

## **Interim Report of Senate Ad Hoc Committee on the Proposed UARC at UH Manoa**

### **Introduction**

In June 2005, the Senate Executive Committee convened an *ad hoc* committee of UH Manoa faculty to gather information about a proposed Naval Sea Systems Command (NAVSEA) University Affiliated Research Center (UARC). If approved by the UH Board of Regents in the fall, the newest NAVSEA UARC will be established as the University of Hawai'i Applied Research Laboratory, and be integrated into the research infrastructure at UH Manoa. The charge to the committee is to produce a report that will facilitate an informed discussion in the Manoa Faculty Senate about the UARC and enable it to make a recommendation to the Board of Regents.

Members of the committee included Danielle Conway-Jones (Law), Jon Osorio (Hawaiian Studies), Calvin Pang (Law), Tom Ramsey (Mathematics, SEC Liaison), David Ross (Mathematics), Sara Rutter (Library, Chair), Roy Wilkens (SOEST), and Jim Tiles (Philosophy, SEC Liaison).

The committee solicited comments from UH Manoa faculty through the uhm-faculty listserv asking faculty to share their opinions about the establishment of a UARC on the UH Manoa campus. Guests invited to meet with the committee included faculty opposed to the UARC, faculty who viewed the UARC as beneficial to the research environment of UH Manoa, the Vice Chancellor of Research and Graduate Education (VCRGE) Gary Ostrander, and the Vice Chancellor for Finance, Administration and Operations Kathy Cutshaw.

The committee established a series of webpages to document the opinions, questions, answers, and background materials, on the UH Manoa Faculty Senate website at [www.hawaii.edu/uhmfs/uarc](http://www.hawaii.edu/uhmfs/uarc).

Legal analysis of the procurement process and proposed management structure of the UARC was provided by two attorneys engaged through the Hawaii Procurement Institute. Payment for these services was provided by the VCRGE at the request of the SEC and the *ad hoc* committee.

### **Process**

Over at least the past 12 months, members of the community have charged the administration with lacking transparency and being uninterested in engaging the larger UH community on whether a UARC would be a desirable addition to the Manoa campus. Ironically, the distrust embedded in these charges has, at times, derailed the administration's more recent attempts at greater openness and inclusion to the process.

The administration undertook to establish a UARC, as it has other initiatives on campus, without much input from the wider campus community.. The UARC proposal was one piece of a large package of initiatives designed to leverage the university's research capability and other resources to gain even more opportunities and funding. The groundwork was laid by a few in the administration and the RCUH, and it appeared that

little thought was given to an inclusive process. Although this may have been done in good faith to allow the UARC proposal to proceed more efficiently, it also engendered, perhaps unwittingly, suspicions of stealth when it was finally brought before the larger Manoa campus and community.

Those charged with engaging the U.S. Navy and laying the groundwork of the UARC proposal did not seem hesitant about describing the proposed UARC in public fora. For example, in the spring of 2003, a public presentation was made before legislative committees and recorded for viewing on the public access channel. However, these presentations tended to be favorable, non-critical, and not designed to solicit comments from stakeholders with potentially contrary views.

Only after the matter was brought before the Board of Regents in 2004 did potential constituencies, including the faculty, begin to pay attention to the UARC proposal, perceive possible disadvantages, and voice concerns. By then, the Navy had already approved the University of Hawaii as a UARC pending negotiation of a suitable contract. This approval was based on the administration's success in presenting UH's capacity and history for providing the kind of research desired or needed by the U.S. Navy.

As already suggested, the amount of administrative resources used to develop the UARC proposal and gain approval from the Navy prior to a full public airing, raised and still kindles a belief that the Manoa administration advocates approval of the UARC and is intent on its adoption, even against well-voiced opposition. This gave rise to anger and distrust leading to disruption of at least three on-campus public presentations on the UARC, and the well-publicized occupation of Interim UH President David McClain's office.

This committee learned that insufficient communication and information from the administration also affected faculty members who tended to favor the presence of a UARC on campus. Three such colleagues appeared before this committee and testified that they lacked the information to effectively weigh and address the arguments raised by some UARC opponents. This discouraged them from publicly speaking in support of the proposed UARC. It also became clear to this committee that faculty proponents of the UARC may be reaching their positions under false assumptions. For example, at least two who appeared, assumed that UH's UARC would use separate facilities to segregate UARC resources and operations from non-UARC applications. They were surprised to learn otherwise.

As mentioned in the Management section, it also appears that unit heads, who will likely have some of their faculty and facilities used for UARC projects, have not been consulted in the creation of a management plan. This committee is concerned that absent their input, a management plan would lack the insights of those most familiar with and invested in the operations of a unit. This would also contribute to the sense that the UARC proposal is a top-down enterprise.

Having written the above, this committee has experienced a significant openness, and we think, candor from those in the Manoa administration charged with representing UH Manoa in ongoing discussions with the Navy. Gary Ostrander, Kathy Cutshaw and

Vassilis Syrmos have all either appeared before this committee, provided materials, or answered written questions for posting on this committee’s website. In addition, Vice Chancellor Ostrander agreed to fund the hiring of independent legal and business experts with military contract and procurement experience to advise this committee. This is much appreciated especially with our concerns about how an “integrated or virtual UARC” model, as being proposed for our campus, will impact academic freedom, facility operations, and even things as mundane as the use of supplies, equipment and personnel.

We have been advised that the Board of Regents will, within limits, delay final approval of the UARC proposal and contract until the faculty can effectively provide consultation to the Board. At this time, the committee awaits a copy of the management plan and contract. We hope procurement of these documents will be timely enough to enable our advisors to provide comment.

In the interim, the Faculty Senate should continue to encourage the administration to remain open and clear in its communications with all stakeholders.

**Financial Costs and Benefits**

It has been asserted by former Chancellor Englert and in the media that the UARC will bring \$50 million into the University over a period of five years, \$10 million a year. The committee has tried to determine where that money will go.

The \$10 million a year figure is in fact an upper limit. We do not have definitive information as to why the UARC was capped at this amount, though it happens to be the upper limit for funding through a Cooperative Research and Development Agreement (CRADA), which is an alternate vehicle for DoD funding with a more informal structure than the UARC. We wonder whether at this funding level there is any advantage to a UARC over a CRADA, especially as the latter appear to be less problematic in many respects than the UARC.

The \$10 million income from the UARC takes the form of direct costs (such as P.I. salaries), indirect costs (support staff and equipment for the project), and RTRF. In other funding vehicles the latter two are typically combined, and charged at a rate depending on the granting agency. The NSF and NIH indirect rates for UH are currently negotiated at 36.3% of the direct costs, or roughly 26% of the project total; grants outside the sciences often have much lower rates. One quarter of this 36.3% goes to the UH system RTRF fund, 25% goes to the Manoa RTRF fund, and 50% to the investigator's home unit. Under the UARC as currently proposed, the indirect costs appear to be closer to a very large 67% (equivalently, 40% of the project total), but only 9% (7.5% of the total) takes the form of RTRF that is shared as just described. In other words, for \$100 taken in by an investigator in (say) SOEST, the disposition under NSF and the UARC would be roughly as follows:

	NSF	UARC
P.I. Salaries etc:	\$74.00	\$60.00
SOEST:	\$13.00	\$ 3.75
Manoa VCR:	\$ 6.50	\$ 1.88

UH VPR:	\$ 6.50	\$ 1.87
Someone else:	\$ 0.00	\$32.50

The “Someone else” here is the UARC administration and support staff, including salary support for technicians and so on required for the project. In the absence of a detailed financial plan we do not yet have a full understanding of this piece of the total. We have however been told that this amount cannot be folded into direct costs, or else the RTRF rate would drop. Beginning in June, the committee requested information about the contract being negotiated and a business or management plan from the administration. We have been told that a contract will be completed in late August and that the completion of the business plan has been delayed.

One question currently unresolved is how much of the UARC funding will be for projects currently fully funded at UH from other sources, and how much in the form of new projects or expansions of old projects. In any accounting, UARC dollars that replace dollars from other sources should not be counted as ‘new’ income for the purposes of deciding benefits and costs. The administration suggests that the overwhelming majority of the funding will indeed be for new projects, not as an alternate revenue stream for current ones. As most potential UH P.I.’s are currently fully funded, this suggests the hiring of new faculty members, and general institutional expansion, in subject areas represented by the UARC.

As 100% of the UARC income goes to the UH research effort, it is possible that this will help eventually raise the base indirect cost rate negotiated for all grants, and so contribute to the RTRF. The effect of this is impossible to estimate at this time.

#### *Financial Costs to Establish the UARC*

The office of the Vice President of Research has committed \$500,000 and the Office of the Chancellor has authorized up to \$1 million per year for three years toward the startup costs. The \$1 million per year will come from the Manoa RTRF account. The committee was told by the VCRGE and VCFAO that it is unlikely that the UARC will need that much as it is believed that the UARC will become self-supporting quite soon after the first year, once Task Orders begin to arrive.

Our calculations show that this startup money will be recouped by the Manoa general RTRF fund only after many years, if at all. Even assuming the UARC is funded to the maximum \$10 million a year, this will return only \$187,000 per year to the Manoa RTRF coffers. Ignoring considerations like time value of money, it will take eight years to recoup a \$1.5 million startup investment, and 24 years if the UARC takes three years to become self-supporting. However, it is common for RTRF to be used for projects where the likelihood of recovery is small; the purpose of this money is to support and stimulate new projects.

### **Management and Governance**

As mentioned, the proposed UARC will be blended into existing research infrastructure and not housed or operated separately as is done by the four existing NAVSEA UARCs at Johns Hopkins, Penn State, Washington, and Texas. At these institutions, UARCs are

discrete entities with separate administrative and personnel lines, separate buildings and facilities.

Assuming Hawaii's model is viable and gains approval, a major benefit is the flexibility that comes from personnel and equipment interchangeability. When a major program winds down (or is cancelled) at existing UARCs it can mean layoffs of personnel and loss of support for sophisticated equipment. The UH model would help to smooth these transition times because existing faculty will have other duties and equipment may be supported by non-DoD research enterprises.

While integrated into existing though possibly expanded infrastructure, the UARC will be an independent unit that will report to the Vice Chancellor for Research and Graduate Education. It will be managed by an Executive Director who will consult with an Advisory Board on issues of policy and planning. Makeup of the Advisory Board is yet to be determined and is an area open to discussion by the faculty and administration. The current model includes seven members —three from research administration and four selected by the Manoa Faculty Senate Executive Committee. The Executive Director will have a major responsibility in soliciting new business from both military and non-military funding sources.

There will be four directors covering the four areas of identified expertise (1) Ocean Science & Technology, (2) Astronomy, (3) Electro-optics & Sensing, and Sensors, and (4) Communications, & Information Technology. In addition a fifth person will be hired as Director of Business Administration. There will also be clerical and contract administration support staff. The main office of the UARC will most likely be located off campus —perhaps in the Manoa Innovation Center.

Investigators and technical staff working on UARC projects are proposed to come primarily from existing Manoa personnel. These individuals will maintain their locus of promotion and, where appropriate, tenure within existing academic or organized research units. Contract administration will be through the UARC office and personnel matters will be handled through the home units. When UARC Task Orders require additional personnel they will be hired through the home units. This is no different than what happens now when a large grant is awarded through the usual funding channels.

Staffing by on-campus personnel is a major departure from the organization of the four existing Navy UARCs. The model proposed by UH will have UARC work done by individuals who will move in and out of the UARC structure —sometimes working on UARC Task Orders and other times supported by traditional funding through their home unit. At existing UARCs, employees are often not technically faculty members and are more akin to RCUH hires. There has been some concern that the Navy might be able to force individual faculty members to perform research tasks under a UARC. This is not the way a UARC works. Any faculty member will always have the right to refuse UARC work for any reason whatsoever.

Another major difference between the UH UARC and existing UARCs is the concept that equipment purchased with Task Order funds will be available for use in non-DoD projects, and that existing laboratories and facilities may be used for UARC-supported

research on an as-needed basis. It would appear that this type of practice is prohibited or severely limited at existing UARCs. Whether the proposed arrangement in Hawaii can be negotiated and legally maintained remains to be seen.

#### *Management Issues*

*Dual use of UARC equipment and personnel.* It is apparent that the UH contract with the Navy will have to be substantially different from existing UARC contracts because of the "dual use" of both personnel and equipment. We cannot comment on how seamlessly this will work until we have a draft contract to examine (due late August). Our legal advisors suggest that this may be a very real problem if not properly negotiated from the outset.

*Lack of consultation.* Although the UARC has been in development for over two years there is apparently still no management plan. In interviews with a dean and two department/unit heads who lead units that will provide expertise and personnel to UARC supported research activities, it was evident that they had never been consulted or apprised of how personnel and space issues are going to be addressed under the UARC. The committee sees this as a poor start to what will need to be an intimate working relationship between the UARC and the units that will be performing the actual work.

### **Philosophy and Mission**

#### *Hawaiian Place of Learning*

Whether the state university of these islands, given its history, should create an institution such as the UARC that will engage in research to build or improve weapons systems is a question that has been raised by UH faculty and students and by community members. The University's commitment to a Hawaiian Place of Learning also contributes to the uncertainty of whether a UARC can reasonably coexist with Hawaiian cultural and historical realities.

#### *Classified Research*

As a consequence of there being a UARC, research could and probably will be undertaken at the UH Manoa for which there is no reasonable expectation that the results will be allowed to be published. The fact that the contract with the Navy for the UARC may well contain a clause specifying that results of research funded by the UARC may be published unless the Navy says otherwise within a specified time frame such as 30 days, does not alter the fact that UH is offering to undertake work that the Senate has recently explicitly said should not be supported by the University. The VCRGE estimates that 15% of the research performed as a result of Task Orders sent through the UARC will be classified, which will increase the amount of classified research done, given a \$300 million research budget, to 1.25%.

There is concern among those faculty arguing against the UARC that facilitating research that will not be subject to peer review because results are classified will ultimately undermine the tenure and promotion system that can only credit work that has undergone peer review and is publicly accessible. However, this concern does not seem to be evident among those who would most likely be involved in UARC-supported research programs.

Increasing the amount of research performed by UH Manoa faculty that requires security clearances or minimally, US citizenship, is viewed by some faculty as divisive, causing some faculty and students to be cut off from those who work on projects that require citizenship or clearance. As with tenure and promotion concerns, this subject does not seem to be seen as a problem by potential UARC P.I.'s.

### *Complexity of Management*

The University's recent poor record of managing government contracts and hazardous waste makes it unclear that it has the ability to manage responsibly the complexities of hosting a UARC. (The ad-hoc committee on classified research, which reported to the Senate in Spring of this year, identified seven problem areas and concluded, "In the end, we were broadly dubious about the administration's ability to implement protections that could reliably manage each of these seven problem areas.")

### *7 7 7 7 of Department of Defense Research Funding*

Researchers at the UH Manoa receive many millions of dollars in Department of Defense funding. Many faculty in the areas of expertise identified in the UARC proposal are encountering difficulty finding non-military funding or access to classified data for projects that are inherently beneficial, e.g. environmental clean-up, tsunami research, etc. These researchers believe that the UARC will not only add a funding source for their research but will add to the prestige of the research programs at UH Manoa so that more funding will be made available.

The UARC is based on an institutional contract with the Department of Defense rather than grant funding to individual faculty. Some faculty are concerned that increased military funding based on an institutional agreement will color decision making on campus and affect how we implement our academic mission by moving our processes to be more in line with the goals of the Department of Defense.

### *Increasing Applied Research under Task Orders*

Many faculty regard the research mission of a university such as UH Manoa to be to engage primarily in basic research, rather than in research that has a commercial or in the case of the UARC, a military application. The research that will be performed at the UH Applied Research Laboratory will be 6.1 (basic) and 6.2 (applied research) performed under Task Orders, which require a product to be delivered to the Navy. Though the research will not necessarily be applied in the military sense, the Task Order approach to research is different from research performed under a grant that requires only "best effort," and encourages exploration. Some faculty are concerned that making the Task Order approach to research an institutional norm through the UARC, the research university mission is diluted or endangered.

### *Growth of local businesses*

There is a potential for the UARC to stimulate the growth of local small businesses that currently receive DoD contracts. There is a great need felt by high technology businesses in Hawaii to fight the brain drain in engineering by creating good jobs for talented engineers. The UARC is seen as a stimulus to grow the areas of expertise by attracting faculty and technicians, thus creating a research capability that UH has not had. The structure of the UARC, depending on the contract, should allow local businesses to spin off applications, the research basis of which were developed in the UARC.

**Conclusion:**

(1) The VCR promised a business/management plan for the UHM UARC since May 1 in his e mail posting to the uhm-faculty-senate list. Because the UHM administration has told the ad hoc committee that the UHM UARC is very different from any other established UARC it is essential that the faculty know the details of how the UARC will be structured and managed. As of August 21, we still do not have a business plan.

(2) The administration should agree not to bring the UARC proposal to the BoR before the November meeting or six weeks after the contract and business plan are made available to the faculty, whichever comes later. Absent such a delay the faculty will not have been permitted sufficient time to carefully review the proposal, and the BoR's requirement for faculty input and review cannot be said to have been satisfied.

(3) Because the UARC will be integrated into existing UH facilities, the committee is concerned about how UH will handle mixed-use restrictions for UARC-supported personnel, and equipment. The administration should provide unambiguous contractual evidence for their interpretation of the restrictions, otherwise we recommend that the UARC is not a suitable funding vehicle for this campus.

(4) There has been no credible survey on faculty attitude towards the UARC. We recommend that such a survey be carried out, possibly (but not necessarily) in the form of a faculty congress ballot. This should only take place after both proponents and opponents of the UARC have had an opportunity to make their arguments clear and known, and all relevant information available. We also recommend that prior to this survey, the administration and faculty senate come to an agreement over what fraction of faculty opposition would be sufficient to cause the proposal to be withdrawn.

(5) Consistent with the current push for assessment within the University, the administration and the faculty senate should agree on conditions under which the UARC would be deemed a failure and not continued. As with new academic programs, this assessment should take place after the first or second year.

(6) This committee is persuaded that those in the administration currently working on the UARC are acting in good faith and in what they believe to be the best interests of the University. We likewise believe that those making a case against the UARC bring important insight into the question of what constitutes "best interests of the University". We therefore recommend that the ensuing dialogue be carried out in a civil manner appropriate to this University, without the personalization that has marred much of the dialogue to date. We also ask that each side treat the arguments of the other with the

respect with which it is due, for example by endeavoring to refute them rather than simply dismissing or ignoring them.

## Selected Sources of Information

### Ad hoc committee meetings

Proposal to Naval Sea Systems Command in response to NAVSEA RFP N00024-05-R-6234(S) for Research, Development, and Engineering to be performed during the period 1 October 2005-30 September 2010. February 4, 2005. Vols I-III.

Meeting with Vice Chancellor for Administration, Finance, and Operations, Kathy Cutshaw. Committee learned that Cutshaw is the lead on the contract negotiations. June 23, 2005

Meeting with Kathy Cutshaw and Vice Chancellor for Research and Graduate Education, Gary Ostrander. July 7, 2005

Meeting with John Madey and Eric Szarmes (Physics). Faculty in area of UARC expertise who believe the UARC will negatively impact UH. July 14, 2005

Meeting with Terry Thomason and Jessica Horiuchi, contract attorneys enlisted as outside counsel to provide analysis and assistance in understanding UARC contracts. July 21, 2005.

Meeting with Kathy Ferguson (Women's Studies) and Noel Kent (Ethnic Studies). Faculty who have spoken out against the establishment of a UARC. July 27, 2005.

Meeting with Gerard Fryer (HIGP), Magdy Iksander (Engineering), and Rick Rocheleau (Director SOEST's Hawaii Energy Institute). Faculty whose areas of expertise were identified in the UARC proposal. August 4, 2005.

Meeting with Vaughn Vasconcellos, owner of Akimeka, a Native Hawaiian Company, that offers IT solutions under contracts with the Department of Defense. August 11, 2005.

### Comments and documents gathered by committee

Gathered comments from faculty and UH community.  
<[http://www.hawaii.edu/uhmfs/uarc/faculty\\_community.html](http://www.hawaii.edu/uhmfs/uarc/faculty_community.html)>.

Questions sent to VCRGE Gary Ostrander, with answers  
<<http://www.hawaii.edu/uhmfs/uarc/questions.html>>

Documents gathered as background information  
<<http://www.hawaii.edu/uhmfs/uarc/background.html>>

Opinions gathered from other published sources  
<<http://www.hawaii.edu/uhmfs/uarc/opinions.html>>