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A-21 Task Force Document on Effort Reporting Requirement

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COUNCIL ON GOVERNMENTAL RELATIONS
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November 9, 2011

Attention: A-21 Task Force
National Science and Technology Council (NSTC)
Interagency Working Group on Research Business Models (RBM)
Subcommittee on Social, Behavioral and Economic
Sciences (SBE) of the Committee on Science (CoS)

**Subject: Discontinuation of the Effort Reporting Requirement and
Formalizing Acceptance of Institution-specific Compliance-based
Payroll Distribution Systems through an OMB Clarification Memorandum**

To the Members of the A-21 Task Force:

Enclosed is COGR's response to your request to further elaborate on our recommendation to discontinue the effort reporting requirement. After careful consideration of comments from the Task Force and the Inspectors General (IG) community, we are confident that the proposed solutions in this letter can result in changes that will significantly reduce cost and administrative burden both institutionally and for faculty and investigators, while maintaining appropriate institutional accountability.

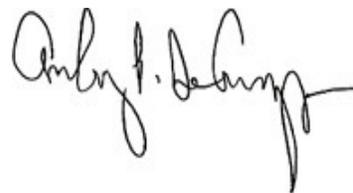
This letter represents an update of positions defined in the July 28, 2011 COGR Recommendations to the A-21 Task Force. Our proposed solutions and recommendations are premised on a detailed example entitled Demonstrating Payroll Distribution Compliance. At the end of this letter we have included an Appendix of proposed changes to OMB Circular A-21 – the proposed changes are an update to the version we submitted in COGR's initial recommendations to the Task Force. But first, we suggest the following be established as a common understanding between Research institutions and the Federal government:

- Research outcomes are understood to be captured by advancing the science – there should be universal recognition that accounting systems and audits of those systems do not have the capacity to measure the value of research.
- Research institutions should be able to demonstrate to all stakeholders that they have proven systems and practices to account for Federal funds. The payroll distribution systems utilized by research institutions and the associated internal control environment should be established in a manner consistent with the business philosophies and practices at each institution – demonstrating compliance with cost principles and assuring appropriate stewardship should be the foundation of a compliant and sound payroll distribution system.

- While effort reporting provides some uniformity across institutions, effort reporting incorrectly is assumed to be the best system to measure institutional compliance with federal cost principles. The official payroll distribution system for an institution coupled with internal controls that identify changes in payroll distributions are the better measure of compliance. Effort reporting systems represent an inefficient additional layer of reporting and distract from the correct measures of compliance.
- The approach COGR presents throughout this letter is premised on enhancing faculty productivity and minimizing administrative burden. If a conclusion to this process is that effort reporting is replaced with another mandated system, then the result simply will be a new version of an inefficient, expensive, and burdensome process.
- Faculty productivity should be the first driver to any solution – reducing faculty burden, whether it be specific to effort reporting or any other regulation, should be an ongoing goal and will help ensure that the United States remains the world leader in research competitiveness.
- Assurance that auditors will audit to a new Federal policy is necessary for a permanent and successful transition away from current effort reporting requirements.
- Implementation of new Federal policy should be undertaken with a sense of urgency – otherwise, there is a risk that that research institutions will see this initiative as unsuccessful. An OMB Clarification Memorandum could be a useful vehicle to implement new policies. While COGR does not advocate for a narrowly defined pilot, we could be supportive of a phased approach where at least ten, and as many as fifty institutions, are given clearance to transition away from effort reporting, and all other institutions can transition in a second phase. We describe a “Model Framework” later in this letter in a detailed example entitled Demonstrating Payroll Distribution Compliance.

On behalf of the entire COGR membership and the COGR Board, we appreciate the ongoing and thoughtful efforts being made by the A-21 Task Force. We look forward to working with you as you enter the implementation phase of this initiative.

Sincerely,



Anthony P. DeCrappeo
President, COGR

Demonstrating Payroll Distribution Compliance

COGR has proposed changes to OMB Circular A-21 in the Appendix to this letter. The current version of A-21 is principle-based and the COGR proposed changes also are principle-based. We strongly believe a focus on new examples will lead us to the exact place where we are right now – i.e., a prescriptive solution that results in regulatory overload and cost burden on the institution. Consequently, we request that OMB clarify that until the Circular can be amended that the examples in section J.10.c, Examples of Acceptable Methods for Payroll Distribution, are to be treated as examples only, and not as prescriptive solutions.

At the same time, the Task Force has requested that we describe how institutions would support a compliance-based solution if/when the effort reporting requirement is discontinued. The example that follows represents a model framework that institutions could adopt immediately. While COGR does not support establishment of a narrowly defined pilot, we could be supportive of a phased approach where at least ten, and as many as fifty institutions, are given clearance to transition away from effort reporting, and other institutions can transition in a second phase. Institutions could adopt the model framework, each with variations appropriate to the business practices and philosophies of the institution, which would demonstrate that the existing payroll distribution systems already in place at research institutions provide a strong compliance infrastructure and that these existing systems can ensure that charges to federal projects are appropriate.

The framework described below no longer requires an effort reporting system to be layered on top of the institution's existing payroll distribution system – instead, utilization of this framework would show that the “bolt-on” of effort reporting or any other system to the institution's current payroll distribution system is superfluous. And while bolting on an effort reporting system does not harm an institution's compliance infrastructure, the bolt-on does not add additional value. Rather, it results in regulatory overload and cost burden – the exact elements that both the Administration and the Congress are committed to minimizing.

The example that follows is not intended to be included as an addendum to Circular A-21 – it is intended to illustrate a model framework for demonstrating compliance of an institution's payroll distribution system.

Model Framework

The model framework utilizes a combination of the items identified below to support payroll allocations and charges to federally sponsored projects that are documented in the institution's Payroll Distribution system (PD system). Utilization of the model framework is predicated on the fact that institutional payroll systems have matured significantly in the thirty years since section J.10 of Circular A-21 was written.

The foundation of the model includes active financial management practices that are designed to incorporate Preventive Controls, Ongoing Monitoring and Review, and Detective Controls (each are described below).

Payroll allocation decisions are made by the Principal Investigator (PI) consistent with the proposed budget and anticipated work required to complete the research project. Department or other appropriate individuals can serve an important role in reviewing the allocation decisions for reasonableness and consistency with what was proposed, and also can serve as the point of entry into the PD system. Department staff or other appropriate individuals provide support to the PI (note: support can be in the form of electronic systems directly accessible by the PI, or other applicable tools or reports) on all financial aspects of award oversight, including: a) allowability management (e.g., allocability, reasonableness and allowability of expenditures), b) commitment management (e.g., reasonableness and over-commitments), and c) budget management.

Preventive Controls may include employee training, use of integrated ledger/payroll system workflow (e.g., paper-based or electronic forms), and staff review. Appropriate personnel are responsible for assuring that pay does not exceed 100 percent of the base salary without appropriate approval for extra compensation. The PD system is integrated with the institutional general ledger.

Ongoing Monitoring and Review may include periodic preparation of financial projections and reviews of allowability and payroll allocations with the PI. The PI ultimately is responsible for ensuring the allocability of all expenditures. At project anniversary dates or at project closeout, the PI and department staff or other appropriate individuals may conduct final reviews to confirm that all charges to the project are allowable, reasonable, and allocable.

Detective Controls may include “error and exception” reports, both from the payroll and ledger system, and are reviewed by appropriate personnel. Central monitoring may be conducted by Internal Audit, the Post-Award Compliance office, or another appropriate office at the institution. This monitoring may include reviews of commitments, NIH salary cap compliance, K-award compliance, and reviews of cost reallocations and their timeliness.

Verification of payroll charges to federal projects normally is based on reports or other output generated by the institution’s PD system. Such reports or other output are generated normally on an annual basis, but at a minimum at project close-out. Timing of the reports or other output normally coincides with the project anniversary date, though specific calendar dates can be appropriate. An individual who has direct or delegated responsibility for account oversight would make the verification and this individual would be authorized to conduct reviews of payroll charges for everyone who works on the federal project.

Each institution that adopts the model framework would implement it in a fashion that is appropriate to the business practices and philosophies of the institution. Demonstrating effective implementation of the model to internal and external auditors will provide assurance that the

institution maintains a strong compliance infrastructure and that salary and wage charges to federal projects are appropriate. The “common characteristics” that follow may be further addressed within the context of institution’s PD system.

Common Characteristics of Payroll Distribution Systems

While there will be variation across the Model Framework for each institution, each institution through its internal policies and procedures may describe how its business practices address each of the following characteristics of its Payroll Distribution System:

1. **Medium.** The PD system, to the extent possible, should be an electronic based system. The reports and output produced from the PD system can be electronic or paper-based. The reports and output supporting salary and wage charges to federal agreements should be reconcilable to the general ledger of the institution.
2. **Coverage.** The PD system should encompass all federally funded projects that are subject to payroll charges. The extent to which non-federal projects are covered is optional.
3. **Uniformity.** An institution, to the extent possible, should have a PD system that is applied consistently and uniformly to all classifications of personnel, though it is recognized that there may be differences as to how the PD system captures data for different classes of employees (e.g., hourly employees).
4. **Measurement.** An institution should verify the salary amounts that are charged to a project. Verification based on relative payroll distributions (percentages) is an option, especially for institutions that are restricted in the disclosure, authorization or access of individual payroll data (e.g., this may be applicable when a PI reviews co-PI payroll data).
5. **Frequency.** An institution should establish frequency standards for review of reports generated by the PD system, normally on an annual basis, but at a minimum at project close-out.
6. **Review Responsibility.** An individual who has direct or delegated responsibility for account oversight would verify payroll distributions to federal agreements. The individual who is assigned review responsibility can be authorized to conduct reviews of payroll charges for everyone who works on the federal project.
7. **Account Establishment.** Once the research personnel are set up in the PD system for a federal project, the ensuing payroll distribution normally should be assumed to be valid and reflective of payment for activities performed on the project until the PI or his or her designee change the payroll distribution.

8. Integrity. The internal policies and procedures that define the operation of the PD system may be subject to routine audits, which may include internal audits, annual financial report audits, or audits required by OMB Circular A-133.
9. Feedback. The results of the integrity test of the system should be provided to the appropriate departments or individuals so as to initiate any necessary corrections and reemphasize proper procedures and/or train departmental staff, as necessary.
10. Cost sharing. Cost sharing salary data may be either integrated into the PD system or accumulated through a stand-alone system that can be reconciled to the PD system.

APPENDIX

COGR Proposed *Additions* and ~~Deletions~~ to Circular A-21, Section J.10.b and J.10.c

(Note: The proposed changes are a draft for discussion purposes and represent a significant update from the July 28, 2011 COGR recommendations. These proposed changes have been developed to be consistent with the Model Framework and the corresponding Common Characteristics of Payroll Distribution Systems.):

J.10.b. Payroll distribution.

(1) General Principles.

(a) The distribution of salaries and wages, ~~whether treated as direct or F&A costs,~~ will be based on payrolls documented in accordance with the generally accepted practices of colleges and universities. ~~Institutions may include in a residual category all activities that are not directly charged to sponsored agreements, and that need not be distributed to more than one activity for purposes of identifying F&A costs and the functions to which they are allocable. The components of the residual category are not required to be separately documented.~~

(b) The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will—

- (1) be in accordance with Sections A.2 and C;
- (2) produce an equitable distribution of charges for employee's activities; and
- (3) distinguish the employees' *federally sponsored* ~~direct~~ activities from their *other institutional activities* ~~F&A activities~~.

(c) In the use of any methods for apportioning salaries, it is recognized that, in an academic setting, teaching, research, service, and administration are often inextricably intermingled. A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate.

(d) In an academic setting where research is conducted, the outcomes of the research are understood to be captured in advancing the science. It is recognized that accounting and payroll systems and audits of those systems do not have the capacity to measure the value of research.

(e) There is no single best method for documenting the distribution of charges for personal services. Methods for apportioning salaries and wages, however, must meet the criteria specified in subsection b.(2). ~~Examples of acceptable methods are contained in subsection c. Other methods that meet the criteria specified in subsection b.(2) also shall be deemed acceptable, if a mutually satisfactory alternative agreement is reached.~~

(2) Criteria for Acceptable Methods.

(a) The payroll distribution system will

- (i) be incorporated into the official records of the institution;
- ~~(ii) reasonably reflect the activity for which the employee is compensated by the institution;~~
~~and~~
- (ii) encompass both sponsored and all other activities on an integrated basis, but may include the use of subsidiary records. (Compensation for incidental work described in subsection a need not be included.);
- (iii) reasonably reflect the activity for which the employee is compensated by the institution. Institutions should ensure that appropriate internal controls are implemented to verify accuracy, completeness and timely review of salary and wage transactions. This may include:*

- *An appropriate combination of preventive and detective controls to identify significant errors.*
- *Timely review to assess accuracy, completeness and appropriateness of payroll distributions by an individual who has direct or delegated responsibility for account oversight.*

~~(b) The method must recognize the principle of after the fact confirmation or determination so that costs distributed represent actual costs, unless a mutually satisfactory alternative agreement is reached. Direct cost activities and F&A cost activities may be confirmed by responsible persons with suitable means of verification that the work was performed. Confirmation by the employee is not a requirement for either direct or F&A cost activities if other responsible persons make appropriate confirmations.~~

(b) The method should recognize the principle of after the fact review to verify that payroll distributions to federal agreements are reasonable. Payroll distributions to federal agreements may be verified by an individual who has direct or delegated responsibility for account oversight. Verification by the employee is not a requirement.

~~(c) The payroll distribution system will allow confirmation of activity allocable to each sponsored agreement and each of the categories of activity needed to identify F&A costs and the functions to which they are allocable. The activities chargeable to F&A cost categories or the major functions of the institution for employees whose salaries must be apportioned (see subsection b.(1)b)), if not initially identified as separate categories, may be subsequently distributed by any reasonable method mutually agreed to, including, but not limited to, suitably conducted surveys, statistical sampling procedures, or the application of negotiated fixed rates.~~

(d) Practices vary among institutions and within institutions as to the activity constituting a full workload. ~~Therefore, the payroll distribution system may reflect categories of activities expressed as a percentage distribution of total activities.~~ *Payroll distribution systems may reflect categories of activities expressed as a percentage distribution of total activities or may reflect activity in other formats that are supported by the institution's payroll distribution system.*

(e) Direct ~~and F&A~~ charges may be made initially to ~~sponsored~~ *federal* agreements on the basis of estimates made before services are performed. When such estimates are used, *significant changes from planned activities* ~~significant changes in the corresponding work activity~~ must be identified and entered into the payroll distribution system *in a timely manner*. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the *charges for distribution of salaries and wages* ~~is~~ *are* reasonable over the longer term, *such as the budget period*. ~~such as an academic period.~~

(f) ~~The system will provide for independent internal evaluations to ensure the system's effectiveness and compliance with the above standards.~~

(g) For systems which meet these standards, the institution will not be required to provide additional support or documentation. ~~for the effort actually performed.~~

Strike entire section that includes:

~~J.10.c Examples of Acceptable Methods for Payroll Distribution.~~

~~(1) Plan Confirmation.~~

~~(2) After the Fact Activity Records.~~

~~(3) Multiple Confirmation Records.~~