

November 14, 2006

Office of the General Counsel of
The Regents of University of California
1111 Franklin Street
Oakland, CA 94607

Dear Mr. Holst:

The Project On Government Oversight (POGO) is overhauling and renewing its Federal Contractor Misconduct Database (www.pogo.org/db/index.cfm), a compilation of information from public resources regarding government contractors, including the University of California. On October 18, 2005 and December 2, 2005, we sent you information regarding findings relevant to the University of California, which we have enclosed for your reference. As of today, we have not received a response from your office.

A written response is certainly in the best interest of everyone involved. It is the best way for your company to go on record regarding this process and the instances identified; your letter will be posted in its entirety on the database. Several companies have already responded and have expressed appreciation for the opportunity to express their views. POGO would prefer to receive a response by November 30, 2006 to ensure it is included with the launch of our new database.

If you have any questions, I can be reached at (202) 347-1122. Thank you for your time and consideration.

Sincerely,

Scott Amey
General Counsel

Enclosure

Instances of Misconduct

1.

Department of Energy Violations

Date: 09/27/2000 (Date of Fine)

Misconduct Type: Environment

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Fine

Synopsis: “Based on DOE’s investigation and information that [Lawrence Livermore National Laboratory, which is operated by University of California] provided during the Enforcement Conference, DOE has concluded that violations of 10 CFR 830.120 (Quality Assurance Rule) likely occurred. These violations are described in the enclosed Preliminary Notice of Violation (PNOV) and include (1) quality improvement violations related to LLNL inadequacy in acknowledgment and timely response to programmatic weaknesses in their AB processes and (2) Work Process violations related to lack of adherence to the requirements contained in AB related documentation.” “LLNL is exempt from civil penalty by statute. However, because of the collective safety significance of these violations, DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$82,500.”

Document(s):

DOE PNOV

2.

Establishment of an Unauthorized Nuclear Facility

Date: 12/23/2002 (Date of Enforcement Action)

Misconduct Type: Environment

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Fine

Synopsis: The Department of Energy issued a preliminary notice of violation to the University of California-operated Los Alamos National Laboratory which alleged: “(1) failures leading to the establishment of an unauthorized nuclear facility by storage of TRU waste in PF-185 without a safety evaluation and associated controls; (2) failures in 1999 and 2000 to implement site work control requirements for identifying and categorizing nuclear facilities and associated hazards; (3) failures to identify these deficiencies with the nuclear storage conditions in PF-185 over a five year period; and (4) deficiencies in the LANL event investigation, cause analysis, and corrective action development and implementation once the problems came to light.” “In the

ordinary course, DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$220,000 in this case. With respect to LANL, however, this civil penalty is currently waived by statute.”

Document(s):

DOE PNOV

3.

Excessive Radiological Exposure

Date: 03/09/1998 (Date of Fine)

Misconduct Type: Labor

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Fine

Synopsis: “Department of Energy's (DOE) evaluation of the facts and circumstances surrounding the unplanned personnel contaminations/intakes at [a building] of [University of California-operated] Lawrence Livermore National Laboratory's (LLNL) Hazardous Waste Management Facilities on July 2, 1997. [The building] houses a shredder facility which was intended to process (shred) only materials with low levels of radiological contamination. On July 2, 1997, a high efficiency particulate air (HEPA) filter was processed and was subsequently determined by LLNL to contain as much as [a specified amount] of [radioactive material], significantly exceeding (by more than 500 times) the permissible radiological activity limit [] established by your Operational Safety Procedure. The processing of this highly contaminated HEPA filter resulted in the unplanned intake of radiological material by five workers. The committed effective dose equivalent (CEDE) to one worker is estimated by LLNL to be [a specified range], at least [a multiple of] the regulatory limit established by 10 CFR 835, and the committed dose equivalent (CDE) to the worker's bone surface is estimated by LLNL to be [a specified range], at least [a multiple of] the regulatory limit.” “Although LLNL is exempt from civil penalty by Statute, because of the safety significance of these violations, DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$159,375.”

Document(s):

DOE Press Release

4.

Failure to Obtain Export Licenses

Date: 06/26/2000 (Date of Agreement)

Misconduct Type: Import/Export

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Administrative Agreement

Synopsis: "Assistant Secretary of Commerce for Export Enforcement F. Amanda DeBusk... announced agreements with Los Alamos National Laboratory (LANL), Los Alamos, NM, and Lawrence Livermore National Laboratory (LLNL), Livermore, CA, [both of which are operated by the University of California], concerning alleged shipments of various commodities without the proper Department of Commerce authorizations." "The Department of Commerce alleged that LANL, on four occasions from 1994 to 1996, and LLNL, on one occasion in 1994, shipped commodities to Russia without obtaining the export licenses required under the Export Administration Regulations. The exports by LANL occurred under the Department of Energy Material Protection, Control and Accounting Program, designed to reduce the threat to U.S. national security posed by unsecured Russian weapons-usable nuclear material. The commodities consisted of devices for measuring nuclear material, a communications router, a 486 computer and a printer. The export by LLNL occurred under a separate lab-to-lab project."

Document(s):

DOC Press Release

5.

False Billings

Date: 02/01/2001 (Date of Settlement)

Misconduct Type: Government Contract Fraud

Contracting Party: Government Civilian

Court Type: Civil

Amount: \$22,500,000

Disposition: Settlement

Synopsis: "The University of California agreed to pay the Government \$22.5 million to settle allegations that the school's five teaching hospitals routinely submitted false billings to Medicare, Medicaid and other Federally-funded health programs. The alleged false claims included upcoding, as well as billing for services purportedly performed or supervised by faculty physicians - when those services were, in fact, performed by residents with little or no supervision."

Document(s):

HHS Inspector General Press Release

6.

Labor Discrimination (1998)

Date: 05/13/1998 (Date of Settlement)

Misconduct Type: Labor

Contracting Party: N/A
Court Type: Civil
Amount: \$625,000
Disposition: Settlement

Synopsis: “The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP)... announced it... reached a \$625,000 settlement with the [University of California-operated] Los Alamos National Laboratory (LANL) resulting from an investigation of discrimination against Hispanic workers in a 1995 layoff at the Los Alamos, New Mexico facility.” “OFCCP made an initial finding that Los Alamos failed to follow its own layoff criteria, which resulted in Hispanic employees being terminated at a statistically significant higher rate.”

Document(s):
DOL Press Release

7.
Labor Discrimination (1997)
Date: 01/06/1997 (Date of Settlement)
Misconduct Type: Labor
Contracting Party: N/A
Court Type: Civil
Amount: \$113,098
Disposition: Settlement

Synopsis: The “Justice Department alleged that the University's Art History Department discriminated against [Meribeth] Graybill by denying her tenure based on her gender, in violation of the Civil Rights Act of 1964. It also said the school retaliated against Graybill for opposing the school's employment practices.” Under the agreement, the Art History Department agrees not to discriminate against any candidate for tenure based on sex. Additionally, the University will pay Graybill \$113,098, not retaliate against any person who has opposed practices which that person believes are discriminatory or who assisted in the investigation of the case, and provide information to the Justice Department about its efforts to comply with the agreement.

Document(s):
DOJ Press Release

8.
Radiation Protection Deficiencies
Date: 09/03/2003 (Date of Preliminary Notice of Violation)
Misconduct Type: Labor

Contracting Party: N/A
Court Type: Administrative
Amount: \$0
Disposition: Fine

Synopsis: The Department of Energy issued a Preliminary Notice of Violation (PNOV) to the Lawrence Livermore National Laboratory, which is operated by the University of California. "Section I of the PNOV describes radiation protection deficiencies associated with the June 2002 purification work conducted in B151. One violation was assessed for the significant radiological overexposure to the worker's hands of 111 and 62 rem respectively. The occupational dose assigned to one hand was more than twice the regulatory limit of 50 rem. Additionally, the deficiencies included the failure to adequately post the room to warn of radiation levels and the failure to effectively implement the As Low As Reasonably Achievable (ALARA) process to limit the worker's exposure. The enclosed PNOV includes a Severity Level II violation for the overexposure to the worker's hands and a separate Severity Level II violation for inadequate radiological controls. Section II of the PNOV describes numerous work process violations associated with the June 2002 purification work. These violations included failure to notify the Environment, Safety and Health (ES&H) personnel of radiological conditions as required by LLNL's nuclear safety documents and failure to implement a required hazard assessment and operational safety plan. The violations in Section II have been classified as a Severity Level II violation based on the numerous instances of failure to follow LLNL's established work controls to limit radiological exposures to the workers." The Department of Energy "would have proposed a Civil Penalty in the amount of \$137,500 in this case. However, this civil penalty is currently waived by statute for LLNL."

Document(s):
DOE PNOV

9.
Radioactive Material Exposure
Date: 01/19/2001 (Date of Fine)
Misconduct Type: Labor
Contracting Party: N/A
Court Type: Administrative
Amount: \$0
Disposition: Fine

Synopsis: According to the Department of Energy, "eight workers from [the Los Alamos National Laboratory, which is operated by the University of California,] were exposed to airborne [radioactive material]; five of the eight were later determined to have suffered detectable intakes of [radioactive material]. Although final dose estimates have not been completed, it is apparent one worker significantly exceeded the Department's regulatory annual

exposure limit and two additional workers may also have exceeded the limit. The TA-18 events included the operation of nuclear facilities outside of the limits and controls established by the facility's safety documents.” “LANL is exempt from civil penalty by statute; however, because of the collective safety significance of these violations, DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$605,000.”

Document(s):

DOE PNOV

10.

Radiological Protection Program Issues

Date: 06/21/2004 (Date of Preliminary Notice of Violation)

Misconduct Type: Labor

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Fine

Synopsis: The Department of Energy cited “worker exposure to toxic vapors, and programmatic issues in the radiological protection program at the Los Alamos National Laboratory (LANL) [which is operated by the University of California].” “DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$770,000 in this case; however, this civil penalty is currently waived by statute for LANL.”

Document(s):

DOE PNOV

11.

Radiological Violations (1999)

Date: 09/03/1999 (Date of Preliminary Notice of Violation)

Misconduct Type: Labor

Contracting Party: N/A

Court Type: Administrative

Amount: \$0

Disposition: Fine

Synopsis: The Department of Energy cited University of California-operated Los Alamos National Laboratory for “violations that involve multiple failures to (1) conduct approved work activities in accordance with LANL's established procedures and work controls; (2) adequately monitor for radioactive material; (3) post and control access to radiological areas; and (4) implement effective corrective actions.” “Although LANL is exempt from civil penalty by

statute, because of the safety significance of these violations, DOE would have issued a proposed Imposition of Civil Penalty in the amount of \$220,000.”

Document(s):
DOE PNOV

12.
Radiological Violations (1998)
Date: 09/21/1998 (Date of Fine)
Misconduct Type: Labor
Contracting Party: N/A
Court Type: Administrative
Amount: \$0
Disposition: Fine

Synopsis: The Department of Energy cited University of California-operated Los Alamos National Laboratory for “(1) not performing work in accordance with your own approved procedures, (2) performing work without the required authorizations, (3) failure to place proper radiological postings and appropriately control access to radiological areas, (4) failure to ensure proper operation of systems to prevent release of contamination from open-front boxes, air hoods and containment boxes, and (5) failure to perform correct unreviewed safety question (USQ) determinations.” “Although LANL is exempt from civil penalty by statute, because of the safety significance of these violations, DOE would have issued a proposed Imposition of Civil Penalty in the amount of \$112,500.”

Document(s):
DOE Press Release

13.
Singleton v. Regents of the University of California (Job Discrimination)
Date: 11/19/2003 (Date of Settlement Approval)
Misconduct Type: Labor
Contracting Party: N/A
Court Type: Civil
Amount: \$10,260,000
Disposition: Settlement

Synopsis: “The lawsuit was filed nearly five years ago, on December 23, 1998, charging that female Lab employees in a variety of job categories are paid and promoted less than male employees with comparable education and experience. One of the lawsuit’s main contentions is that the Lab has discriminated against women through a system which bases annual salary adjustments on an employee’s subjectively determined “Relative Value Rank” - a number which

supposedly reflects an employee's "value" to the Lab as compared to other employees. Plaintiffs allege that this system allows gender stereotyping and biases to influence decisions. The lawsuit also alleges that the Lab had documented, but failed to correct, discrimination against women for more than a decade."

Document(s):
Settlement Agreement

14.

Smyth v. Regents of the University of California (Labor Discrimination)

Date: 01/22/1998 (Date of Settlement)

Misconduct Type: Labor

Contracting Party: N/A

Court Type: Civil

Amount: \$2,200

Disposition: Settlement

Synopsis: "A complaint of discriminatory employment practices was filed by Larry D. Smyth on July 9, 1997 against his Employer, The Regents of the University of California, Los Alamos National Laboratory." The Regents agree to pay, and Smyth agrees to accept the sum of two thousand-two hundred dollars (\$2,200) in full and complete compensation of any and all claims he may have arising out of the above-captioned complaint and that said amount will be sent to Smyth's current address 6 Baya Road, Santa Fe, New Mexico 87505, by certified mail to be postmarked no later than five days after the effective date of this agreement. Further, it is understood and agreed to by Smyth that this entire amount of two thousand-two hundred dollars (\$2,200) represents payment for alleged

Document(s):
DOL Reporter

15.

Violations of Toxic Substances Control Act

Date: 05/07/2001 (Date of Fine)

Misconduct Type: Environment

Contracting Party: N/A

Court Type: Administrative

Amount: \$9,350

Disposition: Fine

Synopsis: "This case was initiated after inspections found that two PCB transformers at UCLA and one PCB transformer at UCSD were not registered with the EPA. The federal Toxic Substances Control Act (15 USC §§ 2601 et seq.) requires PCB transformer registration in order

to track the use and proper disposal of such equipment. Records are required to document the condition of the equipment and warnings are required to ensure workers and the public are aware that a hazardous substance is present.”

Document(s):
EPA Press Release

16.
Worker Safety Infractions
Date: 07/28/1998 (Date of Fine)
Misconduct Type: Labor
Contracting Party: N/A
Court Type: Administrative
Amount: \$0
Disposition: Fine

Synopsis: According to a Department of Energy enforcement action letter, “a series of [critical] safety infractions occurring between May and December 1997 [took place] in [a building] at the Lawrence Livermore National Laboratory (LLNL) [which is operated by the University of California]. [The building] is the central repository used to process and store [radioactive material]. During the period May 20 through July 15, 1997, Certified [Radioactive Material] Handlers violated criticality safety procedures for mass limits and form controls 12 times. Subsequent to these violations, the operations at [the building] were curtailed by LLNL, but [radioactive material] movements that were still allowed resulted in additional violations of criticality safety procedures. In October 1997, [radioactive material] parts were received at the [] storage vaults, [building], and placed into storage in a vault location which violated the mass limits, criticality safety controls for the vaults. A subsequent review by your staff of vault storage compliance to criticality safety controls identified an additional ten criticality safety control infractions in the vaults. Finally, in December 1997 during a limited operation to repackage and ship [radioactive material], a criticality safety control was violated when [radioactive material] was removed from a sealed metal container.” “LLNL is exempt from civil penalty by statute; however, because of the safety significance of these violations, DOE would have issued a Proposed Imposition of Civil Penalty in the amount of \$153,750.”

Document(s):
DOE Press Release