Differences Between FINAL LANL RFP and DRAFT LANL RFP

UPTE issued Comments on the DRAFT LANL RFP on 24 July 2017. In those Comments we highlighted six specific areas in the DRAFT where we wanted to see changes made. On 12 September three UPTE members of the Tri-Labs Committee met with the DOE/NNSA Contract Executives in Albuquerque to discuss with them our specific requests for changes. DOE/NNSA issued the FINAL LANL RFP on 26 October. In summary, these are the six changes we requested, and how the FINAL LANL RFP differs from the DRAFT LANL RFP.

1. We asked that additional proposal criteria be added, to evaluate the bid proposals on the basis of the proposers’ plans for achieving mission success. DOE/NNSA rejected this suggestion, and there is no change in the relevant section (Section M) of the RFP.

2. We asked that DOE/NNSA add independent evaluation of the bid proposals by outside experts. DOE/NNSA rejected this suggestion, and there is no change in the relevant sections of the RFP.

3. We asked that an additional criterion be added to the list of measures for mission success: engagement of the technical staff. DOE/NNSA rejected this suggestion, and there is no change in the relevant section of the RFP (Section J-A1, Chapter 3.2).

4. We asked that the language on retaining the incumbent workforce in the transition be strengthened. During our meeting in Albuquerque the DOE/NNSA executives pointed out to us that language on “right of first refusal” was already in the DRAFT. Indeed, it is (Section J-A1, Chapter 2), so no change was made in the FINAL.

5. We asked that more specific language be added on requiring the contractor to continue the current LANS TCP-1 and TCP-2 retirement plans. This was done. This language is now in Section J-A3, Chapter 6. There was no draft issued of Section J-A3; only drafts of Sections J-A1, L, and M were issued originally.

6. We asked that a requirement be added for external reviews of wage payment laws. DOE/NNSA rejected this suggestion, and there is no change in the relevant section of the RFP (Section J-A1, Chapter 3.1).

There were two other issues that we highlighted in the Comments and in our meeting on 12 September, both of which resulted in significant changes in the FINAL LANL RFP --- one good, one bad.

First, the bad. The most significant change in this LANL RFP from the RFP of ten years ago when LANL was last put up for bid, is the restructuring of the contract to be largely a fixed-fee contract, with the fixed fee capped at 1%. There was also an award fee, capped at 0.5% in the DRAFT. All the verbiage about Performance-Based Incentive (PBI) bonuses that was in the former LANL and LLNL RFPs was now completely gone. Since the principal thrust of our ten-year campaign for labs de-privatization was that the PBI bonuses were at the root of the labs’ problems, we were very pleased to see this change, and we said so to DOE/NNSA. One of our principal motivations for meeting with them was to stiffen their spines against considerable push back they were getting from potential for-profit bidders and from New Mexico elected
officials to preserve the old fee structure. Hence, we are pleased to report that the FINAL LANL RFP does preserve the fixed-fee cap of 1%. The bad news, though, is that the award fee cap was increased to 1.5% in the FINAL from 0.5% in the DRAFT (Section L, Attachment H). This is disappointing, partly undoing what was accomplished in the DRAFT.

Now, the good news. The DRAFT LANL RFP had some vague language about DOE/NNSA wanting a contractor who could bring about “organizational culture change” (particularly in Section L-15), without defining what was meant by this phrase. We, naturally, feared that without a clear definition a new contractor would be free to blame transitioning employees for the Lab’s problems and affect change by staging a massive layoff. We discussed this at some length with DOE/NNSA, and even gave them our views on what we would see as positive organizational culture change. This included “prioritizing safety and safety training, ending the outsourcing of hazardous work to poorly trained subcontractors, engaging the staff and technical workforce in helping to devise safe work practices ----.” We are very pleased to see that DOE/NNSA has added a whole new sub-section to the FINAL LANL RFP (Section H-20), entitled “ORGANIZATIONAL CULTURE CHANGE” (all caps in the RFP), that puts the priority, just as we urged, on safety, and demands that the contractor “promote an improved safety culture”.

Note that there was no draft of Sections B through H issued back in July. We are seeing these sections for the first time in the FINAL. So, it is impossible to say if Section H-20 was written in response to UPTE’s suggestions. We note, however, that these Sections are completely different than Sections B through H in both the LANL and LLNL RFPs of more than ten years ago. Those former RFPs did not have an “Organizational Culture Change” section; indeed, there was almost nothing about safe work practices in the former RFPs. Much of the former Sections B through H were taken up with details of how the PBI bonus system worked, and how the bonuses were determined. All of that stuff is now gone. On this basis we can conclude that our ten-year de-privatization campaign has succeeded at least in leveling the playing field for not-for-profit bidders.