

COUNCIL ON GOVERNMENTAL RELATIONS
1200 New York Ave., NW, Suite 460, Washington DC 20005
(202) 289-6655; (202) 289-6698 (FAX)

December 18, 2015

TO: COGR Membership

FROM: COGR Staff

SUBJECT: December 2015 Update Summary ([Click here for full update](#))

NIH and Grant Closeouts: Update on COGR Engagement

The final transition to NIH subaccounting appears to be proceeding smoothly (see [NIH Notice Number: NOT-OD-15-105](#) (May 28, 2015); *Reminder of Timeline for Administrative Changes to NIH Domestic Awards to Transition to Payment Management System Subaccounts*). However, we encourage COGR members to contact COGR staff if/when concerns and/or operational issues arise.

The major challenge now is implementation of the new, 120-day NIH Grant Closeout policy. While the reconciliation between the FFR and the FCTR always has been a challenge, it now is elevated when placed in conjunction with the new HHS/NIH policy to initiate “Unilateral Closeout” actions at 180 days after the project end date. The unilateral closeout policy is described in [NIH Notice Number: NOT-OD-15-136](#) (August 4, 2015); *Impact of Discrepancies Between Final Financial Reports for Grant Closeout*.

Uniform Guidance and the Procurement Standards: COGR Letter to Federal Officials

In the [Technical Corrections](#) to the Uniform Guidance (2 CFR Part 200) released in the Federal Register on September 10, 2015, the grace period for implementing the Procurement Standards (2 CFR 200.317-326) was extended by one year.

COGR has completed a Draft Letter to OMB, and we plan to share this letter with OMB and other Federal officials in January. The focus of the letter is COGR’s Proposal to Ensure Successful Implementation of the Procurement Standards.

Uniform Guidance and F&A: COGR Letter to OMB to Update the UCA Methodology

The COGR leadership, on behalf of the COGR Membership and the research community, [submitted a letter to OMB, dated November 13, 2015](#), requesting that the methodology for calculating the Utility Cost Adjustment (UCA) be updated based on more current and accurate data.

In summary, COGR’s position is that the “adjustment ratio” of 2.0, which is the weighting factor for research laboratory square footage, is flawed. With the help of Attain Consulting and using more current data and better methodological assumptions, *COGR recalculated the adjustment*

ratio to be 4.2. Using this more accurate and fair adjustment ratio, most institutions will be able to support a 1.3% UCA.

Contact David Kennedy at dkennedy@cogr.edu for updates and we will keep the entire Membership posted on all developments.

Year-One Report Card for the Uniform Guidance

In January 2016, COGR will begin analyzing metrics related to the implementation of the Uniform Guidance. As appropriate, COGR will formalize an analysis that can be shared with various stakeholders and officials in the research community. *We encourage you to share your institutional perspectives and experiences with COGR staff, which we can include in our analysis.* Send comments to David Kennedy at dkennedy@cogr.edu or Jackie Bendall at jbendall@cogr.edu.

NSF Higher Education R&D (HERD) Survey for FY2014 is Available

The [InfoBrief for the FY2014 NSF HERD Survey](#) includes a summary of the results from the annual NSF survey. Despite some signs that the budget situation for science and research agencies could improve, the results of the FY2014 HERD Survey still reinforces the point made in the [Executive Summary](#) of the June 2014 COGR paper, *Finances of Research Universities*. The [Full Version](#) of the June 2014 COGR paper provides additional analysis on research funding trends and the corresponding financial implications to research universities.

Affordable Care Act (ACA) Compliance and Graduate Research Assistants

We included a detailed update in the [October 2015 COGR Meeting Report](#), dated November 6, 2015. This represents the most current update on this topic. We will keep the Membership posted on any new developments.

2016 DRAFT of Single Audit Compliance Supplement is Available for Comment

A DRAFT version of the 2016 Single Audit Compliance Supplement (CS) is available for comment. Single audits applicable to FY2016 will represent the first time that our institutions will be required to comply with 2 CFR Part 200, Subpart F – Audit Requirements.

We have been provided a copy of the DRAFT version of the 2016 CS and would appreciate your help reviewing it. If interested, please contact David Kennedy at dkennedy@cogr.edu.

Human Subjects Research

Federal Policy for the Protection of Human Subjects Notice of Proposed Rulemaking

COGR submitted comments on the Common Rule [Notice of Proposed Rulemaking](#) (NPRM). The [comments](#) and a two-page [summary](#) are available on our website. Comments can be submitted [here](#) through Jan. 6. We strongly encourage institutions to submit their own comments. Please contact Lisa Nichols at lnichols@cogr.edu with questions.

SACHRP held a two-day meeting in December. Archived webcasts of [day 1](#) and [day 2](#) are available. SACHRP recommended the NPRM be re-written and a simplified version released for comment. SACHRP has suggested that biospecimens and data should not be treated differently and recommended notification and opt-out with sanctions on unauthorized re-identification rather than broad consent. SACHRP does not support mandatory single IRB.

FDA/OHRP Joint Guidance on IRB Minutes

Draft guidance is available on the [FDA](#) and [OHRP](#) websites. Comment period due Feb. 3.

Audit

OIG Semiannual Reports to Congress

The [HHS Fall 2015 Semiannual Report to Congress](#) highlights the report [NIH Postaward Grant Administration and Oversight Could be Improved](#), which suggested weaknesses in NIH's review of progress reports and [HHS Oversight of Grantees Could Be Improved Through Better Information-Sharing](#). In the latter report, the OIG expresses concerns about whether grant officials have all available information to assess and mitigate risks. Recommendations include consideration of an integrated database with information on grantees' past performance; establishing a department-wide source of information from audits; and, facilitating sharing about past performance issues. The OIG will assess whether FAPIIS addresses the recommendations. FAPIIS will include data on grants and cooperative agreements beginning in 2016.

The [NSF OIG Fall 2015 Semiannual Report to Congress](#) summarizes the FDP Payroll Certification findings. The OIG suggests that making full salary allocations available to PIs would help assure accurate charges. The report notes that for five audits with \$5.4 million in questioned costs related to salary over two-months "NSF did not sustain the costs." NSF also did not sustain any of the \$2,134,379 in questioned costs on the Ice Cube Project at a university. It describes a \$2.7 million settlement with a university related to oversight of federal award funds. On Responsible Conduct of Research, the OIG suggests a broad disparity in implementation.

NSF OIG Audit of External Awardee with Two-month Findings

In a [report](#) dated September 30, the NSF OIG questioned \$337,377 of costs, including \$124,279 in senior personnel charges that exceed two-months. The university agreed did not agree with \$285,538 of costs including senior personnel costs. The auditors acknowledged that the university "received conflicting guidance ... from various NSF sources" and that "NSF's audit resolution office has taken a different position regarding the senior salary issue" but continues to believe that these are questioned costs under the AAG in place at that time.

National Science Board (NSB) Audit and Oversight (A&O) November Meeting

The NSF OIG Fall 2015 Semiannual Report to Congress was discussed at the [November A&O meeting](#). NSB members noted that only 11% of questioned costs were sustained in 2006 and asked about subsequent years. Allison Lerner, NSF IG, indicated that 11% would likely be consistent across years. Allison noted that the decision not to sustain costs should not be taken as an indication that it was wrong to question the costs. Auditors audit against the criteria and report what they find, but management may consider other factors.

Regulatory Reform

NSB Ad Hoc Working Group on Administrative Burdens

The NSB [Working Group met in November](#). The group noted that NSF has automated compliance checking of proposals and is piloting just-in-time budget submission. Larry Faulkner Part 1 of the Academies report, [Optimizing the Nation's Investment in Academic Research](#). He described the proposed Research Policy Board and OSTP officer. An NSB member suggested that this was a large part of the role of the Science Advisor at OSTP and asked if they should be a co-chair of the RPB. Larry suggested that the proposed Associate Director would have primary responsibility for the health of the federal-university research partnership. He also suggested that the committee believes that the details will take shape through a political process that will include agencies, universities and other parties. The committee will provide briefings, but the research community has to make this happen. An NSB member agreed that nobody is in charge of overseeing the health of the enterprise and suggested the NSTC has made minimal progress. There was discussion about the value of publishing only final audit outcomes and the best contribution that the IGs can make.

Vanderbilt Study on the Cost of Regulatory Compliance

Vanderbilt University has published a [study](#) on the cost of regulatory compliance at 13 U.S. colleges and universities. Vanderbilt [reports](#) that research-related compliance ranged from 11 to 25 percent of all research expenditures.

DATA Act Implementation

A recent [webinar](#) focused on the progress made in the implementation of the DATA Act and the Section 5 Pilot. Test models to be piloted include consolidating the SEFA and SF-SAC forms; use of a standardized NOA; and consolidating FFRs. OMB is recruiting universities for pre-tests and a meeting is expected to be held in January. If your institution is interested in participating please contact Lisa Nichols at lnichols@cogr.edu.

Newly Revised NSF Proposal Award Policies and Procedures Guide

The NSF Policy Office has posted the revised [Proposal and Award Policies and Procedures Guide](#) (PAPPG) effective January 15, 2016 to include significant and clarification changes. For a summary of significant changes, see [Significant Changes and Clarifications to the PAPPG](#).

Revised Research Terms and Conditions

COGR recently responded to the NSF's Request for public comment on updated [Research Terms and Conditions \(RTCs\)](#). Significant changes include acknowledgment that research awards already have standard information collection methods for performance reporting (i.e., RPPR) that does not relate financial information and therefore is sufficient for this purpose. Inclusion of the 120 day closeout period for all reports—financial, performance, and other reports (equipment, small business, etc.) and revision of budget and program plans were other positive changes. COGR acknowledged that absent the Appendices, a full review could not be provided. A request to review and comment on the Appendices was made prior to any finalization of the terms. Click here for [COGR's letter](#).

U.S. Army Medical Research Materiel Command (USAMRMC), Conflict of Interest Requirements

[COGR submitted a letter](#) to the USAMRMC on November 9 to address member's concern primarily around administrative burden. COGR requested that the requirement for disclosure of all conflicts of interest (COIs) or potential COIs at the proposal/application stage be removed and encouraged USAMRMC, as a model of effectiveness, to review NSF's policy.

Update: USAMRMC responded to COGR's letter on December 8 announcing that a committee had reviewed COGR's comments and will be revising language in funding opportunity announcements that will be less burdensome to awardees.

Public Access

COGR, AAU, and APLU have recommended harmonization of Public Access Procedures and Submission via its recent posting on the [National Dialogue](#) website. We encourage our member institutions to vote and submit separate comments.

COGR would like to obtain data on issues you face in areas such as navigating through various agency systems, varying data management plan requirements, etc. Data will be collected to formulate a response documenting the administrative burden associated in complying with a plethora of agency systems, policies and procedures. Please send your comments to jbendall@cogr.edu

COGR Comments on Proposed ED Open Licensing Requirement for Grants

On November 3, 2015 the Department of Education (Ed) issued a proposed rule (NPRM) to require that all Ed grantees (except for research grants funded by the Institute of Education Sciences) openly license to the public all copyrightable intellectual property created with Ed grant funds ([80FR67672](#)). On December 14 [COGR joined AAU, APLU and AUTM in a comment letter](#) to Ed.

The comment deadline has been extended to December 18. We understand a number of COGR member institutions have submitted their own comments.

New Service Contract Reporting Requirements Raise Concerns

A number of COGR member institutions have reported receiving a new requirement to report on the number of direct labor hours expended in performance of the services. Reports are to be submitted through the SAM system (A [SAM "Quick Start" Guide for Service Contract Reporting](#) is available).

We understand the concerns expressed by COGR members about the labor hour reporting requirement; in particular, how it may apply to clinical faculty. In our view an argument that the reporting requirements should apply only to Service Contract Act contracts, or that all research contracts should be excluded is unlikely to be successful.

Other Agency Developments

- a) NASA Indemnity and Invention Reporting. We're told our concerns have been heard and a fuller response is expected by spring. We will keep COGR members informed.
- b) New DOD Cybersecurity Requirements. In references to the revised DFARS 7012 clause, if there is sufficient interest by the membership, we may try to arrange discussions directly with appropriate officials at DOD/NARA/NIST. Contact rhardy@cogr.edu.
- c) Labor Law Violations Reporting Requirements. COGR commented in late July that a suggested alternative be adopted of having DOL evaluate subcontractor compliance in lieu of prime contractors. See August Update for background
- d) Patent Troll Legislation. No action being taken by congress this year. We will continue to follow and report on the status.