



DEPARTMENT OF ENERGY
National Nuclear Security Administration
Los Alamos Site Office
Los Alamos, New Mexico 87544



March 8, 2006

Dr. Michael R. Anastasio
President and Proposed Laboratory Director
Los Alamos National Security, LLC
Los Alamos Research Park
4200 West Jemez Road, Suite 200B
Los Alamos, NM 87544

**Re: Contract No. DE-AC52-06NA25396, Provision H.36 Contracting Officer's
Determination of Substantial Equivalency of the Total Compensation Package for
Transferring Employees**

Dear Dr. Anastasio:

The contract between the National Nuclear Security Administration (NNSA) and Los Alamos National Security, LLC (LANS), referenced above requires that LANS provide a total compensation package to "Transferring Employees" that is substantially equivalent to that offered by the predecessor contractor (the University of California). The pertinent language of the contract (paragraph H.36 (d)(1)(i)(I)) is set forth below:

- (i) Transferring Employees (Not including Inactive Vested Transferring Employees)
 - (I) The Contractor shall provide a total compensation package for Transferring Employees that is substantially equivalent to that provided by the predecessor contractor as of June 1, 2006. The Contracting Officer in his/her sole discretion will determine substantial equivalency by comparing the Contractor's total compensation package with the benefits provided by the predecessor contractor; provided, however, that the Contractor's total compensation package must include UCRP age factors as a basis for determining compensation, substantially equivalent pension and other benefits, must maintain the base salaries of the Transferring Employees, and shall comply with the requirements of paragraph (e), pensions, set forth below.

LANS submitted a proposal that it believes demonstrates that its total compensation package for Transferring Employees (not including Inactive Vested Transferring Employees) is substantially

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equivalent to the total compensation package provided by the University of California. LANS refers to this package as "Total Compensation Plan 1," "Total Compensation Package 1," or "TCP1." LANS's proposal and supporting documents are listed below:

- **LANS Total Compensation Design and Strategy, Proposal to NNSA, Revision 2** (Mar. 3, 2006)
- **LANS Total Compensation Design and Strategy, Supporting Proposal Document** (Mar. 2, 2006)
- **LANS White Paper Regarding Substantially Equivalent Value Replacement for Survivor Continuance Benefits** (Mar. 2, 2006)
- **LANS White Paper Regarding Domestic Partner Issues for Optional Forms of Payment** (Mar. 2, 2006)
- **LANS White Paper Regarding Cost of Living Adjustments** (Mar. 2, 2006)
- **LANS White Paper Regarding Lump Sum Benefits** (Feb. 9, 2006)
- **LANS White Paper Regarding TCP1** (Feb. 9, 2006)
- **LANS White Paper Regarding Social Security Ineligible Benefits** (Feb. 8, 2006)
- **LANS White Paper Regarding Nondiscrimination Testing** (Feb. 8, 2006)
- **LANS White Paper Regarding Benefit Valuation Study** (Feb. 6, 2006)
- **LANS Issue Paper on Vesting Schedule for Nonelective Contribution in DC Plans** (Jan. 30, 2006)

As the Contracting Officer responsible for making this determination, I have reviewed these materials as submitted by LANS and relied on representations in them. Versions of documents submitted earlier are deemed to be superseded by versions submitted later. Information submitted by LANS or representations made by it that are not reflected in these materials were not considered in making this determination. In addition to the materials submitted by LANS, my determination is based on analyses conducted by NNSA and its consultants, and on my consideration of the comments NNSA received from employees and others on Revision 1 of the LANS Total Compensation Design and Strategy Proposal to NNSA (Feb. 13, 2006).

Based on my review of the materials submitted by LANS, the analyses conducted by NNSA and its consultants, and the comments NNSA received, I hereby determine that the total compensation package proposed by LANS for Transferring Employees (not including Inactive Vested Transferring Employees) is substantially equivalent to the total compensation package provided for these employees by the University of California. I determined substantial equivalency by comparing the aggregate value of the total compensation package (consisting of salary, pension benefits, and health and welfare benefits) offered by LANS with the aggregate value of the total compensation package offered by the University of California. Employees transferring to a substantially equivalent total compensation package should receive neither significantly more nor significantly less in aggregate value of salary and benefits than they do under their current compensation package. Substantial equivalency does not require that the packages have identical aggregate values, contain identical features, or value shared features identically. Because the statutory requirements that apply to benefit plans sponsored by state government institutions are different from those that apply to benefit plans sponsored by private institutions, the benefit plan offered by LANS in TCP1 cannot be identical to the benefit plan offered by the University of

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California, particularly as to pensions. Despite these different statutory requirements, TCP1 as proposed by LANS provides substantially equivalent pension and other benefits.

My decision is limited to the determination called for in contract paragraph H.36 (d)(1)(i)(I) that LANS's TCP1 as described in the materials listed above is substantially equivalent to the total compensation package offered by the University. This determination does not constitute an agreement that LANS has met any of its contractual obligations regarding provision H.36 or any other provision, nor does it constitute a waiver or modification of any contract provision.

As the Contracting Officer, I will review all of the plan documents for LANS's TCP1 when they are submitted by LANS, and will approve them provided they are consistent with the materials upon which this determination was based. In addition, I will review the plan documents for the pensions that are part of TCP1 to ensure their compliance with contract paragraphs H.36 (e)(1)-(3)(i).

Sincerely,

A handwritten signature in dark ink, appearing to read 'Edwin L. Wilmot', with some overlapping strokes.

Edwin L. Wilmot
Contracting Officer
Manager