



November 8, 2022

Mark Hagedorn
U.S. Small Business Administration
Office of General Counsel
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Submitted Electronically to: <https://www.regulations.gov/commenton/SBA-2022-0011-0001>

Dear Mr. Hagedorn,

We are writing in response to a Federal Register Notice (Document Citation: 87 FR 55642, Pages 55642-55678), dated September 9, 2022 – [Ownership and Control and Contractual Assistance Requirements for the 8\(a\) Business Development Program](#). We appreciate your consideration of the comments enclosed in this letter.

The Council on Governmental Relations (COGR) is an association of over 200 public and private U.S. research universities and affiliated academic medical centers and research institutes. We are a leading voice on the impact of federal regulations, policies, and practices on the performance of research conducted at our member institutions—and when appropriate, we regularly advocate for reducing administrative burden associated with federal regulation.

While COGR supports the aims of this proposed rule, we believe this rule should not be directed to institutions that comprise the COGR membership. Effectively, ***COGR requests that the SBA confirm that colleges, universities, and other nonprofit research organizations are exempt from this rule.*** Specifically, as it relates to Section 125.3, the notice states:

In addition, SBA proposes to amend § 125.3(c)(1)(iv) to require that large businesses include indirect costs in their subcontracting plans. Currently, large businesses have the option of including or excluding indirect costs in their individual subcontracting plans. Many large businesses opt to exclude indirect costs. As a result, small businesses that provide services generally considered to be indirect costs—such as legal services, accounting services, investment banking, and asset management—are often overlooked by large contractors. SBA believes that by requiring indirect costs to be included in their individual subcontracting plans, large businesses will have an incentive to give work to small businesses that provide those services.

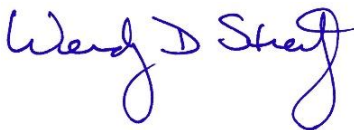
Colleges, Universities, and other nonprofit research organizations follow the rules in [2 CFR Part 200](#)—*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*—to establish indirect cost reimbursement mechanisms, subcontracting arrangements, and procurement actions with small business entities. The federal rules we follow are designed to ensure fair and equitable treatment for all entities, including small businesses, that are engaged in conducting federally sponsored research. In addition, our institutions regularly are subject to audit and oversight by sponsoring agencies, internal audit, federal audit, and the annual single audit as required by 2 CFR Part 200 Subpart F—we take compliance and stewardship seriously.

Requiring colleges, universities, and other nonprofit research organizations to document indirect costs in an individual subcontracting plan—as the SBA is proposing for large businesses—would 1) create a significant (and in many cases, unrealistic) administrative burden for all research institutions; 2) add no value to the SBA’s intent for this rule, which is focused on large businesses; and 3) unintentionally and disproportionately hurt smaller and minority-serving universities and research institutions that would be required to follow this new rule.

Again, while we support the aims of this proposed rule, we do not believe it is applicable to colleges, universities, other nonprofit research organizations conducting federally sponsored research. Consequently, we encourage the SBA to confirm that colleges, universities, and other nonprofit research organizations are exempt from this rule.

Thank you for the opportunity to comment on the proposed SBA rule. Please contact David Kennedy at dkennedy@cogr.edu if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "Wendy D. Streit". The signature is written in a cursive style with a large, looped initial "W".

Wendy D. Streit
President

Cc: Gilbert Tran, Office of Federal Financial Management, OMB