

COGR

an organization of research universities

BOARD OF DIRECTORS

JAMES LUTHER, Chair
Duke University

SARA BIBLE
Stanford University

LOIS BRAKO
University of Michigan

PAMELA CAUDILL
Harvard University

JOSEPH GINDHART
Washington University in St. Louis

WALTER GOLDSCHMIDTS
Cold Spring Harbor Laboratory

CYNTHIA HOPE
University of Alabama

CINDY KIEL
University of California, Davis

MICHAEL LUDWIG
University of Chicago

JAMES LUTHER
Duke University

LYNN MC GINLEY
University of Maryland, Baltimore

ALEXANDRA MC KEOWN
The Johns Hopkins University

KIM MORELAND
University of Wisconsin

DAVID NORTON
University of Florida

ELIZABETH PELOSO
University of Pennsylvania

KERRY PELUSO
Emory University

SUZANNE RIVERA
Case Western Reserve University

PATRICK SCHLESINGER
University of California, Berkeley

CATHY SNYDER
Vanderbilt University

PAMELA WEBB
University of Minnesota

DAVID WINWOOD
Louisiana State University

KEVIN WOZNIAK
Georgia Institute of Technology

ANTHONY DE CRAPPEO
President

COUNCIL ON GOVERNMENTAL RELATIONS

1200 New York Avenue, N.W., Suite 460, Washington, D.C. 20005
(202) 289-6655 / (202) 289-6698 (FAX)

June 1, 2016

Mr. David Mader
Controller and Acting Deputy Director of Management
White House Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Subject: Administrative and Cost Impact of the \$3,500 Micro-purchase Threshold

Dear Mr. Mader:

On behalf of the members of the Council on Governmental Relations (COGR) and the Association of Independent Research Institutes (AIRI), we are submitting the results of the COGR and AIRI surveys on the *Administrative and Cost Impact of a \$3,500 Micro-purchase Threshold*. You requested these surveys in a letter addressed to COGR and AIRI, dated April 12, 2016. Subsequent to this letter, we met with staff from the Office of Federal Financial Management (OFFM) and we agreed upon the methodology for the survey. The enclosed survey results are consistent with our agreed upon methodology.

Our analysis of the survey results is striking. Implementation of 2 CFR 200.320(a), *Procurement by micro-purchases, will result in a cumulative, annual burden estimated to be over \$50 million* for research universities, nonprofit research institutions, and hospitals. In order to shift from their current institutional thresholds, institutions will be required, on average, to hire over 5.0 FTEs in their central procurement offices at an average cost of over \$420,000 per year in order to comply with a \$3,500 micro-purchase threshold. Note, this estimate does not include the administrative impact at the academic department level, nor does it include the impact on scientists and investigators as they divert their time from direct research activities to additional administrative activities.

Furthermore, we asked each institution to respond to the following: "*Have you had significant findings in your A-133 / Single audit in the past 5 years related to inadequate internal controls as they relate to procurement practices? If so, describe the findings and the corrective actions taken.*" Of the over 75 institutions that responded to this question, only four indicated they have had an A-133/Single audit finding over the past five years: three indicated findings related to their verification processes of vendors on the Excluded Parties List System (EPLS) and

one indicated a finding related to compliance with the Davis-Bacon Act. Based on these responses, which are representative of our entire community, we confidently can state that over at least the past five years **findings related to inadequate controls specific to managing an institution's internal micro-purchase threshold have been insignificant.**

The results of the survey are compelling and add to the body of evidence previously provided by our community that a micro-purchase threshold of \$3,500 adds significant administrative burden without any meaningful enhancement in oversight or stewardship of federal funds. As has been our position since 2 CFR Part 200 was released in December, 2014, the Procurement Standards, as currently written, fail on the three pillars of grants reform: 1) administrative and cost burden increase as FTE administrative staff will have to be added to comply with the new rules; 2) research breakthroughs will be impaired due to new rules that divert investigators' time away from research and delay science; and 3) reducing fraud, waste, and abuse, while crucial to grants reform, is extraneous to this discussion since there is no evidence that research institutions have had any audit findings specific to establishing their internal micro-purchase thresholds.

Below is a summary of key findings and methodological parameters from the COGR and AIRI surveys:

- 1) The primary data collection initiative, in the format specified by OMB, was led by COGR. While the COGR membership predominantly is comprised of research universities, both nonprofit research institutions and hospitals represent an important segment of the COGR membership. In total, the COGR membership includes over 190 research institutions. COGR members that are included in the annual NSF Higher Education Research and Development (HERD) Survey account for over 95 percent of total R&D expenditures per the NSF HERD Survey – this is important to note when extrapolating the cumulative, annual burden to be over \$50 million for research universities, nonprofit research institutions, and hospitals.
- 2) AIRI is a national association of more than 80 independent, not-for-profit biomedical, behavioral, and clinical science research institutes. AIRI member institutes are unique in that their smaller size and greater flexibility provide an environment that is particularly conducive to scientific creativity and innovation. AIRI conducted a separate survey, which focused on characterizing the impact of the \$3,500 micro-purchase threshold on scientific personnel. Five AIRI institutions completed the qualitative survey.
- 3) 81 institutions responded to the COGR survey. 68 institutions provided the complete data request as agreed upon between OMB and COGR. Thirteen institutions provided various levels of data, but could not provide FTE administrative impact data due to time considerations or other concerns related to providing accurate estimates. Based on the composition of the 68 institutions and the amount of Federal R&D each reported in the most recent NSF HERD Survey, we have captured approximately 50 percent of federal dollars per the NSF HERD survey. While any extrapolations should be tempered for statistical validity purposes, we are confident stating that if 2 CFR 200.320(a) was implemented, the cumulative burden to research institutions would exceed \$50 million annually.
- 4) Of the 68, five institutions have a micro-purchase threshold (MPT) below \$3,500, and therefore, the administrative/cost impact of a \$3,500 MPT is not applicable. **Of the remaining 63 institutions, 61 reported (96.8%) that they would have to add FTEs to their central procurement staff.** Two institutions reported that they would not add any FTEs and that the current procurement staff would absorb the additional transactions, which now would be subject to price or rate quotations.

Administrative/cost impact analysis also was completed for MPT levels of \$5,000, \$7,500, and \$10,000. While the impact at these levels is not as dramatic as \$3,500, the impact still would be significant for the affected institutions. The COGR survey is attached in an XLS format and an “Index to Columns” begins on line 82 of the XLS.

- 5) The administrative/cost impact primarily is focused on procurement staff at the central administration level of the institution. Currently, these procurement professionals do not “touch” transactions between \$3,500 and the institution’s current threshold (e.g., \$10,000). Instead, these procurement actions take place at the academic department level. However, if a \$3,500 MPT was implemented, procurement professionals from central administration would be required to be involved in these transactions. And note there would be no corresponding reduction in the involvement of employees at the department level (i.e., department administrative staff, as well as the faculty initiating the transaction). In fact, subjecting a new cohort of transactions to price or rate quotations also will have an unfavorable administrative/cost impact at the academic department level (see 7) below).
- 6) The administrative/cost impact was developed based on the assumption that institutions would respond by adding procurement professionals at the central administration level. Several institutions, while still estimating the number of FTEs that would be added, indicated that they most likely would implement a “dual system” approach. Under this model, rather than subjecting all transactions to a \$3,500 MPT, selected institutions would subject only federal transactions to the \$3,500 – all other non-federal transactions would remain subject to the institution’s current threshold (e.g., \$10,000). This approach would require a conversion of the current procurement system into a “dual-system” that is capable of managing multiple thresholds. We did not evaluate the “dual-system” impact in this survey. However, institutions have stated that a “dual-system” would be confusing to users and could introduce the likelihood of errors.
- 7) Unlike large dollar procurement transactions, the procurement of low-cost goods and supplies used in research settings routinely involves scientists or laboratory personnel who have first-hand knowledge of the materials needed to perform the research. In these instances, it is these scientific personnel who are the “buyers,” not the purchasing/procurement office. It falls to these research personnel to gather sources and document competitive price or rate quotations. Per the ARII survey, ARII institutions were asked to respond to the following: *“How much additional time would be required for your scientists, or their laboratory personnel, on average, to competitively bid a typical purchase whose value is greater than \$3,500?”* Among the institutions that responded to this question, estimates of the increased time needed to document these competitive bids in order to comply with a \$3,500 micro-purchase threshold, relative to the amount of time spent engaged in this activity at the current threshold, ranged from 22 percent to 33 percent, and in some cases was reported to be as high as 50 percent. It is critically important to understand that time obtaining price or rate quotations and gathering related documentation diverts investigators’ time from meeting the aims of research grants.

As we have discussed with you and your staff, your intent is to use the results of this survey to support the case for reopening 2 CFR Part 200 in order to address the deficiencies as it relates to 2 CFR 200.317-326, Procurement Standards. As we have discussed on several occasions, our understanding of the next steps is as follows:

- 1) In June, OMB and the COFAR will review the survey results. If the data support the same conclusions made by the five institutions at the March 24th meeting, you have indicated that an extension of the grace

period to FY 2019 (i.e., July 1, 2018 for most institutions) would be appropriate. **We request that an OMB announcement that the grace period will be extended be timed for late-June**, after OMB and the COFAR have reviewed the survey results. This will allow institutions to conduct proper planning.

- 2) Furthermore, if the data support the same conclusions made by the five institutions at the March 24th meeting, OMB would plan to formally reopen the rulemaking process. As such, we would expect a Federal Register notice in the September/October 2016 timeframe.
- 3) Over the remainder of 2016 and into the first-half of 2017, the rulemaking process would unfold. As warranted and as supported by the data, our expectation is that 2 CFR 200.317-326, Procurement Standards, will be modified. Under this timeline and due to an extension of the grace period, our expectation would be that **new procurement standards would become effective in FY 2019 (i.e., July 1, 2018 for most institutions)**.

Our analysis of the survey results suggests that the conclusions made by the five institutions at the March 24th meeting are valid. As such, we are encouraged that the next steps, as described above, will be implemented. However, we expect you may have follow-up questions and we are fully prepared to work with you to answer any questions you may have.

A number of groups, notably the President's Council of Advisors on Science and Technology, the National Academies of Sciences, Engineering, and Medicine, the National Science Board, and numerous Members of Congress have repeatedly expressed their concerns that administrative burden is undercutting the productivity of the scientific research enterprise. At a time when the White House is calling on the scientific community to accelerate progress and produce transformative results to improve health and well-being, this is an opportune time for OMB to lend its support to more effective and efficient procurement processes. The results of the current survey amplify previous findings and demonstrate that a \$3,500 micro-purchase threshold adds significant administrative burden, diverts investigators' time from research, would be prohibitively expensive to enact, and does not meaningfully enhance oversight or accountability.

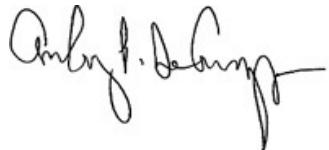
As we have shared with OMB over the past two years, **our community employs numerous strategies, methods, and internal controls to meet the standard of reasonable costs**. We have developed procurement policies, including those related to competition, strategic sourcing, sole source acquisitions, and use of procurement cards (to name a few) in a manner that enables the fine balance between receiving the best value and the need for investigators to quickly and seamlessly obtain the critical research tools and supplies necessary to meet the demands of science. We have operated at micro-purchase thresholds of \$5,000, \$10,000, and in some cases, at higher levels, for years. Internal institutional risk assessment, and in some cases, State law, have dictated the appropriate micro-purchase threshold on an institution-by-institution basis. In all cases, formal institutional policies and procedures have been developed, accompanied by a system of internal control designed to provide reasonable assurance that micro-purchase transactions are not only reasonable from a cost standpoint, but also accurate, allowable, properly allocated, and adherent to the highest levels of accountability and stewardship of both federal and non-federal funding sources.

Consequently, and as further supported by the survey results, we look forward to working toward a policy revision that considers the following solutions: **(1) Provide other recipients of federal awards with an exemption from 2 CFR Part 200.317-326, like the one afforded to States** (note: while you have indicated federalism as the basis for exempting States, our view is that this is an arbitrary policy justification and should not be the rationale for determining how research institutions are treated); **(2) For those not exempted,**

increase the micro-purchase threshold to \$10,000, while still permitting a higher threshold as determined by institutional risk assessment or State law.

We appreciate the commitment you have made to our community to address Procurement Standards in the spirit of good faith and under the auspices of open and transparent communication. We further appreciate your ongoing willingness to engage with the grantee community on this important issue. Please contact David Kennedy at (202) 289-6655, ext. 4 or Libby O'Hare at (202) 289-7475, if you have questions on the attached XLS or any other related questions. We look forward to addressing this issue in more detail at your earliest convenience.

Sincerely,



Anthony P. DeCrappeo
President, Council on Governmental Relations

Cary E. Thomas
President, Association of Independent Research Institutes

Cc: Karen Lee, Branch Chief, Office of Federal Financial Management
Gilbert Tran, Office of Federal Financial Management
Rhea Hubbard, Office of Federal Financial Management
Howard Shelanski, Administrator, Office of Information and Regulatory Affairs (OIRA)