needs and capabilities of both Departments. Since those discussions, the DoD has been evaluating oversight mechanisms for the work for others program within the DOE laboratories. Based on our review, I propose leveraging an existing process that will enhance our mutual ability to plan and engage in scientific collaboration.

The approach is modeled after a successful federally funded research and development center (FFRDC) program with the Massachusetts Institute of Technology's Lincoln Laboratory and is intended to facilitate an integrated planning and oversight cycle across the Departments. This process addresses the needs and requirements of both Departments by providing an increased commitment to transparency. First, an internal DoD-wide data call will allow us, for the first time, to provide DOE labs clear insight to DoD technology and development needs. Second, the DoD will gain insight as to how to leverage investments that are being made within the DOE. Third, establishing a repeatable methodology will cement the mutual commitment to long-term relationship. This process will enable a coherent and coordinated approach to better assess and sustain the scientific and technical competencies that DOE possesses and that DoD relies on.

I understand you have had preliminary discussions with your staff regarding this collaborative effort and I solicit your views. For this model to succeed, it must be a team effort across both Departments. I would like to begin implementing this plan soonest and expect set the initial steps in motion by June 15, 2011! We look forward to continuing the advance toward a more robust, mutually supportive program that provides for the preservation of exquisite capabilities unique to both Departments. My point of contact is Lt Col Dan Tadevich, OASD (R&E), 703-614-2938, daniel.tadevich@osd.mil.

Ashton B. Carter

Attachment:
As stated

ATTACHMENT E

**GOVERNANCE CHARTER
FOR AN INTERAGENCY COUNCIL
ON THE STRATEGIC CAPABILITY
OF DOE NATIONAL LABORATORIES
AS NATIONAL SECURITY ASSETS**

1) PURPOSE

The purpose of this Charter is to provide a framework for the participating agencies to coordinate shared, long-term planning for the science, technology, and engineering (ST&E) capabilities resident in the U.S. Department of Energy's (DOE's) National Laboratories and other DOE sites (hereinafter, National Laboratories), and other ST&E capabilities of the Parties, that are of cross-cutting strategic national security interest.

2) BACKGROUND

The National Laboratories have the requisite expertise and facilities that uniquely position them to provide a wide range of ST&E capabilities critical to meeting a rapidly expanding and evolving array of national security challenges. Given an uncertain future and the increasing pull on the same resources by many Federal agencies, an executive-level forum is needed to ensure integrated planning for the utilization, through DOE, of the National Laboratory capabilities, encouraging optimal alignment with the highest priority national security needs. This Governance Charter is intended to provide a mechanism for the Parties to engage in interagency long-term strategic planning for capabilities that are unique to the National Laboratories. This will ensure that certain national security priorities can be supported by these unique capabilities in a coordinated, effective, and efficient manner.

3) OBJECTIVES

The objectives of this Governance Charter are to:

- Provide a forum for the Parties' leadership to identify and plan strategic ST&E collaboration of common interest in the area of national security;
- Examine critical strategic mission needs requiring the ST&E capabilities unique to the National Laboratories;
- Develop a mechanism for two or more of the Parties to undertake long-term strategic planning of common interest to develop and sustain strategic capabilities of inter-agency interest at the National Laboratories; and
- Create an interagency framework for two or more Parties to consider making collaborative national security investment decisions.

4) PARTIES

The initial signatories to this Charter are DOE, the U.S. Department of Homeland Security (DHS), the Office of the Director of National Intelligence (ODNI), and the U.S. Department of Defense (DoD), collectively referred to (together with any future participants in this Charter) as the “Parties.” Additional government agencies may become Parties to this Charter.

5) AUTHORITY

This Charter is authorized under the provisions of the following authorities:

- For DOE, including NNSA, Section 646 of the Department of Energy Organization Act (Pub. L. 95-91, as amended; 42 U.S.C. § 7256); Title XXXII of the National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65.
- For DoD, 10 U.S.C. 113, “Secretary of Defense.”
- For DHS, 6 U.S.C. § 112, “Secretary; functions.”
- For ODNI, the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458.

6) ORGANIZATION

a) Mission Executive Council

The Parties each agree to appoint two senior executives to serve as members of the Mission Executive Council (hereinafter “Council”). The Council will be led by two Co-Chairs, the Mission Co-Chair and the Capabilities Co-Chair. The Director, National Counterproliferation Center, representing the DNI, will serve as the Mission Co-Chair, with the understanding that the role may rotate among the parties each year, as the Council decides. The DOE Under Secretary for Nuclear Security (NNSA Administrator), representing DOE as the sponsor and contracting authority for the National Laboratories, will serve as the Capabilities Co-Chair. Council meetings will be scheduled at least quarterly, with reports of Council meetings being provided to all Parties by the Staff Secretary.

The Council will serve as an inter-agency forum for discussion and coordination on developing priorities among the Parties regarding long-term strategic ST&E capabilities at the National Laboratories. On at least an annual basis, and more often as may be deemed necessary, the Council will: (1) review and assess the adequacy of national security ST&E capabilities at the National Laboratories in identified crosscutting areas; (2) identify and consider candidate ST&E capabilities needing interagency attention; (3) consider the Subcommittee’s recommendations on the development or sustainment of capabilities required to close identified gaps; and (4) take such actions as may be necessary and appropriate. Each Party will bring to the discussions of the Council those ST&E requirements that might impact the execution of the mission of any of the Parties.

The primary responsibility of the Mission Co-Chair is to coordinate and document the strategic capability ST&E needs brought by the Parties for consideration. The Capabilities Co-Chair has the primary responsibility to ensure that relevant National Laboratories are engaged for each strategic capability need identified and to coordinate, as determined appropriate, with the National Laboratory Directors regarding the work of the Council. Subcommittee members are responsible for considering the resulting gaps and opportunities and recommending steps in collaboration with other member agencies to address them.

b) Staff Secretary

The Council will appoint a Staff Secretary from one of the Parties who will facilitate communications among the members of the Council. The position of Staff Secretary will rotate annually among the Parties.

The Staff Secretary will work under the oversight of the Co-Chairs, and undertake all administrative functions necessary to operate the Council.

c) National Laboratories

When the capabilities of strategic interest to the Parties are compiled by the Council, the Capabilities Co-Chair will engage the directors of the relevant National Laboratories. The specific laboratories included in the strategic capabilities assessment process will evolve based on the stated needs of the Council members.

The National Laboratories' Directors engaged by the Capabilities Co-Chair will be responsible for providing the long-term planning status for the ST&E capabilities identified by the Council. This input will be coordinated through the Capabilities Co-Chair.

d) Mission Executive Council Subcommittees

The council may establish Government-only subcommittees.

Subcommittees may be used to perform one or more of the following activities:

(1) identify mission needs that may require the development or enhancement of an ST&E capability need for consideration by the Council; (2) develop specific proposed plans to address ST&E capability gaps agreed to by the Council, and (3) foster coordination of individual investments at the National Laboratories that are the products of strategies agreed to by the Council.

7) FUNDING

This Charter creates no financial or operational commitment or obligation for any of the participating agencies. Any financial transactions that may be undertaken by one or more of the signatories will be under the auspices of an agreement independent of this Charter and reflect the interests of the agencies involved.

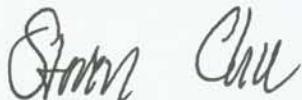
8) MODIFICATION

This Charter will be reviewed annually and may be modified in writing with the

consent of the Parties at any time. The Parties intend this partnership to expand, as appropriate.

9) EFFECTIVE DATE

The terms of this Charter will become effective upon signature of the initial Parties and will remain in effect until rescinded.



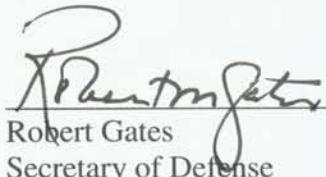
Steven Chu
Secretary of Energy



Dennis Blair
Director of National Intelligence



Jane Holl Lute
Deputy Secretary
Department of Homeland Security



Robert Gates
Secretary of Defense

JUL 6 2010