

June 2, 2008

University of California System  
1111 Franklin Street  
Oakland, CA 94607-5200

Dear Sir or Madam:

Sometime in the next few weeks, the Project On Government Oversight (POGO) will update its Federal Contractor Misconduct Database (<http://www.contractormisconduct.org/>), a compilation of information from public resources regarding government contractors, including the University of California System. On October 18, 2005, December 2, 2005 and November 14, 2006, we sent the University of California information regarding findings in POGO's database. As of today, we have not received a response from you. I have enclosed the findings relevant to your company, and I am seeking verification of this data.

Any response would be greatly appreciated, as the accuracy of this information is in the best interest of all parties. Out of fairness to the University of California, please be assured that any response received by POGO will be posted on the website along with the data.

The biggest change we will be making to the database is the inclusion of more federal contractors (the top 100). We are also adding new instances that we have found in recent months and updating instances already in the database with new information. Please note that the database also includes pending instances, but these are kept separate from resolved instances and are not included in the totals.

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

Sincerely,

Neil Gordon  
Investigator

Enclosure

## **Instances**

### 1. DOE Rule Violations at Lawrence Livermore Lab

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

Misconduct Type: Environment

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$82,500

Disposition: Fine

Synopsis: A Department of Energy investigation of the Lawrence Livermore National Laboratory, which is operated by the University of California, found likely violations of 10 CFR 830.120 (Quality Assurance Rule). "These violations...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."

### 2. Unauthorized Staging and Storage of Transuranic Waste at Los Alamos Lab (2002)

Date: 12/17/2002 (Date of Enforcement Action)

Misconduct Type: Environment

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$220,000

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."

### 3. Excessive Radiological Exposure at Lawrence Livermore Lab (1998)

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

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$159,375

Disposition: Fine

Synopsis: The Department of Energy (DOE) evaluated the facts and circumstances surrounding the unplanned personnel contaminations/intakes at the University of California-operated Lawrence Livermore National Laboratory's (LLNL) Hazardous Waste Management Facilities on July 2, 1997, where five workers were exposed to an excessive amount of radiological material. The DOE concluded that violations of nuclear safety requirements likely occurred. Although LLNL is exempt from civil penalty by statute, the DOE would have issued a civil penalty in the amount of \$159,375.

#### 4. Failure to Obtain Export Licenses (Los Alamos and Lawrence Livermore Labs)

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

Misconduct Type: Import/Export

Enforcement Agency: Commerce

Contracting Party: Energy

Court Type: Administrative

Amount: \$0

Disposition: Administrative Agreement

Synopsis: The Department of Commerce reached an agreement with University of California-operated Los Alamos National Laboratory (LANL) and Lawrence Livermore National Laboratory (LLNL) 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."

#### 5. Medicare/Medicaid False Billings

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

Misconduct Type: Government Contract Fraud

Enforcement Agency: Health and Human Servs.

Contracting Party: Health and Human Servs.

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."

#### 6. Labor Discrimination at Los Alamos Lab (1998)

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

Misconduct Type: Labor  
Enforcement Agency: Labor  
Contracting Party: Energy  
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."

#### 7. Labor Discrimination (1997)

Date: 01/06/1997 (Date of Settlement)  
Misconduct Type: Labor  
Enforcement Agency: EEOC  
Contracting Party: None  
Court Type: Civil  
Amount: \$113,098  
Disposition: Settlement

Synopsis: The "Justice Department alleged that the University's Art History Department discriminated against [Maribeth] 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."

#### 8. Radiation Protection Deficiencies at Lawrence Livermore Lab (2003)

Date: 09/03/2003 (Date of Preliminary Notice of Violation)  
Misconduct Type: Labor  
Enforcement Agency: Energy  
Contracting Party: Energy  
Court Type: Administrative  
Amount: \$137,500  
Disposition: Fine

Synopsis: The Department of Energy issued a Preliminary Notice of Violation (PNOV) to the Lawrence Livermore National Laboratory (LLNL), which is operated by the University of California, for radiation protection deficiencies associated with purification work conducted at the lab in June 2002 that resulted in significant radiological overexposure to one worker. Although LLNL is exempt from civil penalty by statute, the DOE would have issued a civil penalty in the amount of \$137,500.

9. Radioactive Material Exposure at Los Alamos Lab (2001)

Date: 01/19/2001 (Date of Fine)

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$605,000

Disposition: Fine

Synopsis: According to the Department of Energy, “eight workers from [the University of California-operated Los Alamos National Laboratory] 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.”

10. Radiological Protection Program Issues at Los Alamos Lab (2004)

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

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$770,000

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) [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.”

11. Radiological Violations at Los Alamos Lab (1999)

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

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$220,000

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.”

#### 12. Radiological Violations at Los Alamos Lab (1998)

Date: 09/21/1998 (Date of Fine)

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$112,500

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.”

#### 13. Singleton v. The University of California (Gender Discrimination at Lawrence Livermore Lab)

Date: 11/19/2003 (Date of Settlement Approval)

Misconduct Type: Labor

Enforcement Agency: Non-Governmental

Contracting Party: Energy

Court Type: Civil

Amount: \$10,600,000

Disposition: Settlement

Synopsis: In December 1998, six female employees at the Lawrence Livermore National Laboratory, which is operated by the University of California, filed a class action lawsuit alleging gender discrimination in pay and promotions. One of the plaintiffs' main contentions was that the lab discriminated against women through a subjective ranking system which allowed gender stereotyping and biases to influence decisions. The plaintiffs also alleged the lab had documented, but failed to correct, discrimination against women for more than a decade. The lawsuit was settled in November 2003 with the regents agreeing to pay over \$10.6 million and provide fair pay and promotions for thousands of female employees.

#### 14. Smyth v. Regents of the University of California (Labor Discrimination at Los Alamos Lab)

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

Misconduct Type: Labor

Enforcement Agency: Labor

Contracting Party: Energy

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... 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 personal injuries and is not compensation for work performed."

#### 15. Violations of Toxic Substances Control Act

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

Misconduct Type: Environment

Enforcement Agency: EPA

Contracting Party: None

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."

#### 16. Worker Safety Infractions at Lawrence Livermore Lab (1998)

Date: 07/28/1998 (Date of Fine)

Misconduct Type: Labor

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$153,750

Disposition: Fine

Synopsis: The Department of Energy (DOE) found a series of critical safety infractions occurring between May and December 1997 at the Lawrence Livermore National Laboratory (LLNL), which is operated by the University of California. During that time, radioactive material handlers repeatedly violated safety procedures regarding the moving and storage of radioactive material. LLNL is exempt from civil penalty by statute; however, the DOE would have issued a civil penalty in the amount of \$153,750.

#### 17. Nuclear Safety Violations at Los Alamos Lab (2007)

Date: 02/26/2007 (Date of PNOV)

Misconduct Type: Environment

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$1,100,000

Disposition: Fine

Synopsis: The Department of Energy's National Nuclear Security Administration notified the University of California of multiple nuclear safety violations that occurred at the Los Alamos National Laboratory in 2005. The Preliminary Notice of Violation (PNOV) cited multiple violations of the department's nuclear safety regulations regarding operational events and performance deficiencies at the lab. Due to the University of California's statutory exemption, no civil penalties were issued. However, the DOE would have issued a fine of \$1.1 million based on the number and severity of the violations.

#### 18. Los Alamos National Laboratory Classified Information Breach

Date: 07/13/2007 (Date of PNOV)

Misconduct Type: Poor Contract Performance

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Administrative

Amount: \$3,000,000

Disposition: Fine

Synopsis: The Department of Energy's National Nuclear Security Administration (NNSA) took formal enforcement actions against the University of California and Los Alamos National Security, LLC (LANS) [a joint venture comprised of Bechtel National, Inc., the University of California, BWX Technologies, Inc., and the Washington Group International, Inc.], the previous and current manager and operator of the Los Alamos National Laboratory in New Mexico, for violations of classified information security requirements. Management deficiencies of both contractors were found to be a central contributing factor in a laboratory subcontractor employee's unauthorized reproduction and removal of classified material from the site in October 2006. In response to this security breach, the NNSA issued a Preliminary Notice of Violation to the University of California with a \$3,000,000 proposed civil penalty (the largest the Department has ever assessed) and a Preliminary Notice of Violation to LANS with a \$300,000 proposed civil penalty.

#### 19. Violations of Classified Information Security Requirements at Los Alamos National Laboratory

Date: 09/28/2007 (Date of FNOV)

Misconduct Type: Poor Contract Performance

Enforcement Agency: Energy

Contracting Party: Energy

Court Type: Civil

Amount: \$2,800,000

Disposition: Fine

Synopsis: The Department of Energy's National Nuclear Security Administration (NNSA) issued a final notice of violation to the University of California for five violations of the department's classified information security requirements during the university's tenure as the management and operating contractor of the Los Alamos National Laboratory (LANL). The findings set forth in the FNOV are based upon investigation of an unauthorized reproduction and removal of classified matter from LANL discovered in October 2006. NNSA assessed a civil penalty of \$3,000,000. In December 2007, NNSA agreed to cut the penalty to \$2.8 million.