

COGR

an organization of research universities

COUNCIL ON GOVERNMENTAL RELATIONS

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

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

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

April 17, 2017

Mr. Mark Reger
Deputy Controller
White House Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Subject: Opportunities for OMB to Reduce Administrative Burden for Grantees

Dear Mr. Reger:

On behalf of the members of the Council on Governmental Relations (COGR), we are responding to your request to provide policy suggestions that OMB could implement and would have an impact of reducing administrative burden for grantees. COGR is an association of 190 leading universities and research institutions. Our Members conduct over \$60 billion annually in research and development activities and play a major role in performing basic research on behalf of the Federal government. COGR brings a unique perspective to regulatory and cost burden and focuses on the influence of federal regulations, policies, and practices on the performance of research. We are enthusiastically supportive of the Trump Administration's goal to reduce administrative burden for grantees.

We suggest the following as actions that OMB can take right now to reduce administrative burden. Part I represents Immediate Actions and Part II are those actions that we believe are under the auspices of OMB, and also could be implemented. In all cases, these actions would not compromise an overarching goal of reducing fraud, waste, or abuse, and at the same time, will enhance efficiency and effectiveness of federal programs, including those for research.

PART I – IMMEDIATE ACTIONS:

- 1) Rescind the OMB Standard Form 272 (SF-272), Federal Cash Transaction Report (FCTR), for selected Federal Agencies.** This report was necessary for decades before federal agencies had systems that automatically maintained grant-by-grant cash balances. Most federal agencies now have systems that support real-time grant-by-grant cash balances. For those that do, many have eliminated the FCTR as a required report. However, several federal agencies, such as the Department of Health and Human Services (HHS), have been reluctant to eliminate this reporting requirement. OMB could direct HHS, and any other agency that unnecessarily requires grantees to submit this report, to rescind the FCTR.

- 2) **Delay and/or Rescind/Replace the new OMB Procurement Rules, 2 CFR 200.317-326.** Recent action by Congress to modify the OMB Procurement rule requires immediate action by OMB to ensure that administrative burden is reduced. This can be accomplished by either delaying implementation, or rescinding and replacing with the less burdensome rules that were in effect prior to 2 CFR Part 200. This section of 2 CFR Part 200 has been problematic since it was unveiled in December, 2014. Fortunately, OMB has delayed implementation, and Congress, via the National Defense Authorization Act, has modified the requirement pertaining to small dollar (micro) purchases. Since the rule has yet to be implemented, further delaying implementation would be consistent with the Administration's mandate to freeze new regulatory requirements.
- 3) **Delay and/or Rescind Conflict of Interest in Procurement Rule, 2 CFR 200.112.** OMB, in numerous correspondences and FAQs, has indicated this rule is specific to conflicts related to procurement actions. However, in implementing 200.112, federal agencies have released policies that are inconsistent, confusing, and more expansive than the intent of 200.112. This rule is intimately related to the new OMB Procurement Rules (2 CFR 200.317-326), and delaying and/or rescinding all actions taken to date by federal agencies would allow this rule to be rationalized within the context the entire suite of procurement rules.
- 4) **Facilitate Grants Closeout using Good Business Practices.** Timely grants closeout has been cited by the GAO as problematic (e.g., for HHS). One solution is to expedite the process by allowing closeout when there are final over/under balances of (for example) \$100, or less. Currently institutions, as well as the Federal government, are incurring burden and cost to reconcile, remit, and manage these small balances. Instead institutions could accumulate these balances (annually) on a grant-by-grant basis, and if there is a net amount owed to the Federal government, a payment could be remitted to the U.S. Treasury in a fashion similar to that authorized in 2 CFR Part 200 for payment of interest on cash balances. OMB could direct HHS (and other applicable agencies) to modify their business practices to allow for a more efficient and business-friendly functionality.
- 5) **Eliminate Duplicative Administrative Reviews by a Pass-Through Entity.** If a pass-through entity confirms that a proposed subrecipient has a current Single Audit report on file in the Federal Audit Clearinghouse, and the subrecipient has not otherwise been excluded (e.g., debarred or suspended) from receipt of federal funding, the pass-through entity should not be expected to duplicate selected monitoring activities. Instead, the pass-through entity can rely on the subrecipient's cognizant or oversight agency for management decisions and audit follow-up. This was the intent of 2 CFR 200, but a lack of clarity has left institutions hesitant to fully adopt this change. By clarifying this intent, institutions can avoid the administrative burden of conducting and documenting these duplicative reviews for thousands of subawards per year.
- 6) **Rescind the OMB/CASB Disclosure Statement (DS-2).** This report was designated to be rescinded under the initial, 2013 version of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200). This report, required to be completed by higher education institutions with over \$50 million of federal research activity, is a rehash of institutional cost accounting policies, which already are readily available on the institution's website and policy manuals. The DS-2 requirement is a burdensome exercise, not only for higher education institutions, but also for the federal agencies that are required to maintain the physical hard copies of the DS-2. OMB could rescind the DS-2 requirement, and when a federal agency explicitly desires to review a relevant cost accounting practice, the institution can provide the applicable documentation upon request.

- 7) **Clarify Software Capitalization Rules to be Consistent with Standard Business Practices, 2 CFR 200.33.** One federal oversight agency has suggested that 2 CFR Part 200 requires all software acquisitions made with federal funds are to be capitalized using a \$5,000 threshold. This is inconsistent with GASB, FASB, and long-standing and accepted accounting practice. If a \$5,000 threshold was mandated, institutions would be required to maintain one set of accounting records for software acquired with federal funds and another set for software acquired with all other institutional funds. By clarifying the intent of 2 CFR 200.33, OMB could avoid an expensive and problematic outcome.

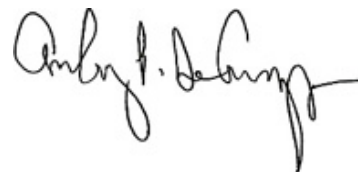
PART II – OTHER OPPORTUNITIES:

- 8) **Better OMB Oversight of Federal Agency Reporting and Technology Systems.** Too often, federal agencies implement new reporting systems without adequate input from the grantee community; e.g., those that will be directly impacted by these new systems. This is inconsistent with the intent of the DATA Act, which was meant to minimize reporting system sprawl across federal agencies. For example, the Department of Agriculture has initiated a new reporting system called ezFedGrants, which will create new administrative burden for grantees. Consistent with recommendations in [GAO-17-113](#), OMB (and COFAR) could take an active role in approving new submittal and reporting systems, and facilitating participation and input from the grantee community.
- 9) **Enhance Grants Closeout Compliance with a Uniform 120-Day Closeout Requirement.** Federal agencies that have implemented the 120-day model, rather than the 90-day model, have experienced more accurate reporting, and ultimately, more timely closeouts. The extra 30 days provides institutions the time to settle all invoices with vendors and subrecipients. Agencies that have implemented the 120-day deadline as a hard requirement have experienced improved efficiency by no longer having to manage deadline extension requests, which inherently are inefficient.
- 10) **Curtail Audit Burden through the OMB Compliance Supplement (CS).** The Compliance Supplement (CS) provides audit direction to Single Audit firms who are responsible for auditing grantees that expend over \$750,000 of federal grant assistance in a fiscal year. Selected guidance in the CS could be addressed to minimize audit burden, without compromising efforts to eliminate fraud, waste, or abuse.
- a) **Department of Education (ED) – Proposed new section for the 2017 CS; “Securing Student Information” as part of the Student Financial Aid audit.** Under the Gramm-Leach-Bliley Act (GLBA), the Federal Trade Commission (FTC) is the enforcement agency for Safeguards Rule compliance as it applies to higher education. The introduction of audit criteria (“Securing Student Information”) by ED, apart from FTC enforcement criteria, creates the potential for conflicts in information security compliance guidance and enforcement. At a minimum, the new audit objective should be delayed at least until the 2018 CS. This will give institutions and auditors time to determine appropriate documentation standards for audit purposes, since none currently exist. It also will provide opportunity for institutions to assess impact in light of already complex, burdensome federal compliance requirements. OMB could consider, however, rescinding the proposed requirement within the context of the CS, and instead, work with higher education and other stakeholders to streamline and harmonize information security compliance requirements.

- b) **Department of Education (ED) – Requirement for an Annual Compliance Audit of Title IV Student Aid Programs.** ED included this requirement in the draft version of the 2017 CS. Appropriately, it has since been eliminated. There is no good basis to require an annual audit when a grantee is deemed low-risk. However, ED’s position (per an August 5, 2016 Notice) still indicates that an annual audit is required, despite this requirement being inconsistent with the Higher Education Act of 1965, the Single Audit Act of 1984, and most recently, the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200).
- c) **Department of Education (ED) – Restore the Effectiveness of Financial Responsibility Standards.** Institutional burden and federal costs would be minimized if an institution’s “composite score” (financial responsibility ratios used for nonprofit institutions of higher education) could be assured via an audit procedure in the Compliance Supplement. This approach would replace ED’s misapplication of the current financial responsibility regulation. The National Association of College and University Business Officers (NACUBO), independent auditors, and Financial Accounting Standards Board (FASB) staff, are in agreement that under the existing rules, ED often fails to calculate composite scores correctly.
- d) **Payment Request Methodologies used by Grantees.** A longstanding practice for requesting payment from federal agencies is being challenged and could result in an expensive reconfiguration of grantee accounting systems. Specifically, prior to billing a federal agency for reimbursement, the institution must have evidence that the institution’s payment to the vendor has been cleared. This is in conflict with the current and accepted practice where reimbursement is requested after a transaction is due, payable and has been posted in the accounts payable system. The current practice is long-established, low-risk, efficient, and poses no threat of fraud, waste, or abuse.

We appreciate the commitment that OMB is making to reduce administrative burden for grantees. We further appreciate your willingness to engage with the grantee community on issues important to our constituents. Please contact David Kennedy at (202) 289-6655, ext. 4 if you have questions. We look forward to addressing these issues in more detail at your earliest convenience.

Sincerely,



Anthony P. DeCrappeo
President, Council on Governmental Relations

Cc: Victoria Collin, Acting Branch Chief, Office of Federal Financial Management
Gilbert Tran, Office of Federal Financial Management
Rhea Hubbard, Office of Federal Financial Management