FACTS ABOUT THE UNIVERSITY OF CALIFORNIA

Office Of Strategic Communications

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Information regarding UCRP pension benefits for UC employees at Los Alamos, Livermore and Berkeley National Laboratories

With the management contracts for Los Alamos (LANL), Livermore (LLNL), and Berkeley (LBNL) National Laboratories now subject to a competitive bid process by the Department of Energy, questions have arisen regarding the pension benefits currently offered by the University of California through the University of California Retirement Plan (UCRP). Below is some information on this topic.

Quality retirement benefits help ensure quality talent

UC believes that the excellent benefit package the University offers, including the retirement program, is part of an effective recruitment and retention program that helps the laboratories maintain the highest quality workforce, and that the continuation of such benefits supports the stability and continuity of the very specialized workforce at the labs.

DOE has stated publicly that it intends to assure that historic benefits are retained and that future benefits be competitive. Both the UC and DOE have had the following language in the management and operating contracts for LANL, LLNL and LBNL for many years:

> *"DOE agrees to require that, in the event of termination of work under the contract, a successor contractor shall permanently maintain the benefit accrual terms and conditions of UCRP for the Contractor employees transferred to the successor contractor insofar as UCRP is consistent with the provisions of applicable law*."
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> – Clause H.008 (f)(4) LANL & LLNL; Clause 3.14 (f)(4) LBNL

Accrued pension benefits are protected in several ways

Pension benefits accrued under UCRP are also protected by several statutory and plan mechanisms.

1. The California Constitution. The California Constitution imposes several obligations on fiduciaries of public retirement plans. Specifically, they must hold plan assets in trust and for the exclusive purpose of providing benefits to participants and beneficiaries; they must act solely in the interest of participants and beneficiaries; and they must use plan assets for the exclusive purpose of providing benefits to participants. They also have the sole and exclusive responsibility to administer the system in a manner that ensures the prompt deliver of benefits. As long as assets and benefits are held in UCRP, The Regents, as fiduciaries, are bound by these obligations.

2. Vesting of Benefits under UCRP. Under UCRP, benefits are vested after five years of service. Once vested, a member's accrued benefit cannot be reduced under the terms of UCRP. Although UC reserves the right to amend UCRP, such amendments will not reduce previously accrued benefits. This provision applies as long as the benefits are maintained under the UCRP.

3. Internal Revenue Code. Section 401(a) of the Internal Revenue Code requires that the assets of tax-qualified retirement plans, such as UCRP, be held in trust for the benefit of participants and that the trust instrument prohibit, prior to the satisfaction of all liabilities for benefits, any diversion or use of trust assets for any other purpose.

In short, the UCRP provide protections for benefits accrued under UCRP such that benefits accrued under UCRP cannot be eliminated or reduced, as long as the benefits are maintained under UCRP. Further, under the Internal Revenue Code, all trust funds must be used for the exclusive benefit of providing retirement benefits to participants and beneficiaries.

Existing retiree pension benefits protected; future pension benefits for active employees expected to be comparable

Ultimately, the Department of Energy (DOE) will make the final decisions during the competition process regarding future benefits for lab employees. DOE and a successor contractor will negotiate the terms of a future pension program. From statements DOE has made publicly, current UC employees may reasonably expect that, in the event the University does not run the laboratories in the future, vested rights will be fully honored. It is possible that DOE will ask the new contractor to assure that future retirement income will be comparable to that expected under University employment, subject to applicable federal and state law and Internal Revenue Code regulations.

Existing retirees have the same legal protections as described above for benefits accrued for active UC employees. The prime contract between the University and the DOE contemplates various situations in which assets and liabilities in UCRP attributable to laboratory members of UCRP may be transferred to a pension plan maintained by a new contractor. In the event that a new contractor and the DOE were to agree to that type of proposal, designated UCRP assets and liabilities could be transferred as part of a transition activity, provided the appropriate rulings and approvals from federal and state agencies, including the IRS, have been received by the University and the new contractor.

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