RPM
Regulations and Procedures Manual

Approved by:

James T. Krupnick

Associate Laboratory Director for Operations

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Lawrence Berkeley National Laboratory / University of California

PUB-201

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Regulations and Procedures Manual

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Foreword

The purpose of the Regulations and Procedures Manual (RPM) is to provide Laboratory personnel with a reference to University and Lawrence Berkeley National Laboratory policies and regulations by outlining the normal practices and answering most policy questions that arise in the day-to-day operations of Laboratory departments. Much of the information in this manual has been condensed from detail provided in Laboratory procedure manuals, Department of Energy (DOE) directives, and Contract DE-AC02-05CH11231. This manual is not intended, however, to replace any of those documents.

The sections on personnel apply only to employees who are not represented by unions. Personnel policies pertaining to employees represented by unions may be found in their labor agreements.

Questions concerning policy interpretation should be directed to the department responsible for the particular policy. A link to the Managers Responsible for RPM Sections is available on the RPM home page. If it is not clear which department should be called, please contact the Associate Laboratory Director of Operations.

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Definition of Terms in the RPM

Rev. 12/08

In using the Regulations and Procedures Manual, the user should interpret the following terms as indicated below:

1. *University*. The University of California, represented by The Regents of the University of California and/or the University officers.
2. *DOE or Contracting Officer*. The United States Department of Energy (DOE), represented by the Manager of the Oakland Operations Office or his or her designated alternates.
3. *Lawrence Berkeley National Laboratory, Berkeley Lab, or the Laboratory*. These terms are used interchangeably, and all mean Lawrence Berkeley National Laboratory of the University of California.
4. *DOE/LBNL Contract*.The contract between the Regents of the University of California and DOE for operating Berkeley Lab is Contract No. DE-AC02-05CH11231. The term "the DOE/LBNL Contract" refers to this contract.
5. *Employee and Guest Categories*. Throughout the RPM, references are made to various types of individuals, primarily in terms of personnel matters, site access, pay, and travel. Generally, these individuals are either employees or guests. The following lists consolidate the various definitions and cite the sections containing each definition:

Employment-Related Terms

Confidential Employees. Employees who hold positions requiring access to confidential information used for meeting and conferring. See RPM §2.19(B)(2) (*Definitions*).

Exempt Employees. Exempt employees are defined as employees who, based on duties performed and manner of compensation, shall be exempt from the Fair Labor Standards Act (FLSA) minimum wage and overtime provisions. Because of hourly pay practices, an employee appointed to work a variable-time schedule in an exempt title shall be treated as a non-exempt employee subject to FLSA minimum wage and overtime provisions.

Exempt employees shall be paid an established monthly or annual salary and are expected to fulfill the duties of their positions regardless of hours worked. Exempt employees are not eligible to receive overtime compensation or compensatory time off, and are not required to adhere to strict time, record keeping, and attendance rules for pay purposes. Exempt titles are identified in University-wide title and pay plans.

Managers. Employees responsible for formulating or administering policies and programs of the Laboratory. See RPM §2.19(B)(1) (*Definitions*).

Non-exempt Employees. Non-exempt employees are defined as employees who, based on duties performed and manner of compensation, shall be subject to all FLSA provisions. Because of hourly pay practices, an employee appointed to work a variable time schedule in an exempt job classification shall be treated as a non-exempt employee subject to FLSA minimum wage and overtime provisions.

Non-exempt employees shall be required to account for time worked on an hourly and fractional hourly basis and are to be compensated for qualified overtime hours at the premium (time-and-one-half) rate. Non-exempt titles are identified in title and pay plans.

Represented Employees. Employees in classifications represented by an agreement negotiated with a union and not excluded as managerial, supervisory, or confidential employees (see respective labor agreements for terms and conditions of employment).

Supervisory Employees. Individuals, regardless of job description or title, who directly supervise two or more employees and who have (1) authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or (2) responsibility to direct them, adjust their grievances, or effectively recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. See RPM §2.19(B)(3) (*Definitions*).

Guests

Casual Visitors. Individuals visiting the Laboratory for one week or less who are not engaged in Laboratory research or use of Laboratory facilities. See RPM §1.06(A)(2) (*Casual Visitors*). Included in this category are those who are giving or attending seminars, those who are visiting the Laboratory for limited scientific discussions or as nonparticipants solely to observe research in progress, radiotherapy patients, job seekers, tour groups, employee family/friends, retired employees with occasional reason to visit the site, and the press.

Interviewees. Job applicants visiting the Laboratory for the purpose of a personal interview as part of the selection process for employment. See RPM §11.08(N)(1) (Non-Laboratory Personnel/Interviewees).

Invited Guests. Individuals invited to attend a meeting, present a lecture, or conduct a seminar at the Laboratory who will receive an honorarium or payment for travel expenses. See the Financial Policies and Procedures Manual for specific information on Honoraria and Non-Employee Stipends.

Participating Guests. Non-Laboratory employees who are engaged on site in Laboratory activities and who fall into one or more of the following categories:

1. **Users.** Individuals visiting the Laboratory to use Laboratory User Facilities, defined as "designated user facilities" or "other user resources" by DOE's Office of Science.
2. **NERSC Users.** Individuals using National Energy Research Scientific Computing Center (NERSC) facilities either remotely or while visiting the Laboratory.
3. **Scientific Collaborators.** Individuals visiting the Laboratory who are engaged in Laboratory-approved research, testing, or analysis either through "hands-on" activities or collaborative discussions with Laboratory employees. Included in this category are faculty and students from other University of California facilities and other educational institutions, fellowship students, postdoctoral fellows, research fellows, and other professionals having adequate training and experience and meeting high professional standards in their fields.
4. **Student Guests.** Individuals who are students under the direct supervision of a division to which the student is attached.
5. **Nonscientific.** Individuals who have been assigned to Berkeley Lab as their place of work either as employees of temporary employment services/agencies or as contract labor employees.
6. **Consultants.** Individuals who have entered into a consultant agreement with Berkeley Lab under the terms of RPM §11.04 (*Consultants to Lawrence Berkeley National Laboratory*).
7. **Guest Researchers**. Research personnel and students in cooperative work programs, including foreign nationals, invited to participate in a Laboratory project as nonemployees. See RPM §1.06(A)(3) (*Participating Visitors*).

RPM Changes

DISCLAIMER: The CSO/RPM staff does not create or interpret policy for the RPM. Responsible Managers initiate all changes, except when an annual “snapshot” edit is being performed by CSO to look for errors in the existing RPM content.

The following terms and definitions are useful for LBNL managers who are responsible for the policies contained in the RPM:

1. **Responsible Manager.** LBNL employees who are responsible for formulating and administering policies of the Laboratory, and ensuring that the RPM sections describing these policies are accurate and up to date.

2. **CSO/RPM Editor.** The writer and editor from the Creative Services Office who, at the request and approval of responsible managers and Operations, is responsible for updating RPM sections, archiving changes to the RPM Web document, reviewing the RPM during the annual Snapshot, and editing quarterly Policy and Procedure memos for publication in *Today at Berkeley Lab*.

3. **CSO/RPM Managing Editor.** Coordinates the policy manual with responsible managers to maintain policies that are current, and to make sure the Lab has an up-to-date manual, at any time. Generates RPM status reports on request. Works with RPM Editor to refine and monitor RPM processes.

4. **Major Change.** Major changes affect Laboratory policies, and therefore require the Associate Laboratory Director of Operations' approval before they are sent to the CSO/RPM Editor for publication in the RPM.

   The following are examples of major changes:

   - The addition of a new RPM chapter (e.g., Chapter 11) or section (e.g., Section 2.28) to implement a new policy or policy revisions. The new policy or policy revisions may impact other policies cited in the RPM or other Laboratory policy manuals (e.g., The Health and Safety Manual (PUB-3000), the Financial Policies and Procedures Manual, etc.).

   - The removal of an RPM chapter, section, or policies and procedures described in an RPM chapter or section to another RPM chapter or section, or to another LBNL institutional document, e.g., The Health and Safety Manual (PUB-3000), the Finance Policies and Procedures Manual, etc.

   - The deletion of an RPM chapter or section.

   - The revision of an existing chapter or section to implement a new policy or policy revisions. The new policy or policy revisions may impact other policies cited in the RPM or other Laboratory policy manuals (e.g., The Health and Safety Manual (PUB-3000), the Financial Policies and Procedures Manual, etc.).

5. **Major Change Requiring a 30-Day Notice.** Major changes that involve HR policy and have an affect on employment terms need to be announced in *Today at Berkeley Lab (TABL)*. Employees are given 30 calendar days from the date the notice was published in *TABL* to review the proposed changes, and to send their comments and questions to the HR policy contact person. Major changes that require a 30-day notice also require the Associate Laboratory Director of Operations' approval before they are sent to the CSO/RPM Editor for publication in the RPM.

6. **Minor Change.** Minor changes do not affect policies, and therefore do not require the Associate Laboratory Director of Operations' approval before being sent to the CSO/RPM Editor for publication in the RPM. Minor changes are made to reflect current practices, responsibilities in reporting, department names, etc.

   The following are examples of minor changes:

   - Updates to data, tables, or figures in an RPM chapter, section, or paragraph.

   - The addition or revision of a few sentences or paragraphs to existing RPM chapters, sections, or paragraphs to clarify policy that's already been approved by the Associate Laboratory Director of Operations.

Guide to Using the On-Line RPM

The basic unit of the on-line RPM is the section, e.g., RPM §1.02 (*Administrative Announcements and Directories*). The revision date for each section appears below the title block at the beginning of the section and applies to the entire section. Subsections are called paragraphs.

Printing from the Web

Before you print from your browser, you may have to change the size of the browser window. If the window is too wide, text along the right-hand edge will be cut off. Even the default window width in many browsers will cut off text in printing. If this occurs, narrow the width of the browser window (drag the window's lower right-hand corner to the left) and try again.

You can easily print an entire section of the RPM with your Web browser. To do so, do not specify a page range in the print dialog box. You may also be able to print individual parts of a section by specifying a page range, but be aware: the results will depend on such things as your printer driver and your printer. If your browser will only print entire sections, you can still print a specific part of a section by copying that part into a word-processing file and printing it through your word processor. Here's how:

1. Select the text you want to print by highlighting it. Remember that the revision date for the section occurs only below the title block at the beginning of the section.
2. Copy the selection to the clipboard.
3. Open a new document with a word-processing program.
4. Paste the contents of the clipboard (the text you selected) into the new document.
5. Print the new document.

Searching Web Version of RPM

At the bottom of this page and on the RPM Title Page, the Search the RPM link provides access to a tool that can search the Web version of the RPM for specific strings of characters. Some tips follow:

- Do not use punctuation in the search string.
- Make your search string fewer than 30 characters long.
- Type AND or OR in your search string to look for places where two different strings both occur or where one or the other occurs. Click on the Search the RPM link for directions.
- Type # in your search string to allow variability in that position of the string. For example, if you type "lead#s," the search engine will find strings containing "leads," "leaders," "leadership," and "lead time is." Click on the Search the RPM link for more information.

Changes to Web Version of RPM

The Web version of the RPM is updated frequently. The date of the last revision appears in the window's title bar and below the title block. The following flags are used to show where the latest changes can be found:

Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

For questions or comments about updating an RPM section or about the RPM Web site, contact the RPM editors in the Creative Services Office:

Julie Chao
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Berkeley Lab
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Berkeley, CA 94720
Telephone: (510) 486-6491
Fax: (510) 486-5333

Theresa Duque
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One Cyclotron Road, Mail Stop 46R0125
Berkeley, CA 94720
Telephone: (510) 486-2418
Fax: (510) 486-5333

For technical questions about the World Wide Web or your browser, contact the Help Desk at 510-486-HELP (486-4357) or visit their web site at http://www.lbl.gov/cs/help/.

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Procedures for Submitting Changes to Update the RPM

Revised 03/07

Responsible Managers initiate updates when there are (1) changes in applicable laws, regulations, directives, or University of California policies; or (2) changes in Berkeley Lab organizations, operational activities, or business approach. There are three types of changes. Click on the appropriate type to view the procedures for making these changes:

1. Workflow for RPM Major Changes
   Go here to see a definition of a Major Change.

2. Workflow for Human Resources' RPM Major Changes Requiring 30-Day Notice to Lab Employees
   Go here to see a definition of a Major Change Requiring 30-Day Notice.

3. Workflow for Minor Changes
   Go here to see a definition of a Minor Change.

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1. Workflow for RPM Major Changes

Go here to see a definition of a Major Change.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. Offices contacted whose policies might be affected by the change:		
	3. Archived electronic approval signature from Associate Laboratory Director of Operations (ALDO).		
	4. Change sent to CSO editor.		
CSO	5. Uploaded Responsible Manager's requested changes		

	to the **RPM Hold** page.		
RM/D	6. Finalized change with CSO editor.		
	7. If required, send TABL blurb announcing policy change to CSO.		
CSO	8. With approval from RM/D, upload edited change to the RPM Web document.		
	9. If required, send edited TABL blurb to TABL editor. Confirm publication date.		
	10. Documented change in the RPM Update Log.		

2. Workflow for Human Resources' RPM Major Changes Requiring 30-Day Notice to Lab Employees

Go here to see a definition of a Major Change Requiring 30-Day Notice.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. Offices contacted whose policies might be affected by the change:		
	3. Archived electronic approval signature from Associate Laboratory Director of Operations (ALDO).		
	4. Proposed change sent to CSO editor.		

CSO	5. Uploaded Responsible Manager's requested changes to the **RPM Hold** page.		
RM/D	6. Finalized change with CSO editor.		
	7. Sent TABL blurb announcing proposed policy change to CSO editor.		
CSO	8. Sent edited notice to TABL editor, and confirmed publication date.		
	9. Uploaded change to the **Proposed Policy** page.		
	10. Tracked the beginning and ending date of 30-calendar-day notice, and sent dates to RM/D.		
RM/D	11. Significant changes needed due to employee feedback? Yes/No If yes, ALDO must review and approve new changes.		
	12. Finalized change with CSO editor when 30-calendar-day notice ends.		
	13. Sent TABL blurb announcing new policy to CSO editor.		
CSO	As directed by RM/D when the 30-calendar-day notice ends:		
	14. Uploaded change to the RPM Web document.		
	15. Sent edited TABL announcement to TABL editor. Confirmed publication date.		
	16. Documented change in the RPM Update Log.		

3.Workflow for RPM Minor Changes

Go here to see a definition of a Minor Change.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. If necessary, archived documents that show reason for minor change.		
	3. Change sent to CSO editor.		
CSO	4. Uploaded Responsible Manager's requested changes to the **RPM Web document.**		
	5. Documented change in the RPM Update Log.		

Managers Responsible for RPM Sections

Rev. 1/09

Section	Section Title	Position Title	Approver
§1.01	Manuals, Handbooks, and Similar Publications	Chief Information Officer	Rosio Alvarez
§1.02	Administrative Announcements and Directories [section deleted 09/07]	Chief Information Officer	Rosio Alvarez
§1.03	Plant Construction, Maintenance, and Service	Facilities Division Director	Jennifer Ridgeway
§1.04	Operation and Parking of Motor Vehicles and Bicycles	Manager, Security & Emergency Operations	Dan Lunsford
§1.05	Use of Official Vehicles	Facilities Division Director	Jennifer Ridgeway
§1.06	Laboratory Site Access	Manager, Security & Emergency Operations	Dan Lunsford
§1.07	Laboratory-Hosted (Funded) Meetings [Moved to §11.01 on 4/12/07]	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§1.08	Laboratory-Hosted (Funded) Conferences [Moved to §11.02 on 4/12/07]	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§1.09	Open Meetings [Section deleted 06/08]	Chief Human Resources Officer	Vera Potapenko
§1.10	Conference Rooms	Facilities Division Director	Jennifer Ridgeway

§1.11	Notary Public Service [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.12	Health Services	Environment, Health and Safety Division Director	Howard Hatayama
§1.13	Food Services	Facilities Division Director	Jennifer Ridgeway
§1.14	Credit Unions [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.15	Employee Activities Association [Section deleted 06/08]	Chief Human Resources Officer	Vera Potapenko
§1.16	Campus Facilities [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.17	Archives and Records Management	Chief Information Officer	Rosio Alvarez
§1.18	Solicitation and Acceptance of Gifts	Sponsored Projects Office Manager	Jeffrey Weiner
§1.19	Use of Laboratory Mail System	Facilities Division Director	Jennifer Ridgeway
§1.20	Space Management	Associate Laboratory Director for Operations	James Krupnick
§1.21	Berkeley Lab Stationery and Logos	Public Affairs Department Head	Jeff Miller
§1.22	Forms Management [section deleted 09/07]	Chief Information Officer	Rosio Alvarez
§1.23	Organizational Membership	Associate Laboratory Director for Operations	James Krupnick

§1.24	Metric Usage	Associate Laboratory Director for Operations	James Krupnick
§1.25	Institutional Committees	Deputy Director	Paul Alivisatos
§1.26	Financial Business [Moved to §11.03 on 4/12/07]	Chief Financial Officer	Jeffrey Fernandez
§1.27	Unified Project Call Process	Facilities Division Director	Jennifer Ridgeway
§2.01	Hiring Policies and Procedures	Chief Human Resources Officer	Vera Potapenko
§2.02	Transfer, Promotion, and Other Changes in Status [Moved to §2.01(C)(1) and §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§2.03	Employee Evaluations	Chief Human Resources Officer	Vera Potapenko
§2.04	Education and Employee Development	Chief Human Resources Officer	Vera Potapenko
§2.05(A)	Employee Relations/Areas of Responsibility	Chief Human Resources Officer	Vera Potapenko
§2.05(B)	Employee Relations/Early Problem Resolution	Chief Human Resources Officer	Vera Potapenko
§2.05(C)	Employee Relations/Corrective Action and Dismissal	Chief Human Resources Officer	Vera Potapenko
§2.05(D)	Employee Relations/Employee Complaint Resolution	Chief Human Resources Officer	Vera Potapenko
§2.05(E)	Employee Relations/University of California Procedures for Responding to Reports of Sexual Harassment	Chief Human Resources Officer	Vera Potapenko
§2.05(F)	Employee Relations/Violence in the Workplace	Chief Human Resources Officer	Vera Potapenko

§2.05(G)	Employee Relations/Employee Assistance Program	Chief Human Resources Officer	Vera Potapenko
§2.05(H)	Employee Relations/Reasonable Accommodation [Note: This section has been moved to §2.01(B)(4).]	Chief Human Resources Officer	Vera Potapenko
§2.05(I)	Employee Relations/Integrity in Research	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(J)	Employee Relations/Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy)	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(K)	Employee Relations/Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy)	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(L)	Employee Relations/Unauthorized Absences and Job Abandonment	Chief Human Resources Officer	Vera Potapenko
§2.06	Compensation Program	Chief Human Resources Officer	Vera Potapenko
§2.07	Professional Research Staff	Chief Human Resources Officer	Vera Potapenko
§2.08	Vacation Leave	Chief Human Resources Officer	Vera Potapenko
§2.09	Sick Leave	Chief Human Resources Officer	Vera Potapenko
§2.10	Holidays	Chief Human Resources Officer	Vera Potapenko
§2.11	Miscellaneous Leave With Pay	Chief Human Resources Officer	Vera Potapenko
§2.12	Leave of Absence Without Pay	Chief Human Resources Officer	Vera Potapenko

§2.13	Family Care and Medical Leave	Chief Human Resources Officer	Vera Potapenko
§2.14	Military Leave	Chief Human Resources Officer	Vera Potapenko
§2.15	Workers' Compensation Insurance	Environment, Health and Safety Division Director	Howard Hatayama
§2.16	Group Insurance and Retirement Plans [Section deleted 4/1/08]	Chief Human Resources Officer	Vera Potapenko
§2.17	Employee Records	Chief Human Resources Officer	Vera Potapenko
§2.18	Regulations Implementing University of California Policies Applying to Campus Activities, Organizations, and Students	Chief Human Resources Officer	Vera Potapenko
§2.19	Rules and Regulations on Relations with Employee Organizations	Chief Human Resources Officer	Vera Potapenko
§2.20	Outside Employment and Business Activities [Moved to §10.02 in 08/06]		
§2.21	Terminations	Chief Human Resources Officer	Vera Potapenko
§2.22	Severance Payments [Moved to §2.06(C)(4) in 12/08]	Chief Human Resources Officer	Vera Potapenko
§2.23	Miscellaneous	Chief Human Resources Officer	Vera Potapenko
§2.24	Consultants to Lawrence Berkeley National Laboratory [Moved to §11.04 on 4/12/07]	Procurement and Property Manager	Derrol Hammer
§2.25	Honoraria and Stipends for Laboratory Guests [Honoraria moved to §11.29, and Stipends for Laboratory Guests to §11.33 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§2.26	Catastrophic Leave Sharing	Chief Human Resources Officer	Vera Potapenko

§2.27	Upper Laboratory Management	Chief Human Resources Officer	Vera Potapenko
§2.28	[Section being developed.]	Chief Human Resources Officer	Vera Potapenko
§2.29	Work Deferment Policy	Chief Human Resources Officer	Vera Potapenko
§3.01	Definitions [moved to "Definition of Terms in the RPM" and §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§3.02	Time Reporting [Moved to §11.05 in 04/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§3.03	Overtime	Chief Human Resources Officer	Vera Potapenko
§3.04	Special Pay Provisions [Moved to §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§3.05	Pay Periods, Computations, and Deductions [Moved to §11.06 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§3.06	Paydays and Check Distributions [Moved to §11.07 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§4.01	Relocation Policy	Chief Human Resources Officer	Vera Potapenko
§4.02	Relocation [section moved to §4.01 on 5/16/08]	Chief Human Resources Officer	Vera Potapenko
§4.03	Shipment of Household Goods [section deleted on 5/16/08]	Chief Human Resources Officer	Vera Potapenko
§5.01	Public Information and External Relations	Public Affairs Department Head	Jeff Miller

§5.02	Scientific and Technical Publications	Chief Information Officer	Rosio Alvarez
§5.03	Patents	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.04	Printing	Public Affairs Department Head	Jeff Miller
§5.05	Licensing Income Distribution	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.06	Proprietary Information from External Sources	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.07	Disclosure of Laboratory Proprietary Information	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.08	Document Management and Control	Chief Information Officer	Rosio Alvarez
§6.01	Obtaining Goods and Services [Moved to §11.38 on 4/12/07]	Procurement and Property Manager	Derrol Hammer
§6.02	Use of Laboratory Property and Supplies [Moved to §11.39 on 4/12/07]	Property Manager	John Morgan
§6.03	Property Management [Moved to §11.40 on 4/12/07]	Property Manager	John Morgan

§7.01	Environment, Safety, and Health	Environment, Health and Safety Division Director	Howard Hatayama
§8.01	Quality Assurance	Assurance and Quality Program Manager	Melanie Gravois
§9.01	Computing and Communications	Chief Information Officer	Rosio Alvarez
§9.02	Operational Procedures for Computing and Communications	Chief Information Officer	Rosio Alvarez
§10.01	Conflict of Interest — General	Research and Institutional Integrity Manager	Meredith Montgomery
§10.02	Outside Employment and Employee Business Activities	Research and Institutional Integrity Manager	Meredith Montgomery
§10.03	Self-Disqualification and Conflict of Interest for Designated Officials	Research and Institutional Integrity Manager	Meredith Montgomery
§10.04	Employment of Near Relatives and Domestic Partners	Chief Human Resources Officer	Vera Potapenko
§10.05	General Research Related Conflict of Interest	Research and Institutional Integrity Manager	Meredith Montgomery
§10.06	Federal Financial Disclosure	Research and Institutional Integrity Manager	Meredith Montgomery
§10.07	State of California Financial Disclosure	Research and Institutional Integrity Manager	Meredith Montgomery
§10.08	Technology Transfer/Cooperative Research and Development Agreement (CRADA)	Sponsored Projects Office Manager	Jeff Weiner

§10.09	Human Subjects Conflict of Interest	Lead Compliance Specialist, HARC	Chris Byrne
§10.10	Disclosure of Laboratory Proprietary Information	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§10.11	Disclosure of Financial Interests Relating to Licensing	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§11.01	Laboratory-Hosted (Funded) Meetings	Operations Manager, Office of the Chief Financial Officer	Anil Morè
§11.02	Laboratory-Hosted (Funded) Conferences	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.03	Financial Management	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.04	Consultants to Lawrence Berkeley National Laboratory	Procurement and Property Manager	Derrol Hammer
§11.05	Time Reporting	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.06	Pay Periods, Computations, and Deductions	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.07	Paydays and Check Distributions	Controller, Office of the Chief Financial	Jeanne Kissel

		Officer	
§11.08	Travel Policy	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.09	Nonstandard Financial Billing and Payment Terms for Work for Others	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.10	Laboratory Food Service (Meals and/or Refreshments)	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.11	Financial Management Roles and Responsibilities	Manager, Field Operations	Doug Goodman
§11.12	Account Reconciliations	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.13	Accounting for Excess Stores Inventory	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.14	Accrued Liabilities	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.15	Advance Payment Requirement for Non-Federal Work for Others (WFO) Sponsors	Field Operations Manager, Office of the Chief Financial Officer	Doug Goodman
§11.16	Allowance for Doubtful Accounts	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.17	Allowance for Loss on Stores Inventory	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.18	Audit Resolution and Follow-Up	Operations Manager,	Anil Moré

		Office of the Chief Financial Officer	
§11.19	Bridge Funding	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.20	Capital Equipment Fabrications	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.21	Compensation above Salary Limits for WFO Agreements	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.22	Construction Work in Progress (CWIP) Policy	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.23	Cost Allowability	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.24	Financial Certifications by Laboratory Officials for Select Work for Others Award Documents	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.25	Financial Management of Contractor Supporting Research (CSR) Program	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.26	Financial Management of Monetary Gifts	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.27	Financial Systems Data Field Changes	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.28	G&A Expenses	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner

§11.29	Honoraria	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.30	Invoice Cancellation	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.31	Invoice Certifications	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.32	Miscellaneous Invoice Requests	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.33	Stipends for Non-Employee	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.34	Office of Homeland Security Charge	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.35	Organization Burden	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.36	Business System Ownership	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.37	Write Off Accounts Receivable	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.38	Obtaining Goods and Services	Procurement and Property Manager	Derrol Hammer
§11.39	Use of Laboratory Property and Supplies	Property Manager	John Morgan
§11.40	Property Management	Property Manager	John Morgan

§11.41	Recharges	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.42	Resource Adjustments	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.43	Signature Authority for Financial Transactions	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.44	Sponsored Projects Office (SPO)	Sponsored Projects Office Manager	Jeffrey Weiner
§11.45	Stop Work Process for Funds Control Compliance	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.46	Technology Transfer Courses	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.47	WN Funding Requests	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.48	Workers' Compensation	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.49	FMS User Access Control	Operations Manager, Office of the Chief Financial Officer	Anil Moré

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RPM Update Log for 2009

Below is a log of the changes and additions to the Web version of the RPM from January 1, 2009, through the present.

Changes made to the RPM before January 1, 2009, can be found in the **RPM Archive Log**.

Section / Paragraph No.	Section / Paragraph Name(s)	Change	Revision Date
§1.01(I)	Manuals, Handbooks, and Similar Publications / Laboratory Assurance and Quality Management Plan	Section title changed from "Laboratory Assurance and Quality Management Plans" to "Laboratory Assurance and Quality Management Plan." Section revised to be consistent with Lab's suite of quality management plans (Operating and Quality Management Plan (PUB-3111) and the UC Assurance Plan (PUB-5520).	01/16/09
§1.03	Plant Construction, Maintenance, and Service	New paragraph (E)(*Categorization of Lock and Key Levels*) added to clarify policy regarding lock and key levels, and Paragraph (C) revised to designate responsibility of LBNL organizations for such a policy.	04/03/09
§1.06	Laboratory Site Access	Section revised to clarify short-term (casual) visitor policy.	02/24/09
§2.01(A)	Employment / Applicability	Paragraph (A) formerly called "Nondiscrimination." Policy updated.	05/13/09
§2.01(B)	Employment / Nondiscrimination and Harassment	Paragraph (B) formerly called "Affirmative Action." Policy updated.	05/13/09
§2.01(C)	Employment / Affirmative Action and Equal Employment Opportunity	Paragraph (C) formerly called "Recruitment and Selection." Policy updated.	05/13/09
§2.07	Professional Research Staff	Updated due to new section, §2.28 (Postdoctoral Fellows).	05/07/09
§2.07(B)(1)(b)	Professional Research Staff / Membership of the Laboratory Staff Committee	Updated policy regarding eligibility requirements for Laboratory Staff Committee membership.	05/05/09
§2.08(B)(5)	Vacation Leave Accrual Rates / Limited Employees and Employees Working Variable Time Schedules	Converted to table format for ease of use.	01/21/09
§2.10(C)(1)	Holidays / Holiday Pay Policy for PT Employees / Variable Hour Schedules	Link to 3.01(C)(3) deleted, as it no longer exists.	02/26/09
§2.21(E)	Terminations / Medical Separation	Technical changes to medical separation policy.	04/13/09
§2.27(A)(1)	Upper Laboratory Management / UC-Managed DOE National Laboratories Policy on At-Will Upper	Updated link to Personnel Policy for Staff Members, Appendix II.	02/26/09

	Management Personnel / General		
§2.28	Postdoctoral Fellows	New section.	05/06/09
§3.03	Overtime	Moved to 11.06(D) (Reporting of Overtime).	03/06/09
§10.02(E)	Outside Employment and Employee Business Activities / Teaching for the University of California	Updated link to "Request to Teach at UC" form.	03/05/09
§11.05(E)	Time Reporting / Certification of Time Reports	Revised to update policy regarding time reporting policy for Graduate Student Research ASsistants (GSRAs).	01/16/00
§11.06	Pay Periods, Computations, and Deductions	Section moved to the Financial Policy and Procedures Web site.	05/21/09
§11.06(C)	Pay Periods, Computations, and Deductions / Payroll Deductions	Revised to update policy regarding payroll deductions.	04/16/09
§11.06(D)	Pay Periods, Computations, and Deductions / Reporting of Overtime	New Paragraph (D) (Reporting of Overtime) added.	03/06/09
§11.08	Travel Policy	Moved to the Financial Policy and Training Web site.	02/20/09
§11.50	Requests for Issuance of Check (RFIC)	New Financial Policies and Procedures policy.	Effective 03/01/09

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Policy Notices

The content of these memos either will be or is reflected in an official Berkeley Lab policy document such as the Regulations and Procedures Manual (RPM) or PUB-3000, the Lab's Health and Safety Manual. See Policy and Procedure Memos Archive for previous years.

Proposed Policies for Review

2008-09

	Policy Type	P&P Title	Date Posted
1st Qtr			
1	Reminder	Outside Business Activities	10/8/08
2	New	Document Management and Control	10/21/08
3	Revised	Compensation Policy	12/19/08
2nd Qtr			
4	Proposed	Postdoctoral Fellows Policy	1/22/09
3rd Qtr			
5	Reminder	Nondiscrimination and Affirmative Action Policy	5/13/09
4th Qtr			
TBD			

NOTE: All Policy Reminder, Changes, and Proposed Changes are Published in the Berkeley Lab Online Newsletter, Today at Berkeley Lab

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Berkeley Lab Proposed Policies

A new Laboratory policy affecting the terms and conditions of employment that has been proposed appears below:

- *There are no proposed policies at this time.*

Policy and Procedure Notifications || RPM || Berkeley Lab

Questions and Comments

If you have questions or comments on the content of Regulations and Procedures Manual (RPM) Web pages (e.g., the policies and procedures published in the RPM), please contact the Responsible Manager who owns the RPM Chapter/Section in question.

If you have questions or comments on the technical aspects of these Web pages (e.g., nonworking links, links to obsolete pages, etc.), please contact one of the following persons:

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Chapter 1
General Administration and Services

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§1.03 Plant Construction, Maintenance, and Service

§1.04 Operation and Parking of Motor Vehicles and Bicycles

§1.05 Use of Official Vehicles

§1.06 Laboratory Site Access

§1.07 Laboratory-Hosted (Funded) Meetings (Moved to RPM §11.01)

§1.08 Laboratory-Hosted (Funded) Conferences (Moved to RPM §11.02)

§1.09 Open Meetings [Section deleted 06/08]

§1.10 Conference Rooms

§1.11 Notary Public Service [Section deleted 03/08]

§1.12 Health Services

§1.13 Food Services

§1.14 Credit Unions [Section deleted 03/08]

§1.15 Employee Activities Association [Section deleted 06/08]

§1.16 Campus Facilities [Section deleted 03/08]

§1.17 Archives and Records Management

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§1.19 Use of Laboratory Mail System

§1.20 Space Management

§1.21 Berkeley Lab Stationery and Logos

§1.22 Forms Management [Section deleted 09/07]

§1.23 Organizational Membership

§1.24 Metric Usage

§1.25 Institutional Committees

§1.26 Financial Management (Moved to RPM §11.03 and the Financial Policy and Procedures Manual)

§1.27 Unified Project Call Process

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Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

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§1.01
Manuals, Handbooks, and Similar Publications

Responsible Manager

Rev. 1/09

A. General
B. Contract Number DE-AC02-05CH11231 (the DOE/LBNL Contract)
C. Regulations and Procedures Manual (RPM)
D. Procurement Policy and Standard Practices Manual
E. Safety Manuals
F. Emergency Plans
G. Property Guide
H. Security Program Plans
I. Laboratory Operating and Quality Management Plan
J. Laboratory Environment, Safety, and Health Self-Assessment

A. GENERAL

This section describes core policy and program documents of Lawrence Berkeley National Laboratory. Documents in this section are considered controlled documents and must be managed in accordance with Laboratory Document Control Procedures. As noted in the Foreword to the RPM, internal policy documents do not replace governing Directives, the Prime Contract, or applicable Law.

B. CONTRACT NUMBER DE-AC02-05CH11231 (THE DOE/LBNL CONTRACT)

The DOE/LBNL Contract is the performance based management and operating contract between the Department of Energy (DOE) and the Regents of the University of California for the management of Berkeley Lab. It is the primary governing document that sets the mission of the Laboratory, provides the basis for Berkeley Lab's policies and procedures, and includes:

- DOE directives (orders) that pertain to the Laboratory.
- The contractual terms and conditions governing the Laboratory's operations in areas such as human resources; finance; procurement; environment, safety, and health; technology; facilities; and legal (e.g., intellectual property).
- The annual performance measures against which Berkeley Lab is evaluated by DOE.

The DOE/LBNL Contract is available online from the University of California Office of the President's Laboratory Administration Office. It is controlled via a modification process defined in the Contract.

C. REGULATIONS AND PROCEDURES MANUAL (RPM)

This Regulations and Procedures Manual (RPM) serves as a reference for guidelines, rules, and general business practices for Laboratory personnel and is available on the Web. Questions concerning policy interpretation, regulation applicability, or allowability of activities should be directed to the manager responsible for the particular RPM section, as designated in Managers Responsible for RPM Sections.

D. PROCUREMENT POLICY AND STANDARD PRACTICES MANUAL

The University of California Laboratory Procurement Standard Practices Manual implements policies of the University of California and sets forth the standard practices for the Laboratory's procurement system. The purpose of the procurement system is to ensure that goods and services required by the Laboratory are obtained in an economical, efficient, and timely manner while meeting the requirements of the Laboratory's Prime Contract. The purpose of the Standard Practices (SPs) is to ensure consistent application of the policies and procedures of the University of California.

Laboratory personnel who perform procurement functions must be thoroughly familiar with this manual. Questions pertaining to the guide should be referred to the Office of the Chief Financial Officer/Procurement.

E. SAFETY MANUALS

1. Laboratory-wide Regulations

Laboratory-wide safety regulations are contained in the Health and Safety Manual (LBNL/PUB-3000). This manual contains statements on safety policy; chemical safety; electrical safety; the design, installation, and test of hazardous research equipment; and general safety recommendations for fire and accident prevention. Questions should be referred to the Environment, Health, and Safety Division.

2. Safety Documentation

Safety documentation for individual facilities is contained in Safety Analysis Documents (SADs), which describe mitigation and activities within the facility, and identify hazards. SADs are prepared by the operating division; reviewed by the Environment, Health, and Safety Division; and kept in the facility notebook.

F. EMERGENCY PLANS

1. Master Emergency Plan

The Master Emergency Plan describes how the Laboratory's resources are organized to respond to disasters such as a significant earthquake. The Master Emergency Plan is available online. The point of contact is the Laboratory Emergency Manager.

2. Business Continuity Plan

The Berkeley Lab Business Continuity Plan describes how key services will operate after the initial response to a major disaster. The Business Continuity Plan is available from the Business Continuity Program Manager.

G. PROPERTY GUIDE

The Property Manual describes the Laboratory's accounting system for property and the controls governing the acquisition, use, and disposition of property used in performance of Laboratory work. All Berkeley Lab personnel responsible for property management activities must be thoroughly familiar with this guide. Requests for copies and questions pertaining to the guide should be addressed to the Office of the Chief Financial Officer/Property Manager.

H. SECURITY PROGRAM PLANS

1. Site Security Plan

The Laboratory Site Security Plan describes the Lab's approach to physical security. The point of contact is the Security Manager.

2. Computer Security Program Plan

The Computer Security Program Plan describes the Lab's approach to cyber security. The point of contact is the Computer Protection Program Manager. A summary is available.

I. LABORATORY ASSURANCE AND QUALITY MANAGEMENT PLANS

1. Operating and Quality Management Plan

The Operating and Quality Management Plan (PUB-3111) specifies the Quality Assurance and Conduct of Operations requirements for all divisions of the Laboratory. Copies of this publication are available from the Office of Institutional Assurance (OIA). This Office will answer questions concerning the applicability of the Operating and Quality Management Program to particular activities.

2. University of California Assurance Plan

The University of California Assurance Plan (PUB-5520) is a set of operating systems used to ensure that LBNL organizations achieve reliable and safe performance in their work activities, and are in compliance with regulatory and contractual requirements. These systems apply to all Laboratory staff, participating guests, students, and subcontractors.

J. LABORATORY ENVIRONMENT, SAFETY, AND HEALTH SELF-ASSESSMENT PROGRAM IMPLEMENTATION PLAN

The Environment, Safety, and Health Self-Assessment Program (LBNL/PUB-5344) describes the Laboratory's program for ensuring compliance with environmental, safety, and health requirements, and for achieving quality assurance/conduct of operations performance objectives. This publication contains the procedures divisions must follow to implement the self-assessment program. The point of contact is the Office of Contract Assurance (OCA).

The Environment, Safety, and Health Self-Assessment Manual contains Berkeley Lab's self-assessment objectives and criteria and the procedures followed by divisions to develop their self-assessment programs. The point of contact is the the Office of Contract Assurance.

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§1.03
Plant Construction, Maintenance, and Service

Responsible Manager

Rev. 04/09

- **A. Plant Construction and Alterations**
- **B. Repair and Maintenance Work**
  - **1. General**
  - **2. Special Research Equipment**
- **C. Miscellaneous Services**
- **D. Response to Power Reduction Alerts**
- **E. Categorization of Lock and Key Levels**

A. PLANT CONSTRUCTION AND ALTERATIONS

The Facilities Division is responsible for all construction and alterations to Laboratory buildings, infrastructure, utilities, and building systems except for those systems specifically assigned to other divisions/departments (e.g., telephone and ProxCard). Requests for plant construction and alteration work are made to the Facilities Division's Work Request Center.

B. REPAIR AND MAINTENANCE WORK

1. General

The Facilities Division is responsible for maintenance and repair of plant facilities and equipment, including buildings, grounds, utility systems, roadways, walks, fences, and plant mechanical and electrical equipment. Requests for such work are made to the Facilities Division's Work Request Center.

2. Special Research Equipment

The Facilities Division performs maintenance and repair work on specialized research equipment when requested by a responsible member of the group having charge of the equipment. Requests for such work are made to the Facilities Division's Work Request Center.

C. MISCELLANEOUS SERVICES

Service functions are assigned to the divisions shown in RPM Table 1.03(C) (*Service Functions*).

Table 1.03(C)
Service Functions

Type of service	Division responsible
Vehicle Fleet Operations	Facilities
Bus Service	Facilities
Nonstandard Vehicle Operator's Certification	Environment, Health, and Safety
Locksmith and Key Issuance and Records	Facilities* (see note below)

Electric Light Service	Facilities
Building Custodial Service	Facilities
Groundskeeping	Facilities
Refuse Disposal	Facilities
Parking Permit Issuance and Records	Environment, Health, and Safety
Transportation	Facilities
Mail Services	Facilities
Central Stores	Facilities

*****The issuance of all level III locks and keys must be approved by the LBNL Security Manager (see Paragraph (E)(*Categorization of Lock and Key Levels*) below.

D. RESPONSE TO POWER REDUCTION ALERTS

The Facilities Division is responsible for implementing the Laboratory's response plan to Stage I, II, and III electrical emergency alerts issued by California's Independent System Operator and communicated to Berkeley Lab by the Western Area Power Administration. The Facilities Division is also responsible for updating the Laboratory's response plan.

E. CATEGORIZATION OF LOCK AND KEY LEVELS

DOE M 470.4-2, Physical Protection categorizes locks and keys into four levels.

Levels I and II are only required for facilities that have significant quantities of special nuclear materials (SNM) and/or classified matter. LBNL is a fundamental research facility with small quantities of Category IV SNM so Level I and II keys and locks are not required.

Level III locks and keys are used for security purposes on the exterior access doors and gates of LBNL Property Protection Areas (PPA) for emergency use only.

- The LBNL Security Manager designates and approves all PPAs and is responsible for the control and accountability of all Level III locks and keys.
- The LBNL locksmith fabricates Level III keys, documents unique identification, and maintains the inventory of key blanks and cores.
- The Site Access Manager verifies required training and facilitates issuance of Level III keys approved by the Security Manager.
- Lost, missing, or stolen Level III keys must be reported to the LBNL Security Manager, who is required to file a security incident report to the Department of Energy.

Level IV locks and keys, including Great Grand Master (GGM), Grand Master/Building Master (GM/BM), and all other keys, are used for administrative purposes on most LBNL buildings and interior offices for business or safety controls.

- The LBNL locksmith fabricates all Level IV keys, documents unique identification, and maintains the inventory of key blanks and cores.
- The Site Access Manager verifies required training and facilitates issuance of Level IV GGM and GM/BM keys only. All other keys are managed and issued by the LBNL locksmith.

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§1.04
Operation and Parking of Motor Vehicles and Bicycles

Responsible Manager

Rev. 2/08

- **A. General**
- **B. Motor Vehicle and Bicycle Parking**
  - **1. General**
    - ***Table 1.04(B)(1) — Eligibility for an LBNL Parking Permit***
    - ***Table 1.04(B)(2) — Ineligibility for an LBNL Parking Permit***
  - **2. Types of Parking Permits and Parking Spaces**
  - **3. Parking Regulations**
  - **4. Modes of Transportation Prohibited at the Laboratory**
- **C. Emergency Off-Hour Automotive Assistance**
  - **1. Availability**
  - **2. Nonavailability**
- **D. Commuting Alternatives**

A. GENERAL

Berkeley Lab presents many unique challenges for motor vehicle, bicycle, and pedestrian safety. The roadways are narrow, can be crowded and under construction, traverse steep terrain, and intersect in many different ways. It is critically important for all individuals who share the roadways at the Laboratory to exercise caution at all times for their own safety and the safety of others. Bicyclists, drivers, and pedestrians must be especially aware of safety considerations and be more vigilant when in close proximity to one another.

All individuals operating motor vehicles or bicycles on Laboratory property must comply with the California Vehicle Code (CVC) and Berkeley Lab traffic and parking regulations. Permission to operate a vehicle or bicycle on Laboratory property is subject to the control of the Laboratory Security Manager and may be revoked at any time. Because of the steep terrain, all skateboards, scooters, electronic personal assisted-mobility devices (such as Segways), and in-line skates are prohibited from operating on Laboratory property. Employees may also be subject to discipline up to and including dismissal for traffic and parking violations. In the absence of any special conditions or regulations applicable to traffic or parking, all provisions of the California Vehicle Code relating to traffic or parking apply. The maximum speed limit on all Laboratory property is 25 miles per hour (for all but emergency vehicles), or slower as conditions require.

B. MOTOR VEHICLE AND BICYCLE PARKING

1. General

Limited on-site vehicle parking is provided for certain employees and visitors. For a list of eligible and ineligible persons, see RPM Table 1.04(B)(1) (*Eligibility for Parking Permit*) and Table 1.04 (B)(2) (*Ineligibility for Parking Permit*). The Badge Office issues valid Laboratory parking permits. Some parking spaces are open to unreserved parking, while others are reserved. Maps indicating parking areas are available at the entry gates, or the Badge Office. Only one parking permit is issued to an eligible person who requests a parking permit. Exceptions are made for motorcycle, motor scooter, and bicycle permits, which may be issued in addition to an automobile permit.

PARKING PERMIT VIOLATIONS

a. Use of Laboratory parking permit by a person other than the one to whom it was originally issued is prohibited.
b. The sale, transfer, alteration, or loan of Laboratory parking permits is prohibited.
c. All vehicles parked on Laboratory property must display a valid (hanging) Laboratory parking permit suspended from the

rearview mirror.

d. Orange Circle spaces are for the use of Laboratory Directors, and other personnel designated by the Laboratory Directorate. Orange Circle parking spaces are reserved on a 24-hour, 7-day-a-week basis, and parking in Orange Circle spaces is prohibited.
e. Spaces designated as Blue Triangle are reserved for Senior Staff and Senior Scientists between the hours of 6:00 a.m. and 3:00 p.m., Monday through Friday. (At times and days other than those specified, Blue Triangle parking spaces and lots revert to General Parking spaces and lots.)
f. Parking spaces for persons with a disability are reserved (for those persons) at all times.
g. Parking in spaces designated for government vehicles is prohibited.
h. Parking of cars for a period of more than three days is prohibited without first receiving a Prolonged Parking Pass signed by the Site Access Manager.
i. Parking outside of marked parking spaces or designated parking strips along roadways is prohibited. Parking restrictions must be observed in posted areas.
j. Parking in a manner that encroaches on or blocks an adjacent parking space or traffic way is prohibited, except in specific stack-parking areas. (All stack parking guidelines must be followed.)
k. Parking in a way as to project a vehicle over a parking lane or end line is prohibited.
l. Backing into parking spaces is prohibited in all areas so posted.
m. Parking of vehicles in spaces designated for motorcycle parking is prohibited.

Table 1.04 (B)(1) Eligibility for an LBNL Parking Permit	
EMPLOYEES	
Career	Individuals who have an appointment established at a fixed percentage of time at 50 percent or more of full time for an indefinite period.
Visiting Faculty	University or college faculty members who have dual employment between a university or college and the Laboratory, and are approved by the cognizant Division Director.
Term Appointments	Scientific and nonscientific individuals who are employed to work on a specific project of clearly limited duration of six months or more.
Rehired Retirees	Employees, including retirees under special UC/state provisions and those rehired from layoff status, who were formerly eligible for parking.
Participating Retirees	Specific class of employees rehired from layoff status, who were formerly eligible for parking.
Limited Appointment	Individuals employed to work for less than 1,000 hours in a 12-month period.
Graduate Students	Registered graduate students who are affiliated with the Laboratory as student employees. Parking upgrades can be granted by the Site Access Manager for graduate students who commute from campuses outside the Bay Area.
Student Assistants	Registered college or university students whose affiliation with the Laboratory is as a student employee. Parking upgrades can be granted by the Site Access Manager for students who commute from campuses outside of the Bay Area.
Disabled	Disabled persons working at the Laboratory (including non-employees engaged in on-site services)
NONEMPLOYEES	
Participating Guests	
Professionals	Professionals and their associates engaged in Laboratory-approved research, including (1) individuals using the Laboratory using the Laboratory National User

	Facilities, (2) personnel currently employed at other University of California facilities, and (3) other professionals when the Laboratory and the participant have mutual interests and the individuals have adequate training and experience to meet high professional standards in their fields. NSF, DOE participants in NSF, DOE, or similarly sponsored programs in which the Laboratory is participating (e.g., faculty on programs of Associated Western Universities or postdoctoral fellows).
Contract Employees	Employees of companies that have a formal contractual agreement with the Laboratory.
Consultants	Recognized experts in a specific field of scientific, engineering, technical, or administrative interest who primarily furnish advice or express views or opinions about problems or questions presented by the Laboratory.
DOE Employees (Berkeley Site Office)	Employees of the Department of Energy's Berkeley Site Office.
Students not on Laboratory payroll	Students who are comparable to graduate student research assistants but who are not on Laboratory payroll, including those participating in NSF, DOE, or similarly sponsored programs in which the Laboratory is participating.
Casual Visitors	Individuals visiting the Laboratory for a week or less who are not engaged in Laboratory research or use Laboratory facilities.
Vendors (Service Contractors)	Employees of service contractors (i.e., food services, computer services)

Table 1.04(B)(2) Ineligibility for a Berkeley Lab Parking Permit	
NONEMPLOYEES	
Participating Guests	
Agency (Temp) Personnel	Employees of a temporary-help agency; contract labor employees.
Nonparticipating Guests	
Contract Employees	Employees of contactors, unless the employee's vehicles are necessary to the job.
Subcontractor Employees	Employees of subcontactors, unless the employee's vehicles are necessary to the job and can be parked inside the agreed-upon contractors' "laydown" area. Special permit must be issued by the Site Access Manager.

The Site Access Manager may make exceptions to the parking policy. For extenuating circumstances that require an exception to the policy, requests should be made directly to the Site Access Manager.

2. Types of Parking Permits and Parking Spaces

Authorized Laboratory permits hang on the vehicle's rearview mirror. (Decal-type permits are used for motorcycles, scooters, motorbikes, mopeds, and bicycles.) In addition, the Badge Office issues temporary hanging-type parking permits for all participating guests and other noncareer eligible employees.

a. **Orange Circle:** Allows parking in Orange Circle permit parking spaces, Blue Triangle parking spaces, or any General parking spaces. Eligible Orange Circle permit holders are determined by the Laboratory Deputy Director for Operations.

b. **Blue Triangle (Permanent):** Issued to Career and UC Faculty Employees. Allows parking in Blue Triangle parking spaces or unreserved General parking spaces. Determination for Blue Triangle Permanent parking is based on a yearly set salary minimum.

c. **Blue Triangle (Temporary):** Issued to noncareer Laboratory and certain UC Faculty personnel. Allows parking in Blue Triangle spaces or unreserved General parking spaces. Determination for Blue Triangle Temporary parking is based on job classification.

d. **General (Permanent & Temporary):** Allows parking in all designated parking spaces not otherwise restricted or marked.

e. **Off-Hours (After-Hours):** For employees who do not have regular parking. Allows parking only during off-hours between 3 p.m. and 6 a.m., Monday–Friday, and all day Saturdays, Sundays, and holidays.

f. **Medical Parking (Blue Triangle or Reserve status):** When requested by the Laboratory, Medical Department Medical Parking is issued for 30 days to someone who has a medical situation or is recovering from a medical injury and, due to restricted general mobility, needs to park close to his/her office or place of work.

g. **Vendor Parking: (Blue Triangle status):** Issued to vendor companies who service the Laboratory on a regular basis.

h. **Disabled Person Permit:** Allows parking for disabled persons through a special permit that is issued in addition to a regular Laboratory Parking permit.

- State of California Disabled Person Permit (special license plate or placard issued by the State Department of Motor Vehicles (DMV)). This permit allows the Holder to park in spaces designated by an official State blue-and-white logo or in any unreserved parking space.

- Temporary Medical Parking Permit is issued to give the requester time to apply for and receive a DMV permit.

i. **Visitor Permit:** Paper permit issued at Laboratory entry points or by Site Access for parking spaces that are reserved for visitors only and are not for use by regular or temporary employees.

j. **Official Vehicle:** An official vehicle permit is designated by license plate (United States Government or State of California) or by a special placard issued by the Laboratory Motor Pool only, to identify vehicles leased or rented for official business. For the complete policy statement on the use of official vehicles, see RPM §1.05 (*Use of Official Vehicles*).

k. **Stack Parking:** Because Laboratory policy encourages the use of stack parking for commuter vehicles, stack-parking areas have been established. Movement of a vehicle in stack parking may be necessary to accommodate unforeseen circumstances. Employees are encouraged to use stack parking. If they do not observe the following regulations, they may be subject to the penalty provisions of Paragraph (B)(3), below:

- Park as close as possible to the vehicle, stop line, or barrier in front of you (maintain less than a 30-inch gap between vehicles).

- Display your standard Berkeley Lab parking permit.

- Display a stack-parking card. This card must include:

    i. Your name

ii. Your parking permit number

iii. Your normal location

iv. Your Laboratory telephone number

v. If different from (iv), the Laboratory telephone number of the person in custody of your vehicle keys

Stack parking cards are available on request from the Badge Office (ext. 4551).

3. Parking Regulations

a. **Forgotten Permit.** Persons who forget their hanging permit may request a temporary one-day parking permit at the entry gate. The issuance of a temporary parking permit will be reported to Site Access. Abuses of the temporary permit provisions are subject to the penalties noted in Paragraph (C), below.

b. **Replacement of Lost or Stolen Parking Permits.** To replace a lost or stolen parking permit contact the Badge Office.

c. **Penalties for Abuse of Parking Privileges**. To ensure that the parking policy is enforced equitably throughout Berkeley Lab on-site parking areas, the Laboratory has instituted a point system for parking violations by which various parking offenses are assigned penalty points within a period of time, and after six points are accumulated within a six-month period, parking privileges are suspended. If a continual pattern of abuse is detected, further disciplinary action may be taken (see Parking Enforcement System).

d. **Return of Parking Permit on Termination of Employment.** Parking permits are the property of the Laboratory and must be returned to the employee's Division Office or the Badge Office no later than the last day of employment. If the permit holder leaves after hours, parking permits can also be turned in to the security officer at the entry gates.

4. Modes of Transportation Prohibited at the Laboratory

The following modes of transportation are prohibited at the Laboratory:

a. In-line skates (Rollerblades)
b. Roller skates
c. Segways (two-wheel motorized vehicles)
d. Skateboards
e. All other modes of transportation, motorized or non-motorized, that may be considered unsafe by the Laboratory Directorate.

C. EMERGENCY OFF-HOUR AUTOMOTIVE ASSISTANCE

1. Availability

Emergency off-hour (night and weekend) automotive assistance for employees who encounter difficulties with their personal automobiles may be obtained by contacting the Maintenance and Operations Group between 4:30 p.m. and 7 a.m., as well as weekends and Laboratory holidays. The Laboratory will provide (a) a battery charge to start an employee's car or (b) one gallon of fuel (unleaded gasoline or diesel fuel, for $2). If an employee's car cannot be started with Laboratory assistance and commercial service is not available, the responding Laboratory person is authorized to take the stranded employee to the nearest public transportation.

2. Nonavailability

During normal business hours (7 a.m.–4:30 p.m.), employees are expected to use their choice of commercial emergency service available in the area. Laboratory facilities, supplies, or equipment may not be used for the repair or maintenance of employee vehicles.

D. COMMUTING ALTERNATIVES

Because of the limited parking available on site, employees are encouraged to use public and other transportation options whenever available. Options are described on the Site Access Web Site, or call the Site Access Office at ext. 4551 for more information.

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§1.05
Use of Official Vehicles

Responsible Manager

Rev. 09/07

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A. GENERAL

1. Transportation Services

The Laboratory Facilities Division provides bus and other transportation services, including vehicles from Fleet Operations for individual and divisional use. Laboratory vehicles are for official use only, i.e., for the performance of Laboratory work and business. Passengers in Laboratory-furnished vehicles must be directly associated with the official University business for which the vehicle is assigned or with other official business of the Laboratory. Bus service is provided around the Laboratory and to and

from the University of California at Berkeley campus and local rapid transit locations.

2. Division Directors' and Department Heads' Responsibilities

a. Each division director and department head is responsible for restricting the use of Laboratory vehicles to official Laboratory business by properly authorized personnel, as described in Paragraph (D), below, and for informing all authorized drivers regarding misuse of such vehicles and personal liability for costs involved in cases of misuse. Copies of RPM §1.05 may be obtained from Fleet Operations for distribution as needed.

b. Questions concerning any use of an official vehicle should be referred to the Fleet Operations office.

B. AUTHORIZED AND UNAUTHORIZED USES OF VEHICLES

1. Transportation to Residence, Lodging, or Eating Places

a. Laboratory-furnished vehicles may properly be used for transportation between an individual's place of work, residence, lodging, or eating place only when at least one of the following circumstances exists:

    1. The nature of the work requires a vehicle at or near an employee's residence or lodging in order to respond to emergencies or expected off-hour calls.
    2. A vehicle is necessary to perform special hauling or other services for the Laboratory between an employee's place of work and a location at, near, or en route to his or her residence or lodging.
    3. An employee is required to depart on or return from a field trip at unusually early or late hours.
    4. Public transportation is not practicable or reasonably available while an employee is on a field trip or official travel.
    5. Special or emergency situations required by Laboratory work, such as unexpected overtime, make it unreasonable to expect an employee to use other transportation to his or her residence or lodging.

b. Use of an official vehicle in any of the above circumstances must be authorized by use of Form RL-2749 (*Request for Overnight Use of Official Vehicle*) or Stock Form 7600-55366 (*Request and Authorization for Official Travel*).

2. Personal Use

Use of an official vehicle for an employee's personal convenience or benefit constitutes misuse and is prohibited. Misuse includes the following specific examples:

a. Trips to service stations or repair shops in connection with the servicing or repair of any individual's private car.

b. While on special assignment or official travel, side trips for meals that involve significant extra time or distance to satisfy a personal preference when other reasonable and adequate eating places are more convenient to the employee's lodging, place of work, or direct route of official travel.

c. Local stops for personal shopping or other business, even if such stops are on a direct route of travel on an official trip.

d. Trips within the Laboratory for personal convenience (e.g., to the cafeteria).

3. Use of Rental Vehicles

a. The restrictions on the use of Laboratory vehicles also apply to rental vehicles used for official business. Because the agreement signed by an individual for rental of a vehicle is a contract between the individual and the rental company, rental vehicles may also be used for personal convenience or business as long as the individual pays for any additional costs for, e.g., mileage, day charges, and insurance fees resulting from personal use.

b. The University is self-insured for the deductible provision in the collision insurance normally included in rental agreements for vehicles used on official business. If an individual uses a rental vehicle for personal uses, University insurance does not apply. Individuals who wish to use a rental vehicle for personal business should pay the additional fee for full insurance coverage on the vehicle. This fee is not reimbursable by the Laboratory.

4. Use by Non-Employees

a. Non-employees are normally not authorized to use Laboratory-furnished vehicles. They may be authorized to use Laboratory vehicles, however, when they are engaged in contract work and when it would be economically beneficial to the Laboratory for them to do so. Approval by the responsible division director or department head must be made in writing to the non-employee individual, with copies to Fleet Operations and the Environment, Health, and Safety Division.

b. Non-employee operators must be licensed as specified in Paragraph (D), below.

C. OPERATOR'S LIABILITY

1. Vehicle Costs

Operators of Laboratory-furnished vehicles are personally liable for the costs of any damages incurred due to their misuse of such vehicles. Misuse means unauthorized use, use for an improper purpose, gross negligence in the care and operation of an official vehicle, or not adhering to traffic safety regulations.

2. Disciplinary Action and Penalties

Employees who knowingly misuse Laboratory vehicles are subject to disciplinary action such as written reprimand, temporary suspension without pay, or dismissal. They may also be subject to criminal penalties under 18 United States Code §641 that provide for a fine of not more than $10,000, up to 10 years in jail, or both.

3. Public Liability

The use of Laboratory vehicles, including rental vehicles, for unofficial business may expose the driver to public liability in the event of an accident, particularly if the accident is found to be caused by the driver's negligence. If the use of a vehicle is not official or the driver stops en route or deviates from a direct route to conduct personal affairs while on official business, he or she may be found to have departed from the scope of employment. In such a case, the University and the government would disclaim liability, and the driver would be financially responsible.

4. Traffic Citations

Operators of Laboratory-furnished vehicles are personally responsible for the payment of any fines levied by any public law enforcement agency and will receive parking violation points levied as a result of any violation of Laboratory parking regulations, except when the violation is a direct result of a failure of the vehicle and that malfunction was reported immediately to the Laboratory Fleet Office.

D. LICENSE REQUIREMENTS

1. Laboratory-Furnished Standard Vehicles

All individuals whose duties require them to drive University-owned or government-owned (e.g., DOE or GSA) vehicles must possess a valid license, as specified in the California Vehicle Code. Generally, this means a valid State of California license of the appropriate class. When it is in the interest of Laboratory business, however, a nonresident of California may drive a Laboratory-furnished vehicle if that person meets the requirements of the California Vehicle Code. Non-employees must also have written authorization to drive Laboratory-furnished vehicles as specified in Paragraph (B)(4), above.

2. Laboratory-Furnished Nonstandard Vehicles

Personnel who operate nonstandard vehicles must carry certificates for operation of the specific type of nonstandard vehicles. Training and certification are required before operation of mobile or bridge cranes, earth-moving equipment, and forklift trucks. The Environment, Health, and Safety Division will provide detailed information concerning appropriate certification. Operator certification may be revoked if there is evidence of failure to follow safe operating procedures.

3. Training Courses

All professional drivers and selected incidental drivers must attend training courses, as required by policy or departmental practice.

4. License Suspension or Revocation

If an employee whose duties involve operation of an official vehicle has his or her state driver's license revoked or suspended, the employee must notify his or her supervisor. Division directors or department heads must ensure that no one operates an official vehicle without a valid license (and certification, when required).

5. Required Drug and Alcohol Testing for Certain Classes of Driver

Drivers holding commercial driver's licenses (classes A and B) and who operate vehicles of 26,001 lbs. gross vehicle weight (GVW) or more, or who operate any vehicle carrying hazardous material for which the vehicle is placarded, will be enrolled in the DOT-mandated Laboratory Driver Drug and Alcohol Testing Program, as specified in RPM §2.23(C)(4) (*Substance Abuse in the Workplace*).

E. DRIVERS' PUBLIC DRIVING RECORDS

1. General Requirements

The California Commercial Motor Vehicle Safety Act requires employers of drivers of certain types of vehicles to obtain reports of their public driving record from the Department of Motor Vehicles (DMV). A public driving record includes incidents occurring while driving on and off the employer's place of business. Under the California Vehicle Code, there are criminal penalties for employing or continuing to employ as drivers those persons who have had disqualifying actions taken against their licenses or certificates.

This law applies to the Laboratory with regard to drivers who (a) drive a vehicle requiring a class A or class B driver's license and (b) must obtain special certificates to drive the following vehicles: ambulances, private school buses, farm labor vehicles, special construction equipment, youth buses, vehicles transporting radioactive materials, vehicles transporting hazardous wastes, and vehicles with tank configurations. Students, unless hired primarily as drivers, and van pool drivers are not included. Vehicle Code §12810.5 also specifies the number of violation points assigned by the DMV that will result in a presumption that a driver is a negligent operator of a motor vehicle.

The Laboratory could be liable if a negligent driver is permitted to continue driving for the Laboratory and is involved in an accident.

2. Coverage

This policy applies to (a) Laboratory employees hired primarily as drivers; (b) any Laboratory employee who, in the course of employment, drives a vehicle requiring a class A or class B driver's license; and (c) any employee who must obtain a special license or certificate to drive any of the vehicles listed above.

Laboratory employees in the following classifications are also covered by this policy:

Title Code	Classification
345.0	Assistant Fire Chief
345.1	Fire Chief
566.2	Material Handler (Mailroom)
566.3	Material Handler (Mailroom)
644.0	Firefighter
644.1	Fire Captain
737.1	Garage Attendant
738.1	Bus Driver

738.2	Senior Bus Driver
741.0	Health and Safety Technician, Trainee
741.1	Health and Safety Technician
741.2	Health and Safety Technician, Senior
741.3	Health and Safety Technician, Principal
741.4	Health and Safety Technical Specialist
741.6	Health and Safety Technician, Apprentice
745.1	Truck Driver, Light
745.2	Truck Driver
745.3	Lead Truck Driver

At the discretion of the involved division director or department head and with approval of the Head of the Human Resources Department or designee, additional titles or positions may be covered as required.

3. Participation in DMV Notification Process

a. The Laboratory has requested and been assigned a Requester Code Number for participation in the DMV Pull Notice System. This system provides the employer with a report showing each driver's current public record and the status of any required driver's certification. The Human Resources Department will initiate individual additions to or deletions from the DMV Pull Notice System.

b. To protect confidentiality, DMV reports are maintained in a secure location by the Human Resources Department and destroyed once their legitimate use has ended.

c. Applicants for positions covered by this policy are required to provide a satisfactory current report on the status of their driver's license from the DMV as a condition of employment. No appointment may be made until appropriate documentation from the DMV has been received.

d. On termination of a driver's employment, the Human Resources Department will notify the DMV to cancel future reports for the individual.

4. Notification to Laboratory Employees and Applicants

a. Each Laboratory employee covered by the policy will be notified by letter from the Human Resources Department, with a copy to the responsible division director, stating that:

- The Laboratory receives reports of his or her public driving record from the DMV.
- These reports may be used as a basis for discipline up to and including dismissal.
- He or she is responsible for maintaining his or her required driver's license and, if applicable, driver's certification in good standing.
- He or she is responsible for immediately informing his or her supervisor of any change in the status of his or her driver's license and/or driver's certification.
- Revocation or suspension of his or her driver's license and/or driver's certification may result in loss of employment with the Laboratory.
- He or she is required to acknowledge receipt of the letter by dating and signing it and returning it to the Human Resources Department.

b. Postings of job vacancies for positions covered by this policy must inform applicants that, as a condition of employment, they are required (1) to provide a satisfactory current report on the status of their public driving record from the DMV and (2) to acknowledge receipt of the letter described in Paragraph (4)(a), above, by dating and signing it and returning it to the Human Resources Department.

5. Response to Information Received from DMV

a. On receipt of a report of conviction, failure to appear, accident, driver's license suspension, revocation, or other action taken against a Laboratory employee, the Human Resources Department will communicate the nature of the offense to the responsible division director.

b. The Vehicle Code states that the Laboratory is liable for criminal penalties if, after receiving a driving record, it continues to employ as a driver any person against whom a disqualifying action (suspension or revocation) has been taken regarding his or her driver's license and/or driver's certificate.

c. The Vehicle Code states that a driver will be presumed to be a negligent operator of a motor vehicle if his or her driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months.

d. Whenever a report for an employee driver is received indicating that one or more points have been assigned to the employee by the DMV, a written warning (notice of corrective action) may be issued by the responsible manager or supervisor following consultation with the Human Resources Department.

e. Whenever a report for an employee driver is received indicating that a disqualifying action (suspension or revocation) has been taken regarding his or her driving privilege and/or driver's certificate, or that he or she is presumed by the DMV to be a negligent operator of a motor vehicle based on a violation point count, disciplinary action (up to and including dismissal) may be taken by the responsible department head following consultation with the Human Resources Department.

f. In addition, whenever a report for an employee driver is received indicating that any other serious driving violation has occurred (even though a disqualifying action has not been taken or the violation point count is not sufficient to cause the driver to be presumed by the DMV to be a negligent operator of a motor vehicle), disciplinary action (up to and including dismissal) may be taken by the responsible department head following consultation with the Human Resources Department.

F. SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES

Individual driving privileges may be refused, revoked, or suspended by the responsible department/division or the Traffic Safety Committee whenever Laboratory policy is violated.

G. VEHICLE-USE RECORDS

1. Passenger Vehicles

Each use of a passenger vehicle (car or station wagon) will be recorded at the time of use in a vehicle register (sign-out sheet) furnished by Fleet Operations. This applies to vehicles (a) signed out from Fleet Operations or a subpool on a trip or errand basis and (b) assigned for departmental use. These registers show the date, driver's name, operating account number, destination, time, and mileage out and in. Vehicle registers must be sent to Fleet Operations each month. Any exception requires the approval of the Associate Laboratory Director for Operations.

2. Nonpassenger Vehicles

Groups that are assigned nonpassenger vehicles (scooters, trucks, and special purpose) for specified long-term needs will keep any use records required by the Fleet Operations office. These records usually involve monthly mileage only but may require logging of individual uses to verify continuing need for a vehicle in case of low mileage or off-site use. Vehicle-use records (or copies) will be forwarded to the Fleet Operations office when requested.

H. ACCIDENTS

All accidents involving University-furnished vehicles will be reported as specified in Health and Safety Manual (LBNL/PUB-3000, §5.1.1.5 *(Motor Vehicle Accidents))*.

I. PAINTING OR MODIFICATION OF LABORATORY VEHICLES

1. General

Federal regulations restrict painting (including lettering and the use of decals or logos), modifying, or adding accessories to government-owned vehicles. Fleet Operations is responsible for determining the need and for obtaining authorization as required. Requests for such authorization should be made through Fleet Operations.

2. Painting

Normal painting of vehicles is only that required for preservation. Justification is required for nonstandard painting.

3. Modification or Addition of Accessories

Fleet Operations will be guided by current regulations as well as overall vehicle fleet use considerations in determining the need for modification or addition of accessories on Laboratory vehicles.

4. Signs, Logos, or Other Identification

Because the public will recognize any identification as representing the Laboratory, the University of California, and DOE, any identification must meet standards of size, design, color, and appropriateness for its specific use. To maintain consistency of such signs, logos, or other identification, plans (including sketches or other descriptive information) must be reviewed by the responsible Laboratory division, which will forward the information to Fleet Operations for appropriate action.

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§1.06
Laboratory Site Access

Responsible Manager

Rev. 02/09

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- **B. Site Access Procedures**
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A. SITE ACCESS POLICY

1. General

a. Overview

Visits to Lawrence Berkeley National Laboratory by employees or representatives of other organizations or companies are an important element of scientific collaboration, knowledge exchange, and technology transfer. These visits are also an opportunity for the Laboratory to meet its educational and public service objectives.

Site access is a privilege granted in accordance with Laboratory policy and procedure to individuals who do not have regular employee status. This privilege may be withdrawn at any time. Loss of privileges may occur for various reasons, including nonconformance with Laboratory policies and procedures. Access privileges granted to any visitors under this Site Access policy do not confer University/Laboratory employee status or any benefits that would come from that status.

Access to the Laboratory is subject to the willingness and ability of non-employees to comply with all relevant Laboratory policies, procedures, and instructions, including those related to health, safety and the protection of the environment.

The Laboratory's policy on substance abuse in the workplace is included in RPM §2.23(C)(1) (Substance Abuse in the Workplace). This policy states in part:

"The Laboratory strives to maintain a work site free from the illegal use, possession, or distribution of alcohol; or of controlled substance as defined in Schedule I-V of the Controlled Substances Act (21 USC 812) and 21 Code of Federal Regulations 1308. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by employees in the workplace, on Laboratory premises, at official Laboratory functions or on Laboratory business is prohibited. Unauthorized possession, use, or consumption or being under the influence of alcohol on Laboratory premises is prohibited. In addition, employees may not use illegal substances or abuse legal substances, including alcohol, in a manner that impairs work performance, scholarly activities, or student life."

To the extent that this policy governs conduct on the Laboratory site or on Laboratory business, it applies to all those present on the Laboratory site or performing Laboratory business, including visitors, guests, consultants, subcontractor employees, and students. Violation of this policy may result in revocation of site access or other appropriate action

Children are not allowed on Laboratory premises except when part of a guided tour approved by management or when accompanied by an employee or parent. Children must be supervised at all times; they must not be left unattended or allowed to wander. Although pets may not be brought to the Laboratory, service animals may be brought on site by their owners.

Employees of Lawrence Livermore National Laboratory are accorded the same site access status when visiting the Laboratory as employees of other organizations.

b. **Requests for Site Access**

Any Laboratory employee or guest may request site access for a prospective visitor with the approval of the supervisor or host and/or with the knowledge of the division administrator/director. A Laboratory employee or guest who extends an invitation to a prospective visitor becomes the Laboratory host for that visitor, and the employee's division becomes the host division. As the Laboratory host, the division employee or guest must advise the prospective visitor of any Laboratory site access policies and procedures applicable to the visit, as detailed below.

c. **General Responsibilities**

The Laboratory host and hosting division are responsible for ensuring that short-term (casual) visitors or participating guests (as defined in paragraphs (B)(2) and (B)(3) of this document) (1) are directed to Site Access or the ALS User Services Office (for ALS users) to initiate a Laboratory visit and (2) are aware of and comply with applicable Laboratory policies, including Environment, Health, and Safety (EH&S) policies and the substance abuse policy.

The Site Access Manager and the host are responsible for ensuring that each short-term visitor or participating guest identified by a Laboratory host or hosting division has complied with access procedures appropriate to the visit.

Short-term visitors are responsible for compliance with scientific and administrative requirements as identified by the Laboratory host, hosting division, and/or Site Access.

Participating guests must take all responsible precautions in the performance of work at the Laboratory site to protect the environment and the safety and health of others.

Responsibility for compliance with the applicable Laboratory policies and EH&S regulations and requirements of UC and DOE extends from the Laboratory host and hosting division to the short-term visitor or participating guest.

Failure of short-term visitors or participating guests to carry out the responsibilities as cited above may result in loss of access privileges.

2. Short-term (Casual) Visitors

a. **Definition**

Short-term (casual) visitors are individuals visiting the Laboratory for a week (or up to two weeks if approved by the Site Access Manager) who are not engaged in Laboratory research or using Laboratory facilities. All short-term visitors driving a vehicle to the Laboratory must obtain a one-day permit issued at the gate. This category includes but is not limited to those giving or attending seminars, those visiting the Laboratory for limited scientific discussion or as participants solely to observe research in progress, radiotherapy patients, job seekers, tour groups, employee friends/family, retired employees with occasional reason to visit the site, and the press. The Integrated Environment, Health, and Safety Management Plan covers the safety aspects of Laboratory access for all contractor personnel, vendor delivery/pickup personnel, sales representatives, and service maintenance personnel who also qualify as short-term (casual) visitors.

b. **Policy**

Short-term visitors will be granted access to the Laboratory at the request of an employee or participating guest via the Lab's Visitor Pass Request System. Gate controllers may issue a one-day permit (for each day approved). Site Access may issue permits for up to one week (two weeks if approved by the Site Access Manager).

3. Participating Guests

Definition: Participating guests are non-Laboratory employees who are engaged in Laboratory activities on-site and who fall into one or more of the following categories:

a. **Users.** Individuals visiting the Laboratory to use Laboratory user facilities or other user resources by the Office of Energy Research at DOE.

b. **National Energy Research Scientific Computer Center (NERSC Users).** Individuals using NERSC facilities either remotely or while visiting the Laboratory.

c. **Scientific Collaborators.** Individuals visiting the Laboratory who are engaged in Laboratory-approved research, testing or analysis either through "hands-on" activities or through collaborative discussion with Laboratory employees. Included in this category are faculty and graduate students from other University of California facilities and other educational institutions, students, postdoctoral fellows, research fellows, and other professionals having adequate training and experience and meeting high professional standards in their field.

d. **Student Guests.** Individuals who are graduate students under the direct supervision of a division to which the student is attached.

e. **Nonscientific.** Individuals who have been assigned to the Laboratory as their place of work either as employees of temporary employment service/agencies or as contract labor employees.

f. **Consultants.** Individuals who have entered into a consultant agreement with the Laboratory under RPM §11.04 (*Consultants to Lawrence Berkeley National Laboratory*).

4. Policy for All Participating Guests

a. **General**

All participating guests must display a temporary parking permit issued by the Badge Office section of Site Access and are subject to the parking regulations established by the Laboratory (see RPM §1.04). All participating guests must execute a Laboratory Patent Agreement. Employees of the Regents of the University of California at another campus or laboratory location and users of Laboratory User Facilities covered by a formal agreement under Paragraph (A)(5)(a), below, are not required to execute a Patent Agreement. Property information brought to the Laboratory is protected in accordance with policy stated in RPM §5.06 (Property Information from External Sources). Participating guests may be entitled to office or Laboratory space and/or the use of other Laboratory resources and services, as may be arranged by the Laboratory host and/or host division.

Participating guests are identified by a valid LBNL picture ID issued by Site Access through the Badge Office (for ALS users through the ALS User Services Office). If the guest status is terminated prior to the appointment end date and the individual is from a sensitive or terrorist-sponsoring country, the host or hosting division must notify the Foreign Visits and Assignments Office in a timely manner to comply with DOE reporting requirements.

5. Specific Categories

a. **Users.** A formal User Agreement must be executed between the Laboratory and the user's employer (including the user).

b. **NERSC Users.** A formal agreement must be executed between NERSC and the user or the principal investor responsible for the user. Such an agreement must comply with applicable policies established by NERSC and approved by the DOE Office of Energy Research. Information on obtaining allocations of NERSC resources may be found by clicking on the Accounts link on the NERSC Web page.

B. SITE ACCESS PROCEDURES

1. General

a. Employees are expected to inform Site Access prior to any visits from non-employees. Site Access will determine whether appropriate measures have been taken for admission of the prospective visitor, which may include assurance that the proper agreements have been executed for participating guests.

b. Employees, departments, and/or divisions sponsoring seminars, meetings, conferences, or other events are expected to notify Site Access well before the event. Site Access will then be responsible for notifying gate controllers and Shuttle Bus Services, as appropriate, of the time, date and location of the event.

2. Short-term (Casual) Visitors

Laboratory hosts or hosting divisions expecting short-term visitors are expected to notify Site Access of the impending visit and the expected length of stay. In addition, if the visitor is a member of the press, the Laboratory host, or hosting division must notify the Laboratories Public Information Officer. Site Access will then issue an entry/parking permit for the expected length of the stay, not to exceed one week (without authorization of the Site Access Manager). Gate controllers must issue a one-day entry/parking permit to a short-term visitor on the authorization of Site Access.

3. Participating Guests

a. **Initiating Contacts**

Application for approval of participating guest status is made on the appropriate forms signed by the Laboratory host or hosting division. The complete forms are submitted to the Human Resources Department or designated appropriate administrative office before the guest's arrival. The Laboratory host or hosting division also informs the prospective guests that access to the Laboratory will be through Site Access. The Human Resources Department or designated appropriate administrative office establishes communications with the prospective guests and works with the Laboratory host or hosting division to facilitate administrative procedures needed before the visitor's arrival at the Laboratory.

b. **Guest Approval.** Approval of the guest status is given by Site Access and is based on the following criteria:

i. The guest meets the criteria for participating guests.

ii. The guest is covered by a formal agreement with the Laboratory satisfying intellectual property requirements. University of California employees who can present appropriate evidence of current employment and users of the Laboratory User Facilities covered by a formal User Agreement are not required to execute a Laboratory Visitor Patent Agreement.

iii. The guest qualifies for worker's compensation insurance through a source other than the Laboratory, gives evidence of coverage, or obtains coverage for adequate medical and/or disability insurance satisfactory to the Laboratory. Determination of satisfactory evidence rests with the Risk Management Office. Satisfactory health insurance coverage may be obtained with the assistance of the Human Resources Department or designated appropriate administrative office.

iv. Environment, Health, and Safety (EH&S) training appropriate to the anticipated exposure to hazards has been completed or will be completed before any anticipated potential for exposure at the Laboratory. Such training may include attendance at a new employee/visitor orientation session; certain EH&S training sessions; or satisfactory completion of certain related tests.

v. The requirements of Paragraph (B)(4) (*International (Non-United States Citizen) Guests*) are satisfied if the participating guest is a foreign national.

(a) **Contractual Agreements.** To ensure a smooth arrival and expeditious entry procedures for participating guests at the Laboratory, Site Access, in coordination with the Office of Sponsored Research Administration, will have documentation of a fully executed User Agreement or Computer Agreement, as applicable.

(b) **Visitor Identification.** A renewable badge is issued.

(c) **Environment, Health, and Safety (EH&S) Information.** The Human Resources Department or designated appropriate administrative office issues to each participating guest appropriate EH&S publications. In addition, participating guests may be required to read additional EH&S publications; to attend certain EH&S training sessions to satisfactorily complete certain EH&S testing requirements; to wear a personal radiation dosimeter; and to attend an introduction to EH&S requirements in conjunction with the Laboratory host or hosting division, based on the guest's anticipated need to enter laboratories, accelerators, or shops and his or her anticipated exposure to any hazardous activity at the Laboratory.

(d) **Parking.** Refer to RPM §1.04 (*Operation and Parking of Motor Vehicles and Bicycles*).

(e) **Guest Departure.** Upon final termination of an approved appointment and any subsequent extensions, the participating guest must complete a Supervisor/Participating Guest Checkout List and surrender any parking permit, dosimeter, ID badge, keys, or other administrative material as part of the departure procedure. Items may be returned to any of the following: Site Access (Badge Office), host/supervisor, division office, HR representative, or any badge return box. Failure to surrender the material may result in the loss of future access privileges.

(f) **Termination of Guest Status.** The guest status of an individual terminates automatically on the appointment end date indicated on the guest's HRIS record. If the guest status is terminated prior to the appointment end date and the individual is from a sensitive or terrorist-sponsoring country, the host or hosting division must notify the Foreign Visits and Assignments Office in a timely manner to comply with DOE reporting requirements.

4. International (Non-United States Citizen) Guests

International participating guests must present an approved PGIF (Participating Guest Form), which is generated by the host department. A letter of invitation from the host and appropriate visa documents must be presented to Site Access (or the ALS Users Office), such as:

a. **J1 or J2 Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, DS2019 form, Active Health Insurance, Active Repatriation Insurance (English translation).

b. **F1 or F2 Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, I-20, Student ID, (EAD if using optional practical training after I-20 expires).

c. **H1B Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, 797 form.

d. **B1 or B2:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp.

e. **WB,WT, or CP:** Current passport (must show issue date, passport number, and photo), and I-94.

f. **TN:** Current passport (must show issue date, passport number, and photo), and I-94.

g. **Lawful Permanent Resident (LPR) (Green Card):** Lawful Permanent Resident card and passport or driver's license.

The above documents must be complete and properly dated before Site Access can badge an International Guest. HRIS appointment end dates must not exceed the expiration dates that appear on the guest's DS2019, I-20, 797, I-94, or Green Card (whichever is applicable). In the case of visa waivers, the expiration date must not exceed 90 days from the date of entry into the United States (I-94).

Sensitive Countries: Individuals who are citizens of, were born in, or are affiliated with (employed or sponsored by) sensitive countries (contact Site Access for a current list or visit www.lbl.gov/ehs/security/ufva/issm_sensitive.shtml) are subject to DOE O 142.3 (Unclassified Foreign Visits and Assignments) requirements if they require access for 30 days or more. Sponsoring divisions should notify the Foreign Visits and Assignments (FVA) Office one month in advance and provide required immigration documentation and a completed Participating Guest Information (PGI) form. Sensitive country foreign nationals are approved

locally (i.e., Lab executive approval) and may be badged with appropriate documentation and insurance coverage (if applicable).

Terrorist-Sponsoring Countries (T-4): A current list of Terrorist-Sponsoring Countries may be obtained from Site Access or from www.lbl.gov/ehs/security/ufva/index.shtml. Individuals who are citizens of, were born in, or are affiliated with (employed or sponsored by) Terrorist-Sponsoring Countries who are conducting research or working at the Laboratory **must be processed per DOE requirements and receive approval from the DOE Under Secretary for Science before access can be granted. Short-term (casual) visitors from these countries who are not working or conducting research at the Laboratory do not require DOE Secretarial approval but must have a host and a business need before visiting the Laboratory or any of its off-site locations.**

Before receiving a badge, **all participating guests** must provide the following information:

- Citizenship and
- Place of birth (if not a U.S. citizen)

Guests from sensitive or terrorist-sponsoring countries who have become naturalized U.S. citizens are not subject to DOE foreign national requirements. They must, however, adhere to all other Laboratory access and training requirements.

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§1.10
Conference Rooms

Responsible Manager

Section Renumbered 8/06

A. **General**
B. **Conference Room Coordination**
C. **Reservations**
D. **Standing Reservations**

A. GENERAL

A number of conference and assembly rooms are available for use by Laboratory groups and by outside groups when the purpose of the meeting is related to Laboratory work. Use by employee organizations must be arranged through the Human Resources Department. Rooms may not be used for purposes unrelated to Laboratory work unless the proposed use has been approved by the Laboratory Director's Office. Although some rooms have been assigned to specific groups or departments, all Laboratory conference/meeting rooms are to be listed on Calendar and are intended to be available for general use by Laboratory employees. Meeting rooms and auditoriums that are 45 square meters or larger are defined as Institutional Conference Rooms and are administered and maintained by the Facilities Division. Institutional Conference Rooms are listed on the Facilities Web page and are scheduled through the Work Request Center.

B. CONFERENCE ROOM COORDINATION

Each conference room is assigned a Conference Room Coordinator (CRC) to reserve rooms and provide guidelines for conference room users. The Work Request Center is the CRC for Institutional Conference Rooms.

C. RESERVATIONS

Reservations are made by the responsible CRC with consideration for the following:

- The Laboratory Director has priority use of all Laboratory meeting rooms.
- In specific-purpose rooms (e.g., those with video-conferencing facilities), groups that need to use the equipment have priority. Currently, these rooms are 50B-4205, 50B-6106, 50F-1647, 71-264, and 90-3075. Rooms 50B-4205, 50F-1647, and 90-3075 are administered by Video Conferencing Services (ext. 6767).
- If a change is made in a room reservation (e.g., a group with a standing reservation is persuaded by another user group to relinquish the room), the CRC must be notified of the change by the original user. The CRC is not responsible for changing reservations.

D. STANDING RESERVATIONS

Groups that need meeting space on a regular basis (e.g., weekly, monthly) may reserve a conference room under the following conditions:

- The request for a standing reservation must be made in writing to the appropriate CRC.
- If the standing reservation will not be used on a specific date, the CRC should be notified at the earliest possible time to allow others to use the room.

Standing reservations that are not used on a frequent and regular basis may be canceled by the CRC.

§1.12
Health Services

Responsible Manager

Section Renumbered 8/06

- **A. Laboratory Occupational Medical Program**
  - **1. Medical Surveillance**
  - **2. Injuries / Illnesses**
  - **3. Eye Protection Program**
- **B. Employee Assistance Program**
- **C. Blood Bank**
- **D. Optometry Clinic**
- **E. Dental Clinic**

A. LABORATORY OCCUPATIONAL MEDICAL PROGRAM

1. Medical Surveillance

Medical examinations may be offered initially and periodically during employment and at the time of termination or retirement, in accordance with DOE guidance. Employees engaged in potentially dangerous occupations, such as firemen and those working with certain hazardous substances (e.g., lead, asbestos, or carcinogens), are enrolled in the Medical Surveillance Program. For employees voluntarily participating in the Medical Surveillance Program, the Health Services staff determines both the medical measurements and observations required and the frequency of health evaluations, based on identified potential hazards and risks. Women who are or plan to become pregnant should consult Health Services about their work environment.

2. Injuries/Illnesses

A medical service facility is maintained in Building 26 to treat injuries and minor illnesses and to advise employees of medical conditions that should be discussed with or treated by an outside personal physician. Supervisors must require their employees to report as soon as possible all injuries and illnesses that occur at work so that medical evaluation and treatment may be provided promptly and effectively. On returning to work after a work-related injury/illness resulting in lost time, employees must report to Health Services for an evaluation of their condition and ability to resume customary duties. For nonoccupational health problems, employees are required to contact Health Services if five or more consecutive workdays have been lost or if a work restriction is needed.

3. Eye Protection Program

Safety glasses are available to all employees and are required at certain potentially hazardous work sites, such as the mechanical shops and laser laboratories. Eye examinations by an optometrist are provided at low cost to employees needing prescription safety glasses.

B. EMPLOYEE ASSISTANCE PROGRAM

Employees who are experiencing problems, including those related to family difficulties, substance abuse, legal and financial concerns, personal adjustments, emotional trauma, and their jobs, can secure confidential counseling and/or referrals to appropriate resources. The Employee Assistance Program is an off-site program provided by the University of California Health Center (the Tang Center) of the Berkeley campus. See RPM §2.05(G) (*Employee Assistance Program*). Employees and managers seeking Employee Assistance Program services may contact the University of California at Berkeley Employee Assistance Program directly.

C. BLOOD BANK

The Laboratory maintains a blood bank in cooperation with the Alameda–Contra Costa Medical Association Blood Bank. The Laboratory blood bank is for the benefit of employees, members of their families, and close relatives. All employees who meet the blood bank requirements for donors are urged to donate blood during the periodic blood drives held at the Laboratory. Information regarding use of the blood bank or donations may be obtained from the Health Services Group, which administers this program.

D. OPTOMETRY CLINIC

The Optometry Clinic of the School of Optometry on the University of California at Berkeley campus provides eye examinations to students, employees, and the general public. When glasses are prescribed, they may be purchased from the clinic, if desired. For additional information and appointments, call the School of Optometry.

E. DENTAL CLINIC

Employees may have certain types of dental work performed by dental students at the Dental Clinic of the University of California Medical Center in San Francisco. Additional information may be obtained from the Dental Clinic.

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§1.13
Food Services

Responsible Manager

Revised 09/07

The Laboratory operates a cafeteria primarily to provide convenient lunch services for employees. The cafeteria also provides catering services to Laboratory groups wishing to have food services at approved, on-site informal meetings. See RPM §11.01 *(Laboratory-Hosted (Funded) Meetings)* for definitions, requirements for approval, and allowable costs. Arrangements may be made for special lunches or dinners for Laboratory groups or groups with which Laboratory employees have a work-related connection. These facilities may not be used by outside groups having no connection with University of California work. Reservations for group use of the cafeteria (Building 54) are made electronically through Oracle Calendar. Requests for catering services are made with the cafeteria manager.

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§1.17
Archives and Records Management

Responsible Manager

Section Renumbered 8/06

- **A. General**
- **B. Legal Requirements**
- **C. Responsibilities**
- **D. Program Components and Services**
  1. **Training and Workshops**
  2. **Records Inventory**
  3. **Records Scheduling**
  4. **Program Survey**
  5. **Information in Electronic and Optical Form**
  6. **Vital Records**
  7. **Disaster Recovery**
  8. **Disposition of Personal Papers and Official Records**
  9. **Privacy and Access Laws**
  10. **Access to Laboratory Records**
  11. **Quality Assurance**
  12. **Central Records Holding Area**

A. GENERAL

The Laboratory and the University of California recognize the importance of appropriate treatment of records. Every Laboratory employee has responsibilities for Laboratory records. Records management is a line-management function at Berkeley Lab, and the Laboratory Archives and Records Office assists line management in meeting its records management responsibilities.

Records management provides a rational basis for making decisions about recorded information, including what should be saved and what should be discarded. These decisions are necessary to support the legal, fiscal, administrative, and other research needs of the Laboratory, University, federal government, State of California, and general public. The ultimate goal of records management is to identify and maintain records that adequately and properly document the organization, functions, policies, decisions, procedures, and essential transactions of projects and research.

Additional information about records-keeping requirements can be obtained by calling the Laboratory Archives and Records Office.

B. LEGAL REQUIREMENTS

All records generated by the Laboratory under terms of the DOE/LBNL Contract with DOE are considered institutional. As such, all Laboratory records are owned by the United States government, with the exception of the University's fiscal and administrative records.

According to the DOE/LBNL Contract, "University administration and fiscal records" are owned by the University of California and are therefore subject to the California Public Records Act and the Information Practices Act. All other Laboratory records are federal records. Four primary laws relate to federal records management: the Federal Records Act of 1950, as amended; the Freedom of Information Act; the Privacy Act; and the Paperwork Reduction Act of 1980.

The Laboratory records management program is mandatory.

C. RESPONSIBILITIES

The Archives and Records Office must:

- Establish standards, procedures, and guidelines for the Laboratory archives and records management program.
- Assist Laboratory departments in developing programs for effective records management, files maintenance, records disposition, and vital records protection.
- Collect and disseminate information on records management, technological developments, and other records-management–related activities.
- Train records liaison officers and Laboratory employees about their records responsibilities.
- Inventory and appraise records and submit Laboratory-specific records retention schedules to the National Archives and Records Administration.
- Assign records retentions according to authorized retention schedules.
- Ensure that semiactive records are appraised for their legal, fiscal, administrative, research, and historical value, and are properly accessioned, stored, and retrieved as needed.
- Obtain departmental written authorization to dispose of temporary records.
- Ensure that permanent, historically valuable records are appropriately accessible to researchers.
- Conduct surveys of divisions', departments', and research groups' records management practices to ensure accountability and improve records care.
- Assist all principal investigators with designated quality assurance records.
- Assist Laboratory departments in Laboratory disaster preparation and recovery if records are involved.
- Identify, store, and display historic Laboratory artifacts.
- Assist the Laboratory in adhering to the National Historic Preservation Act.

Each Laboratory division/department must:

- Designate records liaison officers responsible for overall coordination of records programs; add the records liaison officer duties to the individual's job description and his or her annual job evaluation; and ensure that the records liaison officer is trained by the Archives and Records Office.
- Cooperate with the Laboratory Archives and Records Office in applying standards and procedures to improve the management of records.
- Establish effective management controls over the creation, maintenance, and use of records.
- Create and preserve records that adequately and properly document the organization, functions, policies, decisions, procedures, and essential transactions of the divisions, departments, and research groups.
- Destroy records according to retention schedules approved by the National Archives and Records Administration.
- Submit records inventories to the Laboratory Archives and Records Office.
- Transfer semiactive records from office space to the Laboratory Archives and Records Office.
- Establish safeguards against the unauthorized removal or destruction of records, and notify the Laboratory Archives and Records Office if removal or destruction occurs or threatens to occur.
- Provide safeguards in all records management activities for the protection of individual privacy in accordance with federal and state laws and regulations.
- Identify, develop, and maintain a vital records protection program.

- Ensure that document retention schedule/destruction practices are suspended when litigation, governmental investigation, or an audit is pending or imminent.

D. PROGRAM COMPONENTS AND SERVICES

1. Training and Workshops

The Archives and Records Office offers training and workshops on records management, including records disposition, vital records protection, files management, electronic records retention scheduling, and disaster preparedness.

2. Records Inventory

All Laboratory divisions, departments, and research groups are responsible for completing and keeping current inventories for their records, and should share the information electronically with the Archives and Records Office.

3. Records Scheduling

Records must be maintained according to the retention schedules approved by the National Archives and Records Administration. The schedule is the legal instrument by which records are evaluated and decisions are made about their storage, preservation, availability, or transfer to the National Archives and Records Administration. The Archives and Records Office is responsible for developing retention schedules that accurately reflect the nature and content of the Laboratory's records.

After the schedule is prepared, it is sent to DOE and the National Archives for review and approval. It is critical to note that records may not be destroyed unless they are covered by an approved schedule.

4. Program Survey

To establish accountability and to assess the Laboratory's records management practices, the Archives and Records Office will survey each division, department, project, and research group's area using National Archives and Records Administration guidelines and requirements. Reports of the records surveys will be given to the Records Liaison Officer and appropriate line management. Line management and the Records Liaison Officer are responsible for correcting the deficiencies within a reasonable amount of time.

5. Information in Electronic and Optical Form

Scientific and technical records may consist of laboratory notebooks, raw observational or experimental data, text files, software, or modeling and design systems recorded on electronic or optical media. According to the law and National Archives and Records Administration regulations, records may consist of any media, including microfilm, magnetic tape, floppy and hard disks, and optical cards and disks. Information on these media must be covered by an approved records schedule and handled according to the terms of the schedule.

Federal law and regulations require the Laboratory to schedule electronic and optical record retention by information system (including inputs, outputs, documentation, and magnetic or optical media). Unscheduled records or records scheduled for permanent retention in hard copy may not be destroyed without National Archives approval. Before a division, department, project, or research group creates electronic or optical data systems, the records liaison officer should contact the Archives and Records Office about disposition requirements.

6. Vital Records

Vital records should be inventoried and identified. Scientific groups and departments must take appropriate measures to protect vital records.

7. Disaster Recovery

If records are damaged by fire, water, or other natural or manmade hazards, the Laboratory Archivist and Records Manager should be contacted to assess the damage, determine whether in-house methods can be used to recover the information, or find

additional records disaster recovery expertise.

8. Disposition of Personal Papers and Official Records

The DOE/LBNL Contract between the University of California and DOE specifies that all records, except the University's fiscal and administrative records, are federal records. Individuals do not own Laboratory records and do not have the authority to dispose of them or transfer records to another institution. If individuals maintain personal files at the Laboratory, they must not mix Laboratory records with their personal records. Individuals may make convenience copies of appropriate Laboratory records for their personal files in reasonable quantities.

9. Privacy and Access Laws

Laboratory records, except for the University's fiscal and administrative records, are subject to the procedures outlined in the Freedom of Information Act and the Privacy Act. University fiscal and administrative records are subject to the California Public Records Act and the Information Practices Act. For assistance and clarification about these laws, call the Archives and Records Office.

10. Access to Laboratory Records

Laboratory records that are permanent, historically valuable, and noncurrent are open to research, subject to Freedom of Information and Privacy Act provisions. Researchers are encouraged to call the Archives and Records Office to make arrangements to use these records.

11. Quality Assurance

Laboratory Quality Assurance Policy (LBNL/PUB-3111) addresses quality assurance records. The records liaison officer must carry out records responsibilities according to procedures established by quality assurance guidelines, Laboratory policy and procedure, and federal laws and regulations. The Archives and Records Office will assist divisions, principal investigators, departments, projects, and research groups in understanding and meeting their quality assurance records obligations.

12. Central Records Holding Area

The Laboratory Archives and Records Office operates the Laboratory's Central Records Holding Area. All offices are required to retire semiactive records series to the Archives and Records Office. The Central Records Holding Area facility standards are set forth in 36 CFR 1228.222 and 1228.224, and ASME-NQA-1 §17.

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§1.18
Solicitation and Acceptance of Gifts

Responsible Manager

Links updated 1/09

A. **General Policy**
B. **Definition**
C. **Responsibility**
D. **Procedures**

A. GENERAL POLICY

The President of the Regents of the University of California (the Regents) has delegated to the Laboratory Director the authority to solicit and accept gifts, including gifts of equipment, having an individual value not exceeding $100,000. Solicitation or acceptance of individual gifts exceeding $100,000 requires authorization from the University of California, Office of the President (UCOP). In addition, the Regents' authorization is required for solicitation or acceptance of any gift that exceeds $1 million or involves exceptions to University/Lawrence Berkeley National Laboratory programs and policies, long-term commitments, construction of facilities, or an interest in real property.

This delegation is subject to the following conditions:

- Gifts must be accepted in the name of and become the property of The Regents of the University of California.
- Gifts must be solicited, accepted, administered, documented, and reported in accordance with applicable University and Laboratory policies and procedures. See current Laboratory policy and procedures.
- Gift funds expended at Berkeley Lab are subject to the conditions set forth in Clause H.27 of contract 31 and the DOE-approved implementation plan for Contractor-funded R&D.

B. DEFINITION

A gift imposes no contractual requirements and is given irrevocably. The proposed gift must support the scientific mission of the Laboratory. A gift from nongovernmental entities, earmarked for a specific project or for a principal investigator, is subject to the financial disclosure provisions of the Political Reform Act of 1974. Questions regarding these provisions should be referred to the Laboratory Conflict of Interest Coordinator.

In some cases, particularly where funding is provided from a nonprofit entity, it may be difficult to distinguish between a gift and a sponsored project. The following are characteristics that should be considered to make such a distinction:

Gifts vs. Sponsored Projects

Gifts	Sponsored Projects
Contractual requirements are not imposed and the funds are not program-specific. However, objectives may be stated and use of the funds may be specified for a particular purpose such as research in a defined area (e.g., Alzheimer's disease).	The award carries such terms on the use of funds as specified budgetary restrictions; the objectives to be achieved by the use of the funds; the program in which the work will be carried out; the individuals responsible for the completion of the work; the period of performance; indirect costs; and invention rights (intellectual property), a schedule of

	payments.
Award is irrevocable.	Unused funds must be returned to the sponsor.
A period of performance is not specified.	Formal period of performance is stated in an award document.
Formal financial accounting over a specified project period is not required and there is no requirement to return unexpended funds. Good stewardship does allow general communication as a courtesy to the donor. E.g., reports of expended funds and a description of research status.	Formal financial accounting, during the life of the project, at its termination, or both, is required. Reports related to the substance of the work during the life of the project, at its termination, are required by the sponsor. Copies of published and other materials may also be requested. Final deliverables are required.
Generally, funds received from individuals, closely held corporations, and private family foundations will be classified as gifts; and funds received from corporations, corporate foundations, and major foundations may be classified as gifts, depending on the circumstances.	Generally, research-related awards from corporations, corporate foundations, and major private foundations subject to specific restrictions will be classified as sponsored research.

C. RESPONSIBILITY

The Sponsored Projects Office (SPO) is responsible for reviewing, processing, and monitoring gift proposals and awards to ensure compliance with University and Laboratory policies. SPO is responsible for ensuring that the gift is not better classified as a Sponsored Project. The Principal Investigator and Division Director are responsible for making the initial determination of the appropriateness of the gift.

D. PROCEDURES

The procedures listed below must be followed for handling all gifts (see also RPM §11.40(H) (*Property Acquired as a Gift*)). A proposed gift that is not handled according to these procedures will not be accepted:

1. A principal investigator must consult with his or her division director before initiating any action. Once the division director has approved the gift, the division office will assist the principal investigator in preparing the gift acceptance package. The division director must review the gift against the criteria for sponsored projects to ensure whether it should not be a sponsored project. Questions should be directed to SPO.
2. The division submits the documentation to the Sponsored Projects Office to review for completeness, accuracy, and adherence to policy.
3. The Sponsored Projects Office submits the Director's gift acceptance package including the LBNL Gift Acceptance Report form (UDEV-100) to the Laboratory Director.
4. After review and acceptance, the Laboratory Director signs the formal letter of acknowledgment, which will be sent to the donor by the Sponsored Projects Office.
5. If the gift is property, the Sponsored Projects Office will notify Property Management.
6. If the gift requires UCOP acceptance, the Sponsored Projects Office will forward the necessary forms to the University.
7. The Sponsored Projects Office will notify the division when the gift processing is complete.

8. After notification, the division will request that a project be opened by the Budget Office.
9. No charges may be incurred until the Sponsored Projects Office notifies the division that all processing is complete. See also RPM §11.40(H) (*Property Acquired as a Gift*).

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§1.19
Use of Laboratory Mail System

Responsible Manager

Section Renumbered 8/06

The Laboratory's mail system is intended only to process official mail, which is mail that results from the performance of duties directly related to official Laboratory business. The Laboratory uses government funds to provide postage on outgoing mail. Using Laboratory-furnished postage for other than official business mail is a violation of Laboratory policy and the Laboratory's contractual obligations to DOE. Examples of mail that are not considered official are gifts, calendars, Christmas cards, and resumes sent to other organizations. In addition, the Laboratory's mail system may not be used for stamped personal mail. A United States Postal Service box is located for employee convenience in the cafeteria parking lot.

Similarly, the mail system may not be used for incoming personal mail (e.g., personal correspondence, bank and credit statements, popular magazines, clothing catalogs, gift packages). Incoming mail of a personal nature may be refused or returned to sender at the discretion of the Mail Services Supervisor.

The Laboratory will fund all mailings up to 200 pieces. Mailings in excess of 200 pieces will require a valid project number. All personnel are encouraged to plan for and choose the more cost-effective "bulk" mailing rate, which, on an average, provides a four- to six-day delivery time and a cost savings of up to 55 percent over normal third-class mail. Information regarding these rates and/or other Mail Services procedures should be directed to the Mail Services Manager at extension 5353.

Laboratory mail is checked to ensure that the proper postage charges are paid. If it is uncertain which mail classification should be used or there is reasonable cause to believe that the mail is not directly related to official Laboratory business and a return address is present on the material, the sender will be contacted to ascertain its status. If it is uncertain which mail classification should be used or there is reasonable cause to believe that the mail is not directly related to official Laboratory business and a return address is not present on the material, the mail will be opened to ascertain its status.

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§1.20
Space Management

Responsible Manager

Section Renumbered 8/06

- **A. General**
- **B. Responsibilities and Approvals**
  - **1. Division Space Management Responsibility**
  - **2. Interdivision Space Management Responsibility**
  - **3. Institutional Space Management Responsibility**
- **C. Procedures**
  - **1. Allocation of Space Costs**
  - **2. Record-Keeping**
  - **3. Requests for Space**
  - **4. Return Policy**
- **D. Off-Site Space**
- **E. Space at the University of California at Berkeley**
- **F. Funding**
- **G. General Space Management Principles**

A. GENERAL

The Laboratory's policy on space management is to maximize the use of this resource in a planned, judicious, and cost-effective manner while minimizing disruption of activities. The Laboratory Director has delegated the implementation of this policy and the authority to allocate space in all Berkeley Lab–managed property to the Associate Laboratory Director for Operations (ALDO), assisted by the Facilities Planning staff.

B. RESPONSIBILITIES AND APPROVALS

1. Division Space Management Responsibility

Each division is responsible for managing the utilization of space assigned to it. Facilities Planning works with each division to monitor compliance with space utilization policy.

Each division director designates a division space coordinator, who serves as the point of contact for the division's space information.

When a division has new space needs, it is responsible for examining all possibilities to meet this need within its existing allocations before submitting a request for additional space to Facilities Planning.

With the exception of individual office space intended for immediate reuse by the same division, reuse of any vacated space must be reviewed by Facilities Planning for consistency with Laboratory-wide plans. Any modifications made to a room configuration, including change of use, must be approved by Facilities Planning for compliance with applicable building codes and consistency with Laboratory-wide plans.

2. Interdivision Space Management Responsibility

Division directors are expected to work together in resolving space issues when reallocations must take place across division lines. Before interdivisional negotiations begin, a request for space reassignment is submitted to Facilities Planning to allow for a check for consistency with Laboratory-wide plans and options available to the requester. All reassignments of space must, however, be approved by the ALDO.

3. Institutional Space Management Responsibility

In unresolved interdivisional space issues, reassignment of space is made by the ALDO in consultation with the Laboratory Space Committee. This committee is chaired by the ALDO and includes representatives from Computing, Energy, General, and Life Sciences; the heads of the Office for Planning and Strategic Development and Facilities Division; and staff from Facilities Planning.

C. PROCEDURES

1. Allocation of Space Costs

Allocation of costs associated with space will be charged directly to the project utilizing the space, consistent with the "final cost objective" of the Cost Accounting Standards of the Laboratory. As a basic guideline, space should be allocated to each cost objective to which labor is associated.

Final cost objectives for the Laboratory include:

- DOE projects
- Work-for-Others projects
- Organization burden
- Recharges
- Laboratory Directed Research and Development projects
- Projects funded by other sources (e.g., University Directed Research and Development, fellowships, gifts, etc).

2. Record-Keeping

The Odyssey Space Database is the institutional record of space assignments by division. Information from this database is used for all institutional record-keeping concerning space, including space charges. The database is updated monthly and is available Laboratory-wide through the Information Systems and Services IRIS v.2 data warehouse. A separate publication, *Odyssey Space Management System*, describes the maintenance of Odyssey.

3. Requests for Space

Requests for additional space are made by memo or e-mail to Facilities Planning. Requests may only be made by an authorized division representative (i.e., division director, division administrator, or division space coordinator).

4. Return Policy

Requests to return space are made by memo or e-mail to Facilities Planning. Requests may only be made by an authorized division representative (i.e., division director, division administrator, or division space coordinator).

Prior to vacating space and returning it to the Laboratory, the Principal Investigator assigned to the space must meet the following requirements:

- The space must be cleared of materials and equipment and be devoid of any contamination.
- The space must be of a reasonable size and relatively contiguous configuration to enable reasonable reuse by other Laboratory divisions.
- Office furniture, if free of materials, debris, and contamination, may be left in place and returned with the space.

If the Principal Investigator fails to meet the above requirements, the responsibility will fall to the division.

Ninety days after receiving the written request to return space, Facilities Planning will transfer the space from the requesting division if, by the date of transfer, the space meets the above requirements. This 90-day period will allow another user to be located. If another division accepts assignment of the space, some or all of the 90-day waiting period will be waived. If the space is not acceptable for release after 90 days, it will remain the assigned division's responsibility until it meets the requirements for release.

D. OFF-SITE SPACE

Under certain circumstances, off-site space may be leased to accommodate Laboratory needs. Off-site space acquisition is governed by a variety of contractual, legal, and University policy provisions. Requests for off-site space must be made by memo or e-mail to Facilities Planning. As the designated staff to the Associate Laboratory Director of Operations, Facilities is the sole authorized requester for the procurement of leased real estate for the Laboratory.

E. SPACE AT THE UNIVERSITY OF CALIFORNIA AT BERKELEY

Each division using space in a University of California at Berkeley–managed facility to conduct Laboratory-funded research is required to report the building, room, and percentage of space used by Berkeley Lab to Facilities Planning at the beginning and end of occupancy, and upon any change to the percentage of space used by the Laboratory.

F. FUNDING

Costs related to moving in or alterations of newly assigned space are normally borne by the incoming division. When moves are required by the Laboratory, costs will be borne by Laboratory overhead and/or the benefiting division. Alterations to leased space funded by the Laboratory must be approved by the DOE Berkeley Site Office.

G. GENERAL SPACE MANAGEMENT PRINCIPLES

The following principles are guidelines for space allocation:

- *Research.* Research divisions have priority for space over support divisions.
- *Laboratory-Based Research.* Laboratories should be used for the purposes for which they were designed (e.g., wet laboratories should be used for wet-laboratory-based research). Converting laboratory space to office space should be avoided.
- *Asset Proximity.* In buildings containing both offices and laboratories, groups with laboratory space in the building have priority for office space. If research programs depend on a major facility (e.g., the Advanced Light Source, the 88-Inch Cyclotron, electron microscopes), programs using the facility have priority for adjacent office and laboratory space.
- *Office Space.* Office space is allocated to be generally equitable among the divisions. "Equitable" means that roughly the same amount of floor area should be provided for people, including students, of approximately equal rank. This approach accounts for program size and funding in a reasonable way. For cost effectiveness and maximum utilization, the Laboratory encourages open and shared office space.

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§1.21
Berkeley Lab Stationery and Logos

Responsible Manager

Revised 09/07

- **A. Use of Name and Logo**
- **B. Use of Letterhead**
  1. **Requirements for Nonstandard Berkeley Lab Letterheads**
  2. **Approval of Nonstandard Letterheads**
- **C. Berkeley Lab Business Cards**
  1. **Policy**
  2. **Printing by Off-Site Printers**
  3. **Requests for Authorization of Business Cards**

A. USE OF NAME AND LOGO

Lawrence Berkeley National Laboratory is the official, legal Laboratory name, to be used in written and formal situations, on all major reports, and on first mention in text references. Berkeley Lab, the short form of the official name, is preferred for common usage in writing and familiar situations. This appears on the official Laboratory logo. In situations in which an acronym is required, "LBNL" should be used.

The official Laboratory logo is available in a variety of forms and should generally be applied to all publications and visual representations of the Laboratory, in particular to those distributed externally. The logo must be used as designated without alterations. The use of other logos or graphic symbols displayed with the official logo must be approved by the Director of Public Affairs.

Questions regarding appropriate use of the name and logo in text and design should be directed to the Creative Services Office (CSO).

B. USE OF LETTERHEAD

Official Berkeley Lab stationery in standard and approved nonstandard variations must be used for all official external correspondence. Standard stationery may be ordered through Stores or obtained electronically via a public server. Nonstandard stationery may be ordered through CSO.

1. Requirements for Nonstandard Berkeley Lab Letterheads

a. All nonstandard letterheads must include the official Laboratory logo and the following text at the bottom of the first page:"Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, California 94720." Laboratory or program telephone and fax numbers are permissible as part of the letterhead.

b. Laboratory divisions may add the division name and telephone number. The use of additional divisional/center or group logos is not permitted on either standard or approved nonstandard letterheads.

c. National centers located at Berkeley Lab, approved Berkeley Lab science centers, or other major organizational units may add their name to the letterhead if they can show a need for having their own letterhead. Appropriate application of name, including placement and type size, will be provided by CSO. Federal regulations prohibit showing an individual's name.

d. Printing must be done in black or blue ink. The official blue PMS color number is available through CSO.

2. Approval of Nonstandard Letterheads

a. The California Education Code as well as University policy prohibit unauthorized use of the University's name and seal.

Authority to approve the use of the University's name and seal have been delegated to the Associate Laboratory Director for Operations (ALDO). The University seal may not be used on Laboratory letterhead and business cards unless specifically authorized by the ALDO. Use of the University seal must be limited to official University business within the course and scope of the individual's employment.

b. Requests for approval of nonstandard letterheads should be made by memorandum from the cognizant division director to the Head of Public Affairs.

C. BERKELEY LAB BUSINESS CARDS

1. Policy

a. Business cards may be provided to an employee (1) whose job requires regular interaction with representatives of federal agencies; other contractors; state, local, or foreign governments; private industry; or the general public; and (2) for whom a business card would facilitate prompt and efficient communication with such individuals and entities as a representative of Berkeley Lab for DOE.

b. Under the terms and conditions of the DOE/LBNL Contract, which requires Berkeley Lab to facilitate contract performance in support of DOE's mission, discretion must be used in determining whether business cards will serve a suitable mission-related use.

c. When the relevant division director or designee approves business cards for an employee, the number of cards should be kept to a reasonable amount, based on cost and percentage of use. Cards must include the following statement on the face of the card: "Operated for the United States Department of Energy." Expense for cards meeting these conditions will be paid for by the individual's department or division.

2. Printing by Off-Site Printers

Regulations of the Joint Congressional Committee on Printing, which apply to Berkeley Lab, prohibit the printing of business cards at government expense unless the conditions outlined in Paragraph (C)(1)(a), above, are met. Therefore, printing of business cards not meeting these conditions, by off-site printers not coordinated through the General Printing Officer in CSO, must be paid for directly by the employee. Procards may not be used to pay for printing.

3. Requests for Authorization of Business Cards

Employees may request authorization of business cards from the relevant division director or designee by following these procedures:

a. Contact CSO for a Request for Business Cards form, which includes samples of card styles approved by the Director's Office.

b. Select one of the approved card styles.

c. Send the form to the division director or designee to ensure compliance with the California Education Code. To avoid possible misrepresentation of the University or Laboratory, this Code prohibits use of the University's name without permission from the Laboratory Director or designee.

d. Send the approved form to the CSO Front Desk, Mail Stop 46R0125. CSO will provide graphic services for appropriate placement of logo and text, and coordinate the printing of cards created at a division's expense. Those wishing to pay for their own cards may receive the camera-ready artwork to arrange for their own printing services.

e. Provide one business card to the division administrator to demonstrate conformance with approved card styles.

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§1.23
Organizational Membership

Responsible Manager

Section Renumbered 8/06

The Laboratory's former Organizational Membership policy and procedures were rescinded by DOE's Contract DE-AC02-05CH11231, effective June 1, 2005.

Organization membership dues and fees are allowable under the contract if they meet the cost allowability requirements. Please see the policy on cost allowability in the Financial Policies and Procedures Manual.

For matters of organization costs for licensing or certification required by a Laboratory employee's position, please see RPM §2.04(G).

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§1.24
Metric Usage

Responsible Manager

Section Renumbered 8/06

- **A. Metrication Policy**
- **B. Definitions**
- **C. Scope of Metrication**
- **D. Responsibilities**
- **E. Implementation Guidelines**
  1. **SI Units: Definitions**
  2. **Metric Practice**
  3. **New Design and Development**
  4. **Repair, Modification, and Retrofit of Existing Inch-Pound Facilities and Equipment**
  5. **Tools and Equipment**
  6. **Technical Documentation**
  7. **Deviation from SI Usage**
  8. **Reference**

A. METRICATION POLICY

The Laboratory requires the use of the modern metric system, the International System of Units (abbreviated SI, from the French *Système International d'Unités),* except when safety considerations dictate otherwise or when metric usage would entail excessive costs or otherwise seriously impede Laboratory operations. Exceptions are also allowed for programs whose sponsors specify the use of the inch-pound system. Division directors are responsible for implementing the metric system within their respective divisions as expediently as feasible.

The Laboratory has adopted SI units in response to Trade and Competitiveness Act of 1988 §5164, Executive Order 12770 of 1991, and DOE Order 5900.2.

B. DEFINITIONS

Metric System. In general parlance, any of a number of closely related decimal unit systems, including the centimeter-gram-second (cgs) system, the meter-kilogram-second (MKS) system, the meter-kilogram-second-ampere (MKSA) system, and the current International System of Units (SI). As used in this section, the expressions metric, metric system, and metric units refer exclusively to the International System of Units.

International System of Units (SI). The modern metric system (i.e., the system of decimal units currently defined and sanctioned by the International Bureau of Weights and Measures, which operates under the authority of the General Conference on Weights and Measures).

Metrication. The process of expanding the use of SI units and phasing out the use of non-SI units.

Inch-Pound System. The system of measurement units most commonly used in the United States. This system is based on such units as the inch, pound, second, and degree Fahrenheit. It is also frequently referred to as the "English System" or the "U.S. System."

Hard Metric Usage (or Practice). Exclusive and direct use of SI units (i.e., without first converting measurements made using inch-pound or other non-SI units into SI equivalents). Hard metric usage generally means that a product will differ physically from an analogous product designed and produced using the inch-pound system. For example, a mechanical designer working in the inch-pound system might specify the thickness of a flat metal part as 1 inch. Working in "hard metric," the same designer might

specify the thickness of this part as 25 mm.

Soft Metric Usage (or Practice). The conversion of inch-pound or other non-SI measurements to equivalent SI units, within the established measurement tolerances. In general, "soft metric" products will not differ physically from analogous products fabricated using the inch-pound system. Working in "soft metric," the mechanical designer in the example above would specify that the flat metal part in question must be exactly 25.4 mm thick.

Metric Design. Design work that incorporates SI usage. For purposes of this document, metric design generally means hard metric design, although soft metric design will be acceptable during the transition from inch-pound to SI units.

Dual Dimensioning. The inclusion of both SI and non-SI dimensions in drawings and publications.

Dual Indication. The inclusion of both SI and non-SI units and calibrations on instruments and gauges.

Hybrid Practice. Mixing SI units and non-SI units in an activity or a product.

C. SCOPE OF METRICATION

The Laboratory aims to implement the use of SI units throughout its operations as rapidly as it is reasonable and cost-effective to do so. In principle, all research programs, facilities, and equipment are subject to metrication. The Laboratory's divisions are granted latitude, however, to determine the pace and stages of metric conversion. In general, postponement of metrication should be allowed only in situations in which metric conversion would seriously impede Laboratory operations.

D. RESPONSIBILITIES

All Laboratory planning, design, procurement, manufacturing, installation, integration, testing, operation, and maintenance must be performed in a manner consistent with the provisions of this policy. Division directors will be responsible for ensuring adherence to these guidelines within their respective divisions.

E. IMPLEMENTATION GUIDELINES

1. SI Units: Definitions

SI as currently defined is based on seven units that are considered dimensionally independent: the meter, kilogram, second, ampere, kelvin, mole, and candela. All other units are derived from these base units and two supplemental units that are considered dimensionless derived units: the radian and the steradian. Information on the base, supplemental, and derived units are given in ASTM E 380-92, *Standard Practice for Use of the International System of Units (SI) (the Modernized Metric System*) (ASTM, Philadelphia, 1992).

2. Metric Practice

Metric practice at the Laboratory will conform to the provisions of ASTM E 380-92 and subsequent revisions of that document. ASTM E 380-92 prescribes standards of usage governing the following issues:

- Use of prefixes
- Permissible use of non-SI units under some circumstances
- Obsolete metric units and names to be avoided
- Specific SI units, including those expressing mass, force, weight, temperature, linear dimensions, rotational mechanics, impact energy absorption, and pressure and vacuum
- Use of nominal dimensions in naming customary items
- Writing numbers, numerals, and unit names and symbols
- Conversion, rounding, and tolerances

- Correct use of significant digits to indicate the accuracy of measured, converted, or computed quantities

ASTM E 380-92 also provides comprehensive tables of conversion factors.

Contrary to the style used in ASTM E 380-92, Laboratory drawings and publications will use the spellings "meter" and "liter" instead of "metre" and "litre." The Laboratory also expressly sanctions the use of the degree Celsius in place of the Kelvin in all contexts except formal scientific publications.

If multiple codes and standards exist governing specific disciplines and trades (e.g., fasteners), the Laboratory Metric Transition Council will be responsible for adopting the code or standard most appropriate for the Laboratory. The Metric Transition Council is chaired by the Engineering Division Director.

3. New Design and Development

Metric design is preferred in all new projects. Major projects nearing completion that have been designed and constructed in the inch-pound system may be completed in that system. Materials, components, parts, subassemblies, and semifabricated materials of commercial design will be specified in SI units except when exemptions are granted on the basis of the criteria listed in Paragraph (E)(7), below. Bulk materials will be specified and accepted in SI units for projects and items designed and specified using SI units.

4. Repair, Modification, and Retrofit of Existing Inch-Pound Facilities and Equipment

Repair, modification, and retrofit of existing facilities and equipment of inch-pound design using SI-designed items are permissible. Decisions concerning such modification will be determined on a case-by-case basis, however, with consideration given to the technical and economic feasibility of using SI and to other relevant factors such as safety. The final decision in such cases will be made by the project leader with the concurrence of the responsible division director. In general, increasing use of SI-designed items is strongly encouraged.

5. Tools and Equipment

For the foreseeable future, shop, laboratory, and general-purpose tools and test equipment used by Laboratory personnel must permit work in either SI or inch-pound units or in both, depending on which system is encountered in work situations. The purchase and assignment of tools and equipment must take this requirement into account, though gradual conversion to pure metric usage is expected to reduce its importance over time.

6. Technical Documentation

Technical documentation and Laboratory publications will comply with the following requirements:

a. **Specifications and Engineering Drawings for New Designs and Modifications of Existing Designs.** These engineering documents must incorporate SI units in either of two ways. The preferred method is SI units only. Alternatively, dual dimensioning may be used. If dual dimensioning is used, the general rule will be for SI units to be given first, with the corresponding non-SI units following in parentheses. In cases in which safety is a prime consideration and with the approval of the responsible division director, engineering documents may use dual dimensioning with inch-pound units first and SI units following in parentheses.

b. **Engineering Calculations.** All engineering calculations that contribute to metric designs must be expressed in SI units.

c. **Laboratory Publications.** Metric units must be used in all Laboratory reports and publications. Exclusive use of SI units is preferred wherever possible, but dual dimensioning is allowed during the transitional period. If dual dimensions are used, the preferred format is SI units first and the corresponding inch-pound units in parentheses. For cases in which safety is a prime concern, publications may provide dual dimensions with inch-pound units first and SI units following in parentheses.

7. Deviation from SI Usage

Deviation from SI usage may be approved by the responsible division director. Acceptable criteria for allowing continued use of non-SI units include such factors as:

- Safety considerations
- Unavailability of applicable metric standards
- Unavailability of metric materials
- Seriously adverse cost effects of metrication
- Program sponsor instructions regarding the units to be used in specific projects or activities

8. Reference

For more information, see *Guidelines for Metrication at Lawrence Berkeley Laboratory* (LBNL/PUB-729), which is available from the Metric Transition Council.

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§1.25
Institutional Committees

Responsible Manager

Section Renumbered 8/06

- **A. General**
- **B. Committees**
  1. **Director's Action Committee**
  2. **Laboratory Committee on Diversity**
  3. **Laboratory Staff Committee**
  4. **Scientist/Engineer Salary Committee**
  5. **Laboratory Compensation Committee**
  6. **Laboratory Advisory Group on Research**
  7. **Laboratory Professional Awards Committee**
  8. **Human Subjects Committee**
  9. **Animal Welfare and Research Committee**
  10. **Independent Substantive Review Committee**

A. GENERAL

The Laboratory has a number of standing committees that support various aspects of its scientific and management functions.

B. COMMITTEES

1. Director's Action Committee

The Director's Action Committee (DAC) considers and approves major policy changes and institutional decisions and acts as a conduit for information of institutional importance flowing to and from the divisions and the Laboratory Directorate. DAC has the following members: the Laboratory Director; the Deputy Director; the Associate Laboratory Director for Operations; the Associate Laboratory Director, Computing Sciences; the Coordinating Division Directors for Energy, General, and Life Sciences; and the Laboratory Counsel. DAC members are selected and appointed by the Director.

2. Laboratory Committee on Diversity

The charge of the Laboratory Committee on Diversity is to provide advice on diversity in the Laboratory workforce, with the aim of more fully integrating diversity into the fabric of the Laboratory's culture, and to provide an environment that is accessible, equitable, and hospitable to all employees. Members are drawn from all divisions.

3. Laboratory Staff Committee

The Laboratory Staff Committee is charged with providing advice on important issues affecting the Laboratory senior staff, including reviewing cases for appointment and promotion. See RPM §2.07(B)(1) (*Laboratory Staff Committee*).

4. Scientist/Engineer Salary Committee

The Scientist/Engineer Salary Committee (SESC) is charged with recommending head-level appointments to the Director, approving post-October salary adjustments for scientist and engineer appointment levels, approving salary offers for senior staff scientist/engineer and division fellow appointments, adjudicating scientist and engineer salary offers on appeal, and approving the post-doctoral salary schedule. See RPM §2.06(C) (*Laboratory Committees*).

5. Laboratory Compensation Committee

The charge of the Laboratory Compensation Committee is to provide feedback to the Human Resources Department on proposed pay policy changes, new and/or revised classification and pay programs, and training for and/or communications with Laboratory supervisors and employees. See RPM §2.06(C) (*Laboratory Committees*).

6. Laboratory Advisory Group on Research

The charge of the Laboratory Advisory Group on Research (LAGR) is to advise the Director on matters pertaining to new scientific directions, quality of the work environment, promoting the highest quality science, and campus relations. Members are drawn from nonmanagement members of the scientific and engineering staff of each scientific area (Biosciences, Energy, and General Sciences, including Laboratory Centers).

7. Laboratory Professional Awards Committee

The charge of the Laboratory Professional Awards Committee is to seek and publicize outside recognition of Laboratory scientific and technical staff. To this end, it promotes awareness of awards at the Laboratory, advises the Director on strategies for awards, and encourages coordination and cooperation among divisions and with the University in nominating candidates for awards. Members are drawn from all scientific divisions.

8. Human Subjects Committee

The Laboratory has a long-standing agreement with the University of California at Berkeley campus Committee for Protection of Human Subjects to review and certify Laboratory projects. The Laboratory's Human Subjects Committee is responsible for reviewing and approving all Laboratory projects. Members of the Laboratory committee are generally drawn from the Life Sciences and Environment, Health, and Safety divisions. More information about this committee is available in Health and Safety Manual (LBNL/PUB-3000), Chapter 22.

9. Animal Welfare and Research Committee

The charge of the Animal Welfare and Research Committee (AWRC) is to ensure the humane and ethical treatment of research animals at the Laboratory. The AWRC is also the Laboratory's link to people and institutions involved with animal research outside the Laboratory. Members are generally drawn from the Biosciences Divisions.

10. Independent Substantive Review Committee

The charge of the Independent Substantive Review Committee (ISRC) involves part of the Laboratory's implementation of the University policy on Disclosure of Financial Interest in Private Sponsors of Research. The policy applies in situations in which a proposed research project is to be sponsored by a nongovernmental entity. If the project principal investigator has a positive financial interest in the sponsor, he or she must disclose it. The ISRC reviews the disclosure statement and relevant features of the research project, and recommends to the Associate Laboratory Director for Operations whether the contract, grant, gift, or Cooperative Research and Development Agreement should be accepted and any conditions or modifications that may be needed.

The Institutional Program Manager is the ex officio Chair of the ISRC. Laboratory Counsel and the Laboratory Conflict of Interest Coordinator are also ex officio members. There are also rotating members from the scientific divisions.

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§1.26
Financial Management

Responsible Manager

Moved 04/07

Note: Laboratory guidelines for financial management are now located in the *Financial Policy and Procedures Manual*, on the Office of the Chief Financial Officer Web site. *Financial Management General Guidelines* is also available in a PDF here.

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§1.27
Unified Project Call Process

Responsible Manager

Revised 09/07

- **A. General**
- **B. Responsibilities and Approvals**
  1. **Laboratory Director, Deputy Director, Associate Laboratory Director for Operations, and Director's Action Committee**
  2. **Facilities Division**
  3. **Berkeley Lab Divisions**
  4. **Environment, Health, and Safety (EH&S) Division**
  5. **Office of the Chief Financial Officer**
  6. **Project Coordinating Committee**
  7. **GPE Review Committee**
  8. **Department of Energy/Federal Project Director**
- **C. Process and Schedule**
  1. **Candidate Project Identification**
  2. **Institutional Review and Prioritization**
  3. **Communication of Project Funding Status**
- **D. Mid-Year Changes to GPP, NCA, and GPE Projects**
- **E. Definitions**
  1. **Line Item Projects (LIPs)**
  2. **General Plan Projects (GPPs/Institutional General Plan Projects (IGPPs))**
  3. **Non-Capital Alterations (NCAs)**
  4. **General Purpose Equipment (GPE)**
  5. **Capitalization Criteria**
  6. **Betterments**
  7. **Risk-Based Priority Model Score**
  8. **Capital Asset Management Plan Score**
  9. **Laboratory Corrective Action Tracking System**
- **F. References**

A. GENERAL

Berkeley Lab's Unified Project Call Process:

- Provides programmatic and infrastructure organizations with the opportunity to examine their operational needs and to submit prioritized candidate Line Item Project (LIP), General Plant Project (GPP), Non-Capital Alteration (NCA), and General Purpose Equipment (GPE) proposals in the budget process.
- Serves as a vehicle for implementation of the Laboratory's mission as expressed by Laboratory management and documented in Berkeley Lab's Ten-Year Site Plan and Institutional Plan.
- Facilitates Laboratory-wide coordination of divisional project proposals, Laboratory Corrective Action Tracking System (LCATS) project proposals, and Laboratory infrastructure improvement and expansion project proposals.
- Identifies sources of funding to adapt facilities to new or improved production techniques, effect economies of operations, and reduce or eliminate health, fire, and security problems.

B. RESPONSIBILITIES AND APPROVALS

1. Laboratory Director, Deputy Director, Associate Laboratory Director for Operations, and Director's Action Committee

- At the inception of the annual Unified Project Call, the Laboratory Director, Deputy Director, and Associate Laboratory Director for Operations—in consultation with the Planning and Strategic Development Director, the EH&S Division Director, the Facilities Division Director, the Information Technology Division (ITD) Director, and the Chief Financial Officer—establish funding goals and priorities for the Call. The Director's Action Committee (DAC) provides final review and approval of these goals and priorities.
- The Laboratory Director, upon recommendations from the Deputy Director, the Associate Laboratory Director for Operations, and Associate Laboratory Directors, appoints five research division deputies (one from each Laboratory area) to serve on the Project Coordinating Committee.

2. Facilities Division

- Issues the Unified Project Call. This invitation to submit candidate projects will outline the goals and priorities established by Laboratory management.
- Schedules meetings at which a member of the Architectural and Engineering (A/E) staff and a member of the Facilities Planning staff discuss potential candidate projects with the division deputy of each Laboratory division. The division deputy may invite others at the division deputy's discretion.
- Schedules a meeting during which each division deputy presents his or her division's top three to five projects to the Project Coordinating Committee or, for overhead-supported divisions, the GPE Review Committee.
- Schedules a meeting with the Budget Officer to ensure that the appropriate funding source has been identified for all candidate projects that are likely to be approved during the institutional review process.

  NOTE: Major changes to project scope must be reviewed by the Budget Officer to ensure that the previously identified funding source is still appropriate to the new scope.
- Reviews all submittals to resolve conflicting or duplicate project requests.
- Provides initial Risk-Based Priority Model (RPM) and Capital Asset Management Plan (CAMP) scores for all candidate projects and obtains cost estimates, as needed.
- Serves as staff to the Chair of the Project Coordinating Committee and Chair of the GPE Review Committee.
- Communicates project funding status and changes to division directors and division deputies on an as-needed basis, but not less frequently than quarterly.
- Continuously updates the project call database to ensure that Berkeley Lab management has the most accurate information to make funding decisions.
- Obtains the Federal Project Director's approval to start design and construction for all GPPs on Project Management's Planning List and for NCAs with an estimate over $500,000.

3. Berkeley Lab Divisions

- Under the direction of its division deputy, each division compiles a list of candidate projects and reviews them, with assistance of Facilities Division staff, for eligibility.

  NOTE: The Facilities Division and the Budget Officer will identify funding type. Divisions are to submit candidate projects without regard to the potential funding source.
- Prioritize project requests in order of importance to the division, regardless of funding type.

4. Environment, Health, and Safety (EH&S) Division

- Reviews project requests that can be tracked and possibly funded through the Laboratory Corrective Action Tracking System (LCATS).

5. The Office of the Chief Financial Officer

- The Chief Financial Officer (CFO) appoints a representative, currently the Budget Officer, to serve on the Project Coordinating Committee and the GPE Review Committee.
- The CFO and Budget Officer review and provide written approval of the appropriateness of the funding type for each

committee-selected project.

6. Project Coordinating Committee

The Project Coordinating Committee provides institutional review and prioritization of LIP, GPP, and NCA requests, and is composed of the following members:

- A division deputy from each Laboratory organizational area, i.e., Computing Sciences, Physical Sciences, Energy Sciences, Biosciences, and General Sciences.
  - One of these five division deputies will serve as chair to the committee for a one-year term.
  - This is a rotating assignment, with three division deputies being replaced as Project Coordinating Committee members each year. No division deputy will be asked to serve more than three consecutive years.
- Planning and Strategic Development Director
- Office of the Chief Financial Officer (OCFO) representative (identified by the Chief Financial Officer)
- EH&S Division Deputy
- EH&S Division Environmental Protection Group Leader
- Engineering Division Deputy (identified by the Engineering Division Director)
- Facilities Division Deputy
- Facilities Division Space Planning Lead (staff to committee)
- Budget Officer (staff to committee)

7. GPE Review Committee

The GPE Review Committee provides institutional review and prioritization of GPE requests and is composed of the following members:

- Facilities Division Director (Chair)
- The Chief Financial Officer
- EH&S Division Director
- Engineering Division Director
- Facilities Division Space Planning Lead (staff to committee)
- Budget Officer (staff to committee)
- ITD Deputy

8. Department of Energy / Federal Project Director

The Federal Project Director authorizes the GPP Planning List (created by the Facilities Division) for all GPPs, all GPEs, and for NCAs with a Total Estimated Cost (TEC) of greater than $500,000. This authorization also includes approval of proposed funding type. The Federal Project Director then approves project-specific Construction Directive Authorizations for GPPs and GPEs with a total estimated cost (TEC) greater than $500,000.

C. PROCESS AND SCHEDULE

1. Candidate Project Identification

March	• Laboratory Director, Deputy Director, and Associate Laboratory Director for Operations establish goals and priorities for the current year. • Laboratory Director appoints new research division deputies to the Project Coordinating Committee. • Unified Project Call memoranda issued to all division directors. • The Facilities Division forwards list of unfunded projects to division deputies. • Divisions gather new project requests and updates previously requested projects. • Facilities Division A/E and Planning personnel meet with division deputies (and other

	division staff at the discretion of each division deputy) to review project requests and, as required, develop action plans to identify, document, and prioritize requests for the divisions. • Divisions provide new and escalated estimates. • Divisions prioritize requests—without regard to funding type—in order of importance as to safety and mission goals.
April	• Divisions submit prioritized division project requests to the Facilities Division. • The Facilities Division refers candidate projects with potential environment, safety, and health impacts to the EH&S Division for review. • Candidate projects with research implications are forwarded to the Planning and Strategic Development Director for institutional priority review and confirmation of consistency with the Laboratory's mission and goals.
May – July	The Facilities Division reviews prioritized projects and meets with appropriate internal staff and customers as needed to achieve the following: • Review project scopes, justifications, and estimates. • In conjunction with the Budget Officer, ensure that most appropriate funding source is identified. • Assign RPM and CAMP scores to all projects. ○ Adjust raw RPM scores, as directed by the Facilities Division Director and EH&S Division Director. • Prepare Laboratory-wide prioritized project lists for review by institutional committees.

2. Institutional Review and Prioritization

August	• The Project Coordinating Committee and GPE Review Committee meet and select projects to be funded in the following fiscal year. ○ The list of projects selected should exceed the amount of funding available to facilitate adjustments to the lists should additional funding become available or if senior Laboratory Management identifies new mission priorities. • The Chief Financial Officer and/or Budget Officer review selected projects and provides written confirmation of the appropriateness of the funding type selected. • The Facilities Division Director and Associate Laboratory Director for Operations review the list of recommended projects. • Committee Chairs present the list of recommended projects to DAC for approval.

3. Communication of Project Funding Status

March, June, September & December (other times as required)	The Facilities Division communicates project funding status and changes to division directors, division deputies, and others identified by division deputies.

D. MID-YEAR CHANGES TO GPP, NCA, AND GPE PROJECTS

Changing conditions throughout the year necessitate that changes be made to the projects selected by the Project Coordinating Committee and GPE Review Committee. These changes include such things as reduced program funding, reprioritization of research activities, etc. To ensure institutional support of the proposed mid-year change, the following must take place:

1. Facilities Planning, the appropriate committee chair, and the Facilities Division Deputy:
   - Review the programmatic implications of the change with the division originally requesting the project and the financial implications of the change with the division responsible for completing the project.
   - Identify projects to be added to or removed from the list or projects that can have their funding allocation adjusted to accommodate the proposed change.
2. The Budget Officer reviews the requested change and provides written approval of the appropriateness of the funding type.
3. Facilities Planning prepares documentation of the reasons for and scope of the proposed change and forwards it, along with a revised funding list, to the chair of the appropriate committee and the Facilities Division Deputy.
   - Funding adjustments that do not involve adding or removing projects from the list may be approved by the Facilities Division Director, with the concurrence of the chair of the appropriate committee and the appropriate Deputy Laboratory Director.
     - Institutional Committee members will be informed of the changes.
   - Changes to the project list that either fund projects not previously selected by the institutional committee or remove funding for previously selected projects must be approved by the appropriate committee.
     - The appropriate institutional committee will review the proposed changes through either a convened meeting or e-mail poll.
     - The Facilities Division Director will implement the changes approved by the appropriate committee.
4. Following approval as outlined above, the Facilities Division will notify division directors, division deputies, and others identified by division deputies.

E. DEFINITIONS

1. Line Item Projects (LIPs)

- LIP funds are used for institutional infrastructure project activities that are specifically reviewed and appropriated by Congress through a process managed by DOE. These projects should be submitted at least three years prior to the desired construction start. LIPs are then submitted to DOE for approval two years prior to the requested start date. LIPs have no project scale or schedule limit, and no specific cost cap.
- LIPs should be consistent with the Laboratory's Ten-Year Site Plan and Institutional Plan.
- LIPs include design and construction of large new facilities, such as:
  - Equipment installed in and made part of a facility
  - Related site preparation including excavation, filling, and landscaping
  - Other land improvements
- Multiple LIPs may be developed and funded to address related aspects or phases, or a particular need or concern
- LIPs are capitalized, and result in betterments to land or facilities

2. General Plant Projects (GPPs)/Institutional General Plant Projects (IGPPs)

- GPPs/IGPPs are miscellaneous minor new construction projects of a general nature, the total estimated costs of which may not exceed the congressionally established limit (currently $5 million). GPP funds come directly from DOE. IGPP funds are derived from the conversion of Laboratory operating funds to capital funds under certain strict provisions.

  NOTE: Overhead rates may not be increased for the sole purpose of generating additional funds to convert to IGPP.
- GPP/IGPP projects provide for design or construction (or both), additions and improvements to land, buildings, and utility systems, and they may include the construction of small new buildings, replacements or additions to roads, and general area improvements.
- GPP/IGPP funds are not intended to be used in incremental segments to construct larger facilities. Care should be exercised to ensure that each specific project is a discrete, stand-alone entity. Each project is to result in the delivery of a complete and usable facility, including the initial complement of equipment required for the facility to meet its intended purpose.
- GPPs/IGPPs are capitalized and result in betterments to land or facilities.
- The U.S. Comptroller General has established as federal policy that, in general, the federal government may not make permanent improvements to land or buildings not federally owned. Therefore, GPP funds cannot be used for projects involving off-site leased and University of California campus facilities.

3. Non-Capital Alterations (NCAs)

- Alterations are adjustments to interior arrangements or other physical characteristics of an existing facility so that it may be more effectively adapted to or used for its designated purpose. Alterations do not result in betterments. Examples of alterations are as follows:
  - Removal or installation of interior walls for purposes of rearranging the layout of an office building, and incidental heating and ventilation ducting system modifications that do not significantly extend the capacity of the system;
  - Construction of a door or passage through an interior structural wall;
  - Installation of new lighting fixtures that do not significantly increase the lumens emitted but may result in energy or maintenance savings.
- NCA or operating funds may be used for "improvements to the property of others" such as projects in off-site-leased and University of California Campus facilities.
- NCAs are not capitalized.

4. General Purpose Equipment (GPE)

GPE funds are designated for institutional project support. Research-oriented equipment, which is normally funded with programmatic funds, may not be purchased with GPE funds. The following limits apply to GPE purchases:

- Equipment must exceed $25,000 and two years of useful life.
- Equipment installation costs should not exceed $2 million or 20% of the total equipment cost (construction funds should be used to pay for installation costs exceeding those amounts).
- Equipment must not be permanently affixed to the real estate and must be removable without seriously damaging or diminishing the functional value of either the real estate or the items themselves, for example:
  - Heavy equipment, including vehicles, processing or manufacturing machinery, and shop machinery;
  - Automated data-processing equipment includes computers, printers, operating system software, and interface peripherals.
- GPEs are capitalized.

5. Capitalization Criteria

Individual plant and capital equipment (P&CE) items that are purchased, constructed, or fabricated in-house (including major modifications or improvements—e.g., betterments—to any of these items) are capitalized if they have an anticipated service life of two years or more and if they cost $25,000 or more. The only exceptions are items that are inherently experimental, used as special tools, or, by nature of their association with a particular scientific experiment, not expected to have an extended useful service life or an alternative future use. Further detail can be found in the DOE Accounting Handbook, Chapter 10: Plant and Capital Equipment, Paragraph 1d.

6. Betterments

Betterments are improvements to P&CE that result in better quality work, higher capacity, extended useful life, or work required to accommodate regulatory changes. Betterments are capitalized. Determining when and to what extent an expenditure should be treated as a betterment requires judgment. When a minor item is replaced in each of a number of similar units, the effect of the replacement as related to each unit, rather than to the cumulative costs, is the proper basis for determining whether or not a betterment is effected. Although a particular project may meet the characteristic of a betterment, if the capitalization criteria are not met or the improvement added is insignificant, then the project should be expensed. Listed below are the various terms that are commonly used to describe various categories of betterments.

- Construction is the erection, installation, or assembly of a new plant facility; the addition, expansion, improvement, or replacement of an existing facility; or the relocation of a facility. Construction includes equipment installed in and made part of the facility and related site preparation; excavation, filling, and landscaping, or other land improvements; and design of the facility. Examples of improvements to an existing facility include the following types of work:
  - Replacing standard walls with fireproof walls.
  - Installing a fire-sprinkler system in a space that was previously not protected with a sprinkler system.
  - Replacing utility system components with significantly larger-capacity components (e.g., replacing a 200-ton chiller

with a 300-ton chiller) and converting the functional purpose of a room (e.g., converting an office into a computer room).

- Conversion is a major structural revision of a facility that changes the functional purpose for which the facility was originally designed or used.
- Replacement is a complete reconstruction of a facility or equipment item that has deteriorated or has been damaged beyond the point where its individual parts can be economically repaired.

7. Risk-Based Priority Model Score

Derived by a risk-analysis scoring method weighted toward environment, health, and safety concerns, the Risk-Based Priority Model (RPM) score is calculated for all projects as an aid to ranking.

8. Capital Asset Management Plan Score

Derived by a risk-analysis scoring method weighted toward infrastructure concerns, the Capital Asset Management Plan (CAMP) score is calculated for all projects as an aid to ranking.

9. Laboratory Corrective Action Tracking System

The Laboratory Corrective Action Tracking System (LCATS) is administered by the EH&S Division to track and record deficiencies and corrective actions identified through divisional self-assessment inspections.

F. REFERENCES

1. LBNL's Ten-Year Site Plan
2. LBNL's Institutional Plan
3. DOE O 430.1B: Real Property Asset Management
4. DOE Accounting Handbook

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Chapter 2
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§2.25 Honoraria and Stipends for Laboratory Guests Laboratory guidelines for honoraria and stipends are now located in the Financial Policy and Procedures Manual, on the Office of the Chief Financial Officer Web site; see Honoraria and Non-Employee Stipends.)

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§2.01
Employment

Responsible Manager

Rev. 05/09

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A. Applicability

This policy is applicable to all employee classifications: career, term, faculty, postdoctoral fellow, limited, rehired retiree, graduate

student research assistant (GSRA), and student assistant. This policy is also applicable to any person seeking employment at Lawrence Berkeley National Laboratory (the Laboratory).

B. Nondiscrimination and Harassment

1. Nondiscrimination and Harassment Policy

a. It is the policy of the Laboratory not to engage in discrimination against or harassment of any person employed by or seeking employment with the Laboratory on the basis of race, color, national origin, religion, sex, gender identity, pregnancy,**[1]** physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (as defined by the Uniformed Services Employment and Re-employment Rights Act of 1994).**[2]** This policy is intended to be consistent with the provisions of applicable State and Federal laws and Laboratory policies. This applies to all personnel actions, including hiring, transfer, training, promotion, termination, and other terms and conditions of employment.

b. The Laboratory is committed to creating and maintaining a work environment that is free of discrimination. In keeping with this commitment, the Laboratory will not tolerate harassment in violation of the Laboratory's policies against its employees, or employees performing services for the Laboratory by anyone or any third party, including any supervisor, coworker, vendor, client, or customer.

c. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status as defined in RPM §2.01(B)(1)(a) (*Nondiscrimination and Harassment Policy*).

d. The Laboratory will not tolerate harassment that affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment. Such harassment may include, for example, making or using derogatory comments, epithets, slurs, or jokes; or teasing or badgering a person about his/her protected status.

e. The complaint procedure for harassment as defined in this section is the same as for sexual harassment and may be found in RPM §2.05(E) (*University of California Procedures for Responding to Reports of Sexual Harassment*).

2. Retaliation

The Laboratory policy also prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, or participates in any manner in an investigation or resolution of a complaint of discrimination or harassment. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

3. Complaints

Information regarding applicable policies and procedures for resolving complaints of discrimination and harassment and for pursuing available remedies is available in the divisional Human Resources Centers.

4. Sexual Harassment

a. **Sexual Harassment Policy**

The Laboratory is committed to creating and maintaining a community in which all persons who participate in Laboratory programs and activities can work together in an atmosphere free from all forms of harassment, exploitation, or intimidation, including sexual. Specifically, every member of the Laboratory community should be aware that the Laboratory is strongly opposed to sexual harassment and that such behavior is prohibited by law and by Laboratory policy. It is the intention of the Laboratory to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior that violates this policy.

b. **Definition of Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature; and when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile, or offensive working or learning environment. In the interest of preventing sexual harassment, the Laboratory will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the Laboratory community, including faculty or nonemployee participants in Laboratory programs, such as vendors, contractors, and visitors. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration will be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. While romantic relationships between members of the Laboratory community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

Harassment that is not sexual in nature but is based on gender, sex stereotyping, or sexual orientation also is prohibited by the University's nondiscrimination policies**[3]** if it is sufficiently severe to deny or limit a person's ability to participate in or benefit from Laboratory programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work environment. Thus, in determining whether a hostile environment due to sexual harassment exists, the Laboratory may take into account acts of discrimination based on gender, sex stereotyping, or sexual orientation.

c. **Retaliation**

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

d. **Dissemination of the Nondiscrimination and Harassment Policy, Educational Programs, and Employee Training**

As part of the Laboratory's commitment to providing a harassment-free working and learning environment, the Nondiscrimination and Harassment Policy will be disseminated widely to the Laboratory community through publications, Web sites, new employee orientations, and other appropriate channels of communication. Educational materials will be available to all members of the Laboratory community, to promote compliance with this policy and familiarity with Laboratory reporting procedures. In addition, the Laboratory has designated employees responsible for reporting sexual harassment and will provide training to those designated employees. Generally, such persons include supervisors, managers, and HR staff. The Laboratory has posted a copy of this policy in a prominent place on its Web site.

e. **Reports of Sexual Harassment**

Any member of the Laboratory community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints. An individual may also file a complaint or grievance alleging sexual harassment under the applicable Laboratory complaint resolution or grievance procedure (University of California Procedures for Responding to Reports of Sexual Harassment, Appendix I: University Complaint Resolution and Grievance Procedures).

f. **Response to Sexual Harassment**

The Laboratory will provide a prompt and effective response to reports of sexual harassment in accordance with the University of California Procedures for Responding to Reports of Sexual Harassment (Procedures). A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Upon findings of sexual harassment, the Laboratory may offer remedies to the individual or individuals harmed by the harassment consistent with applicable complaint resolution and grievance procedures (Procedures, Appendix I: University Complaint

Resolution and Grievance Procedures). Such remedies may include counseling, an opportunity to repeat course work without penalty, or other appropriate interventions. Any member of the Laboratory community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal in accordance with the applicable Laboratory disciplinary procedure (Procedures, Appendix II: University Disciplinary Procedures) or other Laboratory policy. Generally, disciplinary action will be recommended when the harassing conduct is so sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from Laboratory programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment may also be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

g. **Intentionally False Reports**

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the applicable Laboratory disciplinary procedure (Procedures, Appendix II: University Disciplinary Procedures). This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

h. **Free Speech and Academic Freedom**

As participants in a public university, the faculty and other academic appointees, staff, and students of the University of California enjoy significant free-speech protections guaranteed by the First Amendment of the United States Constitution, and Article I, Section I, of the California Constitution. This policy is intended to protect members of the University community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state antidiscrimination laws.

i. **Additional Enforcement Information**

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC or DFEH listed in the telephone directory. Additional information on harassment and complaint procedures may be found at §2.05(E) (*University of California Procedures for Responding to Reports of Sexual Harassment*).

C. Affirmative Action and Equal Employment Opportunity

1. Affirmative Action and Equal Employment Opportunity Policy

The Laboratory is an affirmative action/equal opportunity employer. The Laboratory undertakes affirmative action for minorities and women, for persons with disabilities, and for covered veterans.**[4]**

2. Affirmative Action Compliance Program

a. Consistent with its affirmative action obligations and all other operative legal requirements, the Laboratory's affirmative action program includes implementation of policies, practices, and procedures to ensure that all qualified applicants and employees are receiving an equal opportunity for recruitment, selection, advancement, and every other term and privilege associated with employment at the Laboratory.

b. **Responsibilities**

i. The Laboratory Director, as the Equal Opportunity Officer, appoints the Equal Employment Opportunity / Affirmative Action (EEO/AA) Officer to administer the Affirmative Action Compliance Program.

ii. Division directors are responsible for implementing the Affirmative Action Compliance Program in the units for which they are responsible, with particular attention to hiring, promotion, and employee development, and for evaluating managers and supervisors on their effectiveness, including their good-faith efforts to implement the program.

D. Types of Appointments

1. Career

A career appointment is an appointment established at a fixed percentage of time at 50 percent or more of full time for an indefinite period.

In addition, a limited appointment shall be designated as a career appointment when the incumbent has attained 1,000 hours of qualifying service in any 12 consecutive months without a break in service of at least 120 consecutive calendar days. Qualifying service includes all time on pay status in one or more limited appointments within the University of California system. On-call and overtime hours shall not be included as pay status hours when computing qualifying service. Such career designation shall be effective the first of the month following attainment of 1,000 hours of qualifying service.

2. Faculty

a. **UC Faculty**

Some University of California faculty members have dual employment between a campus of the University and the Laboratory. Their appointment as faculty at the Laboratory is contingent upon their campus faculty appointment and is subject to UC Academic Personnel Policy. See RPM §2.07(C)(9) (*Appointments of University of California Faculty*).

b. **Visiting Faculty**

Visiting faculty are members of the faculty of non-University of California colleges and universities. They are eligible for benefits, vacation, or sick leave in accordance with their appointment type. See RPM §2.07(C)(11) *(Visiting Faculty and Visiting Researcher)*.

3. Laboratory Management

This policy applies to appointees and incumbents in the University of California Senior Management Group (SMG) and positions designated as Upper Laboratory Management, collectively referred to as Laboratory Management or Laboratory Managers. The positions covered by this policy are found on the Lawrence Berkeley National Laboratory Management Positions list.

Appointees and incumbents in positions designated as Laboratory Management have responsibility for defining overall Laboratory policy and direction. Laboratory Managers are appointed by and serve at the discretion of the Regents, the President of the University of California, or the Laboratory Director, as appropriate. All such appointments are at will and may be terminated at any time with or without cause.

The following policies do not apply to positions designated as Laboratory Management due to the at will nature of such appointments.

- Probationary Period (Paragraph (C)(6)(d))
- Transfer, Promotion, and Other Changes in Status (RPM §2.02)
- Early Problem Resolution (RPM §2.05(B))
- Corrective Action and Dismissal (RPM §2.05(C))
- Employee Complaint Resolution (RPM §2.05(D))

- Reduction in Force (RPM §2.21(B))

Appointees entering Laboratory Management positions who hold Laboratory scientific staff appointments (see RPM §2.07 *(Professional Research Staff)*) will retain that parallel classification while serving as Laboratory Managers. In addition, Laboratory Managers will, when appropriate, be considered (using normal Laboratory procedures) for entrance into or advancement in such parallel scientific classifications.

When an incumbent's appointment in a position designated as Laboratory Management is terminated, he or she will be returned to the appropriate parallel Laboratory scientific classification, held or attained.

If a decision is made to also terminate an appointee's parallel scientific classification, the applicable provisions of RPM policies §2.05 *(Management/Employee Relations)*, §2.07 *(Professional Research Staff)*, and §2.21 *(Terminations)* must be followed.

Additional employment policies for positions included in the University Senior Management Group may be found in Senior Management Group (SMG) Human Resources Policies. Additional employment policies for positions included in the Upper Laboratory Management Series may be found in RPM §2.27 *(Upper Laboratory Management)*.

4. Term

a. **General**

Term appointments apply to staff hired to work on a specified project of clearly limited duration for six months to five years. If the initial appointment is between six and twelve months, the individual must be on a fixed 100% schedule. If the initial appointment is one year or more, the appointment must be fixed at 50% time or more. Time spent in term appointments is cumulative and may not exceed five years. Time spent in Postdoctoral Fellow appointments is excluded from the five-year limit. For information regarding scientific term appointments, including postdoctoral fellows, see RPM §2.07 (*Professional Research Staff*).

b. **Appointment**

Term appointments are made by a hiring manager after a thorough search for suitable candidates or as otherwise provided by Laboratory policy. (See also Paragraph (C)(3)(b) (*Recruitment*), above.)

In order for an employee in a scientific non-career track term appointment to move to a career appointment, they must apply and compete for a career position. For information regarding scientific career-track term appointments, see RPM §2.07 (*Professional Research Staff*).

c. **Applicability of Policies**

Term appointees are covered by all Laboratory policies, with the following exceptions:

- **Probationary Period.** Term employees do not serve a probationary period, unless the initial appointment is for longer than one year. See Paragraph (C)(6)(d), above.

- **College-Level Courses.** Term employees are not eligible for time off with pay for class attendance or reimbursement of course fees for college degrees, certification programs, and college-level courses. See RPM §2.04(F) (*College Degrees, Certification Programs, and College-Level Courses*).

- **Reduction in Force and Severance Payments.** The Laboratory layoff and severance policies do not apply to term employees (see RPM §2.21(B) (*Reduction in Force*) and §2.21 (*Terminations*)).

- **Termination.** See RPM §2.21(D) (*Release of Employees in Term Appointments*).

5. Limited

A limited appointment is an appointment established at any percentage of time, fixed or variable, that is expected to continue for less than 900 hours in a 12-month period. See also Paragraph (D)(1) *(Types of Appointments/Career)*.

6. Visiting Researcher

a. Visiting researchers are individuals who are on an approved leave from their home institution. The home institution does not need to be a university or college, nor does the individual have to be a faculty member of any institution (see RPM 2.07(C)(11) (*Visiting Faculty and Visiting Researcher*)).

b. The approved leave is confirmed in a letter from the home institution that provides the dates of the leave, full salary of the individual, and what, if any, portion of the salary will be paid by the home institution during the leave. A letter is not required for a faculty member from outside the University of California system who is at the Laboratory for the summer intersession only. If the stay continues into the fall term, a letter is required.

c. The duration of the appointment will be between three and 12 months at 100% time. The initial appointment is not to exceed one year. The total length of consecutive service must not exceed two years. If the appointment extends into a second year, and was not included in the initial letter, a new letter of confirmation is required from the home institution.

d. While recruitment is not required, if a visiting researcher is later considered for a change of status to a corresponding appointment as a term or career appointee, the change of status will be treated as a new appointment subject to the usual recruitment policies.

e. Salary is determined on a case-by-case basis.

f. Visiting researchers are eligible for mid-level benefits. They are not eligible for participation in UCRP membership.

7. Graduate Student Research Assistants

Graduate student research assistants (GSRAs) must be registered graduate students of the University of California, and eligible for a Graduate Student Researcher appointment on their campus. University of California rules and regulations pertaining to graduate students in the various disciplines normally apply. GSRAs work a fixed percentage schedule and receive a flat monthly salary in accordance with their campus department policies. They are also eligible to receive fee remissions, including health insurance benefits, and nonresident tuition as determined by the University of California policies and as implemented for graduate student researchers on the individual campuses.

8. Student Assistants

a. **Eligibility**

i. Student Assistant appointments are reserved for individuals who are at the Laboratory/University primarily for purposes of obtaining an education or training.

ii. Student assistants must be enrolled in a full-time academic program. However, students enrolled in school-sponsored co-op and internship programs may be registered less than full-time when their Laboratory assignment is part of their internship.

iii. The duties and responsibilities of student assistants must be related to their field of study. In addition, the duties and responsibilities of Co-op students and students in formal internship programs must conform to the requirements of their institution's program to ensure that the student receives the appropriate academic credit.

iv. Enrollment in University Extension courses does not qualify for a student assistant appointment.

b. **Effort**

Student assistants may work up to 50 percent time during their academic year and 100 percent time during the summer and other significant academic breaks. They may be appointed to fixed or variable time schedules.

c. **Salary**

Student assistant salaries are based on their academic progress. Increases are allowed on the achievement of the next academic milestone as indicated on the student salary table and with written confirmation by the supervisor that the student's performance is satisfactory. Student assistants are paid bi-weekly.

d. **Benefits**

Student assistants are not eligible for UC employee health and welfare benefits nor are they eligible for membership in the University of California Retirement System. Student assistants are covered by the Laboratory's Workers' Compensation program.

e. **Vacation and Sick Leave**

Student assistants do not accrue vacation or sick leave.

f. **Holidays**

Student assistants appointed to a fixed time schedule at 50% or more earn holiday pay prorated according to RPM §2.10(C)(2) *(Holidays/Holiday Pay Policy for Part-Time Employees/Fixed Hours)*.

g. **Termination**

i. Student assistants must be terminated if they graduate, are no longer enrolled in school or if their registration is less than full time.

ii. Student assistant appointments automatically end at the beginning of the next academic term after the student has graduated (excluding summer sessions). However, students who have been accepted to a qualifying educational program, provide a signed a letter of intent to enroll, and will begin the program (see Paragraph (a), above) within the next 12 months may continue as student assistants in the interim. Their employment must be terminated if they fail to enroll within that time. Effort must be in accordance with Paragraph (b), above, even when between degree programs.

iii. Student assistants may be released at any time at the discretion of the Laboratory. The student shall be notified of the release in writing. Whenever possible and appropriate, two weeks advance notice should be given.

h. **Complaint Resolution**

A student assistant is not eligible to use the Laboratory's Complaint Resolution Policy to challenge termination of his/her appointment.

i. **Recruitment**

Student assistant positions do not need to be posted.

j. **Work Study Students**

i. Work Study students are University of California students who are receiving financial aid through the campus Work Study Program. If required by the campus program, they may be hired as student assistants.

ii. The duties of a Work Study student may be but are not required to be related to their academic program.

iii. When students have earned their financial award, they may be given a change of status to student assistant if the job duties are related to their academic program. If the duties are not related to their academic program, they must be terminated.

iv. All other provisions of the student assistant policy, above, apply to Work Study students.

9. Rehired Retirees

Incumbents in rehired retiree appointments are employees who have retired from the Laboratory, or any University of California location, including the UC-managed Department of Energy laboratories. Conditions of employment must be consistent with any restrictions imposed by the retirement system and in accordance with guidelines for rehiring retirees issued by the University of California Office of the President. Incumbents in rehired retiree appointments work a variable schedule, and the appointment may be of any length.

10. Applicability of Benefits

Employee eligibility for benefits may be found at the University of California, Human Resources and Benefits Web site and in RPM §2.08 (*Vacation Leave*), §2.09 (*Sick Leave*), §2.10 (*Holidays*), 2.12 (*Leave of Absence Without Pay*), §2.13 (*Family Care and Medical Leave*), and §2.14 (*Military Leave*).

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Footnotes:

1. Pregnancy includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth.

2. Service in the uniformed services includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

3. University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment; Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices; Academic Personnel Policy 035, Affirmative Action and Nondiscrimination in Employment; Personnel Policies for Staff Members 12, Nondiscrimination in Employment; University of California Policies Applying to Campus Activities, Organizations, and Students; and Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters.

4. Covered veterans includes veterans with disabilities, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S. Military, Ground, Navel or Air Service during a war or in a campaign or expedition for which a campaign badge has been authorized, or Armed Forces service medal veterans.

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§2.03
Employee Performance Evaluations

Responsible Manager

Section Rewritten 06/02

- **A. General Policy**
- **B. Purpose**
- **C. Responsibilities**
  1. **Supervisors**
  2. **Employees**
  3. **Human Resources Department**

A. GENERAL POLICY

Performance feedback is an ongoing, yearlong process. Supervisors must provide each of their direct reports with a written performance evaluation annually, using the approved process. This written evaluation is the formal part of the performance feedback process. Additional written evaluations may be done if circumstances warrant.

Employees holding limited, faculty, graduate student research assistant, student assistant, rehired retiree, postdoctoral, and visiting postdoctoral fellow appointments are excluded from this policy. Division directors and resource department heads are responsible for implementation of this policy within their organizations.

B. PURPOSE

The objectives of the written evaluation are to:

1. Establish an understanding between the employee and supervisor regarding job responsibilities and expectations and work deliverables (goals);
2. Provide an opportunity for two-way discussion of employee progress, career development, and department goals;
3. Establish/reestablish standards, goals, expectations, and development plans;
4. Document performance and progress against previously established goals and expectations;
5. Provide input to the salary process.

C. RESPONSIBILITIES

1. Supervisors

Supervisors are responsible for ensuring that each employee has a current position description and expectations and goals, and that the employee has a clear understanding of his or her responsibilities. Supervisors are responsible for providing feedback to the employee so that he or she knows where improvement is needed. Supervisors are responsible for promoting employee development opportunities. The supervisor is responsible for providing the employee with a formal, written evaluation of the employee's performance at least once a year.

2. Employees

Employees are responsible for seeking clarification about their duties, responsibilities, and/or expectations. Employees should seek input about their performance on an ongoing basis. In addition, employees are responsible for improving their performance and their own development.

3. Human Resources Department

The Human Resources Department will provide training to supervisors on conducting performance evaluations. The Department

will also assess the effectiveness of the current performance evaluation process and work with management to ensure that the process is an effective tool for both management and employees.

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§2.04
Education and Employee-Development Policies

Responsible Manager

Rev. 09/07

- **A. General**
- **B. Types of Programs**
  - **1. Position-Related Programs**
  - **2. Career-Related Programs**
  - **3. Educational Enrichment Programs**
- **C. Scope**
- **D. Employee Development Planning**
  - **1. Annual Plan**
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- **E. Sources of Training Programs**
  - **1. On-Site Training**
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  - **3. LBNL Mentoring Policy**
- **F. College Degrees, Certificate Programs, and College-Level Courses**
  - **1. Tier 1**
  - **2. Tier 2**
  - **3. Basis for Approval of Employee Development Plans**
  - **4. Fee Reimbursement**
  - **5. Time Off with Pay**
  - **6. University of California Reduced-Fee Enrollment Benefit**
  - **7. Procedures and Forms**
  - **8. Other Academic Programs and CEU Courses**
- **G. Government Licensing and/or Professional Certification**
  - **1. Definition**
  - **2. Continuing Education Courses**
  - **3. License Fees**
- **H. Professional Research or Teaching Leave**
  - **1. Qualifications**
  - **2. Salary**
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  - **4. Travel Expenses**
  - **5. Vacation and Sick-Leave Credits**
- **I. Professional Renewal Leave**

A. GENERAL

It is the policy of the Laboratory to assist and encourage employees to obtain skills, knowledge, and abilities that increase the effectiveness of work performance in their present position and improve their career opportunities within the Laboratory.

The Human Resources Department will assess Laboratory-wide employee development needs and, based on the availability of resources, sponsor appropriate, relevant training and development programs to meet such needs. Special emphasis will be placed on developmental activities designed to help supervisors, group leaders, department heads, and division directors make good-faith efforts towards meeting the Laboratory's equal employment opportunity and affirmative action goals. The Equal Opportunity Administrator will review and evaluate effectiveness of the employee development programs in relation to the Laboratory's equal employment opportunity and affirmative action goals, and sponsor additional special training as part of the Laboratory's Equal

Opportunity Program.

B. TYPES OF PROGRAMS

1. Position-Related Programs

a. **Definition.** Position-related programs are directly related to the work assignments or conditions of the employee's current position. (See Paragraph G, below, for information on professional licensing, and certification training and associated fees.)

b. **Responsibility.** In improving performance or mastering responsibilities in the present job, the supervisor takes the lead by identifying development objectives along with corresponding action plans. This is done in conjunction with the employee performance evaluation process.

c. **Eligibility.** All career employees are eligible for position-related programs. Employees in noncareer appointments are eligible for position-related programs only when such training is specifically necessary for such employees/contract workers to perform their respective assignments. Guests and employees of contract labor agencies are eligible only for Laboratory-provided safety training related to their assignments at the Laboratory.

2. Career-Related Programs

a. **Definition.** Career-related programs are related to the development of skills, knowledge, and other qualifications that prepare an employee for other positions within the Laboratory for which an employee (as evaluated by the supervisor, department head, and the Human Resources Head or designee) might be an effective competitor.

b. **Responsibility.** In career planning and development, the employee takes the lead by self-assessing skills, values, career interests, and choices. After completion of the self-assessment, the employee discusses with the supervisor areas of interest to be developed. The supervisor is encouraged to act as the coach and advisor to the employee, helping to map out agreed-on developmental objectives along with corresponding action plans.

c. **Eligibility.** All career employees are eligible for career-related programs. Employees in noncareer appointments and agency-employed contract labor workers are not eligible for career-related programs.

3. Educational Enrichment Programs

Educational enrichment programs are related to an employee's personal or career interests that are not related to Laboratory positions for which an employee might be an effective competitor. For example, a course such as music would be considered an educational enrichment program. Educational enrichment programs are the employee's responsibility and are not eligible for benefits under this policy.

C. SCOPE

1. Attendance at all courses, seminars, and conferences of an instructional nature given by accredited universities and colleges, institutes, professional associations, and commercial training organizations is considered part of the Laboratory's education and training activities and may be part of a formal employee development plan.

2. For administrative purposes, attendance at scientific meetings, professional society meetings, research conferences, and industrial conventions and shows is considered a work assignment and is not necessarily part of a development plan.

D. EMPLOYEE DEVELOPMENT PLANNING

1. Annual Plan

Every employee's annual performance evaluation must include development goals and a plan for attaining those goals during the coming year.

2. Formal Plan

a. Every career employee is eligible to request a formal development plan. A formal development plan is developed by the employee and his/her supervisor and should be realistic and state job or career goals that are attainable within the Laboratory's job classification structure. Plans should be structured so that completion of the development program should result in greater employee capability. Formal plans often include a time frame longer than one year.

b. When an employee takes three or more Laboratory-supported courses or training programs in a fiscal year, the development plan must be formalized by using the Employee Development Plan form. At a minimum, the plan should include developmental objectives and corresponding action plans for improving or mastering performance in the current position, qualifying for other Laboratory positions, or obtaining a specific degree or certificate of value to the Laboratory's mission (see Paragraph (F)(1), below).

E. SOURCES OF TRAINING PROGRAMS

1. On-Site Training

a. **Intradepartmental Training.** A division director or department head is responsible for arranging specialized training with a department or division. Assistance or advice in any phase of a desired program may be obtained from the Training Administrator in the Human Resources Department.

b. **Interdepartmental Training.** Various organizational units within the Laboratory, including the Environment, Health, and Safety Division; the Computing Sciences Directorate; and the Human Resources Department, are responsible for developing and/or providing training programs to Laboratory employees in their areas of expertise and that are required by law, or will enhance employee performance. Procedures for attending interdepartmental training may be found on the Employee Self-Service Web site.

c. **Apprenticeship Training Programs and Internships.** The Workforce Diversity Office is responsible for administering apprenticeship training programs, other special skills training, and internships.

2. Off-Site Training

a. With the approval of his or her supervisor and department head or division director, an employee may attend off-site training (e.g., outside seminars and workshops) that will be of direct benefit to the employee's assignment. The division director or department head will approve attendance at off-site training only when the benefits to the Laboratory will, in his or her judgment, more than offset the costs involved, when the required skill or knowledge is not readily available through Laboratory training resources, and when the employee's time away from the Laboratory will not adversely impact current work demands.

b. The division will pay course fees, travel, and all other expenses as necessary.

c. See HR Employee Development and Training for procedures for requesting off-site training.

3. LBNL Mentoring Policy

LBNL Managers should engage in informal mentoring of promising and ambitious employees who want to take an initiative in improving their professional skills and experiences.

The objective of the mentoring process is to:

- Foster the employee's professional development.
- Encourage cross-functional training and networking.

The role of the mentor is to:

- Be a coach and take an interest in their employee's development.
- Help set personal-development expectations, and work with the employee to design appropriate career-path plans.

- Be available as a respected resource from which the employee can draw knowledge, experience, and wisdom.

The role of the employee is to:

- Take the initiative by regularly interacting with the mentor.
- Monitor existing skills and identify the future skill set required to achieve both career plan objectives and those of the business.
- Gain the respect of the mentor through effective utilization of the advice provided.

F. COLLEGE DEGREES, CERTIFICATE PROGRAMS, AND COLLEGE-LEVEL COURSES

Note: Additional information and clarification of the policies below may be found here. Employees should often review the information contained therein, as it may change without notice.

Career employees who have passed probation may take college-level, certificate, and continuing education courses as described below. Satisfactory job performance is a prerequisite for participation in these Tier 1 and Tier 2 programs.

1. Tier 1

College-level courses leading to an academic degree (A.A., B.S., M.B.A., M.S., Ph.D., etc.) or a certificate (Project Management, Biotechnology Business and Marketing, Java Programming, etc.).

Degree courses must be offered by an accredited college or university. Certificate courses must be offered by an accredited college or university, university extension program, or recognized professional society. Continuing education units (CEUs) may be reimbursed under Tier 1 when they are part of an approved degree or certificate program. These may be either position- or career-related programs (see paragraphs 2.04(B)(1)–(2)).

2. Tier 2

Career-related academic programs not leading to an academic degree or a certificate. Courses must be offered by an accredited college or university. Continuing education units (CEUs) may be reimbursed under Tier 2 only when offered by a university or college continuing-education program.

3. Employee Development Plans

a. **Tier 1**

The employee must have an *Employee Development Plan* approved by his or her supervisor, division director or Associate Laboratory Director for Operations, and the Human Resources Head or designee.

b. **Tier 2**

The employee must have an *Employee Development Plan* approved by his or her supervisor, division director or Associate Laboratory Director for Operations, and the Human Resources Head or designee, if taking three or more classes in a fiscal year.

c. **Basis for Approval of Employee Development Plans**

The following will be taken into consideration when reviewing employee development plans:

i. Relevance to the Laboratory's mission

ii. Mutual benefit to the employee's career and the long-term interests of the Laboratory

iii. Length of the employee's employment

iv. Employee's past performance and potential

v. A reasonable expectation that the employee will remain in the employ of the Laboratory for a sufficient period of time

to provide a fair return for the training costs

vi. The proposed curriculum and timetable for completion are realistic

vii. The department/division's work needs can be met during any employee absences due to attending class or other absences related to his/her program.

An employee who is denied approval of an Employee Development Plan based on paragraphs (F)(3)(c)(i)–(vi) above may request review of the denial by the Head of Human Resources, who will consult with the division director as appropriate. Employees who are denied based on paragraph (F)(3)(c)(vii) above may not request a review by the Head of Human Resources but may resubmit their plan at a later date when the department's or division's work needs may have changed. Denial of an Employee Development Plan based on paragraphs (F)(3)(c)(i)–(vi) above is not subject to review under the grievance or administrative policies (see RPM §2.05(C) or (D)). The employee must exhibit satisfactory progress towards attainment of the degree or certificate for continued eligibility under Tier 1, with the understanding that unanticipated department/division work needs may affect that progress.

4. Fee Reimbursement

a. Employees must complete the Tuition Reimbursement Request form, and obtain the necessary approvals before registering for classes. Classes taken without prior approval will not be reimbursed.

b. Employees may be reimbursed for tuition/education fees, flat course fees, such as charges for UC Extension courses, and laboratory fees when the employee submits proof of successful course completion and receipts for payment of fees to the Training Administrator in the Human Resources Department. Nonresident tuition or other fees not listed are not reimbursable. Successful completion is receipt of at least a "C" for undergraduate work or a "B" for graduate work in accordance with the system of grading used by the institution when the "A–F" system is used. Grades of C– (for undergraduate study) or B– (for graduate study) do not qualify for reimbursement. If there is a choice between receiving a letter grade or a "Pass/Fail" evaluation, the employee must take the letter grade.

   i. Tier 1 reimbursement is 100% of reimbursable costs.

   ii. Tier 2 reimbursement is two-thirds of reimbursable costs.

c. Reimbursement is also allowed when an employee is forced to withdraw from a course because of work requirements, provided he/she submits evidence from the instructor that his/her work in the course was satisfactory at the time of forced withdrawal.

d. When necessary, the Head of Human Resources or the Training Administrator may advance payment of the costs, provided the employee agrees to return the payment if the he/she iis unable to provide evidence of satisfactory completion.

e. Employees who are eligible for the University of California Reduced-Fee Enrollment Benefit as described in Paragraph F(6) must take advantage of that benefit.

f. Employees who terminate their employment voluntarily before the end of the quarter or semester are not eligible for reimbursement of fees, and must repay any advance provided under Paragraph F(4)(d), above. An employee who is involuntarily laid off and was notified of the layoff after the beginning of the class will either be reimbursed for tuition/course fees paid in advance or are not obligated to repay any advance payment of the costs received.

5. Time Off with Pay

Time off with pay may be granted when the employee's absence will not adversely affect progress of work, in accordance with the following provisions:

a. The employee must remain in career status during the entire quarter or semester.

b. The course or courses must be listed on the Tuition Reimbursement Request and approved before registration for each

academic quarter or semester.

c. Time off to attend and register for approved courses may be allowed only when such courses cannot reasonably be taken outside the employee's scheduled working hours.

d. Time off with pay may not exceed six hours per week, including time for travel and registration. Time off with pay is not allowed for study, library, or faculty consultation time. Additional time required must be accounted for by an adjusted work schedule or by use of vacation credit.

e. Time off to take Web-based courses is not allowed.

6. University of California Reduced-Fee Enrollment Benefit

a. Any career employee who has passed probation and who is employed at least 50% time can apply to take courses at a two-thirds reduction of the full-time University of California Registration and Education fee on undergraduate- or graduate-level courses in a regular degree-granting program. The course load may not exceed nine units or three regular session University courses per term, whichever provides the greater benefit to the employee.

b. The employee must satisfy the University of California residency requirements; otherwise, the employee is subject to the full nonresident fee. A waiver of the nonresident fee will not be given.

c. The employee must apply for admission by contacting the appropriate UC Office of Admissions to obtain appropriate forms and information for entrance.

d. Eligible employees attending the University of California must use the reduced fee benefit. Employees must inform the Training Administrator of their intent to attend the University before each quarter or semester.

e. See the Human Resources Forms Web page for procedures for obtaining the fee reduction.

f. The reduced fee is also available for non-job-related courses, but no other benefits of this policy apply, and time off with pay may not be granted to attend these classes.

7. Procedures and Forms

See HR Employee Development & Training for procedures and forms for Tiers 1 and 2 college degrees, certificate programs, and college-level courses.

8. Other Academic Programs and CEU Courses

Position-related academic programs and CEU courses not leading to an academic degree or a certificate are considered off-site training (see Paragraphs F(1)–(2)).

G. GOVERNMENT LICENSING AND/OR PROFESSIONAL CERTIFICATION

1. Definition

For the purposes of this section, government licenses and/or professional certifications are those licenses and certifications required by the employee to hold his or her current position as documented in the position description.

2. Continuing Education Courses

Continuing education unit (CEU) courses required for the maintenance of a professional license or certification as noted above are considered position-related courses. The course must be approved by the licensing or certifying agency. The request for course fee reimbursement is the same as for all other position-related training (see HR Employee Development & Training for forms and procedures).

3. License Fees

Fees for license or certification renewals as defined in Paragraph (G)(1) above are an allowable expenditure. The request is made in writing to the Office of the Chief Financial Officer and must include:

- Request for *Issuance of Check* form with valid project ID and approval;
- Endorsement by the cognizant division director that the cost is allowable as cited; and
- Copy of the license renewal or issuance documentation.

H. PROFESSIONAL RESEARCH OR TEACHING LEAVE

To promote the continuing professional growth and competence of senior administrative professional (job titles identified as "professional" in the Human Resources Information System) and scientific staff members, the Laboratory Director may grant professional research or teaching leave to a limited number of employees. Approval and recommendation from the division director must be obtained before submitting the request to the Laboratory Director. Approval for such leave will be based on evidence that the Laboratory will benefit from the proposed work and that the candidate will continue employment at Berkeley Lab or another DOE-funded employer for a reasonable period following the leave. The leave may be spent at appropriate institutions either within or outside the United States.

1. Qualifications

The candidate must have outstanding professional ability and propose a firm plan of study, teaching, or research that is clearly relevant to the interests of the Laboratory and within the individual's competence. The candidate must also have been continuously employed by the Laboratory for four years or more. University of California faculty members are eligible to participate in this program if their Laboratory appointment is at 50% or more time during the academic year.

2. Salary

Salary payments made by the Laboratory to an employee for professional research or teaching leave may not exceed the following schedule:

Years of service or years since last professional research or teaching leave	Up to 6 months	6–12 months
4	0.89 salary	0.44 salary
4-1/2	Regular salary	0.50 salary
5	Regular salary	0.56 salary
5-1/2	Regular salary	0.61 salary
6	Regular salary	0.67 salary
7	Regular salary	0.78 salary
8	Regular salary	0.89 salary
9	Regular salary	Regular salary

In the case of a University faculty member with a less than 50% campus appointment, professional research or teaching leave payments may be approved to the extent necessary to offset sabbatical privileges for which the faculty member is ineligible.

3. Duration of Leave

The period of leave will not exceed 12 months.

4. Travel Expenses

Travel expenses will not be reimbursed by the Laboratory.

5. Vacation and Sick-Leave Credits

Vacation and sick-leave credits will not accrue to the employee during the leave.

I. PROFESSIONAL RENEWAL LEAVE

The Laboratory Director may grant professional renewal leave to a limited number of Laboratory managers or scientific personnel who have made outstanding contributions in furtherance of Laboratory objectives. The purpose of professional renewal leave is to provide these individuals an opportunity to attach themselves to external organizations and/or programs for the purpose of professional revitalization and development. These temporary external assignments will be approved based on technical and programmatic relevance, to ensure mutual benefit to both the Laboratory and the employee. The following general provisions apply:

- The candidate must be a recognized senior scientific or management series employee for whom it would not normally be practical to utilize either the college-level courses program or the professional research or teaching leave.
- The period of leave must not exceed six months.
- Salary payment, vacation, sick leave, and other benefits will continue as if the employee were in full-duty status at the Laboratory.
- The Laboratory may provide travel support in accordance with Laboratory travel policy (see RPM §11.08 (*Travel Policy*)).

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§2.05
Management/Employee Relations

Responsible Manager

Links updated 9/08

NOTE: The policies and procedures contained in Sections 2.05(E), (J), and (K) are reproduced exactly as they appear in the corresponding University of California Policies and Procedures and, consequently, use the UC numbering system.

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A. AREAS OF RESPONSIBILITY

Managers and supervisors are responsible for determining and effecting appropriate Laboratory goals and objectives. Managers, supervisors, and employees are expected to work together to achieve those goals and objectives.

1. Responsibilities of Managers/Supervisors

a. Developing performance expectations
b. Assigning work and establishing deadlines
c. Determining training needs
d. Evaluating performance
e. Rewarding achievement
f. Taking corrective action

2. Responsibilities of Employees

a. Meeting expectations
b. Performing assigned tasks capably and on time
c. Staying current in the skills required for their classification
d. Keeping their supervisors informed about job-related activities
e. Complying with the rules of the workplace and conducting themselves appropriately

B. EARLY PROBLEM RESOLUTION

1. Employees and Supervisors

When an employee is concerned about a working condition, job safety, rate of pay, job classification, or other matters pertaining to his or her employment at the Laboratory, that employee should contact his or her supervisor. When an employee seeks such counsel, the supervisor should try to help resolve the problem in a reasonable manner. Supervisors should try to prevent the escalation of employee issues by advising and counseling their employees in the early stages of potential problem situations. See also Paragraph (G) (*Employee Assistance Program*), below.

2. Labor Employee Relations

When a supervisor or employee has difficulty resolving a work-related problem, the area Human Resources (HR) Center can provide assistance. The staff of the HR Centers, with the support of the Labor Employee Relations (LER) Unit of the Human Resources Department, are qualified to provide assistance resolving these problems. They may:

a. Provide guidance to employees and/or supervisors on possible methods to solve work-related problems. This guidance is provided with the objective of achieving a solution that is workable and consistent with the satisfactory performance of the duties to which the employee has been or may be assigned.
b. Provide guidance to supervisors on options that may be taken when an employee's performance or conduct does not improve, consistent with Laboratory and University policy and good employee relations.
c. Advise employees of their rights when an employee believes that he or she has been treated inappropriately.
d. Refer employees and supervisors to University or Laboratory employee assistance services.

C. CORRECTIVE ACTION AND DISMISSAL

1. Policy

a. A corrective action may be initiated when an employee fails to meet employment-related standards of conduct or performance including, but not limited to, inattention to duty; failure to follow directions; unsatisfactory performance; insubordination; absenteeism; tardiness; violation of law or Laboratory/University regulations; dishonesty, theft, or misappropriation of public funds or property; timecard falsification; fighting on the job; acts endangering others; gambling; or possession of firearms or explosives. Corrective action can take the form of a written warning, salary decrease, demotion, suspension without pay, or dismissal.

b. Oral warnings, Performance Improvement Plans (PIP), and counseling memos are not considered corrective actions. In addition, they are not subject to the provisions of Paragraph (D) (*Employee Complaint Resolution*), below.

c. When corrective action is contemplated for a member of the Professional Research Staff, RPM §2.07 should be reviewed to determine if additional procedures are required.

2. Documentation

Documentation of corrective action should be entered in the employee's personnel file, and copies of such records should be sent to Human Resources–Labor Employee Relations (HR-LER). At the written request of the employee, records of a written warning will be removed from the employee's personnel file if, after two consecutive years, there has been no further conduct or performance of the same or a similar nature.

3. Authority to Take Corrective Action

a. **Responsible Managers**

Responsible managers are operations department heads, deputy division directors, and division directors and above (RPM §2.01(D)(3) (*Laboratory Management*)). Responsible managers, after consultation with HR-LER, may take or authorize corrective action, including dismissal, in accordance with this policy. Supervisors are authorized to issue written warnings. Authorization to take or authorize all other corrective action or dismissal lies exclusively with the responsible manager in consultation with HR-LER.

b. **Supervisor Authority**

i. Written warnings may be issued by a supervisor after consultation with HR-LER.

ii. A supervisor may immediately place an employee on investigatory leave only in those cases where it is desirable and appropriate to have the employee leave the worksite immediately. Appropriate circumstances include, but are not limited to the following: the employee's continued presence on the job may result in the disruption of operations, may

impair the investigation, may result in attempted destruction or sabotage, or may be considered a threat to others or him/herself; or the employee appears visibly impaired as to not being able to continue to perform satisfactorily. (See RPM 2.05(C)(4) (*Investigatory Leave*)).

iii. A supervisor may not take any other corrective action without prior approval of the responsible manager and consultation with HR-LER.

4. Investigatory Leave

a. An employee may be placed on investigatory leave with pay, usually for a period not to exceed 15 calendar days, while a review or investigation is conducted based on alleged actions including, but not limited to, the employee's continued presence on the job may result in disruption of operations, may impair the investigation, may result in attempted destruction or sabotage, may be considered a threat to others or his/her self, or the employee appears visibly impaired as to not be able to continue to perform satisfactorily.

b. Except as stated in Paragraph (C)(3)(b)(ii) (*Supervisor Authority*) above, a decision to place an employee on investigatory leave may only be made by a responsible manager and after consultation with HR-LER. The leave must be confirmed in writing to the employee, normally no later than five calendar days after the effective date of the leave. The notice must include the reasons for the leave and its expected duration.

c. The decision to place an employee on investigatory leave is not a corrective action. In addition, it is not subject to the provisions of Paragraph (D) (*Employee Complaint Resolution*).

5. Written Warnings

A written warning is the first step of corrective action. At least one written warning should normally precede any further corrective action, except when corrective action is the result of performance or conduct that an employee knows or reasonably should have known was unsatisfactory. Written warnings must describe: (a) the nature of the offense or deficiency; (b) the method or methods of correction; (c) the probable action to be taken if the offense is repeated or the deficiency persists; and (d) the employee's right to appeal the written warning under Paragraph (D) (*Employee Complaint Resolution*).

6. Corrective Action Other Than Written Warnings and Dismissals

a. **Written Notice of Intent to Take Corrective Action Other Than Written Warnings and Dismissals**

For corrective action other than written warnings and dismissals, the responsible manager must provide the employee with written notice of intent to take such action before the effective date. This notice must (a) state the intended corrective action, its reason, and the proposed effective date; (b) include a copy of the charges and materials on which the corrective action is based; and (c) state that the employee has the right to respond either orally or in writing within ten calendar days from the date of issuance; and (d) specify to whom the response must be made.

b. **Written Notice of Corrective Action Other Than Written Warnings and Dismissals**

After the employee's response or 10 calendar days from the date of issuance (whichever comes first), the employee must be notified in writing of the responsible manager's decision. If the responsible manager determines that corrective action is not appropriate, the responsible manager must inform the employee of this fact and state what other action, if any, will be taken. If the responsible manager determines that the corrective action, or a modification thereof, is appropriate, the employee will be notified of the action, the effective date, and advised of his/her right to appeal the action.

7. Dismissal of Nonprobationary Career and Term Employees

Nonprobationary career and term employees may be dismissed for reasons set forth in Paragraph (C)(1)(a) (*Corrective Action and Dismissal/Policy*). See RPM §2.21(C) for dismissal of non-career employees. Dismissal is normally preceded by some form of corrective action unless the unsatisfactory performance or misconduct is so serious as to warrant immediate dismissal.

a. **Written Notice of Intent to Dismiss**

A written notice of the intent to dismiss must be given to the employee by a responsible manager, and must (1) state the reason for the intended dismissal; (2) include a copy of the charges and materials on which the intent to dismiss is based; (3) state that the employee has the right to respond either orally or in writing within 10 calendar days from date of issuance; (4) specify to whom the response must be made; and (5) specify the proposed effective date of the dismissal, which must be at least 10 calendar days from the date of the notice of intent to dismiss.

b. **Written Notice of Dismissal**

After the employee's response or 10 calendar days from date of issuance (whichever comes first), the employee must be notified in writing by the responsible manager of his or her decision. If the responsible manager determines that dismissal is not appropriate, he or she must inform the employee of this fact and state what other action, if any, will be taken. If the responsible manager determines that dismissal is appropriate, the employee will be so notified. The notice must (1) specify the effective date of dismissal, (2) state the reason for dismissal, and (3) state the employee's right to appeal. If an employee was absent from work without approval during the 10 calendar days for response to the notice of intent or any subsequent days up to and including the day of dismissal, the days absent are without pay.

D. EMPLOYEE COMPLAINT RESOLUTION

1. Policy

It is the policy of the Laboratory to encourage and facilitate the resolution of employee complaints in a prompt and equitable manner. An employee should first attempt to resolve a complaint with his/her immediate supervisor. An employee may also attempt to resolve a complaint with the assistance of the Ombudsman Program. Efforts to resolve the matter informally, however, do not extend the deadline for filing a written request for formal review.

2. Scope

a. A formal complaint is defined as:

   i. A claim by an individual employee regarding a specific management act that is alleged to have adversely affected the employee's existing terms and conditions of employment, or

   ii. A claim by an individual employee that he/she has been adversely affected by a management action in violation of a provision of the Laboratory's *Regulations and Procedures Manual* (RPM) (LBNL/PUB-201).

b. No formal complaint filed under this Employee Complaint Resolution policy may raise or contest any of the following actions or issues:

   i. Classification of a position, salary ranges, or the percent change in the employee's salary as a result of the annual salary review process or a reclassification.

   ii. Management actions that are within the scope and authority of management responsibilities and rights including, but not limited to, hiring decisions or other similar employment-related actions, temporary work deferment and temporary reduction in time decisions, decisions to reorganize and reassign work, funding or not funding projects, or decisions to support a particular research effort.

   iii. An employee's performance evaluation unless the overall rating is less than "Acceptable," as defined in the then-current performance review process.

   iv. As otherwise set forth in the RPM as not being subject to this Employee Complaint Resolution Policy.

   Concerns or inquiries regarding these issues may be submitted to the Head of Human Resources for consideration.

c. The Head of Human Resources will determine whether a complaint is within the scope of this Complaint Resolution Policy. An employee may appeal this decision to the University of California, Office of the President, Office of Employee Relations,

which has the final responsibility for determining whether a complaint is within the scope of this policy. An appeal to the Office of the President shall include copies of the original grievance and related documents, and shall be received within 20 calendar days of the date of the local decision.

3. Eligibility

The right to submit a formal complaint under this policy is provided to all career and term employees covered by the RPM from the beginning of employment, with the following exceptions:

a. Employees required to serve a probationary period cannot submit a complaint concerning release during their probationary period.

b. Senior managers whose appointments are "at will" cannot submit a complaint concerning termination of the appointment. See RPM §2.01(D)(3) (*Laboratory Management*).

c. Employees in term appointments cannot submit a complaint concerning termination at the end of their appointment.

Employees who are not eligible to file a formal complaint may raise allegations of discrimination and/or allegations of retaliation for participating in the complaint resolution process up to Step II of the formal process.

4. Time Limits

Time limitations set forth below are expressed in calendar days unless otherwise noted. The Laboratory's annual winter holiday shutdown period automatically extends the time limit by the length of the shutdown. If the employee complaint is not appealed to the next step of the procedure within the applicable time limits, and an extension has not been agreed to in advance, the complaint will be considered resolved on the basis of the last Laboratory management response and shall be considered ineligible for further appeal.

Issues regarding timeliness of the initial filing of the complaint and any response/action required by the employee or management will be determined by the Head of Human Resources. An employee may appeal this decision to the University of California, Office of the President, Office of Employee Relations, which has the final responsibility for determining whether a complaint is within the time limits of this policy. An appeal to the UC Office of the President shall include copies of the original grievance and related documents, and shall be received within 20 calendar days of the date of the local decision.

5. Informal Review

An employee who has a complaint should discuss it with his or her immediate supervisor or the next higher level of management in order to provide a reasonable opportunity to resolve the complaint informally. Various problem-solving options might be used to facilitate informal resolution. HR-LER can assist employees and supervisors in their efforts to informally resolve problems. Efforts to resolve the dispute informally do not extend the required 30-calendar-day filing date. However, if an informal solution is actively being pursued and it appears that such a solution may resolve the dispute, the time period for appeal to Step I of the Formal Review Process may be extended for an additional 30 calendar days if approved in writing by the Head of Human Resources.

An employee who has a question concerning the interpretation or application of Laboratory or University personnel policies, including those related to employee rights, nondiscrimination, working conditions, or other personnel matters, is encouraged to consult with his or her supervisor, responsible manager, the HR Center, or HR-LER, and in the case of the Laboratory policy on nondiscrimination (RPM §2.01(A) (*Nondiscrimination and Affirmative Action*)), the Manager, Equal Employment Opportunity/Affirmative Action (EEO/AA).

6. Formal Review

a. **General Provisions**

i. **Representation.** An employee may be self-represented or represented by another person at any stage of the formal review of a complaint. The responsible manager may be represented by Laboratory Counsel, the University of

California Office of the General Counsel, or otherwise as the Laboratory Counsel deems appropriate.

ii. **Retaliation.** No employee shall be subject to retaliation for using or participating in the complaint resolution process.

iii. **Time Limits.** It is the intent of the Laboratory to complete the complaint resolution process in a timely manner. However, when circumstances warrant, the time limits may be extended by the Head of Human Resources. It is the intent that the process be completed through Step II within 60 calendar days, and the appeal be completed through Step III within the time frame stated below. The process to select the Hearing Officer in Step III should be accomplished within 30 calendar days of the appeal to Step III. The Laboratory and the employee or the employee's representative should secure the earliest practicable hearing date from the Hearing Officer. The Hearing Officer will be requested to issue his/her decision or report within 30 calendar days of the close of the hearing. When the Hearing Officer's report is advisory to the Director, the Director should issue the final decision within 30 calendar days of receipt of the report and recommendation (see Paragraph (D)(6)(d) (*Step III: Appeal to a Hearing*)), below. As stated above, once a complaint has been filed on a timely basis, the Head of Human Resources may extend any subsequent time limit in the complaint resolution process. Such extension(s) must (1) be in writing, (2) include the reason for the extension, and (3) be given to the employee and the responsible manager.

iv. **Computation of Time Limits.** Any time limit, including the original filing time limit that expires on a Saturday, Sunday, administrative holiday, or other nonworking day observed by the Laboratory will be extended to the next scheduled working day.

v. **Pay Status for Time Spent in Complaint Resolution.** The responsible manager will approve requests for reasonable time off with pay during scheduled working hours for an employee and/or an employee's representative (if the representative is a Laboratory employee, and such representation is not paid for by the employee filing the complaint or by others) for time spent in informal resolution of a complaint, investigating a complaint, and presenting a grievance complaint at a formal hearing. Time spent by the employee or the representative in the above activities outside scheduled working hours is without pay. Time spent by an employee and/or an employee's representative in preparing for the various steps of the complaint resolution procedure (e.g., preparation of documents, preparing testimony, investigation) is unpaid. An employee who serves as a witness will be on pay status while testifying at a hearing. In addition, the responsible manager must grant reasonable time off with pay during scheduled working hours to an employee-witness for other meetings related to resolution of an employee complaint; however, an employee-witness's time spent outside of scheduled working hours, other than testifying at a hearing, will be without pay.

vi. **Informal Resolution.** Informal resolution of a complaint may be agreed to by the employee and responsible manager at any stage of the complaint resolution process.

vii. **Review and Appeal.** All complaints that are within the scope of this policy are eligible for review through Steps I and II. Only those complaints listed in Paragraph (D)(6)(d)(ii), below, can be appealed to Step III.

viii. **Termination of Complaint Resolution Procedure.** If the employee resigns prior to the completion of the complaint resolution procedure, the process ends regardless of the stage. If one or more employees in a complaint resolution procedure terminates voluntarily or resigns prior to the end of the procedure, the process continues only for the remaining employees.

b. **Step I: Appeal to the Responsible Manager**

i. Complaints that are within the scope of Paragraph (D) (*Employee Complaint Resolution*) must be submitted in writing to the Manager, HR-LER, for transmittal to the responsible manager. The complaint must be filed within 30 calendar days of the date on which the employee knew or could reasonably be expected to have known of the event or action that gave rise to the complaint, or within 30 calendar days after the last day of employment, whichever occurs first. A former employee separated by layoff who is eligible for recall or preference for reemployment as provided in RPM

§2.21(B)(9) (*Reemployment from Layoff*) may file a complaint alleging violations of the recall or preference for reemployment provisions within 30 calendar days after the date on which the employee knew or could be reasonably expected to know of the alleged violation.

ii. When a complaint alleges sexual harassment, the complainant may elect to substitute the University of California Procedures for Responding to Complaints of Sexual Harassment (Paragraph E) to attempt to resolve the issue. The complaint is considered to be filed in a timely manner if it is filed within 30 calendar days after the alleged incident or action occurred. If the attempt to resolve the complaint is unsuccessful, the complainant may proceed to Step II of this procedure.

iii. The written complaint must describe the specific actions that are requested for review, the specific provisions of the RPM alleged to have been violated, the manner in which it was violated, how the employee was adversely affected, and the specific remedy requested.

iv. The responsible manager must provide a written decision to the employee within 21 calendar days unless the deadline is extended by the Head of Human Resources under the conditions stated in Paragraph (D)(6)(a)(iii), above.

v. If the responsible manager does not respond within the stated deadline or extension thereof, or the employee does not agree with the decision, the employee has the right to appeal to Step II of the Complaint Resolution Policy.

c. **Step II: Appeal to the Associate Laboratory Director for Operations**

i. If the employee elects to appeal the responsible manager's decision, the employee must submit a written appeal to the Manager, HR-LER, within 15 calendar days of receipt of the responsible manager's decision or the date the decision was due. The appeal must specify the aspects of the complaint that have not been resolved by the decision of the responsible manager, and specifically state the issues that are being appealed in Step II.

ii. If the issues under review are not eligible for appeal to Step III, the Associate Laboratory Director for Operations (ALDO) or the employee may request an Independent Party Reviewer (IPR). The IPR will conduct fact-finding and, if asked by the ALDO, make recommendations regarding the complaint and requested remedies. The IPR is selected by the ALDO. The employee and the management representative shall have an opportunity to meet with and present information directly to the IPR. The IPR may engage in further review and investigation as he/she deems necessary and appropriate. After the conclusion of the IPR review, the IPR will submit his/her report to the ALDO. The ALDO will consider the report of the IPR and other relevant information, and will issue a written decision to the employee and the responsible manager. The decision of the ALDO is final for all complaints that are ineligible for Step III.

iii. An employee may elect to have an IPR review his/her complaint even though it is eligible for appeal to Step III. If this occurs, the decision of the ALDO is final, and the complaint cannot be appealed to Step III, as set forth in Paragraph (D)(6)(d)(ii), below.

iv. If a complaint filed under this section involves an action initiated by the ALDO, the Deputy Director will have the authority for the Step II process and any required appointments or decisions. If the complaint involves an action taken by the Laboratory Director, it will be forwarded to the University of California, Office of the President, for final resolution.

d. **Step III: Appeal to a Hearing**

i. If the employee elects to appeal the ALDO's decision for matters that are eligible for appeal to Step III, the employee shall submit a written appeal to the Manager, HR-LER, within 15 calendar days of receipt of the ALDO's decision. The appeal shall specify the aspects of the complaint that have not been resolved by the ALDO, and specifically state the issues that are being appealed in Step III of this process.

ii. Complaints not satisfactorily resolved at Step II that allege specific violations of personnel policies listed below may be appealed in writing to the Step III hearing process. The appeal will be heard by a Hearing Officer.

(a) **Final and Binding Hearing.** The Hearing Officer will render a final and binding decision when the issue reviewed under this policy alleges violations of the following policies:

(1) Discriminatory practices as listed in RPM §2.01(A) (*Nondiscrimination and Affirmative Action*) pertaining only to an alleged discriminatory application of a personnel policy listed below in this section.
(2) Hours of work
(3) Overtime
(4) Shift and weekend differential
(5) Holidays
(6) Vacation (except the scheduling of a vacation)
(7) Sick leave
(8) Leave of absence
(9) Corrective action and dismissal as defined in Paragraph (C) (*Corrective Action and Dismissal Policy*), and the employee had nonprobationary career or term status at the time the complaint was filed.
(10) Medical separation
(11) Layoff or reduction in time for career employees pertaining only to the notice, order of layoff, recall, or preference for reemployment provisions in RPM §2.21(B). The management decision to implement a layoff or reduction in time is not subject to any provisions of this complaint resolution policy.
(12) Retaliation for utilizing the complaint resolution process.

(b) **Advisory Hearings.** The Hearing Officer will render an advisory decision and recommendation to the Laboratory Director, who will render a final and binding decision for the following two issues:

(1) Harassment as defined in RPM §2.01(A)(2)(c), the *University of California Policy on Sexual Harassment* (Anti-Harassment Policy).

(2) Retaliation for filing an allegation of improper government activity (whistleblower), filing an allegation of discrimination or harassment, or filing an allegation of scientific misconduct. See also RPM §2.05(K) (*Protection of Whistleblowers from Retaliation, and Guidelines for Reviewing Complaints (Whistleblower Protection Policy)*).

iii. Hearing Process

(a) Selection of the Hearing Officer

(1) The Laboratory will maintain a list of professional non-University hearing officers. These hearing officers will hear all Step III appeals. The cost of these Laboratory/University hearing officers will be borne by the Laboratory. The responsible manager and the employee or their representative(s) will select a hearing officer by striking names of available members on the list until a hearing officer is selected. The determination of who strikes first will be determined by the toss of a coin.

(2) As an alternative to the procedures set forth directly above, the employee may elect, in writing, that the hearing be heard by a non-University hearing officer selected from a list other than that maintained by the Laboratory. The Laboratory shall obtain a list of five names of prospective non-University hearing officers from the Federal Mediation and Conciliation Service (FMCS) who (1) are National Academy of Arbitrators (NAA) members and (2) reside in or geographically serve the Berkeley Lab locale. Using this list, the responsible manager and the employee or their representative(s) will select a hearing officer by striking names of available members on the list until a hearing officer is selected. The determination of who strikes first will be determined by the toss of a coin.

The election of this alternative non-University hearing officer selection procedure may result in a cost to the employee. If the issue is one in which the decision of the hearing officer is final and binding, the fees

will be borne equally by the Laboratory and the employee. If the issue is one in which the hearing officer makes a recommendation to the Laboratory Director:

- The fees and costs of the hearing officer will be borne equally by the Laboratory and the employee if the Laboratory Director accepts the recommended decision of the hearing officer.

- If the Laboratory Director rejects or substantively changes a recommended decision of a hearing officer under this section, the fee will be borne by the Laboratory.

(b) The hearing process provides an opportunity for the employee and the responsible manager or their representatives to examine witnesses and submit relevant evidence. See Paragraph (D)(6)(a)(i) (*Representation*) above. Each party will provide the other with the documents and other materials that it intends to use at the hearing, and the names of all witnesses who are to be called to testify at the hearing. This material-and-witness list should be provided at least 14 calendar days before the hearing.

(c) The hearing will be closed to nonparticipants.

(d) The hearing will be recorded unless a stenographic record is prepared. A copy of the recording tapes will be given to the employee. Either party may make provisions for a stenographic record of the hearing, subject to payment of the cost, or the parties may agree in advance to share the expense of a stenographic record.

iv. Responsibility and Authority of the Hearing Officer

(a) The Hearing Officer will:

(1) Identify the issues submitted in the original written complaint for hearing.
(2) Conduct a hearing to determine the facts and whether the management action that resulted in the complaint was in violation of Laboratory policies or procedures, or if the complaint involves corrective action or dismissal, and whether the management action was reasonable under the circumstances.
(3) Submit a written hearing report. If the nature of the decision is advisory, the report will be provided to the Laboratory Director. If the decision is final and binding, the report will be provided to the employee filing the complaint, the manager, HR-LER, and the Responsible Manager.

(b) The hearing report will include a description of the following:

(1) Each incident or management action that resulted in the complaint.
(2) Each issue under submission.
(3) The positions of the parties.
(4) The findings of fact and any policy violations. Findings of fact must be supported by the evidence, and the decision, whether final and binding or recommended, must be supported by the findings.

(c) The Hearing Officer will have authority to issue a final and binding decision for complaints related to issues listed in Paragraph (D)(6)(d)(ii)(a) above. For all other complaints, the Hearing Officer will have authority to issue an advisory recommendation only. The advisory recommendation will be made to the Laboratory Director.

(d) The Hearing Officer shall have no authority to depart from, or otherwise modify, Laboratory or University personnel policies.

(e) If the management action under review is determined to be in violation of Laboratory policy or if the corrective action or dismissal is determined not to be reasonable under the circumstances, the remedy shall not exceed restoring to the employee the pay, benefits, or rights lost as a result of the action, less any income earned from any other source or any other employment.

(f) Except by mutual agreement of both parties, no new issues may be added to a complaint or introduced at a hearing that were not included in the original written complaint.

(g) The resolution of an employee complaint must be in accordance with Laboratory policies. Any decision, whether recommended or final and binding, that involves an exception to Laboratory or University policy requires the prior approval of the Office of the President of the University of California.

v. **Decision of the Laboratory Director**

A recommended decision of a hearing officer will be accepted, rejected, or modified by the Laboratory Director within 15 calendar days after receipt. The decision of the Laboratory Director is final and binding for those issues as identified in Paragraph (D)(6)(d)(ii)((b). The decision will be made in writing and forwarded to the parties with a copy of the hearing officer's report.

vi. **General Hearing Provisions**

(a) **Similar Complaints.** When agreed upon by the employees and Laboratory before the hearing, individual complaints of two or more employees may be included in one hearing when the complaints were caused by the same action. All complaints from one employee that relate to a single incident or issue must be included in one hearing.

(b) **Jurisdiction.** An employee is subject to the hearing procedures of the campus or facility where the action that resulted in the complaint occurred, or as approved by the University of California, Office of the President, Office of Employee Relations.

(c) **Facilities.** HR-LER will be responsible for making all physical arrangements, including tape recording of the hearing, providing staff and clerical assistance to the hearing officer as required, ensuring that all parties are advised of procedural requirements, and keeping the calendar record of the complaint process.

(d) HR-LER will receive copies of all reports and documents pertaining to the complaint and will be the official custodian of the complete files and tapes.

E. UNIVERSITY OF CALIFORNIA PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

NOTE: These procedures are reproduced exactly as they appear in the *University of California Procedures for Responding to Reports of Sexual Harassment* and, consequently, use the UC numbering system.

NOTE: When the following UC procedures refer to *Appendix I: University Complaint Resolution and Grievance Procedures*, there will also be a link to RPM §2.05(D) (*Employee Complaint Resolution*). This is the complaint resolution procedure for non-represented Laboratory employees. When the following UC procedures refer to *Appendix II: University Disciplinary Procedures*, there will also be a link to RPM §2.05(C) (*Corrective Action and Dismissal*), which is the Corrective Action policy for non-represented Laboratory employees. The policies contained therein are the approved Human Resources policies for Lawrence Berkeley National Laboratory nonrepresented employees. Represented employees should refer to their collective bargaining agreements for applicable policies.

NOTE: Laboratory-specific information may be found here.

The campuses, DOE Laboratories, Medical Centers, the Office of the President, including Agriculture and Natural Resources, and all auxiliary University locations (the locations) shall implement the following procedures for responding to reports of sexual harassment.

The primary purpose of the procedures is to require the locations (1) to offer sexual harassment training and education to all members of the University community and to provide, consistent with California Government Code 12950.1, sexual harassment training and education to each supervisory employee; (2) to provide all members of the University community with a process for reporting sexual harassment in accordance with the policy; and (3) to provide for prompt and effective response to reports of sexual harassment in accordance with the policy.

These procedures also cover reports of retaliation related to reports of sexual harassment. Any exceptions to these procedures must be approved by the Senior Vice President—Business and Finance.

A. Local Sexual Harassment Resources

1. Title IX Compliance Coordinator (Sexual Harassment Officer)

Each location shall designate a Title IX Compliance Coordinator (Sexual Harassment Officer) whose responsibilities include, but may not be limited to, the duties listed below.

a. Plan and manage the local sexual harassment education and training programs. The programs should include wide dissemination of this policy to the University community; providing educational materials to promote compliance with the policy and familiarity with local reporting procedures; and training University employees responsible for reporting or responding to reports of sexual harassment.
b. Develop and implement local procedures to provide for prompt and effective response to reports of sexual harassment in accordance with this policy, and submit the local procedures to the Associate Vice President, Human Resources and Benefits for review and approval.
c. Maintain records of reports of sexual harassment at the location and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
d. Prepare and submit an annual report to the Office of the President, for submission to The Regents, on sexual harassment complaint activity during the preceding calendar year in a format specified by the Associate Vice President, Human Resources and Benefits.

2. Trained Sexual Harassment Advisors

Local procedures may designate trained individuals other than the Title IX Compliance Coordinator (Sexual Harassment Officer) to serve as additional resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment.

The names and contact information for the Title IX Compliance Coordinator (Sexual Harassment Officer) and any designated trained sexual harassment advisors shall be posted with the *University's Policy on Sexual Harassment* on the location's Web site and be readily accessible to the University community.

B. Procedures for Reporting and Responding to Reports of Sexual Harassment

1. Making Reports of Sexual Harassment

All members of the University community are encouraged to contact the Title IX Compliance Coordinator (Sexual Harassment Officer) if they observe or encounter conduct that may be subject to the *University's Policy on Sexual Harassment*. Reports of sexual harassment may be brought to the Title IX Compliance Coordinator (Sexual Harassment Officer); to a human resources coordinator; or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment. If the person to whom harassment normally would be reported is the individual accused of harassment, reports may be made to another manager, supervisor, human resources coordinator, or designated employee. Managers, supervisors, and designated employees shall be required to notify the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment shall be brought as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. For reports of sexual harassment brought after one year, locations shall respond to reports of sexual harassment to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

2. Options for Resolution

Individuals making reports of sexual harassment shall be informed about options for resolving potential violations of the *Policy on Sexual Harassment*. These options shall include procedures for Early Resolution, procedures for Formal

Investigation, and filing complaints or grievances under applicable University complaint resolution or grievance procedures. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this policy (see F below). Locations shall respond to the greatest extent possible to reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Individuals bringing reports of sexual harassment shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the harassment, and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of sexual harassment in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment and will be subject to the same procedures.

3. Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Locations are encouraged to utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or providing remedies for the individual harmed by the harassment. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third-party reports. Steps taken to encourage Early Resolution and agreements reached through early resolution efforts should be documented.

While the University encourages early resolution of a complaint, the University does not require that parties participate in Early Resolution prior to the University's decision to initiate a formal investigation. Some reports of sexual harassment may not be appropriate for early resolution, but may require a formal investigation at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints.

4. Procedures for Formal Investigation

In response to reports of sexual harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior, or allege criminal acts such as stalking, sexual assault, or physical assault) or in cases where Early Resolution is unsuccessful, the location may conduct a Formal Investigation. In such cases, the individual making the report shall be encouraged to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation of a report of sexual harassment. In cases where there is no written request, the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints, in consultation with the administration, may initiate a Formal Investigation after making a preliminary inquiry into the facts.

Formal Investigation of reports of sexual harassment shall incorporate the following standards:

a. The individual(s) accused of conduct violating the *Policy on Sexual Harassment* shall be provided a copy of the written request for Formal Investigation or otherwise given a full and complete written statement of the

allegations, and a copy of the *Policy on Sexual Harassment* and *Procedures for Responding to Reports of Sexual Harassment*.

b. The individual(s) conducting the investigation shall be familiar with the *Policy on Sexual Harassment* and have training or experience in conducting investigations.
c. The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
d. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.
e. At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the Policy on Sexual Harassment.
f. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for formal investigation was filed. This deadline may be extended on approval by a designated University official.
g. Generally, an investigation should result in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether University policy has been violated. The report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report shall be submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.
h. The complainant and the accused shall be informed promptly in writing when the investigation is completed. The complainant shall be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.
i. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information. However, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

C. Complaints or Grievances Involving Allegations of Sexual Harassment

An individual who believes he or she has been subjected to sexual harassment may file a complaint or grievance pursuant to the applicable complaint resolution or grievance procedure listed in *Appendix I: University Complaint Resolution and Grievance Procedures*. Such complaint or grievance may be filed either instead of or in addition to making a report of sexual harassment to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy. A complaint or grievance alleging sexual harassment must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

If a complaint or grievance alleging sexual harassment is filed in addition to a report made to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy, the complaint or grievance shall be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early

Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure.

An individual who has made a report of sexual harassment also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment did not follow University policy. Such a complaint or grievance may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint or grievance regarding the resolution of a report of sexual harassment under this procedure must be filed in a timely manner. The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment investigation or other resolution process pursuant to this policy, and/or of the actions taken by the administration in response to the report of sexual harassment, whichever is later.

D. Remedies and Referral to Disciplinary Procedures

Findings of violations of the *Policy on Sexual Harassment* may be considered in determining remedies for individuals harmed by the sexual harassment and shall be referred to applicable local disciplinary procedures (*Appendix II: University Disciplinary Procedures*). Procedures under this policy shall be coordinated with applicable local complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible. Violations of the policy may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The University shall protect the privacy of individuals involved in a report of sexual harassment to the extent required by law and University policy. A report of sexual harassment may result in the gathering of extremely sensitive information about individuals in the University community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual harassment may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

F. Confidentiality of Reports of Sexual Harassment

Each location shall identify confidential resources with whom members of the University community can consult for advice and information regarding making a report of sexual harassment. These resources provide individuals who may be interested in bringing a report of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on the location's website and prominently displayed in common areas. Confidential resources include campus ombudspersons and/or licensed counselors in employee assistance programs or student health services. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

The locations shall notify the University community that certain University employees, such as the Title IX Compliance Coordinator (Sexual Harassment Officer), managers, supervisors, and other designated employees have an obligation to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken. An individual's requests regarding the confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from sexual harassment and the due process rights of the accused to

be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

G. Retention of Records Regarding Reports of Sexual Harassment

The office of the Title IX Compliance Coordinator (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with University records policies, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

F. VIOLENCE IN THE WORKPLACE

1. Policy

It is the policy of the Laboratory to create and maintain a community in which we can work together in an atmosphere of respect and civility, free of harassing and threatening behaviors. Laboratory policies are designed to protect and promote the rights of members of the Berkeley Lab community and to prevent actions that interfere with those rights and with the Laboratory's mission. Any threat or violent act by an individual associated with Berkeley Lab, including any employee, contractor, guest, or student, will be considered serious misconduct and may be the basis for disciplinary action or dismissal. Such an act may be reported to local law enforcement officials for appropriate action.

2. Crisis Action Team

To assist managers and individuals in assessing situations involving workplace violence, the Laboratory has established a Crisis Action Team (CAT), composed of Berkeley Lab and University of California, Berkeley, campus units with special expertise and professional training. These units work together to deal with verbal and physical behaviors perceived as disruptive, intimidating, threatening, or violent. CAT helps clarify the management of situations (including legal and psychological issues), coordinates communication, and monitors resolution of incidents.

3. Immediate Assistance

If an employee believes he or she needs assistance, he or she should call the Manager of Labor/Employee Relations. If he or she is experiencing an immediate threat, he or she should dial 7911 (or 9-911 from a campus phone).

G. EMPLOYEE ASSISTANCE PROGRAM

1. Policy

The Laboratory's policy is to ensure that employees are offered confidential assistance in resolving such problems as alcoholism, drug abuse, emotional disturbances, or legal, family, and financial difficulties. The Laboratory recognizes that these problems can have a negative impact on job performance that is beyond the ability of supervisors or managers to resolve. An eligible employee who is dealing with any of these problems is encouraged to utilize the Laboratory's Employee Assistance Program (EAP). The EAP is an off-site program provided by the University of California Health Center (the Tang Center) on the Berkeley campus. Employees and managers who are seeking employee-assistance services may contact the University of California Berkeley Employee Assistance Program directly. Eligible employees are those holding career, term, limited, rehired retiree, or non-University of California student-assistant appointments. Employees who hold University of California faculty or GSRA appointments, or are student assistants attending a University of California campus, must use their campus Employee Assistance Program or health benefits.

Employees are assured that self-initiated contacts made with the Laboratory's EAP are kept in strict confidence in accordance with prevailing federal requirements and Laboratory policy on confidential personal health records. The EAP will not contact management concerning employees who refer themselves unless the employee so requests.

Employees participating in the EAP are required to meet job performance standards. Program participation is voluntary and will not affect future employment or career advancement.

2. Responsibility

a. Supervisor. When an employee's work performance is being adversely affected by a personal problem, the supervisor may refer the employee to the EAP for consultation. The supervisor will also inform the employee of the consequences of unresolved work-performance concerns.
b. Employee Assistance Program (EAP). EAP services provide consultation to the employee and/or the referring supervisor, problem assessment, referral of the employee to outside resources, if required, and ongoing follow-up for problem resolution.
c. Employee. Employees are responsible for performing their jobs in a satisfactory manner. Seeking assistance from the EAP for personal problems that are interfering with work performance may help the employee meet this responsibility.

H. REASONABLE ACCOMMODATION (Note: The Reasonable Accommodation policy has been moved to §2.01(B)(4).)

I. RESEARCH MISCONDUCT (revised 2/28/08)

1. Introduction

All persons engaged in research at the Laboratory are responsible for adhering to the highest standards of research integrity. Activities that fall short of the basic ethical principles inherent in the research process undermine the scientific enterprise. As an institution engaged in research, the Laboratory has a responsibility for investigating allegations of research misconduct fairly, effectively, and expeditiously. This policy sets forth the principles and methods for assessing allegations of research misconduct, conducting inquiries and investigations related to possible research misconduct, and reporting the results to responsible federal and non-federal **funding agencies**.

Research misconduct means

- fabrication (making up data or results and recording or reporting them),
- falsification (manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the **research record**), or
- plagiarism (appropriation of another person's ideas, processes, results, or words without giving appropriate credit)

in proposing, performing, or reviewing research, or in reporting research results.

Honest error or differences of opinion do not constitute research misconduct.

Under this policy, a finding of research misconduct requires that

- There has been a significant departure from accepted practices of the relevant research community, involving fabrication, falsification or plagiarism;
- The misconduct was committed intentionally, knowingly, or recklessly; and
- The allegation has been proven by a **preponderance of the evidence**.

The Laboratory Director has delegated authority and responsibility for decisions made under this policy to the Deputy Director (Deciding Official). The head of the Research and Institutional Integrity Office serves as the Research Integrity Officer (RIO) and is responsible for implementing the procedures described in this policy.

2. Scope

a. While this policy is intended to carry out the Laboratory's responsibilities under the rules of several federal agencies, it

applies to all research conducted at the Laboratory regardless of funding source.

b. This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results) (see Paragraph (I)(1) (*Introduction*)) involving:

   i. A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the Laboratory; i.e., employees, guests, collaborators, students, consultants, and subcontractors (collectively referred to as Laboratory members for purposes of this policy).

   ii. any research proposed, performed, reviewed, or reported, or any research record generated from the research, regardless of whether an application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support.

   iii. With regard to Public Health Service (PHS)–funded research, this policy specifically includes:

      (a) applications or proposals for support for biomedical or behavioral extramural or intramural research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information;

      (b) PHS-supported biomedical or behavioral extramural or intramural research;

      (c) PHS-supported biomedical or behavioral extramural or intramural research training programs;

      (d) PHS-supported extramural or intramural biomedical or behavioral activities that are related to biomedical or behavioral research or research training, such as the operation of tissue and data banks and the dissemination of research information; and

      (e) plagiarism of research records produced in the course of research, research training or activities related to that research or research training

c. This policy does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the Laboratory received the allegation, subject to the following exceptions:

   i. **Subsequent use.** The respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication or other use for the potential benefit of the respondent of the research record that is alleged to have been fabricated, falsified, or plagiarized (see Paragraph (I)(1) *(Introduction)*).

   ii. **Health or safety of the public exception.** If the funding agency or Laboratory, following consultation with the funding agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect of the health or safety of the public.

   iii. **"Grandfather" exception.** If the funding agency or the Laboratory received the allegation or research misconduct before May 17, 2005.

3. Definitions

a. **Allegation** means a disclosure of possible research misconduct through any means of communication. This disclosure may be by written or oral statement or other communication to the Laboratory or a funding official.

b. **Complainant** means a person who in good faith makes an allegation of research misconduct.

c. **Conflict of interest** means the real or apparent potential bias that may occur due to prior or existing personal, financial, or professional relationships.

d. **Deciding Official (DO**) means the Laboratory official who makes final determinations on allegations of scientific misconduct and any responsive Laboratory actions. The Laboratory's Deputy Director is the Deciding Official.

e. **Evidence** means any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

f. **Funding agency / sponsoring agency** means the source(s) of the funds under which the research was conducted. See Paragraph (I)(4)(a)(iii) for agency-specific information.

g. **Good faith** means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have, based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means impartially and honestly carrying out the duties assigned under this policy. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceedings.

h. **Inquiry** means gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

i. **Investigation** means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct.

j. **Preponderance of the evidence** means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

k. **Research Integrity Officer** (RIO) means the Laboratory official responsible for implementing the procedures described in this policy. The Laboratory's RIO is the Research and Institutional Integrity Manager.

l. **Research** means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) in all fields of science, medicine, engineering, and mathematics, including, but not limited to, research in economics, education, linguistics, medicine (relating broadly to public health by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, biological causes, functions or effects, diseases, treatments, or related matters to be studied), psychology, social sciences statistics, and research involving human subjects or animals.

m. **Research record** means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to the funding agency or Laboratory official by a respondent in the course of the research misconduct proceeding.

n. **Respondent** means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

o. **Retaliation** means an adverse action taken against a complainant, witness, or inquiry appointee or committee member, or investigation committee member by the Laboratory or one of its members in response to

   i. A good faith allegation of research misconduct; or

   ii. Good faith cooperation with or participation in a research misconduct proceeding

4. Roles, Rights, and Responsibilities

a. **Laboratory**

i. The Laboratory will respond to each allegation of research misconduct in a thorough, competent, objective, and fair manner, including taking precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses.

ii. The Laboratory will take all reasonable and practical steps to ensure the cooperation of complainants, respondents and other Laboratory members with research misconduct proceedings, including, but not limited to, their providing information, research records, and evidence.

iii. The Laboratory will report to the appropriate office/official(s) of the **funding agency** sponsoring the research involved as required in this policy. Reports will be made to

(a) the appropriate contracting officer for Department of Energy (DOE) supported activities;

(b) the Office of Research Integrity (ORI) of the Department of Health and Human Services (HHS) for PHS-supported activities;

(c) the appropriate contracting officer or contracting officer's technical representative for Environmental Protection Agency supported activities;

(d) the Office of the Inspector General (OIG) for National Aeronautics and Space Administration (NASA) supported activities; and

(e) for agencies not listed above, to the authority identified in the specific grant or contract.

In cases where the research is supported by multiple agencies, the Laboratory will report to each agency.

b. **Research Integrity Officer**

The Research Integrity Officer (RIO) has primary responsibility for implementation of the Laboratory's policies and procedures on research misconduct. When performing any of the duties required in this policy, the RIO will consult with the responsible Division Director and other Laboratory scientific and/or institutional officials, as appropriate, or when specific expertise or assistance is needed. The responsibilities of the RIO include the following duties related to research misconduct proceedings:

i. Be available to consult with persons uncertain about whether to submit an allegation of research misconduct;

ii. Receive allegations of research misconduct;

iii. Assess each allegation of research misconduct in accordance with Paragraph (I)(6)(a) (Assessment of Allegations) of this policy to determine whether it falls within the definition of research misconduct (see Paragraph (I)(1) (*Introduction*) and warrants an inquiry;

iv. As necessary, take interim action and notify the funding agency (see Paragraph (I)(4)(a)(iii)) of special circumstances, in accordance with Paragraph (I)(5)(f) (Interim Actions and Notifying the Funding Agency of Special Circumstances) of this policy;

v. Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Paragraph (I)(6)(c) (Notice to Respondent; Sequestration of Research Records) of this policy and maintain it securely in accordance with this policy and applicable law and regulation;

vi. Provide confidentiality to those involved in the research misconduct proceedings as required by Paragraph (I)(5)(c) (Confidentiality) of this policy;

vii. Notify the respondent and provide opportunities for him/her to review/comment/respond to allegations, evidence, and committee reports in accordance with this policy;

viii. As appropriate or required by this policy, inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;

ix. Appoint the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;

x. Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial **conflict of interest** and take appropriate actions, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;

xi. In cooperation with other Laboratory officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other Laboratory members;

xii. Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;

xiii. Notify and make reports to the funding agency (see Paragraph (I)(4)(a)(iii)) as required by this policy.

xiv. Ensure that actions taken by the Laboratory and the funding agency are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, and professional societies, and licensing boards of those actions, and

xv. Maintain records of the research misconduct proceeding and make them available to the funding agency in accordance with Paragraph (I)(11)(c) (Maintaining Records for Review by the Funding Agency) of this policy.

c. **Complainant**

The complainant is responsible for making allegations in **good faith**, maintaining, confidentiality, and cooperating with the inquiry and investigation. If the matter proceeds to an investigation, the complainant must be interviewed, and be given the transcript or recording of the interview for review and correction. Individuals whose allegations of research misconduct are not made in good faith may be subject to Laboratory corrective (disciplinary) action up to and including dismissal from employment.

d. **Respondent**

The **respondent** is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

i. A good-faith effort from the RIO to notify the respondent in writing at the time of or before beginning the inquiry;

ii. An opportunity to comment on the draft inquiry report and have his/her comments attached to the inquiry report;

iii. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to the Laboratory's policies and procedures on research misconduct. In the case of an allegation of misconduct in research supported by PHS, the inquiry report must also include a copy of, or refer to, 42 CFR Part 93.

iv. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins, and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to

pursue those allegations;

v. Be interviewed during the investigation, have the opportunity to review and correct the recording or transcript of the interview, and have the corrected recording or transcript included in the record of the investigation;

vi. Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript of the interview provided to the witness for review and correction, and have the corrected recording or transcript included in the record of investigation; and

vii. Receive a copy of the draft investigation report and, concurrently, if requested, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

The respondent shall be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. With the advice of the RIO and/or other Laboratory officials, the Deciding Official may terminate the Laboratory's review of an allegation that has been admitted, if the Laboratory's acceptance of the admission and any proposed settlement is approved by the funding agency.

e. **Deciding Official**

The DO will receive the inquiry report and after consulting with the RIO and/or other Laboratory officials, decide whether an investigation is warranted under the criteria set forth in this policy (see Paragraph (I)(8)(a) below). Any finding that an investigation is warranted must be made in writing by the DO and must be provided to the funding agency, together with a copy of the inquiry report, within 30 calendar days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that the funding agency may assess the reasons why the Laboratory decided not to conduct an investigation.

The DO will receive the investigation report and, after consulting with the RIO and/or other Laboratory officials, decide the extent to which the Laboratory accepts the findings of the investigation and, if research misconduct is found, decide what, if any, Laboratory actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed actions are provided to the funding agency, as required by Paragraph (I)(11)(b) (Notification to Funding Agency of Laboratory Findings and Actions) of this policy.

5. General Policies and Principles

a. **Responsibility to Report Misconduct**

Laboratory members should report observed, suspected, or apparent research misconduct (see Paragraph (I)(1) (*Introduction*)) to the RIO or other appropriate Laboratory official. If the Laboratory member makes his/her report to a Laboratory official other than the RIO, the report must be forwarded to the RIO.

If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he/she may meet with or contact the RIO at RIO@lbl.gov to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, a Laboratory member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations. The RIO will not be able to agree to a confidential discussion if the subject of the misconduct involves any of the conditions or special circumstances set forth in Paragraph (I)(5)(f) below.

b. **Cooperation with Research Misconduct Proceedings**

Laboratory members are required to cooperate with the RIO and other Laboratory officials in the review of allegations and

the conduct of inquiries and investigations. Laboratory members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other Laboratory officials.

c. **Confidentiality**

The RIO shall

i. limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding;

ii. except as otherwise prescribed by applicable law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding.

d. **Protecting Complainants, Witnesses, and Committee Members**

Laboratory members may not retaliate in any way against complainants, witnesses, or committee members. Laboratory members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

e. **Protecting the Respondent**

As requested and as appropriate, the RIO and other Laboratory officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all notices and opportunities provided for in this policy. Respondents may consult with personal legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the legal counsel or personal adviser to interviews or meetings on the case. The role of legal counsel in such meetings or interviews is limited to providing advice, not representation, to the respondent.

f. **Interim Actions and Notifying the Funding Agency of Special Circumstances**

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal or state funds, and equipment, or the integrity of the funding agency's supported research process. In the event of such a threat, the RIO will, in consultation with other Laboratory officials and the funding agency, take appropriate interim action to protect against any such threat. Such action might include additional monitoring of the research process and the handling of research funds and equipment, reassignment of personnel or of the responsibility for the handling of research funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify the funding agency immediately if he/she has reason to believe that any of the following conditions exist:

i. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;

ii. Funding agency resources or interests are threatened;

iii. Research activities should be suspended;

iv. There is a reasonable indication of possible violations of civil or criminal law;

v. Funding agency action is required to protect the interests of those involved in the research misconduct proceeding;

vi. The research misconduct proceeding may be made public prematurely and funding agency action may be necessary to safeguard evidence and protect the rights of those involved; or

vii. The research community or public should be informed.

6. Conducting the Assessment and Inquiry

a. **Assessment of Allegations**

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether it is within the jurisdictional criteria of Paragraph (I)(2) (Scope) of this policy, and whether the allegation falls within the definition of research misconduct in Paragraph (I)(1) (*Introduction*) of this policy. An inquiry must be conducted if these criteria are met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in Paragraph (I)(6)(c) of this section.

b. **Initiation and Purpose of the Inquiry**

If the RIO determines that the criteria for an inquiry are met, he/she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

c. **Notice to Respondent; Sequestration of Research Records**

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO may consult with the funding agency for advice and assistance in this regard.

d. **Appointment of an Individual (Appointee) or Committee to Conduct an Inquiry**

The RIO, in consultation with other Laboratory officials as appropriate, will appoint an individual or committee (and committee chair) to conduct an inquiry as soon after the initiation of the inquiry as is practical. The appointee or committee members must not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

e. **Charge to the Appointee or Committee and First Meeting**

The RIO will prepare a charge for the appointee or committee that:

i. Sets forth the time for completion of the inquiry;

ii. Describes the allegations and any related issues identified during the allegation assessment;

iii. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;

iv. States that an investigation is warranted if it is determined

(a) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of Paragraph (I)(2) (Scope); and

(b) the allegation may have substance, based on the committee's review during the inquiry.

v. Informs the appointee or inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of Paragraph (I)(7)(a) (Elements of the Inquiry Report) of this policy.

At the first meeting with the appointee or committee, the RIO will review the charge, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist with organizing plans for the inquiry, and answer any questions raised. The RIO will be present or available throughout the inquiry to advise as needed.

f. **Inquiry Process**

The inquiry process will normally include interviews of the complainant, the respondent and key witnesses as well as examining relevant research records and materials. The evidence, including the testimony obtained during the inquiry will be evaluated. After consultation with the RIO, the appointee or committee members will decide whether an investigation is warranted based on the criteria in Paragraph (I)(6)(e)(iv) (Charge to Appointee or Committee and First Meeting). The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the RIO shall promptly consult with the funding agency to determine the next steps that should be taken. See Paragraph (I)(12) (Completion of Cases: Reporting Premature Closure to the Funding Agency).

g. **Time for Completion**

The inquiry, including preparation of the final inquiry report and the decision of the DO (see Paragraph (I)(8)(a) below) on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry records must include documentation of the reasons for exceeding the 60-calendar-day period. The respondent will be notified, in writing, of the extension.

7. The Inquiry Report

a. **Elements of the Inquiry Report**

A written inquiry report must be prepared that includes the following information:

i. the name and position of the respondent;

ii. names and titles of the appointee or committee members who conducted the inquiry;

iii. a summary of the inquiry process used;

iv. a list of the research records reviewed;

v. summaries of any interviews;

vi. a description of the allegations of research misconduct;

vii. the funding agency support, including, for example, grant numbers, grant applications, contracts and publications listing that support;

viii. any comments on the draft report by the respondent,

ix. the basis for recommending or not recommending that the allegations warrant an investigation; and

x. whether any actions should be taken if an investigation is not recommended.

Laboratory Counsel should review the inquiry report for legal sufficiency. Modifications should be made, as appropriate, in consultation with the RIO and the appointee or committee.

b. **Notification to the Respondent and Opportunity to Comment**

The RIO shall notify the respondent whether the inquiry found an investigation to be warranted and shall include a copy of the draft inquiry report for comment within 10 calendar days of such notification. The notification must include a copy of the Laboratory's policies and procedures on research misconduct. If the alleged misconduct involves research supported by PHS the notification must include a copy of, or refer, to 42 CFR Part 93.

Based on any comments that are timely submitted, the appointee or inquiry committee may revise the draft report as appropriate and prepare it in final form. The appointee or committee will transmit the final report, including any timely submitted comments by respondent, to the RIO.

8. Laboratory Decision and Notification

a. **Decision by Deciding Official**

The RIO will transmit the final inquiry report to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination. An investigation is warranted if there is:

i. a reasonable basis for concluding that the allegation falls within the definition of research misconduct under Paragraph (I)(1) *(Introduction)* and within the scope of this policy (Paragraph (I)(2) (*Scope*)) and

ii. preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

b. **Notification to the Complainant of the Results of the Inquiry**

The RIO shall notify the complainant whether the inquiry found an investigation to be warranted.

c. **Notification to the Funding Agency**

Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide the funding agency with the DO's written decision and a copy of the inquiry report. The RIO will also notify Laboratory or other officials who need to know of the DO's decision. The RIO must provide the following information to the funding agency upon request:

i. the Laboratory policies and procedures under which the inquiry was conducted;

ii. the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and

iii. the charges to be considered in the investigation.

d. **Documentation of Decision Not to Investigate**

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the funding agency of the reasons why an investigation was not conducted. These documents must be provided to the funding agency upon request.

9. Conducting the Investigation

a. **Initiation and Purpose**

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report (see Paragraph (I)(10) (Investigation Report)).

b. **Notify the Funding Agency and Respondent; Sequestration of Research Records**

On or before the date on which the investigation begins, the RIO must:

i. notify the funding agency of the decision to begin the investigation and provide a copy of the inquiry report, and

ii. notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the Laboratory's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry (Paragraph (I)(6)(c) (Notice to Respondent; Sequestration of Research Records)).

c. **Appointment of the Investigation Committee**

The RIO, in consultation with other Laboratory officials as appropriate, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals who are not Laboratory members but who have specialized expertise germane to the research involved may be appointed to the committee. Individuals appointed to the investigation committee may also have served on the inquiry committee.

d. **Charge to the Committee and the First Meeting**

i. **Charge to the Committee**

The RIO will define the subject matter of the investigation in a written charge to the committee that:

(a) Describes the allegations and related issues identified during the inquiry;
(b) Identifies the respondent;
(c) Informs the committee that it must conduct the investigation as prescribed in Paragraph (I)(9)(e) (Investigation Process) of this section;
(d) Defines research misconduct;
(e) Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
(f) Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that:

- research misconduct, as defined in this policy (see Paragraph (I)(1) (*Introduction*)) occurred

(respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion);

- the research misconduct is a significant departure from accepted practices of the relevant research community;
- the respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy (see Paragraph (I)(10)(a) (*Elements of the Investigation Report*).

ii. **First Meeting**

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this policy. If the research is supported by the PHS, the committee will be provided with a copy of 42 CFR Part 93. The RIO will be present or available throughout the investigation to advise the committee as needed.

e. **Investigation Process**

The investigation committee and the RIO must:

i. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;

ii. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;

iii. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and

iv. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

f. **Time for Completion**

The investigation is to be completed within 120 calendar days of its beginning, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to the funding agency. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to the funding agency a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with the funding agency if the funding agency grants the request for an extension and directs the filing of such reports.

10. The Investigation Report

a. **Elements of the Investigation Report**

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

i. Describes the nature of the allegation of research misconduct, including identification of the respondent.

ii. Describes and documents the funding agency support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing funding agency support;

iii. Describes the specific allegations of research misconduct considered in the investigation;

iv. Includes the Laboratory policy under which the investigation was conducted;

v. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and

vi. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:

(a) identify whether the research misconduct was falsification, fabrication, or plagiarism (see Section (I)(1) *(Introduction)*), and whether it was committed intentionally, knowingly, or recklessly;
(b) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by preponderance of the evidence that he/she did not engage in research misconduct because of honest error or a difference of opinion;
(c) identify the specific funding agency support;
(d) identify whether any publications need correction or retraction;
(e) identify the person(s) responsible for the misconduct; and
(f) list any current support or known applications or proposals for support that the respondent has pending with any other funding agencies.

Laboratory Counsel should review the investigation report for legal sufficiency. Modifications should be made, as appropriate, in consultation with the RIO and investigative committee.

b. **Comments on the Draft Report and Access to Evidence**

i. **Respondent**

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, if requested, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 calendar days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

ii. **Complainant**

At the discretion of the committee, in consultation with the RIO, the complainant may be provided with a copy of the draft investigative report, or relevant portions of it, for comment. Any comments must be submitted within 30 days of the date of receipt of the draft report and any comments received must be included and considered in the final investigation report.

iii. **Confidentiality**

In distributing the draft report, or portions thereof, to the respondent, or to the complainant, the RIO will inform the recipient of the confidentiality under which the draft report or portion of the report, is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

11. Laboratory Decision and Notification

a. **Decision by Deciding Official**

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's comments or complainants comments, if any, are included and considered, and transmit the final investigation report to the DO, who will determine in writing:

i. whether he/she accepts the investigation report, its findings, and

ii. the appropriate Laboratory actions in response to the accepted findings of research misconduct.

If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

When the DO reaches a decision on the case, the RIO will normally notify both the respondent and the complainant in writing. The DO's decision represents the final decision of the Laboratory with respect to the issue of research misconduct. There is no right, under Laboratory policy, to appeal this decision. Any disciplinary action which may be imposed as a result of a finding of research misconduct will be handled in accordance with RPM §2.05(C) (Corrective Action and Dismissal) or the applicable collective bargaining agreement. After informing the funding agency of the final decision, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding agencies.

b. **Notification to Funding Agency of Laboratory Findings and Actions**

Unless an extension has been granted, the RIO must, within the 120 calendar day period for completing the investigation, submit the following to the funding agency:

i. a copy of the final investigation report with all attachments,

ii. a statement of whether the Laboratory accepts the findings of the investigation report,

iii. a statement of whether the Laboratory found misconduct, and

iv. a description of any pending or completed actions against the respondent.

c. **Maintaining Records for Review by the Funding Agency**

The RIO must maintain and provide to the funding agency upon request the records of research misconduct proceedings defined as:

i. records the RIO secures for the proceeding pursuant to this policy, except to the extent the Laboratory subsequently determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that are being retained;

ii. documentation of the determination of irrelevant or duplicate records;

iii. the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate as required by Paragraph (I)(8)(d) (Documentation of Decision Not to Investigate);

iv. the investigation report and all records (other than drafts of the report) in support of that report, including any required recordings or transcriptions of interviews.

Unless custody has been transferred to the funding agency or the funding agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven years after completion of the proceeding or the completion of any funding agency proceeding involving the research misconduct allegation, whichever is later. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the funding agency to carry out its review of an allegation of research misconduct or of the Laboratory's handing of such an allegation.

12. Completion of Cases: Reporting Premature Closure to the Funding Agency

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the funding agency in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:

a. closing of a case at the inquiry stage on the basis than an investigation is not warranted; or

b. a finding of no misconduct at the investigation stage, which must be reported to the funding agency as prescribed in Paragraph (I)(11)(c) (Notice to Funding Agency of Laboratory Findings and Actions).

13. Laboratory Actions, Including Employee Corrective (Disciplinary) Actions

If the DO determines that research misconduct is substantiated by the findings, he/she will decide on the appropriate actions to be taken, after consultation with the RIO.

a. **Actions may include**

i. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;

ii. Special monitoring of future work;

iii. Restitution of funds to the funding agency as appropriate;

iv. In the case of Laboratory members who are not employees, notification of the member's home institution of the results of the investigation, and

v. Other action appropriate to the research misconduct.

b. **Employee Corrective (Disciplinary) Actions**

The matter will be referred to the respective division director/department head and Human Resources for consideration of possible corrective (disciplinary) action under applicable Laboratory RPM policies and/or collective bargaining agreements.

14. Other Considerations

a. **Termination or Resignation Prior to Completing Inquiry or Investigation**

The termination of the respondent's Laboratory employment or a non-employee member's Laboratory association, by resignation or otherwise, before, or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the Laboratory's responsibilities under this policy.

If the respondent, without admitting to the misconduct, elects to resign his or her position after the Laboratory receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

b. **Restoration of the Respondent's Reputation**

Following a final decision of no research misconduct, including funding agency concurrence where required by federal regulations or funding agency contracts or grants, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any

Laboratory actions to restore respondent's reputation should first be approved by the DO.

c. **Protection of the Complainant, Witnesses, and Committee Members**

During the research misconduct proceeding and upon its completion, regardless of whether the Laboratory or the funding agency determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

d. If relevant, the DO, in consultation with the RIO, will determine whether the complainant's allegations of research misconduct were made in good faith, or whether a witness, appointee or committee member failed to act in good faith. If the DO determines that there was an absence of good faith, he/she will determine whether any action should be taken against the person who failed to act in good faith and forward any such recommendation for consideration by Human Resources and the appropriate Laboratory official.

J. REPORTING AND INVESTIGATING ALLEGATIONS OF SUSPECTED IMPROPER GOVERNMENTAL ACTIVITIES ("WHISTLEBLOWER" POLICY) (Revised 4/1/08)

Information and telephone numbers for reporting suspected improper governmental activities or report retaliation against a whistleblower may be found here. The Locally Designated Official at the Lab is the Associate Laboratory Director for Operations.

NOTE: When the following UC policies refer to "staff personnel policies," Laboratory employees should refer to Chapter 2 and Chapter 3 of the Regulations and Procedures Manual (RPM). These chapters of the RPM are the approved Human Resources policies for Lawrence Berkeley National Laboratory employees.

I. Introduction

The University of California has a responsibility for the stewardship of University resourcesand the public and private support that enables it to pursue its mission. The University is committed to compliance with the laws and regulations to which it is subject and to promulgating University policies and procedures to interpret and apply these laws and regulations in the University setting. Laws, regulations, policies and procedures strengthen and promote ethical practices and ethical treatment of the members of the University community and those who conduct business with the University.

The University's internal controls and operating procedures are intended to detect, prevent or deter improper activities. However, even the best systems of control cannot provide absolute safeguards against irregularities. Intentional and unintentional violations of laws, regulations, policies and procedures may occur and may constitute improper governmental activities as defined by statute (see "Definitions"). The University has a responsibility to investigate and report to appropriate parties allegations of suspected improper governmental activities and the actions taken by the University.

This policy governs reporting and investigation of allegations of suspected improper governmental activities, and together with the *Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints,* represents the University's implementing policies for the *California Whistleblower Protection Act* (Government Code Section 8547 - 8547.12).

Employees and others are encouraged to use guidance provided by this policy for reporting all allegations of suspected improper governmental activities. While the scope of this policy is intended to be limited to the statutory definition of improper governmental activities, serious or substantial violations of University policy may constitute improper governmental activities determined upon review or investigation.

This policy does not fundamentally change the responsibility for conducting investigations but clarifies normal jurisdictional interests. Individual employee grievances and complaints regarding terms and conditions of employment will continue to be reviewed under the applicable academic and staff personnel policies or collective bargaining agreements. Any allegations of

improper governmental activities that may result in subsequent actions bringing disciplinary charges against an academic or staff member shall be coordinated with the applicable academic or staff personnel conduct and disciplinary policies. In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and, in conformity with this policy and applicable laws and regulations, the appropriate investigative process to be employed.

II. Definitions

A. University Resources

For purposes of this policy, the term University resources is defined to include, but not be limited to the following, whether owned by or under the management of the University:

- Cash and other assets, whether tangible or intangible; real or personal property;
- Receivables and other rights or claims against third parties;
- Intellectual property rights;
- Effort of University personnel and of any non-University entity billing the University for its effort;
- Facilities and the rights to use of University facilities;
- The University's name; and
- University records, including student and patient records.

B. Improper Governmental Activities

According to California Government Code Section 8547.2, *an improper governmental activity* is:

> any activity by a state agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency.

C. Protected Disclosure

According to California Government Code Section 8547.2, a *protected disclosure* is:

> any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

D. Illegal Order

An *illegal order* is any directive to violate or assist in violating an applicable federal, state, or local law, rule or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

E. Whistleblower

A person or entity making a protected disclosure is commonly referred to as a whistleblower. Whistleblowers may be University employees (academic or staff), applicants for employment, students, patients, vendors, contractors or the general public. The whistleblower's role is as a reporting party. They are not investigators or finders of fact, nor do they determine the appropriate corrective or remedial action that may be warranted.

F. Locally Designated Official (LDO)

The person designated by each campus, the Lawrence Berkeley National Laboratory, the Office of the President and the Division of Agriculture and Natural Resources as the official with primary responsibility to receive reports of allegations of suspected improper governmental activities.

III. Reporting Allegations of Suspected Improper Governmental Activities

A. Filing a Report

1. Any person may report allegations of suspected improper governmental activities. Knowledge or suspicion of improper governmental activities may originate from academic personnel, staff or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, and customers, patients, vendors, students or other third parties. Allegations of suspected improper governmental activities may also be reported anonymously.

2. Reports of allegations of suspected improper governmental activities are encouraged to be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual rather than speculative or conclusory, and contain as much specific information as possible to allow for proper assessment of the nature, extent and urgency of preliminary investigative procedures.

3. The University recommends that any reports by persons who are not University employees be made to the LDO. Such reports may also be made to another University official whom the reporting person may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper governmental activity on behalf of the University.

4. Normally, a report by a University employee of allegations of a suspected improper governmental activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit (such as the unit head), or to the LDO. However, in the interest of confidentiality, when there is a potential conflict of interest or for other reasons, such reports may be made to another University official whom the reporting employee may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper governmental activity on behalf of the University. When the alleged improper governmental activities involve the Chancellor, Laboratory Director, Vice President—Agriculture and Natural Resources, the LDO or the LDO's supervisor, such reports should be made to the Systemwide LDO with a copy to the Director of Investigations (DOI) and the Senior Vice President/Chief Compliance and Audit Officer of the Regents (SVP-CCAO) at the Office of the President. If the alleged improper governmental activities involve the Systemwide LDO or the President, the report should be made to the SVP-CCAO.

5. When a person reports allegations of suspected improper governmental activities to an appropriate authority the report is known as a protected disclosure. The rights of University employees and applicants for employment when making a protected disclosure are covered by the Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints.

6. All University employees, and especially any academic or staff employee in a supervisory role, should be aware of and alert to either oral or written, formal or informal communications that may constitute a report of allegations of suspected improper governmental activity.

7. Under the *California Whistleblower Protection Act*, reports of allegations of suspected improper governmental activities may be made to the State Auditor. Under that law, the State Auditor is prohibited from disclosing the identity of a whistleblower

unless he or she obtains the whistleblower's permission to do so, or when the disclosure is to a law enforcement agency that is conducting a criminal investigation.

B. Reporting to the LDO

1. Each campus, the Lawrence Berkeley National Laboratory, the Office of the President and the Division of Agriculture and Natural Resources shall designate an official with primary responsibility to receive reports of allegations of suspected improper governmental activities (the LDO).

2. Managers, administrators and employees in supervisory roles who receive a report alleging suspected improper governmental activities shall ensure that the matter is promptly reported to their supervisor, an appropriate University manager and/or the LDO. Such employees are charged with exercising appropriate judgement in determining which matters can be reviewed under their authority and which matters must be referred to a higher level of management or the LDO. Consulting with supervisors, the LDO or other appropriate University management is encouraged and the exercise of judgement should err on the side of upward reporting. Oral reports should normally be documented by the supervisor by a written transcription of the oral report, and internal communications regarding allegations of improper governmental activities should normally be in writing.

3. Managers, administrators and employees in supervisory roles shall report to the LDO any allegations of suspected improper governmental activities—whether received as a protected disclosure, reported by their subordinates in the ordinary course of performing their duties, or discovered in the course of performing their own duties—when any of the following conditions are met:

    a. The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;

    b. The matter is likely to receive media or other public attention;

    c. The matter involves the misuse of University resources or creates exposure to a liability in potentially significant amounts;

    d. The matter involves allegations or events that have a significant possibility of being the result of a criminal act (e.g., disappearance of cash);

    e. The matter involves a significant threat to the health and safety of employees and/or the public; or

    f. The matter is judged to be significant or sensitive for other reasons.

C. Reporting to the Office of the President and Others

1. The LDO shall have principal responsibility for meeting the reporting requirements to the Office of the President and local senior management. The LDO shall consult with members of the Investigations Workgroup (see Section IV.B.) as necessary in fulfilling this reporting responsibility and will inform the Investigations Workgroup of any reports made to the Systemwide LDO and DOI. The LDO (or designated member of the Local Investigations Workgroup – if there is a real or perceived potential conflict) shall forward a written report to the Systemwide LDO with copies to the DOI, the General Counsel and Vice President for Legal Affairs (General Counsel), and the SVP-CCAO regarding any reported allegations of suspected improper activities when any of the following conditions are met:

    a) The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;

    b) The matter is likely to receive media or other public attention;

    c) The matter involves the misuse of University resources or creates exposure to a liability of at least $25,000;

d) The matter involves a significant threat to the health and safety of employees and/or the public;

e) The matter is judged to be significant or sensitive for other reasons;

f) The matter alleges an improper activity by the Chancellor or Laboratory Director, the LDO, or the local Internal Audit Director.

2. A copy of communications sent to the Systemwide LDO shall be sent to the respective UC Police department if on the basis of the allegations it appears that a crime may have been committed. The UC Police shall be consulted to determine the appropriate action with regard to these investigations.

3. In some instances, even an allegation of improper governmental activity may be reportable to a funding entity or regulatory agency. More typically, at least preliminary investigation results are needed to assess reporting obligations to parties outside the University. The LDO, in consultation with the leadership of the affected area and the SVP-CCAO, will determine the nature and timing of such communications. Pursuant to Section III.C.1.b above, the Systemwide LDO, the DOI and the SVP-CCAO shall be notified of any matter being reported to external agencies (other than matters routinely reported to the DOE pursuant to the Lawrence Berkeley National Laboratory contract).

4. Allegations of suspected losses of money, securities or other property shall be reported to the local risk management office as soon as discovered. The Chief Risk Officer, Office of the President shall be notified of such matters when they meet the criteria for reporting to the Systemwide LDO by copy of such notification. The Chief Risk Officer shall report such matters in accordance with the terms of any contracts with insurance or bonding companies.

5. In the event that any person with a reporting obligation under this policy believes that there is a conflict of interest on the part of the person to whom the allegations of suspected improper activities are to be reported, the next higher level of authority shall receive the report.

6. Whistleblowers frequently make their reports in confidence. To the extent possible within the limitations of law and policy and the need to conduct a competent investigation, confidentiality of whistleblowers will be maintained. Whistleblowers should be cautioned that their identity may become known for reasons outside of the control of the investigators or University administrators.

   Similarly, the identity of the subject(s) of the investigation will be maintained in confidence with the same limitations.

IV. Investigating Alleged Improper Governmental Activities

A. A number of functional units within the University have responsibility for routinely conducting investigations of certain types of allegations of improper governmental activities, and have dedicated resources and expertise for such purposes. These include Compliance, Internal Audit, the UC Police, Human Resources and the Academic Personnel Office. In addition, other University parties may become involved in investigations of matters based on their areas of oversight responsibility or topical expertise, for example, environmental health and safety, risk management, research administration, academic affairs, health sciences compliance officers, conflict of interest coordinators, etc.

B. Each location (campus, the Lawrence Berkeley National Laboratory, the Office of the President, and the Division of Agriculture and Natural Resources) shall establish an Investigations Workgroup to ensure coordination and proper reporting of investigations. Acting in an advisory role, the Workgroup shall assist the LDO in assessing the location's planned course of action related to allegations and investigations, including determining that an adequate basis exists for commencing an investigation.

C. The LDO will chair the Investigations Workgroup. Workgroup membership should include representatives from each functional unit that has routine responsibility for certain types of investigations (e.g., Compliance, Internal Audit, UC Police, Human Resources, Risk Management, Office of the General Counsel and the Academic Personnel Office). Additional representation to be determined locally may include research administration, academic affairs, campus controllers, compliance officers, campus/laboratory counsel and representatives from any other area in which investigations routinely

occur but are not conducted by a standing body (for example, parties responsible for investigating allegations of scientific misconduct). In addition, specialized expertise may be required on an ad hoc basis for investigation of certain matters.

D. The Investigations Workgroup's responsibilities shall include:

1. Assisting the LDO in assuring that the proper investigative channels are utilized according to appropriate expertise and jurisdiction;

2. Assuring that all appropriate administrative and senior officials are apprised of the allegations as necessary;

3. Assuring appropriate reporting occurs to the Office of the President through a written communication to the Systemwide LDO, the DOI and the SVP-CCAO to funding and regulatory agencies, whistleblowers and others as necessary or provided by this policy;

4. Assisting the LDO in ensuring appropriate resources and expertise are brought to bear to cause the timely and thorough review of reports of allegations of suspected improper governmental activities;

5. Ensuring that there are no conflicts of interest on the part of any party involved in specific investigations;

6. Coordinating and facilitating communications across investigative channels as necessary to ensure comprehensive attention to all facets of the matter;

7. Assisting the LDO in monitoring significant elements and progress of investigations to ensure that allegations are timely and thoroughly addressed; and

8. Coordinating and facilitating in an advisory capacity the corrective and remedial action that may be initiated in accordance with applicable faculty or staff conduct and disciplinary procedures.

E. Each unit with investigative authority shall carry out investigative activities in accordance with appropriate laws and established procedures within its discipline (e.g., UC Police, Human Resources, Academic Personnel, Compliance, Internal Audit, etc.), and regulatory policies and guidelines (e.g., scientific misconduct per Office of Science and Technology Policy (OSTP) rules).

F. The purpose and authority of the Investigations Workgroup shall not be construed as to limit or halt investigations undertaken with proper authority granted by law or policy to any University investigative authority. Nor is the Workgroup empowered to initiate investigations without an adequate basis. Rather, the Workgroup's purpose is to provide guidance, advice and/or coordination for investigative activities as requested by the LDO and to facilitate communications among appropriate parties as requested by the LDO.

G. All employees of the University have a duty to cooperate with investigations initiated under this policy.

H. Consistent with applicable personnel policies or collective bargaining agreements, an employee may be placed on an administrative leave or an investigatory leave, as appropriate, when it is determined by the University that such a leave would serve the best interests of the employee, the University or both. Such a leave is not to be interpreted as an accusation or a conclusion of guilt or innocence of any individual including the person on leave. The appropriate Academic Personnel or Human Resources Office shall be consulted regarding any plan to place an employee on such a leave.

V. Responsibilities

A. Office of the President

1. The Systemwide LDO assisted by the DOI and the Office of Compliance and Audit shall have overall responsibility for implementation of this policy.

2. For the Office of the President, the Systemwide LDO will have the same responsibilities assigned to Chancellors under this policy.

3. The President, based on advice and consultation with the Systemwide LDO, the Provost and Executive Vice President —Academic Affairs, the General Counsel, and the SVP-CCAO will communicate with The Regents regarding alleged improper governmental activities and investigative results on matters of significance.

4. Through the publication of administrative guidelines, the Systemwide LDO assisted by the DOI shall provide guidance to campuses and the Lawrence Berkeley National Laboratory on the creation of local implementing procedures. Campus process and structure will be defined in local implementing procedures for the University's Whistleblower Policy. These local procedures must contain a statement in the introduction, purpose or background section to identify the University's Whistleblower Policy as the controlling policy document which supersedes any other local or System policy related to this matter. This statement should be worded as for example: "Nothing contained in these local implementing procedures should be read or interpreted to contradict the underlying University of California Whistleblower Policy." Each location should submit to the Systemwide LDO, the DOI, and the SVP-CCAO for review and approval that location's implementing procedures, including the nomination of the LDO.

B. Chancellor

1. The Chancellor shall be responsible for implementing this policy at the local level. Authorities and responsibilities delegated to the Chancellor are also assumed by the Lawrence Berkeley National Laboratory Director, the Systemwide LDO and the Vice President—Agriculture and Natural Resources in their respective jurisdictions.

2. The Chancellor shall appoint (with the approval of the Systemwide LDO) the local LDO responsible for carrying out this policy. This individual will chair the Investigations Workgroup established under Section IV.B above. The LDO should be at the level of Associate Vice Chancellor or higher.

3. The Chancellor shall appoint the standing members of the Investigations Workgroup. The LDO may appoint additional regular members and ad hoc members as necessary to address particular issues.

C. Locally Designated Official (LDO)

1. The LDO shall be responsible for the establishment and maintenance of local implementing procedures that comply with this policy and the associated administrative guidelines. The local implementing procedures may in certain regards such as reporting thresholds be more stringent than this policy, but they may not be any less stringent.

2. The LDO shall oversee the establishment of mechanisms to ensure compliance with the reporting requirements of this policy. Principal among these are the local channels for assuring that reports of allegations of suspected improper governmental activities—which may be orally and/or informally communicated to numerous administrators and academic and staff employees in supervisory roles—are brought to the attention of the LDO or a member of the Investigations Workgroup.

3. The LDO is responsible for determining the need for consultation with the Investigations Work Group, select Workgroup members or other subject matter experts when initiating an investigation. The LDO shall convene the Workgroup on a scheduled basis and on an ad hoc basis as necessary to assist in promptly addressing allegations, and shall keep the Workgroup and the DOI apprised of the progress and status of investigations, as appropriate. Procedures guiding the initiation of investigations should not impede prompt action by the LDO or investigators when warranted.

D. Investigative Responsibilities

1. The LDO assisted by the Investigations Workgroup has responsibility for ensuring that independent, unbiased and competent investigative resources are used to conduct investigations of suspected improper governmental activity. In assigning the

lead investigator role, the LDO should take into consideration the specific expertise and availability of dedicated investigation resources possessed by functional units such as Compliance, Internal Audit, Human Resources, etc. If criminal activity is detected, consultation with UC Police will determine if the police should take the lead, participate, or initiate a separate investigation.

2. UC Police are responsible for investigations of known or suspected criminal acts within their jurisdiction. In cases involving principally criminal concerns, the UC Police should be the lead investigators and others with an investigative interest should work in support of the police investigation.

3. Procedures for investigations of personnel matters, scientific misconduct, regulatory non-compliance, student misconduct and other matters are established locally by each campus, the Lawrence Berkeley National Laboratory, the Office of the President or the Division of Agriculture and Natural Resources. Such procedures shall be consistent with this policy and applicable laws and regulations.

4. In cases involving overlapping interests among investigative bodies, assistance and cooperation will be provided between the investigators based on the relative expertise of the investigative bodies.

VI. Roles, Rights, and Responsibilities of Whistleblowers, Investigation Participants, Subjects, and Investigators

A. Whistleblowers

1. Whistleblowers provide initial information related to a reasonable belief that an improper governmental activity has occurred. The motivation of a whistleblower is irrelevant to the consideration of the validity of the allegations. However, the intentional filing of a false report, whether orally or in writing is itself considered an improper governmental activity which the University has the right to act upon.

2. Whistleblowers shall refrain from obtaining evidence for which they do not have a right of access. Such improper access may itself be considered an improper governmental activity.

3. Whistleblowers have a responsibility to be candid with the LDO, investigators or others to whom they make a report of alleged improper governmental activities and shall set forth all known information regarding any reported allegations. Persons making a report of alleged improper governmental activities should be prepared to be interviewed by University investigators.

4. Anonymous whistleblowers must provide sufficient corroborating evidence to justify the commencement of an investigation. An investigation of unspecified wrongdoing or broad allegations will not be undertaken without verifiable evidentiary support. Because investigators are unable to interview anonymous whistleblowers, it may be more difficult to evaluate the credibility of the allegations and therefore, less likely to cause an investigation to be initiated.

5. Whistleblowers are “reporting parties,” not investigators. They are not to act on their own in conducting any investigative activities, nor do they have a right to participate in any investigative activities other than as requested by investigators.

6. Protection of a whistleblower’s identity will be maintained to the extent possible within the legitimate needs of law and the investigation. Should the whistleblower self-disclose his or her identity, the University will no longer be obligated to maintain such confidence.

7. A whistleblower’s right to protection from retaliation does not extend immunity for any complicity in the matters that are the subject of the allegations or an ensuing investigation.

8. Whistleblowers have a right to be informed of the disposition of their disclosure absent overriding legal or public interest reasons.

B. Investigation Participants

1. University employees who are interviewed, asked to provide information or otherwise participate in an investigation have a duty to fully cooperate with University-authorized investigators.

2. Participants should refrain from discussing or disclosing the investigation or their testimony with anyone not connected to the investigation. In no case should the participant discuss with the investigation subject the nature of evidence requested or provided or testimony given to investigators unless agreed to by the investigator.

3. Requests for confidentiality by participants will be honored to the extent possible within the legitimate needs of law and the investigation.

4. Participants are entitled to protection from retaliation for having participated in an investigation.

C. Investigation Subjects

1. A subject is a person who is the focus of investigative fact finding either by virtue of an allegation made or evidence gathered during the course of an investigation. The decision to conduct an investigation is not an accusation; it is to be treated as a neutral fact-finding process. The outcome of the investigation may or may not support a conclusion that an improper governmental act was committed and, if so, by whom.

2. The identity of a subject should be maintained in confidence to the extent possible given the legitimate needs of law and the investigation.

3. Subjects should normally be informed of the allegations at the outset of a formal investigation and have opportunities for input during the investigation.

4. Subjects have a duty to cooperate with investigators to the extent that their cooperation will not compromise self-incrimination protections under state or federal law.

5. Subjects have a right to consult with a person or persons of their choice. This may involve representation, including legal representation.

6. Subjects may consult with the Office of the General Counsel (including campus and National Laboratory counsel) concerning the investigation. The Office of the General Counsel will provide legal advice to the subject regarding issues in the investigation, unless the Office of the General Counsel determines that a divergence of interest prevents it from doing so, it being understood that at all times the Office of the General Counsel represents the interests of the University. If legal services are provided by the Office of the General Counsel to the subject, the attorney-client privilege may not be invoked by the subject to prevent disclosure to the University of information obtained by the attorney providing the services, and the subject will be advised whenever it appears that a divergence of interest may require the attorney to withdraw from providing such legal services to the subject.

   Subjects are free at any time to retain their own counsel to represent them with regard to the investigation and may request that the University pay or reimburse the attorney's fees. Chancellors shall designate a person to receive the request for reimbursement. Such requests shall be considered consistent with statutory law, case law and University practice, but this policy creates no entitlement to such payments or reimbursements.

7. Subjects have a responsibility not to interfere with the investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.

8. Unless there are compelling reasons to the contrary, subjects should be given the opportunity to respond to material points of evidence contained in an investigation report.

9. No allegation of wrongdoing against a subject shall be considered sustained unless at a minimum, a preponderance of the

evidence supports the allegation.

10. Subjects have a right to be informed of the outcome of the investigation. If allegations are not sustained, the subject should be consulted as to whether public disclosure of the investigation results would be in the best interest of the University and the subject.

11. Any disciplinary or corrective action initiated against the subject as a result of an investigation pursuant to this policy shall adhere to the applicable academic personnel or staff conduct and disciplinary procedures.

D. Investigators

1. Investigators are those persons authorized by the University to conduct fact finding and analysis related to cases of alleged improper governmental activities.

2. Investigators derive their authority and access rights from University policy or Regental authority when acting within the course and scope of their responsibilities.

3. The University, investigation participants and subjects should be assured that investigators have competency in the area under investigation. Technical and other resources may be drawn upon as necessary to augment the investigation.

4. All investigators shall be independent and unbiased both in fact and appearance.

5. Investigators have a duty of fairness, objectivity, thoroughness, ethical behavior, and observance of legal and professional standards.

6. Investigations should be launched only after preliminary consideration that establishes that:

    a. The allegation, if true, constitutes an improper governmental activity,[1] and either:

    b. The allegation is accompanied by information specific enough to be investigated, or

    c. The allegation has or directly points to corroborating evidence that can be pursued. Such evidence may be testamentary or documentary.

VII. Additional Required Communications

A. If an investigation leads University officials to conclude that a crime has probably been committed, the results of the investigation shall be reported to the District Attorney or other appropriate law enforcement agency. The UC Police should be the conduit for communications with law enforcement agencies unless the Investigations Workgroup in a particular situation determines a different communications strategy.

B. If an investigation leads University officials to conclude that a faculty member has engaged in conduct that may be a violation of the Faculty Code of Conduct, the results of the investigation shall be reported to appropriate academic personnel governing bodies in accordance with the applicable procedures for faculty conduct and the administration of discipline. Any charges of faculty misconduct brought as a result of an investigation under this policy shall comply with established faculty conduct procedures.

C. Consultation with the Office of the General Counsel is required before negotiating or entering into any restitution agreement resulting from the findings of an investigation.

K. PROTECTION OF WHISTLEBLOWERS FROM RETALIATION AND GUIDELINES FOR REVIEWING RETALIATION COMPLAINTS (WHISTLEBLOWER PROTECTION POLICY)

Information and telephone numbers for reporting suspected improper governmental activities or reporting retaliation against a whistleblower may be found here. The Locally Designated Official at the Lab is the Associate Laboratory Director for Operations.

NOTE: When the following UC policies refer to "staff personnel policies," Laboratory Employees should refer to Chapters 2 and 3 of the Regulations and Procedures Manual (RPM). These chapters of the RPM are the approved Human Resources policies for Lawrence Berkeley National Laboratory employees.

I. Policy

The University of California is committed to protecting employees and applicants for employment from interference with making a protected disclosure or retaliation for having made a protected disclosure or for having refused an illegal order as defined in this policy. This policy is derived from the California Whistleblower Protection Act (Government Code Sections 8547-8547.12). Pursuant to this code section, a University employee may not: (1) retaliate against an employee or applicant for employment who has made a protected disclosure or who has refused to obey an illegal order, nor (2) directly or indirectly use or attempt to use the official authority or influence of his or her position or office for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the University Auditor, the employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit, the locally designated University official as defined in the University's Whistleblower Policy, or the State of California Bureau of State Audits about matters within the scope of this policy. It is the intention of the University to take whatever action may be needed to prevent and correct activities that violate this policy.

II. Scope of Policy and Definitions

This policy applies to complaints of retaliation or interference filed by employees or applicants for employment who have made or attempted to make a protected disclosure ("whistleblowers") or refused to obey an illegal order, as defined below.

Local retaliation complaint resolution procedures shall incorporate the following definitions.

A. Improper Governmental Activity

Any activity undertaken by the University or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of University property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of University property and facilities, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, gross incompetence, or gross inefficiency.

B. Protected Disclosure

Any good faith communication that discloses or demonstrates an intention to disclose information that may evidence either (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

C. Illegal Order

Any directive to violate or assist in violating an applicable federal, state, or local law, rule, or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

D. Interference

Direct or indirect use of authority to obstruct an individual's right to make a protected disclosure.

E. Official Authority or Influence

Promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; taking, or directing others to take,

or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

F. Retaliation Complaint

Any written complaint by an employee or an applicant for employment which alleges retaliation for having made a protected disclosure or for having refused an illegal order or interference with an attempt to make a protected disclosure, together with a sworn statement, made under penalty of perjury, that the contents of the complaint are true or are believed by the complainant to be true.

III. Authority and Responsibilities

A. Local Procedures

The Chancellor shall establish local retaliation complaint resolution procedures in accordance with this policy. Authorities and responsibilities delegated to the Chancellor are assumed by the Laboratory Directors, the Senior Vice President—Business and Finance, and the Vice President—Agriculture and Natural Resources for employees within their respective jurisdictions.

B. Locally Designated Official (LDO)

The Chancellor **[1]** shall appoint a Locally Designated Official (the LDO) to receive retaliation complaints and administer local implementing procedures. The LDO (or designee) shall determine (1) whether a complaint is timely; (2) whether it sets forth the necessary facts to support a claim of retaliation for having made a protected disclosure, having disobeyed an illegal order, or interference with the right to make a protected disclosure; and (3) whether a complaint is eligible for processing under University grievance or complaint resolution procedures available to the complainant (as noted in Section VII.A. below). The LDO may be the same official designated to administer local procedures for investigating whistleblower complaints.

C. Retaliation Complaint Officer (RCO)

The LDO may appoint one or more individuals or a standing body to serve as Retaliation Complaint Officer(s) to oversee the investigation of complaints filed by employees and applicants for employment alleging interference with or retaliation for making a protected disclosure or for refusing to obey an illegal order. The RCO may delegate conduct of the investigation, including any fact-finding, to another person. The term “RCO” as used in this policy includes the person to whom the investigation may be delegated.

D. Chancellor

The Chancellor renders a decision when the RCO conducts an investigation and determines the appropriate corrective action, if any, as set forth in Section VII.C below. The Chancellor may delegate his or her duties under this policy.

IV. Filing a Complaint

A retaliation complaint (grievance plus sworn statement) may be filed (A) under an applicable grievance or complaint resolution procedure, (B) with the LDO, or (C) with the employee’s supervisor. Threshold requirements for filing a retaliation complaint are described in Section IV.D. below. Employees who elect to file a grievance unaccompanied by a sworn statement made under penalty of perjury that its contents are true or are believed to be true are not covered by the retaliation provisions of the California Whistleblower Protection Act.

A. Filing Pursuant to an Applicable Grievance or Complaint Resolution Procedure

A retaliation complaint (grievance plus sworn statement) may be filed pursuant to the applicable personnel policy or collective bargaining agreement grievance or complaint resolution procedure. The individual designated locally to receive grievances (i.e., grievance liaison) pursuant to academic or staff personnel policies, or collective bargaining agreements, shall provide the LDO

with a copy of the retaliation complaint. If the grievance is not accompanied by a sworn statement, but raises issues of retaliation covered by this policy, then the grievance liaison shall provide the LDO with a copy of the grievance. Campus procedures shall specify the individual responsible for advising the complainant of his or her rights to file a whistleblower retaliation complaint and the timeframe for filing. Local procedures shall refer to the following grievance and complaint resolution policies and/or their respective implementing procedures:

1. Academic Personnel: Academic personnel may file complaints alleging retaliation, if eligible, as follows:

a.	Members of the Academic Senate	Senate Bylaw 335
b.	Non-Senate Academic Personnel	APM – 140
c.	Exclusively Represented Academic Personnel	The applicable collective bargaining agreement

2. Staff Personnel: Staff personnel may file complaints alleging retaliation, if eligible, as follows:

a.	Senior Managers	PPSM II-70
b.	Managers and Senior Professionals, Salary Grades VIII and IX	PPSM 71
c.	Managers and Senior Professionals (except Salary Grades VIII and IX) and Professionals and Support Staff	PPSM 70
d.	Exclusively Represented Staff Personnel	The applicable collective bargaining agreement

B. Filing with the LDO

A written retaliation complaint may be filed directly with the LDO. A retaliation complaint filed with the LDO must be filed within 12 months of the alleged act or threat of interference or retaliation. If the complaint alleges a pattern of retaliation, the complaint must be filed within 12 months of the most recent alleged act or threat of interference or retaliation.

1. If the complaint received by the LDO is eligible for review under an existing grievance or complaint resolution procedure and the complainant also elects to file under the applicable grievance or complaint resolution procedure, the LDO will hold the retaliation complaint in abeyance until all of the steps preceding hearing, arbitration, or fact-finding have been completed. (For example, under a collective bargaining agreement, the whistleblower retaliation complaint is joined with the grievance when the grievance advances to arbitration under the applicable procedure.) At that point in the review process, the retaliation complaint will be joined with the applicable procedure and referred to the RCO for handling as described in Section VI.A.3 below.

2. If a complaint received by the LDO is eligible for review under an existing grievance or complaint resolution procedure but the complainant elects not to file, the complaint will be referred to the RCO for investigation at the end of the grievance filing period.

3. The LDO shall refer a complaint to the RCO for investigation under the following conditions:

   (a) The complaint is not within the scope of or filed within the time limits of the complaint resolution procedure available to the complainant under applicable University personnel policies, collective bargaining agreements, or procedures established by the Academic Senate; or

   (b) The employee does not have a complaint resolution procedure available for some other reason (for example, the alleged retaliatory act cannot be grieved under the respective collective bargaining agreement); or

   (c) The complainant is an applicant for employment.

4. If a complaint that is normally eligible for investigation by the RCO alleges that the Chancellor, the LDO, or the LDO's

supervisor interfered or took the retaliatory action, the LDO or designee shall request:

(a) that the Senior Vice President—Business and Finance appoint a RCO when the complainant is a current employee in or applicant for a staff or management position; or

(b) that the Provost and Senior Vice President—Academic Affairs appoint a RCO when the complainant is a current appointee in or applicant for an academic position.

C. Filing with a Supervisor

A written complaint filed with a supervisor shall be referred by the supervisor to the LDO and processed in accordance with Section IV.B. above.

D . Filing Requirements and Thresholds

1. The retaliation complaint filed with the LDO or the supervisor must set forth in sufficient detail the necessary facts including dates and names of relevant persons. The complaint must contain facts supporting the filing thresholds as set forth below in Section IV.D.2(a) through (c), the alleged retaliatory act(s), and the effects on the complainant of the alleged retaliatory acts. The LDO may require the complainant to amend the complaint to provide sufficient detail. If the complainant does not amend the complaint to correct the insufficiencies identified by the LDO within a reasonable timeframe, as established in local procedures, the complaint may be dismissed by the LDO.

2. In order for a retaliation complaint to be accepted, the complainant must allege that:

   (a) he or she filed a report or made a protected disclosure alleging improper governmental activities pursuant to current University policy; or

   (b) he or she was threatened, coerced, commanded, or prevented by intimidation from filing a report of improper governmental activities; or

   (c) he or she refused to obey an illegal order.

3. The LDO may consult with the local Investigations Workgroup in determining whether the alleged disclosure is a protected disclosure, and in determining whether an alleged order was an illegal order if the complaint is otherwise eligible for review.

V. Administrative Proceedings

A. Evidentiary Standards

1. Pursuant to California Government Code Section 8547.10(e) an arbitrator, University or non-University hearing officer, or University committee that hears a retaliation complaint shall be instructed that once the complainant demonstrates by a preponderance of the evidence that he or she engaged in activity protected by the University's Whistleblower Policy and that such activity was a contributing factor in the alleged retaliation, the burden of proof shall be on the supervisor, manager, or University to demonstrate by clear and convincing evidence that the alleged retaliatory action would have occurred independent of the employee's engagement in a protected disclosure or refusal of an illegal order. If the complaint is investigated by a factfinder, the factfinder shall find facts concerning the burden of proof so that the Chancellor is able to make this determination. If the University fails to meet this burden, the employee or applicant for employment shall have a complete affirmative defense to the adverse action which was the subject of the complaint.
2. However, pursuant to California Government Code Section 8547.10(d), a manager or supervisor is not prevented from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any employee or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has

made a protected disclosure.

B. Special Evidentiary Standards for Health Care Workers

Pursuant to Section 1278.5 of the California Health and Safety Code, discriminatory treatment (as defined in the Section) of a health care worker for having presented a grievance or complaint, or having initiated, participated, or cooperated in any investigation or proceeding against the health facility on issues relating to care, services or condition of the health facility, if the health facility had knowledge of such action, shall raise a rebuttable presumption that discriminatory action was taken in retaliation, if the discriminatory action occurs within 120 days of the filing of the grievance or complaint.

VI. Complaints Investigated by the RCO

A. When an employee files a complaint which contains an eligible allegation of retaliation under an existing University grievance or complaint resolution procedure, the RCO shall investigate the allegation of retaliation or interference as provided below:

   1. If the complaint is filed under a complaint resolution procedure containing fact-finding as specified in University policies as part of the final available step (e.g., Staff Policies 70, 71, and II-70 for some issues), the RCO will serve as the factfinder.
   2. If the complaint is filed under a grievance procedure in personnel policy, a collective bargaining agreement, or under procedures established by the Academic Senate, but is not eligible under that policy, collective bargaining agreement, or procedure for arbitration, hearing, or fact-finding, the RCO will investigate the complaint after exhaustion of the available steps of the policy, collective bargaining agreement, or Academic Senate procedure. The investigation and findings will be limited to the interference or retaliation aspect of the complaint only.
   3. If the complaint is heard before an arbitrator, University or non-University hearing officer, or University committee, the RCO will receive a copy of that decision. If the decision does not include findings regarding the alleged interference or retaliation, the RCO shall request that the arbitrator, University or non-University hearing officer, or University committee revise the report to include findings regarding the alleged interference or retaliation. If the arbitrator, University or non-University hearing officer,
   or University committee subsequently fails to include such findings in the report, the RCO will conduct a separate investigation on that issue only.

B. When no University grievance or complaint resolution procedure is available to the complainant, the RCO will conduct the investigation.

C. Before findings are reached, the RCO (or fact-finder, if the RCO has delegated conduct of the investigation) shall provide a copy of the complaint and any documents on which the RCO (or fact-finder) intends to rely in reaching findings to the person accused of interference or retaliation. That person shall be provided the opportunity, within locally established time limits, to respond to the complaint and to file a written statement which the RCO (or fact-finder) will make part of the record submitted to the Chancellor.

D. The RCO shall present findings of fact based on the evidence and factual conclusions to the Chancellor within 120 days from the date on which the complaint was assigned to the RCO unless an extension is granted by the LDO.

E. When an employee has filed a complaint under an applicable personnel policy or collective bargaining agreement grievance or complaint resolution procedure (1) which alleges retaliation for an action protected by this policy, and (2) a final University decision within the meaning of the applicable complaint resolution policy or collective bargaining agreement has been rendered, and (3) the employee later files a timely whistleblower retaliation complaint, the RCO shall review the decision. If there is a finding of retaliation, the RCO shall review it to ensure that the remedy is consistent with the policy, and if not, the RCO shall make a recommendation to the Chancellor. If there is no finding of retaliation, the LDO shall request that the hearing officer, committee, or arbitrator reopen the case and apply the standard of proof specified in Section V. above, and if necessary, find additional facts for application of the standard. If the foregoing does not occur, the RCO shall find additional facts, if necessary, for application of the standard of proof specified in Section V. above. The case shall then be forwarded to the Chancellor for a decision.

F. When it is alleged that the Chancellor, the LDO, or the LDO's supervisor interfered or took the retaliatory action, the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, whichever applies, shall appoint an RCO to undertake the investigation consistent with the provisions of Section VI.A through E. above. The RCO shall present findings of fact based on the evidence and factual conclusions to the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, as appropriate, for a decision. The RCO's findings shall be presented within 120 days from the date on which the complaint was assigned to the RCO unless an extension is granted by the Senior Vice President—Business and Finance or Provost and Senior Vice President—Academic Affairs.

VII. Decision

A. Decision Based on Findings of an Arbitrator, University or Non-University Hearing Officer, or University Committee

1. The RCO shall be provided with a copy of the decision in those cases in which the complaint was heard before an arbitrator, University or non-University hearing officer, or University committee.
2. When there are findings that interference or retaliation has occurred, the RCO will provide that information to the Chancellor. If the decision is final and binding, the Chancellor may not alter the decision in any way, but may through the appropriate channels initiate corrective action against the University employee who interfered or retaliated based on the findings in the decision.

B. Decision Based on Findings of an Investigation Conducted by the RCO

1. The RCO is to present findings of fact based on the evidence and factual conclusions to the Chancellor who shall render a decision in the matter consistent with the standard of proof specified in Section V above. The Chancellor may remand the findings to the RCO if further investigation is needed before making a decision. The Chancellor will communicate the decision in writing to the complainant and to the person or persons accused of violating the University's Whistleblower Protection Policy.
2. The Chancellor's written decision will include any appropriate relief for the complainant, but will not describe any corrective action which may need to be taken.

C. Corrective Action of a University Employee

The Chancellor through the appropriate channel, or in the case of Academic Senate members the appropriate Senate Committee, determines the appropriate corrective action, if any, which will be initiated against a University employee who is found to have retaliated against or interfered with an employee's or applicant's right to make a protected disclosure or to refuse an illegal order. Such action shall be in accordance with the applicable personnel policy or collective bargaining agreement. For a member of the Academic Senate, disciplinary proceedings are in accordance with academic personnel policies and procedures established by the Academic Senate.

D. Complaint Against the Chancellor, the LDO, or the LDO's Supervisor

With regard to complaints in which it is alleged that the Chancellor, the LDO, or the LDO's supervisor interfered or took retaliatory action, the findings of the investigation shall be presented for a decision to the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, in accordance with Section VI.F. above.

VIII. Appeal

An employee may appeal the local decision only on the basis that the complaint was ineligible for processing because it was untimely filed and/or the complaint did not qualify for review under the scope of this policy to:

A. the Senior Vice President—Business and Finance if the complainant is a current employee in or applicant for a staff or management position; or
B. the Provost and Senior Vice President—Academic Affairs if the complainant is a current appointee in or applicant for an academic position.

IX. Reports

Each location shall submit a copy of local procedures implementing this policy to the Office of the Senior Vice President—Business and Finance. Additionally, on July 31 of each year, each location shall submit to the Senior Vice President—Business and Finance a report summarizing the number of whistleblower retaliation complaints filed during the preceding fiscal year and their disposition. The Office of Human Resources and Benefits will provide a reporting format for this purpose.

L. UNAUTHORIZED ABSENCES AND JOB ABANDONMENT

1. Policy

An employee shall be at work during his or her regular work schedule, unless an absence from work has been authorized by the supervisor. The supervisor determines whether an absence is authorized or unauthorized, in accordance with the procedures below and with applicable personnel policies and collective bargaining agreements. Supervisors shall respond to unauthorized absences using appropriate reduction of compensation and the Laboratory normal counseling/corrective action/disciplinary procedures. Supervisors shall not approve the use of vacation leave, sick leave, or leave without pay for unauthorized absences.

2. Definition

a. **Unauthorized Absence**

Absence from scheduled work without supervisory approval.

a. **Job Abandonment**

Five consecutive work days of unauthorized absence constitutes job abandonment.

3. PROCEDURES

a. **Unauthorized Absence**

In case of an apparent unauthorized absence, the supervisor must inquire into the circumstances of the absence. If the supervisor determines that the absence was due to an unforeseen event, outside of the control of the employee which precluded the employee from contacting the supervisor, the supervisor may retroactively authorize the absence.

If the absence is determined to be unauthorized:

i. The employee's pay shall be adjusted for each period of unauthorized absence. Non-exempt employees shall have their pay reduced in 15-minute increments. Exempt employees shall have their pay reduced in full workday increments when absent without authorization for one or more full workdays.

ii. The supervisor will counsel the employee and, at a minimum, make a record of the incident. In some circumstances corrective action may be warranted, in which case the supervisor will consult Human Resources–Labor Employee Relations (HR-LER) on the appropriate course of action.

a. **Job Abandonment**

i. In the case of job abandonment, the responsible manager, after consultation with HR-LER, shall provide the employee with written notification of its intent to separate her/him. This notification shall include the reasons for the separation, the employee's right to respond to the responsible manager within 14 calendar days, and a Proof of Service. The notification shall be sent to the employee's last known mailing address.

ii. The employee shall have 14 calendar days from the mailing of such notice to respond to the responsible manager prior to her/his separation. The response may, at the option of the employee, be oral or in writing. The manager receiving the response must have the authority to effectively recommend reinstatement of the employee.

iii. Following the employee's timely response, or 14 calendar days, a final decision will be made. The employee must be notified in writing of the responsible manager's decision as contained in RPM §2.05(C)(6)(b) (*Corrective Action and Dismissal*).

iv. During the above process, the employee will be placed on unauthorized leave of absence without pay beginning the first day of missed work.

v. See also RPM §2.12(I) if the reason the employee does not return to work is for medical reasons.

Footnotes

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Paragraph J

1. Matters that do not meet this standard may be worthy of management review, but should not be undertaken as an investigation of an improper governmental activity.

Paragraph K

1. For the purpose of this policy, the Chancellor also means the Laboratory Directors for the Lawrence Berkeley National Laboratory, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory; the Senior Vice President—Business and Finance; and the Vice President—Agriculture and Natural Resources.

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§2.06
Compensation, Scheduling, and Work Location

Responsible Manager

Revised 12/08

Applicability:

- §2.06(A)-(C) below apply to non-represented employees only.
- Represented employees should consult their collective bargaining agreements or contact their union representative for information applicable to them.
- This policy is applicable to the following non-represented employee classifications: Career, Term, Limited, Faculty, Rehired Retiree, Visiting Postdoctoral Fellow, Postdoctoral Fellow, Visiting Researcher, Graduate Student Research Assistant (GSRA), and Student Assistant.
    - Faculty and Graduate Student Research Assistant (GSRA) pay is in accordance with their campus pay policies.
    - Postdoctoral Fellow pay, at a minimum, is based on their years of relevant experience.
    - Student Assistant pay is dependent on their academic progress

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A. SALARY

1. Compensation Philosophy

The Laboratory's compensation program is designed to provide a level of compensation which, within available funds, attracts, motivates, and retains a quality work force which is necessary for the achievement of Laboratory goals. The program recognizes and rewards performance, criticality of job, and internal equity within the Laboratory while maintaining a competitive market position.

2. Policy

An individual salary shall be within the salary range that is assigned to the position's job code/job title based on the position's duties and responsibilities. Exceptions to this policy are noted in §2.06 (A)(5)(d) below.

3. Adjustment of Salary Ranges

Salary ranges may be adjusted periodically. Adjustments of salary ranges do not increase the salary paid to an employee but provide increased potential for within-range salary adjustment.

4. Classification of Positions

Positions are classified in groups on the basis of the level of duties and responsibilities assigned and performed as documented in individual position descriptions. As duties and responsibilities undergo significant changes, positions may be reviewed for reclassification.

5. Salary Actions

a. **Start Salary for New Employees**

In developing a start salary for a new employee, consideration will be given to the candidate's background and skill level, current competitiveness of the market for the particular job, and internal equity within the department or unit.

b. **Merit Increases**

Employees holding career and term appointments are eligible for merit increases annually. The increase is awarded with consideration given to such factors as performance, current position of salary in range for job, alignment with salaries of other employees making similar contributions, external market, affordability, and criticality of the job.

c. **Salary Adjustments for Non-career and Non-term Employees**

i. Employees holding limited and rehired retiree appointments are eligible for a salary increase to the minimum of the range when the salary range for their job is adjusted upward.

ii. Salary increases for employees holding visiting postdoctoral fellow and postdoctoral fellow appointments, graduate student research assistant, student assistant, visiting researchers (see §2.01(D)(6) and §2.07(C)(11)), limited and rehired retiree positions, are described in the appointment information for those employee classes.

d. **Promotional Increases**

The change of an employee from one position to another in a classification having a higher salary range maximum is termed a promotion.

When an employee accepts an offer of a posted position at a higher salary range maximum it is a posted promotion.

When an employee's duties and responsibilities have evolved over a minimum of six months to the extent that another classification is more appropriate, and the new classification is at a higher salary range maximum, the change is a reclassification.

A salary increase may be granted upon upward reclassification or in the case of a posted promotion.

e. **Posted Downgrade**

When an employee applies for and accepts an offer of a posted position at a lower salary range maximum it is a posted downgrade. If the posted downgrade results in the employee's salary being above the maximum of the new range, the current salary may be maintained ("red-circled") or reduced.

f. **Job Classification Restructuring**

As a result of a Compensation review, a job classification may be restructured without a change in the duties of the incumbent employees. The salary range maximum of the new job classification structure may be either higher or lower than the previous salary range maximum.

If an employee's salary is above the maximum of the new salary range, the current salary may be maintained ("red-circled") or reduced.

If the employee's salary is below the minimum of the new salary range, the salary will be increased to the new minimum.

If the employee's salary falls within the new salary range, no salary change will be made.

g. **Adjustments on Movement to a Job in a Lower Salary Range**

The change of an individual employee from one position to another position within the same classification functional area that results in a lower salary range maximum is termed a demotion. This action may be the result of disciplinary action, a significant reduction in job duties and responsibilities, or the request of an employee that can be accommodated by the work unit.

The effects of a Compensation initiated review resulting in changes to a job classification structure with a lower salary range maximum are not demotions (See Paragraph (f) above).

Reclassification to a classification with a lower salary range maximum must be approved by the Human Resources Department and discussed with the employee.

If, as a result of a Compensation initiated classification restructuring, demotion, or other career change that results in an employee's salary being above the maximum of the new range, the current salary may be maintained ("red-circled") or reduced.

h. **Lateral Transfers**

The change of an employee from one position to another in the same classification or in another classification with the same salary range maximum is termed a lateral transfer.

Employees do not generally receive a salary increase when they accept a position with the same salary range as the position previously held, including when an employee accepts a position in a new appointment type (e.g., moving from a limited appointment to a career appointment, or moving from a term appointment to a career appointment with the same salary range).

i. **Equity Increases**

Increases in salary to remedy salary inequities may be granted on a targeted basis to address internal or market alignment.

j. **Completion of Probation**

Satisfactory completion of a probationary period by an employee does not automatically require a salary increase. A recommendation for a salary increase may be made, however, if the final probationary performance review justifies an increase, the employee was not eligible for an October merit increase, and merit guidelines and salary relationships within the division or department support an increase.

k. **Transfers from other University of California Locations**

Career employees transferring from another University of California location, who are not subject to a probationary period, may be considered for an increase if a six-month performance evaluation is completed that justifies a salary increase, the employee was not eligible for an October merit increase, and merit guidelines and salary relationships within the division or department support an increase.

l. **Multiple Increases in a Fiscal Year**

i. An employee's total base salary increase in a single fiscal year, (including, for example, merit, promotional, and equity increases) shall not exceed 25 percent unless an exception is granted by the Compensation Manager. Compensation Manager approval is not required for those employees who are promoted from a trainee position (Student Assistants, Graduate Student Research Assistants (GSRA), or Postdoctoral Fellow) to a non-trainee position that results in a total base salary increase greater than 25 percent in a single fiscal year.

ii. If more than one salary adjustment takes place on the same date, actions occur in the following order:

- salary range adjustment (if applicable);
- merit; and
- salary action resulting from posted promotion, reclassification, or equity adjustment.

6. Administrative Stipend for Temporary Assignments

A Temporary Assignment (TA) occurs when an employee is temporarily assigned responsibilities of a higher level position on a full time basis or assigned other significant higher level duties in addition to their regular duties. An employee in a Temporary Assignment may be paid a stipend. The Temporary Assignment stipend can be the greater of either the rate range minimum of the higher level job or up to a maximum of 15% of the employee's base pay. The base pay plus stipend can not exceed the maximum of the rate range of the employee's temporary job classification. The stipend is removed at the end of the temporary assignment or 2 years from the stipend's inception whichever comes first.

7. Restrictions

a. Appointments of employees holding positions at more than one University of California location may not total more than 100 percent time.

b. An employee who is appointed at 100 percent time shall not receive additional compensation from the University for any work or services that are related to the employee's appointment regardless of source or type of payments. Exceptions to this policy are any ancillary pay components as found in Paragraph (B) below, payments for teaching regularly scheduled University Extension courses whether or not related to the employee's appointment and outside the employee's normally scheduled hours, and administrative stipends payable under §2.06(A)(6).

B. ANCILLARY PAY COMPONENTS

1. Overtime

a. **Definition**

Overtime in most cases is actual time worked in excess of 8 hours per day or 40 hours per week in order to cover emergencies or to meet job responsibilities. Paid holiday leave is considered to be time worked. Sick leave, vacation, military leave, court leave, and any other leaves with pay are not considered to be time worked for purposes of compensation for overtime.

b. **Policy**

i. Only non-exempt employees are eligible for overtime pay.

ii. All overtime must be approved in advance by the employee's supervisor.

iii. All overtime must be compensated, even if not approved in advance.

iv. Granting compensatory time off in lieu of overtime pay is prohibited.

c. **Pay for Overtime**

Overtime for non-exempt employees will be paid at the rate of 1 ½ times the regular hourly rate for hours worked in excess of eight hours per day or 40 hours per week.

d. **Pay for Overtime Meals**

Employees may be paid overtime for meals if all the conditions set forth in RPM 11.01 (Laboratory-Hosted (Funded) Meetings) concerning payment for food services are met and one of the following conditions applies:

i. The work situation requiring the overtime is such that the employee is held over or called in early, without prior notice, so that the combined regular shift and overtime assignment totals a minimum of two hours over the regular work shift; or

ii. The work situation requiring the overtime is such that the employee is called in, without prior notice, on a day off, holiday, or call-back basis for a minimum of 5 hours.

2. Shift Differential

a. **General**

Shift differential is extra pay in addition to base pay for non-day shift work. A non-exempt employee is paid this differential when required to work on an assigned swing or owl shift. The amount of the differential is 7.5 percent for swing shift and 15% for owl shift. For purposes of computing shift pay, a swing shift consists of the hours from 4:00 p.m. to 12:00 midnight and an owl shift from 12:00 midnight to 8:00 a.m. To qualify for payment of shift differential, a minimum of four

hours must be scheduled during the above periods. Work which is scheduled during the swing or owl shifts for the convenience of the employee is not considered an assigned swing or owl shift for purposes of this policy and no differential will be paid.

b. **Overtime**

Overtime pay, for employees who receive shift differential pay and work during non-day shifts (see RPM 2.06(B)(2) above), is based on the employee's base pay and shift rate.

c. **Temporary Assignments**

Employees who usually work a swing or owl shift continue to receive the shift differential when assigned temporarily by their supervisor to a day shift for four days or less. A change in shift assignment initiated by the employee is not covered by this provision and no differential will be paid.

d. **Paid Leave**

Shift differential is included for all types of paid leave based on the shift an employee would have worked.

e. **Terminal Vacation Pay**

Terminal vacation is paid at the appropriate shift differential rate when the employee has been permanently assigned to swing or owl shift or when a temporary swing or owl shift has extended over 90 days.

3. Pay for Travel Time (Non-exempt employees)

Travel between an employee's home and the workplace is not considered time worked. Travel on Laboratory business during an employee's normal working hours (including travel during those hours on the employee's day off) is considered time worked. Travel outside normal working hours is considered time worked when it occurs on a scheduled day of work and is to or from a work location outside the normal commuting area of the assigned workplace.

4. Call-In Pay

Non-exempt employees who are called in for short jobs outside their regular weekly schedule will be paid for a minimum of four hours or the hours worked, whichever is greater. Such pay will include shift differential and overtime if appropriate. Represented employees should refer to their collective bargaining agreement.

5. Extended Workweeks

a. An extended workweek is a planned schedule exceeding the normal 40-hour workweek for more than four consecutive weeks at a regular Laboratory site or a temporary assignment at locations away from regular laboratory sites. Exempt or nonexempt employees may qualify.

b. Requests for extended workweeks must be made in writing to the division director or designee.

Approval of such requests applies only to the individual(s) named and is not transferable to others.

c. **Pay for extended workweeks:**

- Nonexempt employees are paid at the regular overtime rate.
- Full-time, exempt employees are paid for extended workweeks on the basis of the formally approved schedule on file in the Payroll Office for each week the extended schedule is shown on the time report submitted by the division. The formula used to determine extended workweek pay is based on the percent of additional hours worked per month.

C. PAY AT TERMINATION

Terminal pay for employees includes payment for salary and wages due for work performed through the effective time and date of termination and payment for vacation credit, up to the maximum possible credit for the employee's job classification and length of service. (RPM 2.21(I) (Terminations / Terminal Pay))

1. Vacation Pay

See RPM 2.08(F) (Terminal Vacation Pay) and RPM 2.06(D)(2) (Shift Differential).

2. Sick Leave Accrual / Transfer of Sick Leave

a. Employees are not paid for accrued sick leave on termination from the UC System.

b. See RPM (2.09(F) (Sick Leave / Transfer and Reinstatement of Sick Leave) for information on transfer of sick leave to another UC location.

3. Severance

a. **Policy**

Non-probationary career employees who are laid off from employment for an indefinite period due to lack of work or lack of funds are eligible for severance payments in accordance with the following provisions. Employees who are on temporary work deferment status, temporarily reduced in time, or permanently reduced in time are not eligible for severance payments.

b. **Definitions**

The following definitions apply for purposes of severance pay.

i. **Continuous Service.** Service is continuous if an employee is on pay status each month without a break in service. For severance pay purposes, a break in service occurs when there is a separation from Laboratory employment status for any reason, except that a separation from employment for purposes of transferring an employee to another University location is not a break in service.

- Periods on an approved leave without pay for military service, illness or injury compensable by workers' compensation, assignment to another research organization at the direction of the Laboratory, or an approved leave without pay for any period of 30 calendar days or less are counted as periods of continuous service for the purposes of severance pay, as are periods on pay status before and after any other approved leave without pay.

- Periods of employment before a break in service are not counted as periods of continuous service for purposes of severance pay.

- Periods of employment as a University of California graduate student research assistant (GSRA), student assistant, or other trainee position are not counted as periods of continuous service for purposes of severance pay.

- Periods of employment on variable time (once called indeterminate time) are not counted as periods of continuous service for purposes of severance pay.

- Time spent as a postdoctoral fellow is counted toward calculating severance payment if the postdoctoral fellow continued their employment in a career appointment without a break in service.

- When a limited appointment has been designated as a career appointment after attaining 1,000 hours of qualifying service in any 12 consecutive months without a break in service of at least 120 consecutive calendar days, these hours on pay status will be counted for purposes of severance pay. Qualifying service includes all time on pay status in one or more limited appointments at the University. However, only those hours worked at

the Laboratory will be counted toward calculation of the severance payment

- Continuous service is reestablished when an employee is rehired from recall or preferential rehire status from the Laboratory.

ii. **Equivalent Job.** An equivalent job is any career position with the Laboratory or the University at a beginning salary at least equal to the salary paid the employee in the job from which that employee was laid off, regardless of salary range.

iii. **One Week's Pay.** One week's pay for nonexempt hourly rated employees is defined as the basic hourly rate (excluding shift differential and overtime) times 40 hours or the specifically approved workweek. One week pay for full-time exempt employees is defined as the hourly equivalent of the monthly rate times 40 hours (or, for part-time exempt employees, times the percentage time equivalent).

iv. **University.** University in this section refers to any University of California location including UC-managed DOE laboratory.

c. **Severance Payment Calculations and Method of Payment**

i. **Calculation.** The severance payment will be made in an amount equal to one week's pay for each year of continuous full-time-equivalent Laboratory service (including service at Lawrence Livermore National Laboratory and Los Alamos National Laboratory while these labs were managed by the University of California). A fractional year of full-time service of six months or more is counted as one year of service. The severance payment is not to exceed a total of 26 weeks' pay.

ii. **Method of Payment.** Severance will be paid in a lump sum at the time of termination

d. **Conditions**

i. **Layoff.** Severance payments will not extend the period of employment beyond the date of termination due to layoff.

ii. **Previous Severance Payment.** Severance payments made to an employee will not include payment for any period of service for which the employee has previously received severance payment(s).

e. **Limitations**

Severance payments will not be made to any employee who:

i. Transfers to another Laboratory position or University career position;

ii. Refuses a transfer to an equivalent position within the Laboratory or another University location;

iii. Is offered employment with a successor/replacement DOE Contractor;

iv. Resigns;

v. Dies, except that severance pay will be provided if an individual dies after receiving notice of layoff;

vi. Is dismissed for cause;

vii. Elects to retire and has not received notice of layoff.

f. **Exceptions**

Exceptions for voluntary resignations upon approval of the Chief Operating Officer (COO) or designee may be made as follows:

i. An employee who resigns after receiving formal notification of layoff but before the effective date of layoff may be provided severance payments.

ii. An employee who resigns in lieu of another employee who would have been laid off may be provided severance payments. Normally, approval of a voluntary layoff will be given only if the resignation will not have a detrimental effect on work in progress and if the employee concerned had not announced plans to resign or retire before the announcement of a layoff within the employee's division.

g. **Reemployment**

i. If an individual who has received severance payments is rehired at the Laboratory before expiration of the number of weeks for which the employee has received severance payments, the amount of the balance will be repaid to the Laboratory.

ii. If an individual who has received severance payments is rehired by another University location before expiration of the number of weeks for which the employee has received severance payments, the amount of the balance must be repaid to the Laboratory within 90 days of hire at the new location.

4. University Death Benefits for Employees

Upon the death of an eligible employee, the University of California's employee death benefits will be paid in accordance with University policy. (See Basic Death Payment and Death Payment at http://atyourservice.ucop.edu/forms_pubs/misc/survhb_emps.pdf This payment is in addition to any other benefit provided under a pension or retirement plan in effect for the deceased person.

D. SCHEDULING AND WORK LOCATION

1. Policy

a. **Use of Work Time for Personal Business**

No portion of time due the Laboratory may be devoted to private purposes and no outside employment may interfere with the performance of Laboratory duties. Use of Laboratory telephones for brief calls within the local commuting area is permitted, when required by changes in work plans, emergencies, or coordination of work activities with family members or others who can be reached only during working hours. (See RPM 10.02(A) (Outside Employment and Business Activities) and RPM 9.02 (A)(2) (Communications and Networking Systems).

b. **Determination of Individual Work Schedule**

Employee work schedules are determined by the designated supervisor of the work unit, within division policy, to ensure that the work unit's operational needs have appropriate coverage.

c. **Meal Periods**

Any work schedule of six continuous hours or more shall provide employees with a meal period of at least one-half hour. Meal periods, which should be duty-free, are neither time worked nor time on pay status.

d. **Work Location**

All employees are required to perform their work at an official Laboratory location, except while on travel status or through an approved telecommuting agreement, unless specific approval has been granted for work at another location. Official laboratory locations include, but are not limited to, the facilities in the San Francisco Bay Area, and locations such as the Washington, D.C., Office and Fermi Lab where Laboratory employees also reside. Agreements to perform work at alternative work sites must be in compliance with Laboratory policies.

2. Hours of Work

a. **Exempt Employees**

The workweek for full-time exempt employees is normally considered to be 40 hours, and for part-time employees the portion of 40 hours equivalent to the appointment percentage; however, greater emphasis is placed on meeting the responsibilities assigned to the position than on working a specified number of hours. Exempt employees do not receive overtime compensation or additional compensation beyond the established salary for the position except as provided in RPM §2.06(A)(6) (Administrative Stipend for Temporary Assignments) and §(B)(5) (Extended Workweeks).

b. **Non-Exempt Employees**

i. The regular number of hours worked by full-time, non-exempt employees is 40 hours in a workweek. Work beyond 8 hours in a day or 40 hours in a week is subject to additional compensation only under the circumstances described in RPM §2.06(B)(1) (Overtime).

ii. **Rest Periods**

A full-time, nonexempt employee may be granted two 15-minute rest periods, one to be taken in the work period prior to the meal period and one in the work period following the meal period. A part-time employee may be granted one 15-minute rest period for each work period of three continuous hours or more, not to exceed two rest periods per day. Rest periods may not be taken at the beginning or end of the work period, and time not used for rest periods may not be accumulated to be used at a later date. Scheduling of rest periods is subject to the approval of the employee's supervisor. Abuse of rest periods may result in disciplinary action. Such rest periods shall be considered as time worked.

3. Definitions

a. **Calendar Day**

A calendar day is the 24-hour period from midnight of one day to midnight of the next day.

b. **Calendar Week**

A calendar week extends from 12:01 a.m. Sunday to midnight the following Saturday

c. **Standard Laboratory Workday**

i. The standard workday is 8 hours in a 24 hour period on pay status with an unpaid meal break of at least 30 minutes (whether exempt or nonexempt).

ii. **Day Shift**

The standard day shift workday for full-time employees is 8 hours per day, 8 a.m. to 4 p.m.

iii. **Swing Shift**

The standard swing shift workday for full-time employees is 8 hours per day, 4 p.m. to midnight.

iv. **Owl Shift**

The standard owl shift workday for full-time employees is 8 hours per day, midnight to 8 a.m.

v. **Exceptions**

Supervisors may establish workday schedules, with division management approval, other than the standard Laboratory workday if necessary to meet operational needs in certain operating situations such as Laboratory protection, accelerator and computer operations, and scientific experiments in which experimental needs determine coverage requirements. Additional exceptions may be allowed as defined in Paragraph (D)(4)(a).

d. **Standard Laboratory Workweek**

Normally, a workweek consists of five consecutive workdays, Monday through Friday, within a calendar week.

e. **Work Schedule**

The daily, weekly, or monthly hours that an employee is assigned to work.

i. **Full-time**

A schedule involving complete workweeks or calendar months.

ii. **Part-time**

A schedule involving a specified percentage of each workweek or work month.

iii. **Variable time**

A schedule with no fixed percentage of time or schedule. Hours worked will vary depending on operational needs.

4. Flexible Work Option

Flexible work options are tools managers and supervisors can use to help meet the work/life balance needs of their employees while simultaneously ensuring that the work unit's operational needs are met. While the Lab supports the use of flexible work options whenever possible, they do not change the basic terms and conditions of Laboratory employment and are not entitlements. Granting or denial of a request for a flexible work option is at the sole discretion of management. Neither denial of a request for a flexible work option, nor rescission of an approved flexible work option is subject to the Complaint Resolution procedure (RPM §2.05(D)).

The Laboratory currently has two flexible work options that may be considered: Flextime and Telecommuting Agreements. Approval of both options must be within the provisions of RPM §2.06(D)(2) to (3).

a. **Flextime**

i. **General**

It is the intent, except as noted below, to make flexible working hours available to all employees by allowing employees to redistribute their daily work hours within a framework defined by division management and that is within the provisions of §2.06 (D)(2) to (3). The goal is to allow employees some flexibility regarding their daily work schedule, compatible with effective job accomplishment and work unit operational needs.

Division/department management may determine that there are specific scientific and/or operational necessity reasons during which a regular, ongoing flextime schedule cannot be implemented. If scientific or operational requirements make regular, formal flextime practices unfeasible, arrangements can be made between the supervisor and employee on an ad hoc basis.

ii. **Flextime Operating Guidelines**

Supervisors should consider the following guidelines when reviewing a request for flextime. However, the final flextime arrangement approved, if any, is at the sole discretion of the supervisor.

- Core Hours: The time when employees are normally expected to be at work: 9:30 a.m. through 11:30 a.m. and 1:30 p.m. through 3:30 p.m.

- Work Hours: The amount of time an employee is expected to be on the job during a given time period. See §2.06(D)(2).

- Minimum Service Coverage: The staffing required to ensure that the normal services and functions of a work unit will be available during the standard workday.

- Communication of Schedule Changes: It is the responsibility of employees working flextime and supervisors to communicate changes of personal or job schedule to those whom the changes may affect.

iii. **Responsibility**

- Division directors are responsible for implementation of this policy, will determine whether flextime is appropriate within the division and will approve employees' flextime schedules.

- Supervisors are responsible for ensuring that employees in their work units understand and meet work-unit operating guidelines and that the work unit operates effectively. This means identification of essential tasks, operations, and functions that must be accomplished at certain times during the workday and the development of coverage requirements.

- Employees are also responsible for accurately reporting their time worked.

b. **Telecommuting**

i. **General**

- Telecommuting is a work option in which employees fulfill their job responsibilities at home or another approved location. The arrangement may cover all or part of the employees' scheduled hours and may be on an intermittent/ occasional basis or on a regular schedule.

- Telecommuting arrangements must be consistent with Laboratory policy and do not change the basic terms and conditions of Laboratory employment.

- An employee's performance while telecommuting is measured using the same standards that apply when the work is performed at the Laboratory and will be documented in the annual performance review.

- Approval of an employee's request to telecommute is based on the operational needs of the work unit. Telecommuting is voluntary and is not an entitlement.

ii. **Agreements**

There are two types of telecommuting arrangements:

- Telecommuting can be on an intermittent or occasional basis or on a regular part- or full-time schedule. Occasional or intermittent telecommuting requires supervisor approval.

  If, in the opinion of the supervisor, an intermittent telecommuting arrangement begins to occur frequently while still not on a regular schedule, the supervisor may require a written agreement.

- A regular telecommuting schedule requires a written agreement, not to exceed 12 months, between the supervisor and employee that must be approved by the Division Director or Department Head (or designee). Agreements expire automatically on the stated end date unless reviewed and renewed prior to that date. Renewal is subject to the work unit's operational needs and the supervisor's assessment of the employee's performance. Changes in the terms of a telecommuting agreement within the 12-month period, e.g., change in off-site work location or telecommuting schedule, are to be documented as they occur. The agreement may be found at the HR Forms Web page.

Telecommuting agreements involving nonexempt employees require concurrence of the Manager, Employee and Labor Relations.

Telecommuting agreements may be terminated at any time by either the employee or the supervisor. Whenever possible, a 30 days' notice should be provided.

§2.07
Professional Research Staff

Responsible Manager

Revised 05/09

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A. GENERAL

1. Introduction

This section defines the various categories of Laboratory professional research staff positions including descriptions of the qualities and characteristics appropriate for employees in each category. Procedures for hires, promotions, and other personnel actions are delineated and the roles of the Division Staff Committees and Laboratory Staff Committee are described.

This policy applies to Scientists/Engineers in the SXX.X and RXX.X Job Classification Series.

2. Applicability of Other Policies

This policy is intended to supplement and not to conflict with applicable University and Laboratory human resources policies and procedures. For dismissals for conduct or performance reasons, refer to RPM §2.05 (Management/Employee Relations). For terminations, including reductions in force, refer to RPM §2.21 (Terminations). For other applicable Laboratory policies and procedures, refer to specific sections of the RPM.

3. Definitions

a. **Career position** (See RPM 2.01(D)(1).)

b. **Career-track position**

A career-track position as a Research Scientist/Engineer (Career-Track) or Scientist/Engineer (Career-Track) or Staff Scientist/Engineer (Career-Track) is a term appointment of a minimum of one year to a maximum of five years (during which the employee's performance is evaluated for promotion to a career position). Time spent in Postdoctoral Fellow appointments is excluded from the five-year limit. A Divisional Fellow position is a career-track position. For information on the length of this appointment, refer to Paragraph (C)(6) below. A promotion to a career position may take place at any time during the appointment term; however, if the employee is not promoted, the employee's appointment will automatically expire at the end of the appointment term. If an employee resigns or their appointment is terminated during the appointment term and returns in another career-track position, the previous period of employment counts towards the five-year maximum (see RPM §2.01(B)(4)). It is within the Laboratory's sole discretion not to extend career-track appointments or not to promote career-track appointees as long as the reasons for non-extension or non-promotion are not in violation of Laboratory policy.

c. **Promotion**

When used with regard to professional research staff, a promotion occurs when a career-track employee advances to a career position as well as when a career employee advances to a higher-level career position.

4. Procedures

a. Suitable Search

A national search is required for hires into both career-track and career Research Scientist/Engineer and Divisional Fellow appointment series. An international search is required for hires into both career-track and career Staff Scientist/Engineer, Senior Scientist/Engineer, and Distinguished Scientist/Engineer appointment series. A prior search for Postdoctoral Fellows does not qualify as a suitable search for career-track or career positions. See Scientist/Engineer Suitable Search Guidelines and Scientist-Engineer Suitable Search Checklist.

b. Mid-Term and Promotional Reviews

Procedures for mid-term and promotional reviews of Research Scientists/Engineers (Career-Track), Staff Scientists/Engineers (Career-Track), and Divisional Fellows are listed here and in the description of each appointment type below. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist. See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

B. LABORATORY AND DIVISION STAFF COMMITTEES

1. Laboratory Staff Committee

a. Role

The Laboratory Staff Committee

i. Advises the Laboratory Director on matters concerning Laboratory-wide consistency in the quality of the scientific staff and on Division procedures for selection and appointment.

ii. Reviews the numerical balance of Distinguished and Senior Scientist/Engineer employees in each Division in terms of its needs and resources.

iii. Reviews all recommended appointments and dismissals for Divisional Fellows, Senior Scientists/Engineers, Distinguished Scientists/Engineers, Faculty Senior Scientists/Engineers, and for Joint Laboratory/UC Appointments (50/50) for Faculty Senior Scientists/Engineers found below in Paragraph (C)(9)(d). Upon request, the Committee will meet with the affected individuals.

iv. Reviews all proposed reductions in force of Distinguished and Senior Scientists/Engineers and all proposed terminations due to lack of funding of Joint Laboratory/UC Appointments (50/50) for Faculty Scientists/Engineers and Faculty Senior Scientists/Engineers found below in Paragraph (C)(9)(d). Upon request, the Committee will meet with the affected individuals.

b. Membership of the Laboratory Staff Committee

The Laboratory Staff Committee is appointed by the Laboratory Director, who selects one committee member from each of the scientific Divisions (with the Computational Research Division and NERSC being considered one Division for this purpose) and one committee member from Engineering.

The Laboratory Director selects each division's member from two candidates proposed by the Division Director. The candidates will be either a Senior Scientist/Engineer, Faculty Senior Scientist, or Distinguished Scientist/Engineer. The Laboratory Director may appoint three additional members chosen at large from the Laboratory's Distinguished Scientists/Engineers, Senior Scientists/Engineers, and Faculty Senior Scientists/Engineers, and may designate one of the at-large members as Chair.

Members are appointed for up to three years and may be considered for reappointment.

2. Division Staff Committees

a. Role of the Division Staff Committees

The Division Staff Committees

i. Make recommendations to the Division Director concerning the following appointments: Research Scientist/Engineer (Career-Track), Research Scientist/Engineer (Career), Staff Scientist/Engineer (Career-Track), Staff Scientist/Engineer

(Career), Divisional Fellow, Senior Scientist/Engineer, Distinguished Scientist/Engineer, Faculty Scientist/Engineer, Faculty Senior Scientist/Engineer.

ii. Advise the Division Director on searches for career-track and career scientist/engineer positions and the final recommendation of the search committee.

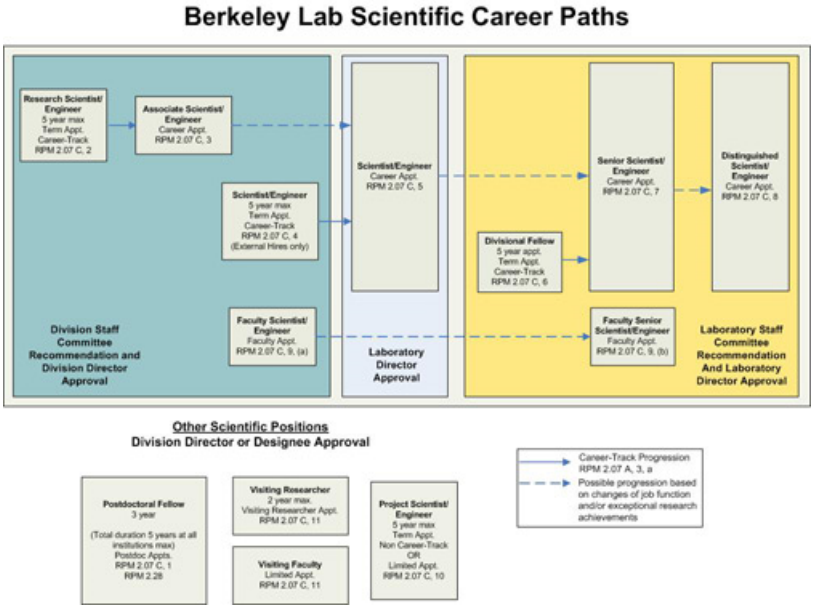
iii. Make recommendations to the Division Director regarding the promotion of career-track term employees to career status.

b. Membership of Division Staff Committees

Members of the Division Staff Committee are appointed by the Division Director from among the Division's Distinguished and Senior Scientists/Engineers and Faculty Senior Scientists/Engineers. Selection procedures and length of service on Division Staff Committees are at the discretion of the Division Director.

C. TYPES OF PROFESSIONAL RESEARCH STAFF POSITIONS

The Berkeley Lab Scientific Career Path chart illustrates the relationships among the categories below. Dotted lines indicate promotional possibilities for scientists/engineers in career positions. (See cited sections of this policy for additional information.)



Go here for a larger version of the Berkeley Lab Scientific Career Path chart.

1. Postdoctoral Fellow

Information on the Postdoctoral Fellow appointment has been moved to RPM §2.28 (Postdoctoral Fellows).

2. Research Scientist/Engineer (Career-Track)

a. Description

Research Scientist/Engineer is an entry-level, career-track position for professionals with broad knowledge in a field of specialization.

b. Qualifications

A Research Scientist/Engineer (Career-Track) will usually have the highest customary degree for his or her field. A Research Scientist/Engineer (Career-Track) will have broad knowledge in his or her field of specialization with a good understanding of the relevant basic concepts, principles, and theories.

c. Appointment and Promotion

The Research Scientist/Engineer position is a career-track term position with a maximum length of five years. The initial

appointment must be for at least one year but may be renewed up to the full five-year term. Based on performance, a Research Scientist/Engineer (Career-Track) will be considered for promotion to Research Scientist/Engineer (Career) within five years and will receive a written mid-term review of performance and prospects for promotion no later than the end of three years from the initial hire in accordance with the Procedures for Mid-Term and Promotional Review. The mid-term review and promotional review are in addition to the annual performance review (see RPM §2.03 (Employee Performance Evaluations)).

i. **Mid-term Review**

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a mid-term review of the work of the Research Scientist/Engineer (Career-Track) and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to career position. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

ii. **Promotion to Research Scientist/Engineer (Career)**

At least 120 days before the end of the fifth year, the Division Staff Committee must complete a final review of the work of the Research Scientist/Engineer and recommend to the Division Director for or against promotion to Research Scientist/Engineer (Career).

If the Division Director concurs with a recommendation for promotion, he or she so informs the Research Scientist/Engineer in writing at least 90 days prior to the end of the appointment.

If the Division Director concurs with a recommendation against promotion, the Research Scientist/Engineer must be given written notice at least 90 days prior to the end of the appointment.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

d. Work Deferment

A Research Scientist/Engineer (Career-Track) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Expiration/Termination of Appointment

i. Research Scientist/Engineer (Career-Track) appointments end automatically on the current expiration date unless the employee is given advance written notice that the appointment will be extended.

ii. The employment of a Research Scientist/Engineer (Career-Track) may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case at least 90 days' written notice will be given prior to termination.

3. Research Scientist/Engineer (Career)

a. Description

The Research Scientist/Engineer (Career) position is a career position for professionals with broad knowledge in a field of specialization. Assigned work is predominantly intellectual and varied, rather than standardized and routine, and requires professional judgment and decision-making. Research Scientists/Engineers (Career) may supervise technical staff and be responsible for laboratory or facility operations, but will not normally have Principal Investigator status.

b. Qualifications

A Research Scientist/Engineer (Career) will usually have the highest customary degree for his or her field of specialization, and a demonstrated ability to independently carry out creative research within an established framework. Laboratory or facility managers will have demonstrated experience in laboratory or facility management.

c. Appointment

Appointment as a Research Scientist/Engineer (Career) may be through a direct hire or a promotion from Research Scientist/Engineer (Career-Track). The appointment must be approved by the Division Director with the advice of the Division Staff Committee.

d. Promotion

While this is the highest position that many scientists and engineers at the Laboratory may attain, Research Scientists/Engineers (Career) who develop an independent research program; are recognized outside LBNL for exceptional scientific or technical expertise; and/or are successful in obtaining funding may be considered for promotion to Staff Scientist/Engineer (Career). See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

e. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

f. Work Deferment

A Research Scientist/Engineer (Career) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

g. Reduction in Force

Proposed layoff of Research Scientists/Engineers (Career), pursuant to RPM §2.21(B), will be approved by the Division Director. Written notice of such action will be given at least 90 days prior to date of layoff. The Division will make reasonable efforts to obtain suitable employment in another program within the Division for any Research Scientist/Engineer (Career) who otherwise would be terminated for lack of funds or termination of a project or program.

4. Staff Scientist/Engineer (Career-Track)

a. Description

Staff Scientist/Engineers (Career-Track) are professionals with competence and skills in specialized areas of research and development relating to the programmatic needs of the Laboratory. Employees at this level may serve as project or group leader, be assisted by other scientists and engineers and support staff, have principal investigator status, and directly supervise other professionals, technical support staff, or students.

b. Qualifications

This position is for fully qualified and independent scientists or engineers with recognized technical expertise who are capable of leading independent research and development work. Typically, an individual entering or being promoted to this level has at least five years of relevant professional experience beyond the customary highest degree appropriate to the candidate's discipline.

c. Appointment and Promotion

The Staff Scientist/Engineer (Career-Track) is a position with a maximum length of five years. The initial appointment must be for at least one year but may be for any length up to the full five-year term. Based on performance, a Staff Scientist/Engineer (Career-Track) will be considered for promotion to Staff Scientist/Engineer (Career) within five years and will receive a written mid-term review of performance and prospects for promotion no later than the end of three years from initial hire in accordance with the Procedures for Mid-Term and Promotional Review**.** The mid-term review and promotional review are in addition to the annual performance review (see RPM §2.03 (Employee Performance Evaluations)).

i. **Mid-term Review**

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a review of the work of the Staff Scientist/Engineer (Career-Track) and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to Staff Scientist/Engineer (Career).

See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

ii. **Promotion to Staff Scientist/Engineer (Career)**

At least 120 days before the end of the fifth year, the Division Staff Committee must have completed a review of the work of the Staff Scientist/Engineer (Career-Track) and recommend to the Division Director for or against promotion to Staff Scientist/Engineer (Career).

If the Division Director concurs with a recommendation for promotion, he or she refers the recommendation to the Laboratory Director who makes the final decision on the appointment.

If the Division Director concurs with a recommendation against promotion, the Staff Scientist/Engineer (Career-Track) must be given at least 90 days' advance written notice prior to termination.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

d. Work Deferment

A Staff Scientist/Engineer (Career-Track) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Expiration/Termination of Appointment

i. Staff Scientist/Engineer (Career-Track) appointments end automatically on the current expiration date unless the employee is notified in advance in writing that the appointment will be extended.

ii. The employment of a Staff Scientist/Engineer (Career-Track) may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case the employee will be given at least 90 days' advance written notice before termination.

5. Staff Scientist/Engineer (Career)

a. Description

The Staff Scientist/Engineer (Career) is a position for professionals with competence and skills in specialized areas of research and development relating to the programmatic needs of the Laboratory. Staff Scientists/Engineers (Career) may serve as project or group leaders, be assisted by other scientists and engineers and support staff, have principal investigator status, and directly supervise other professionals, technical support staff, or students.

b. Qualifications

This position is for fully qualified and independent scientists or engineers with recognized technical expertise who play a leadership role in the Laboratory's research program. Typically, an individual entering or being promoted to this level has at least five years of relevant professional experience beyond the customary highest degree appropriate to the candidate's discipline. The individual is recognized as a resource or active impact contributor in his or her own field as perceived internally by management and peers and externally through conference presentations, publications in refereed journals, invited lectures, and awards.

c. Appointment

An action to hire or promote an individual into a Staff Scientist/Engineer (Career) appointment is initiated by the Division Director and reviewed by the Division Staff Committee. The appointment is approved by the Laboratory Director.

d. Promotion

While this is the highest level that the majority of scientists and engineers are expected to attain, Staff Scientists/Engineers (Career) with significant experience and achievements in research and who play a leadership role at the Laboratory may be considered for promotion to Senior Scientist/Engineer. See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

e. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

f. Work Deferment

A Staff Scientist/Engineer (Career) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

g. Reduction in Force

Proposed layoff of Staff Scientists/Engineers (Career), pursuant to RPM §2.21(B), will be approved by the Division Director. Written notice of such action will be given at least 90 days prior to date of layoff. The Division will make reasonable efforts to obtain suitable employment in another program within the Division for any Staff Scientist/Engineer (Career) who otherwise would be terminated for reasons of lack of funds or termination of a project or program.

6. Divisional Fellow (Career-Track)

a. Description and Qualifications

An appointment as a Divisional Fellow is a career-track position for a single five-year term may be given to an individual with outstanding promise and creative ability in a field of scientific endeavor conducted by a Division. The appointment will imply the intent of the Division to provide the research and development support needed to enable the fellow to join an existing group or to create an independent program consistent with the goals and capabilities of the Division and consideration for promotion to Senior Scientist/Engineer. It is not a requirement of this policy that each Division appoint any Divisional Fellows.

b. Appointment

Appointment of a Divisional Fellow will be made only after a national (or international) search, which is then reviewed by the Division Staff Committee. The case for the appointment is then transmitted by the Division Director to the Laboratory Director. If the case appears to be in order, it is transmitted to the Laboratory Staff Committee for further review and a vote. The results of the Laboratory Staff Committee review are transmitted to the Laboratory Director who will make the final decision on the appointment.

c. Expiration/Termination of Appointment

Termination of the Divisional Fellow appointment before expiration of the term may be made for disciplinary reasons, as provided in RPM §2.05(C) or for inadequate quality of research and development or other service appropriate to the purposes of the Laboratory. In the latter case, one year's written notice will be given. Decisions with respect to early termination will be made by the Laboratory Director with advice from the Division Director and Division Staff Committee. In each case, a review of the proposed action will also be made by the Laboratory Staff Committee.

d. Mid-term Review

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a review of the work of the Divisional Fellow and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to Senior Scientist/Engineer. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

e. Promotion to Senior Scientist/Engineer

At least 120 days before the end of the fifth year, the Division Staff Committee must complete a review of the work of the Divisional Fellow and recommend to the Division Director for or against the promotion to Senior Scientist/Engineer.

If the Division Director concurs with a recommendation for promotion, he or she refers the case for review by the Laboratory Staff Committee and decision by the Laboratory Director (see RPM §2.07(C)(6)(b) above).

If the Division Director concurs with a recommendation against promotion, the Divisional Fellow must be given at least 90 days written notice that his or her employment will end at the expiration of the five-year term.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

7. Senior Scientist/Engineer (Career)

a. Description

An appointment as a Senior Scientist/Engineer is a career position reserved for scientists and engineers with significant experience and achievements in research who play a leadership role at the Laboratory.

b. Qualifications

Senior Scientists/Engineers are nationally (or internationally in certain disciplines) recognized authorities and leaders in one or more scientific or engineering areas who have made major contributions to the Laboratory and the broader scientific/engineering community through their leadership and creativity.

c. Appointment

Appointment to Senior Scientist/Engineer is initiated by the Division Director, after review by the Division Staff Committee. It is reviewed by the Laboratory Staff Committee and approved by the Laboratory Director.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Senior Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. It is expected that a Senior Scientist/Engineer will respond to changing directions of the Laboratory.

d. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

e. Work Deferment

A Senior Scientist/Engineer (Career) may volunteer for temporary work deferment or temporary reduction in time. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

f. Reduction in Force

The Laboratory recognizes the great value to its mission of its Senior Scientists/Engineers and seeks to retain them within the limits of the availability of funds and the need to maintain the viability and excellence of programs. Accordingly, the following special procedures are to be followed whenever overall funding constraints involving a Senior Scientist/Engineer appear imminent. These appointments may be terminated on approval of the Laboratory Director for reason of lack of funds. These procedures contain protections for Senior Scientist/Engineer both before and after a layoff notice is issued. Throughout the process, all reasonable efforts are to be undertaken by the Division to assist the employee in maintaining continued employment at the Laboratory. These procedures supplement the Laboratory reduction-in-force policy outlined in RPM §2.21(B) (*Reduction in Force*). Special consideration will be given to Senior Scientists/Engineers in case of lack of funding in the program in which they work. This special consideration is outlined in the following procedure.

i. **Decision to Implement Reduction.**

If lack of funding occurs, and the Division Director determines that a Senior Scientist/Engineer must be laid off in accordance with RPM §2.21(B) (*Reduction in Force*), the Division Director initiates the process for each affected Senior Scientist/Engineer by following the procedures below:

ii. **Employee Plan.**

The Division Director is responsible for developing an employee plan that reviews in writing those efforts already made and provides a description of future efforts to explore opportunities for continued employment at the Laboratory for the Senior Scientist/Engineer affected by layoff. The plan is to include the following provisions:

Interim Financial Support, Assignments, Expectations, and Milestones. The amount of financial support for the Senior Scientist/Engineer will be identified and cover at least the minimum time period specified in this section. Specific job assignment, expectations, and milestones for the interim period will be clearly defined. Reasonable time will be allowed for the Senior Scientist/Engineer to seek continued employment opportunities.

Continued Employment Opportunities within the Division. Plans to assist the Senior Scientist/Engineer in pursuing other employment opportunities within the Division will be described, including support for special training, if required.

Other Opportunities within the Laboratory. Plans to assist the Senior Scientist/Engineer in pursuing employment opportunities within other Laboratory Divisions will be developed. These plans may include assistance in preparing a professional resume package and introduction letters, developing personal contacts by the Division Director, and allowing time to interview with potential hiring groups.

New or Supplemental External Funding. Plans to assist the Senior Scientist/Engineer in pursuing new or supplemental external funding to ensure continued employment will be detailed. Assistance might include appropriate support for proposal preparation and exploratory studies to supplement the proposals, personal contacts by the Division Director, and travel for discussions and proposal presentations.

iii. **Employee Notification.** Once the employee plan is developed, the Division Director submits it, along with a notice of intent to layoff that indicates the layoff date and the justification for the layoff, to the Senior Scientist/Engineer and sends copies to the Laboratory Director and the Laboratory Staff Committee. The layoff date will be at least 12 months from the Division Director's notice to the employee.

iv. **Employee Comments on Adequacy of Plan.** The employee will be given a two-week period to submit comments to the Division Director regarding the adequacy of the employee plan. A copy of the response will be provided to the Laboratory Director and Laboratory Staff Committee.

v. **Laboratory Staff Committee Review.** Based on review of the materials from the Division Director and the employee's response, if any, the Laboratory Staff Committee will, within six weeks after receiving the materials from the Division Director, provide its comments to the Laboratory Director regarding the adequacy of the employee plan.

vi. **Laboratory Director's Review.** After receiving the materials from the Division, the Laboratory Director will, within eight weeks, notify the Division Director of the Laboratory Director's concurrence, non-concurrence, or recommendation to modify the layoff action. The Laboratory Director will also convey comments, if any, on the adequacy of the employee plan.

vii. **Confirmation of Layoff.** If it becomes apparent to the Division Director that sufficient funding will not be forthcoming to continue the employee's employment, written confirmation of layoff must be given to the employee no later than 90 days prior to the stated date of termination given in the Division Director's notice of intent to layoff.

viii. **Completion of the Employee Plan.** At the end of the period covered by the employee plan, the Division Director will submit a report to the Laboratory Director and the Laboratory Staff Committee describing the actions taken and their results.

8. Distinguished Scientist/Engineer (Career)

a. Description

An appointment as a Distinguished Scientist/Engineer is a career position reserved for the most exceptional Senior Scientists/Engineers who have a sustained history of distinguished scientific and technical achievements and/or have directly contributed to the Laboratory's preeminence.

b. Qualifications

Candidates for this position have extensive relevant professional experience. A very small percentage of the professional research staff are expected to qualify for this level. Length of service and continued good performance at the senior level are not sufficient for advancement to this level. Incumbents at this level are seen as nationally or internationally recognized authorities and leaders in their field; their expertise is sought after by professional colleagues.

c. Appointment

Appointment to the Distinguished Scientist/Engineer level is initiated by the Division Director, reviewed by the Division Staff Committee, and reviewed by the Laboratory Staff Committee which makes a recommendation to the Laboratory Director and

approved by the Laboratory Director following the procedures for advancement.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Distinguished Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. It is expected that a Distinguished Scientist/Engineer will respond to changing directions of the Laboratory.

d. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

e. Work Deferment

The procedures that apply to Senior Scientist/Engineer in Paragraph (7)(e) above also apply to Distinguished Scientist/Engineer.

f. Reduction in Force

The procedures that apply to Senior Scientist/Engineer in Paragraph (7)(f) above also apply to Distinguished Scientist/Engineer.

9. Appointments of University of California Faculty

a. University of California Faculty

Appointment as Laboratory Faculty Scientist/Engineer or Faculty Senior Scientist/Engineer requires an individual to hold an active (non-UC retiree) appointment in one of the following faculty titles or series:

- Professorial series
- Acting titles in the Professor series (Students who hold the Acting Instructor title are not considered faculty.)
- Visiting titles in the Professor series
- Professor in Residence series
- Adjunct Professor series
- Professor of Clinical (e.g., Medicine) series
- Health Sciences Clinical Professor series

b. Faculty Scientist / Engineer

i. **Description**

Faculty Scientists/Engineers are University of California faculty members. They participate in the programs of the Laboratory with or without salary support from the Laboratory. A Faculty Scientist/Engineer may have an association of recent origin and/or an association chiefly for conduct of research or engineering programs.

ii. **Qualifications**

Faculty Scientists/Engineers must be active University of California faculty members (see Paragraph(C)(9)(a) above).

iii. **Appointment**

Appointment as a Faculty Scientist/ Engineer is made by the Division Director with the recommendation by the Division Staff Committee. The appointment is contingent on continued faculty appointment and automatically ends upon termination of the individual's campus faculty appointment. The appointment may be made with or without salary support from the Laboratory.

The appointment of a Faculty Scientist/Engineer may be terminated at any time at the discretion of the Division Director. At least 90 days' written notice will be given, unless the Division Director determines that exceptional circumstances dictate otherwise.

c. Faculty Senior Scientist / Engineer

i. **Description**

Faculty Senior Scientists/Engineers are University of California faculty members who have demonstrated outstanding creative capability, leadership, and experience in activities appropriate to the Laboratory's mission. A Faculty Senior

Scientist/Engineer appointment will have a well-established relationship with the Laboratory and an ongoing program of research that productively involves Laboratory staff and resources. Faculty Senior Scientists/Engineers may also have a significant involvement in the development of Laboratory policies, planning, or managerial responsibilities.

ii. **Qualifications**

Faculty Senior Scientists/Engineers must be active University of California faculty members (see Paragraph(C)(9)(a) above).

iii. **Appointment**

Appointment as a Faculty Senior Scientist/Engineer will be made only after careful consideration and recommendation by a Division Staff Committee. The recommendation will be transmitted to the Laboratory Director by the Division Director, with comments. The appointment will be made by the Laboratory Director based on this advice and on the advice of the Laboratory Staff Committee. The appointment may be made with or without salary support from the Laboratory. The appointment is contingent on continued faculty appointment. Termination of a Faculty Senior Scientist/Engineer appointment is automatic upon termination of the individual's campus faculty appointment.

iv. **Corrective Action and Dismissal** (See RPM §2.05(C))

v. **Termination Due to Lack of Funding**

The Laboratory recognizes the great value to its mission of its Faculty Senior Scientists/Engineers and seeks to retain them within the limits of the availability of funds and the need to maintain the viability and excellence of programs.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Faculty Senior Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. These appointments may be terminated on approval of the Laboratory Director for reason of lack of funds. At least 90 days' written notice will be given, unless the Laboratory Director determines that exceptional circumstances dictate otherwise.

d. Joint Laboratory/UC Faculty Appointments

i. **Description**

With the written approval of the Laboratory Director, an individual may be given a joint (50/50) appointment (hereafter, "Joint Appointment") as a Faculty Scientist/Engineer or Faculty Senior Scientist/Engineer, provided that the appointment will be funded by the campus at 0.50 full-time equivalent (FTE) and by the Laboratory at 0.50 FTE.

ii. **Appointment/Qualifications**

Joint Appointments will be based on established criteria for hiring tenure-track or tenured faculty at the campus and Faculty Scientists/Engineers or Faculty Senior Scientists/Engineers at the Laboratory (see Paragraph(C)(9)(a) above).The campus and Laboratory will work together to develop the appropriate process and procedures to meet the applicable requirements for recruitment, selection and hire.

iii. **Promotion/Advancement**

Joint Appointees will be reviewed for merit advancements and promotion pursuant to the applicable campus and Laboratory procedures and requirements.

iv. **Performance/Conduct Issues** (See RPM §2.05(C))

In the event that issues arise regarding the conduct or performance of a Joint Appointee, the campus and the Laboratory will cooperate to ensure that required policies and procedures are followed.

v. **Termination Due to Lack of Funding**

(a) Special Considerations. At the sole discretion of the Laboratory, Joint Appointments of Faculty Scientists/Engineers

and Faculty Senior Scientists/Engineers may be eligible for the special considerations set forth below.

The following special procedures are to be followed whenever overall funding constraints for the continued Laboratory support at 0.50 FTE for a Joint Appointee appear imminent. These procedures contain protections for Joint Appointees both before and after a termination notice is issued. Throughout the process, all reasonable efforts are to be undertaken by the Division to assist Joint Appointees in maintaining sufficient funding for continued employment at the Laboratory. Special consideration will be given to Joint Appointees in cases of lack of funding in the program in which they work. This special consideration is outlined in the following procedure.

(b) Decision to Terminate Due to Lack of Funding. If the Division Director determines that a Joint Appointee must be terminated due to lack of funds to continue the Laboratory support at 0.50 FTE, the Division Director initiates the process for the affected Joint Appointee by following the procedures below:

(i) Employee Plan. The Division Director is responsible for developing an employee plan (hereafter "Plan") that reviews in writing those efforts already made and provides a description of future efforts to explore opportunities for maintaining sufficient funding for continued employment at the Laboratory for the Joint Appointee affected by lack of funds. The Plan is to include the following provisions:

Interim Financial Support, Assignments, Expectations, and Milestones. The amount of financial support for the Joint Appointee will be identified and cover at least the minimum time period specified in this section. Specific job assignment, expectations, and milestones for the interim period will be clearly defined. Reasonable time will be allowed for the Joint Appointee to seek additional funding support.

Continued Funding Support for Employment Opportunities within the Division. Plans to assist the Joint Appointee in pursuing other funding support within the Division will be described, including support for special training, if required.

Other Opportunities within the Laboratory. Plans to assist the Joint Appointee in pursuing funding support for employment opportunities within other Laboratory Divisions will be developed. These plans may include assistance in preparing a professional resume package and introduction letters, developing personal contacts by the Division Director, and allowing time to interview with potential hiring groups.

New or Supplemental External Funding. Plans to assist the Joint Appointee in pursuing new or supplemental external funding for continued employment will be detailed. Assistance might include appropriate support for proposal preparation and exploratory studies to supplement the proposals, personal contacts by the Division Director, and travel for discussions and proposal presentations.

(ii) Joint Appointee Notification. Once the Plan is developed, the Division Director submits it, along with a notice of intent to terminate due to lack of funding that indicates the termination date to the Joint Appointee and sends copies to the Laboratory Director and the Laboratory Staff Committee. The termination date for the Joint Appointee, who is supported by the Laboratory at 0.50 FTE, will be at least 24 months from the Division Director's notice to the Joint Appointee.

(iii) Comments on Adequacy of Plan. The Joint Appointee will be given a two-week period to submit comments to the Division Director regarding the adequacy of the Plan. A copy of the response will be provided to the Laboratory Director and Laboratory Staff Committee.

(iv) Laboratory Staff Committee Review. Based on review of the materials from the Division Director and the Joint Appointee's response, if any, the Laboratory Staff Committee will, within six weeks after receiving the materials from the Division Director, provide its comments to the Laboratory Director regarding the adequacy of the Plan.

(v) Laboratory Director's Review. After receiving the materials from the Division, the Laboratory Director will, within eight weeks, notify the Division Director of the Laboratory Director's concurrence, non-concurrence, or recommendation to modify the termination due to lack of funding action. The Laboratory Director will also convey comments, if any, on the adequacy of the Plan.

(vi) Confirmation of Termination Due to Lack of Funding. If it becomes apparent to the Division Director that sufficient funding for support of the 0.50 FTE will not be forthcoming to continue the Joint Appointee's employment, written confirmation of termination must be given to the Joint Appointee no later than 90 days prior to the stated date of termination given in the Division Director's notice of intent to terminate due to lack of funds.

(vii) Completion of the Plan. At the end of the period covered by the Plan, the Division Director will submit a report to the Laboratory Director and the Laboratory Staff Committee describing the actions taken and their results.

10. Project Scientist/Engineer

a. Description

The Project Scientist/Engineer position is either a limited position or a term position with a maximum length of five years. It is not a career-track position. It is used for specific projects of limited duration. The five-year maximum does not include time spent in Postdoctoral Fellow appointments.

b. Qualifications

Qualifications for Project Scientist/Engineer positions are appropriate to the work to be performed. In most cases, they will be analogous to the qualifications for one of the Research Scientist/Engineer-, Staff Scientist/Engineer-, or Senior Scientist/Engineer-level positions listed above.

c. Appointment

The appointment is approved by the Division Director. If the initial appointment is between six and twelve months, the individual must be on a fixed, 100% time schedule. If the initial appointment is one year or more, the appointment must be fixed at 50% time or more.

d. Work Deferment

A Project Scientist/Engineer employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Termination of Appointment

i. Project Scientist/Engineer appointments end automatically on the current expiration date unless the employee is given advance written notice that their appointment will be extended.

ii. The employment of a Project Scientist/Engineer may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case the employee will be given at least 90 days' advance written notice before termination.

11. Visiting Faculty and Visiting Researcher

a. Description

i. Visiting Faculty. Visiting Faculty is a position for faculty members from universities and colleges outside the University of California system. The appointment is a limited appointment (See RPM §2.01(K)(5)).

ii. Visiting Researcher. A Visiting Researcher is on an approved leave from his or her home institution. The home institution does not need to be a university or college, nor does the individual have to be a faculty member of any institution. Appointments are for one year but may be extended for a second year on an exception basis with the approval of the Laboratory Deputy Director.

b. Qualifications

Qualifications for both Visiting Faculty and Visiting Researcher positions are appropriate to the work to be performed. In most cases, they will be analogous to the qualifications for one of the Research Scientist/Engineer-, Staff Scientist/Engineer-, or Senior Scientist/Engineer-level positions listed above.

c. Appointment

Appointments to both Visiting Faculty and Visiting Researcher positions are made by the Division Director. A search is not required.

d. Termination of Appointment

Termination of an appointment as Visiting Faculty or Visiting Researcher may be made at any time by the Division Director. In the case of a Visiting Researcher member in a term appointment, the procedures in RPM §2.21(D) (*Release of Employees in Term Appointments)* must be followed.

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§2.08
Vacation Leave

Responsible Manager

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A. GENERAL

Vacations with pay are provided to give employees periods of relaxation from their normal duties and responsibilities. Vacations should be taken each year in approximate relation to the amount of credit earned.

B. VACATION CREDIT ACCRUAL RATES

Employees who are eligible to receive vacation with pay will accrue vacation credit, depending on their job classification or length of service with the University or the state of California, as follows:

1. Nonfaculty Career and Term Employees

a. With less than 10 years of service at half time or more: 1-1/4 days (10 hours) per month.

b. With between 10 and 15 years of service at half time or more: 1-1/2 days (12 hours) per month.

c. With between 15 and 20 years of service at half time or more: 1-3/4 days (14 hours) per month.

d. With over 20 years of service at half time or more: 2 days (16 hours) per month.

2. Students

Graduate student research assistants and student assistants do not accrue vacation credit. See RPM §2.01(D) (*Types of Appointments*).

3. Accrual Basis

Vacation credit accrual, based on not more than five eight-hour days per week, will accrue at the normal rate during leave with pay, except during extended military leave and professional research or teaching leave.

4. Short Month's Work

An employee in pay status at least half the working hours of a month (including holidays) accrues vacation credit at the normal rate. An employee in pay status less than half the working hours of a month accrues vacation credit on a pro rata basis according to the number of hours worked in that month. Full-time employees accrue vacation credit in accordance with Paragraph (B)(1), above. Part-time employees accrue vacation credit in accordance with Paragraph (B)(6), Table 2.08(B)(2), below.

5. Limited Employees and Employees Working Variable Time Schedules

Table 2.08(B)(1)
Vacation Credit for Limited Employees

Limited Employee hired 50% or more % time, and the initial appointment duration is less than 6 months	Limited Employee hired 50% or more % time, and the appointment duration is greater than or equal to 6 months	Limited Employee hired 50% or more % time, the appointment duration is less than 6 months, and the appointment is then extended beyond 6 months
No vacation credit.	Vacation credit starts on date of hire.	Vacation credit starts after 6 months of service. There is no vacation credit for the first 6 months of employment.

Employees working variable time schedules do not accrue vacation credit.

6. Part-Time Employees

Part-time nonfaculty employees accrue vacation credit each month, based on length of service and the amount of full time worked, as shown in Tables 2.08(B)(2)–(5).

Table 2.08(B)(2)
Vacation Credit for Part-Time, Nonfaculty Employees Having Less Than 10 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)	Percentage of time for which	Hours of vacation credit earned

160-hour month	168-hour month	176-hour month	184-hour month	monthly paid employee receives pay	
0–79	0–83	0–87	0–91	0–49	0
80–87	84–92	88–96	92–101	50–54	5
88–103	93–109	97–114	102–119	55–64	6
104–119	110–125	115–131	120–137	65–74	7
120–135	126–142	132–149	138–156	75–84	8
136–151	143–159	150–167	157–174	85–94	9
152–160	160–168	168–176	175–184	95–100	10

Table 2.08(B)(3)
Vacation Credit for Part-Time, Nonfaculty Employees Having 10 but Less Than 15 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of vacation credit earned
160-hour month	168-hour month	176-hour month	184-hour month		
0–79	0–83	0–87	0–91	0–49	0
80–86	84–91	88–95	92–99	50–54	6
87–99	92–104	96–109	100–114	55–62	7
100–113	105–119	110–124	115–130	63–70	8
114–126	120–133	125–139	131–145	71–79	9
127–139	134–146	140–153	146–160	80–87	10
140–153	147–161	154–168	161–176	88–95	11
154–160	162–168	169–176	177–184	96–100	12

Table 2.08(B)(4)
Vacation Credit for Part-Time, Nonfaculty Employees Having 15 But Less Than 20 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of vacation credit earned
160-hour month	168-hour month	176-hour month	184-hour month		
0–79	0–83	0–87	0–91	0–49	0
80–85	84–90	88–94	92–98	50–53	7
86–97	91–102	95–106	99–111	54–60	8
98–108	103–114	107–119	112–124	61–67	9
109–119	115–125	120–131	125–137	68–74	10
120–131	126–138	132–144	138–151	75–82	11

132–142	139–150	145–157	152–164	83–89	12
143–154	151–162	158–169	165–177	90–96	13
155–160	163–168	170–176	178–184	97–100	14

Table 2.08(B)(5)
Vacation Credit for Part-Time, Nonfaculty Employees Having 20 or More Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of vacation credit earned
160-hour month	168-hour month	176-hour month	184-hour month		
0–79	0–83	0–87	0–91	0–49	0
80–84	84–89	88–93	92–97	50–53	8
85–94	90–99	94–104	98–109	54–59	9
95–104	100–110	105–115	110–120	60–65	10
105–114	111–120	116–126	121–132	66–71	11
115–124	121–131	127–137	133–143	72–78	12
125–134	132–141	138–148	144–155	79–84	13
135–144	142–152	149–159	156–166	85–90	14
145–154	153–162	160–170	167–178	91–96	15
155–160	163–168	171–176	179–184	97–100	16

C. SCHEDULING OF VACATIONS

1. Scheduling

Vacations are scheduled according to the needs of the Laboratory, with due consideration of the wishes of each employee.

2. Limitations on Vacation Credit

When work conditions make it difficult to schedule vacation for an employee, vacation credit may be accrued to a maximum as follows:

a. Thirty days (240 hours) for employees with less than 10 years of service at half time or more.

b. Thirty-six days (288 hours) for employees with between 10 and 15 years of service at half time or more.

c. Forty-two days (336 hours) for employees with between 15 and 20 years of service at half time or more.

d. Forty-eight days (384 hours) for employees with 20 years of service at half time or more.

3. Responsibility of Division Director or Department Head

Division directors or department heads must monitor monthly employee vacation credit reports and schedule vacations for each employee so that no employee is required to lose vacation credit because of Laboratory work needs.

4. Religious Holidays

Absence for religious holidays and other personal reasons will normally be charged to vacation.

5. Participation in School Activities

An employee who is a parent or guardian of a child attending a licensed day-care facility or enrolled in kindergarten or grades 1–12, inclusive, may use accrued vacation credit up to eight hours per calendar month (not to exceed 40 hours per school year) for the purpose of participating in day-care facility or school activities. Employees must provide reasonable notice of the planned absence to their immediate supervisors.

6. Current Month's Vacation Credit

Vacation credit is not accrued until the end of the month during which it is earned and will not be used until the month has elapsed. An eligible employee terminating before a month's end, however, accrues proportionate credit through the last day on pay status.

7. Advance Vacation Credit Accrual

Up to two days' advance use of vacation credit accruals for the months of December and January may be used to facilitate implementation of Christmas/New Year's holiday closures. This exception applies only to new employees who have not had sufficient time to accrue adequate vacation balances and to other special cases where adequate vacation balances do not exist.

8. Vacation Pay Restrictions

An employee will not be paid for vacation earned in one University position while on pay status in any other position paid through University-administered funds. This does not apply to vacation payment in case of transfer of an employee between University contracts or fund sources.

D. USE OF VACATION CREDIT WHILE ON TRAVEL STATUS

1. Approvals

Scheduling of vacation to be taken by an employee while on official travel status must be approved in advance.

2. Delay

When an employee is on travel status, a delay en route on a regular workday for other than Laboratory business is normally charged to the employee's vacation credit.

E. VACATION CREDIT OF TRANSFERRING EMPLOYEES

1. Between Laboratory and Other University Locations

University employees who transfer from another University fund source to the Laboratory, or vice versa, will be paid for accumulated vacation credit, up to the maximum credit normally allowed by the contract or other fund sources from which they transfer.

2. Between Laboratory Divisions

The vacation credit of employees is usually not affected by transfer between Laboratory divisions. When an employee transfers from a benefit-accruing classification to a non-benefit-accruing classification, however, any vacation credit he or she may possess on the effective date of the change will be paid in a lump sum.

F. TERMINAL VACATION PAY

An employee who terminates from Laboratory employment is paid for vacation credit accrued through his or her last day on pay status. An employee who is granted extended military leave may elect to be paid for vacation credit accrued through his or her last day on pay status. See RPM §2.14(E)(3) *(Extended Military Leave)*. The amount to be paid is based on the employee's official attendance and leave records maintained by the Human Resources Department/Payroll. In the case of the death of an employee,

payment is regulated by state law. See RPM §2.21(H) (*Termination by Death*).

G. VACATION OR LEAVE DURING ASSIGNMENTS AT REMOTE SITES

1. Advance Approval

Plans to schedule vacation leave or leave without pay during assignments to remote areas must be shown on Stock Form 7600-55336 (*Request and Authorization for Official Travel*) and approved in writing in advance by the employee's division director or department head and by the Head of the Human Resources Department.

2. Post-Approval

Requests to take vacation or leave without pay, subsequent to approval of Stock Form 7600-55336 (*Request and Authorization for Official Travel*), must be made by TWX or other correspondence. Such requests must also be approved by the employee's division director or department head and by the Laboratory Director or designee. Copies of this correspondence must accompany the travel claim vouchers submitted on completion of the test-area assignment.

3. Time Allowable

Vacation leave, other leave with pay, or leave without pay taken while on test-area assignments may not normally exceed the length of time spent on official business at the test area during any one test-area tour of duty.

H. USE OF VACATION LEAVE FOR CATASTROPHIC LEAVE SHARING

Under the provisions of the Catastrophic Leave Sharing Policy, RPM §2.26(A), an employee may donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee who has exhausted his or her sick and vacation leaves due to a serious medical condition, as defined in RPM §2.26(B)(1), affecting him or her or a family member or other person, as defined in RPM §2.26(B)(2)(b) and (c).

I. PAYOUT OF VACATION CREDIT AT CHANGE OF STATUS

Employees will be paid for accrued vacation credit at the time they change from a vacation-accruing appointment to an appointment that does not. The payment will be made at the time of the change in appointment and at the rate prior to the change.

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§2.09
Sick Leave

Responsible Manager

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A. POLICY

Sick leave is provided to continue the salary of eligible Laboratory employees who would otherwise be on pay status but who are unable to work because of illness or disability; for medical, dental, and optical appointments; and on a limited basis in the event of death or illness of a family member. Sick leave accrues each month, based on the percentage of time or number of hours the employee is on pay status during that month. Supervisors are responsible for administering the sick-leave policy to prevent abuses and inequities. Questions concerning the intent of sick-leave policy should be referred to the Human Resources Department.

B. RATE OF EARNING SICK LEAVE

Sick leave accrues at the rate of eight hours per month for full-time employment.

C. ACCRUAL OF SICK LEAVE

An employee accrues full or proportionate sick-leave credit each month as shown in Table 2.09(C), below. Sick-leave accrual is

based on a maximum eight-hour workday and a forty-hour work week, including extended workweek situations. Part-time employees cannot accrue sick leave for more than an eight-hour workday or for more than the number of hours of work normally scheduled. The following additional criteria also apply to sick-leave accrual.

1. Career Employees

An employee must be on pay status at least half the working hours of the month to accrue sick leave for that month:

Exception. A half-time biweekly employee who works a normal half-time schedule will be credited with four hours of sick leave even if the employee was in pay status less than half the working hours of a particular month.

2. Limited Employees

Limited employees working a 50% or more time schedule accrue sick-leave credit in accordance with the provisions of Table 2.09(C) below.

3. Employees Working Variable Time

Employees who work variable time schedules do not accrue sick-leave credit. (See RPM §3.01(C)(3).)

Table 2.09(C)
Sick-Leave Credit for Part-Time Employees

Number of hours for which hourly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of sick-leave credit earned
160-hour month	168-hour month	176-hour month	184-hour month		
0–79	0–83	0–87	0–91	0–49	0
80–89	84–94	88–98	92–103	50–55	4
90–109	95–115	99–120	104–126	56–68	5
110–129	116–136	121–142	127–149	69–80	6
130–149	137–157	143–164	150–172	81–93	7
150–160	158–168	165–176	173–184	94–100	8

4. Accrual During Leave with Pay

Sick leave accrues during leave with pay, except for professional research or teaching leave.

5. Accrual for Terminating Employees

Sick leave for each month accrues at the end of the month, except that an eligible terminating employee accrues proportionate sick leave through the last day on pay status.

6. Accrual for Overtime

Sick leave does not accrue for time on pay status in excess of 40 hours in any work week.

7. Limitations on Accrual and Use of Sick Leave

There is no maximum on the amount of sick leave that may be accrued or the amount that may be used in any year.

8. Accrual During Leave Without Pay

An employee who is on approved leave of absence without pay, but who was in pay status at least half the working hours of a month (including holidays), earns sick leave at the normal accrual rate. An employee in pay status less than half the working hours of a month earns no sick leave credit for that month.

D. USE OF SICK LEAVE

Accumulated sick-leave credit may be used only when an employee is unable to work due to sickness, injury, or quarantine; for medical, dental, or optical appointments; or for family illness or death in the family. Sick leave for medical, dental, or optical appointments is limited to reasonable travel and appointment times only. An employee cannot use sick leave before the time it is accrued.

1. Termination

An employee may not use sick leave beyond a predetermined date of separation, including retirement or layoff or any leave without pay.

2. Proof of Illness, Injury, Disability, or Bereavement

An employee may be required to submit satisfactory proof of illness or disability in the form of a physician's statement or other administratively acceptable evidence. Proof of illness or bereavement in the family may also be required.

3. Use of Sick Leave for Childbearing

Employees are strongly encouraged to contact Health Services for confidential counseling regarding their pregnancy status as well as any work-related issues.

4. Use of Sick Leave for Illness in Employee's Family

An employee may use up to 30 days of accrued sick leave in any calendar year (i.e., January 1 through December 31) when required to be in attendance or to provide care because of the illness of the employee's spouse, domestic partner, parent, child (including the child of a domestic partner), sibling, grandparent, grandchild, in-law, or step-relative in the same relationship; or any other person who is residing in the employee's household for whom there is a personal obligation. This privilege is not intended to cover baby-sitting. Sick leave charged for this purpose should be shown by the symbol "F" (for Family Leave) instead of the normal symbol "E." See Paragraph (D)(6), below, for additional sick leave allowance for death in the family.

An eligible employee who has requested vacation-leave donations from other employees for the purpose of caring for a catastrophically ill person shall first exhaust his or her accrued sick-leave balance even when doing so results in exceeding the 30-day limit otherwise imposed on the use of sick leave for family illness. See RPM §2.26 (*Catastrophic Leave Sharing*).

5. Use of Sick Leave During Vacation Periods

Any time charged to sick leave included within or immediately following a vacation period is acceptable as a charge against sick-leave credit as long as specific approval is given by the employee's supervisor. Specific approval will be based on a physician's statement or other administratively acceptable evidence. If such approval is not given, the absence will be charged to vacation leave or leave without pay if the employee has no accrued vacation credit.

6. Use of Sick Leave for Death in Family

An employee is permitted to use not more than five days of accrued sick leave when the employee's presence is required because of the death of the employee's mother, father, husband, wife, son, daughter, brother, or sister; grandparent, grandchild, in-law, or step-relative in the same relationship; or any other person who is residing in the employee's household for whom there is a personal obligation. In addition, an employee is permitted to use not more than five days of sick leave in any calendar year in the event that he or she has a personal obligation with regard to funeral attendance or bereavement because of the death of any other person. This is in addition to the sick leave allowance for illness in the employee's family. See Paragraph (D)(4), above.

7. Full-Time Employees

Use of sick leave is limited to a maximum of eight hours per day and forty hours per week, including extended workweek situations.

8. Part-Time Employees

Sick-leave charges that would result in a part-time employee's being paid for more than eight hours per day or for more than the number of hours per week formally scheduled are not allowed.

9. Employees Working Variable Time

Employees who work variable time do not accrue sick-leave credit, but sick-leave credit previously earned while an employee works a definite schedule may be charged as long as the employee was scheduled to work the days and hours for which sick leave is claimed. Use of sick leave is limited to the number of hours the employee was scheduled to work.

10. Sick Leave Beyond Current Credit

When sick-leave credit is exhausted, vacation-leave or leave-without-pay rules apply unless the employee qualifies for, and receives, catastrophic leave-sharing credits (RPM §2.26).

11. Medical Clearance to Return to Work

On returning to work after any lost time due to illness or injury occurring at work, employees must report to Health Services for an evaluation of their condition and ability to resume customary work. When an employee has been absent for five or more consecutive workdays because of his or her own serious illness or injury unrelated to work, he or she must provide Health Services with a release to return to work. This release must include any information regarding medical restrictions that may affect the employee's ability to perform his or her job, as certified by the treating physician. For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

E. ILLNESS DURING WORKING HOURS

When an employee becomes ill during working hours, advice may be sought from Health Services.

F. TRANSFER AND REINSTATEMENT OF SICK LEAVE

1. Transfer of Sick Leave

An employee who terminates from a position in which sick-leave credit is accrued at another part of the University for the purpose of accepting employment in a position at the Laboratory will have all such credit transferred. If the Laboratory position is one in which sick-leave credit is not accrued, however, the employee's prior credit is not transferable. If the employee later changes to a position in which sick-leave credit is accrued, the previously accrued credit will be reinstated.

2. Reinstatement of Sick Leave

Sick-leave credit accumulated in previous employment with the University or the state of California may be reinstated on the following basis:

a. An employee who is re-employed after a break in service of less than 15 calendar days will have all sick leave from the immediate prior service reinstated.
b. An employee who is re-employed after a break in service of 15 or more calendar days but less than 6 months will have sick leave accrued in prior service reinstated not in excess of 80 hours.
c. An employee who is re-employed from recall status or preferential-rehire status will have all accrued sick leave from prior service reinstated.

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§2.10
Holidays

Responsible Manager

Rev. 02/09

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A. OFFICIAL UNIVERSITY HOLIDAYS

The Laboratory observes official University holidays as listed below. These holidays are granted with pay to employees, except as otherwise stated in subsequent paragraphs below. The days listed below or announced equivalents are usually observed as holidays:

- New Year's Day
- Third Monday in January
- Third Monday in February
- Last Monday in May
- July 4
- Labor Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- December 24 or 26
- Christmas Day
- December 31 or January 2
- One floating holiday that may be used, at the employee's discretion, on Cesar Chavez Day (the last Friday in March), Veterans Day (November 11), or during the annual winter holiday shutdown.

When one of the listed days occurs on a Sunday, the following Monday is observed as a holiday. When a holiday falls on a Saturday, the preceding Friday is observed as a holiday unless an alternate day is designated by the Laboratory Director.

The Laboratory will be open on both Cesar Chavez Day and Veterans Day and closed during the winter holiday shutdown. Employees electing to use the floating holiday on either Cesar Chavez Day or Veterans Day will be required to use a third vacation day or leave without pay day during the winter holiday shutdown.

The floating holiday must be taken during the calendar year and cannot be accrued for future use.

B. PAY POLICY FOR WORK PERFORMED ON HOLIDAY

1. Exempt Employees

Exempt employees do not normally receive extra compensation when their assignment requires work on a holiday.

2. Nonexempt Employees

Nonexempt employees are paid for time worked on a holiday. They normally receive a full day's holiday pay, plus pay for any portion of the day worked, to the nearest hour for monthly salaried personnel and to the nearest quarter hour for hourly rated personnel.

3. Irregular Schedules

Nonexempt employees who are working irregular full-time schedules are entitled to the same number of paid holiday hours granted to regularly scheduled employees. An employee whose regular day off falls on a holiday observed by the Laboratory receives holiday pay.

4. Cesar Chavez Day and Veterans' Day

Nonexempt employees working on Cesar Chavez Day and Veterans' Day will be paid for hours worked only. They will not receive additional holiday pay.

C. HOLIDAY PAY POLICY FOR PART-TIME EMPLOYEES

1. Variable Hour Schedules

Employees who work variable time schedules do not earn holiday time off with pay.

2. Fixed Hours

Part-time employees who are scheduled to work half-time or more are allowed holiday time off with pay in accordance with the following table:

Table 2.10(C)
Holiday Credit for Part-time Employees

Percentage of full time	Hours of holiday pay per holiday
Under 50	0
50–56	4
57–68	5
69–81	6
82–93	7
94–100	8

D. HOLIDAYS DURING LEAVE WITHOUT PAY

1. Short-Term Leave

A full-time employee on approved, nondisciplinary leave of absence without pay for no more than 20 calendar days is eligible to be paid for any holidays occurring during the leave period.

2. Extended Leave

An employee on leave without pay for more than 20 calendar days is not eligible to be paid for any holidays that occur during or immediately before the leave period begins.

E. RELIGIOUS HOLIDAYS

The observance of a religious holiday may be permitted by a division director or department head. In such cases, time off is charged to accumulated vacation credit. If no credit has been accumulated, the time off will be handled as leave without pay for nonexempt employees and, at the discretion of the division director or department head, for exempt employees.

F. HOLIDAY PAY FOR NEW EMPLOYEES

A new full-time employee will be paid for any holiday immediately preceding his or her first day of work if the holiday is the first working day of a pay period. This rule does not apply to part-time employees.

G. HOLIDAY PAY FOR TERMINATING EMPLOYEES

A terminating full-time employee will receive pay for any holiday immediately following his or her last day of work if the holiday is the last working day of a pay period. This rule does not apply to part-time employees.

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§2.11
Miscellaneous Leave with Pay

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  - **1. Public Emergencies**
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  - **3. Anticipated Power Interruptions**

A. COURT LEAVE

1. Jury Duty

Full-time career employees on any shift or work schedule are granted leave with pay for actual time on jury duty, including grand-jury duty, and related travel not to exceed the number of hours in the employee's normal workday and work week. The leave with pay is payable at the straight-time rate (including shift differential, if applicable) and will not be counted as time worked for the purpose of computing overtime premium pay.

Part-time career employees at 50% time or more are granted leave with pay for actual time spent on jury duty, including grand-jury duty, and related travel that occur during the employee's regularly scheduled hours of work. All such leave is charged to court leave.

2. Administrative or Legal Proceedings

a. Time spent by an employee attending an administrative or legal proceeding on behalf of the Laboratory or the University is counted as time worked. See RPM §2.05(D)(6)(a)(v) (*Pay Status for Time Spent in Complaint Resolution*).

b. When served with a subpoena that compels their presence as a witness (other than as a paid expert witness), full-time career employees on any shift or work schedule are granted leave with pay for actual time spent at administrative or legal proceedings and in related travel, not to exceed the number of hours in a normal workday and work week. The leave with pay is payable at the straight-time rate (including shift differential, if applicable) and will not be counted as time worked for the purpose of computing overtime premium pay. Part-time career employees at 50% time or more are granted leave with pay for actual time spent at proceedings and in related travel that occur during the employee's regularly scheduled hours of work.

c. Leave with pay is not granted when an employee is the plaintiff or defendant in a proceeding, is called or subpoenaed as a paid expert witness not on behalf of the Laboratory or the University, or is called or subpoenaed because of duties for another employer. The time off in these situations is charged to vacation or leave without pay.

B. VOTING TIME

An employee will be granted necessary time off with pay, not to exceed two hours, for voting in any statewide primary or general election if the employee is scheduled to work eight hours or more on that day and does not have time to vote outside working hours.

C. AUTHORIZED LEAVE WITH PAY

1. Exempt Employees

For exempt employees only, in consideration of unusual circumstances or unusual effort, leave of absence with pay may be granted as described below. Such leave may not be used, however, to balance extra work on an hour-for-hour basis. Normally, authorized leave will not be used in connection with vacation time. Exceptions to this limitation may be made by the Division Director or Department Head when such action is in the best interests of the department or division work schedule.

a. Up to three workdays in a month may be granted an exempt employee by the division director with supporting explanation of special circumstances requiring the leave shown on or attached to the Payroll Time Report.

b. More than three workdays a month may be granted only with the approval of the Laboratory Director. Such recommendations must be made on Stock Form 7600-55050 (*Personnel Action Form* (PAF)), which is submitted to the Human Resources Department.

2. Unusual Circumstances

Up to five working days of leave with pay may be granted by the Laboratory Director to any employee to cover unusual circumstances. If adequate sick-leave and vacation credits exist, leave will be charged to such credits.

D. SUPPLEMENTAL DISABILITY LEAVE

See RPM §2.15 (*Workers' Compensation Insurance*).

E. PUBLIC EMERGENCIES

When authorized by the Associate Laboratory Director for Operations (ALDO) or designee, leave with pay may be allowed in the following circumstances:

1. Public Emergencies

Leave with pay may be allowed during public emergencies that effectively prevent an employee from attendance at work or continuance of work in a normal and orderly manner. A public emergency includes fire, explosion, power failure, flood, earthquake, snowstorm (Washington, D.C., offices only), protest demonstration, riot, sabotage, and other comparable occurrences. When an employee is absent because of personal reasons resulting from a public emergency, the employee should charge this absence to accrued vacation or leave without pay.

2. Civil Disaster Units

Leave with pay may be allowed for search-and-rescue or disaster-control work by an employee as a member of an organized civil disaster unit. Leave with pay is not granted for training, drills, or practice exercises.

3. Anticipated Power Interruptions

Under the terms of its electric-power agreement, the Laboratory may experience periods of reduced power. In some areas such interruptions may require lighting, temperature, and humidity changes as well as restricted use of electrical equipment such as typewriters, calculators, and computer terminals. If these conditions effectively prevent an employee from performing his or her work and alternate assignments appropriate to the employee's job classification are not available, the Division Director or designee may request authorization from the ALDO to grant leave with pay for the period during which the employee's work cannot be performed.

§2.12
Leave of Absence Without Pay

Responsible Manager

Revised 1/09

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A. GENERAL

An employee may be granted a leave of absence without pay for reasons such as illness or work-incurred disability, parental leave, pregnancy disability leave, the need to provide care for members of his or her family, education that will directly increase job effectiveness, or outside research or business activities. In granting the leave, the department or division head will consider the best interests of the Laboratory and the likelihood that the employee, if in good health, will return after the leave for a worthwhile period of time. The department or division will hold open a position during the employee's requested leave of absence without pay in accordance with Paragraphs (H)-(I), below. Leave without pay granted for medical reasons, leave granted for child bearing, and work-incurred disability may require written certification from the employee's health-care provider.

B. BENEFITS DURING LEAVE OF ABSENCE WITHOUT PAY

Certain benefits continue during an approved leave of absence without pay, as noted below. Such leaves do not constitute a break in service.

1. Accrual of Vacation and Sick Leave

Employees do not accrue vacation or sick-leave credit and are not allowed any paid leave during leave of absence without pay, except as provided in RPM §2.08(B)(4) (*Short Month's Work*), §2.09(C)(8) (*Accrual During Leave Without Pay*), and §2.10(D)(1) (*Short-Term Leave*). Accrual of vacation and sick-leave credits are resumed on the employee's return to pay status.

2. Health Plan Coverage

An employee on an approved family care and medical leave is entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for up to 12 work weeks in a 12-month period. An employee on any other type of leave without pay may be allowed to continue to receive health plan coverage for a period of up to 24 months but must make arrangements for payment of premiums.

3. Retirement and Group Insurance

For the effect of a leave of absence without pay on retirement and group insurance, employees should contact the Benefits Office.

C. AUTHORIZATION OF LEAVE OF ABSENCE WITHOUT PAY

1. Approval

Leaves of absence without pay require authorization as provided in the following table. Family Medical Leave Act (FMLA) leave and pregnancy disability leave do not require the authorizations indicated below unless the leave extends beyond four months, the employee is not eligible for those types of leave, or the employee has exhausted his or her FMLA leave or pregnancy disability leave benefits.

Table 2.12(C)
Authorization for Leaves of Absence Without Pay

Duration	Division director/ department head	HR head or designee	Associate Laboratory Director for Operations
≤ 6 months	x		
> 6 months to ≤12 months	x	x	
> 12 months	x	x	x

2. Justification

Recommendations for leaves of absence without pay require the submission of a memorandum of justification to the division director. Justification should include the following:

a. The approximate dates between which the absence is planned.

b. The reason for the absence.

c. Acknowledgment that the employee understands that the leave of absence without pay, if granted, is subject to any limitations caused by changes in the research program or employment levels that would have affected the employee if he or she had not been on leave.

3. Use of Vacation and Sick-Leave Credit

Unless otherwise requested by the employee and approved by the division director or department head, approved leave without pay begins when all vacation and applicable sick leave credit has been exhausted. See RPM §2.09 (D) (*Use of Sick Leave*). This provision does not apply to family care and medical leave. See RPM §2.13(E) (*Use of Accrued Paid Leave*).

D. EXHAUSTION OF LEAVE CREDITS

When an employee's vacation and sick-leave credit is exhausted during a period of paid leave, the employee's division or

department is responsible for submitting a Personnel Action Form (PAF) (Stock Form 7600-55050) in either paper or electronic form to the Payroll Unit.

E. NATIONAL DEFENSE LEAVE

Upon approval of the Laboratory Director, leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. Such an employee is not eligible for the pay for military leave that is provided in RPM §2.14 (*Military Leave*).

F. PREGNANCY DISABILITY LEAVE

1. Definition

An employee disabled from working because of pregnancy, childbirth, or related medical conditions is eligible for and, on the employee's request, must be granted a leave of absence for up to four months during the period of disability. Pregnancy disability leave may consist of leave without pay and/or paid leave such as accrued sick leave and/or accrued vacation leave.

If the period of disability continues beyond four months, a personal leave may be granted. Employees are strongly encouraged to contact Health Services for confidential counseling regarding their pregnancy status as well as any work-related issues.

2. Coordination with Family Care and Medical Leave

If an employee on approved pregnancy disability leave is also eligible for family care and medical leave under RPM §2.13 (*Family Care and Medical Leave*), up to 12 work weeks of pregnancy disability leave will run concurrently with family care and medical leave under federal law. On termination of concurrent leave, an employee is also entitled to up to 12 work weeks of state family care and medical leave for any covered reason except pregnancy or related medical conditions.

3. Reduced Work Schedule

When medically necessary, an employee may take pregnancy disability leave on a reduced work schedule or an intermittent basis. The Laboratory may require an employee who is on a reduced work schedule or intermittent leave to temporarily transfer to an alternative position if this position better accommodates the required work schedule than the employee's own position. Exempt employees may elect to use accrued vacation and/or sick leave in four-hour increments in lieu of unpaid leave. Nonexempt employees may elect to use accrued vacation and/or sick leave in half-hour increments in lieu of unpaid leave.

4. Reinstatement

The employee will be reinstated to his or her same position as long as the employee returns to work within four months and immediately following termination of pregnancy disability leave. If the employee would have been laid off or terminated had he or she remained on pay status during the leave period, reinstatement will be to a similar job at the same location. If a similar position is not available, the employee will be afforded the same considerations extended to other employees who are laid off or terminated (see RPM §2.21(B) (*Reduction in Force*)).

5. Light Duty

As an alternative to, or in addition to, pregnancy disability leave, the Laboratory will temporarily modify a pregnant employee's position or transfer a pregnant employee to a less strenuous or hazardous position under the following circumstances:

a. On the employee's request.

b. With the advice of the employee's health care provider.

c. If the temporary modification or transfer can be reasonably accommodated.

A temporary modification or transfer will not be counted toward an employee's entitlement to up to four months of pregnancy disability leave. An employee will be reinstated to the same or similar position under Paragraph (F)(4), above. Additional

provisions apply when the employee takes a medical leave in connection with her pregnancy. See RPM §2.13(H) (*Interaction of Family Care and Medical Leave with Pregnancy Disability Leave*).

G. LEAVE FOR WORK-INCURRED DISABILITY

An employee who is off pay status because of a work-incurred illness or injury may be placed on leave without pay, except that any leave without pay that is granted will not extend beyond a predetermined date of separation. When an employee is (1) on a workers' compensation absence because of an on-the-job injury or illness and (2) eligible for leave under the Family Medical Leave Act (FMLA), the workers' compensation absence and FMLA leave will run concurrently. See also RPM §2.13 (*Family Care and Medical Leave*) and §2.15 (*Workers' Compensation Insurance*).

H. PERSONAL LEAVE

A career employee may be granted a leave without pay for personal reasons such as education that will directly increase job effectiveness. In granting such a leave, the department or division head will consider the best interests of the Laboratory. The employee will be reinstated to the same or, at the department's or division's discretion, a similar position in the same department as long as the employee returns to work immediately following the end of the leave. If the employee would have been laid off or terminated had he or she remained on pay status during the leave period, the provisions of Paragraph (I)(1), below, and RPM §2.21(B) (*Reduction in Force*) will apply.

I. RETURNING FROM APPROVED LEAVE OF ABSENCE WITHOUT PAY

1. Returning to Work

An employee who is granted a leave of absence without pay is reinstated to the same or similar position at the expiration of leave unless otherwise agreed when the leave was granted or unless changes in the research program or employment levels have occurred that would have affected the employee had he or she not been on leave. See the special provisions on reinstatement following family care and medical leave (RPM §2.13(J) (*Returning to Work*)) and reinstatement following a pregnancy disability leave (Paragraph (F)(4), above). For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

If the position has been abolished during a leave without pay, the employee must be reinstated to a similar job in the same department (at management's discretion if the leave was a personal leave). If a similar job is not available, the employee must be afforded the same considerations that would have been available had he or she been on pay status when the position was abolished. See RPM §2.21(B) (*Reduction in Force*).

2. Medical Clearance

Under RPM §2.09(D)(11) (*Medical Clearance to Return to Work*), when an employee has been absent for five or more consecutive workdays because of his or her illness or injury unrelated to work, he or she is required to provide a release to return to work to Health Services. The release must include any information regarding medical restrictions, as certified by the treating physician, that may affect the employee's ability to perform his or her job.

3. Failure to Return to Work

a. **Medical Reasons**

If the employee fails to return to work for medical reasons and all available leave has been exhausted, the employee must be informed in writing of the availability of reasonable accommodation under RPM §2.01(B)(4) (*Reasonable Accommodation)*.

If the employee fails to respond or declines participation in the reasonable accommodation process, the employee may be terminated under RPM §2.21(E) (*Medical Separation)* if all leave credits provided in RPM §2.13(F) (*Duration of Leave*) and (G) (*Supplemental Family Care and Medical Leave*) have been exhausted.

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services

/pp/index.shtml.

b. **Nonmedical Reasons**

If the employee fails to return to work for nonmedical reasons and all available leave has been exhausted, the employee will be placed on unapproved leave without pay pending clarification of the reasons for the failure to return. See §RPM 2.05(L) (*Unauthorized Absences and Job Abandonment*).

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services /pp/index.shtml.

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§2.13
Family Care and Medical Leave

Responsible Manager

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A. GENERAL

The Laboratory complies with the California Family Rights Act of 1991 (CFRA) and the federal Family Medical Leave Act of 1993 (FMLA). The Human Resources Department should be consulted on any questions relating to an employee's request for family care and medical leave.

B. ELIGIBILITY AND AUTHORITY

Employees who have at least 12 months of University/Laboratory service and who have worked at least 1,250 hours during the 12 months before the leave are entitled, on request, to up to 12 work weeks of unpaid leave in a calendar year for an eligible employee's serious health condition; the serious health condition of the employee's family member (child, spouse, or parent); same- or opposite-sex domestic partner; or the need to care for the employee's newborn, adopted, or foster child (parental leave). A parental leave must be concluded within one year after birth or placement of the child. The cognizant division director or department head, in consultation with the Human Resources Department, will determine whether the employee is eligible and qualifies for a FMLA leave and will notify the employee in writing when the leave is designated as FMLA leave. The duration and terms of the leave and the date of return are determined when the leave is granted.

If the need for leave for the same condition that is in progress continues beyond 12 work weeks, a career employee is entitled to supplemental unpaid leave for an additional 12 work weeks in accordance with Paragraph (G), below.

C. NOTIFICATION

If possible, employees must provide at least 30 days' advance notice for foreseeable events (e.g., the expected birth of a child or a

planned medical treatment for themselves or a family member). Failure to provide notice of foreseeable events may result in postponement of the leave. For unforeseeable events, employees must notify their supervisor, at least verbally, as soon as practicable.

D. CERTIFICATIONS

1. Medical

When requesting leave for his or her serious health condition or to care for a child, parent, spouse, or domestic partner who has a serious health condition, an employee must support the request with medical certification issued by the health care provider of the individual requiring care.

2. Familial Relationship

At its discretion, the Laboratory may require that an employee requesting leave to care for a family member or domestic partner with a serious health condition or requesting parental leave provide documentation of the familial relationship, proof of birth, or placement for adoption or in foster care.

E. USE OF ACCRUED PAID LEAVE

Family care and medical leave is unpaid.

1. Employee's Serious Health Condition

An employee on leave for his or her own serious health condition must use accrued sick leave in accordance with the University's disability insurance plans or as provided in RPM §2.15(D) (*Compensation While Absent Because of Work-Incurred Disability*). Employees not eligible for University disability insurance and not on leave because of a work-incurred injury or illness must use all accrued sick leave before taking leave without pay. If sick leave is exhausted, an employee may elect to use accrued vacation time before taking leave without pay.

2. Family Illness

An employee on family care leave for family illness may use either sick leave in accordance with RPM §2.09(D)(4) (*Use of Sick Leave for Illness in Employee's Family*) or accrued vacation time before taking leave without pay.

3. Parental Leave

An employee on family care leave for parental leave may use accrued vacation time before taking leave without pay.

4. Catastrophic Leave Sharing

Under the provisions of RPM §2.26(A), an employee may donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee who has exhausted his or her sick and vacation leaves due to a serious medical condition (as defined in Paragraph B, above) affecting him or her or another eligible person, as defined in RPM §2.26(B)(2)(b) and (c).

F. DURATION OF LEAVE

Family care and medical leave must not exceed 12 work weeks in the leave year. See Paragraph (B), above. Depending on individual circumstances, the leave may be a combination of accrued paid leave (i.e., vacation and/or sick leave and unpaid leave).

For the purposes of FMLA leave only, 12 work weeks are equivalent to 480 hours of scheduled work for full-time employees who are normally scheduled for an eight hours per day, five days per workweek schedule. Although the use of FMLA leave need not be consecutive, an employee's aggregate use of FMLA leave may not exceed a total of 12 work weeks within the leave year.

When parental leave is combined with leave for pregnancy-related supplemental family medical leave and/or pregnancy disability, the total family care/parental leave may not exceed seven months in the leave year.

1. Adjustment for Part-Time Schedules

For employees who work part-time or other than an eight hours per day, 40 hours per week schedule, the number of FMLA leave hours to which the employee is eligible will be adjusted in accordance with his or her normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a prorated amount of FMLA leave based on his or her hours worked over the 12 weeks preceding the leave.

2. Reduced Work Schedules, Intermittent Leaves, and Temporary Transfers

When medically necessary and supported by medical certification, the cognizant division director or department head, in consultation with the Human Resources Department, will grant an eligible employee's request for a reduced work schedule or intermittent leave, including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule will be counted toward the employee's entitlement of 12 work weeks in the leave year.

When the employee requests an intermittent leave or a reduced work schedule, the Laboratory may, at its discretion, require the employee to temporarily transfer to an available alternative position for which the employee is qualified and that better accommodates the employee's recurring period of leave. Such transfers must have equivalent pay and terms and conditions of employment, but they need not have equivalent duties.

3. Workers' Compensation and FMLA Leave

When an employee is on a workers' compensation leave because of an on-the-job injury or illness that also qualifies as a serious health condition under FMLA, the workers' compensation leave and FMLA leave will run concurrently.

G. SUPPLEMENTAL FAMILY CARE AND MEDICAL LEAVE

If the need for a family care and medical leave that is in progress continues beyond 12 work weeks, a career employee is entitled to supplemental leave for up to 12 additional work weeks or until the end of the leave year, whichever is less. The aggregate of pregnancy disability leave, family care and medical leave, and supplemental family care and medical leave may not exceed seven months during the leave year. An employee who has been granted supplemental family care and medical leave will be reinstated under Paragraph (J), below.

H. INTERACTION OF FAMILY CARE AND MEDICAL LEAVE WITH PREGNANCY DISABILITY LEAVE

For eligible employees, federal family care and medical leave runs concurrently with childbearing/pregnancy disability leave, as specified in Paragraph (E), above. On termination of a pregnancy disability leave that runs concurrently with federal family care and medical leave, an employee is also entitled to up to 12 weeks of state family care and medical leave for any covered reason except pregnancy or related health conditions.

I. BENEFITS CONTINUANCE

For an employee on an approved FMLA leave, health plan coverages (medical, dental, and optical) are continued for up to 12 work weeks in a 12-month period if he or she was eligible for them while on pay status. Thereafter, eligibility and benefits under each plan are the same as those provided to Laboratory employees during an approved leave of absence. Specific questions about this policy should be directed to the Laboratory Benefits Office.

J. RETURNING TO WORK

1. Return to Work

When an employee has been granted an approved FMLA leave of absence and returns within 12 work weeks after initiation of the leave, he or she will be reinstated to the same or an equivalent position on expiration of the leave as long as the employee returns to work immediately following termination of the leave. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, see RPM §2.21(B) (*Reduction in Force*).

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

2. Failure to Return to Work

The provisions of RPM §2.21(E) (*Medical Separation Policy*) apply if all the following conditions are met:

a. The employee is unable to return to work because of his or her ongoing serious medical condition.
b. All leave credits provided in Paragraphs (F)–(G), above, have been exhausted.
c. The employee is unable to perform essential assigned functions.

3. Medical Clearance

In accordance with RPM §2.09(D)(11) (*Medical Clearance to Return to Work*), an employee must provide Health Services with a release to return to work when he or she has been absent for five or more consecutive work days because of his or her own serious illness or injury unrelated to work. This release must include any information regarding medical restrictions that may affect the employee's ability to perform his or her job as certified by the treating physician.

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§2.14
Military Leave

Responsible Manager

Section Rewritten 03/02

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A. GENERAL

An employee shall be granted military leave as specified below, provided that he or she gives advance verbal or written notice of the leave. Exceptions are when notice is precluded by military necessity, or it is unreasonable or impossible to give such notice. In the granting of military leave, the Laboratory may require verification of an employee's military orders.

B. TYPES OF MILITARY LEAVE

Military leave consists of:

1. **Reserve Training Leave:** For inactive duty, such as weekly or monthly meetings or weekend drills.

2. **Temporary Military Leave:** When an employee is ordered to full-time active military duty for training for a period not to exceed 180 calendar days, including time spent traveling to and from such duty.

3. **Extended Military Leave:** When an employee enlists or is ordered into active-duty service of any length or active-duty training in excess of 180 days, or when an employee is ordered into active federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for a period not to exceed five years. In addition, leave can be granted for a period of up to six months from the date of release from duty.

4. **Emergency Leave for National Guard:** When an employee who as a member of the National Guard is called to active duty by proclamation of the Governor during a state of emergency. An employee who as a member of the National Guard is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave.

5. **Physical Examination Leave:** When an employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable

national emergency.

C. PAY FOR LEAVE

1. General

An employee granted temporary military leave for active-duty training, inactive-duty training, or extended military leave is entitled to receive his or her regular Laboratory pay for the first 30 calendar days of such leave in any one fiscal year, provided:

a. the employee has completed 12 months of continuous University service immediately prior to the granting of the leave (all prior full-time military service shall be included in calculating this University service requirement), and

b. the aggregate of payments for inactive-duty training, temporary military leave, extended military leave, and military leave for physical examination does not exceed 30 calendar days' pay in any one fiscal year.

2. Physical Examination Leave

An employee granted physical examination leave is entitled to receive his or her regular Laboratory pay, provided that:

a. the physical examination is a pre-induction or pre-enlistment physical examination required to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency, and

b. the aggregate of payments for temporary military leave, extended military leave, and military leave for physical examination does not exceed 30 calendar days' pay in any one fiscal year.

Time off for other physical examinations in connection with military service may be charged to accrued sick leave, accrued vacation leave, or will be without pay.

3. Emergency Military Leave for National Guard Duty

An employee granted military leave for emergency National Guard duty is entitled to receive his or her regular Laboratory pay for a period not to exceed 30 calendar days in any one fiscal year. An employee is eligible for pay regardless of the length of University service, and such pay is in addition to any Laboratory payment for temporary military leave for active-duty training, extended military leave, and military leave for physical examinations.

4. Part-Time Employee Eligibility

An eligible part-time employee will receive pay in proportion to the average percentage of full time worked during the three calendar months immediately preceding the military leave.

5. Using Vacation Leave or Leave without Pay

An employee who is not eligible for military leave with pay may have such absence charged to accrued vacation, or the military leave may be without pay.

D. REINSTATEMENT

Following release from military service, an employee shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.

E. EFFECT ON BENEFITS

An employee granted military leave shall receive benefits as provided below:

1. Military Leave with Pay

An employee granted military leave with pay shall receive all benefits related to employment that are granted when an employee is on pay status.

2. Military Leave without Pay

An employee granted military leave without pay shall receive:

a. retirement benefits and service credit in accord with the provisions of the applicable retirement system,

b. health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations,

c. other length-of-service credits related to employment that would have been granted had the employee not been absent, provided that the employee returns to University service at the conclusion of the leave in accordance with applicable federal and state laws, and

d. vacation and sick-leave accruals and holiday pay only in accordance with those policies.

3. Extended Military Leave

An employee granted extended military leave may choose to

a. use accrued vacation to cover unpaid military leave,

b. receive a lump-sum payment for accrued vacation, or

c. allow accrued vacation to remain on the records.

Additional information on benefits may be found at the University of California Human Resources and Benefits Web site.

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§2.15
Workers' Compensation Insurance

Responsible Manager

Rev. 1/09

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- **E. Compensation Coverage for Employees with Job Assignments in Other States**
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A. WORK-INCURRED INJURY AND ILLNESS

1. General

This policy covers Laboratory employee workers' compensation coverage under the University of California self-insured program, medical treatment of work-related injuries and illnesses, the reporting and processing of employee workers' compensation claims, and the University's extended sick-leave benefits, which supplement workers' compensation temporary disability payments. Questions regarding workers' compensation should be directed to the Laboratory Workers' Compensation Office.

2. Policy

It is the policy of Lawrence Berkeley National Laboratory that all Laboratory employees who, within the course and scope of employment, contract an illness or are injured:

a. receive immediate medical attention for their illness or injury and prompt payment of all benefits in accordance with California state law and the University's supplemental benefit program;

b. be provided with a bilingual Employee's Claim for Workers' Compensation Benefits form (*Employee Claim Form*) within one working day of Laboratory knowledge of the illness or injury;

c. have their compensation claims processed and benefits paid in an expeditious manner; and

d. be encouraged to return to work at the earliest possible time. For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

3. Workers' Compensation Coverage

All those employed by the Laboratory in any capacity, including graduate student research assistants (GSRAs), are covered by the University of California Self-Insured Workers' Compensation Program. Because GSRAs do not accrue vacation or sick leave, however, they are not eligible for the Laboratory's Supplement to Workers' Compensation described in Paragraph (D), below. Benefits to which an employee who is injured or contracts a disease within the course and scope of employment may be entitled include medical, hospital, and surgical care; compensation for wage loss during disability (called temporary disability payments); death benefits and a burial allowance, which may be paid to the employee's dependents if death results from the injury or illness; and vocational rehabilitation, which may be provided if the injury or illness prevents an employee from continuing in his or her job.

B. OBTAINING MEDICAL TREATMENT FOR WORK-INCURRED INJURIES AND ILLNESSES

1. Treatment for Work-Related Injury or Illness

During business hours, the injured or ill employee's division or department should send or transport the employee to Health Services for treatment. After business hours, the employee's division or department should contact the Fire Department to transport the employee to medical treatment.

2. Private Treatment

Injured employees who have filed a Designated Physician Treatment Form with Health Services and who are treated by that physician for a job-related injury or illness must advise the physician that it is a work-related injury or illness and that all billings and the Doctor's First Report of Injury should be sent to Applied Risk Management—East Bay Labs, 1956 Webster Street, Oakland, CA 94612.

C. REPORTING OF WORKERS' COMPENSATION CLAIMS

1. Injuries and Illnesses Occurring and Reported On Site

Employees are required to report work-related injuries and illnesses immediately to their supervisor or to Health Services. The employee's supervisor or designated division/department personnel must complete the employer section of the Employee's Claim for Workers' Compensation Benefits form (*Employee Claim Form*) and give the form to the employee within one working day of employee reporting or Laboratory knowledge of the injury or illness (see Supervisor/Manager Instructions for Reporting Workers' Compensation Claims, available from the Laboratory Workers' Compensation Office, for additional information and procedures). Failure to promptly provide employee claim forms to injured employees may result in financial penalties against the Laboratory. Health Services will provide an employee claim form to employees who receive treatment at Health Services for an industrial injury or illness.

2. Injuries and Illnesses Occurring or Reported Off Site

Supervisors must advise either Health Services or the Laboratory Workers' Compensation Office *immediately* of all off-site reports of employee work-related injuries or illnesses. As above, supervisors must complete the employer section of the employee claim form and mail the form to the employee within one working day of the report or Laboratory knowledge of the illness or injury.

D. COMPENSATION WHILE ABSENT BECAUSE OF WORK-INCURRED DISABILITY

1. Use of Accrued Sick Leave and Vacation

An employee who accrues sick leave and vacation will be permitted to use accrued sick leave and vacation if so desired to supplement temporary disability payments received from workers' compensation.

Sick leave and vacation (if so elected) payments will be the difference between the amount payable to the employee under workers' compensation as temporary disability and the employee's regular salary. The additional payment made to an employee to provide the employee with full salary before receipt of disability payments will be deemed an advance temporary disability payment under the Workers' Compensation Act.

An employee who receives advance temporary disability payment must reimburse the Laboratory for such payment. The reimbursement is used to restore proportionate sick leave and vacation credit as appropriate.

2. Extended Sick Leave

An employee who is receiving temporary disability payments and who has exhausted all accrued sick leave will receive extended sick leave and vacation (if so elected) payments from the Laboratory in an amount equal to the difference between the temporary disability payments from workers' compensation and 80% of the basic salary plus any shift differential the employee would have received. If the employee returns to work at less than his or her appointment at the time of injury, the employee's earnings plus any temporary disability payments, if less than 80% of basic salary plus any shift differential, will be supplemented to 80% by extended sick-leave payments as long as the employee continues to be medically authorized for workers' compensation temporary disability. Total extended sick-leave payments must not exceed 26 weeks for any one injury or illness or for all injuries or illnesses arising out of any one accident.

3. Insufficient Accrued Sick Leave

An eligible employee who does not have sufficient accrued sick leave to cover the two-calendar-day waiting period for receiving workers' compensation temporary disability payments will receive extended sick leave benefits to cover any part of the waiting period not covered by sick leave. Payment will be made only after determination that the injury or illness is compensable under workers' compensation.

An employee who elects not to use all accrued sick leave is not eligible for extended sick-leave benefits.

4. Effect of Laboratory Personnel Policies

a. Supplemental Leave

An employee who is receiving temporary disability payments and supplemental payments and supplemental sick leave or vacation as described in Paragraph (D)(2), above, is considered to be on regular pay status for purposes of application of all Laboratory personnel policies except completion of the probationary period. Sick leave and vacation accrued during this disability period may be used as soon as they accrue.

b. Extended Sick Leave

An employee who is receiving temporary disability payments and extended sick leave benefits is considered to be on regular pay status for purposes of application of all Laboratory personnel policies except completion of the probationary period. Sick leave and vacation accrued during the disability period are credited to the employee, however, only on return to work. If an employee terminates without returning to work, the employee will be paid for vacation for the period he or she received extended sick leave payment.

c. Leave Without Pay

An employee on leave without pay and receiving temporary disability payments accrues sick leave and vacation on the same basis as if regularly employed, but such accrual is credited to the employee only on return to work. During the period that an employee is on leave without pay status, the employee's health care benefits only will be paid by the University. The cost of all other benefits must be paid by the employee. If an employee terminates without returning to work, no payment will be made for such vacation credit.

5. Termination

An employee must not use vacation, sick leave, or extended sick leave to supplement workers' compensation payments beyond a predetermined date of termination or leave without pay. Any vacation credit remaining on the date of termination will be paid on a lump-sum basis.

E. COMPENSATION COVERAGE FOR EMPLOYEES WITH JOB ASSIGNMENTS IN OTHER STATES

1. When Coverage Is Required

Compensation coverage is required when the Laboratory employs persons who will either:

a. have Laboratory job assignments outside the state of California and will not maintain a California residence (address) throughout the period of such assignment; or

b. have job assignments in the states of Oregon, Washington, Nevada, Ohio, or West Virginia regardless of maintenance of a California address. In these states, the Laboratory must apply for and pay for out-of-state workers' compensation coverage for such employees.

2. Obtaining Out-of-State Coverage

Divisions/departments requiring out-of-state workers' compensation coverage for employees with out-of-state job assignments may obtain such coverage by completing a Request for Out-of-State Workers' Compensation Coverage form (available from the Human Resources Department) and returning it to the Workers' Compensation Coordinator no later than ten business days before the starting date for such employees.

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§2.17
Employee Records

Responsible Manager

Rev. 09/07

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A. POLICY

In accordance with University policy, the Laboratory establishes and maintains only those personnel records pertaining to individuals as employees of the Laboratory or as applicants for employment that are relevant and necessary to the administration of personnel programs. These records must be maintained with accuracy, relevance, timeliness, and completeness; appropriate and reasonable safeguards must be established to ensure security and confidentiality. Employees have the right to privacy, the right of access to their own records, and the right to request changes, additions, or deletions to such records.

B. RESPONSIBILITY

The Laboratory Director will establish implementing procedures to ensure compliance with this policy. For detailed legal requirements covering all University records, see University of California Legal Requirements on Privacy of and Access to Information, Business and Finance Bulletin RMP-8 (Records Management Program series).

C. PERSONNEL RECORDS

1. Contents of Records

Individual personnel records may include the following information:

a. Employment (e.g., application for employment, tests, and letters or statements of reference)

b. Pay and benefits

c. Training and education

d. Honors and awards

e. Duties and job classification

f. Performance appraisals and related information

g. Corrective, release, and dismissal actions

h. Attendance

i. Other relevant or necessary information specified by the University President or the Laboratory Director

2. Collection of Records

All information in personnel records will be collected, to the greatest extent practical, from the individual who is the subject of the information. If the source of the information is not the subject individual, a record of the source will be indicated on the pertinent record. As determined pertinent by the Head of the Human Resources Department, an individual may add material to his or her personnel records. The individual may file a statement of disagreement with a determination of pertinency by the Head of the Human Resources Department, as indicated in Paragraph (D)(1)(d), below. Personnel records are maintained in the Laboratory Human Resources Department and other offices designated by the Laboratory Director.

3. Transfer of Records

An individual's department or division records will be transferred to the department or division to which an individual transfers, except that departmental/divisional records of attendance and time worked will be retained in the department/division where the work was performed. Performance evaluations and records of corrective action will be maintained in an individual's department or division personnel file.

4. Classification of Information in Staff Personnel Records

Information in staff personnel records is classified into the following categories:

a. **"Confidential," as defined in RMP-8, VII.B.1**. When specific criteria are met, information (including but not limited to certain information compiled for the purpose of specified kinds of investigations and certain information pertaining to the physical or psychological condition of the individual) is classified as confidential. Confidential information has the most restricted access of the three information categories and, as long as the information remains confidential, such information is not accessible even to the individual to whom it pertains, subject to certain exceptions (see Paragraph (D)(1), below, and RMP-8, VII.G.3).

b. **"Personal," as defined in RMP-8, VII.B.4**. Personal information is any information that identifies or describes an individual, except information determined to be "confidential" or "nonpersonal," as defined in RMP-8, VII, and the disclosure of which would constitute an unwarranted invasion of personal privacy. Full access to personal information is provided to the individual to whom the information pertains, but personal information is not released to members of the public unless specifically authorized by the individual in writing (see Paragraph (D)(3), below) or as otherwise required by law (see Paragraph (D)(4), below).

c. **"Nonpersonal," as defined in RMP-8, VII.B.3**. Nonpersonal information is information that could not in any reasonable way reflect or convey anything detrimental to an individual's reputation, rights, benefits, privileges, or qualifications. Nonpersonal information may be released without the consent of the individual to whom the information pertains. See Paragraph (D)(3), below.

5. Disposition on Termination

An employee's department or division records will be transferred to the Human Resources Department one year after the employee's termination. The Human Resources Department will review and file all necessary documents in the official personnel file.

D. PROTECTION OF RIGHT TO PRIVACY

An individual will have the right to inquire and be informed about whether the Laboratory maintains a record on him or her and to review the notices of personnel records systems referring to him or her that are submitted to the State Office of Information Practices. To protect an individual's right to privacy, access to staff personnel records will be made in accordance with the following provisions:

1. Access by Individual Employee

a. An individual's records will be accessible for inspection by that individual, but records protected by recognized legal privilege and records excepted from disclosure by law may be withheld from the individual. An individual will be notified in writing whenever a requested record about the individual is determined to be "confidential information," as defined in University of California Legal Requirements on Privacy and Access to Information, Business and Finance Bulletin RMP-8. An individual may request a review by the Laboratory Director of a determination that particular information is confidential and be informed in writing of the findings of such review within 30 days. This is the sole review process for a confidential determination. In disclosing information contained in a record to an individual, the University may not disclose any information relating to another individual other than that which may be released under Paragraph (D)(3), below.

b. Pre-employment references obtained with the promise or, before July 1, 1978, with the understanding that the identity of the source of information would not be disclosed, may be edited before release to the individual to protect the identity of the source as long as the source is not in a supervisory position with respect to the individual. Editing may be done by providing a comprehensive summary of the substance of the material or by providing a copy of the text with only those deletions that are necessary to protect the identity of the source.

c. As soon as practical, but no later than 60 days from the receipt of a request for records that are geographically disbursed, inactive, or in storage, and within 30 calendar days from the date of receipt of a request for other records, an individual will be provided copies of the individual's own personnel records or be notified that the requested material is withheld from access under Paragraph (E), below, or is no longer retained. No information may be modified, transferred, or destroyed to avoid complying with a request for inspection; however, pre-employment references may be edited to protect the identity of the source, under Paragraphs (D)(1)(a) or (b), above. Copies of records will be available to the individual at the location where the records are maintained or will be mailed to an address provided by the individual.

d. Requests for correction or deletion may be made by employees under RPM §2.05(D) (*Employee Complaint Resolution*), as appropriate, and under this policy. Applicants for employment may make correction or deletion requests under this policy only. Requests for correction or deletion should be made to the office where the record originated.

   An individual may request correction or deletion of a record under this policy by submitting a written request to the division director or department head where the record originated and by sending a copy of the request to the Human Resources Department. Within 30 calendar days of receipt of a written request to amend a record, the division director or department head either will make the amendment as requested and so inform the individual in writing or will inform the individual of a refusal to amend the record as requested. The refusal must be in writing and state the reason for the refusal and that the individual may request the Laboratory Director to review the refusal.

   Within 30 calendar days after the response of the division director or department head, the individual may request that the Laboratory Director review a refusal to correct or delete a record. The Laboratory Director must respond in writing to the individual within 30 calendar days from receipt of the request. For good cause, the Laboratory Director may extend the review period by 30 calendar days. A copy of the Laboratory Director's response will be placed in the individual's record only if the request is denied. If the Laboratory Director refuses to amend or delete the record, the individual will have the right to enter into the record a statement setting forth the reasons for the individual's disagreement.

2. Access by University Employees, Hearing Officers, or Hearing Committees

University or Laboratory employees will have access to specific information in an individual's personnel record that is necessary to the performance of their assigned duties. Subject to authorization by the Head of the Human Resources Department or by the employee, hearing officers and committees will have access to employee personnel records when necessary in the resolution of employee complaints, as provided in RPM §2.05(D) (*Employee Complaint Resolution*). However, information that is excepted from disclosure to the individual under Paragraph (D)(1), above, may not be disclosed. Any information so obtained will be treated as confidential and not be released to any other person except as necessary in the performance of the assigned University or Laboratory duties requiring the original access.

3. Access by Public

As required by law, the following employment information will be released to members of the public on request: the individual's name, date of hire, current position title, current rate of pay, organizational unit assignment, date of separation, office address and office telephone number, current job description, full-time or part-time, and career, casual, casual-restricted, probationary, or contract status. If it is impractical to inspect or copy the record, an extract of the record of the above terms of an individual's employment relationship with the Laboratory may be provided. Additional employment information may be required to be released to the public as determined by the University General Counsel and the Senior Vice President, Administration (see RMP-8, VII.B.3).

Personnel record information that would constitute an unwarranted invasion of personal privacy of the employee may not be released to the public unless specifically authorized by the individual in writing or as otherwise required by law. Release of the following personnel information would constitute an invasion of the individual's personal privacy and accordingly may not be released to the public unless specifically authorized by the individual concerned in writing: the employee's home telephone number and home address, spouse's or other relatives' names, birthdate, social security number, citizenship, prior non-University employment, attendance records, income-tax withholding, medical records, or information such as performance evaluation, letters of commendation, or corrective action and any of the information that may be excepted from disclosure under Paragraphs (D)(1)(a) or (b), above. An individual's home address may be disclosed after the individual has had the opportunity to request nondisclosure and does not request it.

Other personnel record information may be released to members of the public as long as a determination is made that disclosure would not constitute an unwarranted invasion of personal privacy of an employee. Any question on whether release of such information might constitute an invasion of personal privacy will be referred to the University Assistant Vice President, Employee Relations.

4. Access Required by Law

Personnel information must be released under a subpoena or in other circumstances in which the University or Laboratory is required by law to release the information. Any questions concerning release of information under such circumstances or concerning records that may be subject to legal privilege will be directed to the University of California Office of General Counsel. A record of disclosure is required (see Paragraph (E), below).

5. Access by Public Authorities

Release of information to public authorities must be in conformance with Paragraph (D)(3), above, and with Guidelines for Access to University Personnel Records by Governmental Agencies, Business and Finance Bulletin RMP-9.

6. Release Under Employee Authorization

On written or oral authorization (with adequate identification) by the individual, information from his or her personnel records, other than material excepted from disclosure under Paragraphs (D)(1)(a) or (b), above, may be released. The authorization will be valid for 30 calendar days from the date of the signature of the authorization or oral request or within a written time limit specified by the individual, whichever is later.

7. Prospective Non-University Employers

A prospective non-University employer has the same access to employee personnel records as a member of the public. Other specific record information may be released only on written or oral authorization of the employee or former employee. See

Paragraph (D)(3), above.

The division director or department head may provide an oral evaluation of an individual in response to specific job-related questions by a prospective non-University employer who, in the judgment of the division director or department head, has a legitimate interest in receiving such information. Such an evaluation must be based on personal knowledge.

8. Access by Government Agencies to Confidential Personnel Records

a. In accordance with University of California guidelines for responding to requests from governmental agencies for confidential information in personnel files that the agencies desire to review in investigating allegations of discriminatory activity or conducting compliance reviews, the implementing procedures to be followed at Lawrence Berkeley National Laboratory require that all requests for information be reviewed by the Head of the Human Resources Department and that the following policies be applied:

   If a representative of an enforcement agency other than the Department of Labor requests access to material in Laboratory personnel records or Laboratory Director's Office records that includes items characterized as confidential under this section, this request must be in written form. In response to a written request, the requester should be informed as follows:

   > The University of California, Lawrence Berkeley National Laboratory is in full support of [name of agency]'s need and duty to acquire information pertinent to carrying out its functions. University personnel policies specify, however, that certain materials in personnel records are confidential documents. This designation of confidentiality is essential to the University's personnel process to secure candid evaluations of individuals under review. The University provides safeguards in the review process to assure that the confidentiality does not cloak unfairness to individuals or result in abuse.
>
> With respect to personnel records, University policies take into account the need to protect individual rights of privacy. Furthermore, these personnel policies provide that subject individuals may receive, on request, a comprehensive summary of the substance of the confidential documents in their files, edited to withhold disclosure of the identity of persons who have supplied evaluations of the subject individuals with the understanding that the identity of the evaluator will be held in confidence.
>
> In light of the above policies, the University is prepared to make available to an authorized representative of your agency on-site review of personnel files relevant to its investigation, with the understanding that the agency will maintain the confidentiality of confidential personnel records.

b. In applying University and Laboratory general policies regarding use of confidential documents in the personnel process and to balance the need to protect the confidentiality of certain records against the legitimate needs of access by governmental agencies, Laboratory employees should abide by the following guidelines in dealing with representatives of governmental agencies who have requested material from personnel records:

   i. With respect to information from a complainant's personnel record, the investigator should be invited to view the complete file on site.

   ii. With respect to information from the personnel files of other individuals relevant to a complaint, the investigator should be invited to view the complete relevant file on site.

   iii. With respect to compliance reviews, the investigator should be invited to view on site complete files that are relevant to the review.

   iv. All requests for confidential records by outside agencies or investigators should be submitted to the Associate Laboratory Director for Operations (ALDO).

c. Copying confidential records or notes taken from records for the purpose of removal from the Laboratory must be approved by the ALDO.

E. RECORD OF DISCLOSURES

A record will be maintained and the concerned individual notified of each disclosure of information that identifies that individual and is made under subpoena or other law. See Paragraph (D)(4), above. This notification will be made before disclosure, if possible. The record should show the name, title, and business address of the person to whom the disclosure was made, the date of the disclosure, the information disclosed, and the purpose of the disclosure. A record of disclosure is not required for release under Paragraphs (D)(2), (3), and (6), above. For a complete list of circumstances requiring an accounting of disclosure and when an employee must be notified of disclosure, see University of California Business and Finance Bulletin RMP-8, VII.I.

The Laboratory will retain any records of disclosure for three years after the disclosure or until the original record is destroyed, whichever occurs first. Disclosure records will include information concerning any unresolved disputes about the accuracy of the records. See Paragraph (D)(1)(d), above. If a record is corrected within three years of disclosure and the name of a person to whom uncorrected information was disclosed is known, a notice of correction will be sent to that person.

F. CIVIL REMEDIES AND PENALTIES

Civil remedies and penalties are provided by law.

G. CHARGES FOR COPIES OF RECORDS

In accordance with the following procedures, fees may be charged for making copies or extracts of personnel record information.

1. Individuals' Own Records

There is no charge for the first copy of an individual's own records.

2. Requests by Others

Members of the public or others requesting identifiable personnel record information or extracts thereof not about themselves, which may be disclosed according to Paragraph (D)(3), above, may be charged $0.10 per extract. There is no charge for personnel costs associated with photocopying or extracting. When information cannot be readily procured from an identifiable personnel record, however, reasonable fees (as provided below) may be charged for procuring such record:

a. Clerical time used to procure data from identifiable records: $10 per hour

b. Professional time used to procure data from identifiable records: $30 per hour

c. EDP services: actual charges

d. Postage: actual charges

3. Subpoenaed Records

Subpoenaed records may be provided either in person or by mail, depending on the kind of subpoena. Charges may be made as follows:

a. When personal attendance of the custodian of records or other University witness is required by the subpoena, the University may request advance payment of one day's witness fee ($12 and mileage fee of $0.20 per mile, one way, in California).

b. When the subpoena does not require a personal appearance, copies of the records may be mailed. A reasonable amount (e.g., $0.10 per page) may be charged for copying records.

c. The charge for copying and mailing may be deducted from any witness fee received in advance, or the party asking for the records may be billed as indicated above.

§2.18
Regulations Implementing University of California Policies Applying to Campus Activities, Organizations, and Students

Responsible Manager

Rev. 06/08

- **A. General**
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A. GENERAL

1. University of California Policies

Certain general policies of the University of California governing the use of University properties are set forth in University of California Policies Applying to Campus Activities, Organizations, and Students, issued by the President of the University on July 21, 1978. These policies state in general terms the rights and obligations of students, standards of conduct, requirements applying to student organizations, and regulations governing the use of University properties by students, faculty, administrative staff, and other University employees for activities within the University.

2. Laboratory Rules and Regulations

The Lawrence Berkeley National Laboratory rules and regulations that follow are consistent with the principles contained in University of California Systemwide policies. These rules and regulations apply specifically to the Laboratory and its employees, consultants, participating guests, and visitors.

a. **Nondiscrimination**. The University is committed to a policy against legally impermissible, arbitrary, or unreasonable discriminatory practices. The Laboratory is governed by this policy of nondiscrimination. The intent of University policy on nondiscrimination is to reflect fully the spirit of the law. In carrying out this policy, the Laboratory will be sensitive to the existence of past and continuing societal discrimination.

b. **Definition of "Member of Laboratory."** For the purpose of this policy, a "member of the Laboratory" is defined as a Laboratory employee, either part or full time, or a person officially connected with the Laboratory. This includes University

faculty associated with the Laboratory, scientists who are participating guests, and graduate students doing research at the Laboratory, whether paid by the Laboratory or not.

c. **Right of Free Expression and Advocacy.** Consistent with University of California Systemwide policies and Laboratory regulations, members of the Laboratory have the right of free expression and advocacy. The purpose of these Laboratory regulations is to ensure orderly conduct, noninterference with Laboratory functions and activities, identification of sponsoring groups or individuals, and reasonable protection to persons against practices that would make them involuntary audiences. As provided in these regulations, members of the Laboratory may hold meetings (including organized discussions, cultural events, and entertainment) outside normal working hours, distribute materials, and post notices.

d. **Limits of Applicability.** Certain Laboratory-related activities may occur in Laboratory facilities outside normal working hours. These include activities of the Laboratory Employee Activities Association, meetings of employee organizations, and occasional meetings of professional groups. Separate and additional Laboratory regulations govern these activities and organizations. The rules contained herein apply to these groups only insofar as their members hold meetings or conduct other activities covered by these rules.

e. **Laboratory-Registered Associations.** Groups of Laboratory members who wish to use Berkeley Lab facilities to meet outside regular working hours on a continuing basis are required to register with the Human Resources Department in accordance with RPM §2.18(C). Laboratory-registered associations include independent sponsors referred to in RPM §2.18(B)–(C).

f. **State of Emergency.** When extreme conditions exist as a result of natural disasters, civil disorders, or other such seriously disruptive events and when extraordinary measures are required to immediately avert, alleviate, or repair damage to University property, to protect the health or safety of persons on University property, or to maintain the orderly operation of the Laboratory, the Director of the Laboratory may, after consultation with the University President and, when possible, with Laboratory members, declare a state of emergency and place into effect orders appropriate to the emergency. Such measures are required by University of California Policies Applying to Campus Activities, Organizations, and Students. Consistent with the provisions of §82.00 of these University Policies (*Emergency Regulations and Procedures*), violation of such orders will result in action against the employees or visitors, as appropriate under the circumstances. The declaration of such a state of emergency may require temporary suspension of these rules and regulations.

B. TIME, PLACE, AND MANNER REGULATIONS

1. Meetings

The Laboratory has established regulations governing the scheduling and conduct of meetings that are open to all employees. Meetings or other activities that are not official Laboratory or Laboratory-related business (referred to below as "Independently Sponsored Open Meetings" or "Open Meetings") are permitted, subject to the following rules on time, place, and manner, and the provisions of RPM §2.18(C):

a. **Time of Independently Sponsored Open Meetings.** The time of open meetings is restricted to the noon hour (12 noon to 1 p.m.) and after 5 p.m., Mondays through Fridays, holidays excluded. In the scheduling of meetings, Laboratory business will have priority in the use of properties.

b. **Location and Equipment.** Open meetings may be held in the Building 50 Auditorium or, for smaller groups, in selected conference rooms and the cafeteria lower dining room at noontime. In the auditorium, the use of normally available microphone and projection equipment will be provided by the Laboratory, if requested at the time of application. Individual members of groups using the properties (including the microphone and projection equipment) will be responsible for all costs of such use over and above the Laboratory's normal operating costs. If there is any loss or damage to that property or equipment because of the group's use, members of the group may be held jointly and severally liable.

c. **Attendance and Identification at Open Meetings.** Because the intent of these regulations is primarily to provide opportunity for free discussion and exchange of views among members of the Laboratory and because the seating capacity

of Laboratory properties is limited, attendance at all independently sponsored open meetings is restricted to members of the Laboratory and their guests (see RPM §2.18(C)(3)(c)), official visitors, and other persons with official business at the Laboratory, apart from the invited speakers or participants identified in the request for reservation of properties. The Laboratory reserves the right to require identification of all persons attending such meetings. Sponsoring organizations or individuals may not put further restrictions on eligibility for attendance at open meetings.

d. **Time Off to Attend Open Meetings.** Employees who take time off to attend an open meeting are subject to existing Laboratory policies concerning time off for personal reasons. Prior approval must be secured by an employee from his or her supervisor to ensure that the absence will not interfere with the work of the employee's division or department.

e. **Publicity for Open Meetings.** Announcements and other publicity for independently sponsored open meetings will be restricted to distribution within the Laboratory and in no way imply Laboratory or University sponsorship or endorsement of the meeting or of the topic or position advocated. For regulations governing posting or other distribution of announcements, see RPM §2.18(B)(2)(b).

f. **Conduct of Open Meetings.** The conduct of open meetings will be orderly and responsible, with the proper courtesy shown to speaker and members of the audience alike. To facilitate proper conduct of the meeting and to prevent interference with the functioning of the Laboratory, the chairperson of the meeting will be responsible for maintaining reasonable order and ensuring strict adherence to the time and location limitations stated above. In accordance with the traditions of the University community, audiences should be allowed to ask questions of speakers, time and format permitting. Open meetings will be conducted in accordance with University policies that its properties may not be used for organizing or carrying out unlawful activity. Properties may be used for commercial or fund-raising activities only with prior approval of the Laboratory Director, as provided in RPM §2.18(C)(2)(d).

g. **Frequency of Open Meetings.** Laboratory properties will not be available for use by independently sponsored groups if these properties are needed for official Laboratory business. For this reason, the number of independently sponsored open meetings at noontime normally may not exceed six in any calendar month.

2. Posting and Exhibition of Notices and Announcements

a. **Posting of Materials.** The posting of noncommercial notices is permitted on bulletin boards specifically designated for this purpose and labeled "Open Bulletin Boards." Any Laboratory member may use these bulletin boards, but all posted material must bear the date of posting and the name and Laboratory address of the sponsoring Laboratory organization or responsible member of the Laboratory. These bulletin boards may be cleared once a week by an authorized person; otherwise, removal of material from an open bulletin board is prohibited. The following is a listing of designated open bulletin boards. This listing may be modified as appropriate:

- Building 2 (across from the elevator on the first floor)
- Building 26 (Health Services basement hallway)
- Building 46 (mezzanine, outside Room 150, outside Room 171)
- Building 50 (second floor, fourth floor near library)
- Building 50A (near the elevator on the fifth floor, outside Room 2129)
- Building 50B (near the elevator on the first, second, and third floors; opposite Room 2265)
- Building 54 (cafeteria lobby)
- Building 62 (first floor inside the entrance)
- Building 70A (first floor)
- Building 76 (near Room 212)
- Building 77 (lunch room)
- Building 80 (kitchen)
- Building 90 (across from Room 1099, near Room 1136, near Room 3148)
- Building 936B (hallway)
- Building 938 (second-floor kitchen)

b. **Announcements of Independently Sponsored Open Meetings.** Factual announcements of approved independently sponsored open meetings may be posted in each department or division on an area of a bulletin board set aside for such announcements. In addition, the posting of one copy of the factual announcement in each of the elevators of Buildings 50A, 50B, and 90 is permitted. Procedures concerning these announcements are described in RPM §2.18(C)(3)(c). Additional announcements or advertising must satisfy the conditions of RPM §2.18(B)(1)(e), can only be posted on the open bulletin boards, and must be prepared at no cost to the Laboratory.

3. Distribution of Materials

The general distribution of leaflets or other materials inside the Laboratory is prohibited. Distribution of handbills, statements, and other noncommercial materials at specific times and locations is permitted as follows:

a. Immediately before or after an independently sponsored open meeting, the sponsors may have a table for the purpose of displaying informational materials relevant to the meeting set up outside the entrance to the meeting room. The table arrangement should not obstruct the flow of traffic or otherwise interfere with the functioning of the Laboratory.

b. All handbills, statements, or other materials must clearly indicate the name and Laboratory address of the responsible member of the Laboratory, Laboratory organization, or Laboratory division.

c. In the distribution of materials, efforts must be made to avoid litter. Distribution by accosting individuals, hawking, or shouting is prohibited.

d. Use of Laboratory duplicating equipment or other facilities for preparation of nonofficial handbills or other materials for distribution is prohibited.

C. REGULATIONS CONCERNING USE OF LABORATORY PROPERTIES

The following procedures and regulations govern the authorized use of Laboratory properties for open meetings. The purpose of the regulations is to ensure reasonable and fair use of Laboratory properties for free expression and advocacy and, at the same time, to prevent interference with the functioning of the Laboratory.

1. Use of Laboratory Equipment, Supplies, and Services

Except as provided in RPM §2.18(B)(1)(b), Laboratory equipment, supplies, and services (duplicating machines, telephones, mail service, vehicles, computers, stationery, and other equipment, supplies, and services) may be used only for, or in connection with, official Laboratory business.

2. Reservation of Properties for Open Meetings

a. The Laboratory properties designated in RPM §2.18(B)(1)(b) may be reserved for open meetings at the times permitted in RPM §2.18(B)(1)(a) on application by six or more members of the Laboratory, at least three of whom are Laboratory employees (including faculty with joint appointments, whether or not they are presently being paid by the Laboratory). The applicants assume responsibility for violations of Laboratory regulations that occur in connection with their use of the facilities and may not turn a reservation over to others.

b. Reservations must be made at the office of the Head of the Human Resources Department, on forms provided for that purpose. The form must show the names and signatures of at least six of the applicants and their status at the Laboratory, the nature of the event, its date and time, the property requested, the name of the chairperson, and the names and relevant identification of all persons invited to speak or participate. Except for unusual circumstances, reservations must be requested at least four, and not more than twenty, working days before the event. No reservation is complete until notice of approval is received from the Head of the Human Resources Department.

c. Lawrence Berkeley National Laboratory, as part of the University of California (a state instrumentality), must remain neutral on religious and political matters and cannot sponsor or fund religious or political activities, except when authorized by the Regents or the President of the University or their designees. Registered religious or political organizations of Laboratory

members may have access to Laboratory properties on the same basis as other registered organizations, subject to the provisions of these regulations.

d. A request to use Laboratory properties for commercial or fund-raising purposes must identify the purpose. The activity may not violate the intent of the University policies, must meet all provisions stated therein, and is subject to prior approval by the Laboratory Director.

e. A request for a reservation will normally be approved within a reasonable time (no more than two working days) after receipt of a properly executed application, subject only to the availability of the properties and the limitations on frequency of open meetings of RPM §2.18(B)(1)(g).

f. If a request for a reservation is denied for any reason other than lack of availability of facilities or frequency limitation, the denial will be in the form of a written communication to the applicants stating the reason or reasons for the denial.

g. The Head of the Human Resources Department will be responsible for administering these regulations in all aspects and for reporting violations to the rules and his or her recommendations concerning them to the Laboratory Director.

3. Posting of Notices and Distribution of Announcements of Open Meetings

a. The open bulletin boards described in RPM §2.18(B)(2)(a) will be cleared routinely once a week (on Friday afternoon).

b. Removal of notices or other material from open bulletin boards by anyone other than the designated official or the original poster is prohibited.

c. Announcements for independently sponsored open meetings will be submitted to the Head of the Human Resources Department. The text of the announcement to be distributed must bear the names of the sponsoring individuals and the name of the chairperson and must confine itself to a factual description of the meeting. The announcement will bear the words "Independently Sponsored Open Meeting, permitted under the Laboratory Time, Place and Manner Rules. Attendance limited to members of the Laboratory and authorized visitors." (In the context of these regulations, authorized visitors are individually invited immediate family, relatives, or guests of a member of the Lawrence Berkeley National Laboratory. The member assumes responsibility for their presence and conduct while on the Laboratory site. Visitors will be permitted only if adequate space is available.) The sponsors will be responsible for the distribution of these announcements and their posting on the designated areas of department or on division bulletin boards, and the sponsors are responsible for the posting and removal of announcements in the elevators. See RPM §2.18(B)(2)(b).

4. Request for Reconsideration

Applicants who are denied a reservation for the use of Laboratory properties and contend that the denial is based on an incorrect application of these regulations may submit a written request for reconsideration to the Head of the Human Resources Department. The Head of the Human Resources Department will rule on the request in light of the right of free expression and advocacy of every member of the Laboratory as much as in the best interests of the Laboratory community as a whole. If the complaint is not resolved by the Head of the Human Resources Department to the satisfaction of all parties, an appeal may be made to the Laboratory Director.

D. LABORATORY-REGISTERED ASSOCIATIONS

1. General

Voluntary activities of groups of Laboratory employees with common interests outside regular working hours may be registered as Laboratory associations. Registration of such associations is required to facilitate regular and/or occasional arrangements for the use of Laboratory properties for meetings of such Laboratory associations. Meetings of the associations are governed by RPM §2.18(B)–(C).

Employee associations may not engage in activities that could be viewed as interfering with the rights of unions or that fall within

the scope of exclusive representation. Associations may not act as advocates or represent employees in negotiations, grievances, complaints, or other disputes or issues with management involving terms and conditions of employment.

Policies relating to employee organizations (unions) are found in RPM §2.19 (*Rules and Regulations on Relations with Employee Organizations*) and within the appropriate collective bargaining agreements.

2. Registration Procedure

Registration forms and information may be obtained from the Human Resources Department. Groups of Laboratory members who wish to use Laboratory properties for these types of voluntary activities must be registered and approved by the Head of the Human Resources Department. A registration card must be completed, which becomes a public record and contains:

a. The name of the association

b. A statement of the association's purpose and a copy of the constitution and bylaws or any other document that the named association acknowledges as describing the character of the association

c. The names of three Laboratory members (at least one of whom is a Laboratory employee) who are currently officers or authorized representatives of the association

d. An attestation, to be signed by the three Laboratory members named in Paragraph (D)(2)(c), above, of acceptance of responsibility for the association's compliance with Laboratory and University regulations and procedures.

3. Use of University of California Lawrence Berkeley National Laboratory Name

Laboratory-registered associations may not use the name of the University of California or the Lawrence Berkeley National Laboratory or abbreviations of either name as part of their own names without written authorization of the Associate Laboratory Director for Operations or designee. In addition, such associations may not indicate or imply that they are acting on behalf of the University of California or the Laboratory.

4. Compliance with Laboratory and University Regulations and Procedures

The activity and meetings of Laboratory-registered associations must be in accordance with and comply with Laboratory and University regulations and procedures. These activities and meetings must not interfere with the Laboratory's fulfillment of its responsibilities to DOE, the University, or other agencies.

5. Laboratory Employee Activities Association Support

Laboratory-registered employee associations may be eligible for limited support through the Employee Activities Association. See RPM §1.15 (*Employee Activities Association*). Guidelines to request support as well as association bylaws are available through the Association Coordinator in the Human Resources Department.

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§2.19
Rules and Regulations on Relations with Employee Organizations

Responsible Manager

Rev. 04/98

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A. GENERAL PRINCIPLES

The following rules and regulations are intended to provide the structure for implementation of employee rights at Lawrence Berkeley National Laboratory in accordance with University of California Guidelines for Relations with Employee Organizations. These rules and regulations, and amendments of or modifications to them, are not subject to Berkeley Lab grievance or appeal policies.

Subject to these rules and regulations, Laboratory employees have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation. Laboratory employees also have the right to refuse to join or participate in the activities of employee organizations and have the right to represent themselves individually in their employment relations with the Laboratory.

B. DEFINITIONS

1. **Managers.** Managers are individuals responsible for formulating and administering policies and programs of the Laboratory.

2. **Confidential Employees.** Confidential employees hold positions requiring access to confidential information used for meeting and conferring purposes or for processing grievances. Employees not designated as confidential employees, who assist or advise management on a temporary basis and in so doing are privy to confidential information, may be determined to be confidential employees for the period of time they are privy to information used for meeting and conferring purposes or grievance handling. Such employees will be notified of their temporary confidential status.

3. **Supervisory Employees.** Supervisory employees are defined by the Higher Education Employer-Employee Relations Act (HEERA) as "any individual, regardless of the job description or title, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. . . . Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees."

4. **Representative.** In these regulations, the term "representative" is used to define any person acting in the interest of or on behalf of an employee organization, including both University and non-University personnel, unless otherwise specifically excepted.

5. **Employee Organization Business.** The term "employee organization business" is used to define all legal activities of an employee organization including, but not limited to, meetings, dues collection, soliciting, distributing, and campaigning.

6. **Work Time.** Work time is the period of time during which employees are scheduled to work, excluding lunch periods, and (for purposes of this regulation) rest periods.

C. RESPONSIBILITY

The Laboratory Director is responsible for ensuring that each managerial and confidential employee is identified as such in the Laboratory personnel system and the corporate personnel system.

D. APPLICABILITY

1. Unless specifically excepted or modified by a Memorandum of Understanding, these rules and regulations apply to all employee organizations.

2. These regulations do not apply to employee organizations or their representatives when they are acting as representatives in individual grievances or administrative appeals under RPM §2.05(D) (*Employee Complaint Resolution*).

E. PAYROLL DEDUCTIONS FOR EMPLOYEE ORGANIZATIONS

1. **Membership Fees**

   The University is required, on written authorization by the employee involved, to deduct and remit to the employee organization of the employee's choice the standard initiation fee, periodic dues, and general assessments of such organization, until an exclusive representative has been selected for the employee's unit or until notified by the employee in writing that the employee wishes to terminate the deduction.

   Once an exclusive representative has been selected, deductions may be made only for the exclusive representative. Cancellation of deductions to other employee organizations will become effective with earnings for the pay period following the certification of the election results.

2. **Employee Organization Benefit Premiums**

   In addition to payroll deductions for employee organizations, as mandated by HEERA, deductions are permitted for employee-organization-sponsored insured benefit premiums. Approval for the insured benefit is made by the Office of the Director, Collective Bargaining Services, University Systemwide Administration.

3. **Management and Confidential Employees**

Payroll deductions payable to an employee organization are not permitted for management or confidential employees except that temporary confidential employees may continue membership in employee organizations for the explicit purpose of maintaining existing payroll deductions for insured benefit premiums.

F. REGULATIONS GOVERNING USE OF LABORATORY FACILITIES AND ACCESS TO UNIVERSITY EMPLOYEES BY EMPLOYEE ORGANIZATIONS AND THEIR REPRESENTATIVES

1. **Meeting Rooms**

   Employee organizations, including nonemployee representatives of such organizations, will be permitted the use of Laboratory rooms and spaces for meetings held outside the scheduled work time of the Laboratory employees attending, subject to availability of space and confirmation of availability by the Employee Relations Administrator.

   Representatives of registered employee organizations may apply for reservations for Laboratory meeting rooms at the Human Resources Department, using forms provided for that purpose. If the use of a room normally provided with facilities for a microphone and/or projection equipment is requested and approved, the Laboratory will provide this equipment as long as it is requested at the time of application. Applications should be made at least 48 hours before an event whenever possible and may be made only in a period three months before the date of request. Reservations, subject to availability of space, will be made in the order of receipt of applications.

   Users should exercise reasonable care in the use to which the facilities are put during the time reserved and make prompt payment of all charges. The organization that has reserved the facility assumes responsibility for any violations of University of California or Laboratory regulations that occur in connection with its use. No organization other than the reserving organization may use the facility reserved.

   Reasonable charges may be made for use of facilities based on identifiable cost to the Laboratory.

2. **Bulletin Boards**

   Employee organization use of bulletin boards is limited to communicating information to employees and is subject to the availability of space and the Laboratory's posting regulations.

   a. Open Bulletin Boards. Appropriate materials may be posted on designated open bulletin boards. A list of open bulletin boards is available, on request, from the Employee Relations Office of the Human Resources Department.

   b. Department or Division Bulletin Boards. Materials may be posted by registered representatives of employee organizations on department or division bulletin boards only if arrangements are made with the appropriate department head or division director.

3. **Distribution of Material**

   Employee organization representatives are permitted to distribute material and solicit membership outside the entrances to buildings and parking lots as long as adequate care is taken to prevent littering and avoid interfering with traffic flow. Freestanding racks with employee organization information also are permitted at entrances to the Laboratory; at the entrances to Buildings 50, 70, 76, 77, and 90; and, with approval of the Employee Relations Administrator, in the foyer of Building 54 (cafeteria).

4. **Use of Laboratory Property and Supplies**

   Employee organizations will not be permitted the use of Laboratory mail service, telephones, copying machines, or other Laboratory equipment or supplies, except as provided in RPM §2.19(F)(1).

5. **Conducting Business with Employees at Work**

   Employee organizations will be permitted to conduct business with employees at work only when the physical location is appropriate for such business, i.e., as long as there is no interruption of work and the area is not otherwise restricted for reasons of confidentiality, security, or safety, and when the employees are not on work time.

G. PAY STATUS OF REPRESENTATIVES OF EMPLOYEE ORGANIZATIONS WHO ARE LABORATORY EMPLOYEES

1. A Laboratory employee may not conduct activities relating to or attend meetings of employee organizations while on work time, except as reasonably necessary in the conduct of a grievance or administrative review (as determined by Employee Relations or Labor Relations) or as specifically approved by the Head of the Human Resources Department.
2. Activities must not interfere with or disrupt the work of the Laboratory or violate safety or security requirements.

H. SUPERVISORY EMPLOYEES

Supervisory employees have the right to form, join, and participate in employee organizations for the purpose of representation on supervisory employer-employee relations and the right to refuse to join or participate in employee organizations. Supervisory employees may not, however, participate in the handling of grievances or meet and confer processes on behalf of nonsupervisory employees or vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonsupervisory employees.

I. MEETING AND CONFERRING

HEERA provides that certified exclusive representatives of employees of the University in an appropriate unit "shall engage in meeting and conferring with the employee organization selected as exclusive representative of an appropriate unit on all matters within the scope of representation" (Art. 4, §3570).

Arrangements for such meetings should be made through the Head of the Human Resources Department, if the unit is composed of Laboratory employees only, or through the University Director, Labor Relations, in the case of a multilocation or systemwide unit.

In the absence of a memorandum of understanding or if the memorandum of understanding does not cover the subject, a reasonable number of representatives of an exclusive representative have the right to receive reasonable periods of released or reassigned time without loss of compensation when engaged in meeting and conferring and for the processing of grievances. When a memorandum of understanding is in effect, released or reassigned time must be in accordance with the memorandum.

J. ACCESS TO PUBLIC RECORDS

To the extent required by law, copies of public records are provided to employee organizations at cost and in whatever form they exist. Requests for multilocation information should be submitted to the Director, Labor Relations, at the University of California Office of the President. Requests for Laboratory information only should be submitted to the Head of the Human Resources Department at Berkeley Lab.

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§2.21
Terminations

Responsible Manager

Rev. 04/09

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A. RESIGNATIONS

Employees who plan to resign from employment at the Laboratory are requested to give their supervisor two weeks' or more advance notice of their planned resignation, when possible, to enable prompt action to be taken to recruit replacements for their positions. The supervisor must immediately acknowledge in writing the employee's intention to terminate.

B. REDUCTION IN FORCE

Lawrence Berkeley National Laboratory operates principally with funds provided by the United States Department of Energy (DOE). The total level of funding and the level of funding for specific divisions of the Laboratory and specific programs within each division are determined each year, with the final determination made in Washington by action of the United States Congress, the Office of Management and Budget, and DOE. The composition of the Laboratory staff must be suitable for carrying out the advanced research and technology goals determined by the budget review process. Because the Laboratory has no final control over its funding, it is unable to guarantee long-term employment, and its rules on terminations must acknowledge the fact that the overall Laboratory budget may be reduced and/or the level of support for individual programs may be reduced in any budget year. Laboratory policy and procedures on termination of employment because of lack of work (including lack of work because of reorganization or lack of funds) are described in Paragraph (B)(1)–(8), below. The provisions of this paragraph (*Reduction in Force*) apply only to employees who hold career appointments. See RPM §§2.01(D) (*Types of Appointments*), and 2.05(A)(*Areas of*

Responsibility)–(B)(*Early Problem Resolution*). See also RPM §2.07(C) (*Types of Professional Research Staff Positions*) for additional information on reduction in force for the professional research staff.

1. Policy

The policy of the Laboratory is to minimize, by anticipating and planning for reduced staff needs, the effects of layoffs and reductions in time of career employees when such layoffs or reductions in time are necessitated by lack of funds or lack of work. The Laboratory will give eligible employees preferential opportunities for reassignment or transfer before layoff, the right to be recalled to the division from which they have been laid off, and preference for re-employment in all divisions of the Laboratory.

In order to avoid a layoff, the Laboratory may reassign an employee targeted for layoff to a position for which the employee is qualified at the same or greater percentage of time and at the same or higher salary as determined by the salary range maximum. Such action will nullify the layoff.

2. Layoff Units

Layoff units are administrative entities within the Laboratory that allow the Laboratory to administer the reduction-in-force policies in the RPM and collective bargaining agreements. They provide the structure to identify individuals who will be affected by a reduction in force.

Laboratory Management has the sole authority to determine layoff units and the determination is not subject to the complaint resolution policy. Employees will be provided appropriate notice before the implementation of any changes in layoff units that affect them.

See Layoff Units List for current listing of components of each of the above.

3. Decision to Implement Reduction

Note: For the purposes of administering this policy, "layoff unit manager" is defined as the manager with the ultimate organizational responsibility for each of the layoff units (e.g., division director, department head, etc.).

Laboratory management has the sole discretion to determine the need for layoffs, the classification of employees to be laid off and the layoff unit, consistent with this policy.

When a reduction in force is required, each layoff unit manager will review the programs, departments, or areas for which he or she is responsible and determine the number of employees, classifications, and programs to be involved in the reduction. The layoff unit manager, working with the Human Resources Center and Labor and Employee Relations (LER), will take into account the objectives of the Affirmative Action Compliance Program through consultation with the Work Force Diversity Office and discussion with the Head of the Human Resources Department before initiating further action.

Employees in noncareer positions are normally the first to be reviewed when lack of funds or lack of work necessitates a decrease in staffing levels. The layoff unit manager may determine which noncareer employees are to be terminated or reduced in time and the effective date of the action.

A layoff unit manager or designee will inform employees in the specific program, department, or area of the division where lack of funding or work has been identified such that a reduction in force is necessary. He or she may also request volunteers for layoff.

4. Order of Layoff

The layoff unit manager is responsible for selection of individual employees to be released. The selection and the terms or conditions of the release are subject to prior review by the Head of the Human Resources Department, or his/her designee, and the Head of the Workforce Diversity Office. The order of layoff for career employees in the same job title/code and layoff unit will be in inverse order of seniority. A layoff unit manager may retain any employee irrespective of seniority if the employee possesses special skills, knowledge, or abilities that are not possessed by more senior employees in the same class and are necessary to perform the ongoing functions of the layoff unit. All such exceptions will be documented and require the approval of the Head of the Human Resources Department.

A layoff unit manager may, when feasible, accept volunteers for layoff in lieu of other employees. The acceptance of individual voluntary layoffs will be based on the operational needs of the division. When an employee volunteers for layoff in lieu of another employee and is subsequently selected for layoff, the employee is entitled to the full protection of the layoff policy, with the exception of recall and preferential rehire rights. He or she should be informed that eligibility for unemployment insurance benefits depends on the evaluation of the termination by the State of California Employment Development Department.

5. Determination of Seniority

For purpose of layoff, seniority will be determined on the basis of one point for each month of full-time-equivalent paid University service in any job class or title. Employment before a break in service will not be counted. A break in service is a separation of at least one scheduled working day of Laboratory/University employment. Authorized leave without pay and time on preferential rehire status do not constitute a break in service. When employees have the same number of full-time-equivalent months, the employee with the most recent hire date will be laid off first.

6. Notification to Employees

The layoff unit manager is responsible for ensuring that employees are notified of their layoff in accordance with the plan agreed on with the Human Resources Department. The scheduling of notifications and the conduct of the notification interviews should be handled to minimize the anxiety and disturbance of other employees. Notification will be accomplished orally and will include instructions for obtaining assistance and guidance from the Human Resources Department.

The terms of the layoff will be confirmed to the employee by a letter signed by the Head of the Human Resources Department or designee. The letter will include a statement regarding unemployment insurance, the effect of the layoff on the employee's benefits, the procedures for recall and preferential rehire, and the name of the person to contact for assistance. Written notice will be at least 30 calendar days before the effective date or, if less than 30 calendar days' written notice is given, a career employee will receive pay in lieu of notice for each additional day he or she would have been on pay status had the employee been given 30 calendar days' notice. See RPM §2.07(C) (*Types of Professional Research Staff Positions*) for notice provisions for the professional research staff.

7. Assistance to Employees

It is the layoff unit manager's responsibility to ensure that career employees who are scheduled for layoff are given primary consideration for vacancies in the layoff unit for which they are reasonably qualified.

The designated Layoff Coordinator in the Human Resources Department is responsible for assisting employees who have received a reduction in force notice or who have been terminated as a result of a reduction in force (during the period of recall and preference for re-employment eligibility). This assistance includes, but is not limited to:

- Reviewing with the employee the terms of the planned release and explaining recall and preference for rehire.
- Referring the employee to the Benefits Office, Employee Assistance Program, and other Laboratory services and outside agencies as appropriate or requested.
- Referring the employee to the agency providing outplacement services.
- Coordination with the appropriate Human Resources Center Manager regarding any employee requests to be considered for preference for rehire.
- Providing assistance in preparing a résumé and other job-hunting skills.

In addition, the Layoff Coordinator is responsible for maintaining the recall and preference roster and other records, as noted in Paragraph (9)(e), below.

8. Continuation of Benefits During Layoff

An employee on layoff status may continue in certain group insurance programs, if previously enrolled, for the length of time provided by the University's contract with the insurance carrier, subject to the payment of full premiums. Retirement system regulations determine the effect of the layoff on retirement benefits. The employee should contact the Laboratory's Benefits Office regarding eligibility for continuation of benefits.

9. Re-Employment from Layoff

a. **Right to Recall to Layoff Division**

i. Only career employees who have passed probation and who did not volunteer for the layoff are eligible for recall.

ii. An employee has the right to recall for three years from the date of layoff.

iii. An employee who is separated or whose time is reduced because of layoff will be recalled in order of seniority into any active and vacant career position for which the employee is qualified when the position is in the same class and layoff unit and at the same or lesser percentage of time as the position held by the employee at the time of layoff.

A layoff unit manager may reject an employee for recall only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager, in writing, to the Head of the Human Resources Department for review and approval.

An employee who is recalled for a position different from the one held at the time of layoff may, on written notification, be required to serve a trial employment period of up to six months on rehire. An employee who is required to serve a trial employment period may, at any time during the trial employment period, return to layoff status at the employee's or the layoff unit manager's discretion. Time spent in trial employment will not count against the period of eligibility for recall or preference for rehire.

iv. Right to recall terminates if an employee:

(a) refuses an offer to return to the layoff unit division and job title/code from which he or she was laid off at the same or greater percentage of time,

(b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,

(c) accepts a career position at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff, or

(d) retires.

v. Right to recall continues during, but is not extended by, periods of temporary, non-career Laboratory employment.

vi. Right to recall is suspended if an employee does not respond to written notice of an employment opportunity or if the employee does not respond in the affirmative to periodic inquiries about continuing his/her right(s) after one year. Right to recall may be reinstated, however, on written request of the employee and approval of the Head of the Human Resources Department.

b. **Preference for Re-Employment**

i. Only career employees who have passed probation and who did not volunteer for the layoff are eligible for preference for rehire rights.

ii. An employee with less than five years of seniority (see Paragraph (B)(5) above) has preference for re-employment for one year from the date of layoff. An employee with at least five but less than 10 years of seniority has preference for re-employment for two years from the date of layoff. An employee with 10 years or more of seniority has preference for re-employment for three years from the date of layoff.

iii. An employee who is separated or whose time is reduced because of layoff or who has received written notice of layoff

or reduction in time within the two calendar months before the layoff date will be granted preference for re-employment or transfer to any active and vacant career position at the Laboratory for which the employee is qualified when the position is (1) at the same salary level or lower (as determined by the salary-range maximum) and (2) at the same or lesser percentage of time as the position held by the employee at the time of layoff. When written notice of layoff or reduction in time is given more than two months prior to the layoff date, the Head of Human Resources may authorize that preference for re-employment begin with the date of layoff notice.

During the two calendar months preceding the layoff date or beginning from the date of layoff notice (whichever is later), the Layoff Coordinator will give employees on preferential rehire status Laboratory-wide consideration for positions in the same job code and at the same or lesser percentage of time as the job from which the employee was laid off. In addition, during the preference eligibility period, preference will be given for any job that meets the requirements as noted in the above paragraph for which the employee requests to be considered within two weeks of the posting date of the position.

An employee who has been terminated due to indefinite layoff will be given first consideration for preference for employment to active and vacant career positions, as described above, for which he/she has applied.

A layoff unit manager may reject an employee with preference for re-employment or transfer only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager in writing to the Head of the Human Resources Department for review and approval.

An employee who is reassigned at his or her request during the pre-termination preference for re-employment period or rehired under preference for re-employment may, on written notification, be required to serve a trial employment period of up to six months. An employee who is required to serve a trial employment period may at any time during the trial employment period return to layoff status at the employee's or the layoff unit manager's discretion with 30 days written notice. Time spent in trial employment will not count against the period of eligibility for recall or preferential rehire.

iv. Right to preference for re-employment terminates if an employee:

(a) refuses an offer to return to the layoff unit and job title/code from which he or she was laid off at the same or greater percentage of time,

(b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,

(c) accepts any career position, or

(d) retires.

v. Right to preference for re-employment continues during, but is not extended by, periods of temporary Laboratory employment.

vi. Right to preference for re-employment is suspended when an employee does not respond to written notice of an employment opportunity or if the employee does not respond to periodic inquiries about continuing his/her right(s) after one year. Preference for rehire may be reinstated, however, on written request of the employee and approval of the Head of the Human Resources Department.

c. **Re-Employment at Another University Location.** If a person on recall and/or preferential rehire status desires to be considered for employment at a University of California campus or another laboratory, the Head of the Human Resources Department will provide the manager at that location with a copy of the individual's resume and a written request for consideration.

d. **Benefits on Re-Employment.** When a person is re-employed within the period of right to recall and/or preference for re-employment, the periods before and after layoff are considered as continuous service for the limited purpose of applying University policies concerning sick leave, vacation, holidays, probationary period, reduced fee enrollment, seniority points for layoff, military leave, and merit salary increases. All prior sick leave credit will be reinstated during the period of eligibility up to a period of three years. Benefits and credits for service, including those relating to retirement systems, do not accrue for periods on recall and/or preferential rehire status. The employee should contact the Benefits Office/Department immediately upon re-employment for assistance.

e. **Records and Reports.** The Human Resources Department Layoff Coordinator will maintain a current roster of all persons on recall and preferential rehire status and will record all referrals, offers of employment, rejections of persons by layoff unit managers and refusals of employment offers by individuals on the preferential rehire list.

C. RELEASE OF LIMITED, REHIRED RETIREE, STUDENT ASSISTANT, AND PROBATIONARY APPOINTEES

1. General

Employees serving a probationary period or holding limited, rehired retiree, or student assistant appointments may be released at any time at the discretion of the Laboratory. The employee shall be notified of the release in writing.

2. Automatic Termination

An employee holding a limited, rehired retiree, or student assistant appointment is automatically terminated as of the last day of the appointment unless there is an earlier separation or formal extension of the appointment in writing.

D. RELEASE OF EMPLOYEES IN TERM APPOINTMENTS

1. Employees in term appointments are automatically terminated as of the last day of their appointment unless there is a written notice of extension of the appointment.
2. Employees in term appointments may be terminated before the end of their appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C) *(Corrective Action and Dismissal)*. The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs in which case, whenever possible, an employee should be given at least 30 days' advance written notice that his/her appointment will be terminated.

3. For information regarding release of employees in scientific term appointments (including postdoctoral fellows), see RPM §2.07 *(Professional Research Staff)*.

E. MEDICAL SEPARATION

1. Policy

Employees who are unable to satisfactorily perform the essential, assigned functions of their positions due to a disability or medical condition may be separated from employment. Prior to medical separation, the Laboratory will engage in the interactive process. See RPM §2.01(B)(4) (*Reasonable Accommodation*). A non-probationary career employee separated under this policy is eligible for special re-employment procedures. See RPM §2.01(C)(3)(a) (*Recruitment*).

This policy is applicable to the following employee classifications: career, term, or faculty. This policy is not applicable to the following employee classifications: limited, rehired retiree, visiting researcher, graduate student research assistant (GSRA), or student assistant.

2. Basis for Separation

a. A medical separation will be based on: (i) a written statement by the employee's supervisor describing the essential functions the employee is unable to perform, and (ii) a written review by a vocational rehabilitation counselor, or

appropriate representative, determining that no reasonable accommodation exists without causing undue hardship.

b. A medical separation may also be based on: (i) the employee's receipt or approval of disability payments from a retirement system to which the University contributes and (ii) a written review by a vocational rehabilitation counselor, or appropriate representative, determining that no reasonable accommodation exists without causing undue hardship.

c. An employee will not be separated under this policy while on sick leave or extended sick leave (see RPM §2.15 (*Workers' Compensation Insurance*)). However, an employee may be separated for medical or other reasons if the date of separation was set before the commencement of sick leave or extended sick leave, and if the employee is afforded all rights provided by the employee's retirement system.

3. Medical Documentation

Proof of the employee's disability or medical condition is required and is subject to verification by a Laboratory-appointed licensed healthcare provider. The Laboratory shall pay the costs of any medical examinations requested or required by the Laboratory.

4. Notices

a. **Notice of Intent.** An employee will be given advance written notice of intent to separate the employee. The notice will:

i. State the reason for the medical separation and the proposed effective date.

ii. Include copies of the supervisor's statement and any other pertinent material considered. (Upon request of the employee, documentation related to the interactive process will be included.)

iii. State that the employee has the right to respond orally or in writing within eight calendar days regarding the separation.

iv. Specify to whom the response must be made.

b. **Notice of Separation.** After the employee's response or eight calendar days have passed, the employee shall be notified of the decision. If it has been determined that separation is appropriate, the employee shall be given advance written notice of the separation date and notice of the right to appeal.

c. **Effective Date.** The effective date of separation will be at least 10 calendar days from the date of issuance of notice of separation or 18 calendar days from the date of issuance of the notice of intent to separate, whichever is later.

5. Special Re-Employment Procedures

a. **Re-Employment.** For a period of one year following the date of a medical separation, a former non-probationary career employee may be selected for a position without the requirement that the position be publicized. See RPM §2.01(C)(3)(a) (*Recruitment*). However, if the former employee receives disability benefits from a retirement system to which the University contributes, the period will be three years from the date on which the benefits commenced.

b. **Service Credit on Re-Employment.** If an employee is reappointed or re-employed within the allowed period, a break in service does not occur.

F. DISMISSAL

See RPM 2.05(C) (*Corrective Action and Dismissal*).

G. SECURITY TERMINATIONS

Employees who are terminated for security reasons at the request of DOE may be given, with the approval of DOE, payment for up to 20 working days in lieu of advance written notice of such termination.

H. TERMINATION BY DEATH

The date of an employee's death is also the effective date of termination from Laboratory service. Payment of salary or wages and vacation credit due a deceased employee is made to the employee's estate or the heirs-at-law, in accordance with California state law. Determination of whether to pay the amount due to the estate or the heir(s) is based on the nature and value of the estate and the amount due. When the amount due is less than $3,000, direct payment to the heir(s) is often permissible. Processing is handled by the Human Resources Department. See RPM §2.23(B) (*University Death Benefits for Employees*) for other information pertaining to an employee's death.

I. TERMINAL PAY

Terminal pay for employees includes payment for salary and wages due for work performed through the effective time and date of termination and payment for vacation credit, up to the maximum possible credit for the employee's job classification and length of service.

J. TERMINATION PROCEDURE

Termination procedures and forms may be found on the Human Resources Forms Web page.

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§2.23
Miscellaneous

Responsible Manager

Revised 12/08

- **A. Reporting an Employee's Death**
- **B. University Death Benefits for Employees (moved to §2.06(C)4))**
- **C. Substance Abuse in Workplace**
  1. **Laboratory Policy**
  2. **Special Requirements for Employees Engaged on Federal Contracts and Grants**
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  4. **Department of Transportation (DOT) Rule**
- **D. Flexible Work Options (moved to §2.06(D)4))**
  1. **General**
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- **E. Employee Rest Periods (moved to §2.06(D)(2)(b)(ii))**
- **F. Conflicts of Interest**
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  1. **Unpublished Information Relating to Technological and Scientific Developments**
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  3. **Anticipated Materials Requirements or Pricing Actions; Knowledge of Selected Contractors or Subcontractors before Official Announcements**
  4. **Possible New Sites for University of California or DOE Program Operations**
- **J. Nonsmoking Policy**
  1. **Policy**
  2. **Further Information**

A. REPORTING AN EMPLOYEE'S DEATH

All supervisors are requested to notify the Human Resources Department (Foreign Visitors Unit for foreign nationals) immediately of the death of an employee. This notification will ensure the initiation of benefit payments and other possible assistance to eligible dependents or a designated beneficiary.

B. UNIVERSITY DEATH BENEFITS FOR EMPLOYEES

Paragraph (B) moved to §2.06(C)4).

C. SUBSTANCE ABUSE IN WORKPLACE

1. Laboratory Policy

The University of California and the Laboratory recognize dependency on alcohol and other drugs as a treatable condition and offer programs and services for Laboratory employees, including University of California student employees, with substance

dependency problems. Employees (including student employees) and students are encouraged to seek assistance, as appropriate, from employee support programs, health centers, and counseling or psychological services available through the Laboratory's Employee Assistance Program, which is provided by the University of California Health Center (the Tang Center) on the Berkeley campus. Information obtained regarding an employee or student during participation in such programs or services will be treated as confidential, in accordance with federal and state laws.

The Laboratory strives to maintain a work site free from the illegal use, possession, or distribution of alcohol or of controlled substances as defined in Schedules I–V of the Controlled Substances Act (21 United States Code §812) and 21 Code of Federal Regulations 1308. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by employees in the workplace, on Laboratory premises, at official Laboratory functions, or on Laboratory business is prohibited. Unauthorized possession, use, consumption, or being under the influence of alcohol on Laboratory premises is prohibited. In addition, employees may not use illegal substances or abuse legal substances, including alcohol, in a manner that impairs work performance, scholarly activities, or student life.

The Laboratory strongly supports and is committed to making a good-faith effort to maintain a workplace free of substance abuse through implementation of 10 Code of Federal Regulations 707.5(a)(1)–(5) (Workplace Substance Abuse Programs at Department of Energy Sites). Use, possession, sale, distribution, or manufacture of illegal drugs at sites owned or controlled by DOE is prohibited.

Employees found to be in violation of this policy, including student employees if circumstances warrant, may be subject to corrective action (up to and including dismissal) under applicable Laboratory policies and labor contracts or may be required, at the discretion of the Laboratory, to participate satisfactorily in an Employee Support Program.

2. Special Requirements for Employees Engaged on Federal Contracts and Grants

The Federal Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D) and the State Drug-Free Workplace Act of 1990 require that University employees directly engaged in the performance of work on a federal or state contract or grant must abide by this policy as a condition of employment.

Employees working on federal contracts and grants must provide written notification to the Laboratory through their immediate supervisor within five calendar days if they are convicted of any criminal drug statute violation occurring in the workplace or while on Laboratory business. This requirement also applies to all indirect charge employees (i.e., an employee who performs support or overhead functions related to the federal contract or grant and for which the federal government pays its share of expenses) unless the employee's impact or involvement is insignificant to the performance of the contract or grant. The Laboratory is required to notify the federal contracting or granting agency within 10 calendar days after receiving notice of such conviction and to take appropriate corrective action or to require the employee to participate satisfactorily in available counseling, treatment, and approved substance-abuse assistance or rehabilitation programs within 30 calendar days after receiving notice of such conviction.

Questions regarding Laboratory policy on substance abuse in the workplace may be directed to the Labor/Employee Relations Office or the Employee Assistance Coordinator. See RPM §2.05(G) (*Employee Assistance Program*).

3. Definitions

a. **Employees.** In the context of the University Policy, "employees" refers to all Laboratory employees.

b. **Students.** In the context of the University Policy, "students" refers to students of University of California campuses. For the Laboratory, student employees are covered by Laboratory employee policies.

c. **Employee Support Programs.** For the Laboratory, this refers to the Employee Assistance Program and the Vocational Rehabilitation Program. Student employees of University of California campuses (GSRAs and student assistants) have student counseling and health services available at their campus. Employees are encouraged to self-refer for substance abuse problems and to seek confidential assistance from the Employee Assistance Counselor.

d. **Special Requirements for Employees Engaged on Federal Contracts and Grants.** This section of the University Policy applies to all Laboratory employees. Laboratory employees who are convicted of any drug statute violation occurring in the workplace or while on Laboratory business must notify their immediate supervisor and the Office of Employee Relations

within five calendar days of the conviction.

e. **Conviction.** A conviction is a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with responsibility to determine violations of any criminal drug statutes.

4. Department of Transportation (DOT) Rule

The Laboratory endorses the Department of Transportation's (DOT) antidrug policy and regulations. A drug and alcohol testing program is an integral part of this policy for classifications covered by the DOT rule. Compliance with this policy and the DOT rule is a condition of continued employment. Noncompliance may result in disciplinary action up to and including suspension or dismissal.

The Laboratory's policies and procedures to implement the DOT drug and alcohol testing program have been balanced with a recognition of employees' legal rights, the preservation of employees' reasonable expectation of privacy, and a commitment to assuring due process.

The DOT rule covers employees and contract labor personnel whose Laboratory job duties are such that federal regulations require them to hold a Commercial Driver's License (CDL) in order to drive a commercial motor vehicle (CMV) on public highways, and who, during the course of the workday, operate or are expected to be ready to operate a vehicle with a gross combination or gross vehicle weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle rating of more than 10,000 pounds; a vehicle originally or currently designed to transport 16 or more passengers including the driver; or a vehicle of any size used to transport hazardous materials found in the Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under the Hazardous Materials Regulations.

Employees and contract labor personnel covered by the DOT rule are subject to the following drug and alcohol tests:

- Pre-employment
- Post-accident
- Reasonable suspicion
- Random
- Return to duty and follow-up

The text of the full policy and implementation guidelines for the DOT rule is distributed to covered employees and contract labor personnel and is available in the Human Resources Department.

D. FLEXIBLE WORK OPTIONS

Paragraph (D) moved to §2.06(D)4).

E. EMPLOYEE REST PERIODS

Paragraph (E) moved to §2.06(D)(2)(b)(ii).

F. CONFLICTS OF INTEREST

1. Self-Disqualification

California's Political Reform Act of 1974, embodied in the University of California Conflict of Interest Code, requires that all state employees and officials must disqualify themselves from making or participating in certain decisions when a financial conflict of interest is present. As University employees, all Berkeley Lab employees are covered by the provisions of the Act.

2. Designated Official Positions

Under California law and University policy, certain designated Laboratory officials are required to file financial interest statements when they assume a designated official position, annually while they hold such a position, and when they leave it. These employees are notified directly of the applicable requirements for their specific designated official positions. A list of designated official positions for the Laboratory is available from the Conflict of Interest page on the UCOP Web site.

Note that more information about the Laboratory's conflict-of-interest policies are available in RPM Chapter 10 (*Conflict of Interest*).

G. ACCEPTANCE OF GIFTS OR FAVORS

Employees are not permitted to accept gifts, gratuities, or favors from any source that might affect or appear to affect their judgment in discharging their duties. Such acceptance may be construed as a conflict of interest. This restriction does not apply to:

- Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon, dinner, or other meeting; or
- Acceptance of modest entertainment, such as a meal or refreshments in connection with attendance at widely attended gatherings sponsored by industrial, technical, or professional associations or at public ceremonies in an official capacity.

An employee who misuses privileged or official information may be subject to discipline by the Laboratory and prosecution under state and federal law.

H. CONTACTS WITH STATE AND FEDERAL OFFICIALS

Employees may not act or give the appearance of acting on behalf of the Laboratory or the University when communicating with state or federal officials unless they are authorized to do so. To act or give the appearance of acting on behalf of the Laboratory or the University in such instances without authorization may be construed as a conflict of interest.

When corresponding with state and federal officials, a writer may use Laboratory letterhead only when authorized to represent the Laboratory or the University. Letters expressing personal views must be written on personal stationery. If Laboratory letterhead is used for corresponding with principal state and federal officials, including executive branch appointees, members of Congress, the state legislature, and their staffs, copies of the correspondence must be sent to the appropriate division director and to the Head of the Public Affairs Department.

When employees give opinions as independent professionals, they must state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California.

I. PRIVILEGED INFORMATION

The use of privileged or official information for personal financial gain is a type of conflict of interest and is prohibited. Privileged or official information is information that is known to an individual because of his or her connection with the Laboratory but is not available to the public. In this connection, the term "privileged information" includes but is not limited to:

1. Unpublished Information Relating to Technological and Scientific Developments

The Report Coordination Office and Technology Transfer and Intellectual Property Management review all technical and scientific papers and related materials for oral or other presentation before publication. See RPM §5.02 (*Policy for Scientific and Technical Publications*), §5.03 (*Patents*).

2. Medical, Personnel, Patent, Salary, or Security Clearance Records of Individuals

Individual employees have a right to access their own records except as limited by law. See RPM §2.17 (*Employee Records*), §5.03 (*Patents*). Access to the records of other employees is normally limited to legitimate need-to-know situations except as specifically noted in the RPM sections cited and in applicable laws.

3. Anticipated Materials Requirements or Pricing Actions; Knowledge of Selected Contractors or Subcontractors Before Official Announcements

In certain situations, an employee, by virtue of his or her position, may have access to information concerning anticipated materials requirements or pricing actions. Examples include Laboratory construction projects and system acquisitions. Improper dissemination of such information could produce unfair competitive advantage for vendors as well as constitute a conflict of

interest for the employee.

4. Possible New Sites for University of California or DOE Program Operations

The prohibitions surrounding this area are the same as those concerning Paragraph (I)(3), above.

An employee who misuses privileged or official information may be subject to discipline by the Laboratory and prosecution under state and federal law. Laboratory employees are required to notify the Laboratory whenever they are notified that they are the target of an investigation by a federal or state agency that has as its subject the improper use of information obtained or actions taken for personal use by the employee in the course of his or her employment.

J. NONSMOKING POLICY

1. Policy

It is the Laboratory's objective to create and maintain an environment as close to smoke-free as practicably possible. In addition, the Laboratory is located in an environment that poses severe hazards from wildland fires and is obliged to ensure that outdoor smoking is restricted to safe areas.

This policy applies to all employees, contractors, guests, and visitors. Accordingly, the Laboratory, in keeping with these obligations and in compliance with state law, has determined that smoking is not permitted:

- In any Laboratory building
- In any Laboratory vehicle
- Within 20 feet of entrances and exits, operable windows, and air intakes
- On decks or stairs
- In areas with vegetation
- In any area posted as "No Smoking"

Smoking is permitted only in outdoor areas that are paved with asphalt, brick, or concrete.

All individuals are responsible for ensuring:

- That their smoke does not enter buildings.
- The safe disposal of their smoking materials.

If the preferences of smokers and nonsmokers conflict, the preference of nonsmokers will prevail.

Violations of this policy should be reported to a supervisor, who, if necessary, will consult with Labor/Employee Relations before taking action in accordance with appropriate personnel policies or labor agreements.

2. Further Information

Instructions on how to obtain outdoor ash cans, request an EH&S review of smoking areas, and other information relating to this policy will soon be appearing in the Environment, Health, and Safety Manual (LBNL/PUB 3000).

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§2.26
Catastrophic Leave Sharing

Responsible Manager

New 08/03

- **A. Policy**
- **B. Definitions and Eligibility**
  1. **Serious Medical Condition**
  2. **Applicable Situations**
  3. **Receiving-Employee Conditions**
  4. **Donating-Employee Conditions**
  5. **Minimum Donation**
  6. **Maximum Credit**
- **C. Procedure**

A. Policy

This policy enables employees to donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee who has exhausted sick and vacation leave due to a serious medical condition affecting the employee or an eligible person, as defined below. Participation is entirely voluntary and applies only to the donation of vacation credit. Once given, the vacation-credit donation is irrevocable. Donations are anonymous unless the donor chooses to self-identify. This policy is not subject to the complaint resolution procedure policy. See RPM §2.05(D).

B. Definitions and Eligibility

1. Serious Medical Condition

Serious medical condition is as defined by the Family and Medical Leave Act.

2. Applicable Situations

The receiving employee's absence from work must be due to:

a. the employee's own serious medical condition, as defined by the Family and Medical Leave Act;
b. the serious medical condition of the employee's spouse, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships); or
c. the serious medical condition of any other person residing in the employee's household for whom there is a personal obligation.

The serious medical condition must be verified, consistent with the provisions provided here, concerning verification of a serious medical condition for the family care and medical leave policy. In addition, verification of a family member or other eligible person will be required consistent with University and Laboratory policy (see RPM §2.13(D)(2)).

3. Receiving-Employee Conditions

The receiving employee must:

a. be in a position that accrues vacation leave;
b. have exhausted all sick and vacation leave, even when doing so results in exceeding the 30-day limit imposed on the use of sick leave for family illness;
c. have exhausted all workers' compensation benefits and disability benefits (when applicable); however, an employee who has exhausted all sick and vacation leave and has not concluded the waiting period for disability may use catastrophic leave sharing benefits until the waiting period has ended; and

d. have passed the waiting period to use vacation, if a waiting period is required by the applicable personnel policy or collective bargaining agreement.

4. Donating-Employee Conditions

A donating employee must:

a. be in a position that accrues vacation leave;
b. have sufficient vacation leave to cover the donation (leave may not be donated prior to its accrual); and
c. have passed the waiting period to use vacation, if a waiting period is required by the applicable personnel policy or collective bargaining agreement.

5. Minimum Donation

The minimum donation of vacation leave under this policy is 8 hours. Donations above this amount must be made in whole-hour increments.

6. Maximum Credit

A recipient employee will not be credited with vacation credits that exceed the amount needed to ensure continuance of the employee's regular salary during the period of the approved catastrophic leave.

C. Procedure

The procedure for donating vacation credit under the catastrophic leave sharing policy is on the Web. Once transferred and credited, donations are irrevocable.

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§2.27
Upper Laboratory Management

Responsible Manager

Rev. 03/09

A. **UC-Managed DOE National Laboratories Policy on At-Will Upper Management Personnel**
   1. **General**
   2. **Notice**
   3. **Termination Assistance**
   4. **Severance Pay**
   5. **Resolution of Concerns**
   6. **Authority**

B. **UC-Managed DOE National Laboratories Resolution of Concerns for At-Will Upper Management Personnel**
   1. **General**
   2. **Applicability of Other Laboratory Policies**

A. UC-Managed DOE National Laboratories Policy on At-Will Upper Management Personnel

1. General

Laboratory managers in positions that have been designated as Upper Management serve at the discretion of the Laboratory Director.**[1]** Personnel so designated will be informed in writing of this classification. Employees in these positions may be terminated from their appointment, up to and including termination from employment, at any time with or without cause or notice. The at-will status of employees appointed to these positions cannot be altered except by amendment of this policy.

Additional employment policies for positions included in the University Senior Management Group may be found in Senior Management (SMG) Human Resources Policies.

Positions designated as Upper Laboratory Management are found on the Lawrence Berkeley National Laboratory Management Positions list.

2. Notice

An employee who is terminated from employment under this policy may receive, at the sole discretion of the Laboratory Director,**[1]** up to 60 calendar days' advance written notice of termination or pay in lieu thereof.

3. Termination Assistance

An employee whose employment is to be terminated under this policy may receive, at the sole discretion of the Laboratory Director,**[1]** assistance that may include one or more of the following:

a. Assignment to another position, if such a position is available, the employee is qualified to perform the work, and the new assignment is in the University's best interests.

In the event of such a reassignment, the employee's salary may not exceed the maximum of the salary range for the new position unless an exception to this policy is requested by the Laboratory Director and approved by the Associate Vice President—Human Resources and Benefits, Office of the President. When required by DOE Contracts or UC policy, approval of the salary must also be obtained from the DOE/Office of Science, DOE/NNSA, and/or The Regents.

If the new position has no established salary range or salary range maximum, the employee's new compensation rate will be established based on an analysis supervised by the Laboratory's Human Resources Director of the proposed job

duties and responsibilities. The new salary may not exceed that of the highest-paid employee performing a similar mix of responsibilities, unless an exception to this policy is requested by the Laboratory Director and approved by the Associate Vice President—Human Resources and Benefits, Office of the President.

b. Career counseling or outplacement services.

c. Reasonable time off with pay to interview for other jobs.

4. Severance Pay

Except in the case of termination for misconduct, an employee whose employment is to be terminated under this policy, and who is not reassigned to another position pursuant to Paragraph (A)(3)(a), will receive a severance payment equal to four months' salary.

a. In the event that the University's contract to manage a DOE Laboratory expires or is terminated, an employee who is offered employment with a successor contractor shall not be eligible for severance pay under this policy, if, in the University's judgment, the salary offered is comparable. Since continuing employment is being offered, the employee will be considered to have voluntarily terminated whether or not he/she decides to accept the position with the successor contractor.

b. Repayment: An employee who has received severance pay under this policy and who returns to work in a career position with the University or a successor contractor at the same or higher salary and at the same percentage of time as of the date of termination shall repay to the University any portion of severance pay received that is in excess of the time the employee was separated from the University.

5. Resolution of Concerns

Concerns about conditions and actions affecting an appointee's employment pursuant to this policy may be addressed under the Resolution of Concerns for At-Will Upper Management Personnel policy, below.

6. Authority

The Laboratory Director retains authority to terminate the appointment, up to and including termination from employment, of an employee covered by this policy.**[1]** Any exceptions to the provisions of this policy must be approved by the President.

B. UC-Managed DOE National Laboratories Resolution of Concerns for At-Will Upper Management Personnel

1. General

Appointees covered by the Policy on At-Will Upper Management Personnel serve at the pleasure of the Laboratory Director.**[2]** Concerns about conditions and actions affecting an appointee's employment are expected to be discussed with the individual's immediate supervisor. If the concerns cannot be resolved through such discussions, those concerns may be submitted in writing to the Laboratory Director or, as appropriate, to the President, Vice President —Laboratory Management, Regents Officer, or designee for review. The Laboratory Director, President, Vice President —Laboratory Management, Regents Officer, or designee shall take such action as deemed appropriate.

2. Applicability of Other Laboratory Policies

Each Laboratory's local human resources policies indicate whether or not other Laboratory polices, including but not limited to, policies and procedures relating to complaints of discrimination of the basis of a protected category (for example, race or whistleblower status), sexual harassment, or other complaints procedures or policies are applicable to Upper Management positions. However, neither those policies, procedures or practices, nor any other written or verbal communication is intended to create a contract or policy of employment that in any way alters or modifies the terms of the Policy on At-Will Upper Management Personnel. (See (RPM 2.01(D)(3) (*Laboratory Management*)).

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Notes:

[1] When an Upper Management position is the joint appointment of a laboratory and a systemwide (University or Regents) officer, termination shall be subject to the concurrence of such officer. When appropriate, the Laboratory Director will coordinate with the Vice President—Laboratory Management.

[2] When an Upper Management position is the joint appointment of a laboratory and a systemwide (University or Regents) officer, appointees serve at the pleasure of both officers. Concerns raised under this policy should be addressed to both appointment authorities.

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§2.28
Postdoctoral Fellows

Responsible Manager

New 05/09

- Preamble
- A. Policy
- B. Definition
- C. Titles
  - 1. Employee Titles
    - a. Postdoctoral Fellow
    - b. Special Postdoctoral Fellow
    - c. Interim Postdoctoral Fellow
  - 2. Guest Titles
    - a. Guest Postdoctoral Fellow
    - b. Guest Postdoctoral Fellow—Stipend
    - c. Guest Postdoctoral Fellow—Paid Direct
- D. Qualifications
- E. Recruitment
- F. Appointment Criteria
- G. Terms of Service
- H. Appointment Percentage
- I. Salary and Stipend
  - 1. Scale
  - 2. Criteria
- J. Coaching and Mentoring / Annual Reviews
- K. Leaves
  - 1. Vacation
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  - 3. Medical Leave
  - 4. Military Leave
  - 5. Jury Leave
- L. Holidays
- M. Benefits Plan
- N. Expiration/Termination of Appointment
- O. Promotion

PREAMBLE

At Lawrence Berkeley National Laboratory, the postdoctoral experience is an opportunity for further scientific training and professional development for individuals who have recently completed a doctoral degree. Postdoctoral fellows bring expertise and creativity that enrich the research environment for all members of the Laboratory community, including graduate and undergraduate students of the University of California.

A. POLICY

This policy defines and sets forth terms and conditions relating to the appointment of postdoctoral fellows. It applies to postdoctoral fellows who are employees of the Laboratory. This policy does not apply to postdoctoral fellows who are guests of the Laboratory.

B. DEFINITION

1. The postdoctoral fellow conducts research under the general oversight of a supervisor in preparation for a career position in academia, industry, government, or the nonprofit sector. Postdoctoral fellow appointments are intended to provide an opportunity to acquire further scientific professional growth and development.

2. Postdoctoral fellows train under the direction and supervision of Laboratory scientific and engineering staff (including faculty). In addition to research activities, postdoctoral fellows may be approved to engage in other scientific activities (e.g., teaching, serving on institutional committees) to broaden their professional skills.

3. Postdoctoral fellows may serve as co-principal investigators on externally funded contracts or grants. They are also permitted to serve as principal investigators on Laboratory-Directed Research and Development (LDRD) proposals. Postdoctoral fellows may be permitted to serve as principal investigators in three areas: (1) awards that are restricted to postdoctoral fellows; (2) small awards for research-related expenses; (3) or other circumstances approved by the division director.

C. TITLES

The specific title of a postdoctoral fellow is determined by the source of funds:

1. Employee Titles

a. **Postdoctoral Fellow**

The "postdoctoral fellow" appointment is determined when (1) the research is supported by Laboratory funds, or (2) the Laboratory is reimbursed by an external agency for the postdoctoral fellow's appointment.

b. **Special Postdoctoral Fellow**

The "special postdoctoral fellow" appointment is for the individual who has funding support from an external agency and the division augments the fellowship funding with additional work and compensation to reach approved Laboratory pay rate minimums.

c. **Interim Postdoctoral Fellow**

The "interim postdoctoral fellow" appointment is for the time period between finishing doctoral degree requirements as a Laboratory Graduate Student Research Assistant (GSRA) and beginning their postdoctoral work elsewhere. There should be no break in service between the end of the GSRA appointment and the beginning of the Interim Postdoctoral Fellow appointment. Such interim appointments are made by a division director, based on the recommendation of the supervisor, and are not to exceed six months.

2. Guest Titles

The title of a guest postdoctoral fellow is determined by the source of funds. Postdoctoral fellows who have guest status at the Laboratory are not covered by this policy.

a. **Guest Postdoctoral Fellow**

The "guest postdoctoral fellow" appointment is for the postdoctoral fellow with an appointment at another institution and is participating in a scientific collaboration or participating in experiments at a Laboratory user facility. See the Guest Policy to determine whether these are visitors or participating guests.

b. **Guest Postdoctoral Fellow—Stipend**

The "guest postdoctoral fellow—stipend" appointment is for a postdoctoral fellow who has been awarded or appointed to a fellowship or traineeship for postdoctoral study by an external agency and the fellowship or traineeship is paid through a Laboratory non-payroll account.

c. **Guest Postdoctoral Fellow—Paid Direct**

The "guest postdoctoral fellow—paid direct" appointment is for the postdoctoral fellow who has been awarded a fellowship or traineeship for postdoctoral study by an external agency and the agency pays the fellowship or traineeship directly to the postdoctoral fellow rather than through the Laboratory.

D. QUALIFICATIONS

The postdoctoral fellow position requires a recent Ph.D. or its equivalent. Candidates should show strong potential for creativity and productivity in research.

E. RECRUITMENT

Recruitment as defined in RPM §2.01(C) *(Recruitment and Selection)* is encouraged for all postdoctoral fellow appointments in order to promote equal opportunity for all candidates but is not required.

F. APPOINTMENT CRITERIA

Appointment as a postdoctoral fellow requires a confirmed doctoral degree or the international equivalent.

G. TERMS OF SERVICE

1. Postdoctoral fellow appointments have fixed end dates. Initial appointments are typically made for one year but may be made for up to three years. The minimum duration of appointment is six months at full time.

2. The total duration of an individual's postdoctoral service may not exceed five years, including postdoctoral service at other institutions. Time in which the postdoctoral fellow is on an approved leave of absence without pay will not be counted in the five year limit.

3. Interim postdoctoral fellow appointments are not to exceed six months (see Paragraph (C)(1)(c)).

4. Time spent in postdoctoral fellow appointments is not counted toward the five-year maximum for career-track and project scientist positions. See RPM §2.07(C)(2)(Research Scientist/Engineer (Career-Track), (4)(Staff Scientist/Engineer (Career-Track), or (6)(Divisional Fellow (Career-Track); or RPM §2.07(C)(10)(Project Scientist).

5. It is within the Laboratory's sole discretion not to re-appoint a postdoctoral fellow.

H. APPOINTMENT PERCENTAGE

1. Appointments to the postdoctoral fellow title are full-time.

2. When a postdoctoral fellow additionally holds another University of California position, the percent time of the postdoctoral fellow appointment normally will be reduced so that the sum of the percent times of the two appointments equals 100 percent.

I. SALARY AND STIPEND

1. **Scale**

   An authorized salary scale establishing minimum and maximum pay rates for postdoctoral fellow titles is issued by the Human Resources Compensation Unit and approved by the Laboratory Deputy Director.

2. **Criteria**

   Divisions are responsible for setting pay rates.

J. COACHING AND MENTORING / ANNUAL REVIEWS

In furtherance of advancing a postdoctoral fellow's career, it is recommended that the postdoctoral fellow and the supervisor conduct an annual oral review and have ongoing conversations on career growth and development throughout the postdoctoral experience. A written summary will be provided to the postdoctoral fellow upon request.

K. LEAVES

1. **Vacation**

   Employees in postdoctoral fellow positions accrue vacation leave in accordance with RPM §2.08 (*Vacation Leave)*.

2. **Sick Leave**

   Employees in postdoctoral fellow positions accrue sick leave in accordance with RPM 2.09 *(Sick Leave)*.

3. **Medical Leave**

   Employees in postdoctoral fellow positions are eligible for unpaid medical leave as provided in RPM §2.13 *(Family Care and Medical Leave)*.

4. **Military Leave**

   Employees in postdoctoral fellow appointments are eligible for military leave as provided in RPM §2.14 *(Military Leave)*.

5. **Jury Leave**

   Employee postdoctoral fellows are eligible for paid jury duty leave as provided in RPM §2.11(A)(1) (*Jury Duty*).

L. HOLIDAYS

Employees in postdoctoral fellow appointments are eligible for holiday pay as provided in RPM §2.10 (*Holidays*).

M. BENEFITS PLANS

Employee postdoctoral fellows are eligible for designated health and welfare benefits.

N. EXPIRATION/TERMINATION OF APPOINTMENT

1. A postdoctoral fellow appointment ends automatically at the end of three years from initial appointment or on the current expiration/termination date unless notified in advance in writing that the appointment will be renewed.

2. The employment of a postdoctoral fellow may be terminated before the end of the fellow's appointment for disciplinary reasons or substandard performance of which the fellow has been advised as provided in RPM §2.05(C). The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs, in which case the fellow will be given at least 90 days' advance written notice before termination.

O. PROMOTIONS

The postdoctoral fellow position is not a career-track position. There is no promotional track or expectation of advancement to any other professional research position. Waivers of recruitment of a postdoctoral fellow to another professional research position will be approved in exceptional cases and must be approved by the Laboratory Deputy Director in addition to the Chief Human Resources Officer and the Head of the Workforce Diversity Office.

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§2.29
Work Deferment Policy

Responsible Manager

New 8/08

A. **General**
B. **Policy**
C. **Benefits and Service Credit**
D. **Applicability of Laboratory Policies**

A. GENERAL

When a reduction in force is being considered or when there is a temporary lack of funding or a temporary lack of work, a division or department may also consider strategies such as temporary work deferment or temporary reduction in hours as alternatives to indefinite layoffs of Career Appointment employees or early release of Term Appointment employees. Such arrangements, when consistent with the needs of the division or department and the Laboratory, can retain the valuable skills of existing employees while responding to short-term critical budget or work shortage issues.

B. POLICY

A Career or Term Appointment employee (including Career-Track employee) shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. Divisional Fellow, Senior Scientist/Engineer and Distinguished Scientist/Engineer positions are excluded from involuntary work deferment. This policy is not applicable to all other employee classifications: Faculty, Postdoctoral Fellows, Visiting Researchers, Limited, Rehired Retiree, Graduate Student Research Assistants (GSRAs), and Student Assistants.

An employee on a temporary work deferment or reduction in time is ineligible for the right to recall, preference for reemployment, and severance pay.

Accrued sick leave shall not be used during a temporary work deferment or temporary reduction in time.

Accrued vacation leave may be used, at the discretion of the division director or operation department head (or designee), to postpone the effective date of the temporary work deferment. Accrued vacation leave shall not be used during a temporary work deferment.

If an indefinite layoff or indefinite reduction in time for career employees should occur during a temporary work deferment or temporary reduction in time, the procedures for indefinite layoff or indefinite reduction in time shall apply. (See RPM 2.21(B) (*Terminations/Reduction in Force*).)

Term appointment employees may be terminated early for lack of funds, lack of work, or changes in operational/business needs. If an early termination for term appointments should occur during a work deferment or reduction in time, the procedures for release of term appointment employees shall apply. (See RPM 2.21(D) (*Release of Employees in Term Appointments*).)

C. BENEFITS AND SERVICE CREDIT

1. During a temporary work deferment or temporary reduction in time, the employee's current level of health and welfare benefits will be maintained or suspended according to the regulations specified in the Temporary Layoff Benefits Checklist. This document is available at UCOP's At Your Service Web site and here.

    a. The Temporary Layoff Benefits Checklist does not apply to those employees in the Senior Management Group.

2. During a temporary work deferment, the employee will temporarily stop earning service credit. During a temporary

reduction in time, the employee will temporarily earn service credit on a prorated basis.

D. APPLICABILITY OF LABORATORY POLICIES

1. While an employee is on temporary work deferment or on temporary reduction in time, all Laboratory policies, including conflict of interest policies, remain in effect and employees should continue to abide by these policies.

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Chapter 3
Pay and Time Reporting

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§3.01 Definitions (moved to "Definition of Terms in the RPM," in 12/08)

§3.02 Time Reporting (Moved to RPM §11.05)

§3.03 Overtime (Moved to RPM §11.06(D), on 3/6/09)

§3.04 Special Pay Provisions (Moved to §2.06(B)(2), (B)(3), and (B)(4), in 12/08)

§3.05 Pay Periods, Computations, and Deductions (Moved to RPM §11.06)

§3.06 Paydays and Check Distribution (Moved to RPM §11.07)

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Chapter 4
Relocation

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§4.01 Relocation Policy

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§4.01
Relocation Policy

Responsible Manager

Links updated 1/09

A. General
B. Definitions
C. Resources
D. Source Documents
E. Guidance Documents

A. GENERAL

1. This policy is in accordance with Federal Acquisition Regulation (FAR) 31.205-35 and Contract 31, Section J, Appendix A. Relocation reimbursement beyond the limits of this policy may be considered to be unallowable and therefore cannot be billed to the federal government as direct or indirect expenses.

2. At the discretion of Lawrence Berkeley National Laboratory (LBNL) management, LBNL may reimburse new or current employees for reasonable and actual permanent change-of-station (PCS) relocation expenses. Permanent change-of-station relocation is for a period of 12 months or longer.

    a. With the approval of the Laboratory Director, or designee, Laboratory employees may be assigned to temporary duty at other locations on a change of station basis that exceeds six months. Payment of actual and reasonable costs associated with the temporary change of station may be made.

3. The maximum dollar amount LBNL will reimburse for relocation expenses will be determined by the division director or operations department head (or designee) and will be within specified guidelines.

4. New or transferred employees (a.k.a. change of station employees) must sign a repayment agreement which states that if the employees voluntarily terminate employment prior to completing one (1) year of credited service from the start of employment for new hires or date of transfer for transferred staff, they must refund LBNL the full amount of their relocation reimbursements.

5. Claims for reimbursement should be submitted to LBNL as soon as possible after the transactions have occurred. Relocation benefits are valid for 12 months from the employee's effective start-of-employment date or change-of-station date.

6. Written requests for exceptions to the relocation policy require advanced approval by the Chief Human Resources Officer (CHRO) and the Chief Operating Officer (COO).

B. DEFINITIONS

1. Permanent change-of-station (PCS): Permanent change-of-station relocation reimbursement may be offered to a new or current employee who accepts a permanent assignment of 12 months or longer at an LBNL work site.

2. Temporary change of station (TCS): Temporary change of station relocation reimbursement may be offered to an employee who accepts a temporary assignment that exceeds 6 months at an LBNL work site.

3. Exception to policy: Action that exceeds what is allowable under current policy or that is not expressly provided for under this policy. Any such action must be treated as an exception.

C. RESOURCES

1. Relocation Guidelines
2. Relocation Expenses Planning Worksheet
3. Point-of-Contact: Relocation Coordinator

D. SOURCE DOCUMENTS

1. Federal Acquisition Regulation (FAR) 31.205-35, Relocation Costs
2. Federal Acquisition Regulation (FAR) 31.205-46, Travel Costs
3. Contract 31, Section J, Appendix A (J)(KV)(i)(2), Dislocation Allowance

E. GUIDANCE DOCUMENTS

1. Federal Travel Regulations (FTR) 302 Relocation Allowances
2. Federal Travel Regulations (FTR) 301Temporary Duty (TDY) Travel Allowances

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Chapter 5
Public Information, Publications, and Patents

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§5.02 Scientific and Technical Publications

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§5.07 Disclosure of Laboratory Proprietary Information

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§5.01
Public Information and External Relations

Responsible Manager

Rev. 09/08

- **A. Public Information and Media Relations**
- **B. Use of Laboratory Name in Advertising**
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A. PUBLIC INFORMATION AND MEDIA RELATIONS

It is the policy of Lawrence Berkeley National Laboratory that its scientific achievements and associated events and accomplishments are an important source of news for communicating the value, identity, and visibility of the Laboratory. This information is made available to the media and to internal and external audiences, including the general public, through the Communications Department (CD). Public information documents prepared for general audiences about or on behalf of the Laboratory should be developed in consultation with CD to maintain accuracy and coherence in representing the Laboratory.

Laboratory divisions and employees who identify items of potential public interest should contact CD to discuss their prospective use for news or promotional purposes. CD will propose appropriate vehicles for dissemination and prepare the information materials accordingly. CD disseminates news about the Laboratory to external audiences through press releases, the annual report, other brochures/leaflets, and the World Wide Web. Information to employees is furnished online through the Berkeley Lab News Center and Today at Berkeley Lab. A specified clearance procedure is followed for press releases to ensure accuracy and validity, including final approval by division directors and the Laboratory Director.

Laboratory contacts with outside news media should be coordinated through CD, which handles most requests for information and interviews from the media, arranges special media events (i.e., press conferences, and photographic, TV, and radio coverage), and originates or coordinates media-related contacts for Laboratory activities. CD may arrange for media representatives to interview Laboratory staff directly, in which case a communications specialist may be present or may participate.

Laboratory staff who are independently approached by reporters should advise CD before the interview. Questions regarding the appropriateness or content of an interview, or requests to set up such an interview, should be forwarded to the Head of Communications. When employees give opinions as independent professionals, they must state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California. Official statements to the media on behalf of the Laboratory as a whole should be developed in coordination with CD. The Head for Communications serves as the Laboratory spokesperson or coordinator for official public announcements.

Specialists from CD are also available to assist in preparation and training for news interviews, to assist with visual materials for public interest and Speakers Bureau presentations, and to review the design of general-interest publications.

B. USE OF LABORATORY NAME IN ADVERTISING

Commercial firms serving the Laboratory often request permission to use the name of the Laboratory in promoting their products through, e.g., advertisements, brochures, and motion pictures. The Laboratory follows University and Department of Energy policies and California state law, which restrict such use. All such requests should be referred to the Associate Laboratory Director

for Operations.

Companies that have licensed Laboratory intellectual property such as patented inventions, software, or biological materials sometimes make similar requests. Laboratory license agreements contain specific provisions governing a licensee's use of the Laboratory name. All such requests should be referred to the Head of Technology Transfer and Intellectual Property Management.

C. USE OF PHOTOGRAPHS IN LABORATORY'S IMAGE LIBRARY WEB SITE

The photographs in the Laboratory's Image Library Web site may be downloaded for use by the news media or for educational or scientific purposes. For example, the Laboratory will provide prints or high-resolution digital versions of images to qualified publishers, such as textbook publishers. In all cases, published credit must be given to Lawrence Berkeley National Laboratory.

These images may not be used for commercial purposes, except as referenced above. The Laboratory will consider and respond to written requests for specific usage. Queries regarding prints, permission, and acceptable usage of these images should be directed to CD. An on-line request form is available.

D. LABORATORY TOURS AND VISITS

Visits on Laboratory official business are arranged by the host departments or divisions. The Reception Center must be informed of all guests.

1. General Public and Organization Tours

The Laboratory hosts unofficial visits from educational, scientific, and technical groups. These may be arranged by individual departments or divisions. The Community Relations Office also arranges visits and tours for the general public, when requested. These visits must be scheduled and conducted in such a way that they do not interrupt Laboratory work.

2. University and High School Tours

Tours by colleges, universities, and other schools are scheduled through the Center for Science and Engineering Education and are conducted to minimize interference with Laboratory work. School groups are normally limited to junior and senior high school biology, chemistry, physics, and mathematics classes, when arranged by the teacher or another school official.

3. Distinguished Guests

Arrangements to show distinguished guests through the Laboratory are usually made by the Community Relations Office or by senior staff members. CD should be informed before the visits so it can plan for internal or external publicity, if appropriate.

4. Employees' Guests

Employees are permitted to guide small groups of relatives or friends (preferably not more than five) through the Laboratory as long as their visit will not interfere with employees' or Laboratory work. These visits should be scheduled on a weekend or holiday to minimize disturbance of Laboratory operations. It is preferable that children not be brought to the Laboratory. When this is not avoidable, however, the children must be kept with the party and under strict control.

5. Community Relations

a. **Public Participation.** Berkeley Lab encourages open and honest public participation and an informed public to foster public trust, develop credibility, and ensure public involvement in its decision-making process. Public participation is enhanced through open communication and participation in state, national, and international activities.

b. **Speakers Bureau.** The Laboratory has an active program that is organized through the Community Relations Office. Employees are encouraged to volunteer as speakers in the program. If a division or employee is contacted by an outside group to arrange a speaking engagement, the Community Relations Office should be informed. The Community Relations Office can also provide visual aids and brochures to enhance the quality of a presentation.

c. **Community Involvement.** The Laboratory supports and encourages its employees to be involved independently in

community and civic activities. Employees wishing to explore opportunities should contact the Community Relations Office.

6. Contacts with State and Federal Officials

Employees may not act or give the appearance of acting on behalf of the Laboratory or the University when communicating with state or federal officials unless they are authorized to do so.

When corresponding with state and federal officials, Laboratory employees may use Laboratory letterhead only when the writer is authorized to represent the Laboratory or the University of California. Letters expressing personal views must be written on personal stationery using non-Laboratory resources. If Laboratory letterhead is used for corresponding with principal state and federal officials (including Executive Branch appointees, members of Congress, the state legislature, and their staffs), copies of the correspondence must be sent to the appropriate division director and the Head of Public Affairs.

When employees give opinions as independent professionals, they must state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California. See also Paragraph (A), above.

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§5.02
Scientific and Technical Publications

Responsible Manager

Rev. 09/08

- **A. General**
- **B. Definition of Scientific and Technical Information**
- **C. Publication Requirements**
  1. **Credit Line**
  2. **Author Affiliations**
  3. **Legal Disclaimers**
- **D. Report Processing**
- **E. Review of Scientific and Technical Publications**
- **F. Patent and Copyright Review**
- **G. Negotiations with External Publishers**
- **H. Page Charges and Reprint Ordering**

A. GENERAL

This policy applies to all scientific and technical publications prepared at the Laboratory.

B. DEFINITION OF SCIENTIFIC AND TECHNICAL INFORMATION

Scientific and technical publications include journal and conference submissions (whether refereed or not and whether actually accepted for publication or rejected by the organization to which they were submitted), proceedings, books and book chapters, theses and dissertations, formal programmatic progress and completion reports, the Institutional Plan, division annual reports, and facility newsletters.

Three types of scientific and technical publications are produced at the Laboratory: Laboratory reports (e.g., abstracts, journal preprints, conference papers, theses, and standard distribution reports); LBNL/PUB reports, which are not technical and scientific in the strict sense (e.g., brochures, informational reports, newsletters, user manuals, proposals, and conceptual design reports); and LBID reports (e.g., reports of a sensitive nature, preliminary reports, and informal reports).

The following two categories of publications produced at the Laboratory are not covered by this policy:

- **Public information documents** (e.g., press releases, Berkeley Lab News Center, *Today at Berkeley Lab*, and the *Laboratory Research Review*) prepared by the Public Affairs Department for distribution to the general public.

- **Internal information documents** (e.g., manuals, handbooks, similar publications, and Laboratory Administrative Memos), which are intended for internal distribution only.

C. PUBLICATION REQUIREMENTS

DOE programs funding the creation of scientific and technical information must follow life-cycle information-management practices to ensure that the information is planned for, budgeted, produced, processed, disseminated, and stored in cost-effective ways to ensure its maximum use by all customer segments, including United States industry and the general public. Formal scientific and technical information performance assessments are conducted as part of program reviews sponsored by DOE programs.

1. Credit Line

All Laboratory scientific and technical publications must carry a standard credit line on the title page showing the funding source,

the DOE/Laboratory contract number, and any applicable Laboratory non-DOE contract number. When the funding source is DOE, the credit line must include two levels of organization within DOE, as in the following examples:

> This work was supported by the Director, Office of Science, Office of Basic Energy Sciences, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.
>
> This work was supported by the Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Building Technology, State, and Community Programs, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

All open literature publications (e.g., journal articles and conference papers) must carry this same credit line somewhere in the body of the paper, preferably in an acknowledgments section. Conference papers must also carry this credit line on a title page for submission to DOE.

All Laboratory Directed Research and Development (LDRD)-supported research must carry a standard credit line showing the following with the DOE/Laboratory contract number. Only one level of organization is required.

> This work was supported by the Director, Office of Science, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

In Laboratory publications reporting work supported by more than one DOE organization or supported in part by a non-DOE organization (e.g., federal or state agency, private institute, or commercial firm), acknowledgment of this support (including the contract number) is required. When work has been carried out in collaboration with other DOE contractors, all contractors must be identified with contract numbers.

For abstracts, where space is limited, it is acceptable to use an abbreviated credit line, as in the following example:

> Supported by the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

2. Author Affiliations

The affiliation(s) of the author(s) must be shown on the title page of all Laboratory documents. For Laboratory authors, this information must include the complete Laboratory address:

Lawrence Berkeley National Laboratory
Berkeley, CA 94720

The Laboratory division (or division-level organization) may also be included. The inclusion of Laboratory organizations such as the Center for Advanced Materials, National Center for Electron Microscopy, and Center for X-Ray Optics is allowed with the approval of the cognizant division director. For authors who have joint affiliation with the University of California, Berkeley, and Berkeley Lab, the affiliation should include both the campus department and the Berkeley Lab divisional information, as in the following example:

Name of Author
Department of Physics
University of California, Berkeley
and
Physics Division
Lawrence Berkeley National Laboratory
Berkeley, CA 94720

If additional affiliations of Laboratory authors are listed, they must be shown separately.

3. Legal Disclaimers

The following disclaimer must appear on the inside front cover of each report

DISCLAIMER

This document was prepared as an account of work sponsored by the United States Government. While this document is believed to contain correct information, neither the United States Government nor any agency thereof, nor The Regents of the University of California, nor any of their employees, makes any warranty, express or implied, or assumes any legal responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by its trade name, trademark, manufacturer, or otherwise, does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof, or The Regents of the University of California. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof or The Regents of the University of California.

D. REPORT PROCESSING

All scientific and technical publications must be processed through the Report Coordinator, reporting to the Scientific and Technical Information Manager, in the Library. This office assigns an appropriate report number, assures contractual information requirements, coordinates the receipt of printed archive copy, and makes the required DOE/Laboratory distribution.

E. REVIEW OF SCIENTIFIC AND TECHNICAL PUBLICATIONS

LBNL values the role of peer review in ensuring the integrity of scientific research. Researchers are expected to seek ongoing internal review of their work before publication. It is expected that employees will adhere to the highest ethical standards in their publishing, including those detailed in the University's Statement of Ethical Values, especially as regards to the integrity and originality of work, and the recognition of the contributions of colleagues. Researchers must ensure that any information of a nonpublishable nature (such as that protected by human subjects protocol or a nondisclosure agreement) is excluded from publication. Per Section 5.03 of the RPM, researchers must identify potentially patentable discoveries to the Technology Transfer and Intellectual Property Management prior to any form of publication.

All publications must be reviewed within a division before receiving an LBNL/PUB or LBID number. Each division will ensure that (1) a reasonable scientific process has been followed, (2) the publication requirements in Paragraph (C) above have been met, and (3) any other requirements indicated by their Division Director have been met. Divisional procedures must ensure that the review is fair and unbiased, and that freedom of scientific inquiry is not unfairly constrained.

F. PATENT AND COPYRIGHT REVIEW

Copyrighted material may not be reproduced without the specific permission of the copyright holder. Laboratory employees must comply fully with federal copyright laws. Questions regarding proper procedures for obtaining permission to reproduce copyrighted material should be addressed to the RCO. All transfer of copyrights must include the Technology Transfer and Intellectual Property Management–approved statement available from the RCO. The Regents of the University of California, acting through the Laboratory, are the owner of the copyright on all scientific and technical writings prepared at the Laboratory. An author may transfer copyright for purposes of publication subject to the other requirements of this RPM §5.02.

G. NEGOTIATIONS WITH EXTERNAL PUBLISHERS

The selection of an external publisher for the proceedings of a Laboratory-hosted conference or for a book is governed by Laboratory Procurement Policy. See RPM §11.38 (*Obtaining Goods and Services*).

Before starting any writing project on a Laboratory-related subject for which payment is expected, Laboratory authors must check with the Technology Transfer Department to ensure compliance with DOE and Laboratory policies regarding the distribution of advances and royalties. See also RPM §5.03 (*Patents*) and RPM §5.05 (*Licensing Income Distribution*).

H. PAGE CHARGES AND REPRINT ORDERING

Publishing charges, including submission fees, page-related charges, article reprints, and preprints, are handled solely by your division's local administrative support. Please contact your local administrative support for more information about procurement, payments, and tracking of these expenses.

§5.03
Patents

Responsible Manager

Revised 03/08
Links updated 09/08

- **A. Employee Obligations**
- **B. Procedures**
  1. **Invention Recording and Reporting**
  2. **Publication Clearances**
- **C. Publication-Related Issues**
  1. **Impact on Patent Rights of Prior Electronic Publication**
  2. **E-mail Messages as Publications**
- **D. Additional Patent Policies**

A. EMPLOYEE OBLIGATIONS

1. The DOE/LBNL Contract provides the United States government with certain rights in inventions made by Laboratory employees or guests at the Laboratory, or by anyone using Laboratory facilities or Lab resources. The Contract also provides the University the right to elect title to (i.e., to take full ownership of) the invention.

2. To protect the government interest, the contract requires that Berkeley Lab report all inventions made under the contract to DOE patent counsel and that all information produced at the Laboratory be cleared for possible inventions before publication.

3. Employees and guests are obligated to provide assistance to Technology Transfer and Intellectual Property Management (Technology Transfer) in evaluation and transfer of the technologies (typically inventions or software) that they have developed.

B. PROCEDURES

1. Invention Recording and Reporting

a. It is the inventor's responsibility to report all inventions promptly to Berkeley Lab Technology Transfer and Intellectual Property Management within six months of conception or first actual reduction to practice, whichever occurs first. The form to be used to report inventions, the Record of Invention (ROI) form, is available at http://www.lbl.gov/Tech-Transfer/researchers/forms.html. This obligation is stated in the Intellectual Property Acknowledgment, which is signed by all employees and guests when they begin working at Berkeley Lab.

b. The protocols for experiments, results of experiments, and/or other data that document inventions referred to in (a), above, must be kept in a permanently bound, ledger-type notebook with numbered pages. The specific procedure recommended for recording data describing original research and development work that leads to invention is on the Web at http://www.lbl.gov/Tech-Transfer/researchers/lab_note.html.

c. All notebooks and equivalent records of Berkeley Lab research are the property of the United States government. Researchers may make copies for their own personal records. These records may be maintained in the appropriate group as long as necessary and then forwarded to Archives and Records for storage.

d. Technology Transfer and Intellectual Property Management will report the invention to DOE and any others to whom there

is an obligation to report, and will evaluate the invention for commercialization potential.

2. Publication Clearances

a. All publications, whether print or electronic, describing work by Laboratory employees and guests or done with Berkeley Lab facilities must be reviewed and cleared by Technology Transfer before they can be sent outside the Laboratory, except for restricted disclosure to certain government and University of California personnel, or if covered by a confidentiality agreement signed by Technology Transfer (see RPM §5.07 or §10.10).

b. Publications that must be reviewed for patent clearance (to determine whether any patentable inventions are described) include not only Laboratory written reports, but also the following, whether made public in written, oral, visual, or electronic form:
   i. Articles to be submitted to scientific or professional journals
   ii. Oral and written conference presentations (e.g., slides or viewgraphs) or posters
   iii. Abstracts
   iv. PhD theses
   v. Any other material that could contain invention information

c. The purpose of patent review is to ensure that all inventions have been reported and if appropriate, protected for future commercialization. Possible inventions should be reported to Technology Transfer on an ROI form (see Paragraph (B)(1)(a) above) before the material is ready for publication so that patent rights will not be inadvertently lost. The review process is described at http://www.lbl.gov/Workplace/patent/patpubreview.html.

C. PUBLICATION-RELATED ISSUES

1. Impact on Patent Rights of Prior Electronic Publication

A prior electronic publication will bar an inventor from receiving a patent outside the United States just as a print publication will. Nothing can be done to recover that patent opportunity. Inside the United States, a patent application can still be filed if it is done within one year after the publication date. After this one-year period expires, no patent may be filed for that invention.

2. E-mail Messages as Publications

If an e-mail message is a confidential exchange between two individuals, the message is not considered to be a publication. The status of the message is less certain, however, if the communication is to a group or to an individual who forwards the message to a group. As sharing or forwarding e-mail is so easy, it is not advisable to convey information regarding an invention via e-mail without checking with a patent practitioner in Technology Transfer. If necessary, Technology Transfer can provide a confidentiality agreement (also known as a non-disclosure agreement) to allow sharing the information without it becoming a publication.

D. ADDITIONAL PATENT POLICIES

The patent policy described above applies to research by, and writings of, Laboratory employees. The following paragraphs contain additional patent review requirements:

- RPM §1.06(A)(3)(b) (*Policy for All Participating Guests*). Requires participating visitors to sign a Laboratory Visitor Intellectual Property Acknowledgment.

- RPM §2.01(C)(7)(d) (*Patent Policy*). States University patent policy applying to Laboratory employees.

- RPM §10.02(H) (*Patent Agreements*). Describes patent policy applying to Laboratory employees serving as consultants to other organizations.

- RPM §11.04(C)(11) (*Patents, Data, and Copyrights*). Discusses patent policies applying to consultants to the Laboratory.

§5.04
Printing

Responsible Manager

Rev. 03/05

A. General
B. Commercial Procurement
C. Multicolor Printing

A. GENERAL

The Laboratory requires that procurement of printed matter be done in compliance with DOE Order 1340.1. The Printing Section of the Creative Services Office (CSO) is responsible for providing printing-related services for the Laboratory. These services include in-house duplicating production or outside procurement through the Government Printing Office (GPO). Printing of scientific and technical publications is routed through the Berkeley Lab Report Coordination Office and requires completion of a Document Submission Form. Other printing requirements are submitted directly to the Printing Section on a CSO Printing Services form.

B. COMMERCIAL PROCUREMENT

DOE and the Laboratory require that all commercial procurement of printed matter must be made by CSO Printing Services.

C. MULTICOLOR PRINTING

The Head of Public Affairs has authority for approving color printing. Color printing in any Laboratory publication (or printed matter) requires a written request describing why added color is necessary. This request goes to the CSO Manager (MS 46R0125), designated by the Head of Public Affairs to review and approve all color printing requests. Signature approval from the CSO Manager is required before work is submitted to Report Coordination or the CSO Printing Section.

Multicolor printing is any printing that uses more than one color of ink in a single document. Color photographs, illustrations, and graphics reproduced on color copiers do not require prior approval.

Color printing is acceptable in a Laboratory publication only when its use is necessary to ensure safety, security, or technical clarity, or if the publication will be used for recruiting purposes.

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§5.05
Licensing Income Distribution

Responsible Manager

Rev. 06/08

- **A. General**
- **B. Distribution of Royalties to Inventors**
- **C. Allocation and Uses of Laboratory Licensing Income**
  1. **General**
  2. **Allocation to Research Divisions**
  3. **Central Research Pool**

A. GENERAL

University of California Patent Policy governs the distribution of licensing income from patentable inventions between Berkeley Lab and Laboratory inventors. Any conflict between this Regulations and Procedures Manual policy and UC Patent Policy must be resolved by reference to then-current UC Patent Policy.

Generally, inventions and other intellectual property disclosed to Berkeley Lab on or after October 1, 1997, are governed by the October 1, 1997, UC Patent Policy. Those disclosed before that date are governed by the November 18, 1985, UC Patent Policy. (The University of California rescinded the policy of April 16, 1990.) Inventors who were hired by Berkeley Lab prior to October 1, 1997, and who have not had a break in service since that date, however, are afforded a one-time opportunity (prior to their first distribution under the October 1, 1997, UC Patent Policy) to elect whether all their current and future inventions and other intellectual property shall be governed by the October 1, 1997, or the November 18, 1985, policy.

UC Patent Policy does not address intellectual property other than patentable inventions. Through this Regulations and Procedures Manual policy, however, Berkeley Lab applies the tenets of UC Patent Policy to the distribution of income from intellectual property other than patentable inventions. This type of intellectual property includes, but is not limited to, (1) copyrighted software and other copyrighted works such as books and engineering drawings, (2) mask works, and (3) bailed biological material and other tangible research products.

Berkeley Lab's Technology Transfer Department administers UC Patent Policy at the Laboratory and directs the Office of the Chief Financial Officer to make the payments described in Paragraphs (B)–(C), below, to inventors and resource adjustments for research divisions.

B. DISTRIBUTION OF ROYALTIES TO INVENTORS

Berkeley Lab annually distributes to Berkeley Lab inventors a portion of income received by the Laboratory in the preceding fiscal year from the licensing of Laboratory intellectual property. The term "Berkeley Lab inventors" includes both Laboratory employees and others who have assigned to the University of California their rights to inventions managed by Berkeley Lab (e.g., participating guests, who are required to sign the Patent Acknowledgment). UC Patent Policy requires all UC/DOE Laboratories to complete this distribution by the February following the end of the fiscal year.

The following distribution rules apply, subject to amendment of UC Patent Policy:

- For intellectual property disclosed after September 30, 1997, the inventors' share is 35% of cumulative net royalties per invention.
- For intellectual property disclosed before October 1, 1997, the inventors' share is 50% of cumulative net royalties per invention, with net royalties calculated after a 15% administrative charge.
- For qualifying inventors who elected to be governed under the November 18, 1985, UC Patent Policy, the inventors' share is 50% of cumulative net royalties per invention, with net royalties calculated after a 15% administrative charge, regardless

of date of disclosure of the relevant intellectual property.

UC Patent Policy generally defines "net royalties" as gross royalties and fees received after deducting amounts payable to non-University inventors, less patent and licensing costs for the invention.

If the invention was created by more than one Berkeley Lab inventor, the Laboratory distributes to each inventor an equal share of royalties, unless all affected inventors have previously agreed in writing to a different distribution of those inventors' share of royalties.

C. ALLOCATION AND USES OF LABORATORY LICENSING INCOME

1. General

"Laboratory share" is that portion of licensing income from its intellectual property available to the Laboratory after deducting amounts under UC Patent Policy for payment of costs and distributing income to inventors. The Laboratory share is allocated annually after the distribution to inventors.

2. Allocation to Research Divisions

Effective in fiscal year 2000, Berkeley Lab allocates 15% of net royalties from each invention to the research division in which the invention arose. The research division must use that Laboratory share for research and development activities within the Laboratory's mission. Work must be performed so as to avoid interference with or adverse effects on ongoing DOE projects and programs.

Expenditures may include operating costs (e.g., for personnel, supplies, recharges, or travel) or equipment in support of that research. If the inventors belong to different divisions, the Laboratory share for each division is split proportionally by the total number of inventors by division.

3. Central Research Pool

Effective in fiscal year 2000, the remaining Laboratory share is pooled in an account for use at Berkeley Lab for scientific research and development, technology transfer, and/or education. (This remaining Laboratory share is 35% of the total net royalties for technologies disclosed before October 1, 1997, and 50% for technologies disclosed thereafter.) This central pool is allocated at the direction of the Laboratory Director. Work must be performed so as to avoid interference with or adverse effects on ongoing DOE projects and programs.

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§5.06
Proprietary Information from External Sources

Responsible Manager

Rev. 09/07

- **A. General**
- **B. Definitions**
  - **1. Proprietary Information**
  - **2. Originator**
- **C. Acceptance**
  - **1. Written Nondisclosure Agreement**
  - **2. Implied Conditions of Confidentiality**
- **D. Maintenance of Proprietary Information**
- **E. Internal Information Sharing**
- **F. Disclosure Outside the Laboratory**
- **G. Return to Originator**
- **H. Consequence of Failure to Safeguard Information**

A. GENERAL

Laboratory staff must observe the following procedures when the Laboratory needs to obtain proprietary information to meet programmatic research objectives. These procedures enable the Laboratory to comply with its obligation to protect proprietary information or proprietary material that it receives from an external source and to avoid the possibility of liability for disclosure or misuse of such information or material. The procedures also protect Laboratory investigators from inappropriately restrictive terms on publications or inventions of their own creation.

Laboratory employees in administrative positions or elsewhere who routinely receive proprietary information in the course of their employment (e.g., purchasing agents, human resources specialists) must follow departmental guidelines for the management of proprietary information. Those guidelines generally incorporate the procedures of Paragraphs (D)–(G), below. See also RPM §2.23(I) (*Privileged Information*).

B. DEFINITIONS

1. Proprietary Information

Proprietary information is any information or material (including, but not restricted to, ideas, concepts, proposals, inventions, instruments, chemical samples, cost estimates, data, and computer programs) that (a) originates outside the Laboratory, (b) is disclosed to the Laboratory on expressed or implied conditions that limit the Laboratory's right to use or disclose the information, (c) is specifically identified by the originator as proprietary, and (d) is not generally known to workers in the relevant field. This includes the documents or computer tapes that contain such information. On information originating at the Laboratory, see RPM §5.07 (*Disclosure of Laboratory Proprietary Information*).

2. Originator

The originator is an individual or organization that has provided proprietary information to the Laboratory or to a government agency that has in turn passed it on to the Laboratory on conditions that restrict its disclosure or use.

C. ACCEPTANCE

1. Written Nondisclosure Agreement

If the originator provides a written nondisclosure agreement (also often called a confidentiality agreement, a proprietary information agreement, or (in the case of materials) a material transfer agreement), the Laboratory employee must have that agreement approved by Technology Transfer and Intellectual Property Management. For quicker approval, the researcher may fax the proposed agreement to Technology Transfer and Intellectual Property Management (ext. 6457) for review and send the original for signature. In urgent cases, Technology Transfer and Intellectual Property Management may authorize the researcher to sign the agreement on behalf of the Laboratory, after approval of the agreement on content. If the agreement from the originator contains unacceptable terms, Technology Transfer and Intellectual Property Management will contact the originator to modify the agreement appropriately.

All obligations to keep confidential information from an originator that is a for-profit company must be memorialized in a written agreement. If a for-profit company orally requests confidentiality, the Laboratory researcher must contact Technology Transfer and Intellectual Property Management to obtain a written agreement.

2. Implied Conditions of Confidentiality

If a Laboratory employee receives proprietary information from a nonprofit (including university) or government originator under implied conditions of confidentiality (i.e., without a written agreement), he or she must take steps to protect the information set forth in Paragraphs (D)–(G), below. The Laboratory does not accept implied obligations of confidentiality or restrictions on use for proprietary information from private entities. The Laboratory employee must have an approved agreement to obtain proprietary information from a for-profit entity. See Paragraph (C)(1), above.

D. MAINTENANCE OF PROPRIETARY INFORMATION

The Laboratory recipient of proprietary information is responsible for physically securing the proprietary information at the Laboratory or associated campus facilities. The proprietary information must be kept under lock, must not be left where inadvertent disclosure may occur, and must not be removed from the Laboratory or associated campus facilities. Such information may not be photocopied or duplicated in any manner. It must be clearly marked as confidential and proprietary data. Computer source codes containing proprietary information must not be stored in permanent files or open tape libraries. Object codes containing proprietary information must not be stored in permanent files unless access to such files is controlled by the person responsible for the information.

E. INTERNAL INFORMATION SHARING

As necessary for the conduct of the project and only on a need-to-know basis, proprietary information may be shared with other Laboratory staff and appropriate University employees. No approvals are required for this, but the Laboratory researcher must exercise his or her best judgment to minimize the exposure of such information. Copies must not be made for internal information sharing.

F. DISCLOSURE OUTSIDE THE LABORATORY

If disclosure of proprietary information to any individual other than Laboratory staff and appropriate University employees appears necessary, the Laboratory employee who wishes to disclose the information must obtain prior written approval from the originator who supplied the proprietary information. That approval must be signed by an authorized representative of the originator and clearly specify what proprietary information may be disclosed and to whom it may be disclosed. Unless the originator's approval letter otherwise specifies, the disclosure of the information will be made only on site. No copies of the proprietary information may be made. Contact Technology Transfer and Intellectual Property Management to obtain assistance in securing appropriate approval from the originator.

If the Laboratory independently develops, derives, or obtains information similar to proprietary property, the Laboratory may use or divulge that proprietary information without restriction. The Laboratory must, however, have documentary evidence (e.g., properly witnessed laboratory notebooks or publications) to prove the independence of the source.

G. RETURN TO ORIGINATOR

When proprietary information or material is no longer needed, it must be returned promptly to its originator by registered mail or

a recognized courier service such as Federal Express or DHL, or otherwise disposed of (e.g., destroyed) as required in any written agreement. Copies of the proprietary information must not be retained.

H. CONSEQUENCE OF FAILURE TO SAFEGUARD INFORMATION

Failure to reasonably safeguard proprietary information and/or to follow the procedures listed above may constitute a serious violation of professional ethics that can result in disciplinary action, including termination. Violation of trade secret laws can also result in legal action against the violator.

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§5.07
Disclosure of Laboratory Proprietary Information

Responsible Manager

Links updated 09/08

- **A. General**
- **B. Procedure**
  1. **Written Agreement**
  2. **Disclosure of Information or Transfer of Material**
  3. **Transfer Labeling**
- **C. Transfer of Proprietary Information or Material to Subcontractors**
- **D. Consequence of Failure to Safeguard Berkeley Lab Information**

A. GENERAL

At times, the Laboratory needs to, or finds it useful to, disclose unpublished information relating to technological and scientific developments or to transfer tangible research material. Examples of tangible research material include cell lines, chemical compounds, and source codes for software. Appropriate uses of such disclosures or transfers are to enable the recipient to evaluate the information/material's potential commercial utility or the recipient's interest in obtaining a commercial license from Berkeley Lab; replicate, reproduce, evaluate, or confirm Berkeley Lab's research effort; or do research furthering Berkeley Lab's programmatic goals. Disclosure of Laboratory proprietary information for personal gain is prohibited. See RPM §2.23(I) (*Privileged Information*).

Laboratory staff must observe the following procedures when the Laboratory transfers proprietary information or tangible research material to third parties (other than appropriate University of California staff or DOE). These procedures are established to enable the Laboratory to comply with its obligation under the DOE/LBNL Contract to maintain the patentability of inventions, foster appropriate technology transfer, and avoid liability for others' use or misuse of Laboratory information or material.

B. PROCEDURE

1. Written Agreement

A Laboratory researcher wishing to transfer proprietary information or material must contact Technology Transfer and Intellectual Property Management to prepare a nondisclosure agreement or material transfer agreement, as appropriate. Technology Transfer and Intellectual Property Management may also prepare agreements for mutual disclosure of proprietary information or transfer of material. The researcher may not transfer the Laboratory proprietary information or material before such an agreement is signed by both the Laboratory and the recipient.

2. Disclosure of Information or Transfer of Material

At a minimum, any information the Laboratory discloses under agreement must be prominently marked as "proprietary" or "confidential." If the Laboratory researcher wishing to transfer proprietary information or material (the discloser) wishes to disclose the information orally, he or she must first inform his or her audience that the forthcoming information is confidential. Some nondisclosure agreements also require that confidential oral presentations be summarized, marked as confidential, and transmitted to the receiver within 15 to 30 days. The researcher must comply with any additional requirements contained in the nondisclosure agreement.

3. Transfer Labeling

Any tangible research material that a Laboratory researcher transfers must be appropriately labeled and include instructions for handling as necessary for safe use.

C. TRANSFER OF PROPRIETARY INFORMATION OR MATERIAL TO SUBCONTRACTORS

Under certain subcontracts, the University's full rights to intellectual property may be impaired if proprietary information or material is transferred to a subcontractor under the subcontract without appropriate restrictive markings. If a Laboratory researcher anticipates transferring Laboratory proprietary information or material to a Laboratory subcontractor, the researcher must inform Procurement about this intention and take steps necessary under the subcontract to mark the information or material.

D. CONSEQUENCE OF FAILURE TO SAFEGUARD BERKELEY LAB INFORMATION

Failure to reasonably safeguard Laboratory proprietary information and/or follow the procedures listed above may constitute a serious violation of professional responsibility that may result in disciplinary action, including termination.

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§5.08
Document Management and Control

Responsible Manager

New 10/08

A. **Policy**
B. **Graded Approach**
C. **Controls**
D. **Additional Resources**

A. POLICY

Authoritative documents, whether electronic or on paper, which specify policies, prescribe uniform processes, or establish or document design specifications must be controlled to ensure they are accurate, current, appropriately distributed, and approved by authorized individuals, in a manner reflecting the risks associated with improper management of the information.

B. GRADED APPROACH

LBNL will utilize a graded approach in managing and controlling documents. The level and formality of document controls will be directly related to the level of risk associated with improper document management. The full graded approach is listed in the Laboratory Operating and Quality Management Plan (OQMP).

At a minimum, controlling institutional policy documents (such as the RPM and those listed in RPM §1.01), and other documents for which an error in document control could reasonably be expected to endanger safety or health, or substantially diminish the ability of the institution to meet mission requirements, must be subject to formal document control.

Each Laboratory division will identify the subset of operations documents that require formal document control in their Division ISM Plan and implement the appropriate controls as necessary. The list of documents should be reviewed annually (or more frequently as the need arises).

C. CONTROLS

The following controls are to be utilized in the management of controlled documents.

1. Approval: An appropriate review and approval process to certify new documents, ensure accuracy, and update the document as necessary.

2. Distribution: A process to ensure distribution and notification of new versions as appropriate.

3. Versioning: The most current version of a document is evident to a reader or editor, and the reader can identify variations from previous versions.

D. ADDITIONAL RESOURCES

Additional implementing guidance is available in the Laboratory OQMP.

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Health and Safety

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§7.01
Environment, Safety, and Health (ES&H)

Responsible Manager

Rev. 9/08

A. **Policy**
B. **Implementing Elements**
C. **Oversight and Programmatic Interrelationships**
D. **Summary**

A. Policy

It is the policy of Lawrence Berkeley National Laboratory (LBNL) to perform all work safely with full regard to the well-being of workers, guests, the public, and the environment.

Keys to implementing this policy are the following core safety values:

- The institution demonstrates a strong commitment to safety by integrating safety into all facets of our work.
- Managers and supervisors are actively involved and demonstrate leadership in performing work safely.
- Individuals take ownership for safety and continuously strive to improve.
- Individuals demonstrate an awareness and concern for the safety of others.

B. Implementing Elements

To fulfill this vision, LBNL implements the regulatory requirements of the Work Smart Standard Set (WSS Set) through a hierarchy of policies, procedures, and performance objectives in this document, the LBNL Integrated Environment, Health, and Safety Management Plan (ISMS, PUB-3140), the LBNL Health and Safety Manual (PUB-3000), and the following ES&H technically based major Implementation Plans:

- Worker Health and Safety Plan
- Chemical Hygiene and Safety Plan
- Biological Safety Program Manual
- Radiation Protection Plan
- Environmental Management System
- Waste Management Plans

1. Line Management Responsibilities

The first principle of Integrated Safety Management states that “Line management is directly responsible for the protection of the workers, the public, and the environment.” The second principle, in stating that “clear lines of authority and responsibility for ensuring safety shall be established and maintained at all organizational levels,” dictates that this responsibility cannot be delegated outside of the direct line of management personnel responsible for an organization’s direction, operations, performance, and effectiveness. Therefore, the Laboratory Director has the ultimate responsibility for safety at the Laboratory and, in particular, for the establishment and administration of environment, health, and safety policies that meet the safety challenges of Laboratory operations and activities as well as the requirements of DOE Contract 31 and the Work Smart Standard Set.

The Laboratory Director has delegated to all levels of management the authority to implement the environment, health, safety, and emergency-preparedness policies of the Laboratory:

Division directors and heads of independent departments are responsible for ensuring that the Laboratory’s environment, health, safety, and emergency-preparedness policies are being observed within their divisions.

Each LBNL manager or supervisor is responsible for ensuring that employees (including matrixed employees—see below),

participating guests, contractors, students, and visitors under his or her supervision are properly trained in emergency and safety procedures, the concepts of the integrated safety management system, and the adherence to the five core functions. In addition, managers and supervisors have responsibilities, listed in Chapter 1 (*General Policy and Responsibilities*) of the *Health and Safety Manual* (PUB-3000), designed to provide a safe and healthful working environment, free from undue hazards, and to protect the environment. Included is the responsibility to ensure that all materials and equipment, regardless of origin, applied in performance of the work of the Laboratory are used, maintained, and serviced in a manner that ensures the protection of environment, property, and health. In exercising these responsibilities, managers may delegate authority and assign safety responsibility for a particular operation, activity, area, or group of workers to a work lead, but they retain accountability for worker, activity, and workplace safety. Prevention of injury, illness, safety violations and deficiencies, environmental pollution, or damage to property within managers' jurisdictions is their responsibility.

The importance of identifying accountability in cases of delegated authority is applicable to employees from one division (home division) matrixed to another division (host division) to provide special technical expertise. The matrix employee's individual safety (including fundamental safety training, safe use of equipment and instrumentation, and acknowledgment of the importance of safety) is the responsibility of the home supervisor. Identification and management of workplace hazards and their control in maintaining safety in the workplace or area are the responsibility of the host manager or supervisor. It is possible that the matrix employee may be assigned and authorized by the host facility manager as a work lead or safety line manager to operate and maintain a safe facility and/or activity and oversee worker safety of one or more staff of the host division; for example, to provide on-the-job training and direction to division staff in the safe use of equipment and instrumentation. The matrixed employee assigned as safety work lead is responsible for the safety of the staff assigned and authorized to operate equipment in the area, and for the safe operation and maintenance of the area. On the other hand, the host manager or supervisor of the facility is accountable for facility safety. The policy and implementation guidance for matrixed employees is covered in detail in PUB-3000, Chapter 1. Section 1.3.2.7 recommends developing a memorandum of understanding to alleviate concerns, and to clarify lines of authority in these situations.

2. The Environment, Health, and Safety (EHS) Division

The primary responsibility of the Environment, Health, and Safety (EHS) Division is to protect workers, the public, and our environment by providing professional and technical expertise and services as well as an integrated ES&H policy for the Laboratory's research and support programs. The EHS Division supports and acts as a partner with line management as it meets direct responsibilities to ensure that protection of workers, the public, and the environment is integrated into the primary research and support functions of each division or unit. Of equal importance, the EHS Division supports and provides expertise directly to each Laboratory worker who seeks ES&H advice and help, or who voices a concern. The Charter of the EHS Division, broadly based on the key core safety values in the opening statement and the responsibilities listed here, is published as Chapter 2 of PUB-3000.

3. The LBNL Integrated Environment, Health, and Safety Management (ISMS) Plan

The LBNL Integrated Environment, Health, and Safety Management (ISMS) Management Plan provides guidance and performance expectations both to operational and programmatic divisions to develop ISMS Plans specific to their work, activities, facilities, operations, and staffing patterns. This arrangement provides an effective and efficient means for each division to develop and tailor an ISMS Plan to address their specific safety challenges. The LBNL ISMS Plan and the divisional plans are updated at least annually to address safety challenges derived from changes in programs or activities, and to reflect improvements based on self-assessments and lessons learned. These relationships and interfaces are depicted in the figure below, and described in detail in theLBNL ISMS Plan (PUB-3140).

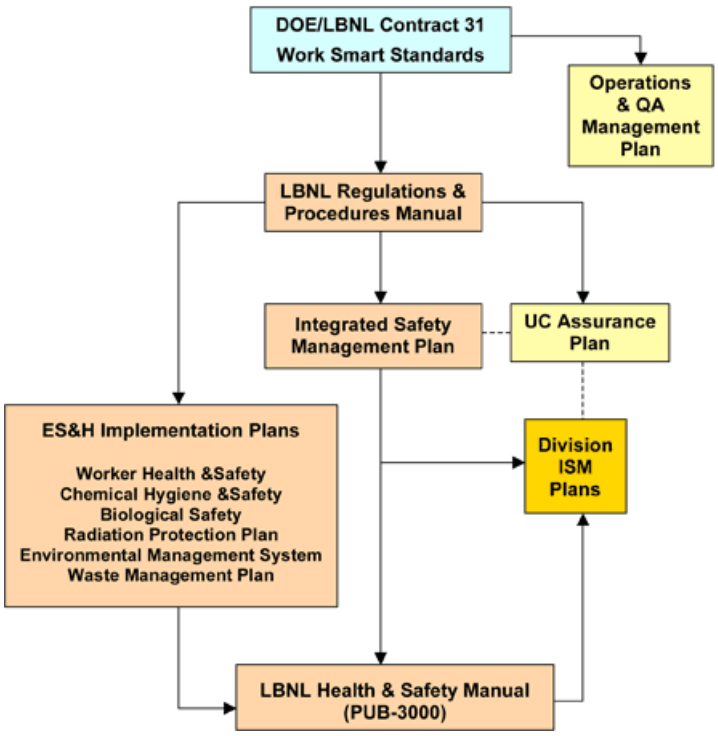

Figure. LBNL Document Hierarchy: Functional relationship between the DOE contract and WSS and the LBNL ES&H policy and implementing elements

The LBNL ISMS Plan sets performance expectations based on the seven principles and five core functions of ISM at three levels: institutional, activity, and individual. Institutional expectations are specified in the Contract 31 Performance Evaluation and Measurement Plan. Activity and operational expectations are described in Section 8.01 (*Quality Assurance*) of the RPM, and details on the assessment of performance at this level are published in LBNL ES&H-Assessment Program (PUB-5344). Individual expectations are based on the safety-related roles and responsibilities of supervisors and work leads as well as of each staff member, including guests, subcontractors, and vendors as defined in Chapter 1 (*General Policy and Responsibilities*) of the Health and Safety Manual (PUB-3000). Annual performance reviews of staff include safety expectations as part of the process (see the HR form Institutional Requirements). Division ISMS Plans are required, and measured as part of the annual self-assessment process, to reflect the hierarchy of expectations for activities/operations and individuals. The goal is to provide specific, clear, and current safety expectations that evaluate performance vertically and horizontally across the organization to guide continuous improvement.

4. Implementation Plans

The Implementation Plans were developed in direct response to regulatory requirements; for example, 10 CFR 835 (Occupational Radiation Protection) calls for a *Radiological Protection Plan*, and 10 CFR 851 (Worker Health and Safety Program) led to the *Worker Health and Safety Plan (PUB-3851)*. In addition, all are derived from the recognition by the Laboratory of the need; based on potential hazards to the worker, the public, and the environment; for a more rigorous approach to work planning, hazard identification and control, and performance of work. Therefore, a component common to these plans is formal work authorizations. Work authorizations applicable to operations and programs are covered in detail in PUB-3000. Examples of formal work authorizations include research-related authorizations such as Activity Hazard Documents for laser use, and Radiation Work Authorizations for the use of radioactive material and radiation-producing machines. Examples of operational authorizations include those for using forklifts, cranes, and hoists. Some of the authorizations in these plans are applicable to specific facilities and the institution as a whole. Examples of these are Safety Analysis Documents (SADs) and Accelerator Safety Envelopes (ASEs) that establish the safe operating limits for accelerators, and environmental and waste management permits from regulatory agencies. The Implementation Plans are for the purpose of translating regulations and standards in the WSS Set into technical programs. PUB-3000 translates the Plans into more functional forms for integration and implementation of safety into work and activities throughout the Laboratory.

To achieve their technical goals, the Implementation Plans include policies and procedures internal to the group responsible for

each plan to implement the technical aspects of the program (e.g., environmental monitoring, chemical exposure monitoring, dosimetry); to update technical expertise, instrumentation, and standards; and to drive continuous improvement.

5. The LBNL Health and Safety Manual (PUB-3000)

The *LBNL Health and Safety Manual* (PUB-3000) consolidates ES&H policies, specific responsibilities, and guidance for implementation into a convenient online package. This comprehensive manual is based on the seven guiding principles of ISM, and is designed to implement the five core functions of ISM. The goal is to ensure that all work will be performed with full regard to the safety of workers, guests, the public, and the environment. LBNL performs work to meet the requirements of PUB-3000, which are based on the Work Smart Standards (WSS) set. PUB-3000 addresses all the standards in the WSS in a manner designed to provide individual safety, a safe workplace, and to protect the environment. The manual is reviewed and revised on an ongoing basis to comply with new applicable standards and requirements, and to meet the challenges of new research and development activities, operations, and facilities.

Chapters in PUB-3000 provide technical information and guidance derived from the Work Smart Standards and the Implementation Plans. This information provides LBNL staff with policies, guidance, and sufficient technical information to develop work authorizations that mandate working safely in a safe workplace with minimal adverse impact on the environment. The impact of the OSHA-related plans (i.e., Worker Health and Safety Plan, Chemical Hygiene and Safety Plan) is broadly expressed across PUB-3000. Other plans are more specific and individually comprehensive but have ramifications for information in other chapters. Hence, each chapter in PUB-3000 provides cross-references to other chapters containing related or pertinent information. The more direct relationships are shown below:

- Worker Health and Safety Plan — Chapters 1–5, 7–10, 12-19, 25
- Chemical Hygiene and Safety Plan — Chapters 3–5, 7, 12–13, 19
- Biological Safety Program Manual — Chapter 26
- Radiation Protection Plan — Chapter 21
- Environmental Management System — Chapter 11
- Waste Management Plans — Chapter 20

In addition, Chapter 6 and Chapter 32 of PUB-3000 guide managers, supervisors, and work leads in understanding the need for work authorizations, and through the processes of hazard analysis and determining appropriate work authorizations. A successful formal work authorization process depends upon line management recognizing the need for rigorous work planning and authorization, and then committing to working and training staff to work within the authorized safety envelope. Success also depends upon each individual taking responsibility for his or her own safety and the safety of co-workers. These expectations are detailed in Chapters 6 and 1 of PUB-3000. Some chapters of PUB-3000 are applicable to all technical areas: for example, Chapter 14 (*Lessons Learned*), Chapter 24 (*EH&S Training*), and Chapter 15 (*Occurrence Reporting*).

C. Oversight and Programmatic Interrelationships

1. Safety Review Committee (SRC)

The Safety Review Committee (SRC) interfaces between the research and operation programs of LBNL and the ES&H technical programs, mainly in the EH&S Division, and assurance and assessment activities of the Office of Contract Assurance (see RPM Section 8.01 (*Quality Assurance*)). SRC membership includes a representative from every Laboratory division, and members are appointed by the Laboratory Director. To effectively execute its role, the SRC has direct access to the Laboratory Director and the Senior Management Team.

The SRC performs research for and makes recommendations to the Laboratory Director on the development and implementation of Environment, Safety, and Health (ES&H) policy, guidelines, codes, and regulatory interpretation. It conducts reviews of special safety problems and provides recommendations for possible solutions to the Laboratory Director or the EH&S Division. The SRC also provides advice and counsel to the Associate Laboratory Director for Operations by reviewing appeals from a Laboratory division whose interpretation of criteria, rules, or procedures differs from that of the EH&S Division. Such advice and counsel may include options for a resolution. The SRC has established five permanent subcommittees (Electrical, Laser, Mechanical, Traffic, and Division Safety Coordinators) to assist in reviewing ES&H issues and concerns, and in developing recommendations for institutional implementation. These subcommittees report to the SRC.

In order for SRC to properly execute its responsibilities under its charter, the SRC Chair may set up additional subcommittees to address specific health and safety matters. Such subcommittees may become permanent expert subcommittees, or they may be temporary, depending on technical support requirements.

In addition, the SRC Chair, in cooperation with the Office of Contract Assurance, is responsible for scheduling and implementing Management of Environment, Safety, & Health (MESH) reviews. These self-assessment reviews are designed to ensure management systems are consistent with Integrated Safety Management (ISM) throughout all Laboratory divisions, and that these systems are leading to effective implementation of the Laboratory's ES&H program, including opportunities for improvement.

2. Radiation Safety Committee (RSC)

The Berkeley Lab Radiation Safety Committee (RSC) is the interface between the Radiation Protection Program and the scientific programs using radioactivity, radioactive sources, and/or machines producing ionizing radiation. The Committee is appointed by and reports to the Laboratory Director, and is responsible for advising LBNL Management on all matters related to occupational and environmental radiation safety. The Radiation Safety Committee reviews and recommends approval of radiation safety policies, and guides the EH&S Division and radiation user Divisions in carrying out these programs. The scope of its actions will generally include issues of broad institutional concern and impact, or areas of potential high consequence either in terms of safety or institutional needs. To this end, the RSC provides a forum to ensure that important radiation safety issues receive appropriate, balanced, and expert review before being acted upon.

The RSC is composed of members whose knowledge of the principles and practices of radiation hazards control, and experience and management in the use of radioisotopes or radiation-producing machines, are the basis of their appointment by the Laboratory Director. The membership shall reflect the diversity of scientific disciplines using radiation at LBNL. The LBNL Radiological Control Manager (RCM) serves as a full member of the RSC, and acts as the RSC liaison with other Berkeley Lab programs. In addition, the LBNL Safety Review Committee will provide at least one liaison to the RSC and ensure integration with larger institutional safety issues.

The RSC reviews Radiation Protection Program policies, and recommends approval or modification of them to Laboratory management. The scope of policy review is provided in the ISMS Management Plan and on the Radiation Protection Group Web site.

The RSC provides oversight to the radiation safety compliance inspections carried out by the Radiation Protection Program. If performance of radiation users or the EH&S Division is found to be unsatisfactory, the RSC may recommend appropriate remedies to the Laboratory Director, the EHS Division, or the appropriate division director.

The RSC shall also provide oversight to the Radiation Protection Program (RPP). The RSC evaluates RPP performance reports and implementation of procedures, obtains feedback from radiation users regarding RPP functions, and makes recommendations for improvement to the Laboratory Director, the EHS Division Director, or the RCM.

Radiation Work Authorizations (RWAs), Radiation Work Permits (RWPs), and Sealed Source Authorizations (SSAs) shall be reviewed and approved by the RSC. The RSC, in conjunction with the RCM, may at any time prohibit any controlled radiation activities that it deems to be unduly hazardous, or contrary to regulations or good practice. In such cases, the RSC shall inform the appropriate division director.

Throughout the year, meeting minutes and other reports shall be transmitted to the Laboratory Director in a timely fashion. The Committee shall meet with the Laboratory Director at least annually to discuss issues and review the Committee's activities. An annual activity report shall be prepared for the Director. The highlights of this activity report may be presented at a division director's meeting.

3. Office of Contract Assurance (OCA)

The Office of Contract Assurance (OCA) is responsible for the LBNL Issues Management Program (IMP). The IMP encompasses the continuous monitoring of work programs, performance, and safety to promptly identify issues to determine their risk and significance, their causes, and to identify and effectively implement corrective actions to ensure successful resolution and prevent the same or similar problems from occurring.

Issues that are governed by this program include program and performance deficiencies or nonconformances that may be identified through employee discovery, internal or external oversight assessments, process improvement suggestions, and associated actions that require formal corrective action. Issues may also be identified or may result in Root Cause Analysis (RCA) reports, Price Anderson Amendment Act (PAAA) reports, Occurrence Reporting and Processing System (ORPS) reports, Accident Investigation reports, assessment reports, and External Oversight reports.

Analysis of issues, individually and collectively, is performed in order to identify programmatic or system issues, and to identify recurrence of issues, generic issues, trends, and vulnerabilities at a lower level before significant problems result.

Lessons Learned and Best Practices, based on LBNL's and other facilities' operating experiences, are developed to ensure ongoing improvement of safety and reliability, prevent the recurrence of significant adverse events, and determine implementation strategies that will help LBNL successfully meet the missions and goals set forth by the Department of Energy (DOE).

Many of the issues and concerns of the IMP are safety-related. Therefore, OCA interfaces with the EHS Division in managing, coordinating, and supporting ES&H assurance activities; in particular, the Division Self-Assessment Program, the Management of Environment, Safety, and Health (MESH) Reviews, the ES&H Technical Assurance Program, and independent audits of technical programs as needed. OCA also provides technical support to the EHS Division Director for developing ES&H performance objectives and criteria for division self-assessments, ES&H technical assurance, and DOE Contract 31, Appendix B self-assessments (see RPM §8.01).

D. Summary

The Laboratory's ES&H program is derived from a hierarchy of governing documents, beginning with the DOE/LBNL contract and the WSS Set, flowing down to the LBNL ISMS Management Plan, EH&S technical Implementation Plans, and the Health and Safety Manual (PUB-3000). The Laboratory expects individuals and line management to follow the requirements of these documents. The Laboratory also recognizes that there is always room for improvement, and expects line managers, supervisors, work leads, and other Laboratory staff to apply lessons learned and the self-assessment processes (as described in RPM §8.01 (*Quality Assurance*)) to improve workplace safety.

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Chapter 8
Quality Assurance

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§8.01
Quality Assurance

Responsible Manager

Rev. 11/07; links updated 09/08

- **A. Policy**
- **B. Responsibilities**
- **C. Implementing Elements and Guidelines**
  1. **Organization**
  2. **Process Management**
  3. **Performance Assessments and Improvements**

A. POLICY

It is the policy of Lawrence Berkeley National Laboratory to conduct activities that contribute to its scientific and operational objectives in accordance with sound quality assurance and conduct of operations principles. These principles, as described in the Laboratory's Operating and Quality Management Plan (OQMP) (PUB-3111), are the basis for the Laboratory's standards for organization, process management, and performance assessments.

Application of OQMP principles is based on a graded approach, with consideration given to the unit's mission; its programmatic or operational significance; and its commitment to environment, safety, and health consequences for personnel and the general public.

B. RESPONSIBILITIES

The Laboratory Director is responsible for providing the institutional authority for the OQMP. The Director ensures the full cooperation of divisions in implementing the requirements of the plan.

The Associate Laboratory Director for Operations (ALDO) is responsible for (1) communicating the OQMP to all Laboratory divisions and other appropriate organizations and (2) ensuring its full implementation.

The Office of Institutional Assurance is responsible for (1) developing and maintaining the OQMP and (2) assessing implementation of the plan by divisions and other appropriate organizations.

Division directors and department heads are responsible for ensuring that OQMP requirements are communicated and implemented in their responsible areas.

Berkeley Lab employees are individually responsible for compliance with these requirements and for the quality of their work.

C. IMPLEMENTING ELEMENTS AND GUIDELINES

1. Organization

a. **Organizational Elements**

An appropriate management structure, a proficient staff, and a systematic approach in planning work functions are key elements in sustaining a satisfactory level of quality performance. Berkeley Lab organizations must:

- Describe in writing their organizational structure.
- Plan their work functions and activities.
- Hire and retain staff proficient to perform their work.

2. Process Management

A process is defined as a combination of people, materials, equipment, and actions interacting to produce a product or service. The process is managed by the application of system controls to assure the quality of the product or service.

Berkeley Lab organizations must manage their work processes by:

- Communicating to affected staff the goals, objectives, and procedures of the work processes.
- Identifying and mitigating the hazards and risks of the work processes.
- Instituting process controls to enhance performance and quality.
- Establishing document and records control measures to ensure the availability and use of accurate information.

a. **Operating Documents**

Organizing the responsibilities, procedures, and controls for the organization's functions requires the development and maintenance of documents that establish the organization's method of operation. The operating documents must be able to direct and inform affected personnel on how to perform their functions in an efficient and safe manner. All hazards related to the functions and the corresponding mitigation measures must also be identified and communicated to the affected personnel. Operating documents include, but are not limited to, manuals, notebooks, standard operating procedures, desk references, instructions, and drawings.

b. **Process Control**

Process control is intended to reduce the variation in work process, thereby improving performance and quality. Line managers responsible for programs and operations must review their core functions to ensure that appropriate controls are in place. The controls include, but are not limited to, the following:

- Proper management review and approval of processes
- Use of safety standards and requirements necessary and sufficient to mitigate the hazards of the work processes
- Assurance that only qualified and trained personnel are assigned to perform the work
- Assurance that only the appropriate equipment and material are being used and maintained
- Assurance that only up-to-date written procedures to direct the work are being used
- Acceptance criteria for final review of the end product or service

c. **Document and Records Management**

Document control and records management are intended to ensure the availability of accurate information for Berkeley Lab work processes and other activities. Documents and records are managed to provide for retention, preservation, assurances of currency, and retrievability:

- Document control provisions ensure that only approved and up-to-date information pertaining to policy, prescribing work, specifying requirements, or establishing design criteria are available to users when needed. The ALDO and division directors are responsible for identifying which Laboratory documents require this formal and rigorous control. Controlled documents are made available to users by either print or electronic means.

- Effective records management ensures that records of completed activities are generated, maintained, and readily retrievable. Information and data that authenticate the organization's research, operational, or administrative activities are retained as evidence of completed work and adherence to standards and procedures. Berkeley Lab organizations must follow the policies and requirements of records management described in RPM §1.17 (*Archives and Records Management*).

3. Performance Assessments and Improvements

Berkeley Lab organizations must routinely (at least annually) evaluate their work performance to identify, correct, and prevent problems that may hinder the organization in achieving its scientific and operational objectives. Some of these assessments are required under the terms of the DOE/LBNL Contract between the University and DOE. Assessments can also affirm that objectives and goals are being met in accordance with LBNL/PUB-5520, *UC Assurance Plan for LBNL*.

a. **Management Assessments**

Line managers and division administrators must periodically evaluate the performance of their work activities and take an active role in improving performance and seeking excellence. These assessments can be readiness reviews, design reviews, quality control inspections, program reviews, and any other evaluations to ensure that performance is at a satisfactory level.

b. **Independent Assessments**

Independent assessments are internal reviews performed routinely by the Environment, Health & Safety Division (EH&S); Internal Audit Services; the Office of Institutional Assurance (OIA); and the Safety Review Committee. These reviews are performed by technically and programmatically knowledgeable personnel within the Laboratory who do not have direct responsibility in the areas they assess. Each assessment organization has established protocols for conducting the reviews.

c. **Peer Reviews**

Peer reviews, which are a form of independent assessment, are evaluations of scientific and operational programs and projects conducted by peers in that particular field. Reviewers cannot have direct responsibility in the areas being reviewed.

d. **ES&H Self-Assessment Program**

This program directs divisions and other Berkeley Lab organizations to self-evaluate their operations to ensure that environment, safety, and health and quality assurance concerns are routinely addressed to promote continuous improvement and excellence in these topical areas. The self-assessment program provides a structured process to perform routine inspections; identify issues; develop and track corrective actions; conduct root cause analysis, and data monitoring and analysis; and institute lessons learned. The program elements and requirements are described in the LBNL ES&H Self-Assessment Program (PUB-5344) and the LBNL Self-Assessment Manual (PUB-3105).

e. **Corrective Actions**

Corrective actions are developed for issues (findings, concerns, and deficiencies) identified in an assessment, and are managed and tracked through resolution. Corrective actions that cannot be completed immediately must be tracked through the LBNL Corrective Action Tracking System (CATS). The program elements and requirements are described in the LBNL Issues Management Program (PUB-5519 (1)).

Line management, with assistance from EH&S and OIA, also perform root cause analyses and develop lessons learned to prevent problems from recurring. Such activity is commensurate with the risk, significance, and consequence of the problem.

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§8.02
Business Continuity Policy

Responsible Manager

New 05/09

A. Introduction
B. Definitions
C. Policy
D. Responsibilities
E. Testing
F. Training
G. Communications
H. BCP Maintenance and Management Reporting
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J. Implementation
K. Compliance

A. INTRODUCTION

Lawrence Berkeley National Laboratory (the Laboratory) recognizes the potential risks associated with service interruptions due to an adverse event affecting its strategic, operational, scientific, financial, and stakeholder support services. Therefore, it is important for the Laboratory to maintain viable support capabilities with minimal impact to its research and operations in case of an adverse event. The Business Continuity (BC) Management Program provides the policies and plans necessary for protecting the Laboratory's business or research operations as well as its reputation for quality should such an interruption occur.

B. DEFINITIONS

1. **Service interruption.** Any incident that threatens personnel, buildings, or the operational procedures of an organization and requires special measures to restore normal functions.

2. **Business continuity management**. A process that involves identifying and managing risks and threats faced by an organization due to disruption and interruption; taking steps to control and reduce the risks; assessing the impact on the organization if the risks should materialize; and providing a Business Continuity Plan (BCP) to ensure the continuation of the organization's activities.

C. POLICY

Each directorate/division is responsible for identifying its essential functions, and for developing, maintaining, and testing its BCP in coordination with the BC Program Manager. Each BCP, developed by using the UC Ready Business Continuity Program, will document the resources, actions, tasks, and data required by a scientific or Operations division to recover its essential functions. Each BCP must be approved and signed by the appropriate division director or designee.

D. RESPONSIBILITIES

The Chief Operating Officer (COO) / Associate Laboratory Director for Operations (ALDO) is responsible for ensuring that all Laboratory divisions participate in implementing the BCP requirements.

The Business Continuity Planning Steering Committee is responsible for advising on the policy and planning of the Business Continuity Program.

The BC Program Manager is responsible to the COO/ALDO and the Director of Institutional Assurance for the development, implementation, management, and maintenance of the Laboratory-wide BCP.

Division directors and department heads are responsible for ensuring the development, implementation, and maintenance of BCPs of their responsible areas. From this, the division will develop a BCP.

E. TESTING

The Laboratory-wide BCP should be tested at least annually to ensure effective recovery preparedness.

Scientific and Operations divisions' BCPs should also be tested annually. Managers from each division and the Division Business Continuity Coordinator will work with the BC Program Manager to perform these division-specific tests.

F. TRAINING

Staff involved in BCP activities must be trained on business resumption and recovery by their respective division.

G. COMMUNICATIONS

The Laboratory-wide and division-specific BCPs will include instructions, processes, procedures, and/or guidance concerning internal and external communication.

Internal Communication: Division directors are responsible for internal communication within their respective divisions.

External Communication: The Public Affairs Department serves as the Laboratory's point of contact to the media should an event adversely affect the Laboratory or a scientific or Operations division.

H. BCP MAINTENANCE AND MANAGEMENT REPORTING

All Laboratory organizations will review and update their BCPs annually or more often if major relevant changes occur. All major updates should be incorporated into their BCPs as soon as possible, with notification to the BC Program Manager.

The reporting of the status and progress of business continuity planning is key to an effective BC Management Program. The BC Program Manager will report the status and progress of the BC Management Program to the COO/ALDO and Business Continuity Steering Committee every six months and after every Laboratory-wide BCP test.

I. BC MANAGEMENT PROGRAM GOVERNANCE

Business continuity is an institutional concern affecting all Laboratory organizations and therefore requires senior management to provide guidance and oversight.

Division directors will participate in the governance of the Laboratory's BC Management Program by ensuring that each division's BCP is updated, reviewed, and tested annually.

J. IMPLEMENTATION

Consistent with this policy, activities to support this planning effort are addressed in the Laboratory's Business Continuity Implementation Plan.

K. COMPLIANCE

Compliance with this policy is essential to its effectiveness. All Laboratory divisions are expected to adhere to this policy and follow it consistently. The BC Program Manager will assess the preparedness of all Laboratory organizations, including its Operations and scientific organizations, and report annually to senior management. In addition, Internal Audit will periodically review the BCPs to ensure compliance.

Chapter 9
Computing and Networking

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§9.01
Computing and Communications

Responsible Manager

Rev. 09/07

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A. INTRODUCTION

Computing and Communications technologies form key parts of the conduct of LBNL's science and support for science and the Laboratory's use of IT resources should always reflect the intelligence, quality, integrity, and competence of the Laboratory and the University. LBNL's computing and information policies support the responsible and secure stewardship of these assets, in order to maximize their contribution to the mission of the Laboratory, the University, and the Department of Energy.

This section describes the basic computing and communications policies of LBNL. These requirements apply to all LBNL computing resources, including those used off-site. Requirements related to Laboratory information apply wherever that information resides, including on non-Laboratory owned equipment.

Additional policy and procedure supporting this section may be found on the CIO Policy Website http://www.lbl.gov/CIO/Policy/.

Information on IT services is available from the IT Division: http://www.lbl.gov/IT/ or by dialing Extension HELP, or by e-mail to help@lbl.gov.

B. OPEN RESEARCH ENVIRONMENT

LBNL is an unclassified, open research environment. The Laboratory's work is such that it can be freely communicated to the scientific and technical community. The Laboratory's computing environment supports research work intended for publication. Additional steps must be taken to secure information not intended for publication when it resides on Laboratory systems.

Classified and DOE sensitive material, including Unclassified Controlled Nuclear Information (UCNI) and Naval Nuclear Propulsion Information (NNPI) as well as National Security Information, are prohibited on Laboratory systems and networks. The Laboratory discourages the presence of any information or research activities which would require a change to the security stance of the

institution and such activities may only be approved when the risk is acceptably mitigated.

C. RESONSIBLE AND SECURE STEWARDSHIP

LBNL information technology assets will be treated in a responsible manner throughout their lifecycle. This includes appropriate planning, implementation, maintenance, and disposal of computing and information assets. All members of the LBNL community are accountable for providing appropriate stewardship of the computing and information assets they utilize and manage. This includes appropriate information and computer security, information management, continuity and lifecycle planning, and asset management.

D. CONSENT TO MONITORING

All use of LBNL computing and communications resources by all users, including employees, guests, collaborators, and casual users, is subject to monitoring. No user of LBNL systems has any expectation of privacy in their use of these systems, subject to applicable State, Federal, Department of Energy, and University law and policy. Laboratory employees have a responsibility to monitor systems under their control in a limited manner to ensure the security and performance of these systems. However, broad authority to monitor content and transactions for security or acceptable use is limited to those granted such authority by the CIO, Laboratory Director, or Deputy Chief Operating Officer. In all cases, Laboratory employees engaged in monitoring are expected to access the minimum amount of information necessary to accomplish the task they have been assigned, and to treat such information in a confidential manner as appropriate. In addition, special restrictions apply to the monitoring or recording of telephone conversations, which are typically illegal without the consent of all parties.

All systems, per DOE policy, must display the DOE Warning Banner to provide notice of this policy to users. Login to or use of a system displaying the banner functions as written consent to the requirements and policies of the DOE Warning Banner and LBNL policy, for that system and all other DOE systems.

E. INFORMATION AND COMPUTER SECURITY RESPONSIBILITIES

The Laboratory's computer systems and all information contained in these systems must be appropriately protected from unauthorized use, alteration, manipulation, and disclosure. In keeping with the principals of Integrated Safeguards and Security Management (ISSM), security is the responsibility of the user and his or her line management. Users, data owners, and system owners must take appropriate precautions to secure the confidentiality, integrity, and availability of systems and data, and line management must provide adequate oversight to assure these precautions are appropriate and maintained.

The CIO has designated responsibility to the Computer Protection Program Manager (CPPM) for developing Minimum Security Standards and Security Policies for computing and communications at LBNL. It is the responsibility of each user, system manager, and line manager to ensure that these standards are adhered to, and that additional safeguards are put in place if judged necessary.

1. Security Policy

The Laboratory has extensive security policies which govern the operation and minimum configuration of systems and services on LBNL networks. All systems and users connecting to LBNL networks must follow these policies and take additional precautions to secure data when appropriate. These guidelines may be found in RPM §9.02 and on the Computer Protection Website located at http://www.lbl.gov/cyber

Ultimate authority to remove a service, system, or user deemed a security threat to the institution has been delegated to the CPPM.

Ultimate responsibility for the safe and secure operation of resources and the safe and secure storage, transmittal, and disposal of data rests with the user, data owner, system manager, and their respective line management. Additional delineation of responsibilities may be found in the Computer Security Program Plan.

2. Privacy and Information Security

LBNL is required to provide additional protection to certain categories of private information. This includes information such as

social security, driver's license, and financial account numbers, as well as certain personal health information. Only the institutional business systems of the Laboratory are accredited for the ongoing storage of this kind of information. Email, local workstations, and network storage are not acceptable for the ongoing storage of collections of this information unless they have been specifically approved by the user's line management and concurred on by the Computer Protection Program Manager. Unintended releases of private information or suspected releases of private information must be immediately reported to the CPPM. Additional support for managing private information may be found here.

In addition, certain services and types of information are judged sufficiently important to require additional oversight by the Computer Protection Program. Systems designated as requiring additional protection are required to develop system security plans and adopt additional management, operational, and technical controls.

3. Training

All users of LBNL computing systems must adhere to training requirements appropriate to their responsibilities. Minimum training requirements are established by the CPPM and include annual user awareness training.

F. ACCEPTABLE USE

1. Business Use (Official Use)

All Laboratory computing and communications services are provided to further the mission of the Laboratory. Use related to the individual's position at LBNL includes, but is not limited to, research and administrative functions, approved professional development and educational activities related to the user's position, laboratory approved community relations and support activities, and support of internal and external committees, task forces, and organizations related to employee's position.

2. Incidental Use

The Laboratory recognizes that incidental personal use of information resources also occurs. Incidental use is generally understood to be transient, that is, incidental use should not create a lasting association between the use and the Laboratory. Such use is acceptable provided it does not constitute unacceptable use as defined below, and meets the following requirements:

- It does not directly or indirectly interfere with Laboratory operation of the resource.
- It does not burden the Laboratory with noticeable incremental cost.
- It does not interfere with the user's employment or other obligations to the Laboratory.
- It does not portray the Laboratory or its employees in an inappropriate or unbecoming manner.

When such use does not meet these criteria, it becomes unacceptable use. Users who elect to engage in incidental use do so with no expectation of personal privacy concerning their actions.

Incidental use is a privilege provided to members of the Laboratory community and may be revoked.

Where incidental incremental costs are incurred and the Laboratory has a system by which the Regents can be reimbursed for these costs, employees must follow the procedures and reimburse the institution.

3. Unacceptable Use

Activities that constitute "unacceptable use" of Laboratory resources include, but are not limited to, the following:

- Use of Laboratory resources for personal gain, lobbying, or unlawful activities
- Use of Laboratory resources for harassment, retaliation, or unlawful discrimination, or in an inflammatory manner.
- Use of Laboratory resources for gaining, attempting to gain, or appearing to attempt to gain unauthorized access to computers, networks, and other information resources
- Use of Laboratory resources for unauthorized manipulation, creation, or removal of information
- Use of Laboratory resources in a manner likely to cause harm to systems or networks
- Use of Laboratory resources to access, store, copy, create, or transmit sexually explicit materials, or to gamble.
- Use of Laboratory resources in violation of copyright, patent, or trademark laws
- Use of Laboratory resources to engage in unauthorized or unlawful monitoring or recording of voice or data communications

- Use of Laboratory resources to circumvent security controls on Laboratory or other external systems
- Use of Laboratory resources to engage in activities prohibited by Laboratory policy, including fabrication, falsification, and plagiarism in research, or unauthorized disclosure of Laboratory proprietary or privacy information
- Use of Laboratory resources to store any information prohibited at LBNL
- Use of Laboratory resources in any manner that violates applicable Federal, State, or University laws or regulations
- Use of Laboratory resources outside the scope of the Laboratory's normal business that can reasonably be expected to offend members of the community, embarrass the Laboratory, or otherwise result in a loss of public trust

G. Authorized Use

All use of LBNL systems must be authorized by a responsible employee who takes security responsibility for the use and/or user and ensures that LBNL IT policies are communicated to the user and followed in the course of granting access. Use must be reviewed by the granting employee on a schedule appropriate to the risks presented by the service or system.

H. Central Services

For reasons of both security and efficiency, the CIO has designated selected services as Institutional Services. These services may only be provided by the designated responsible office or by permission of the responsible office or its designees. Operating, maintaining, or modifying such services without the express consent of the responsible office is a violation of this policy. The current list of such services may be found here.

I. Additional Policy, Procedure, and Governance

Additional policy, procedure, and governance information for Computing and Communications Policy are found on the CIO Policy Website. Notwithstanding this section, users of LBNL information and systems are subject to all applicable University of California and Department of Energy regulations, and applicable state, federal, and international laws.

J. Sanctions

Violation of this policy may result in restriction of access to resources, disciplinary action up to and including dismissal, loss of site access privileges, and/or referral to federal or state law enforcement authorities for criminal or civil prosecution.

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Operational Procedures for Computing and Communications

Responsible Manager

Revised 09/08

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A. COMMUNICATIONS AND NETWORKING SYSTEMS

1. Communications and Networking Management

Laboratory voice telephone, cellular telephone, data-switching, networking, and teleconferencing systems (except for public address and radio communications systems; see Paragraphs (8) and (11), below) are managed by the IT Infrastructure Department of the Information Technology (IT) Division. Laboratory communications systems include the Integrated Communications System (ICS), which is based on a large distributed voice/data digital switching system and LBLnet, a Laboratory-wide high-speed local area network. These systems also include extensive underground and intrabuilding copper-wire and optical-fiber cable plants and microwave links. Inquiries or suggestions concerning the operation or development of Laboratory communications and networking resources should be directed to the IT Infrastructure Department.

All requests for communications and networking resources, services, or expenditures must be processed through the appropriate office of the IT Infrastructure Department, as described below.

Procedures governing communications, networking systems, and computing may be found on the Berkeley Lab IT Policy Web site.

2. ICS Voice Telephone System

a. **Requesting Services.** The Telephone Service Center handles requests for all types of ICS services, including information about voice and cellular telephone services. To ensure compliance with DOE and Laboratory policies, voice services or equipment may be ordered only through the Telephone Service Center. Unauthorized equipment may not be attached to the ICS system or its related equipment. Violations causing damage may result in the cost of repair being charged to the responsible party.

b. **Repairs.** Requests for ICS repairs should be made to the Telephone Service Center.

c. **Planning New or Changed Services.** Planning for and design of new or modified ICS services are accomplished through the Telephone Service Center to ensure compatibility with existing systems and the most cost-effective use of Laboratory funds. See Telephone Service Center in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension.

d. **Long-Distance Services.** It is the Laboratory's policy to use the least-cost routing for long-distance calling. ICS automatically selects the least-cost facility for long-distance service.

e. **Personal Calls.** Laboratory desktop and cellular telephones are for official business, and the Laboratory pays for each official call. Use of Laboratory telephones for brief personal calls is permitted when required by changes in work plans, emergencies, or coordination of work activities with family members or others who can be reached only during working hours. These calls are also treated as official calls and are paid for by the Laboratory.

   i. **Desktop Telephones.** If an employee finds it necessary to use a Laboratory desktop telephone for a personal call not treated as an official call (see above), the employee is responsible for the cost of the call. Pay telephones are located throughout the Laboratory for the convenience of employees. See the General Information/Pay Telephone Locations on the Telephone Services Center Web site for specific locations.

   Laboratory telephone use is subject to audit by random sampling. Employees may be required to validate an itemized telephone bill and reimburse the Laboratory for personal calls not treated as official calls.

   ii. **Cellular Personal Calls.** Laboratory cellular telephones are intended for official business use. Issuance of a cellular phone must be approved by the employee's division management.

   Employees must acknowledge receipt of the cellular procedures governing the use of Laboratory cell phones by returning a signed copy to Telephone Services MS 50E0101 prior to receiving a Laboratory cell phone.

If an employee does not adhere to the cellular procedures, his/her Laboratory cell phone may be disconnected, and further disciplinary action may be taken.

iii. **Personal Usage Criteria.** Personal usage must also satisfy the following criteria:

1. It does not impact or interfere with the employee's legitimate job performance.
2. It does not impact or interfere with the work of any other employee or the correct functioning of any Berkeley Lab information service.
3. It does not support running a business or paid consulting.
4. It does not involve illegal activities or violate Berkeley Lab policy.
5. It does not involve any activity that could potentially embarrass Berkeley Lab, DOE, or UC, or result in a loss of public trust.

f. **Calling Cards.** The Telephone Services Center handles all requests for calling cards. Requests for calling cards must have the approval of the requester's division director or division administrator.

g. **Laboratory Telephone Directory, Operator Information, and Other Telephone Directories.** The Telephone Services Center maintains the word-processing and database systems used to publish the Telephone Directory. The information in these systems is also used to provide operator information services. Electronic versions of the directory are available through the World Wide Web and other servers. All requests for changes to published information or inquiries about electronic access to personnel data should be directed to the Telephone Service Center.

3. ICS Data-Switching System

a. **Requesting Services.** The Telephone Service Center handles requests for all types of ICS switched-data services. These services primarily provide asynchronous switched connections between terminals, personal computers, Laboratory computer systems, and incoming or outgoing connections over external communications networks.

Unauthorized equipment may not be attached to the ICS or its related equipment. Connection of RS-232 asynchronous devices to ICS data sets may be done by users as long as the equipment is authorized. If in doubt, check with the Data Communications Support Group. See Communications & Networking Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension. Violations causing damage may result in the cost of repair being charged to the responsible party.

b. **Repairs.** Requests for ICS repairs should be made to the Telephone Service Center.

c. **Technical Questions and Planning.** Users needing to discuss technical issues or plan significant data-switching applications should contact Communications & Networking Facilities of the IT Infrastructure Department. See Communications & Networking Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

4. LBLnet

a. **Requesting Services, Technical Questions, and Planning.** LBLnet is a Laboratory-wide high-speed local area network managed by the IT Infrastructure Department of the IT Division.

LBLnet also provides Wireless LAN installation and coordination services (WLAN) to the Laboratory as part of its standard networking technology and service offerings. To ensure interoperability and appropriate cyber security and to prevent radio frequency interference, only the IT Infrastructure Department will provide WLAN services that are integrated with LBLnet. The authority of the IT Infrastructure Department for WLAN services extends to remote Berkeley Lab sites, and all deployment of WLAN must follow the Berkeley Lab policy for Radio Frequency Management specified in RPM §9.02(A)(13) (*Radio Emissions Standards and Spectrum Managemen*t).

Requests for services, information, planning of new installations, or changes to existing installations should be directed to the LBLnet office. See LBLnet in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

b. **Repairs.** Requests for repairs to LBLnet should be made through the LBLnet Operations Office. See LBLnet in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

5. ICS-Dedicated Wiring and Optical-Fiber Systems

All interactions concerning planning for the use of, or information about, these resources should be directed to Communications & Networking Facilities of the IT Infrastructure Department. See Communications & Networking Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

ICS wall receptacles include a separate keyed receptacle that can be used to support a wide range of communications services over twisted-pair copper wire between any two points in the Laboratory. Twisted-pair copper-wire and optical-fiber facilities with customized terminations can also be provided. Off-site dedicated twisted-pair wire facilities requiring Pacific Bell or other supplier services must be ordered through Communications and Networking Facilities.

6. Public Address System

The Laboratory public address system is designed to give broad coverage in most buildings and general work areas to provide general announcements to Laboratory personnel. It may be used to transmit information during emergencies, but it is not considered an emergency communications system.

Modifications and maintenance of the public address system are under the exclusive control of the Engineering Division Communications Engineering staff. See Communications Engineering in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension. Communications Engineering must be notified in advance if any changes in the public address system are required.

The public address system is tested on the second Wednesday of each month at 2 p.m. The test consists of alert tones (two beeps in quick succession) followed by a voice announcement. To ensure complete coverage, employees should notify Communications Engineering or their building managers if the test announcement is weak or unintelligible.

7. Public Address System Announcements

Announcements are normally made by the Fire Department dispatcher or the telephone operators. Use of the public address system is reserved at all times for emergencies and health and safety matters. See Integrated Communications System Office in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension.

8. Radio Communications Systems

The Engineering Division Communications Engineering Group is responsible for the engineering, installation, maintenance, and adjustment of Laboratory radio communications systems such as portable, mobile, base, and microwave radios. All requests for such equipment require authorization by this group. See Communications Engineering in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension. Each request should include a description of the intended use and the need for the equipment or system desired. Purchased equipment is Laboratory property and should be returned to the Engineering Division when the authorized use or function is completed.

9. Radio Paging Systems

Requests for internal Laboratory-provided and Laboratory-maintained radio pagers should be made through the Engineering Division, Communications Engineering Group. This group is responsible for the engineering design and maintenance of Laboratory radio paging systems. Requests for external vendor-provided radio pagers should be made through the Telephone Service Center.

10. Radio Emissions Standards and Spectrum Management

The Engineering Division Communications Engineering Group is responsible for the Laboratory's spectrum management and radio emissions. All equipment that generates or uses radio frequencies must be certified by this group for initial installation and after any changes or modifications.

11. Card Access, Security, Alarms, and Surveillance Systems

All requests for card access, property protection, area surveillance, and personal assistance alarm devices must be made through the Physical Security and Property Protection group for approval by the Security Manager. Physical Security and Property Protection will coordinate engineering design and installation with the Facilities Division. For security points of contact, see the Integrated Safeguards and Security Management Web page.

The Facilities Division is responsible for the engineering design, installation, and maintenance of security systems. Security maintenance issues should be directed to the Work Request Center.

12. Video, Fiber-Optic, and Other Signal Systems

The Engineering Division Communications Engineering Group has services available for the design and installation of video, fiber-optic, and other signal systems.

13. Video Teleconferencing

The Information Technology Division has responsibility for Laboratory video teleconferencing systems. Current conference rooms include 50B-4205 and 50F. Point-to-point and multiple-site direct-dialed conferences are possible in Standards Mode and in both VTEL and CLI proprietary modes. For more information, see Berkeley Lab Communications and Networking Resources.

A dedicated full-motion microwave radio video to SLAC is located in Building 71-263.

For information or technical support, contact the Video Data Communications group. This group also handles scheduling for the Video Teleconferencing Room. See Video Conferencing in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

14. Remote Access Services

The Information Technology Division is responsible for Laboratory-managed and funded remote access services, including reimbursed services. The IT Infrastructure Department is the Responsible Office for establishing procedures and guidelines for the provision or reimbursement of remote access services, including dialup, DSL, cable, satellite, cellular packet switches, and other data services. The Computer Protection Program is the Responsible Office for establishing baseline security configurations and security policies governing all Laboratory managed and funded remote access services. Available remote access services and procedures may be found on the IT Infrastructure Department Web site.

B. ELECTRONIC ACCESS

1. Background

As a scientific institution, the Laboratory has a responsibility to enhance the ability of its staff to communicate with colleagues around the world. This communication includes correspondence, raw data, preliminary drafts of technical papers, and finished publications. At the same time, as a primarily federally funded institution, the Laboratory has a responsibility to ensure that federal laws and DOE directives regarding authorized access and the protection of information are observed. This operational guideline is concerned primarily with the first of these responsibilities and with questions of access. The protection of information is addressed in Paragraph (D), below.

This guideline is intended to provide a graded approach to electronic access, recognizing that the mechanisms used for granting or restricting access should be appropriate for the breadth of access desired, the sensitivity of the information involved, and the protection mechanisms in use on the systems employed.

All users of electronic media should remember that once information has been committed to the network, the originator loses all control over how it is used, how it is modified, to whom it is distributed, or to whom it is attributed.

2. Fundamental Principles and Characteristics

a. Whenever appropriate, it should be possible to provide broad access in a convenient fashion to information held at the

Laboratory.

b. Proprietary, regulatory, and licensing constraints should be observed at all times.
c. Information should not be made generally available before it is ready for publication. This restriction does not imply that incomplete data or unfinished documents may not be shared over the network within the workgroup, but only that such information should have appropriate access controls.
d. Responsibility for propriety, access, protection, and usage rests with the owner of the data, files, systems, or user identification involved.
e. The provision of electronic access to information held at Berkeley Lab is a form of publication by the Laboratory, and thus such information is subject to Laboratory publication policies. Any material that is to be made available to the general public should be reviewed by a qualified reviewer before its access restrictions are lifted. Division administrators maintain lists of qualified reviewers for their divisions.
f. It is impossible to ensure that the recipient will treat information transmitted or posted on electronic media in a manner consistent with the degree of informality intended by the originator.
g. Electronic correspondence originating at the Laboratory should be composed with the same care as is afforded to traditional correspondence transmitted on Laboratory letterhead.
h. All electronic correspondence should be considered to be more permanent than its obvious conventional (telephone or paper) analogue.
i. Electronic correspondence that identifies the author as a Laboratory staff member is often interpreted by some recipients as containing official Laboratory positions. There is no guarantee that any disclaimer inserted or appended by the originator will remain associated with the correspondence when it is forwarded or transcribed.
j. Laboratory employees are prohibited by the DOE/LBNL Contract between the University and DOE from engaging in activities that are considered to be lobbying. Lobbying includes attempts to influence the introduction, enactment, or modification of state or federal legislation. If you have questions about a specific activity or need a complete definition, see your division director or division administrator. For more details, see RPM §2.23(H) (*Contacts with State and Federal Officials*).

3. Kinds of Access

This guideline covers the kinds of electronic access listed in RPM Table 9.02(B) (*Access Categories*). The categories of access are listed in rough order of increasing risk of damage resulting from improprieties or inadequate access control.

Table 9.02(B)
Access Categories

	Information content	Breadth of access
1.	Read-only access to fully formatted publications that have been adequately reviewed in accordance with Laboratory publication policy. RPM §5.02 (*Scientific and Technical Publications*).	Unrestricted world access.
2.	Read-only access to raw data files or to draft material intended for publication.	Group only (includes collaborators).
3.	Correspondence.	Content-dependent.
4.	Read-only access to proprietary data.	Need to know.
5.	Read/write access to raw data files or draft material intended for publication.	Owner/designee only.
6.	Read/write access to final-form publications.	Author/designee or technical editor only.
7.	Read/write access to files containing proprietary data.	Owner/designee only.

Electronic access controls can be exercised at site, system, user, individual data set, or file level. Because of its nature as a scientific institution, the Laboratory places no generic restrictions on access at the site level. Provisions exist to deny access to the Laboratory from sites that tolerate computer network security abuses or to deny on-site access to Laboratory personnel who violate Laboratory computer and network security and propriety policies. It is not expected, however, that it will be necessary to make extensive use of these policies.

With respect to access control at the system, user, or file levels, controls may be applied at any or all levels. For most Laboratory information, access protection at any one level should be sufficient. Thus, except in unusually sensitive cases, either of the following modes should suffice:

- Public-access system: password-protected or encrypted file
- Controlled-access system: world-readable file

In other words, sufficient access control can be obtained by limiting access to the system, the file, or both. Further protection can be provided by limiting the ability of individual users to access specific files, directories, or system commands, and by encrypting particularly sensitive files.

4. Forms of Electronic Publishing

Laboratory information can be promulgated electronically through four general mechanisms: correspondence, file transfer, voice and video, or facsimile. In each case, certain proprieties, procedures, and precautions should be observed:

a. **Correspondence** (including e-mail, bulletin boards, USEnet News, List Servs, conferencing systems, and the like). The Laboratory correspondent is responsible for limiting his or her participation to topics within the scope of the Laboratory mission and for avoiding comments that could be construed as lobbying or attempting to influence legislation. In some situations it may be necessary to insist that one is acting as an individual expert, but it cannot be ensured that the recipients will differentiate between an individual position and an official Laboratory position. For further information, see RPM §2.23(H) (*Contacts with State and Federal Officials*).

b. **File Transfer** (whether provided through individual user accounts or through file or data servers, including public access servers). The person posting the file is responsible for ensuring that everyone who has write access to the file is in fact authorized to make changes in the file, and that everyone who has read access to the file is in fact authorized to have access to the information. These conditions are particularly true of proprietary information, but they also apply to information destined for external copyright or that has not been fully reviewed.

   Furthermore, if the existence of the file has been mentioned in any public-access bulletin board, List Serv, or conference, it must be assumed that sufficient knowledge to obtain access is available worldwide.

   If access to the data should be restricted because of sensitivity, its proprietary nature, or for any other reason, the owner must take appropriate steps to limit access to authorized individuals.

   Finally, when using public domain software (e.g., FTP (file transfer protocol) to provide access), the owner is responsible for securing up-to-date (protected) versions of the software. The Laboratory Computer Protection Program Manager (CPPM) maintains a list of names of staff members knowledgeable in appropriate software. Unexamined versions of either new or familiar programs must not be used on systems that contain valuable information.

c. **Voice and Video** (including voice mail, voice-only teleconferencing, room-based or studio video teleconferencing, and desktop messaging or teleconferencing). In these cases, the rules of ordinary conduct apply. In general, the more limited the audience, the more informal the interaction may be.

d. **Facsimile.** Fax traffic should be treated as if the material were being sent through Laboratory or United States mail, except that information subject to the Privacy Act should not be sent to an unattended fax machine.

The foregoing summary does not cover all cases, or even any single case in full detail. Nevertheless, it should provide guidelines sufficient to address most situations. Questions should be addressed to the CPPM.

C. USE OF INFORMATION SYSTEMS AND SERVICE

1. Background

This policy is concerned with publicly accessible electronic media and browsers such as the World Wide Web (Web) front-ended by Netscape. It provides a graded approach to control presentation and content, restriction of access, and scope of responsibility, recognizing that the procedures employed should be appropriate for the breadth of access expected and the sensitivity of the information involved.

All users of electronic media should remember that once information has been committed to the network, the originator loses all control over how it is used, to whom it is distributed, or to whom it is attributed.

These principles and guidelines use the page terminology of the Web, but they should be taken to apply more generally as technology advances. They should also be taken to apply, as appropriate, to older technology such as anonymous FTP and Usenet

2. Definitions

a. **LBL Server.** A network node that provides access to information or services and that is part of or administered on behalf of a Laboratory facility, function, project, or program.
b. **Page.** A logical information structure, accessible as a unit from, on, or through an information server. A page may contain links to other pages or files located on other servers.
c. **LBL page (file).** A page (file) resident on any Laboratory server or accessible directly through any Laboratory server without passing through a server or page belonging to another institution.

3. Scope

These guidelines apply to all Laboratory information servers, regardless of location, and to all Laboratory files posted on any information server, whether or not located at the Laboratory, and regardless of the home page(s) or directories with which they are associated.

A server that is administered by the Laboratory for another institution or agency, or located at the Laboratory but administered by

another institution or agency, is governed by the policies established by that institution or agency.

4. Fundamental Principles

a. Whenever appropriate, it should be possible to provide broad access in a convenient fashion to information held at the Laboratory.
b. Proprietary, regulatory, and licensing constraints should be observed at all times.
c. Information should not be made available to the general public before it is ready for publication. This restriction does not imply that incomplete data or unfinished documents may not be made available through network information services, but only that such information should have appropriate access controls. See Paragraph (B), above. If the desired server does not provide the capability to install appropriate access controls, the information should not be posted.
d. Responsibility for propriety, access, protection, and usage rests with the owner of the data, files, servers, or pages involved. The page owner is responsible for ensuring that both the content and presentation of information on a page are consistent with Laboratory policies and guidance. Questions concerning the suitability of information for publication should be addressed to the Laboratory Scientific and Technical Information Officer.
e. The posting of information on any Laboratory page is a form of publication by the Laboratory and subject to Laboratory publication policies. See RPM §5.02 (*Scientific and Technical Publications*).
f. Any material that is to be made available to the general public should be reviewed by a qualified reviewer *before* its access restrictions are lifted. Division administrators maintain lists of qualified reviewers for their divisions.
g. The scope of responsibility of a page owner extends to, but not beyond, links that occur on the page (i.e., the owner of a page is responsible for knowing the immediate content of all links on a page, but not for ensuring the propriety of information existing at the end of an arbitrary chain of links).
h. The default for Laboratory pages is universal *read* access and owner-only *write* access.

5. General Page and File Policy

a. The page (file) owner is responsible for determining the appropriate level of access for the page (file) and for ensuring that appropriate access restrictions are in place.
b. The page (file) owner is responsible for ensuring that everyone who has write access to the page (file) is in fact authorized to make changes to the page (file), and that everyone who has read access to the page (file) is in fact authorized to have access to the information. This responsibility applies particularly to proprietary information, but it also applies to information that is destined for external copyright or that has not been fully reviewed.
c. The Laboratory may establish open pages, analogous to open bulletin boards. The owner of an open page is responsible for verifying that the person making a posting is authorized to post information on a Laboratory page. Every posting on an open page must carry the name of a Laboratory sponsor either directly or on an obvious link. The Laboratory sponsor is responsible for the content of the posting.
d. The posting of inappropriate information on a Laboratory page or file may be cause for disciplinary action. Information that is proprietary in nature or contrary to Laboratory policy concerning lobbying, the use of Laboratory computers, or the use of open bulletin boards may be considered to be inappropriate. This policy applies to nontextual information as well as to text.
e. All individuals posting information on any publicly accessible Laboratory page or file are encouraged to review posted material carefully. Everything posted on any network information service reflects on the intelligence, quality, integrity, and competence of the Laboratory as an institution and the page-owner and page-poster as individuals.
f. Every Laboratory page must contain the following information directly or contain a link to an owner's page that provides it: owner's name, address, e-mail address, and telephone and fax numbers, plus any disclaimers or restrictions that apply to the contents of the page.

6. Home Page Policy

a. The owner of the Laboratory Home Page is the Head of the Public Affairs Department. He or she is responsible for establishing and enforcing guidelines for the content, presentation, and style of the Home Page and its immediate links.
b. The Home Page and its immediate links are to be considered as corporate data, which may be changed or deleted only by authorized personnel.

7. Server Policy

a. The administrator of each Laboratory server is responsible for ensuring that each file on or first-level page accessible through that server has a Laboratory sponsor. The Laboratory sponsor is responsible for ensuring that all applicable page policies are observed. A first-level page is one that is directly accessible without passing through another server or intermediate page.
b. The administrator of each Laboratory server will maintain records of the owners and Laboratory sponsors of all current first-level pages and will provide this information to the IT Division Network Information Services group in a timely fashion.
c. The administrator of each Laboratory server is responsible for ensuring an appropriate level of data and access protection for the server and for informing file- and page-owners and Laboratory sponsors of all first-level pages of the protection level maintained.

D. COMPUTER AND NETWORK SECURITY

These guidelines are concerned with minimum acceptable computer and network security practices for general operations. Divisions or groups may apply more stringent policies if warranted by the sensitivity of the data or applications involved.

These guidelines, together with RPM §9.01 (*Computing and Communications*), embody the Laboratory's implementation of DOE Order 1360.2B.

1. Basic Principles

a. Distribution of function and capability entails equal distribution of responsibility. The owners of individual and workgroup systems must assume responsibility for the proper administration and operation of the systems they control. This responsibility extends to individual staff members working at home or on travel.
b. The Laboratory is a federally funded scientific institution. As such, it has a responsibility to enhance the ability of its staff to communicate with colleagues around the world and to practice appropriate economy in operation. Thus, the level of protection and cost of protective measures should be commensurate with the magnitude of the threat to the institution inherent in the system, breadth of access, and sensitivity of the data and application involved. Threat is a combination of likelihood of compromise and magnitude of potential damage.
c. Breadth of access should be encouraged within the constraints imposed by provision of adequate protection. System managers are charged with the responsibility of determining and enforcing the level of protection necessary.

2. Organization for Computer Security

a. The primary elements of the Laboratory organization for computer and network security are the Computer Protection Program Manager (CPPM) and the Computer Protection Implementation Committee (CPIC), which is chaired by the CPPM and includes computer security liaisons (CSLs) from each division, office, and center (including the Reception Center), plus assistant CPPMs for the Scientific Computing Facility, the Administrative Computing Facility, distributed workstations, telephone systems, and networks.
b. The generic distribution of responsibility between the Laboratory CPPM and the divisions (D), centers (C), and offices (O) is given in RPM Table 9.02(D)(2) (*Distribution of Computer Responsibility*). Specific responsibilities are addressed in the next section.

Table 9.02(D)(2)
Distribution of Computer Responsibility

Responsibility	Responsible parties
Definition of Laboratory-wide policy	Computer Protection Program Manager (CPPM)
Random file checks	D, O, and C
Implementation of access policies	D, O, and C
Computer and communications security training	CPPM; Computer Security Liaisons (CSLs)
Computer security awareness: program definition	CPPM
Computer security awareness: program implementation	Reception Center; D, O, and C
Incident detection	D, O, and C; CPPM
Incident reporting: internal	D, O, and C
Incident reporting: external	CPPM

3. Responsibilities

Table 9.02(D)(3)
Specific Computer Responsibilities

Responsible party	Specific responsibilities
Associate Laboratory Director for Operations	Appoints Laboratory Computer Protection Program Manager (CPPM) and Assistant CPPMs. CPPM is listed in the Telephone Directory.
Laboratory Computer Protection Program Manager (CPPM)	Defines and, with assistance of Computer Protection Implementation Committee (CPIC), implements and administers Laboratory's computer security program in accordance with Laboratory policy and applicable DOE directives.
Assistant CPPMs	Assist CPPM as necessary in activities pertaining to their areas of expertise.
Computer Protection Implementation Committee (CPIC)	Meets periodically to: • Review computer and communications security awareness and training. • Provide regular (at least every other year) reviews of Laboratory's computer and communications incident history and current security technology. • Make recommendations for revisions to Laboratory's computer security policies as necessary. Committee reviews and revises electronic access and computer security guidelines as appropriate.
Division, Center Directors, and Heads of Offices	Appoint a representative to the CPIC, for their division, center, or office and ensure that Laboratory computer security policies and procedures are observed within their division, center, or office.
Computer Security Liaisons (CSLs)	Serve as two-way communication channels between Laboratory Computer and Communications Security Program and their division, office, or center. Participate in meetings of CCSC, learn and understand Laboratory computer and communications security policy, and assist as necessary in implementation of this policy.
Human Resources Staffing Unit	Ensures that all new employees, visitors, and participating guests receive an appropriate introduction to computer security policy and practice at Laboratory.
Division administrators	Ensure that all user IDs and passwords used by terminating employees and guests are deactivated or continued through a Laboratory sponsor.
Supervisors and managers	Ensure that employees under their supervision maintain a

	continuing awareness of proper computer security practices. A standard computer security awareness statement (Form CPP 13) is available from CPPM. It may be used to document a computer user's continuing awareness.
System managers	Maintain an appropriate level of security for their systems. Respond appropriately to detection of a security incident. Are responsible for all security threats or other improper usage originating from or passing through systems under their control. Have authority to deny access to their systems to any person observed not using proper computer security practice.
Network managers	Maintain network integrity and a level of security awareness appropriate to their networks. Know how to isolate their networks from all non-Laboratory connections and respond appropriately to detection of a security incident. Have authority to deny network access to any system or external connection for security reasons.
Individual users	Know and follow Laboratory computer and network security policies. Bring any security violations to attention of their system manager, CPPM, or other proper authority. Are responsible for all actions originating from user IDs under their name or control, whether or not they authorized such use.
University of California Police Department	Maintains 24-hour telephone service to assist users in locating appropriate management or administrative authority to deal with suspected data security incidents.

4. Host Policies

a. **Designated Systems Administrators.** All UNIX systems connected to LBLnet must have designated system administrators who have completed UNIX system administration and security education. In addition, system administrators are required to update their UNIX system security education at least annually.
b. **Minimum Standard Configurations.** All UNIX systems connected to LBLnet will be required to conform to minimum standard configurations set by the UNIX group. These standard configurations include OS versions, patches, and specific utilities as well as general configuration policies. The UNIX group will post these configurations on the Web and update them as necessary.
c. **LBNL Host Database.** All hosts that are connected to LBLnet must be listed in the LBNL Host database. This database will include the names of the currently designated systems administrators or contacts. The database must be reviewed annually by each division to ensure that host information is current.

5. Procedure for Handling Computer and Network Security Incidents

The computer and network security incident-handling procedure is given here in summary form. A more detailed version can be obtained from the CPPM.

An employee who encounters a suspected computer or network security incident (repeated attempts at unauthorized access or the occurrence of a rogue program, i.e., one that intends to disrupt or subvert the system in some way; viruses and worms are rogue

programs) should first try to inform the appropriate people (by telephone rather than e-mail) and then, if necessary, respond to the incident.

To inform the appropriate people, call one of the following and report the system affected and the nature of the problem:

- If using a multiuser system, the system manager. If using a single-user workstation, the appropriate technical support group.
- The CPPM.
- The Division Director of the IT Division.
- The University of California Police Department, which has a telephone tree to locate the appropriate technical and/or administrative authorities. Be sure to specify that the call is to report a data security incident in progress.

The following general rules govern response to the incident:

- In all cases: Log the incident and inform the appropriate personnel.
- In an isolated case of unsuccessful attempt at entry (i.e., a single, unrepeated, unsuccessful attempt): No further action is necessary unless the attempt is repeated.
- In a case of successful penetration if it appears that the integrity of user data is threatened: Attempt simple close-out, i.e., shut down the known access paths and monitor all attempts to access user IDs that the attacker is known to have used. If necessary, re-authenticate all users. This means to disable all existing user IDs and require some form of personal contact before allowing individual users back on the system. Users should check their files for evidence of tampering and should be prohibited from using the same password.
- In case of discovery of a rogue program: Isolate the system and quarantine all disks and tapes that have been on it since the introduction of the rogue program. Do not connect to any other system or transfer any programs or data from the system to any other system by any means until the system manager has declared the system to be clean.
- In other cases: Confer with division management and/or the CPPM.
- In the absence of other advice or information: Act to protect the data rather than to monitor or trap the attacker.

6. Confidentiality of Computer Files

It is Laboratory policy that all computer files be accessible only by the person responsible for those files unless that person has explicitly authorized others to access them. Access will be granted to the person's supervisor or manager if it is necessary for Laboratory purposes. This policy applies regardless of the level of access protection assigned to a particular file.

In the course of their work, certain authorized individuals (e.g., system managers and computer security personnel) are required to inspect users' files. Under no circumstances, except as specified below, are the contents of those files to be revealed and then only to the CPPM, the Director of the Information Technology Division, or such other persons specified by the Associate Laboratory Director for Operations. In these circumstances, only the following information may be divulged:

- Evidence of unauthorized internal or external access
- Evidence of improper use of Laboratory facilities
- Evidence of security-threatening practices

7. Computer Security Monitoring

To ensure adequate security of Laboratory computer systems and networks, a program of computer security monitoring will be conducted under the supervision of the CPPM. It will include the following activities, as necessary:

- Random sampling of user files
- Verification of proper control and authentication of new users
- Verification of proper password procedures and use
- Verification of proper physical security
- Monitoring of network traffic
- Monitoring of usage patterns

Any apparent violation of Laboratory policy, attempt at unauthorized access, or any situation that exhibits less than acceptable computer security will be reported to the CPPM for further action. In all cases involving the monitoring of user files and data

traffic, Laboratory policy on confidentiality of computer files applies.

8. Physical Security

a. **Desktop and Other Small Systems.** Microcomputer-based personal or desktop computers, notebook and palmtop computers, intelligent terminals, word-processing, and similar systems are commonplace in Laboratory offices and because of their portability are particularly vulnerable to physical attack, including theft. Laboratory employees who possess such equipment are responsible for ensuring the physical safety of that equipment. Contact Electronics Engineering's Installation Shop to obtain information and technical assistance with antitheft lockdown devices and permanent imprinting of the manufacturer's serial numbers on the equipment.

b. **Proprietary Software and Data.** Proprietary software and data should be secured in a manner commensurate with the threat.

9. Network Citizenship Guidelines

Laboratory staff, visitors, guests, and contractors are expected to exhibit good network citizenship in all network interactions by following these rules:

- Do not distribute or encourage the distribution of network junk mail. Be judicious in the use of utilities that generate responses automatically (such as those used to announce that you are on vacation or travel).
- Avoid indiscriminate use of distribution lists. Do your best to ensure that mail is sent only to interested addressees.
- Make appropriate use of automatic-answering facilities to ensure that replies are sent only to people with a genuine interest in the correspondence. It is especially important to know whether the auto-answer facility will send the response to the entire address list of the original message or to only the originator.
- Use the network only for Laboratory-sanctioned activities.
- Do not use proprietary software without an appropriate license.
- Do not distribute software to unauthorized users or make it available to unauthorized users.
- Do not read other people's files or directories without explicit authorization. With the exception of such public files such as stores catalogues, forms repositories, and telephone lists, authorization should not be assumed for any file not on a public access server.

  In general, users should not post anything over the network that they would not send on official Laboratory stationery, should not access any information or software over the network that they would not send or for which they have no authorization, and should not send any e-mail that they do not want recorded.

10. Information Security Guidelines

These guidelines are not intended to address every situation that can arise, but to provide a reasonable background so that individuals may make appropriate judgments in those cases that are not covered. Questions should be addressed to your CSL, assistant CPPM, or the CPPM.

a. **Individual Responsibility**

   i. Each user is responsible for all activities originating from any of his or her user IDs.
   ii. Each password owner is responsible for all activities resulting from shared use of that password.
   iii. Shared user IDs and passwords are not generally allowed, but such sharing may be appropriate under some circumstances. Users needing to share their user IDs or passwords must request authorization from the system manager. The system manager has the authority to deny such requests.
   iv. Each system owner is responsible for the network citizenship of all users of that system.

b. **System Protection**

i. Access to all Laboratory systems should be available only to Laboratory staff (including participating guests and contractors) or to others through a Laboratory sponsor. If an anonymous ftp or a similar utility is enabled for a system, the system manager becomes a default sponsor for the whole world. The Laboratory sponsor assumes responsibility for all activities of sponsored persons. The use of someone else's user ID or password implies sponsorship by the owner of the user ID or password, whether or not the owner has explicitly granted permission.

ii. The safeguards that are provided by the operating system in use should be invoked to the maximum extent that does not interfere with the work of the users. Such safeguards include the following:

- Control over system privileges
- Protection of the password file
- User notification of unsuccessful log-in attempts
- Temporary deactivation of user ID after several successive failure
- Less-than-universal defaults for file access

iii. Suitable physical security measures should be employed. In addition to appropriate fire and seismic protection, among the measures to be considered are controlled access to the space, separate locked storage of media, lock-down devices, and physical separation of backups from primary versions.

c. **User IDs and Passwords**

Access to all multiuser systems must be protected by standards that conform to the following rules:

i. **User-selected passwords.** Users who select their own passwords must ensure that these passwords are consistent with the security features listed below:

- Passwords must contain at least eight nonblank characters;
- Passwords must contain a combination of letters (preferably a mixture of upper and lowercase letters), numbers, and at least one special character within the first seven positions;
- Passwords must contain a nonnumeric letter or symbol in the first and last positions;
- Passwords may not contain the user ID
- Passwords may not include the user's own or (to the best of his or her knowledge) a close friend's or relative's name, employee number, Social Security number, birthdate, telephone number, or any information about him or her that the user believes could be readily learned or guessed;
- Passwords may not (to the best of the user's knowledge) include common words from an English dictionary or a dictionary of another language with which the user has familiarity;
- Passwords may not (to the best of the user's knowledge) contain commonly used proper names, including the name of any fictional character or place; and
- Passwords may not contain any simple pattern of letters or numbers such as "qwertyxx" or "xyz123xx."

ii. **Password protection.** Individuals may not:

- Share passwords except in emergency circumstances or when there is an overriding operational necessity; or
- Leave clear-text passwords in a location accessible to others or secured in a location for which protection is less than that required for protecting the information that can be accessed using the password.

iii. **Password changing.** Passwords must be changed under any one of the following circumstances:

- At least every six months.
- Immediately after sharing.
- As soon as possible, but at least within one business day after a password has been compromised or after the user suspects that a password has been compromised.
- On direction from management.

iv. **Password administration.** If the capability exists in the information system, application, or resource, the system must be configured to ensure the following:

- Except in the case of anonymous FTP servers and embedded systems that use only cleartext passwords, any

password sent over the network is encrypted through use of secure shell (SSH), secure sockets layer (SSL), or an equivalent protocol;

- Three failed attempts to provide a legitimate password for an access request will result in an access lockout, which is automatically restored following a period predetermined by the system manager;
- The password is rejected when a password specification does not comply with the above requirements and the failure to comply is verifiable by automated means;
- After six months of use, individuals are notified that their passwords have expired and that lockout will occur if their password is not changed within five access requests; and
- If technically feasible, any password file or database used by the information system is protected from access by unauthorized individuals.

d. **Network Security**

i. **Network Access**

- Scripts should not contain network access passwords.
- Use of the default DECnet account is not permitted except in certain public-access situations.
- Proxy access should be used for remote log-ins to VMS systems.
- UNIX .rhosts entries should be aged and expired after 180 days.
- .xhost + should not be used.
- Access lists should be reviewed at least annually.

ii. **LBLnet Connections**

- The network address and/or name of each Laboratory system that is connected to LBLnet, either directly or through a gateway, must be registered with the administrator of network addresses for that network. For example, an Internet-based system (i.e., one using TCP/IP) must be registered with the IT Infrastructure Department. The registration must include the user name and location of the system. The Head of the Communications and Networking Resources Department maintains a list of Laboratory network administrators.

- Only the LBLnet Manager may authorize a new physical connection to the LBLnet, and he or she will document all such connections. The LBLnet Manager is listed in the Telephone Directory (Directory Services on the Web).

iii. **Individual Remote Access**

Individual users accessing LBLnet remotely (e.g., from home) must observe all LBLnet security policies.

iv. **Physical Security**

Physical access to all LBLnet computers will be limited to authorized personnel.

e. **Institutional Information**

Institutional information is any business or management information involved in the support of the Laboratory as a whole or of specific projects or groups within the Laboratory.

i. Systems that process or store institutional data (as defined above) should be backed up on a regular schedule. The intervals between back-ups should be determined by the criticality and recoverability of the data and the frequency of update. Both software and data need to be backed up.

ii. Applications that use an electronic signature as a legal signature must obtain concurrence from the Internal Audit Services group that security controls for the application are adequate. When an on-line signature is requested, the following language should be used to indicate that a legal signature is being solicited: "The information requested constitutes a legal signature for the person named. Use of this electronic signature by anyone other than the person named, or his or her designee, is forbidden and may result in disciplinary action, dismissal, or civil or criminal liability."

f. **Other Guidelines**

i. **Specific Applications.** Systems that process environmental, safety, or health data must be protected according to the stricter laws that
ii. govern these data, if the requirements go beyond DOE policy.
iii. **Distribution Lists.** The addressees on mail explorers and automatic distribution lists should be reviewed for proper authorization at least semiannually.

11. Training and Awareness

a. The CCSC will develop and administer training curricula for system managers, division administrators, the reception center, and general staff, and will provide material to assist in the determination of application sensitivity.
b. The CPIC will develop appropriate access and computer and network security guidelines and make them available to all staff as needed.
c. The CPPM will ensure that all assistant CPPMs and CSLs receive appropriate training.

12. Computer and Network Security Glossary

FTP	File transfer protocol. The process by which files are copied from one system to another over the Internet. Anonymous FTP is the process that allows such transfers to take place without requiring a log-in to the remote system.
log-in	The process of gaining access to a computer system. It usually consists of providing a user ID and a password.
password	An access code that is associated with a particular user ID. The user ID and password must match for access to be granted. Password protection may be applied to individual files or commands as well as to general system access.
proprietary data	Data that require extra protection because they are the intellectual property of someone (internal or external to LBNL) who has restricted their distribution.
.rhosts; xhost +	Mechanisms for granting and using remote access to a UNIX system.
threat	The product of the probability of compromise or damage and the dollar impact of the average incident: $T = p(C) X \$$.
user ID	The name by which an individual user is known to a system. A single user may have multiple user IDs on the same or different systems. In special circumstances, multiple users may use the same user ID.
VMS proxy access	A mechanism for granting access to a remote user of a VMS system.
xhost +	See .rhosts.

E. COMPUTER SOFTWARE

1. Laboratory-Developed Software

In-house software development must be managed in accordance with the Laboratory Software Management Policy. DOE Order 1360.4A and DOE Notice 1360.8 define the procedures to be used for the external distribution of finished software. In particular, if finished software is to be distributed outside the United States to other than programmatically approved collaborators, such distribution must be accomplished through the Energy Science and Technology Software Center (ESTSC) or the appropriate Specialized Information Analysis Center (SIAC).

2. DOE-Developed Software

DOE policy (DOE Order 1360.4) promotes sharing of DOE-developed software wherever appropriate. This policy is implemented through the ESTSC. The policy requires review of available shared software before a decision to develop new software and submission of Laboratory-developed software to ESTSC when it may have value to other DOE sites. Both review and submission of ESTSC software are accomplished through the Laboratory Library. Questions of policy or appropriateness of software for submission to ESTSC should be addressed to the Office of Information Technology Resources (ITR) Planning.

3. Public Domain Software

Public domain software must be used with great care. Computer viruses or other such mischievous or detrimental modifications to computer software could cause significant loss or damage to the Laboratory. The importer of public domain software into the Laboratory is responsible for ensuring that such software does not contain such harmful modifications.

4. Commercial Software

Laboratory policy is to use commercial software whenever it is functionally appropriate and cost-effective rather than develop software in house. Many users share development, documentation, and maintenance costs of commercial software, and larger knowledgeable communities use the same software, which can be advantageous.

5. Licensed Software

Most commercial and some noncommercial software is made available under a license agreement. Such agreements typically restrict usage to certain CPUs, place restrictions on copying, require labeling of copies, and may contain other terms and conditions of use. Occasionally some terms or conditions contained in software license agreements are unacceptable to the Laboratory. In such cases, an acceptable agreement must be negotiated or the software cannot be used.

License agreements generally follow one of three formats:

a. Some software suppliers (usually of larger or more expensive software) require an explicit signed agreement before delivery of the software. This type of agreement is managed as part of the official Laboratory purchase order. No staff member, except authorized Purchasing Department staff, may sign such an agreement.
b. Other software (usually inexpensive or personal/microcomputer software) is purchased without prior agreement but is delivered to the end user with a license agreement included. Such agreements either claim to be in effect if the software is used or request a signature on a postcard-type agreement to be returned to the supplier. Recipients of such software usually want to sign the agreement and return it because that is the mechanism for obtaining updates. Generally, staff members may sign such agreements after a careful reading. Any liability assumed by the signing of such an agreement may be personal and not indemnified by the Laboratory. Questions concerning the advisability of signing an agreement or using the software should be referred to the Head of the Office of ITR Planning or the Purchasing Manager.
c. Software is occasionally made available to the Laboratory under specific agreement, but at no cost. If the software is to be handled as proprietary information, see RPM §5.06 (*Proprietary Information from External Sources*).

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Chapter 10
Conflict of Interest

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§10.01
Conflict of Interest — General

Responsible Manager

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A. GENERAL

The Laboratory is bound by a variety of conflict-of-interest policies, some of which emanate from the U.S. Department of Energy (DOE) contractual requirements and some of which are founded on University policies, State of California law, and Federal regulations. These policies pertain to a broad range of employee activities, including outside employment and business activities (RPM §10.02), hiring procedures (RPM §2.01(C)(5)(b), sponsored research (RPM §10.05), human subjects research (RPM §10.09), licensing (RPM §10.11), and technology transfer (RPM §10.08). An employee who fails to comply with Laboratory conflict-of-interest policies may incur disciplinary action by the Laboratory and prosecution under State law.

B. LAB REQUIREMENTS

Contract 31 contains Clause I.66, Organizational Conflicts of Interest, whose purpose is to ensure that the Regents (and its employees) are not biased because of financial, contractual, organizational, or other interests that relate to the work under the Contract, and that there is no unfair competitive advantage over other parties due to the performance of the Contract. Employees who obtain access to information (such as DOE financial plans or data) that has not been released to the general public must not use such information for any non-Laboratory purpose.

Clause I.109, Federally Funded Research and Development Center (FFRDC) Sponsoring Agreement, contains prohibitions about using privileged information to compete with the private sector. Additionally, for employees who receive information that may be sensitive or proprietary to the Government, care must be taken to ensure LBNL is operated in the public interest with objectivity and independence, free from organizational conflict of interest.

The University has a compendium of Conflict of Interest policies that can be found here. These policies should be adhered to in concert with the specific requirements under Contract 31.

Questions concerning potential conflicts of interest should be addressed with the employee's supervisor, Division Director, Laboratory Counsel, or the Laboratory Conflict of Interest Coordinator.

C. RELATED LINKS

Summary of Conflict of Interest Related Links

- University of California Office of the President (UCOP) Conflict of Interest Policy
- UCOP Policy on Disclosure of Financial Interests Related to Sponsored Projects
- UC Conflict of Interest Code
- Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest
- State of California's Political Reform Act
- Federal Register on Objectivity in Research
- List of Non-governmental Entities Exempt From Disclosure Requirement
- National Institutes of Health Conflict of Interest
- National Science Foundation Conflict of Interest

- Conflict of Interest Web Resources

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§10.02
Outside Employment and Employee Business Activities

Responsible Manager

Rev. 03/09

A. General Policy
B. Review-and-Approval Principles and Time Limits
   1. Principles
   2. Time Limits
C. Consulting and Other Short-term Employment
D. Payments from Outside Organizations
E. Teaching for the University of California
F. Policy on Outside Professional Activities for University Officers and Designated Staff
G. Ownership or Management Interest in Commercial Entities with Potential Economic or Technology Connections to the Laboratory
H. Patent Agreements
I. Disclosure and Reporting Requirements

Appendix I: Table 10.02 (C) (Outside Employment, Consulting, and Scientific Advisory Board/Honorarium Matrix
Appendix II: Table 10.02 (E) (Policy on Teaching for the University of California)

A. GENERAL POLICY

Employees may engage in consulting or other employment and business activities outside Laboratory hours and away from the Laboratory as long as such activities do not interfere with performance of their Laboratory duties or create a real or apparent conflict of interest. As set forth in Paragraphs (C) and (E) below, Laboratory management review and approval are required for:

- Work with the potential to interfere with Laboratory employment obligations
- Work of any kind for a scientific or technical organization
- Work paid by federal funds or by a unit of the University of California
- Consulting in a subject area related to the employee's Laboratory work

If the employment is not in one of the categories listed above and is obviously unrelated to the Laboratory's interests, it does not normally need to be reported or approved. Examples include an outside job or business interest in ranching; retail sales; and music, art, or real estate sales.

All outside employment activities must be conducted without the use of Laboratory supplies, equipment, or facilities. See also RPM §§2.05(I) (*Integrity in Research*), 2.23(I) (*Privileged Information*), and 11.39(A)(2) (*Use of Property and Supplies*). In addition, as stated above, no amount of time due to the Laboratory may be devoted to private purposes, and no outside employment may interfere with the performance of Laboratory duties. The policy in this section is based on federal and State laws and regulations, the DOE/UC Contract for management of LBNL, and University policy.

Policy concerning ownership or management interest in commercial entities with potential economic or technology connections to the Laboratory is covered in Paragraph (G), below.

B. REVIEW-AND-APPROVAL PRINCIPLES AND TIME LIMITS

The following considerations are made in determining whether a real or apparent conflict of interest exists.

1. Principles

a. **Avoidance of Unfair Competitive Advantage.** Does an employee's consulting or other business activity outside the Laboratory influence decisions made at the Laboratory in such a way as to give unfair competitive advantage to the outside business organizations. See RPM §2.23(I) (*Privileged Information*).

b. **Separation of Laboratory and Private Interests.** Does an employee's consulting or other outside business activity materially affect the Laboratory's dealings with the outside business organization, or does the employee's consulting or other activity substantially affect the environment of the economic/technological business sector in which the employee or a near relative has a financial interest as defined by the University of California Conflict of Interest Code. See RPM §2.23(F)(1) (*Self-Disqualification*) *and* §10.01 *(Conflict of Interest — General)*.

c. **Protection of Information Not Yet in Public Domain.** Does an employee, acting as an independent consultant or as an employee of another organization, use information, skills, or knowledge that is material to current or proposed Laboratory research or development work and that is proprietary to the Laboratory and not yet in the public domain. See RPM §2.23(I) (*Privileged Information*).

d. **Noncompetition with Laboratory Projects.** Is an employee's consulting or outside employment activity in competition with current or proposed Laboratory projects?

Questions concerning potential conflicts of interest should be referred to the Laboratory Conflict of Interest (COI) Coordinator, the employee's supervisor, or the Laboratory Counsel.

2. Time Limits

There is no specific time limit for an employee's outside consulting or employment with an outside organization. However, should the scope of work or the employment terms change, the employee must obtain a new approval from the cognizant immediate supervisor and division director or designee to continue in the outside business activity.

C. CONSULTING AND OTHER SHORT-TERM EMPLOYMENT

Consulting and other short-term employment are normally permitted with the most organizations, including those doing business in a field in which the Laboratory does or has done research and the results have been reported and made public. Work for another DOE contractor must be handled through a work-for-others agreement. Also, consulting and nonteaching employment with a University of California branch is usually arranged through an intercampus work-for-others contract.

Proposed outside consulting or other temporary employment of a type described in Paragraph (A) (above) to be performed by Laboratory employees must be documented, reviewed, and approved by Laboratory management. The information is summarized and transmitted to DOE by the Laboratory COI Coordinator. The Laboratory must obtain concurrence from DOE in cases involving another DOE cost-type contractor or any other organization in the same or related energy field where the proposed work is to be performed by a Laboratory employee and involves, or may involve, any of the following:

- A significant question concerning a possible conflict with the University's policies regarding conduct of employees.
- The University's responsibilities to report fully and promptly all significant research and development information.
- The intellectual property provision of the DOE/UC Contract for management of LBNL.

When University of California faculty are associated with the Laboratory, they should provide Laboratory management with a copy of the annual report they prepare for their campus department, in accordance with the University's Policy on Outside Professional Activities of Faculty Members. This report should be sent to a faculty member's Berkeley Lab division director.

Appendix I: Table 10.02 (C) (*Outside Employment, Consulting, and Scientific Advisory Board/Honorarium Matrix*) describes the requirements for a variety of work categories and situations. The Request to Engage in Outside Employment form is used to obtain most required approvals. Instructions for completing this form are also available. Approvals are obtained from the cognizant immediate supervisor and division director or designee.

D. PAYMENTS FROM OUTSIDE ORGANIZATIONS

Employees are permitted to accept fees, gratuities, stipends, or honoraria from outside organizations if advance approval has been obtained as outlined in Paragraph (C), above. Employees in positions designated by the University of California Conflict of Interest Code are termed "designated officials/designated employees" and may not accept an honorarium from any source if he or she would be required to report receipt of income or gifts from that source on a statement of economic interests. See RPM §10.03 (Self-Disqualification and Conflict of Interest for Designated Officials). Honorarium payments for one-time lectures do not require Laboratory approval.

E. TEACHING FOR THE UNIVERSITY OF CALIFORNIA

University policy does not normally allow full-time employees to be paid by the University for dual employment in any additional position. Exceptions for teaching at University of California institutions may be allowed, however, as noted in the following table. For cases in which the teaching activity is part of a work-for-others (non-DOE) sponsored project administered by the Laboratory, no separate University paycheck is required.

Appendix II: Table 10.02 (E) *(Policy on Teaching for the University of California)* describes the various requirements concerning teaching at the University of California.

To obtain the required approvals, use the Request to Teach at University of California form. Approval of the division director is required. The division sends a copy of the form to the Human Resources Center, which maintains the appropriate record.

F. POLICY ON OUTSIDE PROFESSIONAL ACTIVITIES FOR UNIVERSITY OFFICERS AND DESIGNATED STAFF

Outside professional activities of staff members at the Laboratory Management level (see RPM §2.01(D)(3)) are subject to certain additional special provisions.

Permissible outside professional activities include, but are not limited to, service on state or national commissions, government agencies and boards, committees or advisory groups to other universities, organizations established to further the interests of higher education, not-for-profit organizations, and service on corporate boards of directors.

When it is consistent with DOE and Laboratory objectives and missions, service on behalf of national commissions, government agencies and boards, advisory groups to other universities, and other nonprofit organizations is encouraged. Subject to conditions established in University policy concerning receipt of honoraria and reimbursement for related travel expenses, such service may be undertaken during regular work time. It is particularly important to note that a person who is a "designated employee" under the University of California Conflict of Interest Code may have additional criteria to consider.

In the case of outside professional activities for which compensation is received, a Laboratory employee must use accrued vacation leave when participating during the regular work week, which is consistent with other personnel policy requirements. For Laboratory members of the University Senior Management Group who hold an Academic Senate or other faculty title, outside professional activities are also subject to the time limits established in the University President's Policy on Outside Employment of Faculty. Questions concerning the latter policy should be directed to the campus Academic Personnel Office.

When Berkeley Lab members of the University Senior Management Group are called on to serve in their official capacity on scientific advisory boards for DOE and DOE cost-type contractors, this service is considered to be part of the employee's regular assignment. Although no honorarium may be received by employees for such service, the Laboratory may be reimbursed for such costs as travel and per diem. If the service involves more than a few days per year, the Chief Financial Officer must be consulted.

The Human Resources Department has complete information concerning the necessary approval and reporting requirements pertaining to this policy.

G. OWNERSHIP OR MANAGEMENT INTEREST IN COMMERCIAL ENTITIES WITH POTENTIAL ECONOMIC OR TECHNOLOGY CONNECTIONS TO THE LABORATORY

Employees who own or have an ownership interest of at least 10% in a commercial entity that has economic or technology

connections with or seeks to have such connections with the Laboratory, or who have a management interest such as being a member of the Board of Directors in such a commercial entity, must report the interest to their division director. This requirement also extends to an employee's near relatives and domestic partner. The terms "near relative" and "domestic partner" are defined in University policy as parents, children, spouses, same or opposite sex domestic partners, brothers, or sisters, including in-laws and step-relatives in these relationships.

As a general rule, goods or services are not purchased from any Laboratory/University employee, near relative, or domestic partner because of the basic principles of separation of an employee's Laboratory/University duties and his or her private interests. A second concern is the protection of the Laboratory/University and its employees from charges of favoritism in the acquisition of goods and services. If an employee's Laboratory assignment is such that he or she might influence or take part in negotiations or transactions with an outside business, the employee must disqualify himself or herself from participating in those negotiations or transactions. See RPM §10.03 (*Self-Disqualification and Conflict of Interest for Designated Officials*).

Exceptions to the general prohibition against economic or technology connections with employee-connected firms may be made if the company is the sole source that can provide the goods or services. Such cases must be approved by the Chief Financial Officer. Additional information regarding the appropriate procedure is available from the Chief Financial Officer.

Business ownership or management interest as defined above must be reported on the Notification of Outside Business Ownership or Management Interest form. Instructions for completing this form are also available. The Office of Institution Programs receives copies of the form from the division and uses them to create an "Employee-Connected Commercial Entity" list, which is used by Procurement to implement the prohibition against doing business with employee-connected firms.

H. PATENT AGREEMENTS

When a consulting or employment agreement containing a claim for invention and patent rights is offered to an employee, the outside organization must be advised, under the terms of the DOE/UC Contract for management of LBNL, that the agreement must include the following or equivalent language to obtain Laboratory approval:

> "It is recognized that (1) Consultant is an employee of the University of California engaged in certain work conducted by the University at the Lawrence Berkeley National Laboratory under Contract _____ with the United States Department of Energy (DOE) and (2) the University has rights to patents and other intellectual property arising from Consultant's services for that work. This consulting agreement is subject to those rights notwithstanding any intellectual property obligations to contrary in this agreement. Whenever any invention or discovery is solely or jointly made, conceived, or developed by Consultant under the Consulting Agreement, the Company must promptly furnish the University and DOE with sufficient information to timely determine whether the invention or discovery is within the purview of the patent agreement executed by Consultant with the University."

The text of any proposed consulting or employment agreement must be reviewed and approved by Technology Transfer and Intellectual Property Management before execution of the agreement by the employee. Questions regarding inventions and patent articles in a proposed consulting agreement should also be referred to Technology Transfer and Intellectual Property Management. See also RPM §5.03 (*Patents*).

I. DISCLOSURE AND REPORTING REQUIREMENTS

Employees engaged in outside business activity as defined in this chapter are required to disclose certain information to the Laboratory at the time of their request to engage in outside business activity and throughout their outside business association as changes occur. These disclosures are necessary so the outside business activity can be reviewed for continued appropriateness and to satisfy certain contractual requirements. The following information must be disclosed:

- The names of all other Berkeley Lab employees known by the employee to be providing consulting services or to be employed by the outside business, and their Laboratory reporting relationship, if any, to the employee.
- Changes in the employee's relationship or assignment.
- An appreciable change in the number of hours involved.

In addition, Laboratory employees are required to notify their division director and the Laboratory Conflict of Interest Coordinator whenever they are notified that they are the target of an investigation by a federal or state agency that has as its subject the improper use of information obtained or actions taken for personal gain by the employee in the course of his or her employment.

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§10.03
Self-Disqualification and Conflict of Interest for Designated Officials

Responsible Manager

Links updated 09/08

For information regarding self-disqualification and conflict-of-interest policies related to Designated Officials, refer to RPM §§2.23(F)(1) and 2.23(F)(2), respectively.

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§10.04
Employment of Near Relatives and Domestic Partners

Responsible Manager

Link updated 09/08

For conflict-of-interest policy related to employment of near relatives and domestic partners, refer to RPM §2.01(C)(5)(b).

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§10.05
General Research-Related Conflict of Interest

Responsible Manager

New 08/06

A. **General**
B. **Laboratory Reviewing Official**
C. **Independent Substantive Review Committee**

A. GENERAL

Several specific concerns and policy provisions pertain to all research project investigators involved in proposing, conducting, and/or reporting Laboratory research activities. Their roles can include Principal Investigator, Co-Principal Investigator, Independent Scientist, or Key Personnel, to name a few. When such program researchers participate in a substantive way in the scientific development and/or execution of a project, they must avoid real or apparent conflict-of-interest (COI) situations. A real or apparent COI situation may occur in a research program when there is less than clear and demonstrable separation between the individual researcher's program interests and work efforts and the individual's personal economic or business interests. Generally, such researchers and the Laboratory are guided by seven principles:

1. Traditional conflict-of-interest situations should be avoided. These exist when a researcher may have the opportunity to influence Laboratory business decisions or research results in ways that could lead to personal gain or could advantage personal business interests.

2. The proposed research project should be appropriate to and consistent with the mission of the Laboratory.

3. The research and teaching environment of the Laboratory must be kept open.

4. Freedom to publish and disseminate research results must be preserved.

5. The highest ethical standards of scientific conduct and intellectual honesty must be ensured.

6. Any patent rights issues should be in compliance with DOE and University requirements.

7. Laboratory facilities and resources (supplies, equipment, facilities, staff time) must be appropriately used, with costs charged to the project sponsor.

B. LABORATORY REVIEWING OFFICIAL

When there is convergence of a researcher's private interests with his or her research interests, such that an independent observer might reasonably question whether the researcher's Laboratory actions or decisions are improperly influenced by his or her personal considerations, the conflicts of interest (or perceptions of conflicts) must be addressed. Policy requires a reviewing official to determine from the facts of each COI matter whether any reported personal interest would reasonably appear to be directly and significantly affected by the Laboratory research program and what steps should be taken to manage or eliminate the conflict. For Laboratory research programs, the reviewing official is the Associate Laboratory Director for Operations (ALDO). The ALDO may employ an Independent Substantive Review Committee (ISRC) to assemble and analyze the facts of complex and challenging COI cases and to make recommendations to the ALDO and Laboratory management for managing and mitigating COI

issues in such matters. Resulting management steps may include whether or not to accept funding and continue the research program of concern, to implement specific project staff assignments, or to initiate mitigating administrative actions that reduce the risk of or the severity of the conflicts.

C. INDEPENDENT SUBSTANTIVE REVIEW COMMITTEE

The ALDO may appoint and charter an Independent Substantive Review Committee (ISRC) composed of experienced, knowledgeable, independent people appropriate for the case under review. The ISRC's charge is to provide in-depth review of conflict-of-interest situations in which a project researcher discloses a positive financial interest in the sponsor of or in a business related to the subject research program. ISRC members are from scientific or engineering divisions appropriate to each case; and the Laboratory Counsel and the Laboratory Conflict of Interest Coordinator also act as ex officio ISRC members. The ISRC reviews the disclosure statement details and all relevant features of the research program, and recommends to the ALDO whether the project, research contract, science grant, Laboratory gift, or Cooperative Research and Development Agreement should be accepted, and any conditions or modifications that may be needed. Examples of conditions that may be imposed to mitigate COI concerns include public disclosure of private economic interests, independent monitoring and program oversight, research project plan changes, personnel reassignments, divestiture of conflicting financial interests, or severance of any relationships creating the real or apparent conflicts.

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§10.06
Federal Financial Disclosure

Responsible Manager

Links updated 09/08

A. **General**
B. **Process**
C. **Work for Others from PHS/NSF Flow-Through Funding**
D. **Forms**
E. **Related Links**

A. GENERAL

Federal Regulations

The National Science Foundation (NSF) and the Public Health Service (PHS) published regulations in the Federal Register, effective October 1, 1995, requiring principal investigators and participants who are responsible for the design, conduct, or reporting of the research to disclose project-related financial interests at the time of proposal submission. Other agencies that have also adopted the federal requirement are the American Cancer Society (ACS), American Heart Association (AHA), UC Discovery Grants, and University of California Office of the President (UCOP) Special Programs (which include the California Breast Cancer Research Program and the Tobacco-Related Disease Research Program).

The major Public Health Service funding components are:

- National Institutes of Health (NIH), including all divisions of NIH such as the National Cancer Institute (NCI), National Institute of General Medical Sciences (NIGMS), the National Eye Institute (NEI), the National Institute on Aging (NIA), and so forth.
- Centers for Disease Control and Prevention (CDC)
- Food and Drug Administration (FDA)

B. PROCESS

Principal Investigators and participants (herein called Key Personnel) who are responsible for the design, conduct or reporting of the research must complete financial disclosures for all new, amendment, non-competing continuation, and renewal proposals.

The Principal Investigator first completes the LBNL Declaration (Form DFI-1) by identifying the Key Personnel in his/her research project. The PI and those listed on Form DFI-1 then each complete the LBNL Disclosure of Financial Interest (Form DFI-2), disclosing whether they have financial interests related to the research project. If there is a positive disclosure, the individual indicating so will need to complete the LBNL Positive Disclosure of Financial Interest (Form DFI-3). Positive disclosures will be reviewed by the Conflict of Interest Coordinator, and a determination will be made by the Associate Laboratory Director for Operations.

For positive disclosures, original forms must be sent to the Laboratory Conflict of Interest Coordinator, with a copy to the Sponsored Projects Office (SPO). For negative disclosures, original forms should be sent to SPO.

If the research involves human subjects, only one set of conflict-of-interest forms need to be completed. The Human Subjects Quality Assurance Committee (HSQAC) and SPO are using the same set of forms for research-related conflict-of-interest disclosures. For negative disclosures, the original forms go to SPO, and a copy should accompany the application to HSQAC. For positive disclosures, the original forms should go to the Conflict of Interest Coordinator, and copies of the disclosure should go to SPO and HSQAC.

C. WORK FOR OTHERS FROM PHS/NSF FLOW-THROUGH FUNDING

Disclosure is required when LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from PHS/NIH (except for Phase I SBIR/ STTR), NSF, or the other agencies mentioned in Paragraph (A) above.

When LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from PHS/NIH, NSF, or the other agencies mentioned in Paragraph (A) above, federal and State forms are to be completed as in the following examples:

1. LBNL receives funding from Chiron. Chiron receives its funding from NIH. LBNL must collect **both** the **state disclosure** (Form 700-U) from the PI at LBNL, and the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable) from the PI and all the participants. **Chiron is a nongovernmental entity, and is not exempt.**

2. LBNL receives funding from the American Heart Association (AHA), which receives its funding from NIH. LBNL must collect the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable). **The AHA is on the State of California exempt list, so the state disclosure** (Form 700-U) **does not need to be completed**.

3. LBNL receives funding from the Parkinson Disease Foundation (PDF). PDF receives its funding from the NIH. **PDF is a nonprofit entity, but is not on the state exempt list. LBNL must collect both the state disclosure** (Form 700-U) and **disclosures of financial interests** (Form DFI-1, DFI-2, and DFI-3, if applicable)

D. FORMS

- LBNL Declaration—Principal Investigator's List of Participants Who Must File Disclosures of Financial Interest (Form DFI-1)
- LBNL Disclosure of Financial Interest (Form DFI-2)*
- LBNL Positive Disclosure of Financial Interest (Form DFI-3)*

*If there is a positive disclosure, the original forms should be sent to the Laboratory Conflict of Interest Coordinator.

E. RELATED LINKS

- National Institutes of Health Conflict of Interest
- National Science Foundation Conflict of Interest
- Conflict of Interest Web Resources

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§10.07
State of California Financial Disclosure

Responsible Manager

Links updated 09/08

- **A. General**
- **B. Related Forms**
- **C. Related Links**

A. GENERAL

State of California Financial Disclosure

The Political Reform Act of the State of California of 1974 and UC Policy require the principal investigator of a project funded by a **nongovernmental agency** or funded by a research gift to submit the original Statement of Economic Interests for Principal Investigators (Form 700-U) at the time of proposal submission or receipt of the gift.

When LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from another organization, federal and state forms are to be completed as in the following examples:

1. LBNL receives funding from Chiron. Chiron receives its funding from NIH. LBNL must collect **both** the **state disclosure** (Form 700-U) from the PI at LBNL, and the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable) from the PI and all the participants. **Chiron is a nongovernmental entity, and is not exempt.**

2. LBNL receives funding from the American Heart Association. The AHA receives its funding from NIH. LBNL must collect the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable). **The AHA is on the State of California exempt list, so the state disclosure (700-U) does not need to be completed.**

3. LBNL receives funding from The Parkinson Disease Foundation (PDF). PDF receives its funding from the NIH. **PDF is a nonprofit entity, but is not on the state exempt list. LBNL must collect both the state disclosure** (700-U) **and disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable)

FINANCIAL DISCLOSURES ARE REQUIRED FOR ALL NEW, AMENDMENT, NONCOMPETING CONTINUATION AND RENEWAL PROPOSALS.

When there is a positive disclosure, the original disclosure forms go to the Conflict of Interest Coordinator, with a copy going to the Sponsored Projects Office (SPO). For negative disclosures, the original goes to SPO.

B. RELATED FORMS

- Conflict of Interest Disclosure Form 700-U*

- Conflict of Interest Addendum (if there are any positive responses on the 700-U)*

  *If there is a positive disclosure, the original forms should be sent to the Laboratory Conflict of Interest Coordinator.

C. RELATED LINKS

- UC Conflict of Interest Code
- University Policy on Disclosure of Financial Interest in Private Sponsors of Research
- List of Nongovernmental Entities Exempt from Disclosure Requirement

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§10.08
Technology Transfer/Cooperative Research and Development Agreement COI

Responsible Manager

Links updated 09/08

A. **General**
B. **Cooperative Research and Development Agreement (CRADA)**
C. **Related Forms**

A. GENERAL

Under the DOE contract, the Laboratory is required to implement procedures to prevent employees from having organizational conflicts of interest, or the appearance of conflicts of interest, in the conduct of its technology transfer activities. The requirements can be found in DOE Contract Clause I.92(n)(5).

B. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT (CRADA)

Each employee who has a substantial role in the preparation, negotiation, or approval of a CRADA (typically the Principal Investigator, Division Director or designee, SPO Manager, SPO Contracts Officer, Licensing Manager, Patent Department reviewer, and Laboratory Director) is required to fill out the CRADA Conflict of Interest Form. In addition, for CRADAs that have funds from the partner (the partner is providing funds to LBNL), the State Political Reform Act also applies. Therefore, the Conflict of Interest Form 700-U must also be completed by the PI. The Laboratory must ensure that none of its employees has a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA if an employee holds any financial interest in the entities related to the CRADA. The exception is when the DOE contracting officer is notified in advance of such an employee and determines that the employee's financial interest will not affect the process of preparing, negotiating, and approving the CRADA.

CRADA CONFLICT-OF-INTEREST DISCLOSURES ARE REQUIRED FOR ALL NEW AND AMENDMENT PROPOSALS.

When there is a positive disclosure, the disclosure forms go to the Conflict of Interest Coordinator, with a copy going to the Sponsored Projects Office (SPO), and the Human Subjects Quality Assurance Committee (HSQAC), if applicable. For negative disclosures, the original goes to SPO, and a copy to HSQAC, if applicable.

C. RELATED FORMS

CRADA Conflict of Interest Form

Conflict of Interest Addendum (to be completed if there are any positive responses on the CRADA COI Form)*

Conflict of Interest Disclosure Form 700-U

*If there is a positive disclosure, the original forms should be sent to the Laboratory Conflict of Interest Coordinator.

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§10.09
Human Subjects Conflict of Interest

Responsible Manager

Links updated 09/08

A. **General**
B. **Human Subjects Research**
C. **Summary of Forms**

A. GENERAL

In the protection of human subjects, "conflict of interest in research" refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, a researcher's professional judgment in conducting or reporting research. A conflict of interest depends on the situation, and not on the actions or character of an individual investigator.

The federal Department of Health and Human Services (DHHS), from which Berkeley Lab holds its approval to conduct research involving human subjects, has issued guidance on Financial Relationships and Interests in Research Involving Human Subjects: Guidance for Human Subjects Protection.

B. HUMAN SUBJECTS RESEARCH

At Berkeley Lab, all protocols for research involving human subjects must first pass through the LBNL Human Subjects Quality Assurance Committee (HSQAC). Final approval for the conduct of human subjects research is given by the joint Berkeley Lab — University of California at Berkeley Institutional Review Board, the Committee for Protection of Human Subjects (CPHS). All human-subject reviews at Berkeley Lab flow through the HSQAC, which forwards completed applications to CPHS for final review and approval.

For *all* applications to the HSQAC/CPHS, the researcher should:

- Complete the LBNL Declaration—Principal Investigator's List of Participants Who Must File Disclosures of Financial Interests (Form DFI-1); all persons identified on Form DFI-1 must complete the LBNL Disclosure of Financial Interests (Form DFI-2). The list on Form DFI-1 should correspond with the NIH Key Personnel Form, if applicable. If someone has a positive disclosure on Form DFI-2, that person must complete the LBNL Positive Disclosure of Financial Interests (Form DFI-3). The HSQAC will forward any positive disclosures to the Conflict of Interest (COI) Coordinator for follow-up and review if needed.

- Respond promptly to requests for additional information from the COI Coordinator, as final approval of human subjects will be delayed, pending their review.

Review and Approval of the Disclosure of Financial Interest Form

When there is a positive disclosure, the HSQAC will forward the research protocol and the original disclosure forms to the Laboratory COI Coordinator, if the original has not already been sent. The COI Coordinator will contact the researcher(s) identified by the form as having a potential conflict and make an initial determination of either:

- No Significant Financial Interest or Related Financial Interest is of concern. In this case, no further COI review will be needed and human subjects review and approval may proceed.

- A Significant Financial Interest or Related Financial Interest may exist. In this case, the COI Coordinator will inform the investigator of the need to file additional documentation, with a copy to the HSQAC's administrative office, the Human and Animal Regulatory Committees office (HARC).

The COI Coordinator will inform the HARC office and the investigator of the outcome of the initial determination. The COI Coordinator will coordinate any further review, and inform the HSQAC of the outcome. Human subjects review and approval may proceed while the COI review is being completed, but final approval of the human subjects protocol will be withheld until COI review and approval has been completed.

C. SUMMARY OF FORMS

- LBNL Declaration — Principal Investigator's List of Participants Who Must File Disclosures of Financial Interest (Form DFI-1)
- LBNL Disclosure of Financial Interest (Form DFI-2)*
- LBNL Positive Disclosure of Financial Interest (Form DFI-3)*

*When there is a positive disclosure, the original disclosure forms go to the Conflict of Interest Coordinator, with a copy going to the Human Subjects Quality Assurance Committee (HSQAC). For negative disclosures, the original goes to HSQAC.

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§10.10
Disclosure of Laboratory Proprietary Information

Responsible Manager

New 08/06

- **A. General**
- **B. Lab Requirements**
  1. **Written Agreement**
  2. **Disclosure of Information or Transfer of Material**
  3. **Transfer Labeling**
  4. **Transfer of Proprietary Information or Material to Subcontractors**
  5. **Consequence of Failure to Safeguard Berkeley Lab Information**
- **C. Summary of Forms**

A. GENERAL

At times, the Laboratory needs to, or finds it useful to, disclose unpublished information relating to technological and scientific developments, or to transfer tangible research material. Examples of tangible research material include cell lines, chemical compounds, and source codes for software. Such disclosures or transfers are appropriate when they enable the recipient of the disclosures or transfers to evaluate the information/material's potential commercial utility or the recipient's interest in obtaining a commercial license from Berkeley Lab; to replicate, reproduce, evaluate, or confirm Berkeley Lab's research effort; or to do research furthering Berkeley Lab's programmatic goals. Disclosure of Laboratory proprietary information for personal gain is prohibited. See RPM §2.23(I) (Privileged Information).

B. LAB REQUIREMENTS

Laboratory staff must observe the following procedures when the Laboratory transfers proprietary information or tangible research material to third parties (other than appropriate University of California staff or DOE). These procedures are established to enable the Laboratory to comply with its obligation under the DOE/LBNL Contract to maintain the patentability of inventions, to foster appropriate technology transfer, and to avoid liability for others' use or misuse of Laboratory information or material.

1. Written Agreement

A Laboratory researcher wishing to transfer proprietary information or material must contact the Technology Transfer Department to prepare and sign a nondisclosure agreement or material transfer agreement, as appropriate. The Technology Transfer Department may also prepare agreements for mutual disclosure of proprietary information or transfer of material. The researcher may not transfer the Laboratory proprietary information or material before such an agreement is signed by both the Laboratory and the recipient.

2. Disclosure of Information or Transfer of Material

At a minimum, any information the Laboratory discloses under agreement must be prominently marked as “proprietary” or “confidential.” If the Laboratory researcher (i.e., the discloser) wishes to transfer proprietary information or material, and chooses to disclose the information orally, he or she must first inform his or her audience that the forthcoming information is confidential. Some nondisclosure agreements also require that confidential oral presentations be summarized, marked as confidential, and transmitted to the receiver within 15 to 30 days. The researcher must comply with any additional requirements contained in the nondisclosure agreement.

3. Transfer Labeling

Any tangible research material that a Laboratory researcher transfers must be appropriately labeled and must include instructions for handling, as necessary for safe use. All materials must be shipped through the Laboratory's Shipping and Receiving Department to ensure compliance with Export Control and other applicable laws.

4. Transfer of Proprietary Information or Material to Subcontractors

Under certain subcontracts, the University's full rights to intellectual property may be impaired if proprietary information or material is transferred to a subcontractor under the subcontract without appropriate restrictive markings. If a Laboratory researcher anticipates transferring Laboratory proprietary information or material to a Laboratory subcontractor, the researcher must inform Procurement about this intention and take steps necessary under the subcontract to mark the information or material.

5. Consequence of Failure to Safeguard Berkeley Lab Information

Failure to reasonably safeguard Laboratory proprietary information and/or follow the procedures listed above may constitute a serious violation of professional responsibility that may result in disciplinary action, including termination.

C. SUMMARY OF FORMS

Examples of standard form agreements are available for inspection at the LBNL Technology Transfer Web site.

Chapter 10 Contents | **RPM Contents** | **Home** | **Search the RPM**

§10.11
Disclosure of Financial Interests Related to Licensing

Responsible Manager

New 08/06

A. **General**
B. **Lab Requirements**
C. **Summary of Forms**

A. GENERAL

Lawrence Berkeley National Laboratory manages the intellectual property created by its employees in support of its research and technology transfer goals. The transfer of technology can include the licensing of inventions and other intellectual property (e.g., through licenses, options, bailments), and constitutes a business decision on the part of the University. The Laboratory manages conflict of interest and the appearance of conflict of interest in licensing per California law and the Operating Contract for the Lab. The Laboratory reviews many attributes, including conflict of interest, of every license, and hence meets the University requirement for a Licensing Decision Review. Inventors and other creators of intellectual property as well as licensing professionals have certain obligations as described herein. Altogether, the Laboratory inventors and licensing staff must not allow their personal financial interests to influence or appear to influence their or others' University licensing decisions.

B. LAB REQUIREMENTS

Licensing decisions for the University are made by licensing professionals within authorized campus and Laboratory licensing offices. At Berkeley Lab, the licensing professionals are members of the Technology Transfer Department. Inventors may be invited by the licensing professional to work with him or her and potential licensees to effectively commercialize University inventions.

Because inventors may have the opportunity to influence University licensing decisions in ways that could lead to personal gain or give advantage to companies in which they have a financial interest, inventors must disclose their financial interest in companies with which the licensing professional is negotiating a license. Underlying policy and guidelines are available under "Information for Inventors" at the LBNL Technology Transfer Web site.

The Lab process to manage potential conflicts of interest in licensing involves economic disclosure, self-disqualification where there is an interest by a licensing professional, and a multistep independent review of every license. This process is described under "Process for Conflict of Interest Review for Licensing at Berkeley Lab" at the LBNL Technology Transfer Web site.

C. SUMMARY OF FORMS

Inventors or other creators of intellectual property must complete the Conflict of Interest TT 100-LBNL Form, available at the LBNL Technology Transfer Web site.

Chapter 11
Office of the Chief Financial Officer (OCFO) Policies

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Updated 5/21/09

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Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

Laboratory-Hosted Meetings

Originally issued:	January 15, 2009
Revision Date:	March 20, 2009
Revision Number:	1
Scheduled review date/frequency:	March 20, 2010 (every year)
Primary contact:	Manager, Operations

Summary

The purpose of this policy is to provide guidance for meetings hosted by the Laboratory.

Scope

This policy applies to all events that qualify as a Laboratory-hosted or co-hosted **meeting** with any cost, **regardless of the funding source**. The terms set forth in this policy are consistent with DOE Contract 31 and DOE Acquisition Regulation Letter, No. AL-2005-12. Laboratory-hosted meetings are to be conducted in a reasonable manner, minimizing costs wherever possible.

Policy

A determination must be made for each Laboratory event as to whether it qualifies as an official or Laboratory-hosted **meeting** or a Laboratory-hosted/co-hosted **conference**.

In order to qualify as an official Laboratory-hosted meeting, several prerequisites or criteria must be met as outlined in the Event Questionnaire in the Event Approval Database.

If the event does not meet the established meeting criteria, it will be considered a Laboratory-hosted/co-hosted conference, which involves different prerequisites and criteria (see Conferences policy).

Attendees at a Laboratory-hosted meeting may include Laboratory employees, contractors, guests, or visitors. The meeting may also include food and beverage, subject to the guidelines in this policy and the Food and Beverage policy.

It is the meeting **chairperson's** responsibility to ensure the event complies with Laboratory policy and DOE regulations.

Funding Sources

Funding for Laboratory-hosted meetings may originate from both internal and external sources such as:

- Laboratory operating funds, including Work for Others
- Registration fees
- Exhibitor fees
- Co-sponsorship funds

Approvals

All requests for approval are to be completed in the Event Approval Database at least **two (2) business days prior** to the start of the meeting.

On-Site Laboratory-Hosted Meetings

For the purpose of this policy, **on-site** refers to any Laboratory-owned or leased facility located in the San Francisco Bay Area and the Laboratory facility located at the Washington, D.C. Office. University of California "Campus" building space is **not** considered an on-site facility.

On-site meetings with any cost, such as food and beverage, are processed and approved through the Event Approval Database.

Local Maximum Per Diem Rates

The following are the maximum per diem rates for the **Oakland/Berkeley** area. These rates have been adjusted to meet industry standards. Breakfast is not reimbursable for meetings:

Expense Type (Includes Tax, Tip and Delivery)	Allowable M&IE Per Diem for Oakland
Breakfast	n/a
Lunch	$19.00
Dinner	$40.00
Total	**$59.00**

Refreshments (a.m. or p.m.)	**$14.75**

Off-Site Laboratory-Hosted Meetings

For the purpose of this policy, **off-site** refers to any building space not located at any of the Laboratory owned or leased facilities referenced in On-Site Meetings above. Off-site includes all University of California "Campus" building space.

The decision to conduct an off-site meeting should include the following:

- Cost
- Laboratory benefit
- Attendance
- Transportation
- Logistics (rationale)

All off-site meetings that have any costs are processed and approved through the Event Approval Database. The off-site meeting request must include:

- **Three off-site comparisons**
- Budget
- Percentage of non-Laboratory attendees (at least 20% is required)
- Agenda
- Attendee list (with affiliations)

When evaluating the three off-site comparisons, the site with the **lowest overall cost** will be the primary factor in choosing the meeting location.

Strategic Planning Meetings

The objective of a strategic planning meeting is to discuss goals and strategies that affect the Department or Division. Each Division (or Department reporting directly to the Director's Office) is allowed two (2) strategic planning meetings during the fiscal year. The 20% requirement for non-Laboratory participants will be waived. Strategic planning meetings will otherwise comply with all Laboratory policies and DOE regulations. Each Division will track and monitor their annual two-meeting allotment.

Contractual Agreements

Conference Services is the **only** authorized approver of contractual agreements for Laboratory events. Any contractual agreement associated with a Laboratory-hosted meeting must be submitted to Conference Services **at least five (5) business days prior** to the meeting for approval.

Allowable Meeting Costs

The following are examples of allowable meeting costs (see Checklists: Allowable/ Unallowable Budget Expense List).

- Rental charges for off-site meeting facilities or required equipment (e.g., poster boards, computers, audiovisual equipment and support).

- Meeting announcements, programs, proceedings, summaries, or other meeting publications.
- Expenses paid for speakers or participants (e.g., registration fees, honoraria, travel).
- Credit card usage fees.
- Transportation to and from the meeting facilities or tours which are part of the meeting program, but not as entertainment.
- Meeting costs for programs associated with Laboratory Employee Activities Association (EAA). This may also include food and beverage for employee morale activities that meet the guidelines in Contract 31, Appendix A, XI, Employee Programs.

Note: EAA-sponsored events with food and beverage are approved by **Human Resources** (see EAA Hosted Food Request form).

Unallowable Meeting Costs

Unallowable meetings costs can only be paid with unallowable funds (see Checklists: Allowable/ Unallowable Budget Expense List). The following are examples of unallowable meeting expenses:

- Alcoholic beverages
- Promotional items and memorabilia such as models, gifts, and souvenirs
- Decorative items, including flowers and balloons
- Entertainment and social events
- Tours not related to the meeting objective

Registration Fees

A registration fee may be charged to meeting attendees. Registration fees are set by the conference chairperson. Laboratory employees are charged the same registration fee as other participants. Registration fees may only be used for **allowable** expenses.

Alcoholic Beverages

Except as authorized in this policy, the purchase, use, possession, or consumption of alcoholic beverages on any premises owned or controlled by the Laboratory is **prohibited**.

Alcoholic beverages may, however, be served on occasion for functions conducted **on Laboratory premises** with prior written approval from the Division Director and the Laboratory Director or designee (use the Alcohol Beverage Request form). The request must include the following:

- Nonfederal funding source for the purchase of alcoholic beverages
- Function objective
- Number of anticipated attendees
- Date, time and location
- Function host

Recruitment Meals

For recruitment meals, see the Food and Beverage policy.

Invoice Payments

Payment for invoices from vendors, hotels or other facilities for allowable meeting costs is made by completing a Request for Issuance of Check (RFIC) form and submitting it to Accounts Payable.

Food and Beverage Service

Food and beverage cost estimates for Laboratory-hosted meetings must be preapproved by the Division and Conference Services using the Event Approval Database. All requests for approval by Conference Services are to be completed in the Event Approval Database at least **two (2) business days prior** to the start of the meeting. Requests for reimbursements for actual costs are to be submitted to Accounts Payable on one of the RFIC forms as appropriate.

- Request for Issuance of Check
- Request for Issuance of Check (payment with a BZ Project)

Include the following documentation:

- Detailed receipt or invoice (originals only)
- Copy of approved Laboratory-Hosted Meeting Request form
- Agenda
- Attendee list (with affiliations)

Authority

- DOE Acquisition Regulation Letter, No. AL-2005-12
- DOE Contract 31

Contacts

- Manager, Operations
- Financial Policy Office
- Conferences Services

Glossary

- ***BZ Project***: **Allowable** and/or **unallowable** project used to collect registration fees and other external funds and to pay invoices for meeting costs. Overhead costs (i.e., burdens or taxes) within a BZ Project are applied to travel, procurement and conference/meeting expenses costs.

- ***Co-sponsor***: An organization that shares voluntary contributions/support for the meeting (i.e., a benefactor).

- ***Event***: Any formal activity that involves the dissemination or exchange of trade, business, professional or technical information with employees or peers. A Laboratory event will be defined as a meeting or a conference.

- ***Exhibitor****:* An individual or organization that participates in the conference to display their products and services relative to the purpose of the conference.

- ***Sponsor***: An organization outside the Laboratory that makes a voluntary contribution to support the meeting (i.e., a benefactor).

Conferences
(Hosted, Co-Hosted or Travel To)

Originally issued:	January 28, 2008
Revision Date:	March 20, 2009
Revision Number:	2
Scheduled review date/frequency:	January 28, 2010 (every year)
Primary contact:	Manager, Operations

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Summary

The purpose of this policy is to provide requirements and procedures for **DOE funded**/ Laboratory-hosted or co-hosted conferences or when **traveling to** a conference on behalf of the Laboratory, where the total cost is expected to be **$10,000 or greater**. This also applies to DOE Management and Operating (M&O) contractors for the Laboratory.

Events **fully funded** by **Work for Others (WFO)** do not qualify as conferences. They must be entered in the Event Approval Database, but are processed as Laboratory-Hosted Meetings (see Policy section below).

Scope

This policy pertains to all events that qualify as a Laboratory-hosted or co-hosted conference. The terms set forth in this policy are consistent with the Department of Energy (DOE) Order 110.3A, DOE Contract 31, and the DOE Acquisition Regulation Letter, No. AL-2005-12.

It is the responsibility of each Division to ensure the requirements in this policy have been met.

Policy

Laboratory-hosted/co-hosted conferences must be accomplished in a reasonable manner that minimizes expenditures while accomplishing program objectives.

A determination must be made for each Laboratory event as to whether it qualifies as an official Laboratory-hosted/co-hosted conference or a Laboratory-hosted meeting.

In order to qualify as an official Laboratory-hosted/co-hosted conference, several prerequisites or criteria must be met as outlined in the Event Questionnaire in the Event Approval Database).

If the event does not meet the established conference criteria, it will be considered a Laboratory-hosted meeting, which involves different prerequisites and criteria (see Laboratory-Hosted Meetings).

Traveling to a Conference

DOE requires the Laboratory to record and track information for **all employees (Laboratory-wide) traveling to** the same conference for which the total Laboratory cost is $10,000 or greater (**overhead costs do not apply**). Employees planning to travel to a conference must complete the "Travel to" conference information in the Event Approval Database at least **45 days prior to the conference.**

Note: Open **conference** requests are closed and locked in the Event Approval Database on the **45th calendar day** prior to the start of the conference.

Costs for traveling to a conference will be reimbursed in accordance with the Laboratory's Travel Policy.

Conference Hosts/Co-Hosts

A conference host is defined as having control over the conduct or management of the conference (e.g., sufficient to influence costs, venue, program content, or similar aspects). A conference co-host exists if more than one organization shares control of the conduct or management of the conference, or provides some form of non-monetary services (see *Conference Planning Support*).

The following additional guidelines apply if the Laboratory participates as a conference co-host:

- The Laboratory can be identified as an official host, but it may not be featured prominently (more notably) than other co-hosts in any conference literature
- Conference Services is responsible for approving any co-hosted contractual conference agreements

Conference Planning Support

Administrative conference planning support should be allocated as follows:

- Part of the employee's normal job function: Charge Division
- Outside of employee's normal job function: Charge Conference project

Approval of Conferences

All Laboratory-hosted/co-hosted conferences must be completed in the Event Approval Database at least **45 days prior** to the conference, or they may **not be approved** by **Conference Services**.

For conference expenditures of $10,000 or greater (**overhead costs do not apply**), the following approvals are required:

- Division Director (or designee)
- Conference Services
- Laboratory Director, Deputy Director, Associate Laboratory Director, or Laboratory Director's Chief of Staff
- DOE Contracting Officer (or designee)

As noted above, open **conference** requests are closed and locked in the Event Approval Database on the **45th calendar day** prior to the start of the conference.

Third Party Contractual Agreements

Third party contractual agreements (e.g., hotel, food services, equipment rental, or transportation) held on behalf of the Laboratory for conference arrangements must be approved by Conferences Services.

Any third party contract not approved by Conference Services may be considered an unauthorized procurement, subject to personal financial liability and administrative discipline.

Site Selection

The hosting Division should select a site that minimizes costs. The use of government-provided facilities is preferred. Resort or recreational sites should be avoided, unless a true cost savings will result.

The hosting Division must perform a cost comparison of **at least three** prospective locations, unless there is a specific advantage to the Government, which must be documented in writing. A justification/impact statement must also be provided as to why the selected site provides the best overall value or is necessary in order to achieve the conference objective.

Allowable/Unallowable Conference Costs

- A checklist of **allowable/unallowable** conference costs is available on the Conference Services website (see Checklists: Allowable/ Unallowable Budget Expense List).
- Private funds, sponsorships and exhibitor fees may be used for **unallowable** conference costs.
- Laboratory funds and registration fees can only be used for **allowable** costs (see DOE FAR 31.201-2, *Determining Allowability*).

Food Service

For food and beverage service provided during a conference, all of the following requirements must be met (see Food and Beverage policy):

- External participants (non-Laboratory employees) are present (at least 20% is required).
- Food service is incidental to the conference.
- Attendance during meals and when refreshments are served is important for the attendee's full participation in the conference.
- Work precedes any food service provided, and the food service is provided during a working session.
- A detailed agenda is provided (including events with food and an attendee list with guest affiliations).
- Food service for the conference has been approved **in advance** by Conference Services.

Funding Sources

Laboratory-hosted or co-hosted conferences may be funded from a number of internal and external sources including registration fees, sponsorships, exhibitor fees, and Laboratory funding. All funds and revenue used to support conferences must be deposited into the appropriate Laboratory project(s) established by the Controller's Office.

Registration Fees

Registration fees for attendees may **only** be used for **allowable** expenses.

The hosting Division determines the appropriate registration fee to be charged. The registration fee should be set at an amount that generates sufficient revenue to cover the specified items to be financed through registration fees, but not an amount that would lead to excess revenue.

The collection of registration fees is handled through an online registration tool, which is managed by Conference Services. All registration fees collected are deposited into the **allowable** BZ project established for each conference.

Fees collected for optional **unallowable** activities (e.g., entertainment, excursions) will be deposited into the **unallowable** BZ project.

The hosting Division may, at their discretion, waive or reduce registration fees for speakers, invited guests, students or others.

Exhibitor Fees

An exhibitor participates in the conference to display products and services that relate to the purpose of the conference. Exhibitor fees collected can be used for **allowable** or **unallowable** expenses. The allocation of **allowable** or **unallowable** funds from exhibitor fees is determined by the Division and is included in the conference budget. Exhibitor fees are not considered registration fees.

Sponsorships

Sponsorships are voluntary contributions made by outside organizations to support the conference (i.e., a benefactor). Funds received from sponsorships can be used for **allowable** or **unallowable** conference costs. The allocation of allowable or unallowable funds from sponsorships is determined by the Division and is included in the conference budget.

Reimbursement for Speakers and Invited Guests

Travel costs for speakers and invited guests should be charged to the appropriate conference project.

Project Set-up Requirements

In order to segregate conference costs from other program costs, the requesting Division must open a **separate** project for each conference. This will serve as the parent project for the allowable BZ project and **cannot** be a summary or WFO project. Any programmatic costs associated with the conference should be charged to this project for costs not covered by revenue collected in the BZ project.

Segregating conference costs provides several benefits:

- Increases conference cost visibility/transparency.
- Facilitates external reporting requirements for the DOE Conference Management System (CMS), which is used by **Conference Services** only.
- Assists the close out of surplus allowable BZ project revenue and costs and surplus non-DOE BZ revenue.

Availability of Conference Funds

- Invoices submitted for payment from the **unallowable** BZ project will **NOT** be paid if there are insufficient funds.
- Costs that exceed funds in the **allowable** BZ project will be re-allocated to the Division conference parent project at closeout.

Surplus Conference Revenue

DOE Funds

Any surplus conference revenue collected from DOE as a host, co-host or sponsor are subject to the Miscellaneous Receipts Act (U.S. Code 3302) and must be deposited with the U.S. Treasury as soon as possible.

Non-DOE Funds

Any surplus conference revenue collected from or provided by Laboratory co-hosts or sponsors *other than DOE or DOE contractors* are not subject to the Miscellaneous Receipts Act and, therefore, do not need to be returned to the U.S. Treasury.

It is expected that any surplus conference funds are to be maintained at a minimum. The following options apply to the disposition of surplus funds for both **allowable** and **unallowable** conference-related expenditures. The disposition of surplus conference funds is the responsibility of the Conference Chairperson.

- **Allowable** surplus funds can be used to offset conference-related costs that are clearly identifiable in the Division conference **parent project**.
- **Unallowable** surplus funds can be used to offset conference-related costs in the **allowable** BZ project.

- Can be refunded to the attendees (if surplus funds are material).
- Can be returned to the sponsor.
- Can be used for future occurrences of the same conference.
- Immaterial surplus amounts can be retained in an institutional BZ project to use for conferences as necessary; e.g., to offset other conference costs.

Payment of Conference Expenses

Conference-related invoices and receipts must be reviewed and approved by the Division and conference Services. The hosting Division should ensure that all **allowable** and **unallowable** expenses are separated and identified on the final invoices/receipts prior to submitting for payment. Payment is made via the following Request for Issuance of Check (RFIC) forms:

- Request for Issuance of Check
- Request for Issuance of Check (payment with a BZ Project)

Conference Management System (CMS)

The CMS is the **DOE** central database used for planning purposes to compile data, generate reports, and view proposed and approved conferences that **exceed the $10,000 threshold**. Following approval by DOE, preliminary conference information is entered into the CMS by Conference Services. Upon final closeout of each conference, updated information such as the final number of attendees, costs and other relevant information is updated in the CMS by **Conference Services** and reviewed by the Laboratory's DOE Contracting Officer.

Records Retention and Maintenance

Conference Services maintains conference records in accordance with applicable DOE and Laboratory retention policies. The retention of conference records ranges from three years to permanent, depending upon the significance of the conference, the conference host or sponsor, and the relationship between the Laboratory and the host or sponsor. See DOE Administrative Schedule 16, Administrative Management Records, Item 8 (d).

The following reflects specific records to be maintained by the responsible organization for each conference:

Conference Services

- Approved forms and documents from the Laboratory's Event Approval Database.
- Copies of invoices paid by Conference Services for **allowable** and **unallowable** conference costs.

- Documentation of all refunds requested by the hosting Division and processed by Conference Services.
- Copies of **allowable** and/or **unallowable** payments made by third parties for costs contracted by the Laboratory.

Controller's Office (General Accounting)

- Documentation of closing project reconciliation.

Hosting Division

- Copies of paid invoices for both **allowable** and **unallowable** conference costs.
- Approved paper copy of the Laboratory-Hosted Conference Approval Request (from the Event Approval Database).
- Copies of contractual agreements approved by Conference Services.

Roles and Responsibilities

Hosting Division

- Plans, organizes, and initiates conference arrangements.
- Sets up a separate project for each conference which serves as the parent project for the allowable BZ project which **is not** a summary or Work-for Others (WFO) project.
- Completes the applicable entries, forms and documents in the Laboratory's Event Approval Database, which includes funding and budget information, for approval by Conference Services.
- Develops and maintains the conference budget and appropriate financial records.
- Whenever possible, minimizes the number and cost of exhibits/booths by using corporate-type exhibits/booths that can be shared by DOE and DOE contractor organizations.
- Provides a dedicated Division project in which to charge costs associated with the conference.
- Identifies allocation of **allowable** and **unallowable** costs and income from exhibitors and/or sponsors in conference budget.
- Upon completion of the conference, reviews and verifies conference revenues and expenditures within 120 days after completion of the conference.

- Ensures that all **allowable** and **unallowable** expenses are tracked, separated and identified on the final invoices and receipts prior to submitting to Conference Services for payment.

Division Director or Designee

- Approves all Laboratory-hosted, co-hosted, and travel to conferences.

Conference Services

- Administers and maintains the Conference policy and procedures. Provides guidance and training when necessary.
- Reviews, approves and manages all Laboratory event information entered into the Event Approval Database to ensure timeliness and compliance with Laboratory policy, DOE Contract 31, and DOE Order 110.3A, Conference Management.
- Reviews, negotiates, and approves third party contractual agreements for conference arrangements such as hotel contracts, audio/visual services, chartered transportation services, etc.
- Reconciles registration payments to ensure all applicable fees have been paid and all payment information is captured.
- Provides General Accounting with the registration payment list.
- Reviews invoices and receipts to ensure allowable and unallowable costs are separated appropriately.
- Manages the event registration database.
- Manages the conference approval process.
- Enters preliminary and final conference information into the DOE CMS database for conferences that exceed $10,000 (overhead costs do not apply).

Laboratory Director or Designee

- Approves all Laboratory-hosted, co-hosted and travel to conferences for which total expenditures are $10,000 or greater (overhead costs do not apply).

  Note: The designee for the Laboratory Director is the Deputy Director, Associate Laboratory Director, or Laboratory Director's Chief of Staff.

Contracting Officer (DOE Berkeley Site Office)

- Approves all Laboratory hosted, co-hosted and travel to conferences for which expenditures are $10,000 or greater (overhead costs do not apply).
- Reviews conference data entered in the DOE CMS database.

Controller's Office (General Accounting)

- Deposits registration fees and/or sponsorship funding and records revenue in the Laboratory's Financial Management System (FMS).
- Upon approval from Conference Services.
  - Opens **unallowable** BZ project for the conference.
  - Sets up an **allowable** BZ project and requests it be opened by the Budget Office.
  - Issues payment for conference expenses approved by Conference Services.
  - Closes and reconciles conference project(s).
- Provides general guidance on conference accounting.
- Prepares final resource adjustments to zero out the BZ projects at closeout.

Budget Office

- Opens the **allowable** BZ project for the conference.

Authority

- Department of Energy (DOE) Order 110.3A
- DOE Acquisition Regulation Letter, No. AL-2005-12
- DOE Administrative Schedule 16, Administrative Management Records, Item 8 (d).
- DOE Contract 31

Contacts

- Conference Services hotline
- Manager, Operations

Glossary

- ***BZ Project***: Allowable and/or unallowable project established for each Laboratory-hosted/co-hosted conference. The BZ project is used to collect registration fees and other external funds and to pay invoices for conference costs. Overhead costs (i.e., burdens or taxes) within a BZ project are applied to travel, procurement and conference/meeting expenses costs.
- ***Co-Host***: An organization that shares conference hosting responsibilities with another (see Host).

- ***Conference Management System (CMS)***: The DOE central database used to compile data, generate reports, and view proposed and approved conferences $10,000 or greater (overhead costs do not apply). Conference Services is responsible for entering conference data into the CMS.

- ***DOE Contracting Officer***: The Laboratory's DOE Contracting Officer is located at the Berkeley DOE Site Office.

- ***Event***: Any formal activity that involves the dissemination or exchange of trade, business, professional or technical information with employees or peers.

- ***Exhibitor****:* An individual or organization that participates in the conference to display their products and services relative to the purpose of the conference.

- ***Host***: An organization that has control over the conduct or management of the conference (e.g., sufficient to influence costs, venue, program content, or similar aspects).

- ***Incidental***: Minor or subordinate in significance or nature; i.e., secondary.

- ***Laboratory-Hosted Meeting***: An event or activity conducted at Laboratory expense, during which Laboratory employees, supplemental labor employees, and/or visitors hold work-related discussions, exchange or disseminate technical information, or conduct structured training.

- ***Management and Operating (M&O) Contractor***: The third party management of a DOE facility. DOE competitively awards M&O contracts to manage and operate DOE facilities. These M&O contractors are finally integrated with DOE and operate under strict DOE controls and guidelines.

  Official Travel*:* Travel necessary to accomplish official business on behalf of the Laboratory. Official travel is properly authorized, processed, conducted, reported and reimbursed in accordance with this policy (see Travel and Expense policy).

- ***Sponsor***: An organization outside the Laboratory that makes a voluntary contribution to support the conference (i.e., a benefactor).

Financial Management
General Guidelines

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Overview**

Originally issued:	October 1, 2005
Revision Effective Date:	June 1, 2007
Revision Number:	3
Scheduled review date:	June 1, 2009 (every two years)
Primary contact:	Controller

Summary

For all financial business actions, Lawrence Berkeley National Laboratory (LBNL) must comply with DOE criteria as stipulated in the DOE/LBNL Contract and adhere to federal Cost Accounting Standards (CAS). Compliance with DOE contractual criteria ensures appropriate accounting practices are consistent throughout all Laboratory organizational units and work activities.

Policy

Financial Obligations

- Confirmation of LBNL's receipt of funds and authorization to begin work is required before employees make commitments to hire staff, purchase goods, procure services, or incur other financial obligations. For authorization criteria and the list of authorized approvers, see Authorized Signatures.

Spending Criteria

- Funding received by LBNL must be spent on the scope of work for which it was authorized and, generally, within the specified time period authorized.
- Costs, such as payroll, procurements, services, or supplies, must be identified by the appropriate project ID that reflects the scope of work for that project.

Changes to Accounting/Financial Practices

- Proposed changes to accounting or financial practices require review and approval by the DOE Contracting Officers. The Office of the Chief Financial Officer (OCFO) will review all proposals for appropriateness, compliance with CAS, and endorsement of LBNL senior management prior to submitting to DOE for approval.

Adjustments or corrections

- Any subsequent accounting corrections and/or resource adjustments must adhere to the financial policies and procedures for Resource Adjustments as outlined in the Financial Policies and Procedures Manual.

Procedures

Implementing/Changing Formal OCFO Financial Policies

Roles and Responsibilities

Subject Matter Expert (Policy Author)

- Contacts OCFO Financial Policy Office prior to writing policy
- Drafts policy utilizing OCFO Financial Policy Template
- Emails draft to Financial Policy Office for editing

Financial Policy Office

- Edits draft policy for clarity, voice and format consistency
- Emails draft policy to OCFO Central Administration Management for 10 day comment and/or question period
- Reviews Management's recommended edits with policy author/s
- Incorporates recommended edits (if appropriate) into the draft policy
- Emails draft policy to the Laboratory financial/business community and DOE Berkeley Site Office (BSO) for 10 day comment and/or question period
- Reviews and implements any recommended edits received with policy author(s)
- Emails policy to OCFO Web Master for posting to OCFO Financial Policy Office web page
- When policy is posted, emails announcement to financial/business community and BSO
- Ensures RPM Web Master incorporates policy link and Responsible Manager information into the RPM
- Coordinates policy training, as necessary

Contacts

- Financial Policy Office
- Budget Officer
- Controller

Authority

- Department of Energy Contract 31

§11.04
Consultants to Lawrence Berkeley National Laboratory

Responsible Manager

Links updated 09/08

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A. DEFINITIONS

The following definitions apply for purposes of securing consulting services:

1. Consultant

A consultant is an individual acting on his or her own behalf who provides expert advisory or assistance services of a technical or professional nature on a fee or per diem basis. Current Laboratory employees may *not* be Laboratory consultants.

2. Consultant Agreement

A consultant agreement is an agreement between the Laboratory and a person acting as an independent subcontractor in performing consulting services.

3. Personal Services Agreement

A personal services agreement (PSA) is an agreement between the Laboratory and an established company that makes available by name one or more of its employees as consultants.

4. Consultant Services

Consultant services are the services of an expert who personally renders services to the Laboratory on a short-term or infrequent basis. Consultants provide technical, scientific, engineering, and/or administrative expertise not otherwise available to the Laboratory. Consulting services may consist of information, advice, opinions, alternatives, conclusions, recommendations, or direct assistance, such as studies, analyses, evaluations, and liaison. Consultant services may be provided under a consultant agreement or a PSA. Most architect and engineer services are excluded from the definition of consultant services.

5. Technical Contact/Technical Coordinator/Technical Supervisor

A technical contact, coordinator, or supervisor is the Laboratory employee(s) responsible for ensuring that a particular consultant's services are properly authorized, the work performed is acceptable, and the amounts claimed under the agreement are correct.

B. POLICIES GOVERNING USE OF CONSULTANTS

1. General

The Laboratory will engage the services of a consultant when such services are of a short-term or intermittent nature, contribute to the Laboratory's mission, and cannot be performed as effectively by a regular or temporary employee.

Consultant services allow the Laboratory to:

- Benefit from recognized expertise in a specific field
- Provide for the mutual exchange of professional expertise
- Collaborate on projects of mutual interest
- Support and assist other institutions with the development of technological capabilities and transfer of knowledge
- Encourage the use of Laboratory facilities for educational purposes as long as this use is in the Laboratory's interest

Under no circumstances may a consultant be used to specifically aid in influencing or enacting legislation. Consultants may *not* perform work of a policy-making, decision-making, managerial, or supervisory nature nor may they approve or disapprove actions that commit or expend Laboratory funds. Consultants work independently and not under Laboratory supervision. Consultant

services may not be obtained for unauthorized purposes, such as to bypass or undermine personnel ceilings or pay limitations.

2. Nature of Services

Normally, consulting services are contracted for in connection with specific research, administrative tasks, or problems because there is a need for a person whose

- Specialty is not adequately represented by an employee of the Laboratory;
- Assistance is needed intermittently on a short-term or infrequent basis;
- Services are either unavailable or impractical to secure through employment.

3. Time Requirements

Consultant agreements must specify an anticipated number of service days. A consultant may not normally receive fees for more than 90 service days within the agreement year. DOE approval must be obtained in advance for agreements that provide for more than 90 service days per agreement year. When the need is expected to exceed these time requirements, regular part-time employment or contract labor should be considered and, if appropriate, arranged in accordance with existing employment practices.

4. Duration of Agreement

Agreements for consulting services normally are established for a year or less and cover a period for which there is a foreseeable need for the consultant's services. Agreements are renewed only when there is a verified continuing need. Agreements may be written for a period of up to five years, however, with appropriate justification from the requester.

5. Selection Process

Consultants are selected on the basis of qualifications, resources, experience, and needs of and costs to the Laboratory, as determined by the division requiring the particular service and as approved by the Procurement Manager. Agency or similar fees are not paid to others for locating a consultant.

6. Conflict of Interest

Laboratory policy requires that consultants refrain from activities on behalf of the Laboratory and DOE that could be interpreted as creating a conflict of interest for the consultant. Accordingly, the terms of agreements to obtain their services require that consultants or firms furnishing the services of their named employees as consultant:

- Affirm that, to the best of their knowledge, (a) no direct or indirect private interests of the consultant exist that are or may appear to be incompatible with the consultant's work for the Laboratory, and (b) the consultant is not concurrently performing work on a full-time annual employment basis for any other organization under a cost-type contract with DOE.
- Avoid any activities by the consultant influencing decisions on behalf of the Laboratory (including participation in proposal, design, or negotiation phases of Laboratory procurements) that directly or indirectly affect the interests of the Laboratory or DOE when the consultant has a personal interest in the matter that may be incompatible with the interests of the Laboratory or DOE.
- Notify the Laboratory promptly regarding any change in either the consultant's private interest or the work being done by the consultant for the Laboratory that may result, or appear to result, in a conflict of interest.

An Organizational Conflict of Interest (OCI) Preprocurement Fact Sheet must be completed and accompany each consultant agreement request package. This fact sheet is available from the Office of the Chief Financial Officer/Procurement.

If the required work appears to require OCI review (i.e., evaluation services or activities, technical consulting and management support services, professional services, or other contractual situations where there is a reasonable possibility that an OCI may exist or arise), award may not be made until a DOE finding of the OCI has been obtained. This determination can be made from the information provided in the Fact Sheet and in the consultant request package (e.g., employer, background) and obtained from

the consultant during fee negotiations (e.g., former employers, clients).

In addition to the foregoing, California law prohibits any University (Laboratory) employee from making or participating in the making of a decision if a financial conflict of interest exists for the employee. This extends to the employee's involvement both in selecting a consultant and in the consultant's subsequent work.

Consultants themselves are subject to the requirements of the University's Conflict of Interest Code, including filing economic interest statements and disqualification requirements when they make final government decisions or operate in a staff capacity and substantially perform the same duties as an individual holding a position specified in the Laboratory's list of designated positions. See University Conflict of Interest Code for additional details.

7. Dual Compensation

University policies and practices govern the compensation that consultants may receive concurrently from multiple University sources. Accordingly, by the terms of agreements executed for that purpose, consultants rendering services to the Laboratory must:

- Inform the Procurement Manager, in detail, before executing the agreement and immediately during its term of any actual or proposed employment or other compensatory arrangement with any other activity of the University.
- Agree that the Laboratory may amend the agreement, including terms governing amounts payable to the consultant or firm under the agreement, to the extent consistent with the University's current and applicable policies and practices.

In addition, DOE regulations prohibit a consultant from being concurrently paid by DOE, whether as an employee of or as a consultant to DOE, while performing work on a full-time employment basis with any other DOE cost-type contractor. The Laboratory may borrow the individual from another DOE cost-type contractor if any payment is a cash payment made under the DOE/LBNL Contract between the University and DOE or DOE procedures to such other contractor and not to the individual. These limitations do not prohibit other federal agency personnel from rendering consulting services to the Laboratory on their own time to the extent permitted by the particular agency's regulations and as approved by the Procurement Manager.

8. Foreign Nationals as Consultants

University policies, which are based on federal immigration laws applicable to the Laboratory, allow holders of immigrant visas, H-1 visas (persons of distinguished merit), and J-1 visas (exchange visitors) to be fully compensated when retained by the Laboratory as consultants. Holders of B-1 visas (visitors on business) may not be paid consultant fees, however, although they may be reimbursed for travel and subsistence. Holders of B-2 visas (visitors for pleasure) may not be paid fees or reimbursement of any kind.

Site Access Services, Foreign Visitors Unit, should be notified as soon as possible of proposed visits that will involve payment of consultant fees, to enable that unit to send proper visa documentation to the visitor before departure from the visitor's home country. Requests for adjustment in visa status should also be processed through the Foreign Visitors Unit. Foreign nationals must have social security numbers before being awarded a consultant agreement.

9. Faculty as Consultants

University policy governs when and under what circumstances University of California faculty members may serve as consultants to the Laboratory. Approval of the proposed faculty consultant's academic department on a case-by-case basis must be obtained through the Office of the Chief Financial Officer/Procurement. University staff personnel normally may not be retained as consultants.

10. Former Laboratory Employees

When the services of former employees (including retired employees) are required, the Laboratory's practice is to place such persons on indeterminate-time work schedules through the Human Resources Department. In exceptional cases, if the work is not supervised and the Laboratory has no control of the results of the work, the use of a consultant agreement or PSA is appropriate. Particular care must be taken to ensure that the selection of former employees, including retired employees, to serve as consultants to the Laboratory will best serve the Laboratory's interests.

11. Retired Faculty and Staff

Laws and regulations affecting the UCRS and PERS (retirement systems) permit retired members of both systems to work indeterminate or part-time schedules and as contract labor. The Human Resources Department should be contacted for employment of retired faculty and staff.

C. POLICIES GOVERNING CONSULTANT RELATIONSHIP

1. Time and Place of Performance

Consultants, as independent contractors or employees of independent contractors, usually may adopt (subject to technical contact approval) arrangements suitable to the consultant concerning performance details, such as times and places for rendering the agreed-on services. In each case, however, the technical contact is expected to ensure that a consultant's overall performance will provide the most satisfactory results for the Laboratory.

2. Results of Performance

Consultants should be required to furnish reports or other data documenting that services were satisfactorily rendered, as requested by the technical contact in accordance with the terms of the agreement. When this is impractical, the technical contact is expected to maintain records adequate for this purpose.

The technical contact is expected to closely monitor the work of the consultant to ensure that the quantity and quality of work produced during the time allotted are acceptable. Instances of unsatisfactory performance should be documented. Termination action should be initiated promptly through the Office of the Chief Financial Officer/Procurement when continued service by a consultant is deemed inadvisable.

3. Compensation

Consultants normally are paid as agreed, with either daily rates or fees for each full day the consultant renders services, including travel. In addition, consultants may be reimbursed for certain costs and expenses, such as clerical and related support indicated in the consultant's proposal, when approved in writing by the Office of the Chief Financial Officer/Procurement. Fees will be authorized only when determined reasonable in the particular circumstances and properly documented in the Procurement record of the agreement.

Reasonableness of a consultant's fees should be based on the individual's established market value and the market value of the services to be provided. Fee rates based on salary should be substantiated by a copy of a current paycheck stub, the prior year's W-2 form, a letter of agreement with the employer, or a statement of substantiation from the employer.

Fee rates based on contractual arrangements with other clients may be substantiated by submitting copies of client agreements or other suitable documentation. The number of required submissions may vary depending on the amount of the requested fee and/or value of the submitted agreements.

As stated in Paragraph (B)(7), above, limitations are imposed by DOE and the University on using consultants who are also performing other DOE or University work.

4. DOE Daily Rate Approval

Previously, consultant agreements or PSAs with fees that exceeded $700 per day had to receive DOE approval before placement. Now, instead of the $700/day limitation, DOE has placed an overall cap on the amount of funds that can be spent for consultants each fiscal year. The overall cap for FY 1996 is not to exceed $1,750,000. The Laboratory is responsible for documenting the rate of reasonableness but can authorize any rate under this agreement. When the cap is reached, all agreements that contain rates exceeding $700 per day require DOE approval.

5. Taxes

Fee income is subject to federal and state income tax. Laboratory Accounting will issue appropriate tax forms, covering total fee dollars paid during each calendar year to all consultants.

6. No-Fee Agreements

Consulting agreements may be written by the Office of the Chief Financial Officer/Procurement on a no-fee basis, allowing reimbursement of expenses only. Expenses must be reimbursed in accordance with Laboratory policy, such as the Laboratory travel policy. If no fee is paid, consultants may serve an unlimited number of days per year and a solicitation is not necessary.

7. Allowable Expenses

Reimbursement of expenses is primarily limited to travel and travel-related expenses, using Laboratory travel policies as a basis for determining reasonableness. Foreign travel requires prior DOE approval. Other types of allowable expenses, to the extent that they are not covered in the consultant fee, include secretarial services, computer time, and any other reasonable cost deemed necessary for successful completion of the consultation. Separate charges for the use of special facilities or equipment owned by the consultant, his or her employer, or other vendors are usually not considered reimbursable, unless justified by the requester and approved by the procurement specialist before agreement award.

8. Property

Acquisition of capital equipment is generally not allowed. Deviating from this procedure requires a memorandum substantiating the necessity of such action, approval and authorization of the Procurement Manager, and inclusion of appropriate property coverage in the consultant agreement or PSA.

9. Travel

Consultants normally are reimbursed for travel and subsistence expenses in accordance with the Laboratory's DOE-approved travel policies and rules for consultants unless, as is often the case in PSAs, the Laboratory has approved the travel policies and rules of the firm involved.

Travel expenses will be reimbursed from the consultant's business (or from any place at which the consultant may be located when called on to perform services) and for the consultant's return to any point as long as reimbursement does not exceed the travel cost of returning to the place from which travel was authorized or to the consultant's business address.

The consultant will be paid for authorized travel expenses after the submission of a properly certified travel voucher and other reasonable proof required by the Laboratory.

10. Conduct of Consultant

University and government policies form the basis for rules of conduct to which consultants agree to be bound through the agreements they execute to render their services. These rules specifically prohibit the following:

- Accepting any gratuity or special favor from individuals or organizations with whom the Laboratory is doing business, or proposes to do business, under circumstances that might reasonably be interpreted as an attempt to influence the consultant in accomplishing the agreed-on work.
- Using for personal gain or making other improper use of privileged information acquired in connection with the consultant's work for the Laboratory. The term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments; anticipated material requirements or pricing actions; possible new sites for program operations; knowledge of selection of contractors or subcontractors before official announcement; and medical, personnel, or security records of individuals.
- Making or influencing any decisions on behalf of the Laboratory that directly or indirectly affect the interest of the government if the consultant's personal concern in the matter may be incompatible with the interest of the government.
- Using the name of the University or the Laboratory in publications, news releases, advertising, speeches, technical papers, photographs, and other releases of information regarding the consultant's work for the Laboratory, except with prior written approval of the Director, Associate Laboratory Director of Operations, or designee.

Technical contacts are responsible for guarding against such situations by reminding consultants of their obligations in these

matters and advising them when and from whom to obtain further guidance in questionable cases.

11. Patents, Data, and Copyrights

Under the DOE/LBNL Contract, the Laboratory is required to include in its consultant agreements and PSAs provisions pertaining to patents, data, and copyrights. These basically concern such matters as patent rights; rights to data, including copyrights; and patent and copyright infringement.

Technical contacts are expected to ensure that the consultant's obligations in these matters (e.g., reporting inventions, reporting notices or claims of infringement, and securing required DOE approvals) are properly fulfilled. If the consultant does not meet these obligations, the technical contact is expected to notify the Office of the Chief Financial Officer/Procurement immediately so that appropriate timely action may be taken. See RPM §5.03 (*Patents*).

12. Subcontracting and Assignment

Consultants must secure prior written approval from the Laboratory to subcontract, assign, transfer, or otherwise employ anyone to do any of the work, except incidental clerical or similar support work, called for under the agreement with the Laboratory. This approval is secured through the Procurement Manager.

13. Environment, Safety, and Health Requirements

Agreements for securing consultant services specify that consultants are required to take all reasonable precautions at Laboratory sites to protect the environment, safety, and health of all persons involved and to comply with all applicable environment, safety, and health regulations and requirements of the Laboratory and DOE. The Laboratory may stop the particular work any time a consultant fails to comply.

14. Insurance and Indemnification

The Laboratory will require a consultant to maintain insurance when:

- Work is performed predominantly on Laboratory premises.
- Government-furnished property is provided to a subcontractor.
- The nature of the work poses a significant potential exposure to the University and the government.

The level of insurance required varies, depending on the relative hazard of the work being done and the likelihood of loss. Some operations are more hazardous than others. Some consultant agreements and PSAs are not hazardous, but the possibility of loss may be significant.

The following types and minimum levels of insurance coverage are generally required:

- General liability. Bodily injury, comprehensive form (minimum $1 million per occurrence).
- PSAs. Workers' compensation, employer's liability (statutory limits for the state in which the work is performed; not required for consultants operating as sole proprietors).
- Professional services (e.g., those performed by doctors, lawyers, and architect-engineers).
- Professional liability ($1 million per occurrence; $2 million project aggregate).
- Subcontract requires use of automobile. Automotive liability, comprehensive form (property damage, $20,000 per occurrence; statutory requirements for the state in which the work is performed that are sufficient to meet normal and customary claims).
- Aircraft used in performing subcontract. Aircraft public and passenger liability (bodily injury, $200,000 per person and $500,000 per occurrence, excluding passenger liability; bodily injury, passenger liability, $200,000 multiplied by the

number of seats or passengers, whichever is greater; property damage, $200,000 per occurrence).

As proof of insurance, the consultant must provide an industry-standard certificate of insurance before working on site. Except for professional liability and workers' compensation insurance, the certificate of insurance must name the Regents of the University of California and the United States Department of Energy as additional insured.

The Laboratory Risk Manager may waive, revise the limits, or prescribe the types and levels of insurance required for particular types of work.

No consultant may be indemnified unless prior approval is obtained from DOE-HQ and the Regents of the University of California. Laboratory counsel should be consulted on any request by a consultant for indemnification.

D. PROCEDURES FOR SECURING CONSULTING SERVICES

1. Request to Establish an Agreement

a. **Request.** Requests for consultant services are initiated by requesters. The request may be for a new consultant, the renewal of a consultant whose agreement has terminated, or an additional consultation under an agreement already in place under another organization within the Laboratory. Requests for services of consultants should be made on the Request for Consultant/Personal Services Agreement form, available from the Office of the Chief Financial Officer/Procurement.

   At a minimum, a request for consultant services package should contain the following information regarding the consultant and/or the services to be performed:

   - Resume
   - Citizenship
   - Name, address, telephone number, area of expertise, title, social security number, and present employer
   - Particular skills/expertise for the services to be performed
   - First anticipated date of need
   - Whether reimbursement for travel and other services is authorized
   - Statement of work
   - Suggested daily fee, if known
   - Requirements for government property, if any
   - Account number(s) to be charged
   - Organizational Conflict of Interest Pre-Procurement Fact Sheet (see Paragraph (B)(6), above)
   - Explanation for the use of a consultant off site, if applicable
   - Estimated cost breakdown
   - Number of days the consultant services will be needed (see Paragraph (B)(3), above)
   - Period of desired agreement with justification for multiple years.

   If the package is not complete or the information is inadequate, the request package may be returned to the requester with a memorandum explaining the reasons for rejection and requesting the additional information.

b. **Statement of Work.** Statements of work should specify the exact tasks or area of work to be performed, the period of performance, and the approximate number of days the service must be provided.

c. **Off-Site Work.** If the work will be performed away from the Laboratory site, the request should include the reason, the

dates away, and how the requester will verify the periods and times of performance.

d. **Insurance.** Consultants or companies with PSAs working on site at the Laboratory may be required to show proof of insurance before working at the Laboratory. The completed request should be signed by the technical contact and the technical contact's division director or designee and sent to Procurement for processing. Procurement will secure concurrence of the Chief Financial Officer or designee on requests that appear to be inconsistent with current University and/or DOE policies.

2. Solicitations

Formal, written solicitations and proposals are not required for consultant agreements or PSAs under the small purchase threshold (currently $100,000). Consultant agreements and PSAs expected to exceed $500,000 require the submission of cost or pricing data.

3. Negotiating the Agreement

The Office of the Chief Financial Officer/Procurement negotiates the agreement using a University- and DOE-approved standard form, either a consultant agreement or a PSA. Understandings are established and confirmed in the agreement concerning the nature and extent of services to be rendered, where and when services will be performed, the fee to be paid, travel expenses to be reimbursed, and other details discussed in above paragraphs.

Daily fees paid to University of California faculty members are based on University Academic Policies. Annual salaries are divided by 189 days for 9-month appointments, 236 days for 11-month appointments, and 258 days for 12-month appointments; 30 percent is then added for fringe benefits and the total rounded to the nearest dollar. Fees for faculty of other universities may be based on this formula, except that 15% is added for fringe benefits. Such fees may also be based on previously established rates paid to the faculty member by others for similar services. Fees for other professionals generally fall in this latter category.

Particular care must be taken to ensure that the consultant's obligations and the role of the technical contact relative to these obligations are clearly understood. The consultant should be cautioned that any changes in services or other terms of the agreement will be recognized by the Laboratory only if authorized in writing by Procurement. Both the consultant and technical contact should also be cautioned not to incur any costs until the agreement has been fully executed.

4. Securing Approvals

The DOE/LBNL Contract establishes the right of DOE to approve or disapprove all consultant and personal services agreements. Certain advance blanket approvals have been secured from DOE that cover most agreements. Specific prior approvals, secured through the Office of the Chief Financial Officer/Procurement, are required in more unusual agreements, as indicated below:

a. In consultant agreements when:

- An organization conflict of interest may exist.
- Services to be rendered are expected to exceed 90 service days in an agreement year.
- The applicable fringe benefit factor used to determine the fee exceeds 15% (30% for University of California faculty).
- Foreign travel is required.

b. In personal services agreements when:

- An organization conflict of interest may exist.
- Foreign travel is required.

No changes, deletions, exceptions, or additions to the standard agreement terms and conditions may be included in any agreement without prior written approval of the Laboratory General Counsel and DOE Office of Chief Counsel. This approval is secured through Procurement.

5. Inviting Consultants to the Laboratory

The technical contact normally invites the consultant to the Laboratory, indicating the date(s) for the desired visit(s). Visits should not be made until the agreement has been executed. If travel by the consultant is anticipated to be required during the visit(s), a Request for Consultant/Personal Services Agreement form should be marked accordingly. Reimbursement for travel is obtained by submitting Stock Form 7600-55366 (*Request and Authorization for Official Travel*). Local travel by the consultant generally requires only one blanket authorization for the term of the agreement. As stated in Paragraph (C)(9), above, reimbursement for travel will be in accordance with Laboratory-approved travel policies.

The technical contact is responsible for directing the consultant to the Badge/Parking Permit Office, where the appropriate badge and parking permit may be obtained, and for ensuring that the consultant is properly directed to the person or group for whom the services will be rendered.

6. Attendance at Off-Site Conferences

The Laboratory may pay fees and reimburse travel costs to permit a consultant to attend meetings away from the Laboratory. Written justification must be provided to the Office of the Chief Financial Officer/Procurement and approval obtained *in advance* for such attendance. Generally, approval is granted only when it can be shown that attendance by a regular employee cannot accomplish the same purpose.

7. Claim for Consulting Services

Under a consultant agreement, the consultant should submit Stock Form 7600-65153 (*Claim for Consulting Services*) to the technical contact after each visit or at regular intervals of at least once a month:

- The technical contact reviews and signs the form to certify that the consultant has rendered services as claimed, that the period of time claimed is correct, and that the quality and quantity of work accomplished are acceptable to the Laboratory.
- After certification by the technical contact, the Office of the Chief Financial Officer reviews each claim to ensure that it is consistent with the terms of the agreement with the consultant. The claim is then processed for payment.

Under a PSA, the firm generally submits the claim periodically to the Office of the Chief Financial Officer/Accounts Payable in the form of an invoice. Accounts Payable then arranges for technical contact certification and further processing.

Technical contacts should ensure that, if feasible, consultants call at the Berkeley Lab Travel Office during each visit to settle their travel claims.

8. Termination and Renewal

Most agreements have a term of about one year and vary according to what is administratively the most practical termination date. Because many consultants render services that are needed for longer periods, the standard forms to secure their services provide for routine renewal as the consultant and the Laboratory agree. Agreements that are not renewed simply terminate without further obligation when they expire.

Renewal is accomplished through amendment, based on terms negotiated in the manner of the original agreement. Approximately eight weeks before expiration of the agreement, the Office of the Chief Financial Officer/Procurement initiates this action by a form memorandum sent to the technical contact involved. If the decision is made not to extend the agreement, the appropriate block in the form memorandum is checked, signed, and returned to Procurement without further action. If renewal is desired, the additional information requested in the memorandum is provided, and the memorandum is signed by the requester and the division director and returned to Procurement.

9. Personal Services Agreements

Personal services are treated in essentially the same manner as consultant services, except as follows:

- Awards to foreign-owned companies that will exceed $100,000 must have DOE approval.
- Solicitations are sent to the individual's company rather than the individual.

- Payment is made to the company instead of an individual after approval of the invoice.

10. References

The following policies and procedures apply to consultant agreements and PSAs and can be reviewed for additional details:

- University of California Laboratory Procurement Policy and Standard Practices Manual, Standard Practice 37.1 (Consultant and Personal Services)
- U.S. Department of Energy Order 3309.3 (Utilization of Individual Consultants by Contractors)
- The DOE/LBNL Contract

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§11.05
Time Reporting

Responsible Manager

Revised 1/09

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- **E. Certification of Time Reports**
- **F. Periodic Reviews**
- **G. LETS Due Dates**
  1. **Weekly Reporters**
  2. **Monthly Reporters**
- **H. Schedule Changes and Clock Changes**

A. GENERAL

The goal of the Pay and Time Reporting System is accurate and timely reporting of time worked (by job or project) and time off (by category of leave). This is essential for (1) monitoring actual performance against budgetary goals, (2) ensuring that labor costs are properly reported by DOE Budget and Reporting classification, and (3) guaranteeing that employees are paid correctly and that their leave accumulations are accurate. Each employee is responsible for his or her own personal reporting, and each division or department is responsible for reviewing the employee's compliance.

B. LOCATION OF WORKPLACE

All employees are required to perform their work at the Laboratory, except while on travel status, unless specific approval has been granted for work at another location. See RPM §2.23(D)(3) (*Telecommuting*).

> Agreements to perform work at alternative work sites must be consistent with Laboratory policy regarding standard workday and work week (see RPM §3.01(B)(1) (*Workday*) and (2) (*Work Week*)) and overtime (see RPM §3.03 (*Overtime*)).

C. FORM OF TIME REPORTING

LETS (Laboratory Employee Time-Reporting System) is an electronic time-reporting system that provides on-line access to time-reporting through PC and Mac workstations, and Sun workstations that use Internet Explorer, Mozilla Firefox, or Safari Web browsers. With the use of an assigned password, an employee can input his or her own time and a supervisor can approve the time online. Role assignment, password applications, and training are available through division offices. To access LETS and perform any functions, refer to the LETS manual or "How To" brochures available in each division.

D. REPORTING PERIODS AND INCREMENTS

The following chart details the various time-reporting categories:

Type of Employee	Schedule	Time Card	Minimum Reporting Unit
Exempt (including UC faculty)	Full-time	Monthly	1/2 day
Exempt	Part-time	Monthly	1/4 hour

Exempt (Engineering, EH&S, and Facilities only)	Full-time	Monthly	1/4 hour (4 hours for leave taken)
Nonexempt	Full-time, part-time, and variable	Weekly	1/4 hour

For employees in exempt classifications, the time worked on each cost account must be reported in total. It is not necessary to show the days on which the work was performed, but all leave time must be shown by specific days. For employees in nonexempt classifications, both work and leave time must be shown by specific days.

In the event that exempt employees work more than the normal number of hours or days, they are to distribute their effort proportionally to each project they worked on, based on the total time worked.

E. CERTIFICATION OF TIME REPORTS

1. Employees are accountable for certifying the accuracy of their time reported. Each supervisor must certify the accuracy of the time reported by his or her subordinates. Each supervisor must approve all of his or her employees' time, either electronically or on a time sheet produced by LETS. In the absence of the supervisor, only another designated supervisor or manager may approve time. Exceptions to this include non-LBNL supervisors at the Joint Genome Institute who are responsible for funding and Payroll/ISS personnel who provide technical assistance to supervisors. Requests for exceptions must be in writing and approved, in advance, by the Chief Financial Officer or designee. Time certification by the employee or the supervisor may be electronic with the use of a personal password accessing LETS or, when not possible electronically, by actual signature on a time sheet produced from LETS and provided by the division timekeeper.

2. Employees and supervisors must both concur to changes and corrections to their certified time, whether accomplished through LETS or labor resource adjustments. Documented employee certification and supervisory approval is required for all time and effort corrections.

3. Graduate Student Research Assistants (GSRAs) do not report time on individual time cards. The Division HR Center generates a monthly computer list to each Principal Investigator (PI) for verification of status and pay. Upon receipt of the PI's verification, the Division HR Center notes signature approval on the report and forwards it to Payroll.

F. PERIODIC REVIEWS

The Office of the CFO conducts periodic reviews of time-reporting documents for compliance with policy as stated in Paragraphs (D)–(E), above.

G. LETS DUE DATES

All employee time records are electronically sent to Payroll for processing based on the following schedule:

1. Weekly Reporters

12 noon The first business day of each week and the first business day of the new month

2. Monthly Reporters

12 noon Three business days prior to the month's end

H. SCHEDULE CHANGES AND CLOCK CHANGES

An employee's schedule of days off, workdays, and hours per day within the specified time schedule may be varied by his or her supervisor to meet unusual job requirements without use of a Stock Form 7600-55050 (*Personnel Action Form (PAF)*). The schedule for employees working indeterminate time, however, must be indicated in detail on the employment form, and changes must be submitted in detail on a PAF.

When clocks are changed to and from daylight savings time each year, actual hours worked should be reported. In the spring, when the time change results in a seven-hour owl shift, nonexempt employees may be scheduled for an extra hour of work or charged an hour of vacation to make an eight-hour shift. In the fall, when the time change results in a nine-hour owl shift, the additional hour (when worked) is reported as overtime.

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§11.06
Pay Periods, Computations, and Deductions

Responsible Manager

Moved to the Financial Policy and Procedures Web site, 5/21/09.

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Pay Periods, Computations and Deductions

Originally issued:	May 15, 2009
Revision Date:	0
Revision Number:	0
Scheduled review date/frequency:	May 15, 2010 (every two years)
Primary contact:	Controller

Summary

This policy provides guidance on the requirements and calculations for pay periods and payroll deductions at the Laboratory.

Policy

Monthly Pay Periods

Exempt Employees Working Full-Time Schedules

- Exempt employees working full-time schedules are paid a flat monthly rate.
- The salary for exempt, full-time employees working partial months (i.e., new hires and terminating employees) is based on the following formula:

$$\frac{\text{\# of days worked in month}}{\text{\# of workdays in month}} = \text{\% time}$$

$$\text{\% time x monthly salary} = \text{Gross pay}$$

- The salary for exempt, full-time employees who are on Leave Without Pay (LWOP) during the month is calculated by the following formula:

$$\frac{\text{Monthly salary}}{260} = \text{Daily rate}$$

$$\text{Daily rate x \# of days LWOP} = \text{Deduction from gross monthly salary}$$

Exempt Employees Working Part-time Schedules

- The salary for exempt, part-time employees taking LWOP is calculated by the following formula:

$$\frac{\text{Monthly salary} \times 12}{2080} \times \text{\# of hours on LWOP} = \text{\# of hours to be deducted from part-time monthly salary}$$

Bi-Weekly Pay Periods

Nonexempt Titles

- Employees with nonexempt titles are paid biweekly. Their gross pay is computed by the following basic formula:

  (Compensable regular hours in biweekly period x Applicable regular hourly rate) +

  (Compensable overtime hours in biweekly period x Applicable overtime hourly rate)

  = Gross pay

Exempt Titles

- Employees on a variable schedule
  - Employees having exempt titles who work variable schedules are paid by the hour on a biweekly basis.
- Employees paid under the Fair Labor Standards Act (FLSA) - exempt minimum salary
  - Employees having exempt titles whose base weekly salary is under the FLSA minimum for exempt status are paid by the hour on a biweekly basis.
- Because of hourly pay practices, employees in the above situations shall be treated as nonexempt employees subject to FLSA minimum wage and overtime provisions.
- Pay is computed by the following basic formulas:

  $$\frac{\text{Applicable monthly salary} \times 12}{2080} = \text{Hourly rate}$$

  (Compensable regular hours in biweekly period x Applicable regular hourly rate)

  +

  (Compensable overtime hours in biweekly period x Applicable overtime hourly rate)

  = Gross pay

Payroll Deductions

After gross pay has been computed, deductions are made for income tax withholding, retirement plans (UCRS and FICA), health insurance plans, and other types of insurance plans. Other deductions, such as dues or payments to approved employee organizations, payments to additional retirement programs, certain charitable contributions, and salary attachments, may be allowed or required.

Taxes are withheld based on the employee's exemption certificate (W-4) on file in the Office of the Chief Financial Officer/Payroll Office. If an increase in exemptions is in order or a decrease is desired to increase withholdings, an amended certificate (W-4) should be filed. If the option to be exempt from withholding is used, a new Form W-4 must be submitted by February 15th of each year.

Retirement deductions are withheld from all regular-time payments. UCRS is computed at a set percentage on all regular pay over a specified minimum. FICA is computed at the legal percentage of all pay up to the legal maximum for the year.

Reporting of Overtime

Nonexempt Employees

- See RPM §2.06(B)(1)(c)

Exempt Employees

- **Monthly Timecards**

  The approved extended work week schedule of hours (e.g., 48, 54) will be displayed in the Saturday date box of monthly timecards for each week that a monthly reporting, exempt employee is entitled to be paid for overtime. These hours will also be distributed to the proper cost account to the nearest half day.

- **Weekly Timecards**

  The actual overtime hours and the approved extended schedule of hours will be displayed as a fraction (e.g., 8/48) in the overtime total box of weekly timecards for each week that a weekly reporting, exempt employee is entitled to be paid for overtime. The actual overtime worked will be distributed to the proper cost account to the nearest hour. When an employee is not entitled to such pay for one or more weeks during an extended work-week period, the schedule of hours should not be displayed.

Contacts

- Controller
- Manager, Payroll

§11.07
Paydays and Check Distribution

Responsible Manager

Revised 09/07

- **A. Paydays**
  1. **Exempt Employees**
  2. **Nonexempt Employees**
  3. **Special Paychecks**
  4. **Final Paychecks**
- **B. Paycheck Distribution**
  1. **Choice of Distribution Method**
  2. **Distribution by Electronic Banking**
  3. **Distribution by Division or Department Office**

A. PAYDAYS

1. Exempt Employees

Exempt employees are normally paid their regular salary on the first workday of the month following the month worked. When the normal payday falls on a Saturday, Sunday, or holiday, payday will be advanced to the last working day before the weekend or holiday in all months except December.

2. Nonexempt Employees

Nonexempt employees are paid every two weeks, normally on the Friday following the end of the biweekly pay period. If this day is a holiday, payday will be moved to the last regular workday before the holiday.

3. Special Paychecks

Under hardship circumstances, an employee may obtain his or her check before the normal payday. Requests for this advance should be made by the employee to the Human Resources Department through his or her supervisor. Advance payments on anticipated earnings are not allowed.

4. Final Paychecks

a. A terminating employee may elect to pick up his or her final check after 3 p.m. on the termination date. See RPM §2.21(I) (*Terminal Pay*).

b. Final paychecks for deceased employees are normally made payable to the employee's estate, as required by state law.

B. PAYCHECK DISTRIBUTION

1. Choice of Distribution Method

Employees may have their paychecks distributed by electronic banking or delivered to their mailstop on payday. The choice is made at the time of employment and may be changed at any time using Form RL-6596 (*Payroll Earnings Distribution Authorization*).

2. Distribution by Electronic Banking

a. Employees may request the electronic deposit of their net earnings into a maximum of one savings and two checking

accounts at any financial institution that participates in the Automatic Clearing House (ACH) interbank network.

b. A deposit advice slip is sent to each employee's current mail stop as listed in the personnel database.

3. Distribution by Division or Department Office

Regular payroll checks for employees are delivered by the mailroom to the employee's mailstop the morning of payday.

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Travel and Expense Policy

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	February 20, 2009
Revision Date:	April 14, 2009
Revision Number:	2
Scheduled review date/frequency:	February 20, 2010 (every year)
Primary contact:	Controller

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1.0 Overview

1.1 Summary

This policy provides requirements for official Laboratory travel by employees and non-employees, regardless of the funding source. Additional requirements may be provided by the DOE program office, or non-DOE organization funding the trip. It is the responsibility of each traveler to adhere to this policy as well as any additional requirements as stated above.

1.2 Scope

This policy applies to all types of official Laboratory travel; i.e., *domestic*, *foreign* or *local*. It complies with applicable guidelines and regulations of the Department of Energy (DOE), Federal Acquisition Regulation, University of California, Federal Travel Regulation (FTR) and DOE Contract 31. For traveling to a conference, see the Laboratory's Conference policy.

1.3 General

Employees are encouraged to support cost effectiveness measures by evaluating the need to travel and the potential of using other less expensive travel alternatives such as email, audio and/or net (web) conferencing and videoconferencing.

Travel while conducting official Laboratory business must be accomplished in a manner that meets business needs and minimizes costs. It is the traveler's responsibility to report travel expenses in a responsible and ethical manner. All official Laboratory travel must be properly authorized, conducted, reported and reimbursed in accordance with this policy.

An official Laboratory business trip begins when the traveler leaves his or her residence or primary work location, whichever occurs last, and ends when the traveler returns to his or her residence or primary work location, whichever occurs first.

Only those travel expenses which are ordinary and necessary to accomplish the official business purpose of the trip are eligible for reimbursement. Any increase in expenses for personal reasons are the responsibility of the traveler. Personal travel is not to be charged to or temporarily funded by the Laboratory.

Travelers will not be reimbursed for expenses paid on behalf of others. Lodging expenses may be reimbursed for Laboratory travelers who share a room with another Laboratory employee.

1.4 Authorization to Travel

A Travel Authorization must be completed in the Laboratory's travel expense reimbursement system for a travel advance or prepayment.

- ***Domestic Travel*** - The *authorization* process is determined by the Division funding the trip.
- ***Foreign Travel*** - For all foreign travel, regardless of the funding source, it is required that a *Travel Authorization* be completed and approved *prior to travel* in the Laboratory's travel expense reimbursement system. The series of approvals originates with the Division Director (or designee) of the Division funding the trip.

The trip must then be approved by the Travel Office, DOE and the U.S Department of State. (The Travel Office submits the request to DOE and the U.S. Department of State.) The Travel Office must receive the Division-approved *Travel Authorization* in accordance with the Travel Authorization Advance Notice requirements on the Travel Office website.

- ***Local Travel*** - Authorization requirements are determined by the Division funding the trip. The Laboratory's travel expense reimbursement system will not accept Travel Authorizations for local travel.

1.5 Reservations and Service Providers

It is expected that travel reservations for official Laboratory travel for employees and guests will be made through the Laboratory's designated travel agency or on-line booking tool. Travelers are expected to utilize the current contracts with selected air carriers, hotels and rental car agencies whenever possible (see Travel Services website).

Travel Packages

Commercially-offered travel "packages" typically do not itemize expenses. Therefore, no business-related travel is to be booked through such vendors unless the traveler has confirmed that each aspect of the package will be separately itemized (e.g., itemized hotel charges and airfare) to assure appropriate documentation for reimbursement.

Canceling Reservations

Travelers who are unable to honor a reservation will be responsible for canceling the reservation in compliance with the terms of the hotel, airline, car rental agency, or conference/seminar vendor, etc. Charges or lost refunds resulting from failure to cancel a reservation will not be reimbursed unless the traveler can show that the failure was the result of circumstances beyond the traveler's control. For additional information regarding cancellation of airline tickets, see Tickets Purchased Through the Laboratory's Designated Travel Agency.

1.6 Combining Personal/Vacation Days with Business Travel

When combining personal/vacation days with business travel, reimbursement is limited to the actual expense for business travel only. When personal/vacation days are taken during official travel status, the number of days must be specified on the Travel Expense Report.

For personal/vacation days while on foreign travel, DOE programs may have different practices or limits on the number of days allowed. It is the traveler's responsibility to check with their DOE program for this information.

1.7 Corporate Travel Cards

Corporate travel cards are issued to employees who travel at least once per year (see Travel Services website). The cards are to be used for expenses associated with official travel such as hotels, car rentals, meals, miscellaneous expenses and registration fees. Any non business related charges incurred by the traveler are not reimbursable. Corporate travel cards are issued directly to the cardholder and not the Laboratory. Corporate travel card payments are the responsibility of the employee. Delinquencies may result in the cancellation of the traveler's card or other corrective action. Any interest and/or late fees incurred for delinquent payments are the responsibility of the employee and, therefore, non-reimbursable.

Travelers who have been issued a corporate travel card are expected to use the card for cash advances. The corporate travel card may be cancelled at the discretion of the Laboratory or the issuing bank, and must be relinquished upon termination of employment.

1.8 Advances

Travelers are expected to use their corporate travel card to obtain cash advances for expenses incurred in connection with official Laboratory business travel. Laboratory checks for travelers without a corporate travel charge card are available on an exception basis. Contact Division Business Managers for more specific details.

The advances will be issued only under special circumstances and are limited to the following restrictions:

- May not exceed the estimated out-of-pocket expenses for the trip
- Will not be made more than one week prior to the travel date
- Requires written justification
- Will not be issued to persons who have been issued a corporate travel card
- Are not authorized for any person who is 30 days delinquent in submitting a Travel Expense Report for a prior trip
- Will not be made for local travel

An advance must immediately be returned to the Travel Office if an authorized trip is canceled or indefinitely postponed. Under certain conditions, travel advances may be considered taxable income by the Internal Revenue Service (see Tax Treatment of Travel Expenses).

1.9 Prepaid Expenses

Airline Tickets

Airline tickets purchased through the Laboratory's designated travel agency are direct billed to the Laboratory. When a traveler purchases a ticket outside of the agency, reimbursement will not be made until after the trip has occurred (see Air Travel).

Hotel and Event Registration Fees

If payment prior to travel for hotels and/or event registration fees is required by a vendor, it is expected that the Laboratory traveler will submit a completed Request for Issuance of Check form to Travel Services to pay the vendor directly.

If the vendor will not accept payment from the Laboratory, the traveler may pay the vendor directly (e.g., with their corporate travel card, if applicable) and request reimbursement through the expense report process when the trip is completed. If necessary, reimbursement may be made in advance of a domestic or foreign trip only if the traveler is a Laboratory employee.

2.0 Transportation Expenses

Travelers are expected to make every effort to obtain the most economical rates, use the most economical mode of transportation, and use the most usually traveled route consistent with the purpose of the trip.

Procuring Tickets

Travelers are expected to obtain transportation tickets from the Laboratory's designated travel agency in order to take advantage of special discounts and to have the tickets charged to the Laboratory's direct billing account. Employees who purchase tickets from other sources at a higher cost will be reimbursed for the amount the ticket would have cost the Laboratory if purchased through the contract agency. For a complete list of eligible discounts available through the Laboratory's designated travel agency, see the Travel Services website.

Employee Purchased Tickets

The Laboratory's contracted agency offers special airfare discounts that cannot be obtained by outside sources. The State of California negotiated Discount Airfare Program (YCal fares) is the Laboratory's allowable airfare ceiling (see State of California Discount Airfare Program). If tickets are purchased outside of the Laboratory's contracted agency and any of the Laboratory discounts are not used, the traveler will be responsible for the difference in the cost of the airfare.

Indirect Itineraries

Travelers are responsible for any additional expenses resulting from the use of an indirect route or stops along the way for personal reasons. Reimbursement is limited to the actual costs incurred or to the costs that would have been incurred using the normally traveled route, whichever is lower. Excess travel time will be charged to the appropriate type of leave.

Vacation Interrupt

If a traveler is on vacation or has already purchased planned vacation travel tickets and is required to interrupt that vacation for business reasons, travel costs will be reimbursed from the vacation point to the official business point and back to the vacation point, plus any change or penalty fees that may apply.

Use of Surface Transportation in Lieu of Air Travel

A traveler may choose to use surface transportation for personal reasons even if air travel is the appropriate mode of transportation. In that case, reimbursement may not exceed the airfare the Laboratory would have paid if air travel had been used, plus the normal cost of ground transportation to and from airports. The cost of meals, lodging, tolls, ferries, and parking while in transit via surface transportation may be reimbursed if the total amount reimbursed does not exceed the cost of airfare plus ground transportation.

2.1 Air Travel

Tickets Purchased Through the Laboratory's Designated Travel Agency

Tickets purchased and billed through the Laboratory's designated travel agency are the property of the Laboratory. Cancellations must be reported directly to the travel agency prior to departure time. All tickets including those that are unused (full or partial) must be reported on a Travel Expense Report.

Tickets Purchased Outside of the Laboratory's Designated Travel Agency

Tickets purchased outside of the Laboratory's designated travel agency (i.e., employee purchased tickets) will not be reimbursed by the Laboratory until after the trip has occurred. If the ticket is cancelled for any reason, the ticket remains the property of the traveler. Travelers will be reimbursed according to allowable guidelines.

Use of U.S. Carriers

All commercial air travel between the U.S. and a foreign country and between foreign countries must be made via a U.S. flag carrier or U.S. code share as required by Public Law D93-629 "Fly America Act." This applies to the following:

- Travel reimbursed from any funding source (DOE or non-DOE)
- International charter flights
- Travel to/from Canada or Mexico
- Flights to/from personal destinations in conjunction with official travel

Use of Foreign Carriers

In accordance with the Fly America Act, foreign carriers can be used only under the following circumstances:

- If a U.S. flag air carrier offers nonstop or direct service; i.e., no aircraft change, from traveler's origin to destination, traveler must use U.S. flag air carrier service unless such use extends travel time, including delay at origin, by 24 hours or more.

- If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between the traveler's origin and destination, the traveler must use a U.S. flag air carrier on every portion of route where service is provided unless (when compared to using a foreign air carrier) such use would apply to one or more of the following:

  - Increase the number of aircraft changes traveler must make outside of U.S. by two or more

  - Extend the travel time by at least six hours or more

Require a connecting time of four hours or more at an overseas interchange point

Obtaining Lowest Available Airfare (Coach Class)

Reimbursement is limited to the actual expense for business travel only. Any airfare for personal deviations will not be reimbursed unless the cost is less than the lowest available coach fare for the business travel. Travelers are expected to travel by the most efficient and economical modes of transportation possible within mission requirements, on the most direct route consistent with the business purpose of the trip. (i.e., utilize negotiated or discounted airfares; request departure and arrival within a two-hour window; or consider alternate airports).

It is expected that travelers book airline reservations from the Laboratory's designated travel agency (or on-line booking tool) in order to obtain the lowest allowable coach airfare and ensure full compliance with policy, as well as reimbursement. It is also expected that reservations will be made as early as possible in order to take advantage of the lowest coach fare available.

Coach class, or any discounted class, shall be used in the interest of economy on all domestic or foreign flights. Except in extenuating circumstances, written authorization for reimbursement of airfare for business-class or first-class service must be obtained in advance.

The following table reflects the conditions required for the use of a **one class upgrade** for airline accommodations.

Conditions for use of One Class Upgrade for Airline Accommodations		
Category	**Condition**	**Advance Written Approval in Addition to Division Approval**
DOE Mission	Urgent requirement to successfully perform Laboratory mission exists which cannot be postponed	Laboratory Director (or designee)
Health Issues	LBNL employees requesting upgraded travel arrangement for health reasons should consult with the Site Occupational Medical Director. In most cases, a confidential medical note from the employee's physician will be required specifying the diagnosis, the requested accommodation, and the duration of the accommodation. The Site Occupational Medical Director evaluates the request and will notify the Travel Office and the affected Division Office of recommended travel accommodations and duration. Employees may be required to periodically update their medical documentation at the discretion of the Site Occupational Medical Director.	Site Occupational Medical Director
Sanitation Needs	Coach class on an authorized foreign carrier does not provide adequate sanitation or health standards.	DOE Office of Aviation Management
Availability	No other class of service (coach or business) is available within 24 hours of the proposed departure or arrival time.	Travel Manager for Domestic Travel in addition to DOE Final Approval for Foreign Travel
	Coach class is not provided on regularly scheduled flights between the origin and the destination.	
Overall Cost Savings	An overall savings (subsistence costs, overtime, lost productive time) would be realized, compared to waiting for coach class.	
Extended Flight Time	Origin/destination is outside the Continental United States and scheduled flight time, including stopovers and change of planes, is in excess of 14 hours. In this case, no rest stops will be approved.	
Overnight Travel Without Adequate Rest Period	Itinerary involves overnight travel without an opportunity for normal rest before commencement of working hours.	
Personal Expense	Travelers may upgrade to business, first class, or upgraded coach at their own expense, including through the redemption of frequent flier miles.	

Rest Stop/Official Stopover

A rest stop at either an intermediate point or the destination is allowed when **all** of the following conditions apply:

- The class of service used for air travel is less than business or first class
- Origin or destination is outside the continental United States
- Scheduled flight time (including stopovers) exceeds 14 hours
- Air travel is consistent with the Fly America Act
- Travel is taken by a direct or usually traveled route

Reimbursement is based on the per diem rate for the rest stop location. A maximum of three days are reimbursable before the date of actual official business (one day en route, the arrival day, and one rest stop within a 24 hour period).

Involuntary Denied Boarding Compensation

Compensation made to travelers by airlines for involuntary denied boarding is the property of the Laboratory and must be returned with the Travel Expense Report to be credited to the cost of the trip.

Voluntary Denied Boarding Compensation

Travelers may voluntarily vacate reserved airline seats and retain the payment received from the airline under the following conditions:

- Any resulting additional expenses are borne by the traveler
- Relinquishing a reserved seat does not diminish performance of official duties
- Vacation is charged to the extent that travel is delayed during normal work hours

Re-Ticketing/Schedule Changes

Charges for re-ticketing, schedule changes, etc., may be reimbursed for a valid business reason. The reason for the charge must be reflected on the Travel Expense Report.

Travel Membership Clubs

The Laboratory does not reimburse for airline membership clubs.

Chartered/Private Aircraft

Use of chartered and/or private aircraft will **not be authorized** for official Laboratory business, nor will any reimbursement be made for such use.

2.2 Vehicles

For information on vehicle insurance and accident reporting, see Travel Insurance and Accident Reporting.

Private Automobile

When a private automobile is used, reimbursement will be made based on actual mileage, parking, ferries and tolls (see Travel Expense Reimbursement Guidelines). Gasoline, routine repairs, tires, or other vehicle expense items will not be reimbursed. When two or more persons share a privately owned vehicle, only the driver may claim reimbursement).

If a private vehicle is to be used instead of air travel for personal convenience, reimbursement of transportation costs, including the cost of meals, lodging, tolls, ferries, and parking while in transit, shall not exceed sum of the total allowable airfare (if air travel had been used), and the normal cost of

ground transportation to and from common carrier terminals. Travelers are advised to contact the Travel Office prior to traveling to determine the allowable airfare and reimbursable limits (see Rental Vehicles also).

Mileage will be reimbursed from the time the traveler leaves his or her residence or primary work location, whichever occurs last, and ends when the traveler returns to his or her residence or primary work location, whichever occurs first.

When a traveler drives to or from a common carrier terminal, mileage and parking for one round trip for the duration of the trip is reimbursable. When the traveler is driven to a common carrier destination, mileage, short term parking and tolls for two round trips are reimbursable.

Rental Vehicles

A rental vehicle is to be utilized when more economical than the use of taxis or other means of transportation. It may be used for local travel only when no other means is available. Travelers are expected to use the Laboratory's preferred rental car vendors and charge the rental to their corporate travel card or personal credit card.

Gasoline for rental vehicles is also reimbursable. It is expected that the traveler will refuel their rental vehicle prior to returning it to the rental agency, thus avoiding excess gasoline charges.

If a rental vehicle is used instead of air travel, reimbursement of transportation costs, including the cost of meals, lodging, tolls, ferries, and parking while in transit, shall not exceed sum of the total allowable airfare (if air travel had been used), and the normal cost of ground transportation to and from common carrier terminals. Travelers are advised to contact the Travel Office prior to traveling to determine the allowable airfare and reimbursement limits.

Reimbursement for a rental vehicle cannot exceed intermediate size sedans. For information on rental vehicle insurance, see Section 9.1, Rental Vehicle Insurance.

The following table reflects exceptions and additional requirements for vehicle rentals. All require the use of the Laboratory's preferred vendors:

Class of Vehicle	Reimbursable	Requirements	Justification Required
Four wheel drive	Yes	Business necessity or weather conditions	Yes
Minivan	Yes	For transportation of LBNL passengers and Lab equipment	Yes
Truck or Van	Yes	To transport equipment or materials	Yes

Non standard options, such as GPS (Global Positioning Systems) are not reimbursable.

For information on vehicle insurance and accident reporting, see Travel Insurance and Accident Reporting.

2.3 Train (Rail) or Bus

Reimbursement for rail transportation is limited to the lowest first-class rate. Transportation by bus is not limited to any specific class of service.

When rail or bus transportation is used instead of available air travel due to business necessity, actual expenses including the cost of meals and lodging will be reimbursed. Reimbursement for the cost of a sleeping car (Pullman) accommodation is allowed in lieu of lodging expense for each night that these accommodations are used.

If a rail or bus is to be used instead of air travel for personal convenience, reimbursement of actual expenses including the fare, cost of meals, lodging, tolls, ferries, and parking shall not exceed sum of the total allowable airfare (if air travel had been used), and the normal cost of ground transportation to and from common carrier terminals. Travelers are advised to contact the Travel Office prior to traveling to determine the allowable airfare and reimbursable limits.

2.4 Ship

When traveling by passenger ship, transportation at the lowest first-class rate is reimbursable. Meals are reimbursable (up to the established M&IE rates) only if not **included** in the fare.

2.5 Motorcycle

Motorcycles (or motor-driven cycles) are **not** allowed for use on official Laboratory business, nor will any reimbursement be made for the use of such vehicles.

2.6 Airport Transportation

Employees are encouraged to support cost effective measures by using the most economical mode of transportation to/from home and the airport. The cost of shuttles, taxis, and airport car limousine services are reimbursable.

2.7 Local Public Transportation

Local public transportation fares (e.g., taxis, buses, subway, or streetcars) are reimbursable.

2.8 Other Types of Transportation

Charges for the use of other types of transportation (e.g., helicopter, boat) are allowed when their use is beneficial to the Laboratory. A justification of the necessity for their use must be included with the Travel Expense Report.

2.9 Parking

Reasonable parking charges for official, rental, and personal vehicles, when used for official Laboratory business are reimbursable. Travelers are encouraged to utilize long-term or off airport facilities when parking at common carrier terminals. Charges associated with valet parking are not reimbursable.

3.0 Lodging and Meals & Incidental Expenses (M&IE)

Lodging and Meals & Incidental Expenses (M&IE), referred to as a per diem allowance, will be reimbursed based on the type of travel and business point in accordance with the per diem rates established by the following federal agencies:

Type of Travel	Agency Establishing Per Diem Rates
Within Continental U.S. (CONUS)	General Services Administration (GSA)
Outside Continental U.S. (OCONUS); i.e., Alaska, Hawaii and U.S. possessions	Department of Defense (DOD)
Foreign	U.S. Department of State

Lodging taxes are not included in the above per diem rates but are reimbursed as a separate expense.

3.1 Lodging

Employees are expected to obtain government (or the most economical) room rates where available.

Actual lodging expenses may exceed the applicable Federal rate to a maximum of 300% per the Federal Travel Regulation if any of the special or unusual circumstances listed below apply. No additional approval other than the individual approving the Travel Expense Report is required (see Travel Expense Report Settlement).

Direct bill hotels are to be set up by individual Divisions for local area hotels. Direct billing for lodging can be reimbursed through a Request for Issuance of Check (RFIC) form for lodging and lodging taxes only. All other expenses including incidentals are the responsibility of the traveler. All expenses other than lodging taxes are to be settled with the hotel by the traveler.

Special or Unusual Circumstances:

- Lodging at a hotel where a conference, meeting or training session is held.
- Lodging costs have temporarily escalated due to events (e.g., sporting events, conventions, or natural disasters).
- Mission requirement - Traveler is required to do business in a certain location on certain days and no lodging available at the government rate.
- Other unplanned circumstances encountered by travelers such as:
    - Government rate booked but not available upon arrival at hotel
    - Flight cancelled; traveler required to spend night in airport hotel and not compensated by airline

If it becomes necessary to exceed the maximum lodging rate on a repetitive or continuing basis for a single business location, the Laboratory must obtain advance approval from the DOE Contracting Officer.

Any increase in lodging expense due to an accompanying non-employee is the responsibility of the traveler.

Non-Commercial Lodging

Travelers lodging in non-commercial facilities such as house trailers or field camping are reimbursed actual expenses up to the maximum applicable lodging rate.

Lodging Owned or Leased by Traveler

Travelers will not be reimbursed lodging costs for stays at a facility either owned or leased by the traveler.

Lodging with a Friend or Relative

Lodging with friends or relatives is non-reimbursable.

3.2 Meals and Incidental Expenses (M&IE)

To minimize costs, travelers are highly encouraged to request reimbursement for the actual cost of meals and incidental expenses up to the applicable Federal M&IE rate (see Lodging and Meals & Incidental Expenses [M&IE]). The following table reflects M&IE allowance guidelines:

Travel Time (Hours)		M&IE Allowance
12 or less		None
More than 12, but less than 24		75% of applicable rate
24 or more	Day of departure	75% of applicable rate
	Full day of travel	100% of applicable rate
	Last day of travel	75% of applicable rate

Meal expenses include the cost of breakfast, lunch, dinner and related tips and taxes. Specifically excluded are alcoholic beverage and entertainment expenses and any expenses incurred for other persons.

When a meal is furnished at a nominal cost, or no cost, or is included in a registration fee, the amount claimed for meals and incidental expenses must be adjusted per the table on the Travel Services website. This does not apply to meals provided by common carriers or complimentary meals provided by hotels/ motels. Incidental expenses include fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships. On foreign travel, laundry and dry cleaning are also considered incidental expenses (see Traveler Directly Reimbursed by a Third Party).

3.3 Long-Term Travel (Domestic or Foreign)

The traveler is considered on long-term travel if assigned to one location away from their primary work location for thirty (30) days or more. It is expected that travelers on long-term travel will use establishments catering to the long-term visitor (e.g., weekly or monthly rentals).

Travel over 30 Days and up to Six (6) Months

Reimbursement for travel over 30 days and up to six (6) months will be limited to a daily amount of up to 55% (at the discretion of the traveler's division) of the applicable federal per diem rates (see Travel Expense Reimbursement Guidelines).

Travel that Exceeds Six (6) Months

For travel assignments that exceed six (6) months, refer RPM 4.01, the Laboratory's Relocation policy.

4.0 Miscellaneous Business Expenses

Miscellaneous business expenses are reimbursable (see Travel Expense Reimbursement Guidelines). The following are examples of reimbursable business expenses:

1. Business office expenses for the use of computers, printers, fax equipment, internet, scanners, copy services, and postal service.

2. Baggage charges are allowable for business travel: One bag for domestic and two bags for foreign.

3. Purchase of materials and supplies when normal procurement procedures are not practical are reimbursable through a Request for Issuance of Check (RFIC) form.

4. Registration fees for attendance at conferences, conventions, or meetings of professional societies. Any part of such fees covering entertainment is not allowed. However, if a non-government organization sponsors a conference and a single, mandatory, non-separable registration fee is charged for both attendance and meals or an evening social event, the Laboratory will reimburse the traveler's full registration fee.

5. Fees for use of automated teller machines, traveler's checks, money orders, certified checks, visas, photographs and inoculations when not obtained through Laboratory facilities.

6. Expenses for laundry and dry cleaning services are not reimbursable if travel lasts less than four nights for domestic travel. For foreign and OCONUS, separate claims for laundry and dry cleaning expenses are not allowed. They are included as part of the incidental expense allowance, which represents 20% of the applicable foreign M&IE rate.

7. One reasonable personal telephone call home per day.

Entertainment and alcohol expenses are not reimbursable.

5.0 Special Requirements for Non-Employees

Non-employees traveling at the Laboratory's request may be reimbursed for their travel expenses. In addition to complying with this Travel Policy, the following special guidelines apply:

Foreign Visitors

Payments to foreign visitors, including advances and reimbursements, may be restricted by the visitor's visa status or other requirements established by the U.S. Citizenship and Immigration Services. Additional documentation must be provided by the visitor for reimbursement. See IRSO Participating Guest Allowable Reimbursement guide and Non-Employee Travel: Guests for documentation information.

Interviewees

Travel expenses associated with interviewing prospective employees are reimbursable. Reimbursement is made for actual transportation, lodging and M&IE. At the discretion of the Laboratory

Director (or designee), actual travel expenses may be reimbursed for spouses/domestic partners who accompany candidates for senior level positions on final interviews.

Reimbursement Requirements

See Attachment A for non-employee travel reimbursement requirements.

6.0 Travel Expense Report Settlement

6.1 Reimbursement – General

It is expected that reimbursement claims for travel expenses be submitted via a Travel Expense Report within 30 days after completion of the trip using the Laboratory's travel expense reimbursement system. For local travel, multiple claims for reimbursement may be submitted on one Travel Expense Report.

The traveler must certify the expenses, which are then approved by an authorized signer in the Laboratory's Signature Authorization System (SAS). If the traveler is a Laboratory employee, the certification must be made in the Laboratory's travel expense reimbursement system. Certification for guests will be made in the system by the Division travel arranger, on behalf of the traveler.

The Travel Office may exercise the option to partially pay a Travel Expense Report when it lacks the required receipts or information.

Travelers are expected to submit itemized original receipts as described in the Travel Reimbursement Expense Guidelines. When original receipts are not available, electronic receipts from the vendor (e.g., emailed or faxed) are acceptable provided that the detail contained is equivalent to the detail contained on the original receipt.

All expense reports are expected to be submitted and processed for payment by the close of the fiscal year to adhere to best practices and ensure all expenses are properly posted.

In the event that Laboratory travel is to be paid by another host organization, and the travel cost is charged to the Laboratory in the interim, it is the responsibility of the traveler to ensure payment is received from the host organization. Include full supporting documentation from the host organization; i.e., invitation letter, invoice, and a copy of the reimbursement check from the host to the traveler or Laboratory), along with a personal check made payable to UC Regents. Acceptable receipts include the following:

Receipt Requirements	Airline/ Rail	Hotel/ Lodging	Event Registration	Commercial Rental Car	Expenses $75 and over
Vendor Name	x	x	--	x	x
Traveler Name	x	x	x	x	--
Transaction Date	x	x	x	x	x
Flight/Rail Itinerary	x	--	--	--	--
Total Fare	x	--	--	--	--
Proof of Payment	x	x	x	x	When Applicable
Ticket Number	x	--	--	--	--
Itemized Daily Costs	--	x	When Applicable	x	x
Total Cost	--	x	x	x	x
Event Name	--	--	x	--	--

6.2 Lost/Missing Receipts (receipts not available)

When circumstances beyond the traveler's control prohibit submission of required receipts, a Lost/Missing Receipt Waiver form will be completed. In the absence of a satisfactory justification, the amount involved will not be reimbursed.

6.3 Trip Reports for Foreign Travel

A DOE Foreign Trip Report is not required for travel fully funded by the Office of Science or a non-DOE funded project. Foreign Trip Reports are required for travel sponsored by the following DOE Program Offices:

- Environmental Management (EM)
- Energy Efficiency and Renewable Energy (EE)
- Fossil Energy (FE)
- National Nuclear Security Administration/NNSA (NA)
- Nuclear Energy (NE)
- Office of Electricity Delivery & Energy Reliability (OE)
- Radioactive Waste Management (RW)

See the Travel Services website for more information on how to create a Trip Report and where to submit it once completed.

***Important**: When preparing an expense report in TREX, an abstract of major highlights, benefits and results will be required for all trips regardless of the funding source.*

Foreign Currency

- Expense reports must be submitted in U.S. Dollars.
- Expenses paid by credit card are reimbursed at the rate used by the credit card company.
- Expenses paid in foreign currency will be reimbursed using the exchange rate at time of conversion. Therefore, it is expected that currency exchange receipts be saved, used for converting foreign currencies back to U.S. dollars, and submitted with the expense report. Fees charged for conversion are reimbursable.
- In the absence of a receipt showing the rate of conversion, the official bank rate of exchange will be based on the first day of official business travel using the currency converter provided by OANDA.

6.4 Expense Report Certification

Before submitting an Expense Report for approval, the traveler must *certify* the expenses claimed. For Laboratory employees, the certification must be recorded by the traveler in the Laboratory's travel expense reimbursement system. Certification for guests will be recorded in the system by the Division travel arranger, on behalf of the traveler.

6.5 Expense Report Approval

Travel Expense Reports must be approved by an authorized signer in the Laboratory's Signature Authorization System (SAS).

A Travel Expense Report cannot be approved by anyone who has a direct or indirect reporting relationship to the traveler. Individuals delegated the authority to approve travel shall not approve their own travel. In addition, travelers may not approve the travel of a near relative, e.g., spouse or equivalent, child, parent, etc.

Travel expenses for Associate Laboratory Directors (ALDs), Division Directors, Deputy Director, and the CFO will be approved by the Chief of Staff. Travel expenses for the Laboratory Director will be approved by the Controller.

6.6 Traveler Directly Reimbursed by a Third Party

When a third party reimburses a traveler for travel expenses, or if the traveler owes money to the Laboratory (e.g., advance exceeds reimbursable expenses), the traveler will remit reimbursement made payable to the UC Regents.

6.7 Supplemental Expense Reports

If the traveler did not receive full reimbursement on an expense report due to non-reimbursable or unallowable costs, a Supplemental Expense Report for additional expenses will only be accepted with itemized receipts.

7.0 Records Retention

The Travel Office has institutional responsibility for retention of completed Travel Expense Reports and required receipts. These travel documents are maintained for seven years.

8.0 Tax Considerations

Under IRS regulations, travel advances not substantiated or returned "within a reasonable period of time" are considered to be of personal economic benefit to the traveler and reportable to taxing authorities. For tax purposes, 120 days is considered "within a reasonable period of time." If an employee does not substantiate expenses and return unused advances within this 120-day period, the Laboratory is obligated under IRS regulations to consider the advances as additional income and to withhold appropriate income and employment taxes. No refund of these taxes may be made, even if the amounts are returned or substantiated after the 120-day period.

9.0 Travel Insurance and Accident Reporting

9.1 Insurance

The University of California (UC) maintains a business travel insurance policy for employees, students and any person traveling on behalf of the Laboratory. Coverage can also be provided for a spouse/domestic partner and dependent(s) while traveling with them (see UC Business Travel Accident Insurance). The policy provides worldwide coverage, 24 hours a day, for a wide variety of accidents and incidents while away from the primary work location at no cost to the traveler for accidental death or dismemberment. The policy also provides travel assistance services (e.g., security extraction, emergency medical evacuation).

The traveler must register at www.uctravel.org for each foreign and domestic trip outside of their home state to ensure coverage. Coverage is automatic for business travel within the state and registration is not required for those trips.

Rental Vehicle Insurance

Travelers are expected to use rental agencies with which the Laboratory or the University of California has system-wide contracts that include insurance coverage. Charges for optional insurance, including collision damage waiver (CDW) and loss damage waiver (LDW) on rental cars in the continental United States, are not allowable and will not be reimbursed. The cost for full collision coverage for rental cars used in Alaska, Hawaii, United States possessions, and foreign countries is allowable.

In the event the traveler is unable to utilize a UC Rental Car Agreement, it is expected that the Corporate Travel Card will be used. In general CDW coverage is provided through the Corporate Travel Card for vehicles rented anywhere in the world (see Corporate Travel Charge Cards).

Private Vehicle Insurance

Travel by private vehicle to the official business destination requires verification of insurance. The minimum prescribed liability insurance coverage is as follows:

- $50,000 for personal injury or death of one person
- $100,000 for injury to, or death, of two or more persons in one accident
- $50,000 for property damage

Employees who use a privately owned vehicle for Laboratory business must provide, upon request, satisfactory evidence of insurance coverage.

When an employee uses a private vehicle for Laboratory business, the employee's own personal vehicle policy is the primary insurance coverage for damage to the employee's private vehicle, damage to a third party vehicle and injury to a third party. For damage to the employee's private vehicle, the Laboratory may authorize up to $500 in reimbursement to cover the insurance deductible. If the employee is injured in an accident, the University's Workers' Compensation Program covers injuries in the course and scope of employment.

9.2 Accident Reporting While on Travel

For all vehicle accidents, notify the local police authority and complete the forms required by the insurance or rental car company. Furnish copies of all reports to the Laboratory Counsel Office.

In addition, accidents involving personal injury must be reported to Laboratory Health Services as soon as possible following the occurrence.

9.3 Injury or Illness While on Travel

Illness or injury requiring hospitalization while on official travel status must be reported promptly to Health Services. In addition, all Laboratory employees are provided with Workers' Compensation coverage for work-related injury or illness that occurs during a Laboratory-approved and funded business trip.

10.0 References

- General Services Administration (GSA) Domestic Per Diem Rates
- Federal Travel Regulation (FTR)
- IRS Publication 15, Circular E, Employer's Tax Guide
- Travel Reimbursement Expense Guidelines

11.0 Glossary

- ***Abstract*:** A summary statement provided in the TREX expense report that reflects (1) major highlights, (2) benefits and (3) results of the trip. Each of the three attributes should be included in the abstract statement.

- ***American Flag Carrier**:* See *U.S. Flag Carrier*.

- ***Approval*:** The process of granting permission. This is required prior to the purchase of a travel ticket.

- ***Authorization***: To formally or officially grant permission. This is required prior to the purchase of any foreign travel ticket.

- ***Business-class***: A premium-class of accommodation offered by the airlines that is higher than coach and lower than first class, in both cost and amenities.

- ***Certify**:* To confirm formally that expenses claimed were incurred on official business on the dates shown and that the expenses identified are in compliance with the Laboratory Travel policy.

- ***Coach-class***: The basic class of accommodations offered to travelers regardless of fare paid.

- ***Collision Damage Waiver (CDW):*** Covers damage to or loss of a rental car.

- ***Common Carrier**:* An organization that transports people or goods from one place to another for a fee.

- ***Continental United States (CONUS):*** The territory of the United States that is within North America between Canada and Mexico, and the adjacent territorial waters.

- ***Direct or Indirect Report:*** The organizational relationship between an employee and their supervisor or manager. A direct report is immediately accountable to one director, supervisor or manager, as defined in the Laboratory's Human Resources Information System (HRIS). An indirect report is an individual who is one or more organizational levels below the direct report.

- ***Domestic Travel***: Travel within United States and its possessions, or travel from a foreign country to the United States.

- ***Employee**:* An individual who receives a paycheck from the Laboratory.

- ***Excess Baggage***: Baggage in excess of the carrier's size and weight limit.

- ***First-class***: Generally, the highest class of accommodation offered by the airlines in terms of both cost and amenities and termed "first-class" by the airlines and any reservation system.

- ***Fly America Act:*** Public Law (commonly referred to as the "Fly America Act"). In general, it requires that foreign air travel funded with Federal dollars is performed on U.S. flag air carriers.

- ***Foreign Travel**:* Travel from the United States to a foreign country (including Canada and Mexico) and return, or travel between foreign countries.

- ***General Services Administration (GSA):*** An independent agency of the United States government established in 1949 to help manage and support the basic functioning of federal agencies.

- ***Guest:*** An individual who is not a Laboratory employee.

- ***Incidental Expenses***: Fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships. On foreign travel, laundry and dry cleaning are also considered incidental expenses.

- ***Involuntary Denied Boarding:*** An airline term for a situation in which a passenger is not allowed to board an aircraft due to overbooking, weight restriction, etc.

- ***Itemized Receipt:*** Detail of specific expenses charged to the traveler, e.g., a lodging receipt reflecting the room rate, taxes, telephone charges, etc.

- ***Local Travel***: Travel within a distance of 150 miles (one way) from the traveler's Primary Work Location or residence that will be completed within one calendar day without lodging.

- ***Lodging****:* Expenses for overnight sleeping facilities. Does not include accommodations on airplanes, trains, buses, or ships, which are included in the cost of transportation.

- ***M&IE:*** Meals and incidental expenses.

- ***Meals***: Expenses for breakfast, lunch, dinner, and related tips and taxes. Specifically excluded are alcoholic beverages and entertainment expenses and any expenses incurred for other persons.

- ***Non-Employee***: An individual who is not a Laboratory employee (i.e., does not receive a paycheck from the Laboratory). Includes, but not limited to, interviewees, invited guests, participating guests, consultants, and subcontractors.

- ***Non-Foreign Overseas***: Business points in Alaska, Hawaii and US possessions.

- ***OCONUS:*** Travel outside the continental United States (i.e., Alaska, Hawaii and United States possessions).

- ***Official Laboratory Travel***: Travel necessary to accomplish official business on behalf of the Laboratory. Official travel is properly authorized, processed, conducted, reported and reimbursed in accordance with this policy.

- ***Per Diem***: Combined daily expenses for lodging and meals & incidental expenses (M&IE). Per Diem within the continental United States (CONUS) is set by the General Services Administration (GSA). Per Diem within Alaska, Hawaii and the United States possessions (i.e., non-foreign overseas) is set by the Department of Defense. Per Diem within foreign countries is set by the United States Department of State.

- ***Primary Work Location***: The place where the major portion of the traveler's work time is spent, or the place to which the traveler returns during working hours upon completion of special assignments.

- ***Regular use of private vehicle***: More than four trips per calendar month totaling at least 300 miles.

- ***Travel Authorization***– A form in the Laboratory's travel expense reimbursement system that reflects information about a planned trip.

- ***Travel Expense Report***: The form used to process requests for reimbursement to the traveler for any amounts due which is accessed through the Laboratory's travel expense reimbursement system.

- ***Travel Expenses***: Expenses that are ordinary and necessary to accomplish the official business purpose of a trip.
- ***Travel Status***: The period during which a traveler is traveling on official business.
- ***Travel Voucher***: See *Travel Expense Report*.
- ***Traveler***: An employee or guest who is authorized to travel on official Laboratory business and travels on behalf and at the expense of the Laboratory.
- ***Unofficial Travel:*** Travel undertaken by an individual without official, fiscal, or other obligations on the part of the Laboratory; i.e., personal travel.
- ***U.S. (American) flag carrier:*** An air carrier which holds a certificate under the Federal Aviation Act of 1958 authorizing operations between the United States and/or its territories, and one or more foreign countries. Each U.S. airline has a two letter alpha code designating it as a US. Flag air carrier (e.g., UA for United Airlines).
- ***U.S. Code Share***: An arrangement where an airline is jointly marketed as a flight for one or more other airlines. The term "code" refers to the identifier used in a flight schedule, generally the 2-character airline designator code and flight number. One airline places its code on the flights of another in order to coordinate services, advertise and sell the other airline's services as its own. Most major airlines have code sharing partnerships with other airlines and code sharing is a key feature of major airline alliances. A code share flight uses the same two-letter carrier code during all legs of the trip.

Attachment A - Travel Reimbursement Requirements for Non-Laboratory Employees

No.	Type of Traveler	Travel Policy Compliance	Travel Expense Report and Receipts Required to be Submitted to LBNL	Travel Expense Report Reviewed by Travel Disbursements Staff Before Travel Expenses Can be Paid
1	**Travel is covered by a subcontractor or consultant agreement and directly reimbursed by the traveler's home institution/organization**			
1.a	Institution/organization is a(n): - Educational institution compliant with OMB Circular No. A-21; - FAR-compliant organization; or - DOE laboratory	Policy of the traveler's home institution/ organization and any specific travel terms and conditions in the subcontract or agreement	No	N/A
1.b	The institution/organization is not OMB Circular No. A-21 or FAR-compliant or a DOE laboratory	LBNL policy and any specific travel terms and conditions in the subcontract or agreement	Copies	Yes
2	**Travel is covered by a subcontractor or consultant agreement and not directly reimbursed by the traveler's home institution/organization (i.e., LBNL reimburses the traveler directly)**	LBNL policy and any specific travel terms and conditions in the subcontract or agreement	**Original** expense report (using home organization's form) and **original or electronic** receipts are required	Yes
3	**Travel is not covered by a subcontract or consultant agreement (e.g., interviewee, guest)**	LBNL policy	Must use LBNL travel expense reimbursement system (input by a division travel arranger); **original** or electronic receipts required	Yes

Non Standard Financial Billing and Payment Terms for Work for Others

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	September 14, 2007
Effective Date:	September 14, 2007
Revision Number:	0
Scheduled Review Date:	September 14, 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to define the guidelines for non standard financial billing and payment terms for Work for Others' agreements to ensure compliance with DOE reimbursable work cash management requirements. Non standard financial terms are only considered when specifically requested by a sponsor.

Most non standard terms are associated with non-federal awards. However, there are instances when federal sponsors require additional processing and are governed by this policy.

There are a number of non standard financial billing and payment terms for Work for Others' exceptions previously approved by the Office of the Chief Financial Officer (OCFO). A sponsor is added to the exception list once it is approved by the OCFO.

Policy

The following are defined sponsors' contractual standard financial terms requirements:

- Receipt of a 120-day advance payment (four highest months of costs) prior to the start of work on the award (see Advance Payment Required for Non-Federal WFO policy)

- Maintenance of a 120-day advance payment throughout the period of performance of the contract until such time as Advance Paid + Invoice Payments = Contract Funding Limit. At such time, the advance balance is drawn down (see Advance Payment Required for Non-Federal WFO policy).

- Full advance for agreements that have an estimated cost of $25,000 or less or that are completed performance-wise in 90 days or less (see Advance Payment Required for Non-Federal WFO policy).

- Monthly invoices with payment due upon receipt of the invoice.

The following are examples of sponsors' non standard financial billing or payment terms:

- Special billing or payment periods such as scheduled payments or quarterly billings, other than those exempted.

- Monthly or other periodic invoices with additional requirements such as certifications, letters of truth and accuracy, notarized invoices, invoices accompanied by financial reports matching scientific tasks/milestones to invoice costs, inclusion of spend plans, budgets or receipts for items purchased, or payment withholds (retention) until receipt of final reports or task completion or award close out.

- Advance insufficient to cover the 120 days or 4 months of highest costs.

- Waiver of advance requirement for non-federal awards excluding approved WN funded awards (see WN Funding Requests policy).

- Use of bridge funding to begin work or cover contract cost (see Bridge Funding policy).

Procedures

Approval Criteria

Division Resource Analyst	Terms are reasonable and possible to meet. Agrees to provide sponsor's requested reporting / certification / documentation requirements if applicable.
Division Director (or designate - limited to Deputy Division Director or Business Manager)	Accepting the terms are in the best interest of LBNL given required resources and agrees to provide sponsor's requested reporting / certification / documentation requirements if applicable. Approves division's administrative effort to accommodate terms.
Division Director - if payment is at risk (no designate)	Accepting the terms is in the best interest of LBNL given the potential risk of uncollectible receivables.
Sponsored Projects Office	Reviews Non Standard Financial terms form to include sponsor's justification.
Budget Office Analyst	Reviews terms that result in the need for bridge funds in excess of $50,000 for bridge funds availability.
Accounts Receivable	Terms are reasonable and possible to meet.
CFO (or designate)	Approves deviation of standard terms.

Roles and Responsibilities (prior to inclusion of non standard financial terms in a reimbursable work agreement):

Sponsored Projects Office (SPO)

- Submits the sponsor's proposed terms on the Non Standard Financial Terms form with the agreement language to the Accounts Receivable Help Desk, ARHelp@lbl.gov, for review and comment, with copies to the Division Resource Analyst and Budget Office Analyst. For repeat customers, this is not required if the terms have not changed since the last approval. Accounts Receivable also refers the names of sponsors with a history of delinquent payment issues to SPO.

Accounts Receivable (AR)

- Reviews the financial terms, identifies accommodations required to meet terms and identifies potential risks, including impacts to cash status, prior history with sponsor, and delinquent payment issues within **2 business days** from receipt of form from SPO.

- Forwards completed form to Budget Office Analyst and Division Resource Analyst for review.

- Receives and reviews Non Standard Financial Terms Request form and Bridge Funding Request, if applicable, from the Division Director via the Division Resource Analyst within **2 business days** from receipt of form.

- Notifies SPO, the Division Resource Analyst, and the Budget Office if there are any issues with the Non Standard Financial Terms Request form.

- Secures approval from the CFO (or designee).

- Sends notification of approval to the Division, SPO, and the Budget Office within **2 business days** of receipt of completed form.

Division Resource Analyst

- Reviews the terms and evaluates the administrative effort needed to meet identified accommodations and confirms with the Principal Investigator that the terms are acceptable.

- Prepares and submits the Bridge Funding Request, as defined in the Bridge Funding policy, for terms requiring bridge funding in excess of $50,000. Bridge funding usage determination is based on the proposal's highest two months of costs. The standard assumption is that the terms will result in a two month delay in payment from the sponsor. If the highest two months of costs are less than $50,000 then bridge funding approval is automatic once the Non Standard Financial Terms are approved. If the highest two months of costs are greater than $50,000, a Bridge Funding Request is required.

- Forwards Non Standard Financial Terms Request form and the Bridge Funding Request, if applicable, with the Division Director's approval to the Accounts Receivable Help Desk, ARHelp@lbl.gov, within **2 business days**.

Budget Office

- For terms requiring bridge funding in excess of $50,000, reviews and completes Bridge Funding Request and Non Standard Financial Terms forms.

- Forwards the Bridge Funding Request and Non Standard Financial Terms Request form to the Accounts Receivable Help Desk, ARHelp@lbl.gov, with copies to the Division Resource Analyst and SPO within **2 business days**.

Roles & Responsibilities (for signed reimbursable agreement with approved Non Standard Financial Terms)

Sponsored Projects Office

- Assigns the appropriate billing attribute in the Research Administration, Proposal/Project Information Database (RAPID) noting the non standard financial terms or billing requirements on the Sponsored Projects Award Authorization (SPAA) document in the comments section.

- Includes all agreed to non standard criteria on the contract SPAA document.

- Assists Accounts Receivable with payment resolution (in the event the sponsor is late with payment remittance due to the non standard terms).

- Checks the status of receivables prior to renegotiating contract terms (e.g., funding increased or reduced or period of performance changed) for those receivables reported delinquent by the AR Manager.

- Ensures all billing information includes name, address, phone and fax numbers, email, and/or sponsor's reference number of the financial payment contact is accurate and completed on the contract at the time of contract signature.

- Sets up the non-federal award as a partial advance if the award proposes to use scheduled billing and payment terms is not paid with full advance.

- Sets up scheduled billing in the contract to coincide with financial report schedule or sponsor payment calendar, if requested by the sponsor. Due dates are required when requesting scheduled billing.

- Notifies the Accounts Receivable Help Desk, ARHelp@lbl.gov, via the SPAA as soon as the negotiation is completed, if the award is terminated prior to the contractual expiration date.

Division Resource Analyst

- Prepares the financial reports (e.g., quarterly spend plans).
- Signs all letters of certification or truth on the schedule outlined by the sponsor (see Financial Certifications for WFO Awards).
- Submits certifications to Accounts Receivable Help Desk, ARHelp@lbl.gov, by the **10th business day** of the month.
- Sends out Accounts Receivable's generated invoices if additional information is required and coordinated in advance with Accounts Receivable. Notifies Accounts Receivable when the invoice is sent to the sponsor.
- In the event the sponsor is late with the payment remittance due to the non standard terms, assists Accounts Receivable with payment resolution.

Principal Investigator

- Ensures the technical reports are submitted to the sponsor in a timely manner.

Accounts Receivable

- Notifies the Division Resource Analyst and the Sponsored Projects Office for assistance with payment resolution with the sponsor in the event the sponsor is late with payment remittance per the non standard terms.
- Notifies SPO if the award can proceed forward to completion for receivables reported delinquent.

Non Standard Invoices

- Issues non standard invoices with required backup to sponsor after receipt of Division prepared reports unless the Division sends out the invoices.
- Sets the advance to be drawn down first if the award uses scheduled billing/payment terms with partial advance.
- Cancels the scheduled billing, reviews the account activities, and/or applies advance balance against open invoices with AR Manager's approval if award is terminated prior to the contractual expiration date (SPAA notice).

Budget Office

- Enters the Bridge Funding Request into the Budget System based on two month cost estimate for life of proposed contract.

Authority

- Department of Energy Accounting Handbook, Chapter 8, Receivables
- DOE Accounting Handbook – Chapter 13, Reimbursable Work, Revenues, and Other Collections

Contacts

- Controller
- Budget Analyst, Budget Office
- Manager, Sponsored Projects Office

Glossary

- ***Work for Others***: Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related Documents

- Advance Payment Required for Non-Federal WFO policy
- Bridge Funding policy
- Financial Certifications for WFO Awards
- Accounts Receivable website - Procedures
- WN Funding Requests policy

Food and Beverage Policy

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	January 15, 2009
Revision Date:	March 20, 2009
Revision Number:	1
Scheduled review date/frequency:	January 15, 2010 (every year)
Primary contact:	Manager, Operations

Summary

The purpose of this policy is to provide guidance for food and beverage service while conducting Laboratory business.

Scope

This policy applies to food and beverage provided either on-site or off-site during a Laboratory-hosted/co-hosted event (meeting or conference) **regardless of funding source**, and includes DOE Management and Operating (M&O) contractors.

The terms set forth in this policy are consistent with DOE Contract 31 and the DOE Acquisition Regulation Letter, No. AL-2005-12. Food and beverages provided while conducting Laboratory business will be conducted in a reasonable manner, minimizing costs wherever possible.

Policy

All requests for on-site or off-site food and beverages for a Laboratory hosted/co-hosted event are processed through the Laboratory's Event Approval Database. (See policies on Laboratory Hosted Meetings and Conferences.)

On-Site Meetings

For the purpose of this policy, **on-site** refers to any Laboratory-owned or leased facility located in the San Francisco Bay Area and the Laboratory facility located at the Washington, D.C. Office. University of California "Campus" building space is **not** considered an on-site facility.

Food and beverages for on-site and local events is allowable if **all** of the following conditions are met:

- Event **exceeds two hours**.
- **External** (non-LBNL employee) participants must be present (at least 20% is required).
- Event is **not routine** (i.e., the conduct of regular business, such as staff meetings, monthly or quarterly reviews, new employee orientation, or employee training).
- The nature and urgency of the event requires work to be performed **during** food and beverage service.
- Work directly **precedes** food and beverage service.
- Food and beverages are **incidental** to the meeting or conference. Attendees are not free to take meals elsewhere without being absent from essential exchange of information.
- An **agenda and attendee list** (with affiliations) are provided.
- Requests for food and beverage must be entered and approved through the Laboratory's Event Approval Database. Approved requests are submitted to Conference Services using the Event Approval Database **at least two (2) business days prior** to the start of a meeting and **at least 45 calendar days prior** to the start of a conference.

  Note: Open **conference** requests are closed and locked in the Event Approval Database on the **45th calendar day** prior to the start of the conference.

Off-Site Meetings

For the purpose of this policy, **off-site** refers to any building space not located at any of the Laboratory owned or leased facilities referenced in On-Site Meetings above. Off-site includes all University of California "Campus" building space.

The decision to conduct an off-site meeting with food and beverage should include the following:

- Cost
- Laboratory benefit
- Attendance
- Transportation
- Logistics (rationale)

All off-site meetings that have any costs are also processed and approved through the Event Approval Database. The off-site meeting request must include:

- **Three off-site comparisons**
- Budget
- Percentage of non-Laboratory attendees (at least 20% is required)
- Agenda
- Attendee list (with affiliations)

When evaluating the three **off-site comparisons**, the site with the **lowest overall cost** will be the primary factor in choosing the meeting location.

Local Maximum Per Diem Rates

The following are the maximum per diem rates for the **Oakland/Berkeley** area. These rates have been adjusted to meet industry standards. Breakfast is not reimbursable for meetings:

Expense Type (Includes Tax, Tip and Delivery)	Allowable M&IE Per Diem for Oakland
Breakfast	n/a
Lunch	$19.00
Dinner	$40.00
Total	**$59.00**

Refreshments (a.m. or p.m.)	**$14.75**

Alcoholic Beverages

Except as authorized in this policy, the purchase, use, possession, or consumption of alcoholic beverages on any premises owned or controlled by the Laboratory is **prohibited**.

Alcoholic beverages may, however, be served on occasion for functions conducted on **Laboratory premises** with prior written approval from the Division Director and the Laboratory Director or designee (use the Alcohol Beverage Request form). The request must include the following:

- Nonfederal funding source for the purchase of alcoholic beverages
- Function objective
- Number of anticipated attendees
- Date, time and location
- Function host

Recruitment Meals

Meals during recruitment are limited to **lunch or dinner** (breakfast and refreshments are not permitted). The reimbursable meal is limited to the interviewer and/or interviewee (can be either or both) who are in **official valid Laboratory travel status**.

For reimbursement, all of the following conditions must be met:

- The open Laboratory position is for a senior level employee
- The meal claimed for reimbursement pertains to an individual on **official valid Laboratory travel status**
- The recruitment meal is claimed as a per diem travel expense (M&IE)
- An interview schedule is provided which includes
    - Title of open position
    - Laboratory hiring department
    - Name of interviewee
    - Date, location and time of the interview
    - Name of and title Laboratory interviewer

A Recruitment Meal Approval Request form must be submitted to **Conference Services** for approval at **least two (2) business days** prior to the interview meal**.**

Reimbursement for actual recruitment meal costs for approved requests are made using a Request for Issuance of Check form, with the approved Recruitment Meal Approval Request form attached.

If a meal for either party is furnished by the University of California or another government agency, the meal is considered part of the travel per diem rate and cannot be reimbursed as a direct charge.

See RPM 2.01 Hiring Policies and Procedures.

Food and Beverages for Guests

The practice of providing food and beverages to guests, customers or associates, where the primary purpose may appear to be social, is **unallowable** and, therefore, not reimbursable**.**

Authority

- DOE Acquisition Regulation Letter, No. AL-2005-12
- DOE Contract 31

Contacts

- Manager, Operations
- Financial Policy Office
- Conferences Services

Glossary

- ***Event***: Any formal activity that involves the dissemination or exchange of trade, business, professional or technical information with employees or peers. A Laboratory event is either a meeting or a conference.

- ***Management and Operating (M&O) Contractor***: The third party management of a DOE facility. DOE competitively awards M&O contracts to manage and operate DOE facilities. These M&O contractors are integrated with DOE and operate under strict DOE controls and guidelines.

Major Financial Management Roles and Responsibilities Between the Divisions and OCFO Field Operations

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	August 2008
Revision Date:	n/a
Revision Number:	0
Scheduled review date/frequency:	August 2009 (every year)
Primary contact:	Manager, Field Operations

Summary

This policy identifies and clarifies the major financial management roles and responsibilities for senior Laboratory Division management teams (e.g., Division Director, Deputy Division Director, Operations Manager, Business Manager, Department Heads, Group Leads, and Program Leads), Principal Investigators (PI)/Program Managers (PM), and OCFO Field Operations Resource Analysts (RA)/Resource Managers (RM).

Policy

This policy is written under the authority of the following University of California (UC), Laboratory, and U.S. Department of Energy (DOE) regulations, guidelines, and documents:

- **DOE Contract 31**
  - Appendix I – Adherence to DOE Orders, financial orders are listed
  - Appendix O – The Laboratory's five Associated Laboratory Directors (ALDs) are specifically named as the primary responsible and accountable managers for operational and scientific activities within each of their respective Divisions
  - Section H – Special Contract Regulations that include specific references to program development and budgetary administration (e.g., DOE and WFO)

- **UC Standing Order 100.4 (dd)** – UC Regents delegated signature authority to the Laboratory Director and any subsequent designees

- **UC Contract and Grant Manual**
  - Chapter 13 – 910/920 (delegated authority to solicit and accept/execute grants and contracts)
  - Chapter 1 – 510 (leadership of a sponsored project)
  - Chapter 10 – 330 (PI financial management responsibilities)

- **Laboratory Financial Management Policies and Procedures**

Key Guidance/First Order Principles

Roles and Responsibilities:

- For each Division, the **Division Director** and **his/her senior management team** has overall financial responsibility and accountability for all Division-managed programs

- **Principal Investigators/Program Managers** have overall financial responsibility and accountability for the programs and projects they manage

- **Resource Analysts/Resource Managers** provide financial support, knowledge and expertise to the Divisions and have financial responsibility and accountability for their actions

The Laboratory's "Ten Financial Commandments"

1. Don't spend dollars you do not have. Funding must be placed in Contract 31, not just in the DOE Approved Funding Program (AFP) or contract award before work can proceed.

2. Spend funding only on the purpose for which it is intended.

3. Don't mix funding sources for projects without documented rationale.

4. Don't charge research costs to an indirect budget (except for LDRD); i.e., overhead, organization burdens, recharges/service centers.

5. Have a causal-beneficial relationship between the cost elements of an indirect budget and its corresponding distribution base.

6. Maintain consistency in cost distribution practices over time.

7. Use Full Cost Recovery – No Subsidies to Programs/Projects.

8. Record all costs of a project in the accounting period for which services were performed or goods delivered (include accruing for all appropriate costs in the correct period of performance to that project).

9. Transfer costs only if necessary, appropriate, fully documented and justified (as outlined in the LBNL Resource Adjustment Policy).

10. Comply with DOE funding categories and related thresholds (e.g., colors of money).

    - $50,000 – Capital Equipment
    - $2,000,000 – Major Item of Equipment (MIE)
    - Less than $5,000,000 – General Plant Project (GPP)
    - $5,000,000 – Line Item Construction Project

Roles and Responsibilities

The following individuals are accountable for the major financial management roles and responsibilities at the Laboratory:

Division Director and His/Her Senior Management Team

- Provide strategic financial leadership/management for Division programs
- Ensure a strong resource stewardship and funds control environment and culture exists. This is typically delegated to the Deputy Director, Operations Manager and/or Business Manager
- Comply with the Laboratory's "Ten Financial Commandments" as stated above
- Provide final Division review and approval of project proposals, cost/spend plans, and major funding/cost actions. These functions are typically delegated to the Deputy Director, Operations Manager and/or Business Manager
- Provide ongoing operational awareness at the division level by:
    - Measuring programmatic financial status (e.g., plans versus costs)
    - Conducting periodic program/budget reviews
    - Implementing and maintaining strong internal controls structures and mechanisms

Principal Investigator and/or Program Manager

- Work closely with the Division Resource Analyst:
    - Develop a project proposal based on the Principal Investigator's technical work scope, resource requirements, and appropriate cost elements
    - Develop an executable, fully burdened spend plan that ensures Full Cost Recovery
- Execute the project in a manner that ensures costs are appropriate, allowable, and allocable
- Understand, interpret, and apply knowledge of funding sponsor financial guidelines, policies and contract terms as well as Laboratory policies
- Exercise delegated signature authority on affected financial and/or procurement actions
- Review and provide timely, accurate and complete feedback/inputs to the Resource Analyst on the following:

- Funding and cost projections for affected program/project spend plans
- Periodic budget execution reports
- Source materials and analysis used in Division program/budget reviews

Resource Analysts (OCFO Field Operations)

- Work closely with the Principal Investigator/Program Manager:
  - Prepare and/or coordinate the planning, development and submission of the financial aspects of a project proposal based upon the Principal Investigator's technical work scope and resource requirements
  - Develop an executable, fully burdened spend plan that ensures Full Cost Recovery
  - Review and update the spend plan and cost projections to ensure successful project execution
  - Prepare source materials and analyses required for conducting periodic Division program/financial reviews
- Understand, interpret, and apply knowledge of funding sponsor financial guidelines, policies and contract terms as well as Laboratory policies
- Provide the Division with periodic standard and ad hoc summary and detailed financial reports that are timely, accurate and complete for their Division's programs and projects
- Work closely with Principal Investigators/Program Managers to mitigate potential over commitment and costing issues at funding control points during the year
- Exercise delegated signature authority on financial and/or procurement actions
- Develop, monitor, and maintain Division Project IDs and tree structures
- Identify issues concerning interpretation and implementation of DOE, UC and Laboratory financial management policies and procedures. Review with Division Business Manager and OCFO Field Operations Manager.

See *LBNL Major Financial Management Roles and Responsibilities* for further guidance and details for specific major financial management roles and responsibilities for each position described above.

Authority

- DOE Contract 31
- UC Standing Order 100.4 (dd)
- UC Contract and Grant Manual
- Laboratory Financial Management Policies and Procedures

Contacts

- Manager, Field Operations
- Assistant Manager, Field Operations

Glossary

- ***Allocable***: A cost charged to one or more cost objectives in accordance with the relative benefit received or other equitable relationship.

- ***Burdened****:* Indirect costs. Laboratory burdens tend to be local in nature, and apply to particular Divisions or functions, such as procurement burden, travel burden, or organization burden. Also refers to the "tax" that is allocated to a direct cost objective to recover the cost of a set of indirect activities.

- ***Spend Plan***: A detailed program or map of how (a budget) will be used up, paid out, or consumed; a monthly plan of encumbrances, expenses, and income for a project or organizational unit. The sum of the months' planned obligations within the year should not exceed the corresponding appropriated or approved amount. Typically prepared prior to the start of a project and updated periodically as needed and includes details on how (budget or resource category) and/or when (monthly, quarterly, annual) a budget will be spent.

- ***Tree Structures***: Refers to the Divisions' hierarchical organization of their Project IDs such that they reflect and are consistent with their programs/projects work breakdown structures and relevant Laboratory financial policies and procedures.

Account Reconciliations

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part II**

Originally issued:	December 2003
Revision Date:	December 31, 2004
Revision Number:	1
Scheduled review date/frequency:	December 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to establish the scope and define the procedure and documentation requirement for account reconciliations.

Policy

Each LBNL balance sheet account will be reconciled on a regular, ongoing basis as appropriate. Determination regarding the frequency (e.g., monthly or quarterly) reconciliations are required will be based on risk and materiality factors related to account activity and/or amount.

Procedure

Bank reconciliations will be completed within 10 workdays following receipt of the bank statement.

Periodic reconciliations will be completed by the last workday of the month following the end of the required period (i.e., monthly, quarterly, semi-annual, or annual). An appropriate justification/explanation must be documented for each account to be reconciled less frequently than on a monthly basis.

Exception: Reconciliations due for the November month end will be completed by the 20th workday following November 30. (This provides for the early Laboratory shut down in December.)

Appropriate documentation for each account reconciliation will be maintained. The following is the minimum documentation required for each reconciliation:

- Completed Account Reconciliation Worksheet for the current reconciliation period.
- Copy of the account definition from MARS / SGL Chart of Accounts.
- Completed Account Reconciliation Summary (optional) including explanation of variances and planned actions for appropriate disposition, if applicable.
- Copies of appropriate documentation supporting account details and highlighted balances (for easy identification).
- The Account Reconciliation Worksheet is required to be signed by the responsible supervisor in a timely manner indicating written approval and acceptance of the documentation.

Authority

- Chief Financial Officer, Lawrence Berkeley National Laboratory

Contacts

- Controller
- Accounts Receivable Office
- Manager, Disbursements
- Financial Policy and Training Office

References

- Account Reconciliation Worksheet
- Account Reconciliation Summary

Accounting for Excess Stores Inventory

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally Issued:	November 30, 2005
Revision Date:	November 30, 2007
Revision Number:	0
Scheduled review date/frequency:	November 30, 2009 (every two years)
Primary contact:	Controller

Summary

This policy and procedure prescribes financial processes to be followed in accounting for excess stores inventory.

Policy

Inventory or material stocks that exceed the demand expected in the normal course of operations because the amount on hand is more than can be sold or used in the foreseeable future, that do not meet management's criteria to be held in reserve for future sale or use, and that are not required as a safety or insurance margin, shall be classified as excess. Excess items are those items that are more cost-effective to dispose of than to hold.

Procedures

- At the beginning of the fiscal year, the Stores Inventory Specialist and Site Services Management identify inventory items to excess.
- Stores personnel will physically remove the excess material from the shelves, and also remove it from the Maximo system.
- The excess inventory is then sent to the Property Reuse Center, and entered into the Excess Tracking System.
- The Excess Inventory account is charged when items are removed from the Maximo system.
- When the excess inventory is disposed, the Excess Inventory account is credited, and a loss is recorded for the cost of the inventory.
- If all or part of the excess inventory is sold, the proceeds are used to reduce the loss recognized on the excess inventory sold.

- The General Accounting Department reconciles all of the Stores Inventory accounts as well as the Allowance for Loss on Stores Inventory account.

Authority

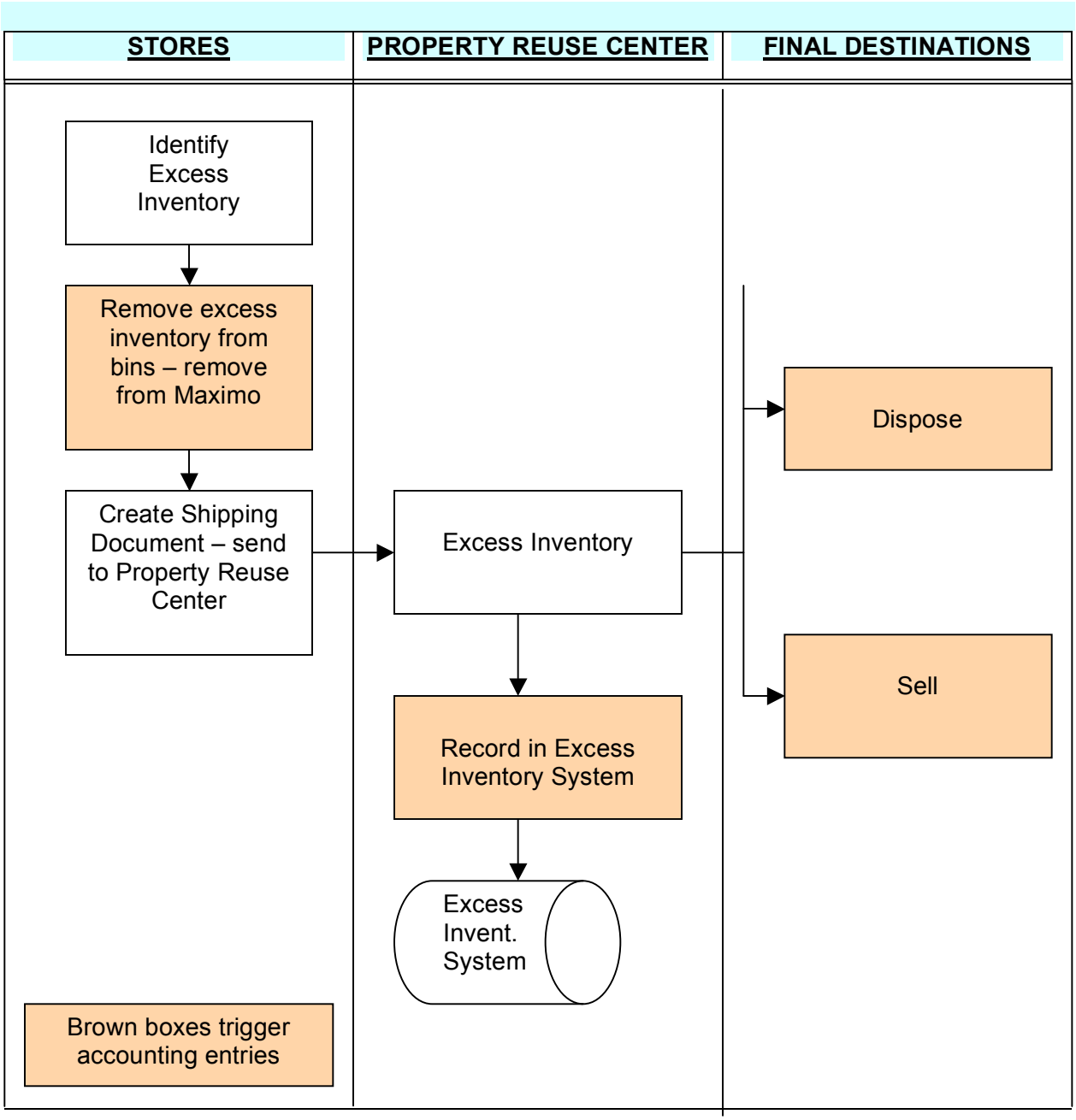
- DOE Accounting Handbook, Chapter 9, Accounting for Inventory and Related Property
- Work Instruction – Site Services Group #SS06 – March 1, 2005

Contacts

- Manager, General Accounting
- Manager, Financial Policy and Training

Glossary

- ***Stores Inventory*:** Materials, supplies, and parts on hand that are normally used or consumed in operations, maintenance, and general use.
- ***Excess Inventory*:** Inventory or material stocks that exceed the demand expected in the normal course of operations because the amount on hand is more than can be sold or used in the foreseeable future, that do not meet management's criteria to be held in reserve for future sale or use, and that are not required as a safety or insurance margin, shall be classified as excess. Excess items are those items that are more cost-effective to dispose of than to hold.


STORES
PROPERTY REUSE CENTER
FINAL DESTINATIONS
Identify Excess Inventory
Remove excess inventory from bins – remove from Maximo
Create Shipping Document – send to Property Reuse Center
Excess Inventory
Record in Excess Inventory System
Excess Invent. System
Dispose
Sell
Brown boxes trigger accounting entries

RELATED ACCOUNTING ENTRIES

Remove excess inventory from bins – remove from Maximo

GL Account (DOE)	Account Description	Debit	Credit
151200 – (1691)	Excess Stores	100	
151941 – (1691)	Stores Issues		100

Disposal of Excess (no sale of excess)

GL Account (DOE)	Account Description	Debit	Credit
614010 – (8132)	Excess Operating Allowance for Loss)	100	
151200 – (1691)	Excess Stores		100

Partial Sale of Excess/Disposal of Remainder (different from Disposal of Excess Entry)

GL Account (DOE)	Account Description	Debit	Credit
614010 – (8132)	Excess Operating Allowance for Loss)	50	
211602 – (3151)	Cash	50	
151200 – (1691)	Excess Stores		100

Accrued Liabilities

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	March 31, 2005
Revision Date:	March 31, 2005
Revision Number:	0
Scheduled review date:	December 31, 2009 (every two years)
Primary contact:	Controller

Summary

This policy establishes guidelines for accrual accounting requirements for liabilities incurred at Lawrence Berkeley National Laboratory (LBNL).

Policy

Overview

The Laboratory maintains its accounts and prepares financial statements on the accrual basis of accounting in conformity with Generally Accepted Accounting Principles (GAAP).

All obligations for materials received or services performed are to be recognized in the LBNL Financial Management System (FMS) in the period incurred. A balance should be maintained between the effort required to measure and accrue costs and the added value of that effort.

Scope

This policy is applicable to all incurred obligations for payroll, goods, services, travel, and subcontracts.

If not automatically captured in FMS, liabilities will be measured using accurate, complete and current information available.

Procedures

- Payroll will accrue and report all payroll and related liabilities.
- Disbursements will record all non-payroll obligations.
- The Department or Division will identify and report to Disbursements all other *unrecorded* obligations of the Laboratory. Each Department or Division is responsible to review and analyze the circumstances that apply to the unrecorded liability, using discretion to determine if a manual accrual is appropriate.

An accrual is appropriate and required if it is considered material (substantial likelihood that omission of the accrual would affect or influence decisions).

Accrual Process

To record a manual accrual in the Financial Management System, the following information must be submitted to Disbursements by the last Thursday before the close of the last month of the accounting period and kept on file as documentation with the requesting Department or Division:

- Accrual amount
- Beginning and ending date of the accrual period
- Basis and justification for determining amount accrued
- Project ID
- Purchase order/subcontract number
- Resource category
- Indication that the accrual is reversing or non-reversing

Accrual Criteria

During the Fiscal Year

Manual accruals are not required for:

Services

If the service was provided during the current reporting month, and the invoice was received and approved by month end.

Goods

If the item(s) and the invoice were recorded as received in FMS in the current reporting month, **or**

If receipt was required, and the item(s) were recorded as received in FMS, but an invoice was not submitted. (An *automatic* monthly accrual would be generated in FMS.)

Manual accruals determined to be material are required on a fiscal quarter basis for:

Goods

If the item(s) were received by the Department or Division, but an invoice was not received.

Services

If the service was provided before the end of the fiscal quarter, but the Laboratory was not billed for the services provided, **or**

If the vendor is custom-building an item or performing on a construction subcontract, an accrual is required for the *percentage* of the item or subcontract estimated to be completed before the end of the fiscal quarter.

At Fiscal Year-End

Manual accruals are not required for:

Services

If the service was provided during the fiscal year, the invoice was received by Disbursements, and Department or Division certification was provided.

Goods

If the item(s) were recorded as received in FMS *prior* to the close.

Manual accruals determined to be material are required at fiscal year-end for:

Goods

If the item(s) were received by the Department or Divisions, but the invoice was not received by Disbursements by September 30, **or**

If the item(s) were shipped but not received by September 30, and the contract covering the item(s) ordered stipulated freight on board (FOB) shipping point (the Laboratory takes possession when the item is shipped). Documentation is required for the vendor shipping date.

Services

If the service was provided during the fiscal year, but the invoice was not received by Disbursements by September 30, **or**

If the vendor was custom-building an item or performing on a construction subcontract, an accrual is required for the *percentage* of the item or subcontract estimated to be completed by September 30.

Roles and Responsibilities

Each Department or Division is responsible for updating and maintaining an accrual worksheet identifying the current month end balance for each project and the accruals for each purchase order

The Office of the Chief Financial Officer (OCFO) is responsible for monitoring proper documentation and reconciling the liability accrual accounts. The OCFO will conduct quarterly reviews of selected accrual transactions executed by the Departments or Divisions to evaluate compliance with policy and the status of the liability accrual accounts.

Authority

- Department of Energy (DOE) Contract 31
- DOE Accounting Handbook, Chapter 11, Liabilities

Contacts

- Controller
- Manager, General Accounting
- Manager, Payroll
- Manager, Disbursements
- Manager, Financial Policy and Training

Glossary

- **Liability**: A present obligation arising from past events that will result in probable transfer of assets or providing of services in the future.
- ***Obligation***: The amount of an order placed, contract award, service received, or similar transaction during a given period that will require a payment during the same or a future period. Such amounts include outlays for which obligations have not been previously recorded and reflect adjustments for differences between obligations previously recorded and actual outlays to liquidate those obligations. All obligations must be supported by written documentation.
- ***Project ID****:* A numbering system used to report costs associated with funded activities at the Laboratory.
- ***Resource category****:* A type of cost grouped into similar categories. Examples include labor (contract, student, scientific, administrative), travel (foreign and local), and purchases (material and services).

Advance Payment Requirement for Non-Federal Work for Others (WFO) Sponsors

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	February 21, 2007
Effective Date:	February 21, 2009
Revision Number:	0
Scheduled review date:	February 21, 2010 (every year)
Primary contact:	Field Operations Manager

Summary

This policy and procedure prescribes financial processes to be followed in estimating the required advance payment for work for Non-Federal sponsors.

Policy

As a federal contractor, the Laboratory is required to adhere to DOE Contract 31 regulations. This policy relates specifically to the Department of Energy Accounting Handbook, Chapter 13, which requires sufficient advance funds be obtained from the Sponsor prior to starting work to maintain a 90-day balance of funds during the life of the project. Exceptions to the 90-day balance of funds requirement include State and Local governments that are precluded by law from providing an advance. Exceptions must be reviewed and approved by the Budget Office.

Procedure

In order to ensure a 90-day balance of funds is maintained, the amount of the advance should be at least equal to the four (4) highest months of estimated costs including equipment and any other unusual startup or operational costs as represented in the total proposed budget. A full advance is required for proposals with a proposed budget of $25,000 or less or that will be completed in 90 days or less. Methods for calculating the advance will vary depending on the type of work.

Types of possible calculation methodologies include:

1. Straight-line: Advance = Total cost / Total number of months * 4

- Flat project burn rate

Example: Dr. W is proposing work for Global International for a total cost of $525,000. The project is anticipated to begin in October of 2007 and take 12 months to complete. Spending is expected to be about the same each month.

$525,000 / 12 * 4 = $175,000

or

- Erratic burn rate where monthly projection of cost is unknown, high start-up costs and/or large purchases are not expected (B)

  Example: Dr. No is proposing work for Genes R Us LTD for a total cost of $1,325,000. The project is anticipated to begin in January of 2008 and take 20 months to complete. It is not clear at this point what the monthly burn rate will be, high start-up costs are not expected and the budget does not include large purchases.

  $1,325,000 / 20 * 4 = $265,000

2. Modified Straight-line: Advance = ((Total cost – start-up costs and/or large purchase) / Total number of months * 4) + start-up costs and/or large purchase

- Flat project burn rate with high start-up costs and/or a large purchase

  Example: Dr. Y is proposing work for Query Inc. for a total cost of $1,200,000. The project is anticipated to begin in September of 2007 and take 18 months to complete. Spending is expected to be about the same each month with the exception of an equipment purchase for $100,000 as well as $50,000 for supplies and materials in the first month.

  (($1,200,000 - $100,000 - $50,000) / 18 * 4) + $100,000 + $50,000 = $383,333

or

- Erratic burn rate where monthly projection of cost is unknown with high start-up costs and/or a large purchase

  Example: Dr. Z is proposing work for The Air Society for a total cost of $1,725,000. The project is anticipated to begin in June of 2007 and take 24 months to complete. The monthly burn rate is expected to fluctuate throughout the life of the project, but a detailed cost plan has not been established. Initial supplies and materials total $100,000 as well as a large equipment purchase for $125,000.

  (($1,725,000 – $125,000 – $100,000) / 24 * 4) + $125,000 + $100,000 = $475,000

3. Known Costing Profile: Advance = 1st highest month + 2nd highest month + 3rd highest month + 4th highest month

- Erratic burn rate where monthly projection of cost is known (includes start-up costs and/or large purchases)

  Example: Dr. Q is proposing work for Money Trees Corp. for a total cost of $1,000,000. The project is anticipated to begin in December of 2007 and take 12 months to complete. Expected monthly spending is as follows per the detailed monthly spend forecast proposed to Money Trees Corp; Dec $75,000, Jan $94,000, Feb $76,000, Mar $78,500, Apr $74,500, May $79,000, June $75,500, July $157,000, Aug $74,500, Sep $74,000, Oct $71,500, Nov $70,500

  $157,000 + $94,000 + $79,000 + $78,500 = $408,500

Authority

- Department of Energy (DOE) Prime Contract 31
- Department of Energy Accounting Handbook

Contacts

- Manager, Field Operations
- Manager, Sponsored Projects
- Budget Office Analyst

Glossary

- ***Burn rate***: The rate at which costs are incurred.

- ***Work for Others (WFO):*** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related documents

- Bridge Funding Policy
- WN Funding Request Policy

Allowance for Doubtful Accounts

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part II - Chapter 1.07**

Title:	Allowance for Doubtful Accounts
Originally issued:	March 31, 2005
Effective Date:	January 1, 2006
Revision Number:	2
Scheduled review date:	January 1, 2008 (every two years)
Primary contact:	Manager, Accounts Receivable

Summary

The purpose of this policy is to provide guidance for the establishment of an allowance for uncollectible accounts, in compliance with DOE Accounting Handbook, Chapter 8, Receivable, DOE Contract 31, and the Federal Acquisition Regulation (FAR).

Policy

Overview

This policy is applicable to all Laboratory receivables including work for others (WFO), work performed for other DOE entities, technology transfer funds-in agreements, and miscellaneous (non-WFO) receivables.

Accounts Receivable are reported in the financial statements at net realizable value. Net realizable value is equal to the gross amount of receivables less an estimated allowance for doubtful accounts. An estimate is made of the doubtful accounts from the total of outstanding receivables. This estimate is entered as an expense (bad debt) and an indirect reduction in accounts receivable (via an increase in the allowance account) annually.

Procedures

Review the allowance account

The allowance for doubtful accounts will be periodically reestimated against the aging of receivables to ensure proper valuation of the accounts receivable balance.

Situations that may require the establishment of an allowance:

a. A receivable will not be totally collected

b. A non-federal debt is referred to DOE/Treasury in the cross-servicing program (a balance greater than $25 with a TIN, or $100 without a TIN, and 120 days delinquent)

c. A debtor has filed for bankruptcy

d. An estimate should be based upon the aged receivables over 180 days delinquent and the receivable is deemed uncollectible

e. A collection is received for which an allowance has already been established

Process to establish allowance for loss and approval

a. Accounts Receivable Department will determine the amount of the allowance to be established. The allowance is established for the entire amount of the bill or a portion of the bill, depending on the situation. The amount of the allowance should be the expected uncollectible accounts over 180 days past due excluding items on repayment agreement, contract retention with contract terms. In addition, the amount of the reserve should be increased for any items that are referred to DOE/Treasury for collection.

   The allowance should be established in the major appropriation or fund type (WA) in BSC account 1517. Unallowable bad debts should be charged to project 358301 (UC Management Fees) after obtaining the appropriate approvals.

b. Controller will request in writing University's approval to deduct the unallowable bad debts from pre-fee deductions.

c. After obtaining UC approval, Accounts Receivable may post the allowance journal entry/resource adjustment, and General Accounting may deduct the approved bad debts from the monthly fee payment made to the University via a pre-fee deduction.

d. If a collection is received after an allowance has been established, Accounts Receivable will reverse the allowance. For example, Treasury collects a debt that had been previously referred. Depending on partial or full payment, the allowance account would need to be re-evaluated or adjusted for correctness.

e. Accounts Receivable should write-off delinquent debt over two years old. Records of amounts written off should be retained to match against DOE Report on Receivables Due From the Public, SF220.9.

For example, if an uncollectible invoice is a debit balance the entry is as follows:

	SGL	Description	Account	Project ID	Dept	MARS	Fund	B&R	Resource Type	Resource Category
DR	8132	Bad Debts	672020	358301	XX	OPEXP	WA	YN0100000	MXDAF	57000
CR	1517	Allowance	131917		CFOBAL	73BAL	WA			

Authority

- Department of Energy (DOE) contract 31, clause I.106
- Federal Acquisition Regulation (FAR) 31.205-3

References

- DOE Accounting Handbook, Chapter 8, Receivables
- Financial Policies & Procedures, part I – Chapter 4.11, Cost Allowability, Bad Debts (FAR31.205-3)

Glossary

- ***Bad debts (DOE Contract 31):*** Includes actual or estimated losses arising from uncollectible accounts receivable due from customers and other claims, and any directly associated costs such as collection costs, and legal costs are unallowable.
- ***Doubtful account:*** The Allowance for Doubtful Account is a valuation account (i.e. a contra asset) and is subtracted from trade receivables on the balance sheet.
- ***Pre-fee deduction:*** This method of payment may only be used for costs which cannot be incurred on government funds. Deductions may be made only with the appropriate approvals and documentation. Approved costs are paid with funds which would otherwise have been paid to the University as part of the monthly fee payment.
- ***Work for Others (WFO):*** The performance of work for non-DOE entities by DOE/Contractor personnel and/or the use of DOE facilities that is not directly funded by DOE appropriations.
- ***Taxpayer Identification Numbers (TIN):*** A nine digit employer identification number or social security number.
- ***Write-off****:* An accounting procedure to remove an account from an entity's assets.

Allowance for Loss on Stores Inventory

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	November 30, 2005
Date of current version:	November 30, 2005
Revision Number:	0
Scheduled review date:	November 30, 2009 (Every two years)
Primary contact:	Controller

Summary

This policy and procedure prescribes financial processes to be followed in estimating, recording, and charging the Allowance for Loss on Stores Inventory.

Policy

The Allowance for Loss on Stores account is for recording reasonably anticipated financial losses in inventory and materials. Losses that may occur include reduction in value as a result of shrinkage, deterioration, damage, obsolescence, or loss of utility.

Adjustments to the Allowance for Loss account must be documented. Actual losses from stores inventory will be charged to the Allowance for Loss account.

Procedures

- At the beginning of the fiscal year, General Accounting will set the amount of the Stores Loss account to equal a five year rolling average of inventory losses expressed as a percentage of total inventory value (not including excess inventory).
- Documentation regarding how the estimate was prepared is to be maintained by General Accounting. Any subsequent changes to the Stores Loss Allowance are also to be documented and maintained by General Accounting.
- Adjustments to the Allowance for Loss account are charged or credited to 356602 (In-Use Inventory Loss Allowance – the offset to this entry is to account number 151911 – Allowance for Loss on Stores).

- The Allowance for Loss on Stores Inventory account is charged when items are to be disposed, etc. The General Accounting Department reconciles the Allowance for Loss on Stores account in the Financial Management System against related transactions from the Stores Maximo System every month to assure that the balance is accurate and consistent with known facts.

- Any variations in balances between the two systems must be researched and corrected. If the balance appears unreasonable then General Accounting, in consultation with the Facilities Division, will make the appropriate adjustment.

Authority

DOE Accounting Handbook, Chapter 9, Accounting for Inventory and Related Property

Contacts

- Manager, General Accounting

- Manager, Financial Policy and Training

Glossary

- ***Stores Inventory*:** Materials, supplies, and parts on hand that are normally used or consumed in operations, maintenance, and general use.

- ***Allowance for Loss on Stores*:** A contra stores inventory account normally carrying a credit balance. The Allowance for Loss on Stores is a reserve for inventory losses from shrinkage, deterioration, damage, obsolescence, or loss of utility.

- ***Actual Stores Losses*:** Unplanned inventory decreases, in either units or value, caused by shrinkage, deterioration, damage, obsolescence, or loss of utility.

Audit Resolution and Follow-Up

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	June 1, 2006
Revision Effective Date:	June 1, 2008
Revision Number:	3
Scheduled review date:	June 1, 2010 (every two years)
Primary contact:	Manager, Operations

Summary

The purpose of this policy is to define the requirements and responsibilities for reporting, tracking, resolution and closure of all financial audit findings and recommendations (internal and external) at Lawrence Berkeley National Laboratory (LBNL).

Policy

Audits and inspections are considered management tools used to detect fraud, waste and abuse, validate internal controls and financial position, and promote effective risk management. Audit resolution, closure and follow-up are critical to ensuring LBNL continuously employs best practices and complies with DOE Contract 31 and University of California (UC) directives.

It is the responsibility of LBNL management to ensure appropriate corrective actions are implemented to resolve and complete audit findings and recommendations in accordance with established target due dates.

Audit Reports

Typically, internal and external audit reports are initially issued as a draft to allow for management review and comment. If appropriate, formal management responses on findings and recommendations are submitted to the originating audit agency or department in accordance with an established due date.

Internal Audit Services maintains documentation on all internal audits, inspections and reviews conducted at LBNL.

For audits conducted by the U.S. Government Accountability Office (GAO) or the DOE Office of Inspector General (OIG), responses may be requested from LBNL on short notice. If LBNL cannot meet the requested response deadline, an extension may be requested.

Summary Reports

By January 31 of each year, Internal Audit Services submits to DOE an annual audit report providing a summary of the LBNL audit activities performed during the previous fiscal year and their results, per DOE Contract 31, Clause I.103, (i) (2).

Internal Audit Services also submits information each quarter on the status of all internal financial audit findings and recommendations and targeted completion dates for corrective actions to the UC Auditor. An annual report is also submitted to the UC Auditor on audit and advisory services at the end of each fiscal year.

Items that are either past the targeted completion date or considered to be a high risk may periodically be reported to the UC Regents. This information is also provided to the LBNL Audit Committee.

Tracking Corrective Actions

- **LBNL Corrective Action Tracking System (CATS)**

  The LBNL Corrective Action Tracking System (CATS) enables LBNL employees to identify, record, and manage audit recommendations and associated corrective actions from inception through resolution. The OCFO uses CATS to track and manage financial audit findings and corrective actions through completion.

- **DOE Department Audit Report Tracking System (DARTS)**

  DOE tracks all GAO and IG corrective actions using DARTS. Quarterly progress reports on LBNL corrective actions entered in DARTS are provided to DOE through Internal Audit.

- **Internal Audit Tracking Activities**

  Internal Audit tracks all internal audit findings and recommendations and coordinates follow-up on external audit findings and recommendations.

Corrective Action Resolution and Closure

A distinction is made between the ***closure*** and ***resolution*** of corrective actions (see Glossary).

Closure

Closure occurs when the proposed corrective actions are completed and concurrence is obtained from the originating audit agency or department. Closure of external audits should generally take no longer than **one year** after issuance of the final report to be completed and closed. Closures scheduled to take **longer than one year** require a written justification submitted to DOE and entered into DARTS.

Resolution

- **Office of Inspector General (OIG) Audits**

  For audits and inspections conducted by the DOE Office of Inspector General (OIG), **resolution** occurs when DOE management and the OIG agree on *corrective actions* ***to be taken*** on reported findings and recommendations. Resolution must occur within a maximum of six months after issuance of the final report. Corrective actions should be taken as soon as possible; see Office of Management and Budget (OMB) Circular A-50, Paragraph 8.a. (2).

- **Government Accountability Office (GAO)**

  For external audit findings and recommendations submitted by the Government Accountability Office, **resolution** should be completed within **60 days** after formal issuance of the report. In this case, resolution is defined as the point at which DOE responds to Congress, see Office of Management and Budget (OMB) Circular A-50, Paragraphs 6.b.(3) and 8.b.(4).

External Audit Reports

Reports on audits, inspections and reviews conducted by the OIG and GAO are available to the public on their respective websites (see Authority).

Management Responses and Corrective Actions

A formal management response is required for each internal audit finding and recommendation. The response must include a targeted completion date for any findings or recommendations that warrant corrective actions. The targeted completion dates should be realistic and achievable.

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Procedures

Roles and Responsibilities

Financial Policy and Assurance Office (FPAO)

The FPAO is the central point of contact for communications on all OCFO audit findings and is responsible for the following:

- Ensuring management responses are submitted by the required due date
- Updating the CATS database to include all OCFO audit findings
- Reconciling the CATS database with the Internal Audit database
- If in the exceptional occasion an audit finding due date extension is necessary, the FPAO:

- Reviews with Internal Audit at least 10 business days prior to the due date
- Obtains Internal Audit concurrence at least 5 business days prior to the due date
- Notifies the DOE Berkeley Site Office (BSO) and the LBNL Office of Contract Assurance (OCA) at least 5 business days prior to the due date
- Updates the CATS database at least 5 business days prior to the due date

Internal Audit Services

Internal Audit Services assists Laboratory management at all levels in assessing financial and administrative risks and controls. The Laboratory's internal audit function is conducted in accordance with DOE Contract 31, International Standards for the Professional Practice of Internal Auditing, which is promulgated by the Institute of Internal Auditors, and under the general guidance of UC's University Auditor. Internal Audit Services also provides external audit coordination with various agencies in their review of the Laboratory's financial data and administrative controls.

LBNL Audit Committee

The LBNL Audit Committee serves in an advisory capacity to the Laboratory and provides oversight responsibilities for internal and external audits. The Laboratory's Audit Committee is chaired by the Laboratory Director and includes 10 additional members from the executive and managerial ranks at the Laboratory plus two UCOP representatives: UC's University Auditor and the Executive Director of Business and Finance of the Laboratory Management Office.

The LBNL Audit Committee meets at least three times per year to review and approve the annual internal audit plan, review LBNL audit results and the status of recommended corrective actions.

Office of Contract Assurance

The Office of Contract Assurance manages and maintains the LBNL Corrective Action Tracking System (CATS) to track corrective actions and analyze trends resulting from Laboratory assessments and/or inspections.

Authority

- DOE Contract 31
- DOE Directives, Regulations and Standards, Order 224.2A and Order 224.3
- DOE Office of Inspector General (OIG)
- Government Accountability Office (GAO)
- International Standards for the Professional Practice of Internal Auditing
- Office of Management and Budget (OMB) Circular A-50

Contacts

- OCFO Manager, Operations
- OCFO Financial Policy and Assurance Office
- Office of Contract Assurance
- Manager, Internal Audit Services

Glossary

- ***Audit Closure:*** The proposed corrective action(s) of the audit are completed and the auditor agrees that it satisfactorily addresses the deficiency identified. Closure of external audits should generally take no longer than one year after issuance of the final report. Exceptions require a written justification be submitted to DOE, entered in DARTS, and is subject to audit.

- ***Audit Recommendation***: A proposed course of action, as a result of an audit, intended to correct a deficiency or enhance operations.

- ***Audit Resolution***: The primary organization and the auditor agree on corrective actions to be taken for audit findings and recommendations (i.e., management concurs with the findings and recommendations, or a management decision is issued indicating concurrence and expected completion dates).

- ***Audit Responses***: Written comments by management indicating agreement or disagreement on reported findings and recommendations. Comments indicating agreement on draft reports are to include planned corrective actions and dates for achieving such actions. Comments indicating disagreement should fully explain the reason(s) for disagreement. Disagreements on internal audit findings and recommendations should be resolved before issuance of the final report.

- ***Corrective Actions***: Measures taken to resolve and close audit findings and recommendations.

Bridge Funding

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	March 31, 2005
Revision Date:	December 31, 2008
Revision Number:	2
Scheduled review date:	December 31, 2010 (every two years)
Primary contact:	CFO Analyst, Budget Office

Summary

The purpose of this policy is to define the guidelines for the appropriate application and use of bridge funding to cover Work for Others (WFO) costs at Lawrence Berkeley National Laboratory (LBNL).

Policy

Scope

Bridge funding refers to limited University of California (UC) funds that are used to temporarily cover funding requirements under certain conditions. The University of California authorizes LBNL to use these funds to cover WFO costs when:

- There is assurance from the federal or Department of Energy (DOE) integrated contractor sponsor that additional funding is forthcoming on a continuing award (cannot be used for new awards), **or**

- When a non-federal sponsor has not yet provided advance funding and it is in the best interest of LBNL to advance the funds to begin or continue an award.

Bridge funding is not intended to serve as a substitute for appropriate cash and funding management. However, it does allow for the start or continuation of research due to various sponsor-timing issues. Agreements with sponsors that may represent a risk of becoming uncollectible should not be candidates for bridge funding.

Requirements

This policy limits requests to less than $250,000, which may be used for no more than 90 days. If additional time and/or funds are needed, a new request is required. Due to unique scientific and financial reporting requirements, bridge funding requests are not required for agreements under the UCOP Special Research Program. The Sponsored Projects Office will specify the future bridge funding need in the initial SPAA. See UCOP Special Research Programs for more information.

The use of the University of California's funds does not relieve LBNL of its responsibility to comply with all other DOE requirements for WFO contracts. Any uncollectible receivables resulting from bridge funding activity are ultimately the liability of the University of California. However, if requested bridge funding is not reimbursed, it is the responsibility of the Division Director (requesting division) to propose appropriate alternate non-DOE sources of divisional funding for review (i.e. gifts) before use of LBNL UC contingency funding is considered. Uncollectible amounts that cannot be funded from divisional funding sources will be charged to the University of California contract fee, thereby reducing the following year's allocation of CSR funding to LBNL.

Sponsor Criteria

The bridge funding request may be submitted for other federal agencies, state and local governments, public or private entities, and DOE integrated contractors.

- **Federal entities and DOE integrated contractors**

  For federal entities and DOE integrated contactors, bridge funding may only be used to continue an award when there is assurance from the sponsor that additional funding is forthcoming. It *may not* be used for a new award (research) which has not been previously funded by the same sponsor.

- **Non-federal entities**

  For non-federal entities, bridge funding may be used to cover short-term advance requirements for new or continuing awards. For a new award, a written reimbursable agreement, as defined in DOE Order 481.1, must be accepted prior to the allocation of bridge funds. For a continuing award, bridge funding may be used when there is assurance from the sponsor that additional funding is forthcoming.

Approval Criteria

- Approval will be based on funds availability, institutional risk, and institutional need. As bridge funds are limited and *may not* be available in a particular month, costs should not be incurred until approved bridge funding is in place. Requests should be the minimum amount needed to begin and/or maintain the project. Requests should be submitted to the Sponsored Projects Office 60 days prior to the accounting period to which the funding will be needed.

- For continuing awards, the bridge funding request must include written confirmation from the sponsor's contract officer or authorized administrative official confirming the intent to continue the research project and reimburse LBNL for costs incurred while on bridge funding.

- In addition to the standard approvals, any bridge funding request exceeding $250,000 or for a period greater than 90 days is an exception to policy and must be signed by the Sponsored Project Office (SPO) Manager. Additionally, an incremental monthly spending forecast must be provided by the requestor and accompany the request.

Example: Month 1 - $100K
Month 2 - $75K
Month 3 - $150K

Additional processing time is required for requests that exceed the $250,000 or 90-day thresholds.

- Bridge funding shall expire on the specified end date or when the sponsor's funding has been received, whichever is sooner. If additional time and/or funds are needed, a new request is required.

The request must include the following signatures before bridge funds are allocated:

Signor	Purpose of Signature
Principal Investigator	No other method to deal with funding interruption and agrees to comply with all bridge funding control requirements.
Division Director (or designate – limited to Deputy Division Director or Business Manager)	Recognizes risk that any unallowable or uncollected costs from default will be funded out of appropriate alternative divisional funds or LBNL CSR funds, but it is in the best interest of LBNL to assume the risk.
SPO Contracts Officer	Certifies compliance with bridge funding and SPO policies.
SPO Manager	Reviews requests over $250,000 or 90 days, or other uses of bridge funds that may be an exception to the policy and provides contractual risk assessment.
Budget Office Analyst	Reviews that supporting documentation is appropriate. In consultation with A/R, reviews sponsor's payment history and verifies that sponsor has not defaulted payment resulting in collection by the US Treasury.
Chief Financial Officer (or designate)	Approves release of bridge funding.

Procedures

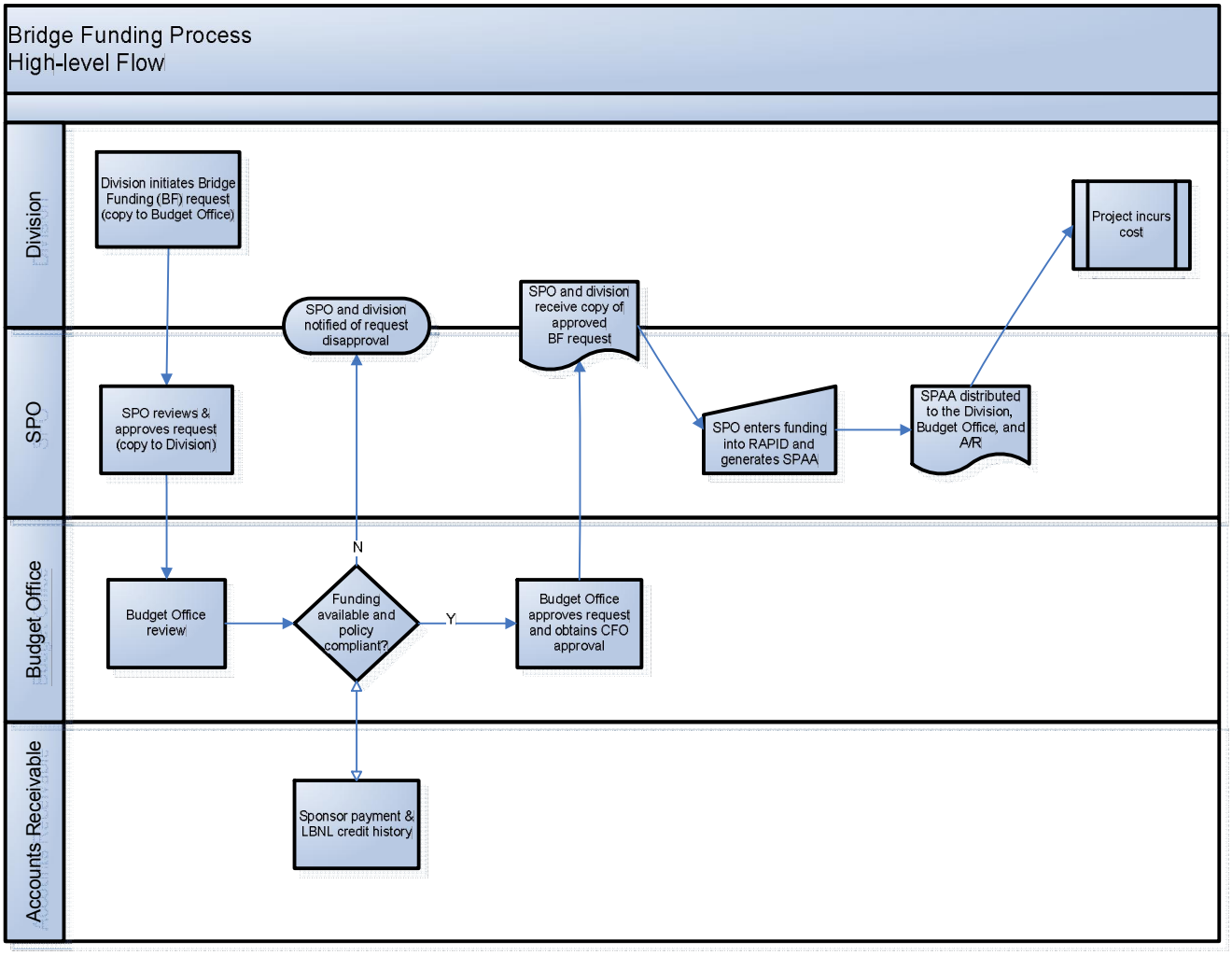
- Requestors (Division) complete a Bridge Funding Request Form. The form must be signed by the Principal Investigator and Division Director and submitted to the Division's respective SPO Contracts Officer for review with a copy sent to the Budget Office. Please note the award number in the subject line if sent by e-mail. The request must be received by SPO 60 days prior to the accounting period to which the funding will be needed (e.g. If funding is required for December 1, the request must be submitted to SPO by October 1).

- The SPO Contracts Officer secures funding verification from the sponsor and certifies that the appropriate criteria and documentation are appropriate. The request is completed, signed and forwarded to the Budget Office Analyst, with a copy sent to the Division, no less than ten (10) days before Day Zero of the accounting period prior to which funding will be needed (e.g. If funding is required for December 1, the request must be submitted to the Budget Office Analyst no less than ten (10) days before Day Zero of November's close).

- The Budget Office determines whether bridge funds are available and reviews the supporting documentation. In consultation with A/R, reviews sponsor's payment history and verifies that sponsor has not defaulted payment resulting in collection by the US Treasury. The requestor and/or SPO will be contacted if there are any issues. The Budget Office secures the CFO's approval to release bridge funding. Notification of approval and a copy of the request will be sent to the Division and SPO no less than one (1) day before Day Zero of the accounting period prior to which funding will be needed.

- Assuming that all other DOE and UC requirements have been met (Human Subjects approval, NEPA/CEQA); SPO enters the approved bridge funding information into the Research Administration, Proposal/Project Information Database (RAPID) and issues the Sponsored Project Award Authorization (SPAA).

High-level Process Flow Diagram



Authority and Contacts

- WFO Analyst, Budget Office
- SPO Manager, Sponsored Projects Office

Glossary

- ***DOE Integrated Contractor:*** The DOE's Management and Operating Contractors, e.g., Lawrence Livermore National Lab, DOE Chicago Field Office, Sandia National Lab.

- ***Federal Sponsor:*** Any entity that is part of the federal government.

- ***Reimbursable Agreement****:* A written agreement to perform work or provide a service for another federal agency or non-federal customer.

- ***Requestor***: A Principal Investigator or designated Resource Analyst.

- ***Research Administration, Proposal/Project Information Database (RAPID)***: LBNL's implementation of the PeopleSoft Grants system.

- ***Sponsored Project Award Authorization (SPAA)***: A report from the RAPID system, issued by the Sponsored Projects Office that authorizes initial award and post award administrative and funding actions.

- ***CSR***: Contractor Supporting Research.

- ***Work for Others (WFO)***: Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related Documents

- Bridge Funding Request Form

- DOE Order 481.1C and DOE Guide 481.1-1

- DOE Accounting Handbook, Chapter 13

- DOE Contract 31

- Financial Practices and Procedures Relating to UC/DOE Contract Funds
  University of California Laboratory Administration Office (November 2001)
  Section 3.1 (*copy available in the Budget Office*)

Capital Equipment Fabrications

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Title:	Capital Equipment Fabrications
Originally issued:	March 1, 2005
Effective Date:	May 1, 2008
Revision Number:	4
Scheduled review date:	May 1, 2009 (every year)
Primary contact:	Controller

Summary

The purpose of this policy and procedure is to provide guidance for the identification, processing and accounting of capital equipment fabrications at LBNL.

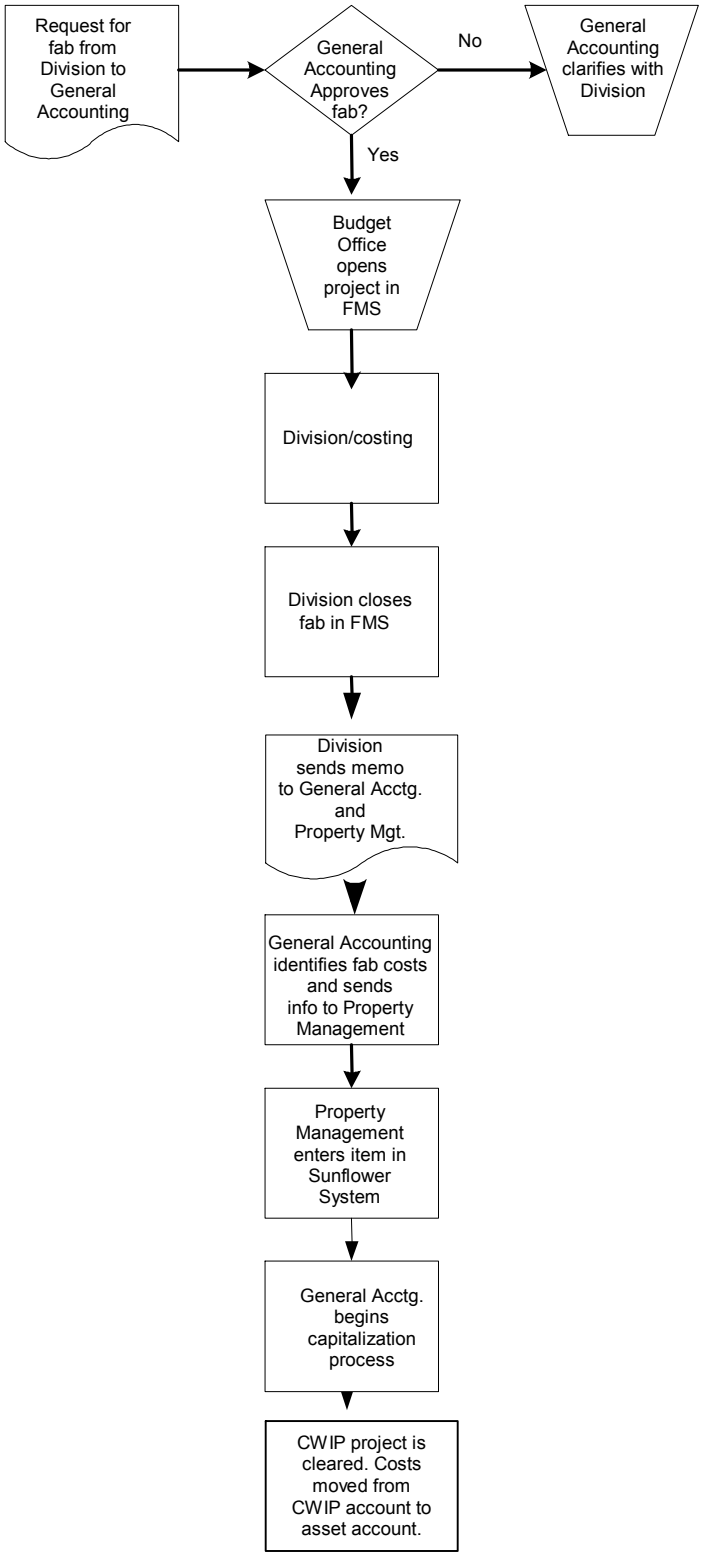
Policy

The following criteria must be met in order for a capital equipment fabrication (see glossary) project to be approved:

- Meets basic Department of Energy (DOE) property capitalization criteria:
  - Has a minimum life of two years and a value of $50K or greater. The $50K threshold includes overheads, freight, and any applicable taxes.
  - Must be tangible and capable of specific identification and continuous control through tagging and periodic physical inventory.
- Must be a self-constructed asset built at LBNL to be used for research by LBNL employees.
- The asset must be permanently placed on LBNL's accounting records.
- Must be a unique or custom device not available in the open market. To qualify as a fabrication, any modification or improvement of off-the-shelf equipment must be a betterment that significantly increases its value, functionality, or life.
- Fully loaded LBNL labor must total at least 20% of the total cost.
- For fabrication projects that do not meet the above criteria, the Division must obtain the express written concurrence of the Laboratory Director.
- If a project is identified as a capital equipment fabrication performed at an offsite location, the G&A burden assessed on this project is the Offsite rate (Burden = OFF).

Procedure

The following is an overview of the fabrication project life cycle:



Requesting/Opening a Fabrication Project

Memo Requirements

The Division Resource Analyst submits the Plant and Capital Equipment (PACE) Project Life Cycle Form to General Accounting. The form will require the following information:

- Project ID.
- Project title.
- Estimated cost of labor and total estimated cost for the project. Submit estimate with memo.
- Estimated completion date.
- Principal Investigator/Manager in charge of project.
- Number of units to be fabricated. Indicate if any units are prototypes.
- Location of unit(s).
- A full description of the item to be fabricated. The description should include the purpose of the item being fabricated and should be easy to interpret, so that Property Accounting can identify units that need to be capitalized when the fabrication is completed.
- If an improvement to existing DOE property is being made, include the property number of that unit(s).
- Provide the estimated useful life of the fabrication.

FMS Requirements

The Division will enter a project in FMS and submit in "R" (Requested) status with the following information:

- Project Type = EQFAB
- Burdens = PRO, FAB, RND, IUP, IUR, and TVL
- Management Analysis and Reporting System (MARS) Code = EQUIP
- Budget and Reporting (B&R) code = B&R code where funding resides
- Budget Reference Number (BRN) = EQU
- BRN sub
- Team Principal Investigator (PI)/ Resource Analyst

If the memo is not approved, the Indirect Budget Office will contact the Division Resource Analyst to clarify details. If it is approved, the Indirect Budget Office will change the project status to “Open” in FMS, which will enable the project to begin incurring costs.

Closing a Fabrication Project

To close a fabrication project, the Division Resource Analyst submits the Plant and Capital Equipment (PACE) Project Life Cycle Form to General Accounting and Property Management. The form will require the following information:

- Division requesting closure
- Description of asset

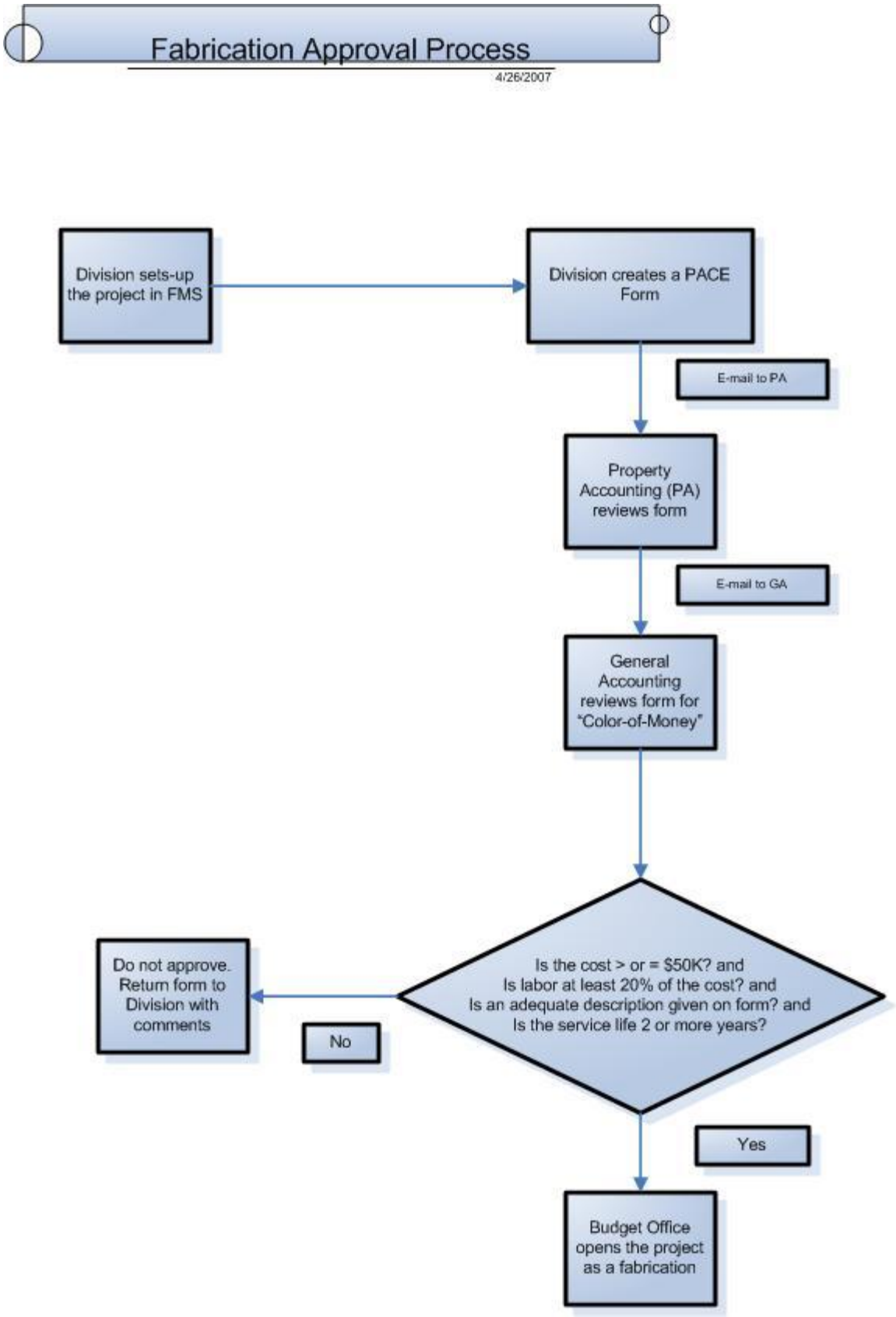
- Project ID
- Project title (current title of project at time of closing - description of asset)
- Location of unit(s)*
- PI/ custodian name, telephone number, and point of contact
- Budget and Reporting (B&R) code
- Property ID
- Total cost of project by fiscal year
  Example:

($K)			
Total	**FY 2004**	**FY 2003**	**FY 2002**
350	100	200	50

*Note: A Division representative must provide the exact location of the asset, which must also be tagged for capitalization.

Once notification is submitted, the Division Resource Analyst can close the project in FMS.

Each Division is responsible for maintaining costs within the approved equipment appropriations and for notifying General Accounting and Property Management in a timely manner when projects are closed. The Division will be contacted if a project is closed, and a closing memo has not been submitted. A Division representative must provide the exact location of the asset, which must also be tagged for capitalization.


Fabrication Approval Process
4/26/2007
Division sets-up the project in FMS
Division creates a PACE Form
E-mail to PA
Property Accounting (PA) reviews form
E-mail to GA
General Accounting reviews form for "Color-of-Money"
Is the cost > or = $50K? and
Is labor at least 20% of the cost? and
Is an adequate description given on form? and
Is the service life 2 or more years?
No
Do not approve. Return form to Division with comments
Yes
Budget Office opens the project as a fabrication

Contacts

- Manager, General Accounting Office
- Manager, Indirect Budget Office

Glossary

- ***Betterment:*** The improvements to plant and capital equipment that result in better quality, higher capacity, or an extended useful life.

- ***Budget and Reporting (B&R) Code (Classification):*** A DOE-defined classification of financial activity prescribed for use in the formulation of budgets; the reporting of obligations, costs, and revenues; and for the control and measurement of actual execution versus budgeted performance.

  It is one of six funding fields used by the DOE MARS system to identify the DOE program funding source. The other funding fields are: Fund Type, Program Task Number, BRN, and BRN Sub. The combination of these six funding fields is critical as to how projects are set up and costs are applied to funding.

- ***Burden:*** An indirect cost. This term is sometimes used interchangeably with overhead. For LBNL, burdens tend to be local in nature, and apply to particular Divisions or functions, such as procurement, travel, or organization burden. Also refers to the "tax" that is allocated to a direct cost objective to recover the cost of a set of indirect activities.

- ***Capital equipment***: Movable personal property with an anticipated service life of two years or more and a cost of $50,000 or more, which substantially retains its original characteristics. Capital equipment does not include application software, maintenance, repair, warranties, real property improvements or related personal property.

- ***CWIP****:* Construction Work in Progress.

- ***Fabrication:*** Equipment that is constructed by combining modular components and/or materials into one identifiable unit. The finished product must meet certain DOE property capitalization criteria such as:

  - Value of $50K or more
  - Useful life of two years
  - Tangible, capable of identification and continuous control
  - Is a self-constructed asset built at LBNL
  - Unique or custom device not available in the open market
  - Modifications or improvements must be a betterment that significantly increases its value, functionality or life
  - Fully loaded LBNL labor must total at least 20% of the total cost

- ***Management Analysis and Reporting System (MARS):*** The DOE financial system, to which LBNL must report on a monthly basis.

- ***Prototype Equipment:*** A completed experimental or prototype device built to obtain data or to demonstrate the feasibility of a particular process may be capital funded if its initial life is two years or more.

- ***Self-constructed asset*:** Any project funded by DOE to construct plant or fabricate capital equipment that will be used by LBNL staff and permanently placed on LBNL's books. The equipment may also be used off-site in support of LBNL research. For projects funded by a WFO sponsor, LBNL must retain title to qualify as a self-constructed asset. If the capital equipment is to be used elsewhere, its fabrication must be required to meet specific LBNL operating research project objectives as defined in the Field Work Proposal (FWP) or Statement of Work (SOW).

Compensation Above Salary Limits For Grants and Cooperative Agreements

Originally issued:	March 31, 2005
Revision Date:	January 15, 2008
Revision Number:	2
Scheduled review date:	January 15, 2010 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to provide guidelines for accounting for the cost of compensation above the allowable limits for grants and cooperative agreements.

Policy

Compensation for researchers working on grants and cooperative agreements may be subject to limitations by federal law or provisions of specific WFO agreements. The cost of salaries and wages in excess of the limitations are unallowable under DOE Contract 31 and must be covered by bestowments or other non-federal funds.

It is the policy of the Laboratory to assure that compensation costs applicable to any limitation prescribed by a WFO agreement are identified and excluded from the WFO agreement, and any related DOE billings, claims, or proposals.

Procedures

- The Department or Division using researchers with salaries that exceed compensation limits must identify the funding source for the excess *prior* to commencing work on the funded research.
- An email or memo will be submitted to General Accounting requesting that a companion project to the WFO agreement be created, in order to accumulate the cost of the researchers' excess compensation.
- The Department or Division will evaluate the compensation limitations specified by the WFO agreement and identify any excess.

- A resource adjustment will be made to transfer any excess compensation from the WFO project to the companion project prior to processing the grant billings and requests for payment.

- The Department or Division will determine the frequency (monthly or quarterly) for invoicing the non-federal funding source.

- For each period that excess compensation is accumulated, a Request for Preparation of Miscellaneous Invoice Form will be submitted to Accounts Receivable that includes:

    - Identification of the WFO agreement and related compensation limitations

    - Identification of the non-federal or bestowment fund

    - Companion project ID established to accumulate the cost of the researchers' excess compensation

    - Required approvals

    - Billing period beginning and end dates

    - Total amount of accumulated excess compensation to be billed for the period

- Accounts Receivable will prepare a miscellaneous invoice to the non-federal funding source when the completed Request for Preparation of Miscellaneous Invoice Form is received.

- A credit to the companion project will be recorded for the amount of each invoice to the non-federal funding source, in order to off-set excess compensation accumulated in the companion project. The project should have a net zero balance. If the balance is not zero, any difference will be identified and accounted for by the owner of the companion project.

Documentation

The following are examples of appropriate supporting documentation for resource adjustments for excess compensation for WFO Agreements:

- Request for Preparation of Miscellaneous Invoice Form
- WFO agreement provision(s) explaining the compensation limitations
- Description of the funds to be used to cover any excess compensation and related approval to use those funds
- The WFO agreement project and companion project ID for which the excess costs will be charged

Authority

- DOE Contract 31

References

- NIH Guide: Salary Limitation on Grants, Cooperative Agreements, and Contracts

Contacts

- Controller
- Principal Accountant, General Accounting

Glossary

- ***Bestowment funds:*** Funds provided to a specific Department, Division or program by grant, donation, or gift from public or private foundations, corporations, or individuals for the purpose of furthering research, development, and/or education.
- ***Work-For-Others (WFO):*** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related Documents

- Request for Preparation of Miscellaneous Invoice Form

Construction Work in Progress (CWIP)

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	August 15, 2005
Revision Date:	August 15, 2005
Revision Number:	0
Scheduled review date:	December 31, 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to define the guidelines for appropriately managing Construction Work in Progress (CWIP) projects at Lawrence Berkeley National Laboratory (LBNL).

Policy

Overview

CWIP is a balance sheet account that the Laboratory maintains and manages (through an accounting process) to reflect costs incurred for plant and capital equipment (PACE). The Laboratory will ensure that costs incurred for plant and capital equipment purchases are properly accounted for (i.e., timely closing, asset identification, tagging, capitalization, and depreciation) in accordance with DOE requirements.

Maintaining a CWIP account complies with accounting standards and capitalization criteria in the Statements of Federal Financial Accounting Standards (SFFAS) No. 6, Chapter 2.34 and the Department of Energy (DOE) Accounting Handbook, Chapter 10,1.h. The Laboratory CWIP account reflects costs associated with PACE work in progress accumulated during the acquisition, fabrication and/or construction period. When the project is completed and/or the asset has been identified (tagged) and placed in service, it is capitalized and transferred to an asset account for depreciation.

Procedures

See following table for criteria, guidelines and procedures for processing PACE projects for CWIP.

Roles and Responsibilities

Divisions

- Ensure appropriate funding is available at the project ID level.
- Ensure equipment, fabrication, construction, LDRD and CSR purchases (requisitions) meet the criteria of capital equipment as appropriate and are charged to the correct fund type and Management Analysis and Reporting System (MARS) program code (see PACE criteria, guidelines and procedures table above).
- Ensure WFO equipment purchases meet terms and conditions of WFO contract.
- Track all associated costs within that project ID; ensuring the total cost is greater than $50K to meet the established criteria, as appropriate. Stay within approved budget and date projected for project to be completed.
- Complete PACE Life Cycle Form to open and/or close projects as applicable, and submit electronically to Property Accounting.
- When appropriate, close the project ID in FMS.

Property Accounting

- Ensure overall management and oversight of CWIP process. Work with stakeholders to ensure CWIP processes are performed in a timely and accurate manner.
- Ensure appropriate funding source is used.
- Track progress of CWIP projects via the CWIP Project Log (posted on CFO website).
- Verify costs of closed CWIP projects.
- Submit electronic notification to Property Management verifying costs for asset tagging, if appropriate.
- Capitalize asset when appropriate and transfer costs to asset account, completing the CWIP process.
- Reconcile CWIP project accounts to the Laboratory Asset Management System (AMS) for Property Management.

Budget Office

- Verify appropriate funds are available at the B&R level when project ID is in “request” status in FMS.
- If appropriate, open project ID in FMS (change status to “open”).

Property Management

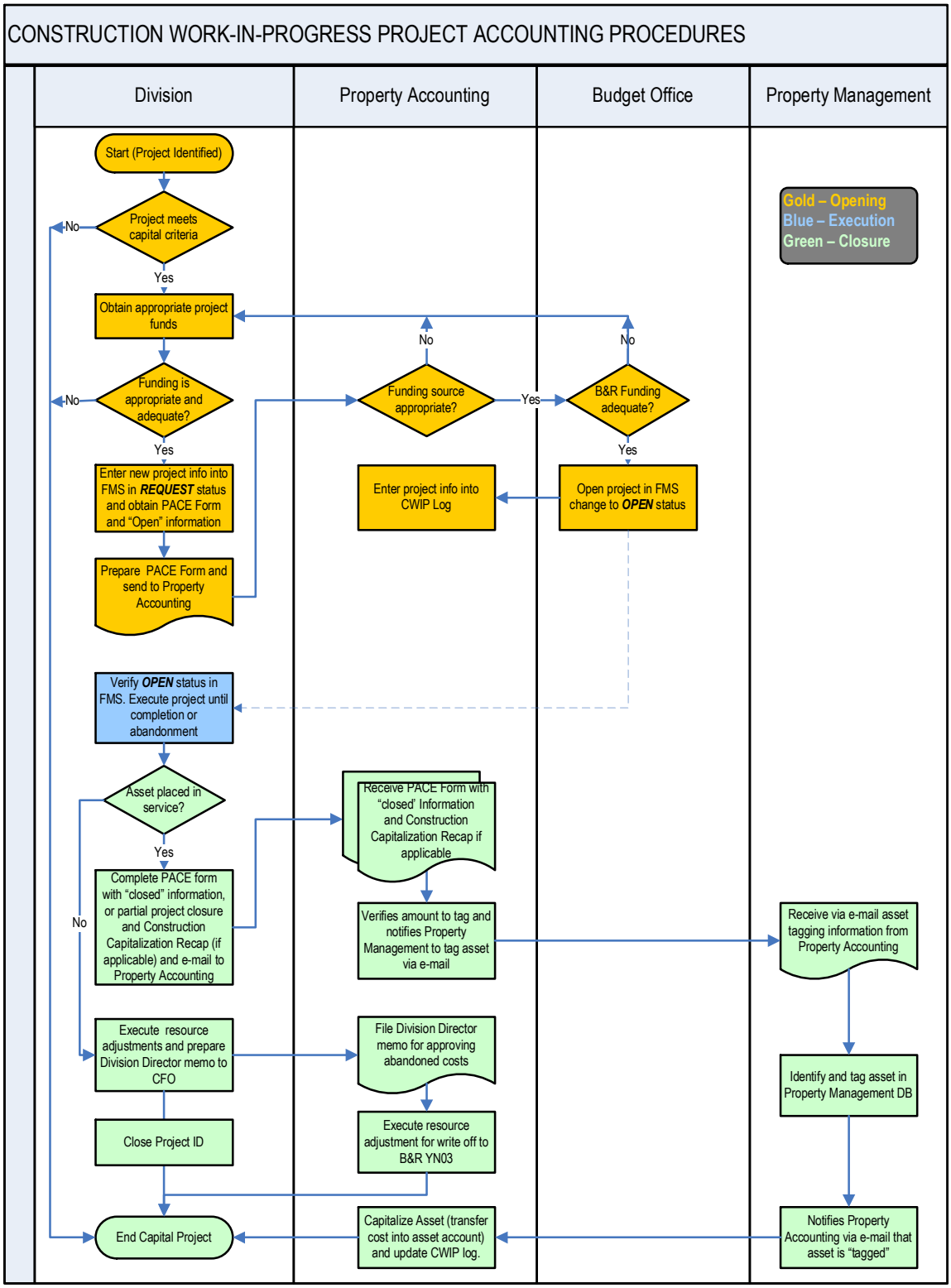
- Identify and tag asset when notified via email from Property Accounting.
- Enter asset into LBNL asset inventory database.
- Notify Property Accounting electronically verifying property is identified and asset is tagged.

Adjustments for Non Capital Projects

In cases where the project did not meet the capitalization criteria (non capital funds), the following process applies:

- If the equipment costs of a non capital project are charged to a CWIP project, and require an adjustment to transfer the costs into the appropriate operating expense, the Division prepares a resource adjustment to reflect the appropriate changes.
- If the equipment costs have been removed from CWIP and placed into a capital asset account and General Accounting has begun depreciating the asset:
    - The Division prepares a resource adjustment to move the costs into the appropriate operating expense.
    - If the cost was incurred in a prior year, and the B&R is closed, consult the Budget Office’s Direct Budget Group for the appropriate B&R to use. If the B&R that should have been used is closed, also contact the Direct Budget Group for the new B&R to use.
    - Notify General Accounting of the change via email, so that depreciation of the asset can be reversed, and the asset can be removed from the Property Accounting System.

The following diagram illustrates the CWIP process flow:


CONSTRUCTION WORK-IN-PROGRESS PROJECT ACCOUNTING PROCEDURES
Division
Property Accounting
Budget Office
Property Management
Start (Project Identified)
Project meets capital criteria
No
Yes
Obtain appropriate project funds
Funding is appropriate and adequate?
No
Yes
Enter new project info into FMS in REQUEST status and obtain PACE Form and "Open" information
Prepare PACE Form and send to Property Accounting
Verify OPEN status in FMS. Execute project until completion or abandonment
Asset placed in service?
Yes
No
Complete PACE form with "closed" information, or partial project closure and Construction Capitalization Recap (if applicable) and e-mail to Property Accounting
Execute resource adjustments and prepare Division Director memo to CFO
Close Project ID
End Capital Project
No
Funding source appropriate?
Yes
Enter project info into CWIP Log
Receive PACE Form with "closed' Information and Construction Capitalization Recap if applicable
Verifies amount to tag and notifies Property Management to tag asset via e-mail
File Division Director memo for approving abandoned costs
Execute resource adjustment for write off to B&R YN03
Capitalize Asset (transfer cost into asset account) and update CWIP log.
No
B&R Funding adequate?
Yes
Open project in FMS change to OPEN status
Gold – Opening
Blue – Execution
Green – Closure
Receive via e-mail asset tagging information from Property Accounting
Identify and tag asset in Property Management DB
Notifies Property Accounting via e-mail that asset is "tagged"

Authority

- DOE Accounting Handbook, Chapter 10, Plant and Capital Equipment

Contacts

- Manager, General Accounting
- Controller, Office of the CFO
- Principal Accountant, Property Accounting
- Manager, Procurement and Property
- Manager, Financial Policy and Training

Glossary

- ***Abandoned projects:*** *The* cancellation of all or part of a contract or purchase order to procure, manufacture, or assemble an item of P&CE. These costs, less any salvage credits, shall be distributed over the remaining units of property within the project for project accounting purposes, except where such distribution significantly distorts the cost of the remaining property units. Where such distortion occurs, the costs of the abandoned project or project segment may be closed from Construction Work in Progress to Abandoned Projects (Budget and Reporting Classification Code YN, Other Costs and Credits). All charges to abandoned projects shall be approved by the Head of the Field Element.
- ***Beneficial occupancy:*** The point at which the facility is turned over to the user or occupants.
- ***Capital equipment*****:** A movable, tangible item, with a value of ≥ $50K, including labor, burdens, transportation, modifications, etc., and a useful life of ≥ two years.
- ***Capitalization*****:** The act of closing (or reclassifying) acquisition costs of an asset, which allows it to be allocated or depreciated (expensed) over the life of the asset.
- ***Construction*****:** The installation, assembly or creation of a new facility, the addition, expansion, improvement, or replacement of an existing facility, or the relocation of a facility. Construction includes equipment installed in and made part of the facility and related site preparation (excavation, filling and landscaping, or other land improvements), and the facility design.

- ***Construction Work in Progress (CWIP):*** A holding account that captures costs incurred for property, plant and equipment that complies with accounting standards and capitalization criteria in the Statements of Federal Financial Accounting Standards (SFFAS) No. 6, Chapter 2.34 and the DOE Accounting Handbook, Chapter 10, 1.h.

- ***Contracting Supporting Research (CSR):*** The CSR funds are provided to the Laboratory by the University of California. For research at the Laboratory, selection of the projects funded with CSR funds are made at the discretion of the Laboratory Director or designee.

- ***Depreciation*:** The allocation of the cost of an asset over a period of time for accounting purposes. A decline in the value of a property due to general wear and tear or obsolescence.

- ***Fabrication*:** A tangible, self-constructed asset, valued at ≥ $50K, including $10K of LBNL labor, and applicable burdens, transportation, modifications, etc., with a useful life of ≥ two years. It must be a unique or custom built device not available in the open market. To qualify as a fabrication, any modification or improvement of off-the-shelf equipment must be a betterment that significantly increases its value, functionality, or life.

- ***Personal Property:*** Property that can be moved and that is not permanently affixed to and part of real estate.

- ***Plant*:** Land, building, and improvements, associated infrastructure (i.e., electrical substations, piping systems, roads, etc.) and construction in process. Does not include movable equipment.

- ***Plant and Capital Equipment (PACE):*** Land, land rights, depletable resources, improvements to land, buildings and structures, utilities, and equipment. For the purposes of this policy, PACE is synonymous with property, plant and equipment (PP&E).

- ***Property, Plant and Equipment (PP&E):*** Synonymous with plant and capital equipment (PACE).

Related Documents

- LBNL Capital Equipment Fabrication policy, Part I – Chapter 2.02

- PACE Life Cycle Form

Cost Allowability

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Title:	Cost Allowability
Originally issued:	September 1, 2005
Effective date:	March 20, 2009
Revision number:	3
Scheduled review date:	March 20, 2010 (every year)
Primary contact:	Controller

Summary

The purpose of this policy is to provide general guidelines for the Laboratory in determining allowable costs, in compliance with DOE Contract 31, the Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR). This policy is not intended to amend or replace any Federal, State, or regulatory requirements. For more specific details, refer to DOE Contract 31, the FAR and the DEAR.

Policy

Overview

The Laboratory, as part of the University of California, is accountable to the Department of Energy (DOE) for the appropriate expenditure of DOE funds. It is the policy of the Laboratory not to incur unallowable costs in performance of work under DOE Contract 31.

Allowable costs are costs and expenses actually incurred in the performance of work in accordance with the terms of DOE Contract 31, or authorized work for other agreements, which are considered necessary, or incident thereto, and are determined to be allowable, as defined in FAR, Subpart 31.201-2, *Determining Allowability* (FAR 31.201-2), as supplemented by specific clauses in DOE Contract 31DEAR Subpart 970.31, *Contract Cost Principles and Procedures* (DEAR 970.31).

Requirements

A cost is allowable only when it complies with all of the following requirements:

- Reasonableness
- Allocability
- Applicable Cost Accounting Standards (CAS); otherwise, Generally Accepted Accounting Principles (GAAP) and practices appropriate to the circumstances
- Terms and conditions of DOE Contract 31
- Any rules or limitations described in FAR, Subpart 31.201-2 as supplemented by DEAR Subpart 970.31 and specific clauses in DOE Contract 31.

Reasonableness

A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person while conducting normal Laboratory business. The determination of reasonableness depends upon a variety of considerations and circumstances, including the following:

- The type of cost is generally recognized as ordinary and necessary to conduct Laboratory business or contract performance.
- The cost is in compliance with generally accepted sound business practices, arm's length bargaining, Federal and State laws and regulations.
- The cost supports the Laboratory's responsibilities to the Government, other customers, the owners of the business, employees, and the public at large.
- The cost does not significantly deviate from established practices.

Allocability

A cost is allocable if it is assigned or charged to one or more cost objectives (*projects*) on the basis of benefits received (or other equitable relationship) and charged or allocated consistently and in compliance with applicable Cost Accounting Standards (CAS) and the Laboratory's CAS Disclosure Statement. Therefore, a cost is allocable if it:

- Is incurred specifically for the project
- Benefits both the project and other work, and can be distributed in reasonable proportion to the benefits received
- Is necessary to the overall operation of Laboratory business

Roles and Responsibilities

Supporting Documentation

Individuals with signature authority for specific costs incurred are responsible to ensure they are allowable under DOE Contract 31 and Laboratory policies, and that supporting documentation is adequate.

Each Division is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, to demonstrate that costs claimed have been incurred per DOE Contract 31 requirements. DOE may disallow all or part of a claimed cost that is inadequately supported.

Allowability Determinations

Refer questions about allowability to the Financial Policy and Training Office, who will make allowability determinations based upon the appropriate directive or regulation, and/or in consultation with the appropriate authority.

Examples of Unallowable Costs (per FAR 31.205 and DEAR 970.3102-05)

Public Relations and Advertising Costs (FAR 31.205-1)

Examples of *unallowable* public relations and advertising costs include the following:

- Costs of sponsoring meetings, conventions, symposia, seminars, and other special events when the principal purpose of the event is other than dissemination of technical information or stimulation of production.
- Costs of ceremonies such as celebrations and new product announcements.
- Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media that are designed to call favorable attention to the Laboratory and its activities.
- Costs of souvenirs, models, imprinted clothing, buttons, and other mementos provided to customers or the public.
- Costs of memberships in civic and community organizations.
- Costs of memorabilia (e.g., models, gifts, and souvenirs).
- Costs of alcoholic beverages, entertainment, and physical facilities that are primarily used for entertainment.

Bad Debts (FAR 31.205-3)

Bad debts, including actual or estimated losses arising from uncollectible accounts receivable due from customers and other claims, and any directly associated costs (such as collection and legal costs) are *unallowable*.

Contributions or Donations (FAR 31.205-8)

Contributions or donations, including cash, property and services, regardless of the recipient, are *unallowable*, with the exception of the costs of participation in community service activities (e.g., blood bank drives, charity drives, savings bond drives, disaster assistance, etc.), as provided in FAR 31-205-1(e)(3).

Employee Morale (FAR 31.205-13) and DOE Contract 31 Appendix A

Costs of gifts are *unallowable*. (Gifts ***do not*** include awards for performance made in accordance with FAR 31.205-6(f), or awards made in recognition of employee achievements in accordance with an established Laboratory plan or policy.)

Costs of recreation are *unallowable*, **except** for the costs of employees' participation in Laboratory-sponsored sports teams or employee organizations designed to improve loyalty, teamwork, or physical fitness. However, DOE Contract 31 does place an annual

monetary limit on all employee morale enhancing activities. Such expenditures must be pre-approved by the Employee Activities Association Coordinator in accordance with RPM 1.14.

Entertainment Costs (FAR 31.205-14)

Costs of amusement, diversions, social activities, and any directly associated costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are *unallowable*.

Costs of membership in social, dining, or country clubs or other organizations having the same purposes are also *unallowable*, regardless of whether the cost is reported as taxable income to the employees.

Fines, Penalties, and Mischarging Costs (FAR 31.205-15)

Costs of fines and penalties resulting from violations of, or failure of the Laboratory to comply with, Federal, State, local, or foreign laws and regulations, are *unallowable***, except** when incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer (DOE).

Costs incurred in connection with, or related to, the mischarging of costs are *unallowable* when the costs are caused by, or result from, alteration or destruction of records, or other false or improper charging or recording of costs. Such costs include those incurred to measure (or otherwise determine) the magnitude of the improper charging, and costs incurred to remedy or correct the mischarging, such as costs to rescreen and reconstruct records.

Independent Research and Development and Bid and Proposal Costs (FAR 31.205-18 and DEAR 970.3102-05-18)

Independent research and development and bid and proposal costs are *unallowable*. However, DOE-approved Laboratory Directed Research and Development costs and those costs incurred in support of DOE's various reimbursable (work for others) programs are *allowable*.

Insurance (FAR 31.205-19)

If purchased insurance is available, any self-insurance charge plus insurance administration expenses in excess of the cost of comparable purchased insurance is *unallowable*.

Self-insurance charges for risks of catastrophic losses are *unallowable*.

Actual losses are *unallowable,* unless expressly provided for in the contract. The following types of losses are ***allowable***:

- Losses incurred under the nominal deductible provisions of purchased insurance, in keeping with sound business practice.

- Minor losses, such as spoilage, breakage, and disappearance of small hand tools that occur in the ordinary course of business and that are not covered by insurance.

Lobbying and Political Activity Costs (FAR 31.205-22 and DEAR 970.3102-05-22)

Costs associated with the following activities are *unallowable*:

- Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activities.

- Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.

- Any attempt to influence

  - The introduction of Federal, State, or local legislation, or

  - The enactment or modification of any pending Federal, State, or local legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation.

Losses on Other Contracts (FAR 31.205-23)

- An excess of costs over income under any other contract (including the Laboratory's contributed portion under cost-sharing contracts) is unallowable.

Plant Reconversion Costs (FAR 31.205-31)

Reconversion costs are *unallowable* except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be *allowed* to the extent agreed upon before costs are incurred.

Professional and Consultant Service Costs (FAR 31.205-33)

Costs of professional and consultant services performed under any of the following circumstances are *unallowable*:

- Services to improperly obtain, distribute, or use information or data protected by law or regulation.
- Services that are intended to improperly influence the contents of solicitations, the evaluation of proposals or quotations, or the selection of sources for contract award, whether award is by the Government, or by a prime contractor or subcontractor.
- Any other services obtained, performed, or otherwise resulting in violation of any statute or regulation prohibiting improper business practices or conflicts of interest.
- Services performed which are not consistent with the purpose and scope of the services contracted for or otherwise agreed to.

Recruitment Costs (FAR 31.205-34 and DOE Contract 31, Appendix A, Section XII)

Help-wanted advertising costs are *unallowable* if the advertising:

- Does not describe specific positions or classes of positions.
- Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the Laboratory's products or capabilities.
- The Laboratory may incur costs for the recruitment of personnel, as follows:

  (1) Costs of advertising and agency and consultant fees shall not exceed $1,000,000 annually without prior Contracting Officer (DOE) approval.

  (2) Travel and subsistence for interviewee, interviewer, and recruiting contact paid in accordance with DOE Contract 31 Appendix A. As approved by the Laboratory Director, expenses for round-trip travel and subsistence for the interviewee's spouse may be reimbursed. Meal expense for interviewer's spouse may be reimbursed.

  (3) New or prospective employees who have been offered and have accepted a position, and who are required to take a pre-placement physical examination, shall be reimbursed for costs of the physical examination.

  (4) Costs associated with pre-employment screening shall be allowable.

(5) For the purpose of house-hunting, and with the approval of the cognizant division leader or division/program director, as appropriate, the Laboratory Director may authorize the expenses for round-trip travel and subsistence for both the selected new hire and the new hire's spouse. A maximum stay of six days including five nights to be charged against the maximum 30 day housing allowance may be permitted. Travel and subsistence costs shall be reimbursed for the applicant and spouse in accordance with Section I (b) of DOE Contract 31 Appendix A.

(6) New employees, or transferees, shall be reimbursed for costs of travel and shipment of household goods in accordance with this Section I (b) relocation service provider may be used to assist with the transition.

Relocation Costs (FAR 31.205-35)

The following types of costs are *unallowable*:

- Loss on sale of a home.
- Costs incident to acquiring a home in the new location as follows:
  - Real estate brokers' fees and commissions.
  - Costs of litigation.
  - Real and personal property insurance against damage or loss of property.
  - Mortgage life insurance.
  - Owner's title policy insurance when such insurance was not previously carried by the employee on the old residence. (However, the cost of a mortgage title policy is allowable.)
  - Property taxes and operating or maintenance costs.
- Continuing mortgage principal payments on a residence being sold.
- Costs incident to furnishing equity or nonequity loans to employees or making arrangements with lenders for employees to obtain lower-than-market rate mortgage loans.

  If relocation costs for an employee have been allowed and the employee resigns within 12 months for reasons within the employee's control, the laboratory shall refund or credit the relocation costs to the Government.

Taxes (FAR 31.205-41)

The following types of costs are *unallowable*:

- Federal income taxes.
- Taxes in connection with financing, refinancing, refunding operations, or reorganizations.
- Taxes from which exemptions are available directly, or available based on an exemption afforded the Government, except when the contracting officer determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government.
- When partial exemption from a tax is attributable, taxes charged in excess of that amount resulting from application of the preferential treatment are unallowable.
- Special assessments on land that represent capital improvements.
- Taxes (including excises) on real or personal property, or on the value, use, possession or sale thereof, which is not used in connection with Government work.
- Any excise tax in subtitle D, chapter 43 of the Internal Revenue Code of 1986, as amended (which includes excise taxes imposed in connection with qualified pension plans, welfare plans, deferred compensation plans, or other similar types of plans).

Trade, Business, Technical and Professional Activity Costs (FAR 31.205-43)

The following types of costs are **allowable**:

- **Memberships** in trade, business, technical, and professional organizations.
- Subscriptions to trade, business, professional, or other technical periodicals.
- When the principal purpose of a meeting, convention, conference, symposium, or seminar is the dissemination of trade, business, technical or professional information or the stimulation of production or improved productivity -
  - Costs of organizing, setting up, and sponsoring the meetings, conventions, symposia, etc., including rental of meeting facilities, transportation, subsistence, and incidental costs
  - Costs of attendance by contractor employees, including travel costs (see FAR 31.205-46); and

- Costs of attendance by individuals who are not employees of the contractor, provided
  - Such costs are not also reimbursed to the individual by the employing company or organization, and
  - The individual's attendance is essential to achieve the purpose of the conference, meeting, convention, symposium, etc.

Research and Development Costs (FAR 31.205-48)

When research and development costs are incurred in excess of either the amount sponsored by grant for research and development effort or ceiling required in the performance of a contract, the excess is *unallowable* under any other Government contract or grant.

Costs of Alcoholic Beverages (FAR 31.205-51)

Costs of alcoholic beverages are *unallowable*.

Authority

- DOE Contract 31
- Cost Accounting Standards (CAS)
- Department of Energy Acquisition Regulation (DEAR) Part 970
- Federal Acquisition Regulation (FAR) Subpart 31.2

Contacts

- Manager, Financial Policy and Training

Glossary

***Allocate*:** To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of a cost and the reassignment of a share from an indirect cost pool.

***Arm's-length bargaining*:** The parties involved are dealing from equal bargaining positions, neither party is subject to the other's control or dominant influence, and the transaction is treated with fairness, integrity and legality.

***Cost objective*:** A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.

***Department of Energy Acquisition Regulation (DEAR*):** This document establishes uniform acquisition policies which implement and supplement the Federal Acquisition Regulation (FAR). It is not, by itself, a complete document and must be used in conjunction with the FAR and DOE Contract 31.

***Expressly unallowable cost*:** A particular item or type of cost which, under the express provisions of an applicable law, regulation, or contract, is specifically named and stated to be unallowable.

***Federal Acquisition Regulation (FAR)*:** The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds.

***Final cost objective*:** A cost objective which has allocated or assigned to it both direct and indirect costs and is one of the final cost accumulation points. Examples of final cost objectives are grants and contracts.

Financial Certifications by Laboratory Officials for Select Work for Others Award Documents

Originally Issued:	January 31, 2007
Effective Date:	January 31, 2009
Revision Number:	0
Scheduled review date:	January 31, 2011 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to define the requirements and procedures for Laboratory "financial" officials who are required to certify costs for select Work for Others (WFO) award documents.

Background

The Laboratory is responsible and accountable for administering the terms and conditions of Work for Others awards. Funding sponsors may require financial certification (e.g., periodic/annual/close-out financial status reports, invoice statements) of costs associated with work being performed at the Laboratory without specifically stating the appropriate "financial" person. The Laboratory generally submits these types of documents to the funding sponsors to update the sponsor on the financial status of work performed and/or to seek cost reimbursement from the sponsor. Additionally, the Laboratory is attesting or certifying the costs are appropriate, allocable, accurate, and complete.

Policy

It is the Laboratory's policy that the Principal Investigator (PI) is the Laboratory's official responsible for managing, directing, and performing scientific and technical project work. Additionally, the PI is ultimately responsible for the financial management of an award's funds to include certifying costs incurred for work performed reflected on a funding sponsor's invoice statements. For all other financial certifications required by the Laboratory's funding sponsors, it is the Laboratory's policy that Accounts Receivable will serve as the Laboratory's financial certifier on all periodic/annual/close-out financial status reports for the funding sponsor.

Accounts Receivable will also certify, when a funding sponsor specifically requires, the Laboratory's financial management system's integrity and the Laboratory is generating appropriate, allocable, accurate, and complete cost information. In order to further ensure Division level financial accountability on their Work for Others awards, the Division Business or Financial Manager, on behalf of the PI, will submit a completed Division Cost Certification form via email to ARHelp@lbl.gov within the sponsor's contractual time limit.

Procedure

Roles and Responsibilities

Principal Investigator or designee

- Manages, directs, and performs work in support of Work for Others awards
- Certifies costs are appropriate, allocable, accurate, and complete for work performed reflected on a funding sponsor's invoice statement. As appropriate, the PI may formally delegate the responsibility for certifying costs for work performed reflected on an invoice statement to a Division Business or Financial Manager or Analyst. Additionally, the Division Director, or designee may formally delegate authority for invoice certifications to the Division Business or Financial Manager or Analyst.
- In those instances where a cost certification to a funding sponsor on a periodic/annual/close-out financial status report is required or for certifying financial management system's integrity, the Division Designee submits the completed Division Cost Certification form via email to ARHelp@lbl.gov within the sponsor's contractual time limit. The email should contain the following:
    - Subject line must state "Division Cost Certification Attached"
    - Checklist for the specific report certifies that costs incurred are appropriate, allocable, accurate, and complete
    - Checklist is primary backup documentation for Accounts Receivable's internal control, auditing and financial integrity purposes

Accounts Receivable

- Serves as the Laboratory's Authorized Fiscal Officer when certifying costs on the affected contract award documents, such as periodic/annual/close-out financial status reports
- Certifies the costs incurred are appropriate, allocable, accurate and complete by sending certification to the sponsor via email, unless the award terms states otherwise

- Certifies the Laboratory's financial management system's integrity and the Laboratory is generating appropriate, allocable, accurate, and complete cost information.

  - Without the Division's supporting documentation (e.g., checklist), Accounts Receivable will only certify the date and amounts of advance payments, invoice payments, and/or invoice numbers

Authority

- Department of Energy (DOE) Prime Contract 31
- Principles of Federal Appropriations Law
- DOE Order 481.1C
- University of California Contracts and Grant Manual, Chapter 1

Contacts

- Controller

Glossary

- **Principal Investigator:** The Laboratory manager or employee that has ultimate responsibility for meeting the terms of a project proposal, including the scope of work, the schedule, and the budget.
- **Work for Others**: Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Financial Management of Contractor Supporting Research (CSR) Program

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part 1**

Originally issued:	September 1, 2006
Revision Date:	September 1, 2007
Revision Number:	1
Scheduled review date:	September 1, 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to define the guidelines and procedures for administering Contractor Supporting Research (CSR) funds requesting and establishing projects, tracking allocations and project costs; and project closeouts.

Policy

In addition to and separate from the parties' rights and obligations under DOE Contract 31, Clause H.3, Work For Others Program (Non-DOE Funded Work), the Contractor may, with the consent of the Contracting Officer, conduct Contractor-Funded Institutional Supporting Research and Development (abbreviated as "Contractor Supporting Research" or "CSR") at the Laboratory under DOE Contract 31, Clause H.27. The DOE Berkeley Site Office's Contracting Officer approved the program on September 22, 2005 (refer to 09/22/05 document).

The CSR funds are provided to the Laboratory by the University of California. For research at the Laboratory, selection of the projects funded with CSR funds are made at the discretion of the Laboratory Director or designee. Consent may be given to such research provided that:

- Research is conducted on a non-interference basis with any DOE-directed and funded work of the Laboratory. Per the September 22, 2005 guidance provided by the DOE Berkeley Site Office (see above), CSR funds may not be used to augment federally funded projects.

- Research is intended to enhance the capabilities of the Laboratory to continue to perform its mission or to create new capabilities at the Laboratory consistent with the overall needs of DOE. Per the DOE Berkeley Site Office guidance, the Laboratory will not knowingly use its access to Laboratory facilities under this program to compete with the private sector.

- Funds are expended under the same terms and conditions that apply to government funds provided under DOE Contract 31.

- The use of CSR funds to pay for unallowable costs is prohibited. For cost accounting standards (CAS) purposes, such approved research shall be treated as institutional research and development of the Laboratory. CSR funds are exempt from General and Administrative costs.

Certain uses of these funds are particularly encouraged by the University, such as collaborative research performed with UC campus professors, post-doctoral scholars and graduate students, and research that could lead to the long-term growth and health of the Laboratory and the University.

Procedures

Roles and Responsibilities

DOE Berkeley Site Office (BSO)

- Approves CSR Program according to DOE Contract 31, Clause H.27, Contractor-Funded Institutional Supporting Research and Development Program at the Laboratory.

Sponsored Projects Office

- Notifies and coordinates with the DOE Berkeley Site Office any transactional review and consent as required by DOE Berkeley Site Office approved implementation plan for Contractor-Funded Institutional Supporting Research and Development at the Laboratory under DOE Contract 31, Clause H.27

Division

- Prepares written request using the CSR Request Form for approval to use (or increase) Contractor Supporting Research (CSR) funds.
  - Written request includes
    - Strong statement of justification
    - Total amount of funding requested (including applicable burdens and overheads)
  - Forwards request to Laboratory Deputy Director or designee to obtain authorization signature
  - After receiving request approval, creates project in Financial Management System under Division's Project Tree based on project identification number assigned by Program Manager
  - On the 20th of each month, emails to General Accounting Manager an estimate of that month's particular project expenditures

- Ensures funds are used consistent within the stated purpose
- Ensures funds are spent in accordance with the same terms and conditions as federally expended funds
- Establishes controls to ensure costs and obligations do not exceed the approved funding
  - Monitors costs incurred against the approved funding
  - Corrects errors and resolves issues as they occur to ensure approved funding balances are in good standing
- Notifies General Accounting when to close the project

Laboratory Deputy Director

- Laboratory Deputy Director reviews request, funding availability, and authorizes request
- Laboratory Deputy Director Office notifies General Accounting Manager of approved request
- Notifies Division Budget Analyst request has been granted
- Notifies Division Budget Analyst assigned CSR project identification number.
- Notifies Property Management of equipment awards
- Notifies Sponsored Projects Office of award amount
- Submits to the DOE Berkeley Site Office periodical reporting of projects undertaken

Property Management (if applicable)

- After equipment arrives, corrects equipment title from DOE to UC Regents based on notification from Laboratory Deputy Director Office

General Accounting

- Places funds in appropriate balance sheet/liability account prior to commencement of work
- Reviews the Divisions' estimated expenditures each month
- Coordinates with UC to transfer funds to cover projected expenditures
- At month end allocation process, General Accounting credits the project to offset the costs based on actual expense

Authority

- Department of Energy Contract 31
- UCOP Laboratory Management Office (LMO)

Contacts

- Contracting Officer, DOE Berkeley Site Office
- Manager, Sponsor Projects Office
- Program Manager, Office of Planning and Development
- Controller

Glossary

- ***CSR*:** Contractor Supporting Research

- ***Work-For-Others (WFO)*:** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations

Related Documents

- DOE Contract 31, Clause H.27

- DOE Berkeley Site Office Berkeley Lab Agreement "LBNL Contractor-Funded Institutional Supporting Research and Development Program" dated 9/22/05

- OCFO Financial Management of Monetary Gifts Policy

Financial Management of Monetary Gifts

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	March 15, 2006
Effective Date:	March 15, 2009
Revision Number:	3
Scheduled review date:	March 15, 2010 (every year)
Primary contact:	Controller

Summary

The purpose of this policy is to define the requirements for the financial management and implementation of monetary gifts accepted for research at Lawrence Berkeley National Laboratory (LBNL).

The Sponsored Projects Office (SPO) is designated as the Gifts Office for the overall solicitation and acceptance of gifts (see RPM 1.18, "Solicitation and Acceptance of Gifts").

The General Accounting Office has oversight of the financial processing of monetary gift activities (see Roles and Responsibilities below).

The LBNL Gift Policy and Procedures describes the implementation of the Laboratory's Regulations and Procedures Manual (RPM) 1.18, "Solicitation and Acceptance of Gifts", which includes non-monetary gifts, such as equipment.

Policy

Use of gift funds must comply with DOE criteria as stipulated in the DOE/LBNL Contract 31 and LBNL RPM 1.18; and may not be used to augment any federally funded research. Funds used must be consistent with the stated purpose designated by the donor. Changes to this policy or to the use of these funds may be revised at the discretion of the Laboratory Director.

Each gift will be accounted for and managed as an independent source of funds with controls established to ensure that costs and obligations do not exceed the amount of the gift. Gift funds should be spent in accordance with the same terms and conditions as federally expended funds (i.e., cannot be used to purchase unallowable items and costs cannot exceed the amount of gift funds received).

Gift Assessments and Interest

Assessments

Each monetary gift will be charged a 1% assessment, upon receipt and acceptance at LBNL.

Interest

Each gift will earn interest at the current market rate, based upon the unexpended balance of the gift during the previous quarter, and will be credited to the gift project.

Costs in Excess of Gift Award

In the event the cost of a gift award projection exceeds funding, it is the responsibility of the Division Director to propose appropriate alternate non-DOE sources of Division funding. This is subject to senior LBNL management review, and requires an executive summary consisting of the following elements:

- Identification and cause of the issue
- Division/institutional response
- Corrective actions

Following is the hierarchical process for identification of appropriate alternate funding sources to be applied:

- Division sources of funds
  - Gifts
  - Interest earned
- Gift assessment fee
- Institutional sources
  - Pre-fee deduction (reducing the following year's Contractor Supporting Research [CSR] allocation)

Cost Accounting Treatment

As defined in Contract 31, Clause H.27, gift funds are part of LBNL's Contractor-Funded Institutional Supporting Research and Development Program. Under this program, the following burdens (indirect costs) apply:

- Organization
- Payroll
- Procurement
- Sales tax
- Travel

Procedures

Roles and Responsibilities

Sponsored Projects Office

- Determines if the gift is appropriate or is a sponsored research project
- Obtains DOE approval of gifts over the DOE authorized level or gifts from donors that also have an active sponsored research award in place
- Accepts gifts in accordance with RPM 1.18 (including donor's gift letters).
- Obtains gift acceptance from Laboratory Director or University of California Office of the President (UCOP) and sends Laboratory Director's acknowledgement letter to donor
- Sends a copy of the gift letter to General Accounting, Principal Investigator and the Division
- Upon notification from General Accounting that the gift check cleared or wire was received, completes the gift acceptance process, and authorizes the gift award in the Research Administration Proposal Information Database (RAPID)
- Issues the Sponsored Project Award Authorization (SPAA) and submits a copy to General Accounting, Accounts Receivable, Budget Office, and the Division
- Provides required gift reporting to DOE

Division

- Ensures funds are used consistent with the stated purpose designated by the donor
- Ensures funds are spent in accordance with the same terms and conditions as federally expended funds
- Manages the gift award within its funding limits
- Establishes controls to ensure costs and obligations do not exceed the gift award
  - Monitors costs incurred against the gift award
  - Corrects errors and resolve issues as they occur to ensure gift award balances are in good standing
- Works with the Budget Office to resolve any overcosted gift award by the following month end

General Accounting

- General Accounting deposits check in Gift Account and sends a copy of the gift check to SPO
- Establishes and maintains gift system chart fields (i.e., account numbers, B&R codes, resource categories, project and resource types, DOE reporting codes)
- Manages allocation of cash between various depository accounts
- Charges gift assessment (1% of each gift) upon receipt and acceptance of gift
- Has accounting oversight of the gift assessment account
- Manages allocation of interest income to individual gifts
- Reconciles monetary gift related general ledger accounts
- Reconciles the gift account, Short Term Investment Pool (STIP) gift bank account and gift assessment account

Budget Office

- Opens gift projects at the request of the Division
- Prepares monthly gift funding status report and uploads to G:/Public folder
- Reviews Gift Status Report monthly and identifies awards in which costs exceed funding
    - Follows up with the Division Resource Analyst if an overcost occurs
    - Reviews unresolved balances with senior management

Accounts Receivable

- Upon request from SPO, sets up “Customer” in the Laboratory’s PeopleSoft Billing and Accounts Receivable (BAR) system for Donors for the processing of Gifts

Authority

- Department of Energy Contract 31
- University of California Development Manual
  http://www.ucop.edu/ucophome/policies/devpol/
- UCOP Delegation of Gift Acceptance Authority to the Berkeley Lab Director
- LBNL RPM 1.18 Solicitation and Acceptance of Gifts
- LBNL RPM 11.40 (H) Property Management, Property Acquired as a Gift

Contacts

- Manager, Sponsored Projects Office (for solicitation and acceptance of all gifts)
- Manager, General Accounting (for financial processing of monetary gifts)

Glossary

- ***BAR*:** The Laboratory's PeopleSoft Billing and Accounts Receivable System.
- ***Chart fields*:** Laboratory general ledger account numbers, B&R codes, resource categories, project and resource types, and DOE reporting codes.
- ***Gift*:** A gift is anything of assignable value that is voluntarily and legally transferred to the Laboratory's ownership and possession. A gift is a contribution to the Regents of the University of California that is donative in intent, bestowed voluntarily and without expectation of tangible compensation for which, in general, contractual or other requirements are not imposed.

  Gifts are awarded irrevocably. Gifts are not Work for Others (WFO), nor an extramural contract or grant; and therefore, impose no contractual requirements. Any proposed gift must support the scientific mission of the Laboratory.

Financial Systems Data Field Changes

Originally issued:	January 31, 2005
Effective Date:	January 22, 2008
Revision Number:	2
Scheduled review date:	January 22, 2010 (every two years)
Primary contact:	Manager, Business Systems Analysis

Summary

The purpose of this policy is to establish guidelines for initiating changes (add/activate, close/inactivate or modify) to data fields in PeopleSoft Financial Systems, to ensure consistency, data integrity and control.

Policy

Whenever a data field needs to be changed, the requestor completes the relevant form (see Financial Data field Modification Forms), and obtains the signature of the requesting Department Manager, and approval from the General Accounting Manager. Other approvals are required as follows:

- If the proposed change is for a General Ledger (GL) Account, approval from the Reconciling Department Manager is required.
- If proposed change affects budgeting, project costing and reporting, approvals from the General Accounting Manager and the Budget Manager (or designee), are required.

The Business Systems Analysis (BSA) Manager will approve the request after both the necessary above approvals are obtained and a BSA analyst has analyzed the potential impacts from implementing the request.

Procedure

It is the responsibility of requesting and approving managers to thoroughly analyze the impact of the proposed change on functional and business practices, systems and reporting requirements.

In addition, an analyst(s) from Business Systems Analysis (BSA) will also analyze and document recommendation(s) on the proposed change prior to implementation. Where ever required, the BSA Analyst will also obtain inputs from Information Systems (IS) programmers. Based on the recommendations from BSA Analyst, the BSA Manager will approve the change.

Once required approvals are obtained, a BSA Analyst will implement the requested change in PeopleSoft Financial Systems and will communicate the change to the appropriate Data Warehousing (DW)/ BLIS and other systems representatives for necessary updates as required.

Contacts

Manager, Business Systems Analysis (CAAxthelm@lbl.gov)

Glossary

- ***Data Fields***: GL Account, Management Analysis and reporting Systems (MARS) code, Resource Type, Resource Category, Project Type

Related documents

Financial Data field Modification forms

General & Administrative Expenses

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	June 30, 2005
Effective Date:	December 6, 2008
Revision Number:	1
Scheduled review date:	December 5, 2010 (every two years)
Primary contact:	Manager, Indirect Budgets

Summary

The purpose of this policy is to provide guidance for the accumulation and allocation of General and Administrative (G&A) expenses to final cost objectives.

Policy

G&A expenses, which represent costs of the management and administration of the Laboratory as a whole, will be:

- Appropriately budgeted and accounted for on a consistent basis
- Accumulated in a separate G&A cost pool
- Allocated in a practical and equitable manner in reasonable proportion to the beneficial or causal relationship of the costs to final cost objectives
- Allocated to LDRD projects pursuant to the Energy and Water Appropriations Act, 2006, PL 109-103, accompanying Conference Report, HR 109-275

Procedures

- The Budget Office will identify G&A cost elements and group cost elements into a separate G&A cost pool. Applicable costs are those that represent the cost of the management and administration of the Laboratory as a whole.
- Since inclusion of material and subcontract costs would significantly distort the allocation of the G&A expense pool in relation to the benefits received, a value-added cost input is determined to be the allocation base that best represents total activity of the Laboratory. The G&A expense pool for a cost accounting period is allocated to final cost objectives of that cost accounting period by means of a value-added cost input base, except as provided in the following paragraph:

The allocation of the G&A expense pool to any particular final cost objectives which receive benefits significantly different from the benefits accruing to other final cost objectives shall be determined by special allocation.

- Any costs which do not satisfy the *definition* of G&A expenses, but have been *classified* as G&A expenses, can remain in the G&A expense pool, unless they can be allocated to cost objectives on a beneficial or causal relationship which is best measured by a base other than a value added cost input base.

- G&A expenses are allocated to cost objectives using pre-established G&A rates. The rates are based on forecasted costs for the applicable cost accounting period, generally the Laboratory's fiscal year.

- The pre-established rates are monitored throughout the fiscal year. If analysis of anticipated conditions discloses a material variance for the fiscal year, the pre-established G&A rate will be revised to ensure that the anticipated variance is disposed of by allocating them to cost objectives in proportion to the costs previously allocated to these cost objectives by use of the pre-established G&A rate.

Roles and Responsibilities

Formulation and coordination of the G&A expense pool and allocation base will be conducted by the Budget Office. G&A expense rate forecasts, establishment of the pre-determined rate for the applicable cost accounting period(s), and revisions to the pre-established rate will be coordinated and executed through the Budget Office.

Authority

- Department of Energy (DOE) Prime Contract 31

- Cost Account Standards Board (CASB) Disclosure Statement, Lawrence Berkeley National Laboratory

- Energy and Water Appropriations Act, 2006, PL 109-103, Conference Report, HR 109-275

- Cost Accounting Standard 402, Consistency in Allocating Costs Incurred for the Same Purpose

- Cost Accounting Standards (CAS) 410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives

- Cost Accounting Standard 418, Allocation of Direct and Indirect Costs
- DOE Order 522.1, Pricing of Departmental Materials and Services

Contacts

- Manager, Indirect Budgets

Glossary

- ***Allocate*:** To assign an item of cost or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.
- ***Cost input*:** The cost, except G&A expenses, which for program costing purposes is allocable to the production of goods and services during a cost accounting period.
- ***Cost objective*:** A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.
- ***Final cost objective*:** A cost objective which has allocated to it both direct and indirect costs and is one of the final accumulation points.
- ***General and Administrative (G&A)*:** Any management, financial, and other expense which is incurred by or allocated to Laboratory and which is for the general management and administration of the Laboratory as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other the established value-added cost input base.
- ***Total Cost Input (TCI)*:** The cost, except G&A expenses, which for costing purposes represent the total activity of the Laboratory during a cost accounting period.
- ***Value-added cost input*:** Total Cost Input less material and subcontract costs.

Honoraria

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	December 31, 2004
Revision Date:	January 1, 2008
Revision Number:	4
Scheduled review date:	December 31, 2009 (every two years)
Primary contact:	Manager, Disbursements Office

Summary

The purpose of this policy is to define the guidelines for honoraria payments at the Laboratory.

Policy

Overview

An honorarium is a payment or an award granted in recognition of a short-term service (such as a lecture or seminar) on which custom or propriety forbids a price to be set.

Typically, an honorarium is paid to guest lecturers or experts for a one-time or brief engagement at the Laboratory. Honorarium payments are ***not*** to be made in lieu of a reimbursement for expenses (including travel).

Eligibility

Invited Guests

Invited guests of the Laboratory may receive an honorarium for short-term services rendered. If the invited guest is employed at 50% or more time by a Department of Energy (DOE) National Laboratory or by a DOE Site Management and Operating (M&O) Contractor, eligibility is **prohibited**. (Services from such individuals are considered part of their primary employment assignment.)

Nonresident aliens

Nonresident aliens (see Glossary) may also receive an honorarium in accordance with Laboratory policy and procedures, subject to the restrictions of their visa classification. For information on inviting a nonresident alien to LBNL, eligibility and processing requirements, reference the LBNL Guest Processing website, or contact the International Researchers & Scholars Office (IRSO), BOrtega@lbl.gov.

Nonresident aliens with B-1, B-2, WB or WT visa may be paid an honorarium for an academic activity, provided the services do not exceed **nine days** at a single institution. The payment must be offered by an institution of higher education, a nonprofit or governmental research organization. Nonresident aliens with these types of visas cannot accept an honorarium from **more than five** such institutions or organization in the previous **six-month** period.

Since the academic honoraria provision requires certain payment stipulations, the UC Certification of Academic Activity form must be completed as documentation to determine whether a nonresident alien is eligible to receive such a payment.

Federal Employees

Employees of the United States federal government are **prohibited** from receiving an honorarium.

Laboratory Employees

Laboratory employees may receive an honorarium from outside organizations (with advance approval from the cognizant division director), in accordance with the Laboratory Regulations and Procedures Manual (RPM), Chapter 10.02, Sections C & D, Outside Employment and Employee Business Activities.

Travel Expenses

An individual receiving an honorarium may also be reimbursed separately for actual travel expenses, in accordance with Laboratory Travel Policies and Procedures (see RPM, Chapter 11.08, LBNL Travel Policies and Procedures).

Internal Revenue Service (IRS) Reporting Requirements

Payment received for an honorarium is considered income and is taxable by the IRS. *U.S. residents* receiving an honorarium will receive an IRS Form 1099, as required by the IRS. *Nonresident aliens* receiving an honorarium will receive an IRS Form 1042-S, as required by the IRS.

Procedures

Documentation

The requestor must complete the following documentation (with appropriate approvals) and submit to the Payroll Office.

- UC W-8BEN form (for foreign nationals to determine residency status)
- Request for Issuance of Check (RFIC) for Payment of Honoraria or Stipends form
- Supporting documentation

- Invitation letter and LBNL or seminar announcement (if applicable)
- Description and justification for the honoraria
- For nonresident aliens
  - Copy of passport
  - Copy of I-94 card (front and back)
  - Visa stamp (if applicable)
  - Visa documentation (i.e., I-20, DS-2019)

- Additional documentation that *may* be required for **nonresident alien** honoraria payments:
  - Social security number, Individual Tax Identification Number (ITIN) or completed IRS Form W-7 (Application for IRS Individual Taxpayer Identification Number).
  - Completed IRS Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, if applicable.

Approval Guidelines

Approval Authority	Amount of Honoraria (per event)
Division Director (or designee)	$0 to and including $500
Associate Laboratory Director (or designee)	Over $500 to and including $1,500
Laboratory Director	Over $1,500*

Approval limits apply to honoraria only, and **do not** include supplementary travel costs.

**Per Contract 31 Appendix A, Section J, Section XIII, Special Programs, subparagraph (d)*

Roles and Responsibilities

The *requestor* is responsible to ensure all of the appropriate approvals are obtained *prior* to submitting the documentation to the Disbursements Office for payment.

It is the responsibility of the *requestor* to ensure that adequate funding is available and the request complies with the above Laboratory policy and procedures.

If the policy requirements have been met, the Disbursements Office will obtain Payroll Office review and will process the request.

Authority

- DOE Contract 31, Appendix A, Personnel Administration, Section XVII, Special Programs, subparagraph (d) (Contract 31, Appendix A)
- Regulations and Procedures Manual (RPM), Chapter 11.08, Travel (LBNL Travel Policies and Procedures)

Contacts

- Disbursements Office
- Payroll Office
- Travel Hotline
- LBNL Guest Processing
- Manager, Financial Policy and Training
- International Researchers and Scholars Office (IRSO)

Glossary

- ***Honorarium***: An honorarium is a payment or an award granted in recognition of a short-term service (such as a lecture or discussion), on which custom or propriety forbids a price to be set.
- ***Nonresident alien***: An individual who is not a citizen, permanent resident or resident alien of the United States.
- ***Permanent resident***: An individual who possesses a green card (the popular name for the Alien Registration Receipt Card), which is given to those who become legal permanent residents of the United States.
- ***Regulations and Procedures Manual (RPM)***: This manual provides Laboratory personnel with a reference to University of California and Lawrence Berkeley National Laboratory policies and regulations.

  Much of the information in the manual has been condensed from detail provided in other Laboratory procedure manuals, DOE directives, and Contract DE-AC02-05CH11231. The manual is not intended to replace any of those documents.
- ***Resident alien***: A resident alien is an individual who is not a citizen or national of the United States, but meets either the green card test or the "substantial presence test" for income tax purposes for a particular calendar year. For a

detailed explanation of these tests, see IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

- ***Substantial presence test*** *(see Resident alien)*: An alien is considered a United States resident if the individual meets the "substantial presence test" for the calendar year. To meet this test, an individual must be physically present in the United States on at least 31 days during the current year; and 183 days (during the current year and the 2 preceding years), counting:
  - All the days present in the current year
  - 1/3 of the days present in the first preceding year
  - 1/6 of the days in the second preceding year

  (Source: IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities)

Related Documents

- Request for Issuance of Check for Payment of Honorarium or Stipends
- IRS Instructions for Form 1099-MISC, Miscellaneous Income
- IRS Instructions for Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- UC Certification of Academic Activity form

Invoice Cancellation

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part 1**

Originally issued:	October 23, 2006
Revision Date:	October 10, 2008
Revision Number:	1
Scheduled review date/frequency:	October 23, 2010 (every two years)
Primary contact:	Controller

Summary

The purpose of this document is to provide guidelines for the cancellation of any invoice associated with a Work-for-Others (WFO) award or miscellaneous invoices such as employee debt, Multiple Location Appointment (MLA), Interjurisdictional Exchange (IJE), Intergovernmental Personnel Act (IPA) or other similar invoice requests.

Policy

WFO Invoices

Cancellation for invoices generated by the Laboratory's Accounts Receivable (A/R) Department for WFO awards may occasionally, and legitimately, be required to adjust and/or restate receivables. This may be necessary to reflect contractual changes or adjust advance balances (see glossary). Invoice cancellation should only be utilized after A/R conducts a financial review of the WFO award. The review will determine if there will be any further costs on the award above the remaining advance balance. Invoice cancellation may be recommended by the Division Resource Analyst, WFO Sponsor, A/R, and Sponsored Contracts Officer (SPO CO). All parties must concur with the cancellation. Concurrence will be implemented by email.

Invoicing is based on costs posted to the projects related to the award. If an invoice must be canceled, the cancellation will create a credit invoice mirroring the original invoice. The original invoice and the new credit invoice will be offset against each other to close them out. The amount from the original invoice plus any adjustments made to the original invoice will be reflected on the next invoice along with any current period costs posted to the project.

Miscellaneous Invoices

For miscellaneous invoices, A/R processes credit memos in lieu of invoice cancellations. The Division or Payroll Department should submit a Request for Preparation of Miscellaneous Invoice Form for the amount of the credit. Based on the request form, A/R will process a credit invoice.

Procedures

Roles and Responsibilities

SPO CO and/or Resource Analyst

For WFO invoice, submit invoice cancellation request via email (ARhelp@lbl.gov). Include:

- "Invoice Cancellation Request" and Award number in Subject line
- Sponsor contact information (name, telephone number, email address)

For miscellaneous invoice, use the Request for Preparation of Miscellaneous Invoice Form, submit to ARhelp@lbl.gov the amount of the credit invoice to be generated

Accounts Receivable Staff

- Reviews requests for appropriateness
- For WFO invoice cancellations (deemed necessary by A/R), obtains the sponsor's concurrence via email
- Upon receipt of WFO sponsor's concurrence, notifies Division Resource Analyst, WFO Sponsor, and SPO CO
- Processes a credit invoice during the monthly billing cycle
- Sends credit invoice to the sponsor/customer/employee

Authority

DOE Accounting Handbook, Chapter 8, Receivables

Contacts

- Controller

Glossary

- ***Accounts Receivable (A/R):*** Money owed to LBNL by an employee or other entity for reimbursement of costs; or a WFO sponsor for research, goods, and services provided by LBNL on a specified award.

- ***Advance:*** Funds paid by a WFO sponsor, usually as a condition of LBNL beginning work on an award. The advance is held in a deferred revenue account until such time as it is drawn down (usually the last 90-120 days of the award).

- ***Advance Balance:*** The amount of the advance payment remaining on the award.

- ***Work-For-Others (WFO):*** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Invoice Certifications

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	April 28, 2006
Effective Date:	April 28, 2008
Revision Number:	0
Scheduled review date:	April 28, 2010 (every two years)
Primary contact:	Manager, Accounts Payable

Summary

The purpose of this policy is to define the requirements and procedures for certifying vendor invoices received at Lawrence Berkeley National Laboratory (LBNL).

Policy

When a purchase order is issued at LBNL, a **certifier** may be required to certify that the goods and/or services were satisfactorily received.

The certification must be performed in a timely manner in order to ensure that the vendor is paid within the payment terms of the purchase order/subcontract. Failure to provide timely certification may result in a late payment, which could affect the Laboratory's ability to comply with the purchase order/subcontract and/or DOE requirements.

Procedure

When a purchase requisition is entered into FMS, the requestor enters the name of the employee identified to certify invoices. It is then submitted to an LBNL Buyer. At that time, a purchase order/subcontract is prepared and the order is processed.

When the vendor invoice is received at LBNL, Accounts Payable enters the invoice data into the Laboratory's Financial Management System. If certification is required, a system-generated email is sent to the designated certifier for approval. (If required, the certifier may request a copy of the invoice from Accounts Payable.)

If, for any reason, the certifier **declines to certify** any portion of the invoice, the reason for the declination must be indicated in the electronic response, which serves as documentation and/or justification for denial.

Certifiers verify that services have been performed or materials have been received. Certification is required for the following types of purchase orders:

- Services in excess of $5,000.
- Goods (if a certifier is designated on the requisition). For example, an item may require inspection.

Purchase Orders/Subcontracts over $1M

For purchase order/subcontracts **over $1M,** any invoice **over $100K** requiring certification must also receive **approval** from an employee authorized in the LBNL Signature Authorization System (SAS) Database for the amount of the invoice.

Buyer certification is also required on these types of purchase order/subcontracts. The buyer is copied in the electronic certification. The purpose of the buyer certification is to assure that the invoice conforms to the terms and conditions of the purchase order/subcontract.

Travel Costs

If travel costs are included in the invoice, it is the responsibility of the **certifier** to have the costs reviewed and certified by the Travel Department ***prior*** to the certification. Any portion of travel costs that are not certified are to be deducted from the total invoice amount.

The certifier requests a copy of the invoice from Accounts Payable. To obtain approval from the Travel department, the certifier forwards a copy of the claimed travel expenses as detailed in the invoice to the Travel department.

Roles and Responsibilities

- **Accounts Payable** - Enters invoice data into the Laboratory's Financial Management System when the invoice is received. If certification is required on an invoice, Accounts Payable places the invoice on "payment hold" until the certification is received.

- **Certifier** - Verifies that services have been performed and/or goods have been received, in accordance with LBNL policy. The role of the certifier is to validate receipt of goods or services, not to authorize the commitment of funds.

- **Procurement** - Determines if a certification is required on a purchase order. When Required, Procurement also certifies that the invoice conforms to the terms and conditions of the purchase order/ subcontract. Enters the name of the certifier on the purchase order.

- **Requestor** – The individual that initiates the purchase requisition. The requestor enters the name of the certifier on the purchase requisition.

The following table identifies the validations required for the various types of invoices:

Invoice Amount	Certifier	Approver in SAS	Buyer Certification	Travel Validation
Any (no Travel costs)	X	n/a	n/a	n/a
> $100K with PO/subcontract > $1M (no Travel costs)	X	X	X	n/a
Any (with Travel costs)	X	n/a	n/a	X
> $100K with PO/subcontract > $1M (with Travel costs)	X	X	X	X

X = Required
n/a = Not applicable

Authority

- LBNL Procurement Standard Practices Manual, SP 32.1, Payments
- LBNL Procurement Standard Practices Manual, SP 31.3, Unallowable Costs
- LBNL Signature Authority Policy

Contacts

- Accounts Payable Manager
- Travel Manager
- Procurement and Property Manager

Glossary

- ***Certifier***: An LBNL employee designated to review and certify invoices, validating receipt of goods or services prior to being paid. The certifier does not authorize the commitment of funds.
- ***Requestor:*** The person who enters the name of the certifier on the purchase requisition.

Related documents

Sample Certification Notice, emailed to certifier

Miscellaneous Invoice Requests and Year-End Accruals

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Title:	Miscellaneous Invoice Requests and Year-End Accruals
Originally issued:	March 31, 2005
Effective Date:	December 1, 2008
Revision Number:	3
Scheduled review date:	December 1, 2010 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to provide guidance and establish requirements for the preparation and submission of miscellaneous (manual) invoice requests, and to establish a policy for year-end accruals for non Work-for-Others projects or non-payroll items.

Policy

Accounts Receivable will prepare miscellaneous (manual) invoices, when appropriate, for such items as the following:

- LBNL services provided to universities, agencies, persons, or private entities, outside of the Work-for-Others (WFO) funding area
- LBNL employee payroll related items
- LBNL employee or guest travel overpayment
- Travel reimbursement (on non Work-for-Others projects only)
- Compensation that exceeds the limits for grants and cooperative agreements (paid for by bestowment funds)
- UCOP bid and proposal preparation costs for the Department of Energy (DOE) contract

Accounts Receivable will also assist to process year-end accruals for non Work-for-Others projects or non-payroll items

Procedures

All requests for miscellaneous invoices must be accompanied by a completed Request for Preparation of Miscellaneous Invoice form and emailed to ARhelp@lbl.gov.

The Request for Preparation of Miscellaneous Invoice form contains the following information:

- Valid project ID (cannot be a WFO project ID)
- Sponsor's purchase order number
- Sponsor's complete billing address (limit of five lines)
- Sponsor's email telephone and fax numbers for billing contact person
- Quantity and description of item to be billed
- Total amount to be billed

Miscellaneous Invoice Requests for *Non-Payroll* Items

- The Request for Preparation of Miscellaneous Invoice form must be completed and submitted electronically to ARhelp@lbl.gov by the 20th of the month in order to be processed in the current month.
- Indicate "*Misc. Invoice Request"* on the subject line of the email for timely processing.
- Completed requests received after the 20th of the month will be processed the following month.

Miscellaneous Invoices for *Payroll-Related* Items

- Miscellaneous invoices will be prepared at the request of the Payroll Department.
- Before such invoices are processed, the Payroll Department will submit to ARhelp@lbl.gov a completed Request for Preparation of Miscellaneous Invoice form and a Salary Overpayment Worksheet form.
    - If the overpayment was made via direct deposit, Payroll will indicate "*Direct Deposit*" on the Request for Preparation of Miscellaneous Invoice form.

- If the overpayment was made via check, Payroll will request a copy of the cancelled check (front and back) from General Accounting and attach a copy to the Request for Request for Preparation of Miscellaneous Invoice form.

- If the overpayment was a partial payment and there was no check, Payroll will indicate "*Partial Payment*" on the Request for Request for Preparation of Miscellaneous Invoice form.

Miscellaneous Invoices for *Compensation Above Salary Limits for Work-for-Others Agreements*

- Complete the Request for Preparation of Miscellaneous Invoice form and submit electronically to ARhelp@lbl.gov by the 20th of the month in order to be processed in the current month.

- Indicate "*Misc. Invoice Request"* on the subject line of the email for timely processing.

- Provide project ID (non Work-for-Others project), billing period beginning and end date, WFO award number, and total excess compensation to be billed

- Requests completed and received after the 20th of the month will be processed the following month.

Year-end Accruals for non Work-for-Others projects or non-payroll items

- At year-end, the Division will estimate the amount of to be accrued on the non Work-for-Others projects or non-payroll items. The minimum accrual amount is $1,000. Accruals for less than $1,000 are not accepted. The Division will complete an Accounts Receivable Accrual Request form and submit it to ARhelp@lbl.gov prior to the deadline (refer to year-end schedule). All accruals will reverse in the subsequent period.

Roles and Responsibilities

Requestors

Complete the Request for Preparation of Miscellaneous Invoice form and submit as an email attachment to ARhelp@lbl.gov. Indicate the type of "*Misc. Invoice Request*" on the subject line of the email.

If requesting a year-end accrual submits to ARhelp@lbl.gov the Accounts Receivable Accrual Request prior to the deadline (refer to year-end schedule).

Accounts Receivable

Billing

- Prepare and enter all miscellaneous invoices one day prior to the pre-close.
- Print invoices after the month-end close.
- Mail invoices by the first week of the month.

Collections

- Invoice terms are due upon receipt. To comply with DOE guidelines, a telephone call will be placed to appropriate party at 30 days past due.
- A dunning notice and telephone call will be placed at 60 days past due.
- If 60 days past due, Accounts Receivable will request collection assistance from the Department, Division or Payroll as appropriate.
- If a miscellaneous invoice remains unpaid after 120 days, it will be transferred to the DOE Chicago Operations Office for submission to the Department of Treasury, unless there is a written and approved promise to pay on file.
- For LBNL employee or guest travel overpayment, if a miscellaneous invoice remains unpaid after 90 days, employee travel overpayment will be transferred to the Payroll Department, and guest travel overpayment will be transferred Accounts Payable Department.

Accruals

- Process year-end accruals for non Work-for-Others projects or non-payroll items based on the Accounts Receivable Accrual Request form submitted by the Division

General Accounting

Receipts

Payments received for miscellaneous invoices are usually made in the form of check or electronic funds transfer. Invoice payments received by the Department, Division or Payroll should be forwarded directly to General Accounting, who will process and forward to Accounts Receivable.

Authority

- DOE Accounting Handbook, Chapter 8, Receivables

References

- Request for Preparation of Miscellaneous Invoice form
- Accounts Receivable Accrual Request form
- Salary Overpayment Worksheet form
- Sample of miscellaneous billing entry in the Cost Browser
- Sample of Miscellaneous Invoice

Contacts

- Controller
- Accounts Receivable (ARhelp@lbl.gov)

Glossary

- ***Bestowment funds***: Funds (e.g., Donner Funds) provided to a specific Department, Division or program by grant, donation, or gift from public or private foundations, corporations, or individuals for the purpose of furthering research, development, and/or education.
- ***Cooperative agreement:*** An agreement between the University of California and one or more participants under which the government (through the Laboratory) provides personnel services, facilities, equipment, or other resources (with or without reimbursement) towards the conduct of specified research or development efforts that are consistent with the mission of the Laboratory.
- ***Cost browser***: A web-based tool for accessing project costing information at the Laboratory, sourced from the Integrated Reporting and Information System (IRIS).
- ***Grant:*** An award of financial assistance, including cooperative agreements, in the form of funds, or property in lieu of funds, by the federal government to an eligible grantee (where involvement in the project by the federal government is expected to be minimal).
- ***Work-for-Others (WFO):*** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related Documents

- Compensation Above Salary Limits for Work-for-Others Agreements policy
- Invoice Cancellation policy

Stipends for Non-Employees

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	June 1, 2006
Effective Date:	June 1, 2007
Revision Number:	3
Scheduled review date:	June 1, 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to identify, define and provide guidance for the various types of non-employee stipend payments at the Laboratory.

Overview

A stipend can either be an allowance to offset certain expenses (such as subsistence or travel) or a payment for services (in certain circumstances, such as an honorarium). It may also be a one time payment or a fixed sum paid periodically (or regularly). A stipend is not to be made in lieu of a salary. To meet allowability requirements, stipend payments to non-employees must meet the criteria specified in this policy.

Types of Stipends

Fellowship

A payment made to an individual in support of their pursuit of study or research.

Guest Lecturer

An individual invited to the Laboratory to give a lecture or a discussion. Guest lecturers may receive a stipend in lieu of an honorarium. To qualify as a stipend for a guest lecturer, the honorarium payment and travel costs must be ***combined.*** Otherwise, payment must be made as an *honorarium* (i.e., travel costs are paid separately).

Non Fellowship

Any other type of stipend payment or award (i.e., for **per diem or subsistence**) that does not meet the criteria of a fellowship or guest lecturer.

Type of Assignments

Special Programs

Academic Cooperation (coop partnerships)

An academic cooperation (coop partnership) is a type of program agreed upon by an academic institution (college or university), the student(s) and the Laboratory. Students may be assigned to a project at the Laboratory which is proposed by an academic institution and approved by the Laboratory Director (or designee). Students under academic cooperation programs may receive a stipend as a **daily subsistence** allowance for each day of Laboratory attendance. This type of program is primarily intended to further the **student's** experience, education and training and is credited by the academic institution.

Nonresident aliens (see Glossary) may also receive a stipend for participation in an Academic Cooperation/Partnership Agreement in accordance with Laboratory policies and procedures, subject to the restrictions of their visa classification.

For information on inviting a nonresident alien to LBNL, eligibility and processing requirements, reference the LBNL Guest Processing website, or contact the International Researchers & Scholars Office (IRSO), BOrtega@lbl.gov.

Invited Guest Lecturer (in lieu of honoraria)

Stipends in lieu of **honoraria** (and separate reimbursement of travel expenses) are allowable for individuals invited to the Laboratory to give a lecture or discuss items of interest, as defined under Department of Energy Contract 31, Appendix A, Personnel Administration.

Honoraria are **not appropriate** for guests invited to **collaborate** with LBNL or to provide **services to further research** (see "collaboration" in the Glossary).

- **United States Citizens and Resident Aliens**

  Invited guests that are United States citizens or resident aliens may receive a stipend **in lieu of an honorarium** for short-term services rendered. If the invited guest is employed at **50%** or more time by a Department of Energy (DOE) National Laboratory or by a DOE Site Management and Operating (M&O) Contractor, eligibility is **prohibited**. (Services from such individuals are considered part of their primary employment assignment.)

- **Nonresident Aliens**

  A nonresident alien is an individual who is not a citizen, permanent resident or resident alien of the United States. Laboratory guests who are nonresident aliens may receive a stipend in **lieu of an honorarium**, in accordance with Laboratory policies and procedures, subject to the restrictions of their visa classification.

For information on inviting a nonresident alien to LBNL, eligibility and processing requirements, reference the LBNL Guest Processing website, or contact the International Researchers & Scholars Office (IRSO), BOrtega@lbl.gov.

Work-for-Others (WFO)

WFO stipends for services and/or expense reimbursements are allowable as a *direct* cost, if paid in accordance with a WFO grant (see Glossary), other cooperative agreement, or non-DOE contract.

Nonresident aliens may receive a WFO stipend in accordance with Laboratory policies and procedures, subject to the restrictions of their visa classification. For information on inviting a nonresident alien to LBNL, eligibility and processing requirements, reference the LBNL Guest Processing website, or contact the International Researchers & Scholars Office (IRSO), BOrtega@lbl.gov.

Unless allowability is established elsewhere in this policy, eligibility to receive a stipend will be determined in accordance with the WFO grant, other cooperative agreement, or non-DOE contract.

If an individual is **ineligible** to receive a stipend, the requestor should consult with the Laboratory Procurement Department for assistance in determining the appropriate Procurement action.

As referenced above, Laboratory resources may only be committed by individuals with requisite Procurement authority, or it may be considered an **unauthorized commitment** (see Laboratory Procurement Standard Practices, SP 1.3, Ratification of Unauthorized Commitments).

Students and Researchers working on DOE programs

- **Non-employee** students and researchers working on **DOE programs** may receive a stipend if it is paid to *reimburse travel and expenses*. This applies to non-employee students and researchers participating in research, educational or training activities in connection with a fellowship (see Glossary) or other research, educational, or training program approved under the Department of Energy Contract 31.

- **Nonresident alien** researchers and students working on **DOE programs** may receive a stipend in accordance with Laboratory policies and procedures, subject to the restrictions of their visa classification. For information on eligibility, contact the International Researchers & Scholars Office (IRSO), BOrtega@lbl.gov.

Payment Eligibility Determination

Requestors should consult with the Laboratory Procurement Department for assistance in determining if a potential **honoraria** payment should be handled as a procurement (i.e., a consulting agreement). Human Resources may also be contacted to determine if the recipient should be paid as a Laboratory employee.

Laboratory resources may only be committed by individuals with requisite Procurement authority, or it may be considered an **unauthorized commitment** (see Laboratory Procurement Standard Practices, SP 1.3, Ratification of Unauthorized Commitments).

Stipends can include reasonable **subsistence allowances** for visiting researchers and students. Unless there are circumstances and conditions that dictate otherwise, subsistence allowances for temporary assignments that are **30 days or more** are considered *reasonable* for **up to 55%** of the maximum per diem rate.

Subsistence allowances for temporary assignments that are **30 days or more and exceed 55%** of the normal per diem rate require additional explanation/justification. The maximum allowable is the maximum per diem rate applicable to the location of the temporary assignment.

Allowances for assignments **less than 30 days** are reimbursable at the maximum per diem rate applicable to the location of the temporary assignment.

Payments for **services** that are not allowable by provisions elsewhere in this policy for researchers and students participating in approved research, educational or training activities are ***not appropriate as stipends***. Requestors should consult with the Laboratory Procurement Department for assistance in determining the appropriate Procurement action.

As referenced above, Laboratory resources may only be committed by individuals with requisite Procurement authority, or it may be considered an **unauthorized commitment** (see Laboratory Procurement Standard Practices, SP 1.3, Ratification of Unauthorized Commitments).

Procedures

Documentation Requirements

The **requestor** (see Glossary) **or designee** should ensure the following required documentation is complete prior to submitting to the Payroll Office:

- UC W-8BEN form (for foreign nationals to determine residency status)
- Request for Issuance of Check (RFIC) for Payment of Honoraria or Stipends form
- Supporting documentation
  - Invitation letter or email
  - Description and justification for the stipend
  - For nonresident aliens
    - Copy of passport
    - Copy of I-94 card (front and back)

    - Visa stamp (if applicable)
    - Visa documentation (i.e., I-20, DS-2019)

  - Sponsored Projects Office authorization if applicable

- Additional documentation **required** for **per diem based** subsistence stipends:

  - Expected **start and end dates** for which the stipend covers

  - Description of the **place or area** of assignment (city, town, or other designation)

  - For **periodic** payments, validation of the place or area of assignment and business dates of the prior stipend period

  - Explanation/justification for the stipend if **in excess of 55%** of the maximum per diem rate.

- If documentation in this subsection is not provided or available at the time of the request, the payment(s) will be treated as **taxable**, subject to withholding and documentation requirements for taxable payments.

- Reimbursement of **subsistence and travel** expenses are **not taxable** if the temporary assignment in a single location lasts (or is expected to last) for **one year or less**.

- If the temporary assignment lasts (or is expected to last) for **over one year**, reimbursement for **subsistence and travel** expenses are **taxable**.

- An assignment in a single location is considered **indefinite** by the IRS if it is realistically *expected* to last for more than one year (whether or not it actually does last for more than one year).

Additional documentation that *may* be required for **nonresident alien** stipend payments:

- Social security number, Individual Tax Identification Number (ITIN) or completed IRS Form W-7 (Application for IRS Individual Taxpayer Identification Number).

- Completed IRS Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, if applicable.

Roles and Responsibilities

Requestor (or designee)

- Ensures appropriate documentation and approvals are obtained *prior* to submitting request for payment to the Accounts Payable Office.
- Ensures adequate documentation is maintained including the location of work and days on assignment.
- For **non-taxable** periodic stipends for subsistence, provides the following to the Accounts Payable Office at or near the **end of the current stipend period** (and **prior to the next** stipend payment):
    - Validates that the stipend recipient *was on assignment* during the current period of the stipend payment. (If applicable, identifies any actual days **not** on assignment during the current period).
    - Confirms that the stipend recipient is **expected to continue** on assignment through the **next period** of the stipend payment. If the assignment is **ending** in the next period, the termination date is provided.
- For **taxable** stipend payments, obtains the required taxpayer identification information *prior* to payment.

Approver

- Ensures that adequate funding is available and the request complies with Laboratory policy and procedures.
- Has the appropriate level of signature authority in the (Signature Authorization System (SAS) database.

Payroll Office

- Verifies with the Payroll Office that the payee is not a Laboratory employee.
- Provide nonresident alien IRS tax reporting consultation.
- Verifies tax treaty exemption status for nonresident aliens.
- Prepares and issues IRS Form 1042S, as appropriate, for nonresident aliens.

Accounts Payable Office

- Processes the request for payment, providing the requirements have been met. Payment will be issued according to the information provided on the Request for Issuance of Check for Payment of Honoraria or Stipends form.

- Withholds and refunds the appropriate tax, as applicable.
- Prepares and issues IRS Form 1099, as appropriate, for US citizens and resident aliens.

Internal Revenue Service (IRS) Reporting Requirements

- Stipends for subsistence reimbursements for **over one year** made to US citizens or resident aliens for *scholarships or fellowships* may be considered as income and **taxable** by the IRS, but are not reportable on any form. **The Laboratory will not issue any IRS form** in this case.
- Stipends for subsistence reimbursements for **over one year** made to US citizens or resident aliens that are ***not*** *scholarships or fellowships* may be considered as income, **taxable**, and **reportable**. If the payment is taxable, an **IRS Form 1099 will be issued by the Laboratory**.
- Stipends for subsistence reimbursements for **over one year** made to nonresident aliens may be considered as income and **taxable**, subject to withholding. If the payment is taxable, an **IRS Form 1042S will be issued by the Laboratory**.
- Individuals should consult with their tax professional to determine their income tax reporting applicability.

Authority

- Department of Energy Contract 31, Appendix A, Advance Understanding of Human Resources

References

- LBNL Procurement Standard Practices, SP 1.2, Delegation of Procurement Authority
- LBNL Procurement Standard Practices, SP 1.3, Ratification of Unauthorized Commitments
- Regulations and Procedures Manual (RPM), Chapter 11.08, Travel
- IRS Publication 463, Travel, Entertainment, Gift, and Car Expenses
- IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities
- IRS Publication 970, Tax Benefits for Education
- IRS Instructions for Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- IRS Instructions for Form 1099-MISC, Miscellaneous Income

- IRS General Instructions for Forms 1099, 1098, 5498, and W-2G
- IRS Instructions for Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual

Contacts

- Payroll Office
- Accounts Payable Office
- Controller
- Procurement Department
- Travel Department Help Desk (Travel Hotline)
- International Researchers & Scholars Office (IRSO) BOrtega@lbl.gov
- Sponsored Projects Office (SPO)
- Financial Policy Office

Glossary

- ***Accountable Plan Reimbursement:*** An IRS expense reimbursement allowance that meets **all** of the following IRS documentation requirements:

  1 - Amount of expense incurred
  2 - Number of days spent on business
  3 - Business place or location
  4 - Business purpose

- ***Collaboration:*** Working jointly or together with LBNL in an intellectual endeavor with a set goal or purpose, such as furthering the research or accomplish the objective(s) of the research.

- ***Cooperative agreement*:** An agreement entered into between the University of California (as operator of the Laboratory) and one or more participants under which the government, through the Laboratory, provides personnel services, facilities, equipment or other resources with or without reimbursement towards the conduct of specified research or development efforts that are consistent with the mission of the Laboratory.

- ***Fellowship*:** Generally, a payment made to an individual in support of their pursuit of study or research.

- ***Grant*:** A financial assistance mechanism that provides money, property, or both to an eligible entity to carry out an approved project or activity. A grant is used whenever the grantor anticipates no substantial programmatic involvement with the recipient during performance of the financially assisted activities.

- ***Green card test*** (*see* ***Resident alien*** *below*): An alien is considered a United States resident if the individual was a lawful permanent resident of the United States at any time during the calendar year. This is known as the "green card test" because the alien holds an immigrant visa (green card).

- ***Honorarium*:** A payment or an award granted in recognition of a short-term service (such as a lecture or discussion), on which custom or propriety forbids a price to be set.

- ***Non-Accountable Plan Reimbursement:*** An IRS expense reimbursement that ***does not*** meet **at least one** of the following IRS documentation requirements:

  1 - Amount of expense incurred
  2 – Number of days spent on business
  3 – Business place or location
  4 - Business purpose

- ***Nonresident alien*:** An individual who is not a citizen, permanent resident or resident alien of the United States.

- ***Permanent resident***: An individual who possesses a green card (the popular name for the Alien Registration Receipt Card), which is given to those who become legal permanent residents of the United States.

- ***Requestor:*** The person responsible for inviting the stipend recipient.

- ***Resident alien*:** A resident alien is an individual who is not a citizen or national of the United States, but meets either the green card test or the "substantial presence test" (see below) for income tax purposes for a particular calendar year. For a detailed explanation of these tests, see IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

- ***Stipend*:** An allowance to offset certain expenses (such as subsistence or travel) or a payment for services (in certain circumstances). It may also be a one time payment or a fixed sum paid periodically (or regularly).

- ***Subsistence*:** An allowance granted for the reasonable cost of temporary housing, meals and living expenses incurred in connection with a temporary assignment or appointment.

- ***Substantial presence test*** *(see Resident alien)*: An alien is considered a United States resident if the individual meets the "substantial presence test" for the calendar year. To meet this test, an individual must be physically present in the United States on at least 31 days during the current year; and 183 days (during the current year and the 2 preceding years), counting:

- All the days present in the current year
- 1/3 of the days present in the first preceding year
- 1/6 of the days in the second preceding year

(Source: IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities)

- ***Tax Treaty:*** Agreement between two countries specifying what items of income will be taxed by the authorities of the country where the income is earned.

- ***Unauthorized commitment*:** A written or oral commitment made by an individual to commit funds on behalf of the Laboratory without adequate authority.

Related Documents

- Financial Policies & Procedures, Part I, Honoraria

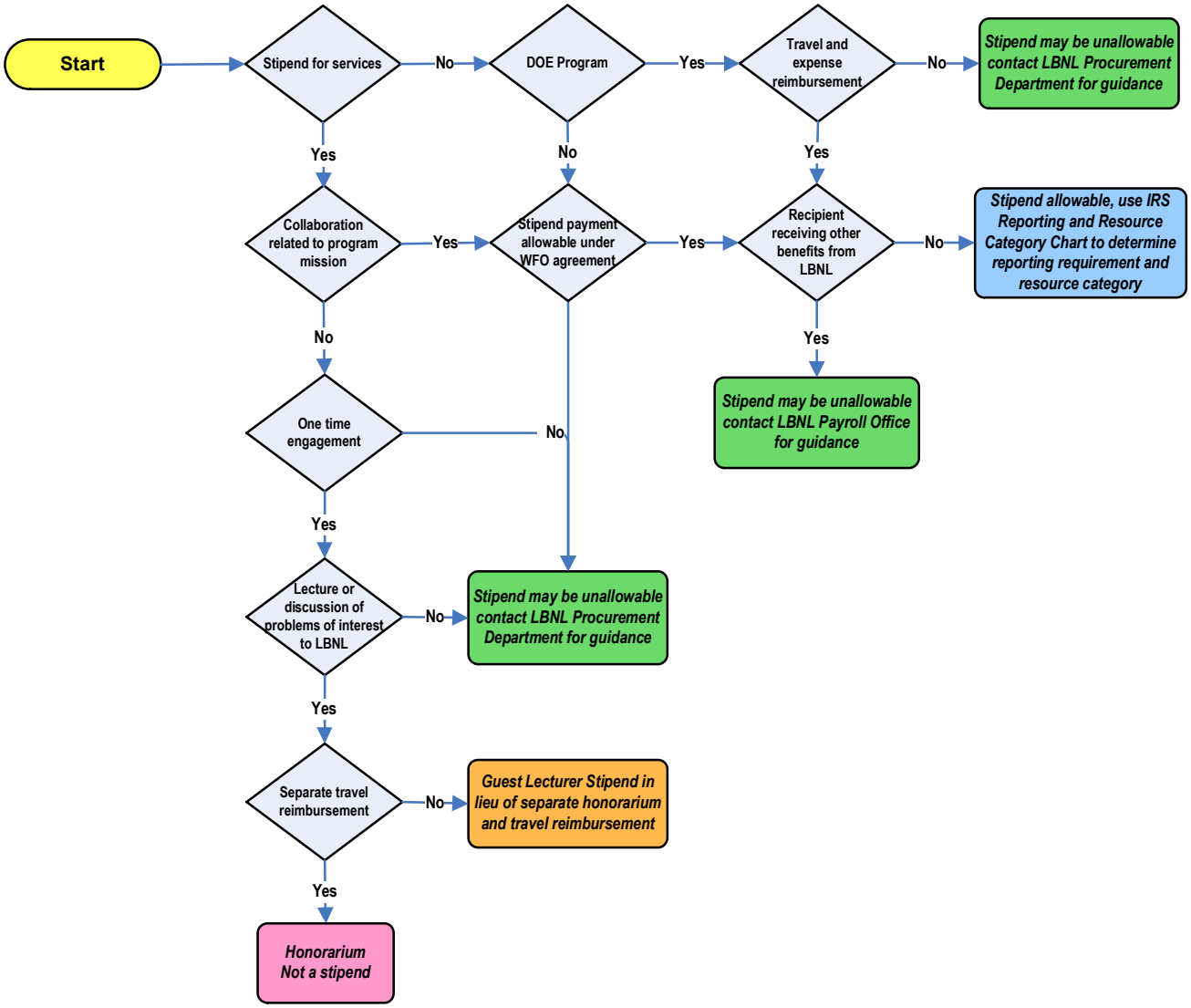
- Request for Issuance of Check for Payment of Honorarium or Stipends form

Approval Limits for TOTAL (*not partial*) Stipends

Type of Stipend	Resource Category	Division Designee	Division Director*	Associate Laboratory Director	Laboratory Director *(per Contract 31)*
Fellowships US Citizens, Permanent Residents and Resident Aliens	35300 or 35500	Up to $10,000 per stipend	Up to $50,000 per stipend	Unlimited	n/a
Nonresident Aliens (tax treaty exempt)	35350	Up to $10,000 per stipend	Up to $50,000 per stipend	Unlimited	n/a
Nonresident Aliens (Not tax treaty exempt)	35360	Up to $10,000 per stipend	Up to $50,000 per stipend	Unlimited	n/a
Non Fellowships US Citizens, Permanent Residents and Resident Aliens	35100 or 35400	Up to $10,000 per stipend	Up to $50,000 per stipend	Unlimited	n/a
Nonresident Aliens	35150 or 35450	Up to $10,000 per stipend	Up to $50,000 per stipend	Unlimited	n/a
Guest Lecturers US Citizens, Permanent Residents and Resident Aliens	35200	n/a	$500 and under	Over $500 up to $2,000	Over $2,000
Nonresident Aliens	35250	n/a	$500 and under	Over $500 up to $2,000	Over $2,000

* Or designee

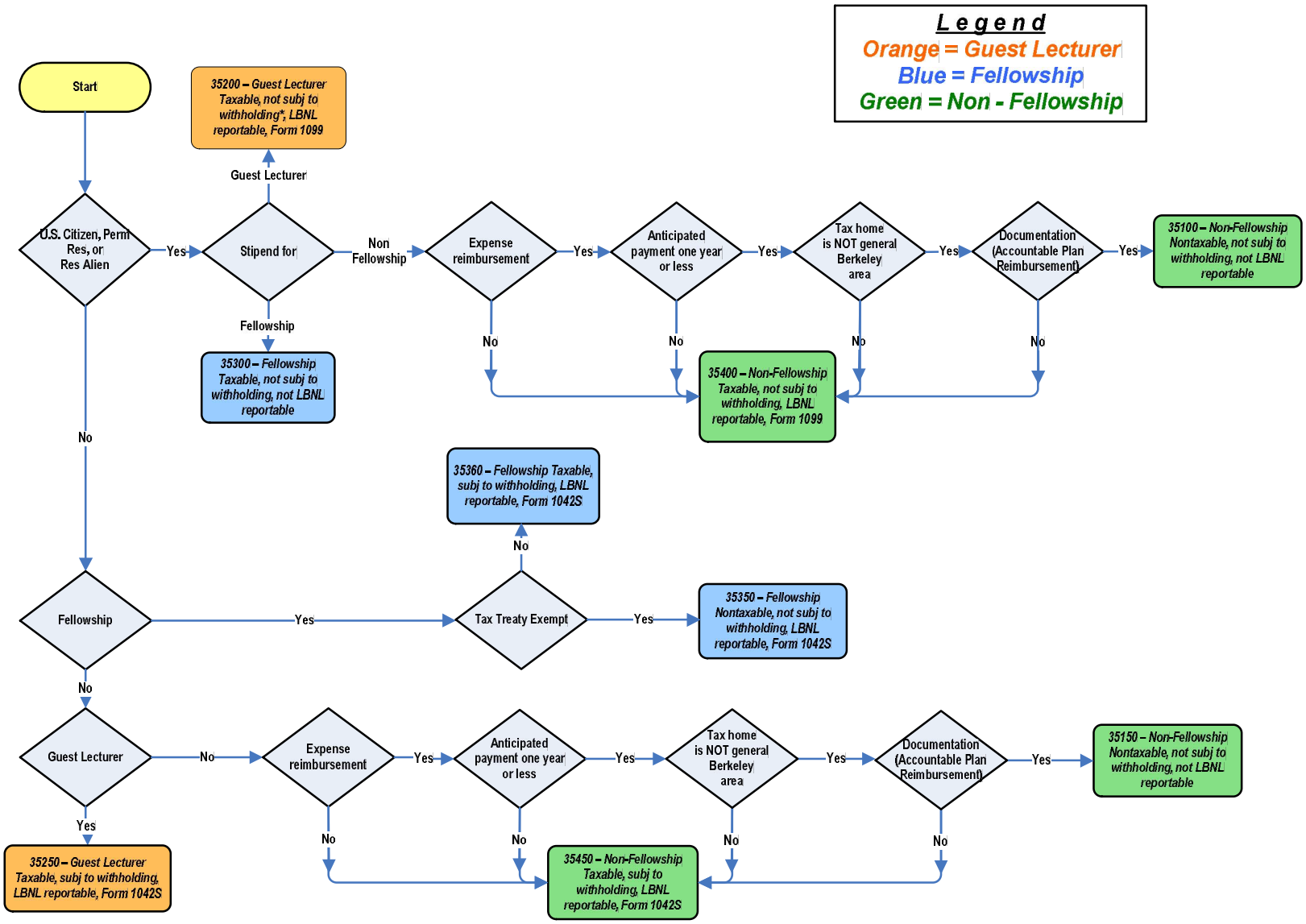
NON EMPLOYEE STIPENDS
Allowability Determination



Legend

Orange = Guest Lecturer
Blue = Allowable
Green = Unallowable
Pink = Honorarium

NON EMPLOYEE STIPENDS
IRS Reporting and Resource Category Determination



LBNL Reporting Requirements to IRS and LBNL Resource Categories

U.S. Citizen, Permanent Resident or Resident Alien						
Type	**Additional Information Required**	**Taxable for Payee?**	**Subject to Withholding?**	**Reportable to IRS by LBNL?**	**IRS Form Submitted by LBNL**	**Resource Category**
Fellowship	n/a	Yes (in most cases)	No	No	n/a	35300
CSEE Fellowship	n/a	Yes (in most cases)	No	No	n/a	35500
Non-Fellowship	Documentation (Accountable Plan Reimbursements)[1] for ≤ one year (if tax home is NOT in the general Berkeley area)	No	No	No	n/a	35100
Non-Fellowship	1) Accountable Plan Reimbursement for ≤ one year (if tax home **IS** in the general Berkeley area) **- or -** 2) Accountable Plan Reimbursements[1] planned (or actually paid) for > one year **- or -** 3) Insufficient Documentation (Non Accountable Plan Reimbursements)[2] **- or -** 4) WFO Services (non expense reimbursement payment)	Yes	No*	Yes	Form 1099	35400
Guest Lecturer	Combined honorarium and travel allowance (in lieu of separate honorarium and travel reimbursement)	Yes	No*	Yes	Form 1099	35200

*Subject to withholding if no Taxpayer ID Number or Social Security Number provided.

Nonresident Alien						
Type	**Additional Information Required**	**Taxable for Payee?**	**Subject to Withholding?**	**Reportable to IRS by LBNL?**	**IRS Form Submitted by LBNL**	**Resource Category**
Fellowship	Tax Treaty Exempt	No	No	Yes	Form 1042S	35350
Fellowship	Not Tax Treaty Exempt	Yes	Yes	Yes	Form 1042S	35360
Non-Fellowship	Accountable Plan Reimbursement for ≤ one year (if tax home is **NOT** in the general Berkeley area)	No	No	No	n/a	35150
Non-Fellowship	1) Accountable Plan Reimbursement for ≤ one year (if tax home **IS** in the general Berkeley area) **- or -** 2) Accountable Plan Reimbursements[1] planned (or actually paid) for > one year **- or -** 3) Insufficient Documentation (Non Accountable Plan Reimbursements)[2] **- or -** 4) WFO Services (non expense reimbursement payment)	Yes	Yes	Yes	Form 1042S	35450
Guest Lecturer	Combined honorarium and travel allowance (in lieu of separate honorarium and travel reimbursement)	Yes	Yes	Yes	Form 1042S	35250

[1]**Accountable Plan Reimbursement**
An expense reimbursement allowance that meets all of the IRS documentation requirements (see right)

[2]**Non-Accountable Plan Reimbursement**
An expense reimbursement allowance that **does not** meet one or more of the IRS requirements (see right)

IRS Accountable Plan Documentation Requirements

1 - Amount of expense incurred
2 - Number of days spent on business
3 - Business place or location
4 - Business purpose

Office of Homeland Security Charge

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part 1**

Originally Issued:	December 1, 2006
Effective Date:	December 1, 2008
Revision Number:	1
Scheduled Review Date:	December 1, 2010 (every two years)
Primary Contact:	Manager, Indirect Budgets

Summary

The purpose of this policy is to provide guidance to ensure that the costs for the Laboratory's Office of Homeland Security (OHS) technical programmatic management oversight are accumulated in homogeneous indirect cost pools and allocated in a reasonable proportion to the beneficial or causal relationship of the costs to cost objectives.

For the purpose of this policy, Homeland Security, Proliferation Detection, Counterterrorism and Intelligence research and development projects are defined if **one** or more of the following activities exist:

- Weapons of mass destruction, including but not limited to chemical, biological or nuclear weapons research or production.
- Threat analysis or threat detection or to technologies to analyze and mitigate threats (nuclear/radiological, biological, chemical, unexploded ordinance [UXO], mines and mine detection, and the like).
- Homeland security, proliferation detection, counterterrorism, or intelligence-related work from any source of funding and from any sponsor.

This policy supersedes the Nuclear Nonproliferation policy established in March 1998.

Policy

The OHS Charge, which represents costs of the OHS' technical programmatic oversight of the Laboratory's Homeland Security, Proliferation Detection, Counterterrorism and Intelligence research and development will be:

- Appropriately budgeted and accounted for on a consistent basis
- Accumulated in homogeneous indirect cost pools
- Allocated in a practical and equitable manner in reasonable proportion to the beneficial or causal relationship of the costs to cost objectives

Procedures

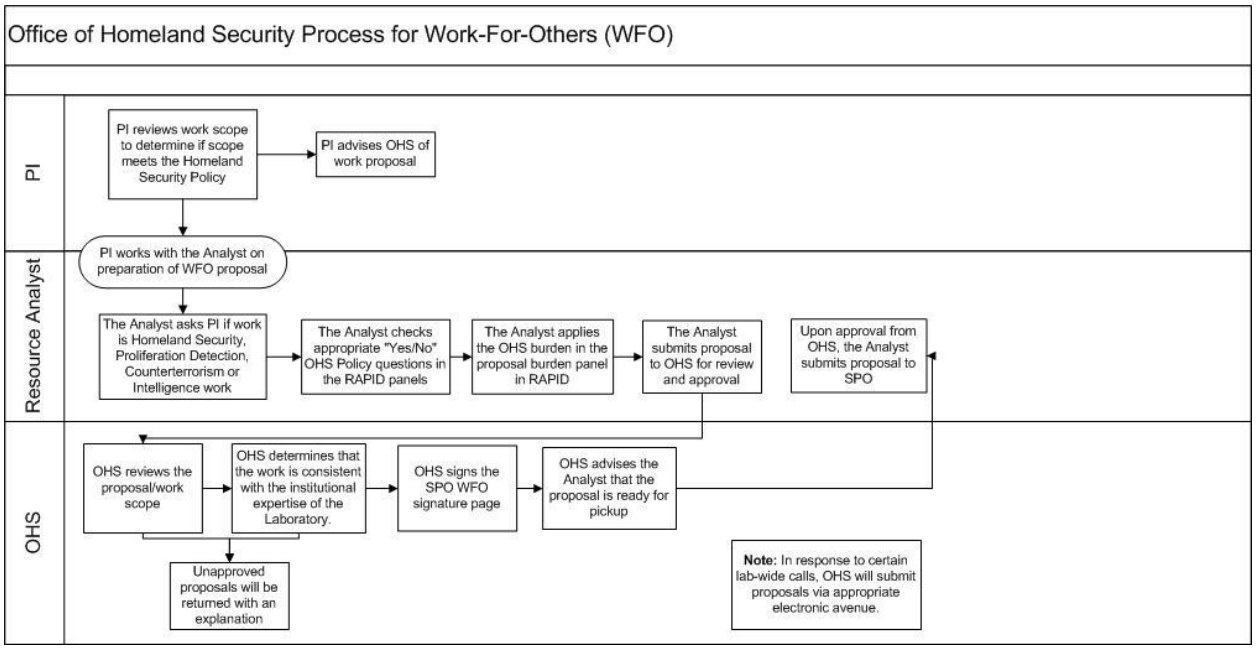
- Elements of cost include: labor, payroll burden, materials and supplies, travel, service center charges, facilities use, plus applicable burdens including organization burden, travel and procurement charge, which are associated with the OHS' technical programmatic oversight.

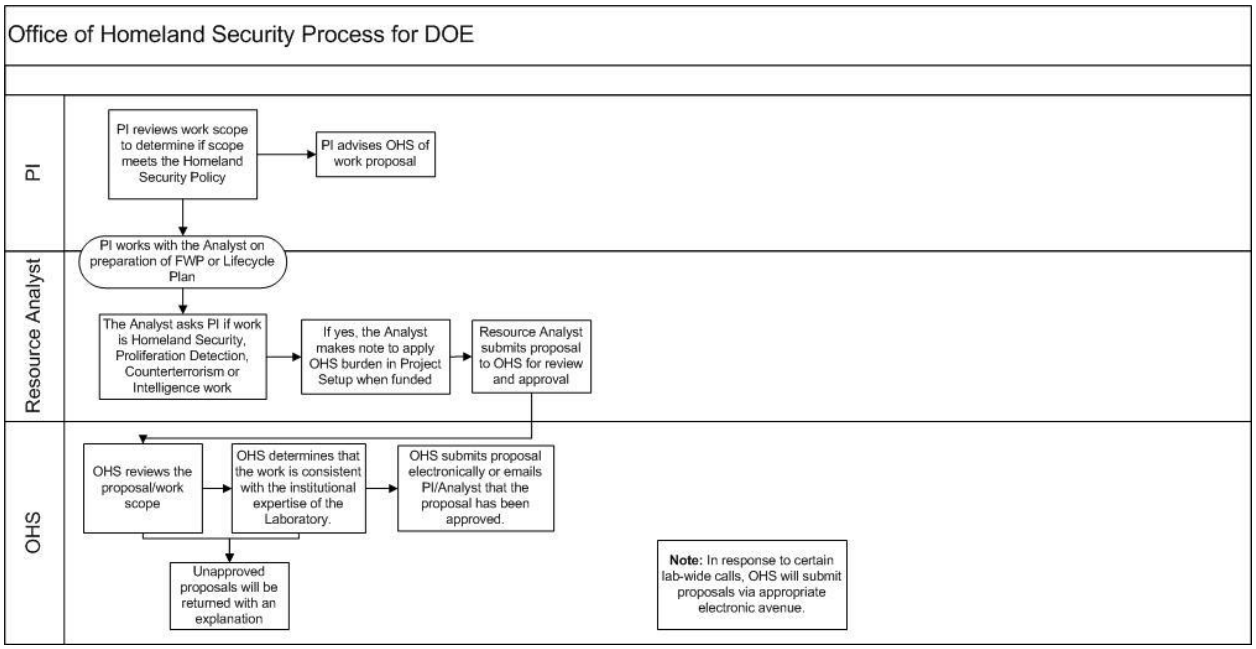
- The OHS' allocation base for the OHS' charge includes the total operating costs less the General and Administrative (G&A), LDRD, IGPP, research and development subcontracts, honoraria, stipends, fellowships, electricity, conferences, and workshops.

- OHS' expenses are allocated to cost objectives using pre-established OHS' rate. The rate is based on forecasted costs for the applicable cost accounting period, generally the Laboratory's fiscal year.

- The pre-established rate is monitored throughout the fiscal year. If analysis of anticipated conditions discloses a material variance for the fiscal year, the pre-established OHS rate will be revised to ensure that the anticipated variance is disposed of by allocating it to cost objectives in proportion to the costs previously allocated to these cost objectives by use of the pre-established OHS rate.

The following is the criteria for determining whether the project is subject to the OHS rate includes all Department of Energy (DOE) (except DOE Initiation for Proliferation Preventions DOE Budget and Reporting code NN-4101) and non-DOE sponsors of Homeland Security, Proliferation Detection, Counterterrorism, and Intelligence work approved by DOE.





Roles and Responsibilities

- Formulation and coordination of the OHS expense pool and allocation base will be conducted by the Budget Office. OHS expense rate forecasts, establishment of the pre-determined rate for the applicable cost accounting period(s), and revisions to the pre-established rate will be coordinated and executed through the Budget Office.

- The Laboratory Director delegated, Office of Homeland Security (OHS) technical programmatic management oversight to include the review and approval of all proposals' work scope from DOE and non DOE sponsors. The OHS is to ensure that the work is consistent with institutional expertise and is consistent with the mission of the Laboratory as it relates to Homeland Security, Proliferation Detection, Counterterrorism and Intelligence research and development.

Authority

- Department of Energy (DOE) Prime Contract 31

- Cost Account Standards Board (CASB) Disclosure Statement, Lawrence Berkeley National Laboratory

- Cost Accounting Standard 401, Consistency in Estimating, Accumulating and Reporting Costs

- Cost Accounting Standard 402, Consistency in Allocating Costs Incurred for the Same Purpose

- Cost Accounting Standard 418, Allocation of Direct and Indirect Costs
- Dr. Steven Chu's memorandum in Today at Berkeley Lab, January 23, 2006

Contacts

- Manager, Indirect Budgets
- Program Head, Office of Homeland Security

Glossary

- ***Allocate**:* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.
- ***Cost objective*:** A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.
- **Field Work Proposal (FWP):** Proposal forms that are frequently used in responding to request for proposal to DOE.
- ***Final cost objective*:** A cost objective which has allocated to it both direct and indirect costs and is one of the final accumulation points.
- ***Indirect cost:*** Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives, or with at least one intermediate cost objective.
- ***Indirect cost pool:*** A grouping of incurred costs identified with two or more cost objectives, but not identified specifically with any final cost objective.
- **RAPID:** Research Administration, Proposal/Project Information Database maintained by Sponsored Projects' Office and utilized by SPO and Divisions for WFO proposals and awards.
- ***Work-For-Others (WFO)*:** Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related documents

Cost Accounting Standards Board Disclosure Statement

Organization Burden

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	June 30, 2005
Revision Date:	May 15, 2009
Revision Number:	1
Scheduled review date:	June 30, 2011 (every two years)
Primary contact:	Manager, Indirect Budgets

Summary

The purpose of this policy and procedure is to provide guidance on the management and administration of Laboratory organization burdens (costs for the general management and administration of the Laboratory's scientific and support divisions or departments).

Policy

Laboratory organization burden costs are:

- Accumulated in standardized indirect cost pools (organization burden projects)
- Allocated in an equitable and reasonable manner to the benefiting cost objectives (projects)

Cost Pool Expense Types - The organization burden cost pool includes the following appropriate cost elements:

Labor Expenses

- ***Division/Department Deputy*** - Wage expense of Division/Department Deputy and/or Assistant Division Directors.
- ***Division/Department Office Staff*** - Wage expense of division administrators, division and/or department office management personnel, secretarial and clerical support.
- ***Division/Department Support*** - Wage expense of staff whose appointment or assignment is of a division-wide nature that clearly and specifically supports the division director's responsibilities, e.g., preparation of annual division research report or review of work task proposals. Assignments which benefit specific projects are excluded.
- ***Staff Between Assignments*** – Wage expense of employees between assignments.

Other Expenses

- ***Division/Department Office Operating Costs*** - Includes charges for telephone, printing, copying, travel, vehicles, non-capital equipment purchases, equipment rental/ maintenance, computing, other supplies & expense items, divisional seminars and electricity expenses related to the Division/Department Office. May include other operating costs as appropriate.

- ***Building Expenses, Alterations and Moving Expenses*** - Costs of building managers and related supplies and equipment, and repair of "general" use equipment; non-capital space alterations and division-initiated moves.

- ***Research Project Termination*** - Support for project termination expenses is intended to allow reasonable accommodation to unanticipated or sudden minor changes in division research activities due to a specific project termination. It does not provide for termination of a major research program, or subprogram, which should be directly funded by the program.

- ***Capital Equipment*** - Includes purchase, fabrication, lease and maintenance of capital equipment which broadly supports Division activities, develops new capabilities, and/or assists in attracting scientists in key R&D areas.

  The users/beneficiaries of the capital equipment are included in the Division's organization burden distribution base. The capital equipment is used to support Division multi-programmatic and/or interdisciplinary functions where the predominant use is not directly identified with a specific project. In addition, the capital equipment does not apply to institutional-wide users/beneficiaries. This type of capital equipment must be purchased with landlord General Purpose Equipment (GPE) funds.

  Capital equipment costs included in organization burden must meet the following requirements:

  - Capital equipment criteria (see Glossary)
  - Less than 10% of the overall organization burden budget
  - Users/beneficiaries are within the Division's organization burden base
  - Users/beneficiaries include multiple sponsors and/or projects within the organization burden base
  - Capital equipment meeting these criteria should be charged to organization burden

  The Laboratory's Organization Burden Capital Equipment (OBCE) form is submitted to Property Accounting and Budget for concurrence prior to beginning the acquisition or project. See Attachment 1 for the procedure and project set-up criteria.

- ***Other Expenses*** - Organization Burden cost pools for support divisions may include activities such as production control, rework, scheduling, and related supervision, conference and workshops, and professional research and teaching leave (for scientific divisions).
- ***Research and Development*** - Research and development costs are not appropriate to include in the organization burden.

Distribution Base

The distribution base for organization burden costs is organizational wage expenses (labor and payroll burden) and contract labor. Exclusions include the following:

- Organization burden labor charged to the cost pool
- Wage expense of employees matrixed from other organizations
- Fellowship and Career Development Work for Others (WFO) projects
- Multiple Location Assignments, Inter-Jurisdictional Employee Exchanges, and Intergovernmental Personnel Appointments

Rate Management

Organization burden costs are allocated using pre-established rates. Each rate must have its own separate cost pool and distribution base. The rates are based on forecasted costs for the applicable cost accounting period(s), usually the Laboratory's fiscal year.

Preliminary organization burden rates are developed on a break-even basis. The objective is to establish a rate that will recover the exact total of costs in the cost pool at fiscal year end. If a material variance exists between cost and recovery at fiscal year end, the rate and/or budget will be revised to appropriately allocate the variance.

Organization burden rate forecasts, establishment and revision of pre-determined rates for the applicable cost accounting period(s) are prepared by the divisions and coordinated and executed through the Budget Office.

Financial Management System (FMS) Project Set-up

The Division enters a project ID in FMS and submits in "R - Requested" status with the following information:

Organization Burden Projects

- Project ID = (Each organization creates a unique Project ID)
- Project Type = OHORG
- IBA Code = OR
- MARS Code = OPEXP
- B&R = YN01

Organization Burden *Capital Equipment* Projects

- Project ID = (Each piece of capital equipment requires a unique Project ID)
- Project Type = OHORG
- IBA Code = ORCE
- MARS Code = EQUIP
- B&R = YN01
- BRN = EQU

Authority

- Department of Energy (DOE) Contract 31
- Cost Account Standards Board (CASB) Disclosure Statement, Lawrence Berkeley National Laboratory
- Cost Accounting Standard 401, Consistency in Estimating, Accumulating and Reporting Costs
- Cost Accounting Standard 402, Consistency in Allocating Costs Incurred for the Same Purpose
- Cost Accounting Standard 418, Allocation of Direct and Indirect Costs
- DOE Order 522.1, Pricing of Departmental Materials and Services
- DOE Order Accounting Handbook, Plant and Capital Equipment, Chapter 10

Contacts

- Manager, Indirect Budgets

Glossary

- ***Allocate****:* To assign an item of cost, or a group of items, to one or more cost objectives. This term includes both the direct assignment of cost and the reassignment of a share from an indirect cost pool.
- ***Capital equipment***: Personal property with a minimum service life of two or more years and a value of $50K or greater. The equipment must be tangible and capable of specific identification and continuous control through tagging and periodic physical inventory. The value includes invoice costs less discounts, plus fabrication costs, freight charges, modifications, installation cost, and applicable taxes.
- ***Cost objective*:** A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.
- ***Final cost objective*:** A cost objective which has allocated to it both direct and indirect costs and is one of the final accumulation points.

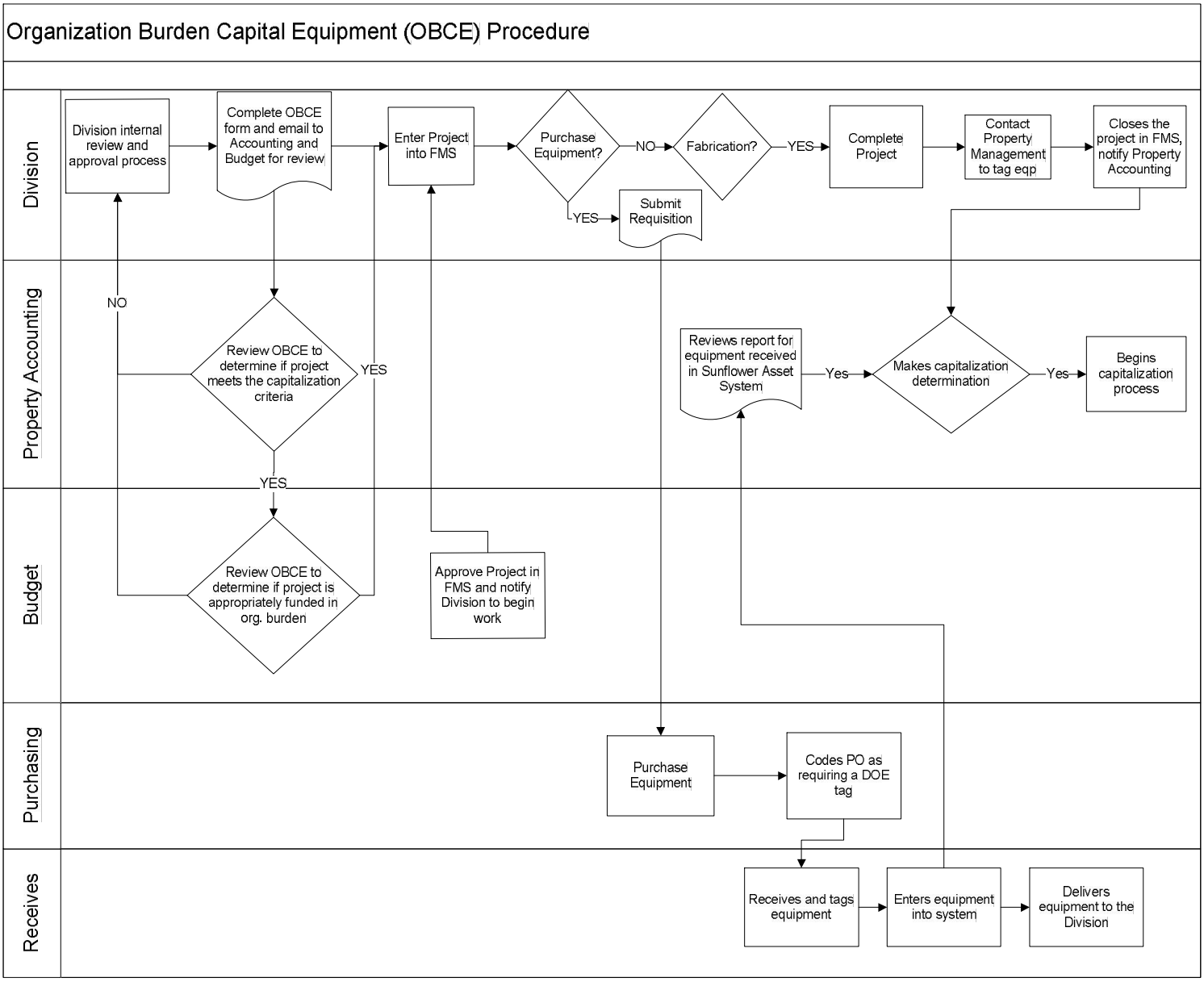
- ***Indirect cost:*** Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives, or with at least one intermediate cost objective.

- ***Indirect cost pool:*** A grouping of incurred costs identified with two or more cost objectives, but not identified specifically with any final cost objective.

- ***Wage expense:*** Salary multiplied by Paid Leave Factor multiplied by one plus the Payroll Burden Rate {Salary x Paid Leave Factor x (1+ Payroll Burden Rate)}.

Attachment 1

Organization Burden Capital Equipment (OBCE) Approval Process



Business System Ownership and Management

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part II**

Originally issued:	May 1, 2007
Effective Date:	December 7, 2008
Revision Number:	1
Scheduled review date:	December 7, 2009 (yearly)
Primary contact:	Manager, Business Systems Analysis

Summary

The purpose of this policy is to establish the Office of Chief Financial Officer (OCFO) business system ownership and management responsibilities. Every OCFO business system must have a designated Business Owner. The business system owner is responsible for ensuring that the functionality of the system module meets the Laboratory's business needs to include:

- Available to users
- Secure and controlled
- Contains accurate data
- Maintainable
- Appropriately documented
- Adequately tested

Policy

The owner of a business system module has ultimate responsibility for managing the assigned system. The Business Owner of an OCFO information system is usually the owner of the primary business functions served by the system module and is, therefore, that system's largest stakeholder.

As detailed under Roles and Responsibilities below, the Business System Owner is responsible for providing leadership, direction and recommendations regarding the development, enhancement and maintenance required for the system to meet the Business System Owner's operational objectives. This policy acknowledges that the execution of these responsibilities requires resources and support from OCFO Business Systems Analysis, OCFO Financial Policy and Training (FPTO), and the Information Technology (IT) Division.

This policy applies to all OCFO computerized systems involved with the creation, updating, processing, outputting, distribution, and other uses of business information. This policy applies to OCFO business systems developed at the Laboratory, acquired from external vendors, built from open-source components, as well as those extended from existing or purchased systems.

Procedures

Roles Responsibilities

Business System Owner

General

- Defines the scope and strategic objectives of the business system. Establishes objectives and plans for the ongoing support, maintenance and enhancement of the application.
- Learns and understands the overall purpose and sufficient details of the system to manage or direct the day-to-day business operations of the system.
- Conducts periodic reviews of the system operations to ensure system is working as intended.
- When systems issues arise, ensures appropriate root cause problem resolution has occurred and that system issues are addressed and communicated accordingly.
- Makes final decisions in situations where stored system data is inaccurate after appraising the impact to system customers versus resources and time available to fix the problem.
- Collaborates with the IT and Facilities Divisions to develop and maintain a system business continuation plan including business-operating procedures.

System Changes and Enhancements

- Defines system requirements for new systems and system enhancements.
- Reviews and prioritizes requests for new systems and system enhancements and considers options including process reengineering prior to recommending a system change.
- For system changes, coordinates with Business Systems Analysis to ensure an adequate test plan is prepared and executed, and monitors the testing and review of the system during development.
- Provides final approval for implementing changes to the production system. Formally accepts the system as complete and ready for production.

- Ensures the implementation of effective system roll-out plans to include:
  - Adequate user communications
  - Quality of user training and the related training documents
  - Preparedness of help desk support

- Communicates planned and completed changes, improvements, and other important information about the system to users and support personnel as needed.

- Participates in planning for enterprise system-wide upgrades.

User Access Control

- Establishes criteria for controlling user access to the various features of the system including the prerequisites for users who need read/write access.

- Controls access to personal identity information (PII).

User Training and Support

- Establishes and maintains a training program for all staff updating data in the system and provide other training as needed for users who will be accessing and reviewing information in the system.

- Ensures the availability and quality of user training and related materials, reliability and the preparedness of help desk and other technical support processes and personnel.

Data Integrity

- Ensures the availability, reliability and security of the business data stored in the system.

- Recommends improvements to the system to maintain an efficient and accurate process for providing customer-oriented information.

- Documents processes using personal identity information (PII) and control the security of PII.

- Oversees the maintenance and reviews data security, reliability, and integrity.

- Conducts periodic reviews of the data to ensure data is accurate and secure.

- Ensures data input controls are documented, effective, and tested periodically.

- Establishes and maintains useful data hierarchies for use in summarizing transaction details.

- Reviews and, if acceptable, approves requests to use data in standard management reports, or as inputs to other systems. Participates in the development and maintenance of standard management reports based on system data.

OCFO Business Systems Analysis (BSA)

General

- Monitors system operations.
- Communicates system problems/resolutions.
- Conducts root cause analysis of problems; provide options/recommendations about solutions.

System Changes and Enhancements

- Defines and monitors process and procedures for requesting, approving and tracking system changes.
- Develops and coordinates system upgrade and enhancements plans: integrates functionality mandated by business requirements and vendor upgrades into the production system.
- Identifies opportunities for process/system improvements.
- Assist owners in defining and model requirements for new systems or system enhancements.
- Partners with OCFO and IT to plan, develop and execute system upgrades and enhancements.
- Ensures changes are adequately tested and obtains owner approvals before moving them to production. Coordinates with the System Owner and functional staff in the preparation and execution of system change test plans.
- Supports system change roll-outs.

User Access Control

- Establishes and maintains a policy and procedures for controlling user access to systems including a process for conduction periodic reviews of user access.
- Conducts validation reviews of user access at least annually.
- Identifies personal identity information (PII) issues and make recommendations for corrective actions including access controls.

User Training Support

- Provides end user support.

IT Institutional Systems (ITIS)

General

- Provides technical project management leadership and services including development of project proposals and project plans.
- Conducts major system development based on customer specifications.
- Provides input to customers on options and considerations for system change requests.
- Performs system maintenance to accommodate vendor upgrades, software fixes and security patches.
- Provides system enhancements to accommodate DOE mandates, regulatory/policy changes, interface changes, and business process changes.
- Prepares documentation and exerts software change control as required by department standards.

Authority

- Not applicable

Contacts

- Manager, OCFO Business Systems Analysis

Glossary

- ***Business System**:* A computerized information system or business application that provides the end to end delivery of information. Data is an integral part of running the business including all computerized processes and the software needed to satisfy business requirements. A business system is comprised of computerized processes, input controls, the stored business data, and reports and other output formats.

- ***User:*** An individual (e.g., employees of an OCFO functional unit) who interacts with the computer at an application level. Programmers, System Administrators/ Managers, and other technical personnel are not considered users when working in a professional capacity on the computer system. System users must use the application in the manner and for the business purpose it was designed, and comply with all specified control and security requirements.

- ***System Administrator/Manager:*** IT manages the day-to-day technical operation of the business system: database management, software distribution and upgrading, version control, backup and recovery, virus protection and performance and capacity planning. User profile management is performed by BSA.

- ***Business Systems Analysis (BSA) Unit***: Responsible for ensuring that OCFO business systems are responsive to the needs of the Laboratory, the return on systems investment is maximized, and that systems strategies and plans are effectively communicated. The BSA Unit is comprised of a team of professional business analysts who partner with OCFO functional units and IT Division professionals in the planning, design, testing, implementation and maintenance of automated information systems.

Related Documents

- OCFO Business System Owner Assignments

- OCFO Business System Ownership Acknowledgement Memo

Write Off Accounts Receivable

Title:	Write Off Accounts Receivable
Originally issued:	May 1, 2007
Effective Date:	May 1, 2007
Revision Number:	0
Scheduled review date:	April 30, 2009 (yearly)
Primary contact:	Manager, Accounts Receivable

Summary

A write off of an accounts receivable is an accounting procedure removing balances from the accounts of record in order to accurately portray the records' true economic value on the balance sheet. This policy applies to write offs under or over recovery of non-Department of Energy (DOE) agreements and employee bad debts. Additionally, in order to limit the write-off activity, the Accounts Receivable Department (AR) aggressively takes collection actions to resolve all delinquent debt.

Policy

This policy applies to the following types of non-DOE agreements:

- Federal Work for Others (WFO) awards
- Non-federal WFO awards with the exception of State of California
- Cooperative Research and Development Agreements (CRADAs)
- User agreements
- Receivables due from employees (salary overpayment)

An exception to the process, are refunds for State of California. If there are remaining advances or overpayments, the State of California, including University of California (UC), requires refunds. Some federal agencies reject refunds, via IPAC, if the expired awards are closed. Refunds are written off to miscellaneous revenue, type fund 58.

This policy conforms to the DOE Accounting Handbook, Chapter 8, Receivables and the DOE Contract 31, Contract Clauses, Clause I.102.

The AR Department reviews the aging reports, allowance for doubtful accounts, WFO funding and cost reports, and the unbilled account on a regular basis. The AR Department analyzes for allowability and materiality. Initiates write offs considered uncollectible and/or for amounts considered immaterial.

Uncollectible accounts receivable and an excess of costs over income are unallowable. All amounts are written off when approved per the criteria noted in chart below. When an entry is made to the allowance for doubtful accounts, there must be appropriate supporting documentation (e.g., UC approval, invoices).

Any uncollectible receivables over $50 are submitted to UC for approval. It is not necessary to request formal approval from UC when writing off immaterial balances (less than or equal to $50). Upon UC approval, reimbursement is processed, via pre-fee deduction, for costs incurred in current fiscal year. For costs incurred in prior fiscal years, UC wires the payment to the Laboratory.

Procedures

Roles and Responsibilities

Write off Billed Receivables – Non-DOE Agreements

Approval criteria	**Receivables over $50** – Debit (unallowable)	**Receivables under $50** – Debit (unallowable)	Receivable/ Advance **under $50 -** Credit **(Refund)**	**Unbilled under $50** – Debit(unallowable)/ Credit
Federal/Non-Federal/CRADA /User agreement	UC approval	UC blanket approval	n/a	Debit – UC blanket approval
Employee	UC approval	UC blanket approval	n/a	n/a

For Billed Receivables over $50:

A write off may occur when the AR Department determines that the chance of collecting the debt is minimal or less than 50 percent. The debt must have been transferred to the Department of Treasury for collection. Federal and UC debts cannot be transferred to the Department of Treasury.

Accounts Receivable

- Reviews, on a regular basis, the aging report and determines the uncollectible receivables

- Prepares a letter of disclosure and approval to the UC. The letter should clearly state:

  - Amount
  - Circumstance for declaring item an unallowable bad debt
  - Corrective action plan to ensure a repeat does not occur

- Submits letter to Controller for signature and approval
- Reserves the debt in the allowance account upon authorization by the UC
- Notifies General Accounting

General Accounting

- Processes reimbursement, via pre-fee deduction, upon UC approval for cost incurred in current fiscal year, or applies reimbursement against the project for cost incurred in prior fiscal years

For Billed Receivables under $50:

Immaterial amounts remaining on receivables are aggregated for write off on a periodic basis.

Accounts Receivable

- Reviews, periodically, the aging report to determine the immaterial receivable balances
- Submits request to UC for reimbursement and provides a summary disclosure
- Notifies General Accounting

General Accounting

- Processes reimbursement, via pre-fee deduction, upon UC approval for cost incurred in current fiscal year, or applies reimbursement against the project for cost incurred in prior fiscal years

For Write offs on refunds under $50:

Upon completion of the project, there is a reconciliation of total costs incurred to total payment. Any remaining advance or overpayment is returned to the sponsor. If the sponsor waives the refund, refunds are offset to UC funds.

Accounts Receivable

- Contacts the sponsor for the low dollar refund. If the sponsor does not respond in 30 days, a refund is offset to UC funds. However, if a sponsor claims the refund after 30 days, a refund is still issued even though the refund was previously written off

For Write offs unbilled cost under $50:

Unbilled costs are the results of: costs incurred beyond period of performance; costs in

excess of the agreement value; credit costs re-allocated to the project; and/or the award in negative cash position. On a monthly basis, unbilled costs are charged to an unbilled receivable account until the divisions prepare a resource adjustment to offset the costs or notify AR to invoice the costs. On a periodic basis, low dollar unbilled costs are aggregated for write off.

Accounts Receivable

- Reviews, periodically, the WFO funding and cost reports to determine the low dollar unbilled cost for the expired awards
- Submits request to UC for reimbursement and provides a summary disclosure
- Notifies General Accounting

General Accounting

- Processes reimbursement, via pre-fee deduction, upon UC approval for costs incurred in current fiscal year, or applies reimbursement against the project for cost incurred in prior fiscal years

Authority

- DOE Accounting Handbook, Chapter 8, Receivables
- OMB Circular A-129 provides that Federal agencies write-off delinquent debt over two years old
- DOE Contract 31, Contract Clauses, Clause I.102-DEAR 970.5232-2 Payments & Advances (12/02)
- Federal Acquisition Regulation, FAR31.205-3, Bad Debts

Contacts

- Manager, Accounts Receivable
- Manager, General Accounting
- Controller

Related documents

- OCFO Financial Policy, Allowance for Doubtful Accounts

Glossary

- ***Work for Others***: Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

- ***Cooperative Research and Development Agreements (CRADAs):*** An agreement entered into between the University of California, as operator of the Laboratory, and one or more participants including at least one non-federal party under which the government, through the Laboratory, provides personnel services, facilities, equipment or other resources with or without reimbursement towards the conduct of specified research or development efforts that are consistent with the mission of the Laboratory. The Laboratory is precluded from contributing funds to other sponsors in support of a CRADA.

- ***Over Recovery:*** Credit balance created by payments exceeding invoice costs.

- ***Under Recovery:*** *Debit balance created by* costs exceeding funding.

- ***Pre-fee deduction:*** This method of payment may only be used for costs which cannot be incurred on government funds. Deductions may be made only with the appropriate approvals and documentation. Approved costs are paid with funds which would otherwise have been paid to the University as part of the monthly fee payment.

- ***User Agreements:*** Any DOE facility, including associated equipment and instruments, officially designated as either a national research facility or locally designated user facility. At the Laboratory, designated research facilities are: Advance Light Source (ALS), National Center for Electron Microscope (NCEM), the Molecular Foundry, National Energy Research Scientific Computing Center (NERSC) and the Joint Genome Institute (JGI). The 88 Cyclotron is a locally designated User facility.

§11.38
Obtaining Goods and Services

Responsible Manager

Revised 09/07

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M. References

A. GENERAL POLICY

In support of Lawrence Berkeley National Laboratory's research, the total value of purchases for the last few years has been in excess of $190 million per fiscal year. Because procurement transactions account for a significant portion of the Laboratory's annual budget, the Department of Energy and University of California exercise rigorous control over the Laboratory purchasing system. In particular, the Laboratory has a responsibility to ensure that:

- Procurements are competed, to the maximum extent possible, consistent with the Laboratory's performance of its mission and the nature of the goods and services to be procured.
- Costs paid by the Laboratory are fair, reasonable, and appropriate for expenditure of government funds.
- All procurement actions comply with applicable federal laws and regulations and the Prime Contract for operation of the Laboratory.
- Subcontractors are treated fairly and impartially.
- Small business concerns are provided an equitable opportunity to compete for procurements.

Authority to make contractual commitments for the expenditure of Laboratory funds is held only by specifically delegated individuals primarily assigned to the Office of the Chief Financial Officer/Procurement and Property Department. Only these formally designated individuals may commit the Laboratory to the expenditure of funds. Purchases or commitments made by individuals without delegated procurement authority to commit the Laboratory must undergo a ratification process to determine whether the purchase would otherwise have been proper and in the best interests of the Laboratory. Individuals making commitments without delegated authority are subject to disciplinary action.

Many laws have been enacted to curb the fraud, waste, and abuse associated with unethical procurement practices at the federal level, and some apply to the Laboratory as a DOE contractor. Further, state laws and University regulations also establish criteria for ethical conduct and penalties for violations. In some cases, Laboratory employees may be held personally and/or criminally liable for actions that are not consistent with the equitable treatment of contractors and the appropriate expenditure of government dollars.

The information provided in this section encompasses general rules governing the procurement process; it is *not* intended to be an exhaustive guide to procurement requirements. Laboratory employees should address specific questions to Procurement. Procurement information is available on Procurement's Web page, which may be accessed from Berkeley Lab's Web page.

B. STOCK ITEMS

1. General Stores

Over 12,000 items are available through the Laboratory storeroom system. Additional items such as office supplies and chemicals are available from just-in-time (JIT) systems agreements. The Laboratory Facilities Inventory Management/Stores groups are responsible for maintaining this stock. Berkeley Lab and Lawrence Livermore National Laboratory (LLNL) no longer share the same Stores system. A limited number of items may be requested from LLNL storerooms when needed. Stores catalogs are available from the Central Storeroom. JIT systems catalogs are available from the Procurement/JIT Systems group. Stock items may be requested by any employee or authorized nonemployee furnishing an employee number, an appropriate account number, and (when applicable) a job-order number. Certain sensitive items are subject to special authorization or other forms of issue control. Supervisors receive a monthly statement of charges against their accounts.

2. Shop Stocks

Supplies of low-value, high-use stock items are maintained in many of the Laboratory shops or scientific research areas for use only by those in the program or immediate area. Personal use of these supplies, as with all government property, is prohibited. See RPM §11.39 (*Use of Laboratory Property and Supplies*).

3. Precious Metals

a. Eight DOE-identified precious metals — gold, silver, platinum, rhodium, palladium, iridium, osmium, and ruthenium — are

restricted-issue items. Purchase of precious metals is limited to Career Laboratory employees and must be made through Procurement's designated Precious Metals Buyer.

b. Precious Metals must be secured in a safe or locked cabinet at all times when not in use. Custodians (Career employees) are responsible for unaccounted-for losses.
c. Custodians must keep activity records that are available for on-demand review by DOE/BSO and LBNL Property Management.
d. Precious metals that are no longer needed, including any scrap amounts, must be cleared for radioactivity by the Environment, Health & Safety Division (EH&S) before they are transferred to the DOE Business Center for Precious Metals at Oak Ridge National Laboratory.

C. FABRICATIONS

Equipment or materials unavailable from commercial sources may be fabricated at the Laboratory by job order or outside the Laboratory by purchase order or subcontract. See Property Management Guide §3, IV-C (*Make or Buy Decisions*).

The Office of the Chief Financial Officer/Budget will determine whether a fabrication should be charged to an operations equipment account. Requests for such determinations should be accompanied by a statement indicating the need for the item, a description or drawing, the desired fabrication schedule, and a cost estimate for fabrication or installation.

D. CONSTRUCTION AND ARCHITECT-ENGINEER (A/E) SUBCONTRACTS

Subcontracts for architect-engineer services will be performed in accordance with the requirements of the University of California Procurement Policy and Standard Practices Manual. Selection of subcontractors will be based primarily on the offerer's qualifications. Cost, price, or other factors may also be considered in the selection of A/E subcontractors. With the exception of turnkey subcontracts, no subcontract for the construction of a project will be awarded to the subcontractor who designed the project or its subsidiaries or affiliates unless approved by DOE.

Subcontracts for construction will be performed in accordance with the requirements of the Manual and the State of California. In the event of a conflict between California and federal requirements, federal requirements will take precedence.

E. BLANKET SUBCONTRACTS

A blanket subcontract is a type of subcontract that:

- Permits Laboratory stocks to be maintained at minimum levels with direct shipments to users and provides flexibility in ordering quantities and scheduling deliveries
- Provides for delivery of a definite quantity of specific goods or services for a fixed period, with deliveries to be scheduled at designated locations on placement of a release
- Provides for an indefinite quantity, within stated limits, of specific goods or services to be furnished during a fixed period
- Provides for filling purchasing needs for specific goods or services scheduled by placing releases with a subcontractor during a specified subcontract period

Blanket subcontracts are used to avoid the administrative cost of issuing multiple subcontracts and to obtain quantity discounts when a recurring need for goods or services is anticipated. Product analysis, market analysis, and/or prior purchasing history is used to determine whether a blanket subcontract is advantageous to the Laboratory. Consideration is also given to socioeconomic goals. Blanket subcontracts are often placed by the Office of the Chief Financial Officer/Procurement for Laboratory-wide requirements. Any product or service requested by an authorized technical coordinator under a blanket subcontract is called a "release." Each blanket subcontract has a listing of Laboratory personnel authorized to make releases and their level of authority.

F. ACQUISITION OF EXCESS PROPERTY

The Laboratory is authorized to obtain used equipment or materials from government excess material lists. EH&S must be consulted when such an acquisition involves a potential hazard. Capital equipment or property must be coordinated with the Office of the Chief Financial Officer/Property Management Group after or concurrent with these consultations. Requests for excess property are processed by Procurement.

G. EMERGENCY AND UNUSUAL CIRCUMSTANCES

In the event of emergency or unusual circumstances, employees are permitted to purchase low-value items not available through normal procurement methods using an LBNL travel charge card when on travel status or a personal credit card or cash when in the local area. Additionally, if the division/department requesting reimbursement is located on site, a Request for Issuance of Check may be used where normal procurement methods are not practical.

Travel Charge Card. When on travel status, employees are allowed to use their LBNL travel charge card for the purchase of low-value items needed in the course of their work. The limit on miscellaneous business expenses while on travel is determined by the traveler's division/department based on business need. Reimbursement requires submission of a travel expense report approved by the original approver of the trip. Pre-trip approval is required. The required documentation (receipts, etc.) and limit are governed by the LBNL travel policies contained in RPM §11.08 (*Travel Policy*).

Personal Credit Card or Cash. In the event of time constraints caused by emergency or unusual circumstances, employees are allowed to purchase goods not available through normal procurement methods using their personal credit card or cash. Such purchases are limited to $300 and are reimbursable by filling out a "Request for Issuance of Check" (see below), which must be approved by an authorized signer on the Laboratory's Signature Authorization System. The Request for Issuance of Check form requires the employee to certify that the expense is allowable and represents official Laboratory business. Although prior approval is not required, the form must be signed by the employee's group leader or a higher level official. Original receipts are required.

Request for Issuance of Check. The use of Requests for Issuance of Check is restricted to on-site Laboratory locations, where other means of procurement are not possible. Requests for reimbursement for items purchased by a Laboratory employee are prepared on a *Request for Issuance of Check* form, which includes the appropriate authorization from the issuing division/department. The request is then submitted to the Office of the Chief Financial Officer/Accounts Payable for approval and processing.

In order to receive reimbursement, the following must apply.

- The item is not available through Stores; Stores cannot accommodate the required delivery date; or the item must be purchased after hours or while out of town.
- The item is not available for purchase through a current blanket order.
- The item is not available through other normal procurement procedures due to time constraints caused by an emergency or operational necessity.
- The item is a standard, off-the-shelf article.
- The item is not on the Restricted Items list, except for properly authorized employee safety shoes.
- The vendor from which the purchase is made is not on the Procurement Employee-Vendor list of potential conflicts of interest.
- The purchase is supported by a cash receipt or other appropriate proof of payment.

When an item is purchased for reimbursement, the vendor must be advised that Berkeley Lab has been granted California State Sales permit SR CH 21-835970 (also known as a Resale Certificate) so that the tax will qualify for exemption.

H. OVERVIEW

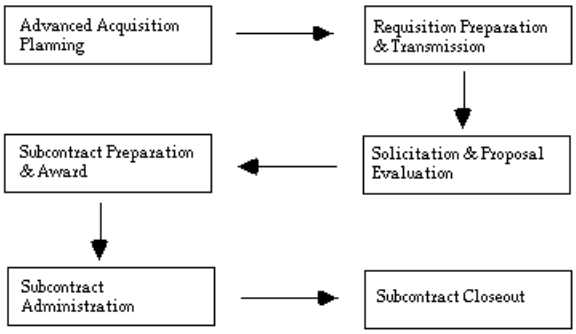
1. Starting the Procurement Process

Generally, procurements at the Laboratory can be initiated by:

- Submitting an electronic requisition through Peoplesoft Purhasing Receiving Payables (PRP) System, the Office of the Chief Financial Officer/Procurement's on-line computerized system
- Sending a completed requisition (Stock Form 7600-55438 (*Purchase Requisition*) or Stock Material Order Form 7600-55659) with all the appropriate documentation
- Mailing or faxing a Stock Material Order Form to Central Stores (see Paragraph (B), above)
- Placing a release against a pre-established blanket subcontract or JIT Systems Agreement, if authorized

2. Procurement Process Flowchart

Following is a flowchart of the Laboratory's overall procurement process:



3. Purchase Actions Placed by Office of the Chief Financial Officer/Procurement

The Office of the Chief Financial Officer/Procurement processes all purchase actions listed below:

- Architect and engineer services
- Aviation services (special purchases)
- Blanket subcontracts
- Books, periodicals, and other publications procured by the Technical and Electronic Information Department library under blanket subcontracts established by Procurement
- Chemicals (special purchases)
- Computer or ADP equipment (special purchases)
- Consultant agreements
- Contract labor (special purchases)
- Cost-type subcontracts (primarily for research and development)
- Environmental subcontracts
- Fabrications
- Firm-fixed-price or firm-fixed-price level of effort (LOE) subcontracts
- Gases, e.g., helium (special purchases)
- Intra-University transactions (IUTs) for work at University of California campuses
- Isotopes (special purchases)
- Leases (special purchases)
- Leases for real estate rental (special purchases)
- Maintenance (some items)
- Personal service agreements
- Precious metals (special purchases)
- Repairs (some items, special purchases)
- Software licenses (special purchases)
- Stores catalog items, office equipment, and standard furniture (special purchases) procured under subcontracts established by Procurement. Day-to-day ordering against existing Stores agreements is performed by Facilities Inventory Management.
- Subcontracts with other DOE Laboratories, facilities, or contractors. These subcontracts are sometimes called Memorandum Agreements.
- Subcontracts with government agencies or organizations for special materials not commercially available, but obtainable from government sources. DOE approval is required. These subcontracts are also referred to as Memorandum Agreements (special purchases).
- Telecommunications (special purchases)
- Utility services (special purchases)

4. Purchase Actions Not Placed by the Office of the Chief Financial Officer/Procurement

- Advertising (except for Procurement actions and Berkeley Lab employment)

- Aircraft (unallowed under the DOE/LBNL Contract between DOE and the University of California for operation of Berkeley Lab)
- Alcoholic beverages (unallowed under the DOE/LBNL Contract)
- Business cards (unallowed under the DOE/LBNL Contract)
- Contingent fees (unallowed under the DOE/LBNL Contract)
- Contributions or donations (unallowed under the DOE/LBNL Contract)
- Entertainment expenses (unallowed under the DOE/LBNL Contract)
- Equipment and material borrowed from outside sources. Employees must contact the Office of the Chief Financial Officer/Property Management Group to complete a Borrow Agreement.
- Fines or penalties (unallowed under the DOE/LBNL Contract)
- Lobbying costs (unallowed under the DOE/LBNL Contract)
- Memberships in social, dining, or country clubs
- Motor vehicles
- Narcotics (illegal) (unallowed under the DOE/LBNL Contract)
- Ornamental items (e.g., pictures, plants) (unallowed under the DOE/LBNL Contract)
- Parking spaces on an individual basis (unallowed under the DOE/LBNL Contract)
- Promotional items, memorabilia, models, gifts, and souvenirs (unallowed under the DOE/LBNL Contract)
- Subcontracts *over* $250,000 with other DOE laboratories, facilities, or contractors. Those subcontracts are handled as Intra-DOE Work Orders through the Office of the Chief Financial Officer/Budget.
- Trade of government property. See RPM §11.40 (*Property Management*).

5. Special Purchases

Some commodities, such as isotopes, are subject to special treatment, Laboratory approval, and/or DOE approval before award of the subcontract. Questions regarding these types of purchases should be directed to Procurement.

6. Lead Times

For the procurement process to work most efficiently, three procurement lead times must be considered:

- The requisition lead time (i.e., the time it takes the requester to prepare and submit a complete and approved requisition package to the Office of the Chief Financial Officer/Procurement)
- The lead time that Procurement needs to obtain and evaluate offers, conduct negotiations as necessary, and award the requirement
- The subcontractor's performance lead time necessary to deliver the required goods or services

When establishing a delivery date or a date for services to commence, employees must remember to consider *all* these lead times. If the requirement is urgent, explain the emergency to the Procurement Specialist as soon as possible. If accelerated performance from a subcontractor is required, the requesting organization may have to pay for premium time, and costs may increase substantially.

Procurement lead times vary from one to three days for a telephone order and over 30 days to several months for complex and/or high-dollar subcontracts. Some subcontracts or purchase orders and some change orders over $500,000 are subject to development of an Advanced Acquisition Plan (AAP). See Paragraph (I)(1), below.

The procurement lead times given above do not include other Laboratory, University, DOE, or United States Department of Labor approvals required before subcontract award associated with the following:

- Architect-engineers ($1 million)
- Construction ($1.5 million)
- EEO pre-award clearance (for procurements over $1 million, except construction subcontracts, work performed outside the United States, and work performed on American Indian land)
- Environmental hazards
- Foreign ownership of the company proposed for award
- Nonprofessional labor services (e.g., truck drivers, inspectors, laborers, computer repair technicians) when the subcontract

exceeds $2,500, which under the Service Contract Act of 1965 (SCA) requires a Department of Labor wage determination before award
- Organizational conflicts of interest (OCIs)
- Signature approvals

Certain factors in a requisition may affect procurement lead time:

- The delivery date is critical or would alleviate a major emergency.
- The commodity is a hazardous material.
- The commodity needs special handling because of its perishable nature.
- Government-furnished property will be provided.
- Subcontractor-acquired property will be a requirement.
- Subcontractor performance is on site.
- The performance of the subcontract will involve access to classified material, special nuclear materials, or security areas.
- There are special quality-assurance requirements.
- There is a potential organizational conflict of interest.
- Cost is not the only factor in the selection for award.

When such conditions exist, the appropriate section of the requisition or the accompanying documentation should be highlighted for better processing of the procurement.

A procurement specialist knowledgeable in the specific type of procurement requirement and the associated industry can be consulted to obtain an estimate of the subcontractor's performance time before submitting the requisition to Procurement.

I. PROCUREMENT PROCESS

1. Procurement Planning

The procurement process starts with good planning. The level of procurement planning is dependent on the dollar value and complexity of a proposed subcontract.

Procurement planning is an essential tool for both requisitioning organizations and the Office of the Chief Financial Officer/Procurement because it provides a method for early notification of intended requirements and an understanding of the entire procurement process from inception through completion. The information gathered at this stage can also be used for budgeting and scheduling purposes. Procurement uses such information for:

- Planning and estimating workload
- Identifying opportunities for awards to small, small-disadvantaged, and women-owned businesses
- Identifying opportunities for competition
- Consolidating like requirements on an institution-wide basis

Procurement planning also enables procurement specialists to become involved in the procurement process as early as possible. This early involvement helps ensure that the work meets the mission or program needs.

Procurement planning at the Laboratory is addressed by submission of an Advanced Acquisition Plan (AAP) by the requestor for each purchase of $500,000 or more. For transactions of $500,000 or more, the program/technical division requesters also enter the acquisition information electronically into a Web-based AAP database that lists the purchasing requirements and schedule for acquisitions at various dollar levels. The database is accessible from the Procurement home page.

The AAP system requires that these transactions be entered into the AAP database at least 30 days before the time the purchase requisition will be issued to the Office of the Chief Financial Officer/Procurement. If this procedure is not followed, Procurement reserves the right to add 30 days to the Procurement Plan to compensate for the lack of advance notice. The 30-day period will be used by Procurement to review the requester's description and requirements and develop a Procurement Plan. This procedure enhances socioeconomic and competitive opportunities by providing lead time for the development of source lists from, e.g., market research, market surveys, public notices, and advertisements.

2. Requisition Submittal

Requisitions must be submitted electronically to the Office of the Chief Financial Officer/Procurement via Peoplesoft PRP. Requisitions will be screened to ensure that they are correctly filled out and that all necessary approvals are present. An incomplete requisition will be returned to the requester with a notice of its deficiencies.

3. Requisition Change

Any change modifying the quantity, funding, account number, terms, or specifications of a *requisition already submitted* may require either resubmittal of the requisition or, minimally, a supporting memo explaining the change.

Changes to existing or expiring subcontracts are also initiated by a purchase requisition.

Things to remember when submitting a change/modification requisition:

- Indicate "CHANGE" on the requisition.
- Refer to the original requisition number, subcontract number, and/or buyer's name.
- Fully explain in the description field what the change/modification covers and, if applicable, provide a new scope or statement of work.
- If there is a change in price, supply the account number.
- In the "Cost Not to Exceed" field of the requisition, write the amount of the change only. In the body of the requisition note, describe (a) the original requisition amount before the change, (b) the increase or decrease of the proposed change, and (c) the new total.

The authorized signatory must have authority for the dollar amount of the change.

4. Information Required for Requisitions

Incomplete information may lead to delays in processing the requisition. Because delays may also result if the requisition is illegible, the requisition should be typed whenever possible. The following fields on the requisition form must be completed by the requisitioning organization:

- Requested by, Bldg., Room
- Delivery to Bldg.
- Notify
- Approved by
- Account No. and Subaccount
- Requisition Date
- Date Needed
- Cost Not to Exceed (On a requisition with incremental funding, the amount shown in the "Cost Not to Exceed" block is the amount of funding currently available; the total estimated cost, with a breakdown of future funding, must be shown in the body of the requisition)
- Item, Specifications, Catalog Reference (Description)
- Quantity

Always provide the name and telephone number of the individual technically qualified to answer questions relating to the requisition.

The program/technical division requester must review purchases for potential hazards and select one or more of the nine appropriate choices indicated on the requisition. The Office of the Chief Financial Officer/Procurement will not process the requisition until this information is obtained.

The requisition hazard review box states the hazard(s) as follows:

- Biological
- Chemical (solid, liquid, or gas)
- Laser
- Microwave (or radio-frequency (RF) radiation source equipment, other than a food oven)
- Other hazards

- Radiological
- X-ray
- Service contracts (e.g., involving hazards such as waste removal, biohazards, chemicals)
- No hazard

Every individual performing work at the Laboratory or at one of its off-site locations is responsible for understanding the properties of the hazards with which they will work. Before ordering such hazards, the employee should review all requirements mandated in the Laboratory Health and Safety Manual (LBNL/PUB-3000), Chemical Hygiene and Safety Plan (CHSP) (LBNL/PUB-5341), and Facilities Notebook. Each department is responsible for ensuring that the quality assurance, LBNL/PUB-3000, and CHSP requirements are met in handling all materials.

5. Requisition Approvals

Beyond Laboratory procurement, the purchase of many commodities and services must be approved by various organizations (e.g., the Office of the Chief Financial Officer/Budget, OCR, EH&S). These approvals should be obtained before forwarding the requisition to the Office of the Chief Financial Officer/Procurement. Any requisition that does not have the appropriate approvals will be returned to the requisitioning division.

6. Defining the Requirement

Adequately describing the purchase requirement helps ensure timely requisition processing. Purchase requirements must be clearly defined on the requisition or an attached specification, Scope of Work, or Statement of Work. Items should be identified by generic noun ("personal computer"), defining adjective, and any other useful description. List the model number and manufacturer when applicable with use of the phrase "or equal" to allow for fair and effective competition if another brand of equal capability can be accepted. The Laboratory's minimum requirements must be described in detail to fairly evaluate any offers received for that product or service.

7. In-House Cost/Price Estimates

Before solicitation, the Laboratory should have an estimate of the proper price level or value of the supplies or services to be purchased, i.e., the estimated price of the subcontract. It is generally the requester's responsibility to develop these estimates. Estimates can range from simple budgetary estimates to complex estimates based on the requester's assessment of the labor, materials, and other quantitative elements of performance.

8. Quality Assurance

The requester must identify any quality requirements for the subcontract on the purchase requisition. The need for, type of, and extent of quality requirements to be included in a specification or Statement of Work depend on the particular circumstances and may range from inspection at the time of acceptance to a requirement for a subcontractor's implementation of a comprehensive quality assurance program.

Subcontract quality requirements fall into three general categories, depending on the extent of quality assurance the Laboratory needs for the acquisition involved:

- Reliance on inspection by the subcontractor
- Standard inspection requirements, where the Laboratory has the right to test and inspect to the extent practicable at all places and times, including during manufacture and in any event before acceptance
- Higher-level subcontract quality requirements, such as MIL-I-45208 and MIL-Q-9858, or even ANSI/ASQC Q90-94/ISO 9000 or ANSI/ASME NQA-1

In identifying quality requirements in the Statement of Work, the requester should consider:

- The degree to which failure of the product or service could cause undue risks to employees or public health and safety
- The degree to which failure of the product or services would cause degradation of required performance or reliability to operations, data acquisition, or other deliverables

For further information or assistance in assessing how to treat quality-assurance requirements in Statements of Work and/or

specifications, contact the Laboratory's Office of Institutional Assurance (OIA).

9. Property

Government-furnished property (GFP) is property owned by the government (almost everything at the Laboratory is government property) and made available to a subcontractor for its use during performance of work under a specific subcontract with the Laboratory. The term includes government-furnished equipment, government-furnished supplies, and property that a subcontractor acquires or otherwise provides under a subcontract (subcontractor-acquired property (SAP)).

If GFP will be involved in performance of the desired work, it must be identified in the purchase request. If the specific property can be identified at the beginning of the procurement process, the requester must provide:

- A detailed item description
- The government/Laboratory property identification number
- The approximate acquisition value

Because the Laboratory is responsible to DOE under the DOE/LBNL Contract for managing all government property in its possession, procurement actions involving GFP must be coordinated with the Office of the Chief Financial Officer/Property Management Group throughout the process, from requisition to subcontract closeout.

10. Organizational Conflict of Interest

An organizational conflict of interest (OCI) means that a relationship or situation exists in which an offerer has past, present, or currently planned interests that relate to the work to be performed under a Laboratory subcontract and that the conflict may reasonably:

- Diminish the offerer's capacity to give impartial, technically sound, and/or objective assistance or advice
- Result in the offerer's being given an unfair competitive advantage (does not preclude the normal flow of benefits from performance of a subcontract)

Requisitions and Statements of Work will be reviewed in the Office of the Chief Financial Officer/Procurement to make an initial determination of whether they constitute a potential OCI situation. If the answer is "yes," the requester must fill out a Pre-Procurement Organizational Conflict of Interest Fact Sheet to aid in evaluating the situation. If, after evaluation, the procurement is found not to raise OCI concerns, the issue will be put to rest and the action will proceed.

If, after evaluation, the procurement is found to raise an OCI concern and the procurement cannot be modified to remove any problem aspects of the Statement of Work, the solicitation must include an OCI clause and require the offerers to respond with information for Laboratory and DOE evaluation.

The responses must be evaluated by both Procurement and DOE, but DOE makes the decision on whether:

- An OCI exists
- The OCI can be avoided and an award made
- An offerer must be rejected and the award made to another

11. Solicitations

a. **General.** Only Office of the Chief Financial Officer/Procurement personnel can solicit offers from suppliers that may result in the negotiation and award of subcontracts. The exceptions to this general rule are Procurement Card transactions and verbal orders placed by external, low-value buyers.

b. **Supplier Information.** Any information provided to the program/technical divisions by a vendor on price, availability, or other product or service-related information is treated as just that: information. Because the information probably did not take into account the terms and conditions or other requirements that might affect the purchase, Procurement must deal directly with potential suppliers to ensure that all the Laboratory's requirements are considered in awarding a subcontract.

c. **Evaluation of Competitive Offers.** Because one of the priorities in the Laboratory's procurement system is to treat all

potential suppliers fairly, the Laboratory is required to clearly state the basis for evaluating competitive offers submitted in response to its RFPs. Offer evaluation may be as simple as taking the low price on a commercial item to a very detailed trade-off on significant technical, management, and cost/price criteria.

d. **When Award Cannot Be Based on Cost or Price Alone.** When a subcontractor will be selected based on cost or price and other factors (e.g., technical excellence, methodology, proposed personnel), detailed evaluation factors will be required. The requester will be asked to participate with the procurement specialist in developing the evaluation factor for the solicitation.

   Evaluation factors should be aimed at ascertaining the distinctions among the offerers on significant aspects of the work to be performed rather than at identifying the relatively unimportant differences to be expected when multiple offers are received. The evaluation criteria will be stated in the solicitation to explain to potential offerers how the Laboratory will select the subcontractor.

   After the closing date for receipt of offers, the requester will participate in evaluating the offers received against the evaluation factors stated in the solicitation. Once the due date for receipt of offers passes and evaluation of offers starts, the evaluation criteria cannot be changed. Offers must be evaluated in accordance with the criteria set out in the solicitation.

12. Negotiation

a. **General.** The Laboratory purchases most of its required goods and services through a process known as "negotiation." Negotiation procedures involve issuance of a solicitation and receipt of proposals. The procedures permit discussion with suppliers regarding all the terms and conditions of the subcontract and may afford an offerer the opportunity to revise an offer before a decision is made regarding subcontract award. Elements to be negotiated may be limited to price but often extend to, e.g., delivery period, payment schedule, specifications or statement of work (SOW), and patent and technical data rights.

   In some cases, notably in construction, the Laboratory does not negotiate the initial award, but instead relies on a formal bidding process in which discussion is not used. The low-priced, responsive, and responsible offer wins without further discussion.

   Although the procurement specialist is responsible for preparing and conducting negotiations, the requester has an important role to play in evaluating technical proposals, analyzing cost elements, and otherwise advising on the Laboratory's negotiation position.

   Depending on what is being purchased, the procurement specialist may request the assistance of the requester or technical coordinator in performing technical review and technical analysis, as required.

b. **Technical Review.** Technical review is the evaluation of an offerer's proposal to determine whether it meets the requirements of the solicitation.

c. **Technical Analysis.** Technical analysis is done to determine and report on the need for and reasonableness of the offerer's proposed application of resources to the work, assuming reasonable economy and efficiency. Technical analysis deals with both qualitative and quantitative issues.

   During technical analysis, at least the following items should be considered:

   - The proposed technical approach and processes
   - The proposed quantities and kinds of materials and labor
   - The proposed requirements for special tooling and facilities

d. **Cost or Price Analysis.** Using the technical evaluation information provided, along with information from other sources, the procurement specialist will analyze the proposed cost or price to determine whether it is reasonable as proposed or whether the Laboratory should negotiate for a better deal.

e. **Selection Committee.** For major critical procurements that are competitively quoted using technical, business, and management evaluation criteria along with price considerations, the selection process may include a selection committee chaired by a procurement specialist. The selection committee is composed of qualified technical and administrative

personnel, is small (normally not exceeding five voting members), and has an odd number of voting members, including the chairperson, to provide a tie-breaker. The committee chairperson discusses the issue of conflicts of interest with the committee members and reviews the list of offerers for possible conflicts of interest. When appropriate, committee members are requested to sign a Conflict of Interest Certificate.

A draft Statement of Work and suggested selection criteria are provided by the responsible program/technical division for use by the Office of the Chief Financial Officer/Procurement in preparing the solicitation. These documents are received by the committee and reviewed and approved by the Procurement Manager. After receipt of the offerers' proposals, the selection committee performs the evaluations and prepares a written report of its activities and decisions, including award recommendations. This report is taken under consideration by the procurement specialist, technical coordinator, and procurement official who will authorize the award. The procurement specialist then negotiates any remaining issues with the selected firm.

f. **Conducting Negotiations.** The procurement specialist is responsible for conducting all negotiations with offerers. The requester's support may be required, however, to analyze new information or responses provided by the offerer during the course of the negotiation process. Working as a team, the specialist and requester attempt to obtain the required goods and services at reasonable prices and under reasonable terms.

Discussions with offerers are particularly sensitive during solicitation, evaluation of offers, and negotiation. Technical coordinators or requesters should not have separate discussions or negotiations with offerers.

13. Protests

The Laboratory is required to treat all potential subcontractors fairly and equitably. When an offerer or subcontractor believes that it has not been so treated, that subcontractor has the option of filing a protest directly with the Office of the Chief Financial Officer/Procurement, the University, or DOE. A protest is a very powerful action. It can hold up work on a subcontract that has already been awarded, or it can hold up any further action on a subcontract that is under negotiation but has not yet been awarded.

The following are some situations that could cause a protest:

- A specification or SOW that unnecessarily restricts competition
- Program/technical divisions negotiating on their own with a vendor or promising to purchase something from a vendor (this could also become an unauthorized procurement)
- Information provided to one potential subcontractor that is not available to competing subcontractors
- Proposal information disclosed to a competing subcontractor
- A potential subcontract discussed with anyone not directly involved with the process

When there is doubt about the propriety or consequences of an action during the purchasing process, a procurement specialist should be contacted for advice.

14. Noncompetitive Actions

A procurement is noncompetitive when it is entered or proposed to be entered after solicitation and negotiation with only one potential vendor/subcontractor. The Laboratory uses the terms "sole source" and "noncompetitive" synonymously in describing the procurement process followed in such cases.

Generally, a noncompetitive action may be justified for the following reasons:

- Unique capability, expertise, facilities, or equipment that no other source can provide to satisfy the Laboratory's requirements
- Standardization of parts and/or compatibility with existing equipment
- Follow-on work for continued development or enhancement of goods or services when it is likely that award to a source other than the incumbent subcontractor would result in substantial duplication of costs that would not be recovered or would cause unacceptable delays in fulfilling the program needs
- Unusual or compelling urgency (e.g., the necessity to shorten the procurement time to meet milestone dates established by a government agency)

- Industrial mobilization or engineering, development, or research capability
- The identified source is acknowledged to be the leader in its field of expertise, as demonstrated in, e.g., reputable and valid literature or symposia presentations. Although normally not appropriate for commercial goods and services, this identification may be appropriate in subcontracting for research and development.
- International agreement
- Authorized or required by statute
- National security
- Public interest

A formal justification must be provided for sole-source purchases greater than $100,000 and for all intra-University transactions in excess of $25,000. The Justification for Sole Source Procurement or Intra-University Transaction form, obtained from the Office of the Chief Financial Officer/Procurement, must be used for documenting sole-source and IUT actions.

The Laboratory must ensure that subcontracting is consistent with efficient performance of the program mission and the nature of supplies and services being purchased. Consequently, noncompetitive (sole-source) procurements should be used only when no other reasonable alternatives exist.

J. SOME IMPORTANT TERMS AND CONDITIONS OF LABORATORY SUBCONTRACTS

1. Environment, Health, and Safety

Subcontractors are required to take all reasonable precautions at Laboratory sites to protect the environment, health, and safety of all persons involved, and to comply with all applicable environment, health, and safety regulations and requirements of the Laboratory and DOE. The Laboratory may stop the particular work any time a subcontractor fails to comply.

2. Insurance and Indemnification

The Laboratory requires subcontractors to maintain insurance:

- When work is performed predominantly on Laboratory premises
- When government-furnished property is provided to a subcontractor
- When the nature of the work poses a significant potential exposure to the University and the government

The level of insurance required varies depending on the relative hazard of the work being done and the likelihood of loss. Some operations are more hazardous than others. Some subcontracts are not hazardous, but the possibility of loss may be significant.

As proof of insurance, the subcontractor must provide an industry-standard certificate of insurance before working on site. Except for professional liability and workers' compensation insurance, the certificate of insurance must name the Regents of the University of California and the United States Department of Energy as additional insureds.

The Laboratory risk manager may waive, revise the limits of, or prescribe the types and levels of insurance required for particular types of work.

No subcontractor may be indemnified unless prior approval is obtained from DOE-HQ and the Regents of the University of California. Laboratory counsel should be consulted on any request by a subcontractor for indemnification.

3. Patents, Data, and Copyrights

Under the DOE/LBNL Contract, the Laboratory is required to include in its subcontracts provisions pertaining to patents, data, and copyrights. These provisions basically concern such matters as patent rights, rights to data (including copyrights), and patent and copyright infringement.

Requesters/technical coordinators are expected to ensure that the subcontractor's obligations in these matters (e.g., reporting inventions, reporting notices or claims of infringement, and securing required DOE approvals) are properly fulfilled. If the subcontractor does not meet these obligations, the technical coordinator is expected to notify the Office of the Chief Financial Officer/Procurement immediately so that appropriate timely action may be taken. See RPM §5.03 (*Patents*).

4. Subcontracts with Foreign Travel

The Laboratory must obtain DOE approval for each request for foreign travel by a subcontractor before the travel. "Foreign travel" means any travel outside Canada and the United States and its territories and possessions.

5. Sales Tax

The Laboratory generally does not pay California sales tax, because most of our purchases are considered to be "for resale" to the government. When Laboratory employees have a petty cash, low-value, or Procurement Card purchase, they must advise the vendor that the Laboratory has been granted California State Sales Permit SR CHA 21-835970, also known as a Resale Certificate.

6. Aviation Services

All charter and lease agreements between aviation service subcontractors and the Laboratory must adhere to the safety policies and procedures of DOE Order 440.2B (*Aviation Safety*) or its successor order.

K. SUBCONTRACT ADMINISTRATION

1. Administration

The Office of the Chief Financial Officer/Procurement negotiates, awards, and issues subcontracts to meet program requirements for goods and services. This activity, however, is only the beginning of the process. Once the subcontract is awarded and issued, the subcontract must be administered to ensure that the Laboratory gets what was intended.

Monitoring performance is a common responsibility of the procurement specialist and the requester. Performance must be monitored for, e.g., delays, schedule slips, quality deficiencies, and financial status. The program/technical divisions must advise the assigned procurement specialist of any indication that performance is not what the Laboratory expected.

The Laboratory must develop a clear and obvious record of all actions taken by the Laboratory or the subcontractor. A complete documentation record can assist in the resolution of problems at a later date or provide information for the evaluation of similar projects or problems in the future. Problems need to be identified and resolved before legal issues become unavoidable.

2. Changes

Only the procurement specialist is authorized to modify subcontract terms or take any action to enter into a change order or other contractual commitment on the part of the Laboratory. Although under some subcontracts it is normal for the requester to have ongoing technical interchange with the subcontractor during performance, no alternation of subcontract requirements may be authorized during these discussions.

3. Invoice Verification

Certifiers must verify that services were rendered as required by the subcontract before a subcontractor's invoice can be processed for payment by the Office of the Chief Financial Officer/Accounts Payable.

4. Subcontract Closeout

When subcontract performance is physically complete, the requester may be contacted to verify, in writing, that all work and/or deliverables are satisfactory. The requester may also be asked to identify all government-furnished property, subcontractor-acquired property, drawings, designs, specifications, and publications that require disposition before subcontract closeout.

Many subcontracts can be closed when the procurement specialist receives evidence of the receipt of goods or services and/or evidence of final payment.

L. UNAUTHORIZED PROCUREMENTS

Laboratory employees are reminded that only authorized Office of the Chief Financial Officer/Procurement and Property

Department personnel or others who have been delegated low-value, purchase-order authority, including Procurement Card authority, by the Procurement and Property Manager may commit the Laboratory to expenditures for goods or services.

An individual who is not an authorized designee and who purchases goods or services may be responsible for payment of charges incurred and will be subject to disciplinary action.

M. REFERENCES

This section briefly highlights Laboratory policies and procedures pertinent to obtaining goods and services. The University of California Laboratory Procurement Policy and Standard Practices Manual defines these policies and procedures in detail. Copies of that manual are available on the Office of the Chief Financial Officer/Procurement and Property Management Web site.

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§11.39
Use of Laboratory Property and Supplies

Responsible Manager

Links updated 09/08

- **A. General**
- **B. Responsibilities**
- **C. Equipment Pools**
- **D. Property Loans**
- **E. Excess Property**
- **F. Property Loss or Damage**

A. GENERAL

1. This section briefly highlights Laboratory policies and procedures pertinent to the use of property and supplies. The Laboratory Property Manual (LBNL/PUB-3032) defines these policies and procedures in detail. Copies of this guide are available in division offices and from the Office of the Chief Financial Officer/Property Management Group.

2. Facilities, tools, supplies, materials, and equipment used by the Laboratory are United States government property. As such, their use on or off the Laboratory site for any purpose other than official Laboratory business constitutes a type of conflict of interest and is illegal and prohibited. Individuals guilty of such improper activity are subject to disciplinary action by the Laboratory and prosecution under federal law (Title 18, United States Code). Disciplinary action by the Laboratory for improper, dishonest, or illegal activities may include official reprimand, warning, temporary or indefinite salary decrease, suspension without pay, demotion, or dismissal. Prosecution at the discretion of the United States Attorney may result in a fine or imprisonment or both.

3. Arrangements can be made to lend Laboratory property to approved organizations. These arrangements are made by the Property Management Group. See Paragraph (D), below.

4. Walk-through inspections of Laboratory areas are conducted biennially to identify any unused equipment that may be redeployed. Results of the walk-through are reported to DOE.

B. RESPONSIBILITIES

1. It is Laboratory policy that efficient use be made of all materials in its custody and that adequate care be taken to protect material from loss or damage. Each Laboratory division is responsible for planning its own property requirements; for allocating, using, and maintaining its property resources in the most effective manner; and for maintaining a safe working environment.

2. Supervisors are responsible for reporting and dealing with improper activities occurring within their areas of responsibility. Examples of activities that are improper and prohibited include the following:

    1. The conduct of personal business using Laboratory materials, facilities, or vehicles during work hours. This includes the repair of radios, bicycles, motor vehicles, and similar items and the use of Laboratory computers, photographic supplies, copiers, and office supplies.

    2. Removal of equipment from the site without proper authority.

C. EQUIPMENT POOLS

Equipment pools allow effective use of equipment when user needs are short term or intermittent. Pools serve the needs of large research groups or departments, divisions, or the Laboratory as a whole. Following is a list of current pools and responsible units:

Equipment pool	Responsible units
Audiovisual instruments	Information & Computing Sciences Division
Accelerator equipment	Nuclear Science Division
Business machines	Facilities Division
Motor vehicles	Facilities Division
Optical instruments	Mechanical Engineering Department
Furniture	Facilities Division

D. PROPERTY LOANS

Laboratory property and supplies are for official Laboratory use only and may not be loaned to or used by non-Laboratory personnel or organizations without proper Laboratory and DOE approval. Requests to make such loans should be directed to the Office of the Chief Financial Officer/Property Management Group. Property being loaned to other organizations must be processed through the Shipping Section, with Property Management's approval.

Employees arranging to personally return loaned property to the Laboratory must notify Receiving to ensure that the return is recorded and the loan closed out.

E. EXCESS PROPERTY

The Facilities Division is responsible for processing all materials (including software) in excess of the needs of a Laboratory unit. Such material should be sent to the Property Reuse Center. Excess property is listed by the excess disposal section in an electronic report that is distributed to division offices and interested Laboratory units. If such excess material is not promptly reserved for use on Laboratory work, it will be listed for review by other DOE contractors or governmental agencies in accordance with DOE regulations. In no case should this material be removed by employees for personal use.

Excess property that has completed this screening process may be donated to nonprofit educational institutions or sold as surplus property.

F. PROPERTY LOSS OR DAMAGE

All losses and any damage (excluding normal wear) involving Laboratory property must be reported to the Property Manager. If it appears that theft, vandalism, sabotage, or willful destruction of any Laboratory property is involved, the incident must also be reported to the University of California, Berkeley, Police Department. In addition, employees must report all accidents involving Laboratory vehicles to the Environment, Health & Safety Division (EH&S). The necessary forms may be obtained from the Motor Pool and EH&S offices.

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§11.40
Property Management

Responsible Manager

Revised 06/08

- **A. General**
- **B. Inventory**
  1. **Capital Equipment**
  2. **Sensitive Assets**
  3. **Stores Stock (section deleted 09/07)**
  4. **Controlled Substances**
  5. **Precious Metals**
  6. **Radioactive Sources**
- **C. Storage of Property**
- **D. Sale or Transfer of Property**
- **E. Property Movement Records**
  1. **General**
  2. **Shipping Documents**
  3. **Material Passes**
  4. **Exceptions**
  5. **Equipment Movement Tags**
- **F. Property Retirement**
- **G. Insurance of Property**
- **H. Property Acquired as a Gift**
- **I. Personally Owned Property**

A. GENERAL

Supervisors are responsible for the proper use and control of property and supplies used by their groups. The overall management and control of property at the Laboratory is coordinated by the Office of the Chief Financial Officer/Property Services in accordance with procedures and policies described more fully in the Property Manual (LBNL/PUB-3032). Copies of the Property Manual are available in division offices and from the Property Management Group. Some of the more important procedures and policies are described below.

B. INVENTORY

1. Capital Equipment

Capital equipment assets are inventoried once every two years under the direction of the Office of the Chief Financial Officer/Property Management Group. The assistance of division personnel and property custodians is obtained as necessary to locate items.

2. Sensitive Assets

Sensitive assets are inventoried annually under the direction of the Office of the Chief Financial Officer/Property Management Group. User accountability records of transfers or returns are maintained for these items.

3. Stores Stock

(Section 11.40(B)(3) (*Stores Stock*) deleted 09/07.)

4. Controlled Substances

Inventories of controlled substances are conducted by the Office of the Chief Financial Officer/Property Management Group every year in accordance with federal regulations. The Property Management Group conducts an inventory every other year and an unannounced inventory during alternate years.

5. Precious Metals

Physical inventories of precious metals are conducted annually by holders and audited by the Office of the Chief Financial Officer/Property Management Group.

6. Radioactive Sources

Radioactive sources are inventoried and physically inspected annually by the Environment, Health & Safety Division.

C. STORAGE OF PROPERTY

Warehouse storage of Laboratory material is provided by the off-site facilities section of Support Services. To store material off site, authorization on a Stock Form 7600-55925 (*Warehouse Storage Request*), approved by a group leader or department head, is required. Items in storage are periodically reviewed to ensure that retention is justified. Continued retention may require the approval of the Associate Laboratory Director for Operations and DOE.

D. SALE OR TRANSFER OF PROPERTY

All sales or transfers of government property and normal transfers of excess material require approval of the Office of the Chief Financial Officer/Property Management Group.

E. PROPERTY MOVEMENT RECORDS

1. General

Except as noted below in Paragraph (E)(4), removal of all property from the Laboratory requires documentation on Stock Form 7600-55567 (*Shipping Document*) or 7600-67344 (*Material Pass*) for record and control purposes.

2. Shipping Documents

Stock Form 7600-55567 (*Shipping Document*) is required in all situations in which property is removed from the Laboratory, except as noted below. This document is also required in cases involving "hand carrying" property by employees in travel status. The requester is responsible for filling out the Shipping Document and obtaining approvals; the Shipping Department enters the Shipping Document number as well as details in the fields indicated by "For Use by Shipping Section Only" at the bottom of the form.

3. Material Passes

a. Under the following circumstances, Stock Form 7600-67344 (*Material Pass*) may be used in lieu of a Shipping Document:

- For use in connection with visits to suppliers performing Laboratory work if the material will remain in the custody of Laboratory personnel.
- For short-term or intermittent use to perform Laboratory work at home or a Bay Area work location (e.g., LLNL, Richmond Field Station)
- For short-term use in connection with authorized attendance at a meeting, seminar, exhibit, or lecture
- When an emergency does not permit time for preparation of a shipping document

b. Material passes must be prepared in advance and submitted to the Office of the Chief Financial Officer/Property Management Group. The passes must be completely filled out and signed by both the employee and supervisor or by the

Property Management Group. The reason for removal of the property must be clearly stated. When the property does not belong to the Laboratory, the ownership and reason for having the property on site must be shown.

4. Exceptions

Property-removal records are not required in the following cases:

- When Laboratory Transportation personnel transport property in official vehicles from Berkeley to LLNL, to recognized off-site warehouse storage locations, or to the Laboratory campus buildings
- When Environment, Health & Safety Division (EH&S) personnel transport radioactive material in official vehicles to LLNL
- When employees remove unwrapped and obviously personal items such as wearing apparel, lunch boxes, newspapers, books, and magazines
- When vendors or contractors remove their own property from the Laboratory, unless the property was borrowed for Laboratory use
- When employees remove documents, books, and other printed matter that will remain in the individual's custody until returned to the Laboratory
- When scrap and salvage dealers remove equipment items and materials from the Laboratory under blanket orders or other approved sales contracts
- When refuse is removed from the Laboratory

5. Equipment Movement Tags

An Equipment Movement Tag (EMT) is necessary to document the movement of equipment or the permanent reassignment of sensitive equipment from one employee to another. Use of an EMT or other written notification to the Office of the Chief Financial Officer/Property Management Group is required to record all movement of all other inventorial equipment contained in the Property Management and Accounting System. EMTs are available from Transportation drivers, or may be ordered through e-Buy.

F. PROPERTY RETIREMENT

Equipment items that are of no further need should be sent to the Property Reuse Center. Items that have value in their parts may be cannibalized by users only after obtaining permission from the Office of the Chief Financial Officer/Property Services. This is particularly important in the case of data-processing equipment. EH&S must monitor and tag equipment for radioactivity before it is sent to the Property Reuse Center. See the Health and Safety Manual (LBNL/PUB-3000). The Property Management Group will assist in preparing retirement records to remove such items from the accounting records.

G. INSURANCE OF PROPERTY

1. Because title to Laboratory property rests with the United States government, federal statute (5 USCA-134) prohibits the insurance of such property under the government policy of "self-insurance." Employees who arrange for shipments of Laboratory property or who travel with Laboratory property should not insure such shipments. Reimbursement will not be made for any premiums paid.
2. Arrangements to insure non-Laboratory property borrowed for Laboratory use are made through the Office of the Chief Financial Officer, which is responsible for obtaining any necessary DOE approvals.

H. PROPERTY ACQUIRED AS A GIFT

1. Any property item that has been accepted as a gift or that has been purchased with funds specifically accountable as a gift must be reported in accordance with University and Laboratory practices. See RPM §1.18 (*Solicitation and Acceptance of*

Gifts). Gifts are accepted in the name of the University and become the property of the University—not of the United States government. The Office of the Chief Financial Officer/Sponsored Projects Office is responsible for reporting gifts of property to Property Services. Such reporting includes the cost (including sales tax), nomenclature (manufacturer, model, serial number), user name, user account, location (building and room), and any other pertinent information.

2. The Property Management Group will ensure that the gift is identified with a property number decal and have the equipment entered into the Property Management and Accounting System.

I. PERSONALLY OWNED PROPERTY

Personally owned property must not be installed in, affixed to, or made a part of any government-owned property. This restriction does not apply to small, personally owned decorative items or memorabilia at the workplace. In all cases, the Laboratory is not responsible for loss of or damage to any personally owned item.

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Recharges

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Title:	Recharges
Originally issued:	June 30, 2005
Revision Effective Date:	June 1, 2007
Revision Number:	1
Scheduled review date:	June 1, 2009 (every two years)
Primary contact:	Manager, Indirect Budgets

Summary

The purpose of this policy is to provide all Laboratory recharge centers with a common framework for the equitable and accountable distribution of user charges, which are based on the costs of the facilities, goods and services provided.

Overview

A recharge center provides specific scientific facilities (i.e., 88 Inch Cyclotron), technical capabilities (i.e., Engineering Shops) or general services (i.e., Telephone Service) to multiple users where subscribers have discretion over the amount of service used.

Policy

A recharge center is appropriate when the costs of the provided services/facilities would not be equitably distributed on a broader or more general allocation base. Therefore, recharges are not appropriate when adequate cost distribution can be better realized through a broader allocation base and/or (due to regulations, Laboratory policy, or other constraints); the users of the service have no control or discretion over the service provided.

Research and Development activities are not appropriate for recharges.

Recharges are appropriate when the following conditions and/or circumstances are present:

- Provides a more precise allocation of costs to users based on the benefits received
- Encourages optimal use of a service or resource
- Assists in the evaluation and control of the cost of a service
- Assures equitable costing that complies with Cost Accounting Standards (CAS)

Procedures

Criteria for Development and Application of Recharge Rates

Costs of providing the service for a fiscal year are identified, estimated and reviewed. Options for gaining greater cost efficiencies and alternative methods of service delivery should both be considered as cost control mechanisms.

Demand for the service; i.e., the estimated user (distribution) base should be projected based on best available forecast data. The distribution base selected should be a reasonable measure of the benefits users received from the service and should result in an equitable allocation of the service's costs to its users (i.e., users are charged for what they get). In addition, the estimated base volume should reflect the anticipated actual usage of the service rather than the number of units of the service available or service capacity.

If a measure of the benefits users receive is unavailable or impractical to ascertain, a measure of the output of the recharge center's activities is acceptable. In addition, where a single unit of output will not reflect the proportional consumption of resources in circumstances where the level of resource consumption varies materially among the units of output produced, the output measure should be modified or more than one output measure should be used.

Following is a hierarchy of three allocation measures appropriate for recharge centers listed in descending order of preference:

- A measure of activity or resources consumed (e.g., labor hours, machine hours or square footage)
- An output measure (e.g., number of printed pages for a print shop, number of purchase orders processed by a purchasing department or number of machines maintained)
- A surrogate for consumption (e.g., number of personnel, labor or total dollars or square feet of the unit receiving the service)

A preliminary rate is developed on a ***break-even basis*** for Laboratory users. The objective is to establish rates that will recover exactly the costs of providing the services or products. Every effort will be made to ensure that at fiscal year end, cumulative recovery equals cumulative costs of providing the services or products. Recharge Managers are required to monitor execution throughout the fiscal year. If material variance is forecasted, rates and/or budgets will be appropriately revised to allocate the variance. Additionally, Recharge Center Managers are required to submit rate change proposals to the Budget Office for review and approval prior to implementation.

Estimated costs for the fiscal year and the projected distribution base volume must be developed in an auditable manner that incorporates best available data and considers

prior year cost/recovery variance. Any rate that has consistently over or under recovered costs must be evaluated during the formulation stage to address the chronic cause for these variances.

The recharge center should be established on the basis that the recharge center must assign costs accurately (i.e., one recharge center cannot subsidize another recharge center). It is not acceptable to plan or transfer any over/under recovery in one cost center to another cost center.

It is the responsibility of the organization that sponsors the recharge rate to assure that, where appropriate, the rate charged for service offered to the Laboratory is competitive within local commercial markets. If the level of the proposed rate cannot be justified and supported from a good business perspective, the sponsoring organization must consider options for improving the cost structure or consider suspension of the service in favor of utilizing an outside vendor.

The costs of administering the recharge (development of the rate and distribution of user charges) should not be of such magnitude to negate the benefits received from the more precise distribution of the recharge center's costs. To this end, automated systems should be used to the maximum extent practical in distributing costs to users.

Authority

- Cost Account Standards Board (CASB) Disclosure Statement, Lawrence Berkeley National Laboratory
- Cost Accounting Standard 402, Consistency in Allocating Costs Incurred for the Same Purpose
- Cost Accounting Standard 418, Allocation of Direct and Indirect Costs
- Department of Energy (DOE) Contract 31
- DOE Order 522.1, Pricing of Departmental Materials and Services

Contacts

- Manager, Indirect Budgets

Glossary

- ***Allocate*:** To assign an item of cost or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

- ***Cost objective*:** A function, organizational subdivision, program or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.

Resource Adjustments

Originally issued:	December 31, 2004
Effective Date:	December 31, 2008
Revision Number:	3
Scheduled review date:	December 31, 2010 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy is to define the requirements and procedures to be followed for preparing, approving, and processing resource adjustments at Lawrence Berkeley National Laboratory (LBNL).

A resource adjustment is an online process in which to transfer costs from one LBNL project or account to another.

A **labor adjustment** (transferring the cost of effort from one project or account to another) is **also considered a resource adjustment** and is subject to the same requirements set forth in this policy.

Policy

This policy is applicable to all LBNL staff responsible for preparing, approving, or processing resource adjustments.

Training conducted by the Office of the CFO on resource adjustment procedures is a **pre-requisite** for any employee who prepares resource adjustments.

A resource adjustment must meet the following criteria:

- Necessary
- Appropriate
- Fully documented and justified

Resource adjustments over the approval threshold must be approved by at least one designated approver (see Approval Criteria below).

Resource adjustments should be completed no later than **90 days** after the original entry in either the Financial Management System (FMS) or the Human Resources Information System (HRIS).

When entering resource adjustments in FMS, a general ledger (GL) journal ID should not be used more than once in the same accounting period. It can, however, be used again in subsequent months (e.g. monthly recharges).

Appropriate resource categories are to be used to make any necessary resource adjustments, regardless of the amount.

The preparer's **name and telephone extension** should be included on the adjustment (preferably in the description field).

A *single* resource adjustment is not to be used for *multiple* purposes. For example, one resource adjustment should not encompass several entries on several journal lines. A separate resource adjustment with a separate GL journal ID should be entered for each distinct reason.

Criteria Definitions

Necessary

A resource adjustment is necessary when the costs, as originally recorded, apply to any of the following circumstances:

- Charged to an intermediate cost objective and need to be allocated to a final cost objective (e.g., distribution of recharge rates).
- Coded improperly, thereby charging an incorrect project, suspense/dropout project, or an inappropriate resource category.
- A justifiable and appropriate decision was made to change the project for which a resource was to be allocated.

Appropriate

A resource adjustment is appropriate when costs are reasonable (using prudent business judgment), allocable to the receiving project (i.e., project receives benefit), and are not expressly unallowable costs as defined in DOE Contract 31, per the Federal Acquisition Regulation (FAR).

Examples of Justifications for Resource Adjustments

Appropriate	Inappropriate
• Correcting errors such as labor dropouts. • Changes in the use of goods/ services. • Recharges or other periodic redistribution of shared costs. • Accruals to meet the Generally Accepted Accounting Principles (GAAP) matching principle (costing in correct period). • Better allocation of cost to benefiting entities/projects. • Accommodating a sponsor-initiated change in funding specifications such as a B&R recast or a new WFO contract number. • DOE-mandated adjustments.	• Transferring costs to a non-benefiting project. This could result from a poor choice of recharge distribution base. • An adjustment that misclassifies costs in the receiving project. Example: Charges to an inappropriate resource category. • Transferring costs from an overrun project to another unrelated project/funding source. Example: Transferring costs from a WFO project to a DOE project.

Procedure

Documentation Requirements

Documentation for each resource adjustment is to be maintained by the originating Division. Detailed justification should be attached to all resource adjustments prior to approval.
The documentation should clearly

- Support each entry (amount) listed on the resource adjustment
- Display all of the appropriate project ID numbers
- Display all cross-Divisional approvals

Appropriate justification and documentation is required for each resource adjustment entered. A specific explanation and rationale for the purpose of the resource adjustment (reason original entry was incorrect and why adjustment is necessary) must be included.

The following are guidelines for specific types of resource adjustments and the appropriate documentation required.

Labor Adjustments

- Corrected timesheets signed by the employee and approved by the supervisor are required as documentation for all labor resource adjustments and clearance of dropout accounts, unless the adjustment is an administrative correction; i.e., data entry error (see *Correcting Errors* below).

- Documentation that supports the specific reason as to why the original entry was incorrect, and why the adjusted entry is appropriate.

- Labor Resource Adjustment Report, indicating the debits and credits of the adjustment and the appropriate supporting rationale.

Labor Dropouts

- Documentation as to the correct project to which time should be charged.

- Copy of an approved corrected time sheet (if applicable).

- Copy of an email (or signed document) from the employee whose time is being changed or adjusted, indicating the correct project ID in which to charge the time.

- Labor Resource Adjustment Report, indicating the debits and credits of the adjustment and the appropriate supporting rationale.

Correcting Errors

- Copy of the ledger entry and documentation of the original entry (purchase order, time sheet, etc.), if available.

- Reason for the error (data entry error, incorrect information, etc.).

    - If the error was administrative (i.e., data entry), a corrected notation on existing documentation is sufficient, but should be reviewed for accuracy and appropriateness.

- If the error was caused by a systemic problem, indicate root cause and corrective actions taken to prevent reoccurrence.

- For labor errors, include the Labor Resource Adjustment Report, indicating the debits and credits of the adjustment and the appropriate supporting rationale.

Periodic Service Center Recharges or Cost Re-distribution

- Obtain advance authorization from Office of the CFO (Budget Office).

- The basis for the distribution of cost (at a minimum) should be a justifiable estimate of benefits received by users (e.g., hours of service provided, number of employees benefiting, square feet of space occupied, etc.).

Changes in the Use of Goods/Services

- Obtain documentation of original entry.

- Indicate the service or materials/equipment to which the cost is related.

- Document why the cost was charged to the original project and why the adjustment to another project is more appropriate.

Other Types of Resource Adjustments

- Obtain documentation of original entry.

- Indicate reason for performing resource adjustment and why it is necessary and appropriate.

Confirmation

- A copy of an email confirmation sent to the authorized requestor is appropriate documentation, to be retained with the other supporting data.

Resource Category 57000 (Adjustments)

- Category 57000 is **not** to be used for resource adjustments. The only exception is for the use of the Budget or Controller's Office for specifically approved discretionary purposes.

Record Retention

All documentation is subject to audit and must be retained for **three years** from the end of the fiscal year it which it was processed, in accordance with LBNL archiving policies, the National Archives and Records Administration, and DOE Contract 31.

Approval Threshold

The value of a resource adjustment is equal to the **total** of its debits **or** credits for all direct costs **actually being transferred** from one project ID to another; applied burdens are not included. To determine the value of a multiple-line resource adjustment, the total of all debit or credit lines should be used, where the debit and credit amounts are charged to different project IDs.

A labor resource adjustment must include **all applicable pay periods** for an employee's time in determining the approval threshold.

The approval threshold for all resource adjustments (including labor adjustments processed in HRIS) is **$5,000**. Resource adjustments of **$5,000** or more **require approval** from a designated approver (see Approver Criteria below). The approver of a resource adjustment exceeding the approval threshold cannot also be the preparer.

Exceptions

- Supervisory approval is not required for month-end reversing entry/accrual adjustments by the Office of the CFO.

- A single, annual approval is appropriate for recurring resource adjustments such as those supporting periodic service center recharges. Subsequent approvals during the fiscal year are not required.

Resource adjustments for amounts under the approval threshold must adhere to the same documentation and justification standards; however, supervisory approval is not required.

Any resource adjustment involving more than one Division requires notification to all Divisions impacted **prior to initiating the adjustment**. If such an adjustment meets or exceeds the amount of the *approval threshold*, approval must be obtained from designated approvers in all Divisions impacted *prior* to recording the transaction as *valid* in FMS.

Subordinate departments making a resource adjustment on behalf of a Division (such as the Office of the CFO) should obtain adequate supporting documentation prior to making the requested adjustment.

Approver Criteria

Division Directors are responsible for designation of authorized persons to review and approve adjustments in the Divisions.

Where practical, an original approval signature will be obtained for any resource adjustment in for which the value meets or exceeds the approval threshold. However, if sufficient information on the adjustment can be made available to the reviewer, approval by email is acceptable.

The designated approver must have signature authority appropriate to the amount of the resource adjustment.

The designated approver is responsible for ensuring that the resource adjustment meets the criteria as stated in this procedure (i.e., necessary, appropriate documentation).

Recurring resource adjustments, such as those supporting periodic service center recharges, or re-distribution of shared costs, are to be reviewed and approved in advance of each fiscal year by the Office of the CFO. Once approved, subsequent approvals for resource adjustments made in the current year are not required.

Contacts

- General Accounting Office
- Budget Office

Glossary

- ***Generally Accepted Accounting Principles (GAAP)****:* A widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board (FASB) and the Federal Accounting Standards Advisory Board (FASAB).
- ***Journal ID***: A transaction identification number in FMS.
- ***Project ID***: A numbering system used to report costs associated with funded activities at the Laboratory.

- ***Resource Adjustment***: An online process in which to transfer costs from one LBNL project or account to another. A labor adjustment is also a resource adjustment.

Signature Authority for Financial Transactions

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	September 1, 2005
Revision Date:	May 15, 2009
Revision Number:	3
Scheduled review date:	November 29, 2009 (every two years)
Primary contact:	Controller

Summary

The purpose of this policy and procedure is to define the roles and responsibilities of Laboratory and/or UC employees who have been designated as authorized signers for approving financial transactions, and the process by which financial signature authority is delegated at the Laboratory.

Background

Appropriate delegation and implementation of signature authority for financial transactions is an internal control that mitigates risk and ensures effective financial practices are employed.

Policy

Roles and Responsibilities

The Laboratory Director (or designee) is responsible for approving (or delegating the authority to approve) all financial transactions at the Laboratory, per authorization of the President of the University of California, Standing Order of the Regents 100.4, UC Delegation of Authority (DA) 2100.

The following are authorized to **delegate** (assign) signature authority to approve expenditures for Laboratory and/or UC employees:

- Laboratory Director
- Deputy Director
- Associate Laboratory Director
- Chief Financial Officer
- Division Director
- Department Head
- Business Manager
- Other (with prior approval on file from one of the above)

On an annual basis, the Office of the CFO will formally request that each Division review their list of individuals with signature authority and submit an updated list to the Controller.

Individuals delegated to approve financial transactions or expenditures are responsible for assuring the following:

- An understanding of what is being approved
- The information and supporting documentation is accurate and complete
- The transaction is allowable, reasonable and justified
- The transaction is charged to the correct project(s)
- There are adequate funds to cover the expense
- The funding source is appropriate for the expenditure

Financial transactions may only be approved by **Laboratory and/or UC employees** with signature authority by personally signing the required document or personally endorsing their approval online (if appropriate). Additionally, individuals with signature authority may only approve financial transactions within their authorized dollar limit.

Individuals with signature authority must comply with all applicable DOE, UC and Laboratory policies, laws, regulations and special restrictions on the use of funds. Unauthorized transactions will be subject to management review. Failure to comply may result in financial and/or criminal liabilities for the individual or the University of California.

Signature Authority Limits

Signature authority and corresponding approval limits is to be granted by the individual's Division and must have formal approval by the appropriate Division management via the Delegation of Signature Authority form.

Procedures

Signature Authorization System (SAS)

The Signature Authorization System (SAS) database is located on the BLIS Reporting System (BRS) website, and reflects the dollar limits for each individual with signature authority.

Delegation, Change or Cancellation of Signature Authority

To delegate, change or cancel signature authority, a Delegation of Signature Authority form must be completed and submitted to the Office of the CFO. A copy of the completed form should also be kept on file by the responsible Division delegating the signature authority.

Training Requirement

In addition to submitting the Delegation of Signature Authority form to the Office of the CFO, **new signatories** must complete an online training course prior to obtaining signature authority in the SAS (see Laboratory Signature Authority Training).

Department Transfers or Changes in Responsibilities

If an employee transfers to another Department or Division, or other changes occur that affects their signature authority responsibilities, an updated Delegation of Signature Authority form must be submitted to the Controller's Office.

Authority

- UC Delegation of Authority (DA) 2100

Contacts

- Controller
- General Accounting SAS Administrator

References

- Delegation of Signature Authority form
- Signature Authority Guidelines
- Laboratory Signature Authority Training

Glossary

- ***eBuy:*** The Laboratory's electronic commerce ordering system for purchasing low-value catalog items. eBuy allows Laboratory personnel to purchase items directly from a supplier's web catalog.
- ***Employee:*** For the purposes of this policy, an employee is defined as any Laboratory employee who receives a paycheck from the Laboratory and any UC employee who has been granted signature authority at the Laboratory.
- ***eProcurement (ePro)****:* ePro is part of the Laboratory's PeopleSoft/Oracle Financial Management System (FMS) and is used for processing purchases. ePro requisitions are used to request unique goods and services not available from eBuy vendors.
- ***Request for Issuance of Check (RFIC)***: A Laboratory form used for requesting reimbursement for expenses relating to allowable goods and services purchased at LBNL that do not require a purchase order for payment (*see RFIC*).

- ***Requisition:*** The process of requesting a purchase order for payment in order to purchase an item with a vendor using the Laboratory's official Procurement process.

OCFO Lawrence Berkeley National Laboratory
Office of the Chief Financial Officer

Quicklinks:
CFO Departments:

SPONSORED PROJECTS OFFICE

AWARD HIGHLIGHTS | GRANTS. GOV | CALENDAR | OMBUDS

SPO Google Search:
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SPO Policies & Procedures

SPO Policy Manual

- SPO Policy Manual

SPO Process Guides

- SPO/BSO Process for ARRA Funded Federal Awards 05/15/09
- SPO Advance Payment Process Guide
- SPO Federal AR Review 03/11/09
- Division Non Federal Advance Invoice Process 03/16/09
- SPO Non Federal Advance Invoice and AR Review 04/01/09
- Archives Search
- SPO Electronic Document Storage 12/3/08
- Gift Check Processing 12/08/08
- Human and Animals Subjects 03/24/09
- Instructions for Exhibit Use (includes DOE and TTIPM processes)05/07/09
- SPO Sponsor Type Process Guide
- SPO Sponsor Setup 03/19/09

Other Lab Offices

CFO Financial Management Policies	**Conflicts of Interest**
Advance Payment Requirement	Conflict of Interest Forms
Bridge Funding Policy	LBNL RIIO Conflicts of Interest Resources
FY2009 DOE Approval of Pricing Rates	**Facilities / Planning**
FY2009 Current Forward Pricing Rates	NEPA/CEQA Review
NIH Direct/Indirect Costs	**Human and Animal Regulatory Commission**
Non-NIH Direct/Indirect Costs	Human Subjects (If Applicable)
Off Site Burden Policy	Animal Subjects (If Applicable)
WFO Burden Matrix	**Technology Transfer & Patents Office**
WN Policy	LBNL Technology Transfer Office
	LBNL Patents Group

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Stop Work Process
For Funds Control Compliance

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	January 1, 2007
Effective Date:	July 16, 2007
Revision Number:	1
Scheduled review date/frequency:	December 31, 2008 (every year)
Primary contact:	Budget Officer

Summary

The intent of this policy is to provide a tool to mitigate situations arising from potential funds control issues (i.e., incurring uncollectible and/or unallowable costs), with the goal of safeguarding the Laboratory while supporting its scientific mission. A Stop Work to mitigate a funds control violation would only be exercised after all other options have been exhausted (i.e., bridge funding or negotiation with the sponsor) – refer to Stop Work Decision Tree Chart.

The purpose of this policy is to define the guidelines for the initiation of the Laboratory's Stop Work process to ensure compliance with federal regulations and DOE Contract 31.

Scope

The scope of this policy is limited to work activities funded by DOE and Work for Others (WFO) sponsors. A funds control violation may result in a reduction in the Laboratory's annual Contractor Supporting Research funding allocation from the University of California, the assessment of fines and/or a decrease in the DOE Contract 31 performance measure rating which could ultimately jeopardize the Laboratory's DOE Contract extension.

Policy

As a federal contractor, the Laboratory is required to adhere to DOE Contract 31 regulations. If it is determined that an actual funds control violation exists, work activities must stop until the issue is resolved.

Possible funds control violations may include:

DOE Direct-Funded Work

- Costs and/or commitments incurred in excess of funds available
- Costs and/or commitments incurred prior to receipt of funds in the Contract Modification (MOD) (see Glossary)

- Costs and/or commitments incurred for activities outside of the purpose specified in the DOE work authorization (see Glossary)
- Costs and/or commitments incurred after the expiration of limited appropriation funds (see Glossary)

Work for Others (WFO)

- Costs incurred prior to receipt of an accepted reimbursable work agreement as defined by DOE Order 481.1C. A written agreement to perform work or provide a service or another Federal agency or non-Federal sponsor signed by a contracting officer or an official with delegated authority to commit the Laboratory to perform Work for Others and approved by an authorized approver of the sponsor.
- Costs incurred outside the reimbursable work agreement period of performance
- Costs incurred after the expiration of limited appropriation funds
- Costs incurred outside of the reimbursable work agreement terms (Statement of Work) - Activities must be allowable & allocable
- Costs incurred in excess of *funding*
  - For a federal reimbursable work agreement, *funding* is defined as the contract value
  - For a non-federal reimbursable work agreement, *funding* is defined as cash received (advance payments + invoice payments) plus approved bridge funding
- Financial terms of reimbursable work agreement are not met by the sponsor
  - Delinquent payment of invoices (generally invoices outstanding for 120 days or more)
  - Sponsor refuses to reimburse the Laboratory

Note: Other non-financial factors may result in the requirement to Stop Work.

Procedures

- ***Initial Notification***

  A potential funds control violation may be identified by a Division Resource Analyst, Business Manager, Accounts Receivable Manager, Sponsored Projects Office (SPO) Contracts Officer, Manager, Budget Office Analyst, etc., and may result in the initiation of a Stop Work process - refer to Stop Work Process Chart. If a potential funds control violation situation arises, the identifier must notify the following individuals via email:

POSITION	NOTIFICATION
Field Operations Manager	Mandatory
Division Resource Analyst	Mandatory
Budget Office Analyst	Mandatory
Business Manager	Mandatory
Division Director/Deputy Director	Division Discretion
Principal Investigator (PI)	Division Discretion
SPO Contracts Officer	If applicable
Accounts Receivable Manager	If applicable

  The CFO has the option of declaring a temporary Stop Work at any time during this process.

- ***Determination***

  The Field Operations Manager establishes and facilitates a fact finding team within two business days of receipt of notification in order to gather details and explore whether other funding sources are available and appropriate. The team would include those individuals noted as mandatory under the initial notification section as well as others as appropriate. Based on the findings of the team, a recommendation is made.

  If the team determines that a Stop Work course of action is not necessary, the Division Resource Analyst and Field Operations Manager completes a Stop Work Initiation form summarizing the issue and the team's recommendation. The completed form is distributed by the Field Operations Manager to the team for informational purposes.

  If the team recommends a Stop Work course of action, the Division Resource Analyst and Field Operations Manager completes the Stop Work Initiation form summarizing the team's recommendation and outlining the various funding

alternatives that were explored but determined not a viable option. The Budget Office reviews the completed form.

The Field Operations Manager distributes the completed form simultaneously to the Division's Business Manager and to the Budget Officer. The Business Manager reviews the Stop Work recommendation with the Division Director and notifies the Budget Officer if there are additional concerns prior to the CFO review. The Budget Officer reviews the recommendation with the CFO for final determination.

Given the severity of a Stop Work situation, it is intended that the determination process is completed expeditiously.

- ***Stop Work Notification***

  If a Stop Work is the recommended course of action, the CFO reviews the issues with the Division Director, or designee. The Division Director is responsible for implementing the Stop Work. The Stop Work status is in effect until the funds control violation is resolved.

  Once the Division Director concurs with the Stop Work recommendation, the sponsor will be notified. The Sponsor Projects Office Contracts Officer will handle the formal sponsor notification for WFO and the Division Director for DOE Direct funded projects.

- ***Resource Allocation***

  Since activities on the project at issue must cease, Principal Investigators and staff effort must be redirected to other appropriate activity such as work on other projects or employee-between-assignment activity funded through Organization Burden.

  Note: It is not appropriate to charge Research and Development costs to Organization Burden (see Organization Burden Policy). If no other alternatives are available, the Division must pursue appropriate alternatives with Human Resources (i.e. administrative leave, termination, etc.).

  In cases of abrupt funding termination, the Division may seek non-DOE Contract 31 funds; e.g. CSR or Gifts.

Roles and Responsibilities

The following table reflects the roles and responsibilities of the various individuals that are involved in a potential Stop Work process:

Individual	Action
Initiator of Stop Work	• Notifies appropriate parties of potential funds control violation situation as outlined in policy procedures. • Participates on fact finding team.
Division Resource Analyst	• Participates on fact finding team. • Completes Stop Work Initiation form with Field Operations Manager.
Field Operations Manager	• Establishes and facilitates fact finding team. • Completes Stop Work Initiation form with Division Resource Analyst. • Distributes completed form as outlined in policy procedures.
Budget Office Analyst	• Participates on fact finding team. • Reviews completed Stop Work Initiation form.
Accounts Receivable Manager (if applicable)	• Participates on fact finding team.
SPO Contracts Officer (if applicable)	• Participates on fact finding team • Notifies WFO sponsor of Stop Work implementation, if applicable.
Business Manager	• Participates on fact finding team. • Reviews Stop Work recommendation with Division Director, if applicable.
CFO Budget Officer	• Reviews Stop Work recommendation with Chief Financial Officer, if applicable.
Chief Financial Officer	• Reviews Stop Work recommendation with Division Director, if applicable. • Notifies team of Stop Work concurrence, if applicable
Division Director or designate	• Implements Stop Work, if applicable.

Authority

- Department of Energy (DOE) Prime Contract 31
- Department of Energy Accounting Handbook
- DOE Order 481.1C
- Principles of Federal Appropriations Law

Contacts

- Field Operations Manager
- Budget Officer

Glossary

- ***Contract Modification (MOD)***: Document produced by DOE, the Contract Modification provides LBNL the Budget Authority to enter into obligations that will result in immediate or future outlays involving government funds.

- ***DOE Work Authorization***: Programmatic document produced by DOE that specifies what activities in which the funds are to be used.

- ***Limited appropriation funds***: Funding authority provided by Congress is designated as one year, multi year, or no year funding. This designation describes the period of time the funds are available for obligation and expenditure. One year and multi year funds expire and cannot be costed or committed after the expiration date. Funds that are available for a limited period of time are referred to as limited appropriation funds.

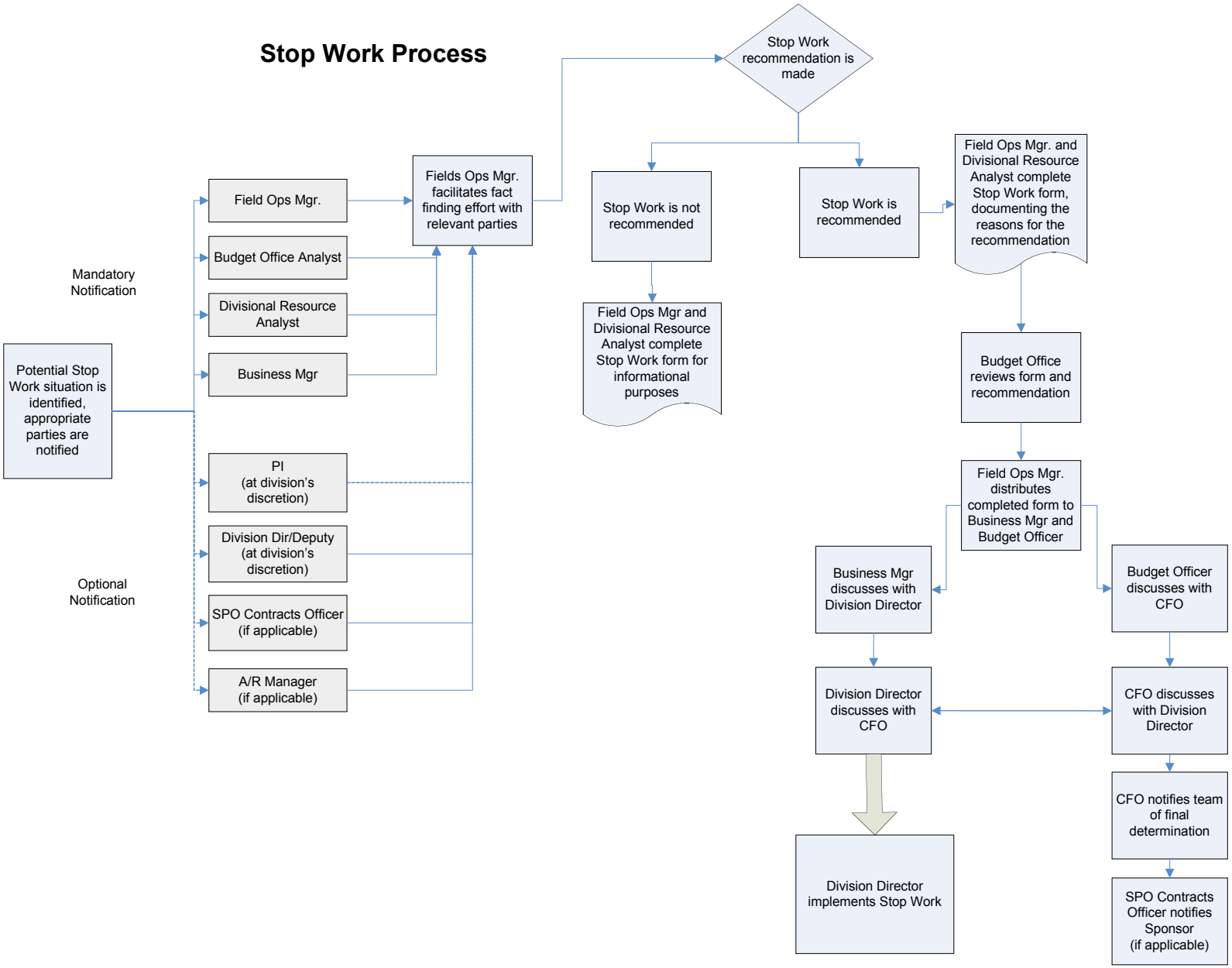
- ***Reimbursable Work Agreement***: A written agreement to perform work or provide a service for another federal agency or non-federal customer.

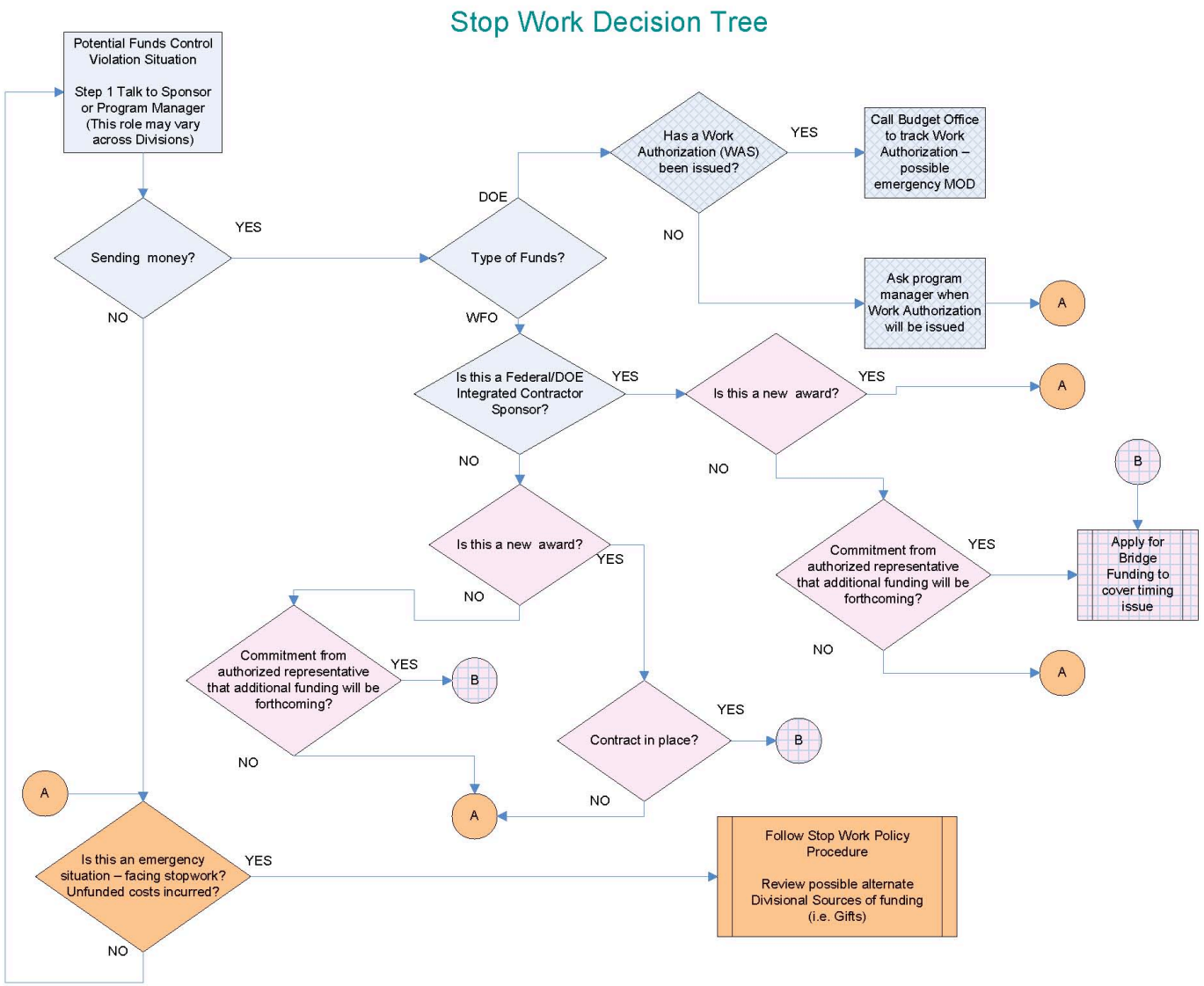
- ***Work for Others***: Work for non-DOE entities performed by DOE/contractor personnel and/or utilize DOE facilities and are not directly funded by DOE appropriations. Work is in accordance with DOE Order 481.1C.

Related Documents

- Organization Burden Policy
- Bridge Funding Policy
- Cost Allowability Policy

Stop Work Process




Stop Work Decision Tree
Potential Funds Control Violation Situation
Step 1 Talk to Sponsor or Program Manager (This role may vary across Divisions)
Sending money?
YES
NO
Type of Funds?
DOE
WFO
Has a Work Authorization (WAS) been issued?
YES
NO
Call Budget Office to track Work Authorization – possible emergency MOD
Ask program manager when Work Authorization will be issued
A
Is this a Federal/DOE Integrated Contractor Sponsor?
YES
NO
Is this a new award?
YES
NO
A
Is this a new award?
YES
NO
B
Commitment from authorized representative that additional funding will be forthcoming?
YES
NO
Apply for Bridge Funding to cover timing issue
A
Commitment from authorized representative that additional funding will be forthcoming?
YES
NO
B
A
Contract in place?
YES
NO
B
A
A
Is this an emergency situation – facing stopwork? Unfunded costs incurred?
YES
NO
Follow Stop Work Policy Procedure
Review possible alternate Divisional Sources of funding (i.e. Gifts)

Financial Management of Technology Transfer Courses

Originally issued:	December 15, 2005
Revision Date:	December 15, 2007
Revision Number:	0
Scheduled review date/frequency:	December 31, 2009 (every two years)
Primary contact:	Controller

Policy

This policy applies to Technology Transfer Courses offered by the Laboratory. It prescribes guidelines for financial management of the project; including project setup, revenues, other financing sources, expenses, and close out activities associated with Technology Transfer Courses.

Each Technology Transfer Course will be evaluated to ensure that it is consistent with the Laboratory's mission before any costs are incurred and work is performed.

Revenues

Technology Transfer Courses may be funded from a number of external sources including registration fees to offset costs of developing the course material and providing the course. All receipts will be deposited into the NON-DOE Bank Account.

Other Financing Sources

In the event of a project cost over-run, funds must be provided from the sponsor's Division royalty income allocation. If the Division's royalty income allocation is insufficient to cover the cost over-run, the Division Director of the sponsoring organization will prepare a formal request to the Lab Director for obtaining institutional royalty income.

Expenses

All course disbursements are drawn on the Non-DOE Bank Account.

Allowable Costs

- Laboratory scientific and support staff labor required to develop, administer, and present the course.
- Recharges associated with holding the event on-site (e.g., space rental, conference services, facilities support, computer support, and others).

- Appropriate funds and fees may be used for but are not limited to the following:
  - Rental charges incurred for off-site meeting facilities or necessary equipment (e.g., poster boards, computers, audiovisual equipment and support).
  - Announcements, programs, proceedings, summaries, or other publications issued in connection with the meeting.
  - Expenses paid for speakers (e.g., registration fees, honoraria, travel).
  - Credit card usage fees.
  - Transportation to and from the meeting facilities or tours scheduled as part of the program and not as entertainment.
  - Modest meals and light refreshments at breaks when: (1) the meals or refreshments are an integral part of the business agenda (2); attendance is necessary for full participation in the business of the course; and (3) attendees are not free to take meals or refreshments elsewhere without being absent from essential course discussions, lectures, or speeches.

Unallowable Costs

It is the course sponsor's responsibility to comply with restrictions on expenditures of funds. The course project shall incur costs consistent with the Laboratory's Cost Allowability policy without business justification and approval by Conference Services as consistent with University policy. Examples of typical costs that may not be incurred without specific authorization are:

- Alcoholic beverages.
- Entertainment, including but not limited to bands, entertainers, banquets, social events, and tours not associated with the technical purpose of the meeting.
- Decorative items, including flowers and balloons.

External Charges

Invoice payments or reimbursements to off-site vendors, hotels, or facilities are made by submitting a Request for Issuance of Check (RFIC) form to Disbursements (Accounts Payable). Supporting documentation must be attached including the invoice or detailed paid receipt, business justification and cost analysis. Copies of the form and documentation should be retained by the course sponsor.

Indirect Costs

Technology Transfer Course projects will be charged all applicable indirect costs. Costs accumulated under Technology Transfer Course projects are not included in the General and Administrative (G&A) allocation base and will not be allocated G&A expenses.

Procedure

Division

- Ensure that the course is important to the Laboratory's programs and consistent with the Laboratory's technology transfer mission.

- The sponsoring Division prepares the Course Request & Authorization form, which includes a description of purpose, objectives, and a budget of expected revenues and costs. This budget, and other course information, is sent to the Technology Transfer Department Licensing Manager for approval. After approval is received from the Technology Transfer Department, the information and approval is sent to Conference Services for final approval.

- A separate project number (or series of numbers) must be established each time a course is provided that involves the collection of funds from individuals, institutions, and/or exhibitors. All costs and revenue will be collected in this project.

- After the project is open, the Division charges costs of conducting the course to the project.

- The Division is responsible for tracking the course's income and expense, and strives to assure that costs equal revenue.

- When all conference revenues and expenses are recorded, the Division notifies Conference Services that the conference is ready for close-out.

- The Division will prepare a memo to the Technology Transfer Department Head summarizing the course. This memo should include but is not limited to: participants list, evaluation forms, discussion on highlights, benefits, and results of the course.

Conference Services

- Works with the Divisions to formulate budget for the course.

- Reviews and approves the Course Request & Authorization form. Forwards form to General Accounting to open a Project ID beginning with "1849" in FMS. Once a Project ID is opened, prepares the registration website and forwards the website URL to the Division.

- Accepts and processes registration fees.

- Works with the Divisions and General Accounting to close-out the course account.

Technology Transfer

- Provide oversight of event activities to ensure that the event is important to Laboratory programs and consistent with the Laboratory's mission in technology transfer.

- Review Course Request & Authorization form and provide approval notification to Conference Services and Division via e-mail.

General Accounting

- General Accounting opens the course project ID. Prior to opening the project, General Accounting will determine whether it is the Division or Institution that will receive the major benefit from the course. The project is assigned the appropriate Department I.D. based on this determination.

- Registration fees from attendees are received and processed in FMS through the Billings & Accounts Receivable Monthly Process (BARMP) feeder.

- After the course is completed and all related invoices have been paid, General Accounting and Conference Services determines if the project is under-run (revenues > costs), or over-run (revenues< costs).

    - If a project is under-run, the residual will be credited to the Division based on the project's Department I.D. and amount. Only nominal under-runs are retained by the Divisions, large under-runs are credited to the institution's royalty income.

    - If a project is over-run, the deficit will be charged to the Division based on Department I.D. to remove the deficit. Transfers of over-runs to Divisions are subject to available funding, institutional royalty income will cover amounts in excess of what the Divisions cannot cover.

- After the final resource adjustment is made, General Accounting closes the project.

Authority

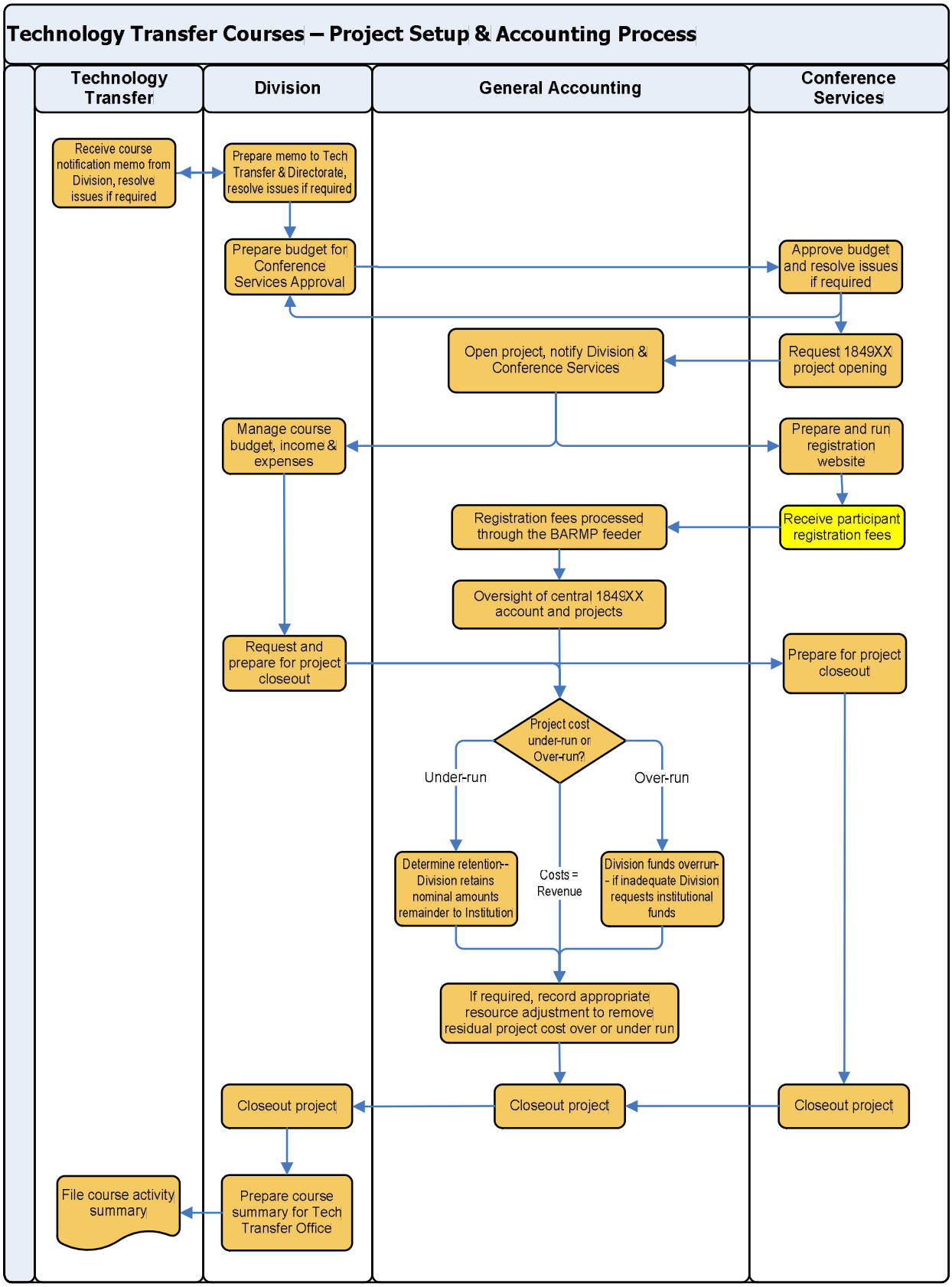
- Department of Energy (DOE) Contract 31

Contacts

- Licensing Manager, Technology Transfer Department
- Manager, General Accounting
- Manager, Indirect Budgets
- Financial Policy & Training Office

Related documents

- Cost Allowability Policy, Part I Chapter 4.11
- DEAR 970.5227-3 –Technology Transfer Mission


Technology Transfer Courses – Project Setup & Accounting Process
Technology Transfer
Division
General Accounting
Conference Services
Receive course notification memo from Division, resolve issues if required
Prepare memo to Tech Transfer & Directorate, resolve issues if required
Prepare budget for Conference Services Approval
Approve budget and resolve issues if required
Request 1849XX project opening
Open project, notify Division & Conference Services
Manage course budget, income & expenses
Prepare and run registration website
Receive participant registration fees
Registration fees processed through the BARMP feeder
Oversight of central 1849XX account and projects
Request and prepare for project closeout
Prepare for project closeout
Project cost under-run or Over-run?
Under-run
Over-run
Determine retention-- Division retains nominal amounts remainder to Institution
Costs = Revenue
Division funds overrun-- if inadequate Division requests institutional funds
If required, record appropriate resource adjustment to remove residual project cost over or under run
Closeout project
Closeout project
Closeout project
File course activity summary
Prepare course summary for Tech Transfer Office

WN Funding Requests

Lawrence Berkeley National Laboratory **Financial Policies and Procedures** **Part I**

Originally issued:	January 31, 2005
Revision Date:	December 31, 2008
Revision Number:	2
Scheduled review date/frequency:	December 31, 2010 (every two years)
Primary contact:	Manager, Direct Budget

Summary

LBNL receives a limited amount of WN funding authority each year for Work for Others sponsors that are precluded by law or statute from paying in advance. This policy allows the Budget Office and the Deputy Director to allocate and manage WN funds in support of the LBNL mission and in a manner consistent with Department of Energy (DOE) guidelines.

Policy

Sponsor Criteria

B&R WN Funds Authority can be requested for the following Work for Others sponsors:

- Non-Federal entities where the sponsor is precluded by law or statue from providing advance payment, which are typically State and Local Governments. All requests will be reviewed and approved by the Budget Office on a case by case basis.

- Non-Federal entities other than a State or Local Government will need to be reviewed and approved by BSO/DOE.

Approval Process and Criteria

Requests for WN that are included in the DOE Field Budget submission process which is done two years prior to being funded by the current year's funding authority level will be considered on a first come, first served basis and managed by the Budget Office.

- If a request is received after the current year's ceiling has been expended it may be funded by using carryover funding. Provided that there is carryover funds available the request will be approved based on funds availability and institutional needs.

Requests for WN that are not included in the DOE Field Budget Submission process will be approved based on funds availability and institutional needs.

- The Deputy Director has authorized the Budget Office to approve individual requests based on the availability of funds.
- Requests for WN can be approved prior to having a signed contract in place but the approval is only valid for six months. If it takes longer than six months to get the contract signed the WN request will have to be resubmitted to the Budget Office for approval.
- Requests with signed contracts have priority.

The request must include the following signatures before WN Funds are released:

Signor	Authorization/Description
Principal Investigator	Formal requestor
Business Manager	Signifies divisional approval
SPO Contracts Officer	Certifies that sponsor meets the WN funding criteria and a contract has been signed or is currently under negotiations. For Non-Federal sponsors other than state and local governments, certifies that use of WN requires DOE approval.
Berkeley Site Office (BSO) Financial Manager (if applicable)	Certifies that sponsor meets WN funding criteria.
Budget Officer	Certifies that WN Funds Authority is available. Dependent on the amount of funds available the Deputy Director may be required to review and approve.
Deputy Director for Operations (or designate)*	Allocation of WN Funds Authority is appropriate.

*The Budget Office will review each request and forward to the Deputy Director for approval as necessary.

Procedures

Roles and Responsibilities

Resource Analyst

- Prepares and completes the WN Funding Request Form. Works with the Budget Office if there is any question on whether or not the sponsor meets the criteria.

- Coordinates and obtains the required signatures, the form must be signed by the Principal Investigator and Business Manager.

- Upon project completion, the Division Resource Analyst will notify the Budget Office of any unexpended funds.

SPO Contracts Officer

- Reviews and signs the request form.

- The request form is forwarded to the Budget Office for review and approval with a copy of the state statue, which states that the sponsor is prohibited from paying in advance.

Budget Office

- The request form is reviewed.

- Coordinates approvals (if applicable) from BSO* and the Deputy Director.

- Informs the Resource Analyst and the SPO Contracts Officer whether the request has been approved by the Budget Office or sent to the BSO* or the Deputy Director for approval. The SPO Contracts Officer will be informed by e-mail upon final approval.

- Any unexpended funds are to be released to the Budget Office and will be utilized based on institutional needs.

*BSO only approves appropriateness of sponsor, not the allocation of WN Funding Authority.

Authority and Contacts

BSO (DOE Berkeley Site Office)

Glossary

- ***B&R***: Budget and reporting code.
- ***BARC*****:** Budget and reporting classification.
- ***BSO*****:** DOE Berkeley Site Office.
- ***Field Budget Submission*****:** DOE Annual Budget Call each spring for inclusion in the President's Budget presented to Congress. Field budget formulation takes place two years prior to the execution year.

- ***Non Federal entity***: An entity that is not part of the Federal Government.
- ***WN***: Cost of the Work for Others program under the Office of Management, Budget and Evaluation Assistant Secretary.
- ***WN Carryover funding*****:** WN Budget Authority obligated in prior fiscal years that is not associated with a specific contract and unexpended balances from complete projects. The DOE has authorized use of carryover funds for projects that meet the WN criteria

Related documents

- WN Funding Request Form
- DOE BARC Report http://www.cfo.doe.gov/EFASC/FRAD/BARC/
- DOE Accounting Handbook, Chapter 13 paragraph 2g(2)(f) http://www.cfo.doe.gov/policy/actindex/chap13.pdf

Workers' Compensation

Title:	Workers' Compensation
Originally issued:	December 31, 2004
Effective Date:	November 21, 2006
Revision Number:	2
Scheduled review date:	November 21, 2010 (every two years)
Primary contact:	Budget Office, Indirect Budget Manager

Summary

The purpose of this policy is to define the procedure for expensing Workers' Compensation at the Laboratory.

Policy

Background

The Laboratory participates in the UC Workers' Compensation Self-Insurance Program. It funds their annual portion of this program each year based on the results of an independent actuarial study. The study's objective is to estimate the funding required for a given fiscal year and recommend accrual rates for each UC location. The rates are identified as a rate per one hundred dollars of payroll. The independent actuarial study results are available around January of each calendar year and the recommended rates are applicable for the next fiscal year. The actuarial study does not account for claims incurred but not reported (IBNR) because of DOE's prohibition against recognizing contingencies. The practice of not accounting for IBNR claims can contribute to under-funding the workers' compensation plan and result in deficits.

Procedures

Standard Practice

Each month the Laboratory costs its share of the UC Workers' Compensation Self-Insurance Program to payroll burden, based on applying the independent actuarial recommended rate for a given fiscal year to the monthly payroll costs. Deficit or surplus funding amounts for Workers' Compensation are charged to payroll burden as an adjustment to the current year, or charged to payroll burden during future fiscal years, via the actuarial recommended rates.

Any additional adjustments for deficit or surplus funding amounts reported by the actuary will be based on an assessment of the Laboratory's recent history of actuarially determined deficits and surpluses.

Roles and Responsibilities

It is the responsibility of the Budget Officer to ensure that the Workers' Compensation costs are expensed in compliance with the above Laboratory policies and procedures, and all supporting documentation is retained.

Authority

- Department of Energy Prime Contract 31, Clause I.38 – FAR 52.230-2 Cost Accounting Standards (APR 1998).

Contacts

- Indirect Budget Manager
- Budget Officer

Glossary

- *Workers' Compensation:* Insurance (paid for by the employer) that provides cash benefits and medical care if an employee becomes disabled because of an injury or sickness related to the employee's job.

Financial Management System (FMS)
User Access Control

Lawrence Berkeley National Laboratory | **Financial Policies and Procedures** | **Part I**

Originally issued:	December 17, 2007
Effective Date:	February 19, 2008
Revision Number:	1
Scheduled review date:	December 17, 2009 (every year)
Primary contact:	Manager, Business Systems Analysis

Summary

The Office of the CFO (OCFO) is responsible for the secure stewardship and control of the system throughout its lifecycle. The objective of this policy is to define control procedures that restrict system access to authorized Financial Management System (FMS) users, and to limit user privileges based on business need.

Policy

The OCFO is responsible for managing FMS user access and privileges. This includes setting up user accounts as well as activating, modifying, reviewing, and disabling those accounts.

The OCFO employs this policy and a variety of security enforcement mechanisms to control user access to FMS. Consistent with RPM §9.01, Paragraph E, *Information and Computer Security Responsibilities*, these controls are established to ensure that data in FMS is sufficiently protected from unauthorized use, alteration, and manipulation, and that users, data owners and system owners take appropriate precautions to secure FMS and the data contained therein.

Division Managers and Supervisors are responsible for communicating changes in employee job responsibility and/or employment status to the Business Systems Manager. When an employee is terminated the Termination Notification System (TNS) automatically locks the user's FMS account preventing further system access.

The OCFO conducts FMS security reviews at least annually to ensure that users' access and privileges are appropriate and consistent with their current job responsibilities.

Procedures

Roles & Responsibilities

Business Systems Analysis Manager or Designee

- Manages FMS user access controls consistent with this policy.
- Grants access to FMS based on manager/supervisor authorization.
- Supports system module owners in defining and documenting requirements for basic and enhanced FMS user access and privileges. Where changes are required, communicates functional requirements to Information Technology Institutional Systems (ITIS).
- At least once a year, coordinates and documents the functional review and confirmation of FMS user access and privileges assigned to users.
- Establishes the time limit for automatic application time-outs and communicates these parameters to IT.
- Manages use of anonymous accounts (see glossary).

OCFO System Module Owner

- Working with the Manager of Business Systems Analysis or designee, defines requirements for user access and privileges. For user roles that provide enhanced FMS user access the system module owner establishes access criteria such as completion of specific skills training and appropriate job titles.
- Identifies exclusive roles requiring separation of functional duties/responsibilities. Working with the Manager of Business Systems Analysis or designee ensures that no user has access to incompatible exclusive roles.
- Reviews and approves requests for enhanced FMS user access due to changes in a user's job responsibility or organization. Verifies pre-conditions are met and that the intended system usage is appropriate.
- Submits approved system access and privilege changes via email to Business Systems Analysis Manager or designee.
- Where appropriate, manages organization-level user access to modules.
- Periodically reviews and, as necessary, requests changes to basic and enhanced system access and privileges consistent with business requirements.
- At least once a year, reviews and confirms FMS user access and privileges.

Supervisors of FMS Users (including employees and/or guests)

- Requests enhanced FMS user access via email from the System Module Owner, consistent with user job responsibilities. Ensures that access pre-conditions and criteria (such as completion of specific skills training) are completed by the new user.
- If an FMS user's job responsibility or organization changes, assesses whether a change to their FMS access is required. If so, requests an FMS access change via email from the System Module Owner.
- Requests changes to enhanced FMS access from the System Module Owner whenever changes to an FMS user's job responsibilities require modifications to their FMS access. See wiki for request access: https://www.lbl.gov/wiki/bin/view/Main/SysAccess

ITIS (Information Technology Institutional Systems)

- Based on functional specifications and consistent with this policy, establishes, monitors and maintains system parameters and controls in support of the requested system access and privileges.
- Supports the annual (or more frequent) review and confirmation of assigned user access and privileges.
- Maintains the time limit for automatic application time-outs based on input from Business Systems Analysis Manager.

Authority

- LBNL Regulations and Procedures Manual Section §9.01, Computing and Communications.
- OCFO Business System Ownership policy

Contacts

- Manager, OCFO Business Systems Analysis

Glossary

- ***Anonymous accounts:*** Established to run background processes and/or to test and maintain system capabilities.
- ***Enhanced FMS User Access:*** Additional access to FMS capabilities beyond the basic access provided to all new employees and guests typically providing read/write permissions.

- ***Financial Management System (FMS)***: FMS is comprised of the following components: General Ledger, Project Cost, Commitment Control Ledger, Accounts Payable, Billing, Accounts Receivable, RAPID Grants Management, eProcurement, eBuy, Funding Database, and Field Budget Submission System (FBSs). Access to all of these components is managed using a common PeopleSoft access security panel.

- ***System Module Owner***: Functional manager with assigned responsibility for an FMS system component consistent with the OCFO Business System Ownership policy.

- ***User***: Individual employee, guest or system process authorized to access an information system.

Requests for Issuance of Check (RFIC)

Originally issued:	March 1, 2009
Revision Date:	0
Revision Number:	0
Scheduled review date/frequency:	March 1, 2011 (every two years)
Primary contact:	Accounts Payable Manager

Summary

This policy provides guidelines for reimbursement payments to Laboratory employees and/or third parties for allowable goods and services using the Request for Issuance of Check (RFIC) process.

Scope and Applicability

This policy is applicable to all Laboratory staff seeking reimbursement through the RFIC process. The RFIC process may not be appropriate in all circumstances. The requester should refer to the table below for guidelines.

Policy

This policy applies to requests for reimbursement for payments of allowable goods and services that meet the requirements of the Federal Acquisition Regulations (FAR 31.2012, *Determining Allowability*). Requests for reimbursement must also meet the terms of DOE Contract 31, Laboratory policies, and support the mission of the Laboratory.

Roles and Responsibilities

Division Staff

- Reviews the RFIC policy to determine if the item qualifies for reimbursement using an RFIC form
- Submits the RFIC form, if applicable, with appropriate documentation for reimbursement

Accounts Payable

- Reviews the RFIC form and supporting documentation
- Obtains vendor payee tax information from the payee, if warranted
- Reviews supporting documentation for sufficient detail
- Obtains appropriate CFO approvals
- Prepares reimbursement check

Procedures

Prior to making a purchase, refer to the Procurement Department's Step-By-Step Buying Guide and the following lists to determine if the item can be purchased through the Procurement Department:

- Employee-Vendor Conflict of Interest
- Restricted Items
- Sensitive Items

If not, an RFIC may be the appropriate method (see When to use an RFIC).

RFIC purchases that could have been made using one of the methods in the Step-By-Step Buying Guide may be considered an unauthorized commitment (see Procurement Standard Practices policy 1.3 Ratification of Unauthorized Commitments).

When to Use an RFIC

If the following conditions are met, the use of an RFIC form to request payment for goods and services is appropriate and reimbursable. Incomplete RFICs will be returned to the requestor.

- Goods or services not directly billable to the Laboratory.
- Payment for items required on an urgent basis (i.e., after hours).
- Purchase of goods or services not available on the Step-By-Step Buying Guide.
  - For the purchase of *food and beverage* items, cost estimates must be preapproved by the Division and Conference Services using the Event Approval Database. Reimbursements for actual costs are submitted to Accounts Payable on an approved RFIC form with the following documentation:
    - Detailed receipt or invoice
    - Copy of approved meeting request from the Event Approval Database
      - Actual cost **cannot exceed** preapproved amount
    - Agenda
    - Attendee list (with affiliations)

The following table provides general guidance for the use of an RFIC form. It is not intended to be a comprehensive list of all circumstances that may apply.

PAYEE	PAYMENT TYPE
Employee	**Good or Services Paid by the Employee** Items for official business such as conference registration fees, phone charges, internet services, or reimbursement for food service preapproved by Conference Services (see RPM 11.01, *Meetings* policy or RPM 11.02, *Conferences* policy.
	Books Incidental book purchases.
	Urgent Situation Goods and/or services needed on short notice with no opportunity to make the purchase through the normal Procurement Department channels. The nature of the situation and need for the purchase must be clearly documented on the RFIC.
Third Party	**Annuitant Payments** Annuitant benefit payments to UC (i.e., health benefits for retirees).
	Conferences/Reg Fees Direct payment to a conference host for a registration fee.
	Food Service For Laboratory hosted meetings or conferences. Attach copy of the approved meeting request from the Event Approval Database, agenda, attendee list with affiliations, and itemized original receipts. Must meet criteria for reimbursement in RPM 11.10*, Food and Beverage Policy*.
	Honoraria Requires an "RFIC for Payment of Honoraria or Stipends" form (see RPM 11.29, *Honoraria* policy).
	LBNL Legal Services Invoices for legal services submitted by LBNL legal counsel.
	Memberships and Licenses Professional memberships and licenses.
	Offsite Training A separate Laboratory "Offsite Training Request" form must be completed for each attendee, in lieu of an RFIC.
	Passport and Visa Services Payments requested through the LBNL International Researchers and Scholars Office (IRSO) for passports and visas.
	Publishing Publishing, color, and reprints for papers accepted in scientific journals.
	Stipends Requires an "RFIC for Payment of Honoraria or Stipends" form (see RPM 11.33, *Stipends* policy).
	Workers' Compensation Payments to UC for workers' compensation.

Approvals

An RFIC must include the appropriate approval from the issuing Division/Department. The RFIC approver must be included in the Laboratory's Signature Authorization System (SAS) and cannot be the same individual as the requester. The RFIC must be accompanied by sufficient documentation to support the purchase; i.e., original itemized receipts, itemized invoices and any other pertinent documents. Summarized receipts or invoices are not acceptable.

Required IRS and State Forms

Prior to issuing RFIC payments, the Accounts Payable Department must have up-to-date tax reporting information on file. The following forms are **required**:

- LBNL W-8 Substitute - Foreign Vendor Registration ***or*** LBNL W-9 Substitute - Domestic Vendor Registration
- California State Withholding Exemption Certificate - Form 590 (Domestic) ***or*** Form 587 (Nonresident)

Contact the Accounts Payable vendor desk (vendordesk@lbl.gov) to determine if the required forms from the IRS and State are already on file for a specific vendor. Should Accounts Payable need to obtain the required forms from a vendor, it may add approximately one week to the payment processing time.

References

- Cost Allowability policy
- Employee-Vendor Conflict of Interest list
- Food and Beverage policy
- Honoraria policy
- Meetings (Lab-Hosted) policy
- Offsite Training Request form
- Restricted Items list
- Request for Issuance of Check form
- RFIC Payments for Honoraria or Stipends form
- Sensitive Items list
- Stipends for Non-Employees policy

Contacts

- Controller
- Accounts Payable Manager

Glossary

- ***eBuy:*** The Laboratory's electronic commerce ordering system for purchasing low-value catalog items.

- ***Honoraria:*** A payment or award granted in recognition of a short-term service (such as a lecture or discussion), on which custom or propriety forbids a price to be set.

- ***Stipend:*** A one-time, periodic or regular payment usually made to an individual. A stipend can either be an allowance to offset certain expenses or compensation for services. A stipend may be a one time fixed sum paid periodically (or regularly).