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**September 24, 2015 COGR Letter to OMB on UG Deviations**

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Published Date: 09/24/2015

# COGR

an organization of research universities

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September 24, 2015

Ms. Karen Lee  
Branch Chief, Office of Federal Financial Management

Gilbert Tran  
Office of Federal Financial Management

White House Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
Washington, D.C. 20503

Dear Mr. Tran and Ms. Lee,

Thank you for your ongoing commitment to addressing concerns from the research community regarding 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, hereinafter referred to as Uniform Guidance (UG). Per our phone call last week, we'd like to bring your attention a number of deviations in agency funding announcements and award notices under the UG. COGR has encouraged member institutions to address these issues independently with the agency, providing updates to COGR on resulting outcomes. However, the number of deviations that have occurred have prompted the need to collectively bring this to your attention. We ask that OMB revisit their own implementation of 2 CFR 200.107 and take a more active role in managing their responsibilities "to ensure effective and efficient implementation". We believe that the examples provided below clearly demonstrate a need for OMB to establish an ombudsman role to work with both recipients and Federal agencies to monitor and address these deviations from the UG and to maintain a systematic record of approved exceptions and the justification for those exceptions.

The following examples of exceptions have been reported by our members. We are not aware of any approval from OMB for any of these exceptions:

### **§200.306 Cost sharing or matching**

Agency for Healthcare Research and Quality (AHRQ) - "This FOA does not require cost sharing. While there is no cost sharing requirement included in this FOA, AHRQ welcomes applicant institutions, including any collaborating institutions, to devote resources to this effort. An indication of institutional support from the applicant and its collaborators indicates a greater potential of success and sustainability of the project." <http://grants.nih.gov/grants/guide/rfa-files/RFA-HS-15-001.html#sthash.zcJA5n9m.dpuf>

National Endowment for the Humanities – "No cost sharing is required. NEH is, however, rarely able to support the full costs of projects approved for funding. If eligible expenses exceed the amount requested from NEH, an applicant may cover the difference and show this as cost sharing in the project's budget." <http://www.neh.gov/files/grants/humanities-public-square-june-24-2015.pdf> (pg. 5)

US Department of Education, International and Foreign Language Education Program Office, Group Projects Abroad (GPA) - “GPA does not require cost share from the host institution however, GPA funds cannot be used for pre- and post-departure related expenses, and therefore any cost associated with these activities that are paid by cost share should be included in the budget and budget narrative.”

Nuclear Regulatory Commission - Announcement of Opportunity Number: NRC-HQ-84-15-FOA-0002, CFDA #: 77.008 – “Cost sharing is not required for applications requesting up to \$100,000.00 total costs (i.e. direct costs plus facilities and administrative costs) per year. However, institutions are encouraged to leverage NRC funding to enhance the educational benefits of the NRC grant. Applications demonstrating such leveraging to further the goals of this announcement will receive additional consideration in the peer review process. “

<http://www.grants.gov/web/grants/view-opportunity.html?oppId=275049>

Environmental Protection Agency- No matching funds are required under this competition. “Although cost-sharing/matching is not required as a condition of eligibility under this competition, under Section V of this announcement EPA will evaluate proposals based on a leveraging criterion. Leveraging is generally when an applicant proposes to provide its own additional funds/resources or those from third party sources to support or complement the project they are awarded under the competition which are above and beyond the EPA grant funds awarded. Any leveraged funds/resources, and their source, must be identified in the proposal (See Section IV of the announcement). Leveraged funds and resources may take various forms as noted below. Voluntary cost share is a form of leveraging. Voluntary cost sharing is when an applicant voluntarily proposes to legally commit to provide costs or contributions to support the project when a cost share is not required. Applicants who propose to use a voluntary cost share must include the costs or contributions for the voluntary cost share in the project budget on the SF-424.”

[http://www2.epa.gov/sites/production/files/2015-03/documents/efc\\_grant\\_rfa.pdf](http://www2.epa.gov/sites/production/files/2015-03/documents/efc_grant_rfa.pdf) (pg. 8-9)

Department of Energy – “Cost sharing is not required. However, any planned cost sharing, such as partial institutional funding of tenure-track positions, should be indicated. Since one purpose of this program is to increase staffing levels in nuclear theory, joint funding and bridging positions are anticipated, and will be considered favorably in the proposal review process.”

[http://science.energy.gov/~/media/grants/pdf/foas/2015/SC\\_FOA\\_0001269.pdf](http://science.energy.gov/~/media/grants/pdf/foas/2015/SC_FOA_0001269.pdf) (pg. 7)

Corporation for National and Community Service - The NOFA states “There is no cost share or matching requirement, but providing a match makes the application more competitive.”

[http://www.nationalservice.gov/sites/default/files/documents/2015%20National%20Service%20Research%20NOFA\\_Amended.pdf](http://www.nationalservice.gov/sites/default/files/documents/2015%20National%20Service%20Research%20NOFA_Amended.pdf) (pg. 8)

National Institutes of Health – NIGMS -“This FOA does not require cost sharing as defined in the NIH Grants Policy Statement”, “NIGMS encourages requests that reflect institutional commitment”.

<http://www.grants.nih.gov/grants/guide/pa-files/PA-15-089.html>

USAID- “Cost- sharing is an important element of the USAID-recipient relationship. In addition to USAID funds, applicants are encouraged to contribute resources from own, private or local sources for the implementation of this program. There is no minimum or maximum amount of cost-sharing, but some amount is strongly encouraged, unless otherwise required by a Mission through an addendum or a request for application (RFA).

<http://www.grants.gov/search-grants.html?agencies%3DUSAID%7CAgency%20for%20International%20Development>

Department of State, Public Affairs Section – “This program requires cost-sharing or matching on the part of the grantee organization and/or any partner institution. No specific level of cost-sharing is required, but applicants should demonstrate commitment to a successful program.”

USDA-NRCS Regional Conservation Partnership Program - “An eligible partner shall provide a significant portion of the overall costs of the scope of the project, which will be reflected in the partnership agreement. The overall cost includes all

direct and indirect costs associated with implementation, from NRCS and partner(s). Partners may include funds they have received from other Federal sources as part of their contribution to the project, provided they submit a written commitment from the Federal agency confirming such funds can be used in conjunction with NRCS funds.”  
<http://www.nacdnet.org/policy/rccp>

National Historical Publications and Records Commission (NHPRC) – “The total costs of a project are shared between the NHPRC and the applicant organization. The Commission ordinarily provides no more than 50 per cent of total project costs for Digital Dissemination of Archival Collections projects. NHPRC grant recipients are not permitted to use grant funds for indirect costs (as indicated in 2 CFR 2600.101). Cost sharing is required. The applicant’s financial contribution may include both direct and indirect expenses, in-kind contributions, non-Federal third-party contributions, and any income earned directly by the project. Indirect costs must be listed under the applicant’s cost sharing contribution.”<http://www.archives.gov/nhprc/announcement/digital.html>

National Aeronautics and Space Administration (NASA) – “NASA strongly encourages, but does not require, that the submitting institution contribute to the cost of the proposed NIP project. Of special interest is cost sharing in which the employing institution would provide release time to enable the applicant to more fully concentrate on the activities related to the proposal. Institutional support of equipment purchase and co-funding of student and/or postdoctoral support would also be recognized as valuable cost sharing.”  
<http://nspires.nasaprs.com/external/viewrepositorydocument/cmdocumentid=448066/solicitationId=%7BBB8991E29-00AA-48D8-0380-FBE428CF2EAE%7D/viewSolicitationDocument=1/A.35%20NIP.pdf> (pg. A.35-3)

## **§200. 414 Indirect (F&A) costs**

National Institutes of Health (NIH) - Grants to Foreign Organizations and International Organizations – capped at 8% MTDC. NIH has historically used 8% and is reluctant to change.

U.S. Fish and Wildlife – “The PRC recommends applicants limit indirect costs to 5% in order to put as much funding as possible into actual research or on the ground habitat restoration. Indirect Cost – You will need to do one of the following related to indirect costs. Either Provide 1) A copy of your current Negotiated Indirect Cost Rate Agreement (NICRA), or 2). A written statement signed by the official having the authority to negotiate indirect cost rates for the recipient organization notifying us that they will assess a reduced indirect cost rate. This statement must also specify to which project(s) the reduced rate will apply, or 3). A memo indicating recipient organization does not have a NICRA.”  
<http://www.fws.gov/midwest/fisheries/glfwra-grants/2015/RFP.pdf> (pg. 5)

Small Business Administration – “Reimbursement of indirect costs from federal funds will be capped at a maximum of 20% percent, regardless of the amount stipulated in an Applicant’s indirect cost rate (ICR) agreement.”  
[https://www.sba.gov/sites/default/files/files/2016\\_Program\\_Announcement.pdf](https://www.sba.gov/sites/default/files/files/2016_Program_Announcement.pdf). (pg. 7)

Administration for Community Living, Administration on Aging, Alzheimer's Disease Initiative - HHS-2015-ACL-AOA-AL-0104. “Does the budget reflect low administrative expenses? In light of the service area priority of this funding opportunity, applicants whose budgets reflect low administrative expenses will receive a more favorable rating.”  
[http://www.acf.hhs.gov/Funding\\_Opportunities/Announcements/Index.aspx](http://www.acf.hhs.gov/Funding_Opportunities/Announcements/Index.aspx)

USDA Forest Service - “Use of Fed funds in excess of 10% to support overhead will reduce priority level of the project. The use of overhead funds in excess of 10% as matching funds is encouraged.”

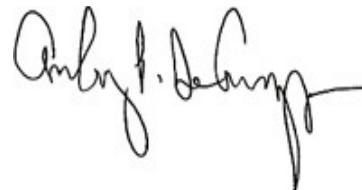
Office of National Drug Control Policy (ONDCP) – A letter from ONDCP to University of XX indicates per discussions with OMB, other Federal cost managers, and training received regarding the new Omni-Circular, ONDCP has determined that Universities serving as fiduciaries for the HIDTA program are permitted to offer lower fees consistent with an agreed upon rate.

**§200.112 Conflict of interest**

We also want to call your attention to the concerns surrounding agency specific conflict of interest policies, as previously noted by COGR in prior correspondences. UG §200.112 specifies that “the Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.” We appreciate COFAR’s attempt to clarify via the FAQ’s that this provision applies “to conflicts that might arise around how a non-Federal entity expends funds under a Federal award....” [including] “the selection of a subrecipient or procurements as described in section 200.318” are not scientific conflicts of interest, but some agency implementations of this section do not recognize this distinction. Another concern is that agency policies related to this section are not being harmonized. For example, there are variations in the timing of disclosures (i.e., collected at proposal submission or prior to award); who is required to disclose; the definitions used (e.g., immediate family); and what is meant by perceived, potential, and actual conflicts. Therefore, as a result of the broad interpretation of UG §200.112 creating a significant increase in administrative burden and confusion, we urge OMB to consider granting a grace period to Section 200.112 that coincides with the procurement grace period. This will allow time to consider changes which would require a more consistent implementation across all Federal awarding agencies.

We appreciate the ongoing and open dialogue COGR has established with OMB on behalf of member institutions. While the examples shared above have generated concern, we are pleased to see language from some agencies that demonstrate a commitment to resist deviations unless approved by agency heads or delegates. We’ve also had success with agencies acknowledging mistakes in funding opportunities. We will continue to enlist your support to facilitate the Administration’s efforts to reduce administrative burden and attain uniformity. Please contact me or Jackie Bendall, Director of Research Compliance & Administration at (202) 289-6655 (x117) with questions or for further discussion.

Sincerely,



Anthony P. DeCrappeo  
President, COGR

Cc: David Mader, OMB Controller