



December 3, 2014

The Honorable Ernest J. Moniz
Secretary
U.S. Department of Energy
1000 Independence Ave. SW
Washington DC 20585

Email: The.Secretary@hq.doe.gov

Re: LANS' performance award fees for FY 2014

Dear Secretary Moniz:

In the interests of greater contractor accountability, this letter urges that seriously reduced performance award fees be awarded to Los Alamos National Security, LLC (LANS) for its management performance in FY 2014. The days of hefty profits and contract extensions granted through waivers to performance standards should be long over. In our view, LANS' incentive award fee should be cut at least in half because of its inability to perform major plutonium operations at PF-4, and its unauthorized changes to transuranic waste handling procedures that led to radioactive contamination of workers and the closure of the Waste Isolation Pilot Plant.

Last year, based on its FY 2013 Performance Evaluation Plan and Report, LANS was awarded a Total Fee Earned of \$51.9 million. This included a \$17.8 million Fixed Fee and a \$34.1 million Earned at Risk Fee. There was a total of \$41.7M in Available At Risk Fee, of which the National Nuclear Security Administration (NNSA) awarded LANS 82%, which itself was of questionable justification.

NNSA is currently in the process of evaluating LANS' FY 2014 performance. The contractor could be awarded a \$17.1M Fixed Fee and up to \$40M for At Risk Fee for FY 2014. However, LANS' contractual performance in FY 2014 has been seriously substandard, and therefore its FY 2014 incentive award fee should be cut at least in half.

The Department of Energy should slash FY 2014 performance fees awarded to LANS because:

1. Many major plutonium operations have been paused for up to 19 months at LANL, despite the fact that the Lab is this nation's only designated "Plutonium

Center of Excellence.” Specifically, the following was not met under the FY 2014 LANS Performance Evaluation Plan:

- a. LANL has not completed “SS0-1.2 Develop the Pu Strategy for the Complex, and advance recapitalization and modernization of the Pu infrastructure at LANL.”
- b. The Lab has not performed any sizable plutonium operations after the pause of operations, and therefore has not completed “SS0-4.1 Demonstrate measurable improvements/maturation in the LANL safety culture; improve Nuclear and High Hazard Operations safety performance in areas including, but not limited to, formality of operations and safety basis implementation. Complete implementation of corrective actions to ensure long term viability of the LANL Criticality Safety Program.”

To be clear, we are not arguing in support of resuming major plutonium operations at LANL, many of which we regard as not necessary to begin with. However, we do argue that LANS should not be awarded performance fees for work that it hasn’t completed.

2. LANS’ unauthorized transuranic waste handling procedures forced the closure of WIPP and contaminated workers. Reopening WIPP is estimated to cost at least a half billion dollars (it will probably cost much more). LANS did not complete the Framework Agreement it negotiated with the New Mexico Environment Department. LANS is not in compliance with NMED’s Consent Order because many deadlines have been missed since June 2014. LANS is awaiting new compliance orders, which will probably include large fines levied by NMED for violating the RCRA Hazardous Waste Permit. Plans are being made to remove legacy cleanup work from LANS and bid it out to another contractor, which will no doubt incur significant initial expenses as well.

Specifically, the following was not met under the FY 2014 Performance Evaluation Plan: “SS0-3.2 Successfully, and cost effectively, complete Framework Agreement commitments to the New Mexico Environment Department and ensure regulatory compliance with the Consent Order, Individual Permit for Storm water, and other permits related to environmental activities while demonstrating continuous improvement in quality, efficiency and effectiveness...”

To sum up, as a matter of good governance, proper federal oversight and contractor accountability, we again urge you to cut LANS’ possible incentive award fee for FY 2014 at least in half. Moreover, given its major failures, you should seriously consider whether it is in the best interests of the American taxpayer to have LANS continue to operate the Los Alamos National Laboratory.

Should you have any questions, please don’t hesitate to contact us at 703.589.1718 or pstockton@pogo.org and 505.989.7342 or jay@nukewatch.org

Thank you for your consideration.

Sincerely,

Peter Stockton
Senior Investigator
Project On Government Oversight

Jay Coghlan
Executive Director
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Cc:

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Senator Tom Udall

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Rep. Ben Ray Lujan