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COUNCIL ON GOVERNMENTAL RELATIONS

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February 6, 2017

Department of Defense
Deputy Chief Management Office
Directorate for Oversight and Compliance
4800 Mark Center Drive, ATTN: Box 24
Alexandria, VA 22350-1700

Reference: Regulatory Information Numbers (RINs) 0790-AJ45-AJ50

Dear Mr. Wargo:

The Council on Governmental Relations (COGR) is an association of 190 research universities and affiliated academic medical centers and research institutes. COGR concerns itself with the impact of federal regulations, policies, and practices on the performance of research conducted at its member institutions.

We appreciate the opportunity to submit comments to the November 7th series of Federal Register notices updating the interim implementation for DoD Grants and Cooperative Agreements on administrative requirements, cost principles, and audit requirements for Federal awards.

Although we note that comments are welcome on all NPRMs we find that commenting to the third NPRM in the series, entitled, "Administrative Requirements Terms and Conditions for Cost-Type Awards to Nonprofit and Government Entities" is most beneficial for this purpose.

Please find our answers to the questions you posed as follows:

1) Whether the 7 proposed parts appear to include any substantive variations from the OMB guidance other than those noted in Section II of the Supplementary Information section?

Although not a departure specifically from the OMB guidance, there was one proposed part that varied substantially from previous practice. Appendix D, Section B.1.h, page 78403, incorporates 200.308(e), requiring prior approval for budget transfers exceeding 10% of the total award, if the award is above the simplified acquisition threshold. This is a departure from the old [Prior Approval Matrix](#), where the participating DoD Components waived prior approval for rebudgeting among budget categories. We appreciate the flexibility of the previous prior approval matrix and request that this be reinstated. This new requirement is also a deviation from what other major federal agencies have implemented regarding rebudgeting funds. Having a unique requirement for DoD will increase the administrative burden placed upon grant recipients.

The following sections do not acknowledge the grace period allowed by 2 CFR 200.110, nor do they take into account recent changes in Federal law regarding the micro-purchase threshold:

- 1132.1(b), page 78414 and 1138.600(b), page 78433: 1132.1(b) and 1138.600(b) contain no acknowledgment of the grace period to implement the procurement standards.
- PROC Article II, Section C, page 78416: Since the DoD NPRMs were released, the NDAA was signed, and the micro-purchase threshold is now different and needs to be taken into account.
- SUB Article VI, Section C.1, page 78438: This section makes reference to PROC Article II, which will need to take into account the new micro-purchase threshold established by the NDAA.

2) In each of the proposed parts, does the separation of administrative requirements into two portions, i.e., the wording of terms and conditions for recipients in the appendices to the part and the prescriptions for DoD components in the corresponding subparts of the part help make the requirements clearer for affected parties?

Separating the prescriptions (in Subparts) from the terms and conditions (in the Appendices) makes sense, however, the format could be more user friendly. The third NPRM of the series is rather cumbersome to navigate and may potentially be the result of how it appears in the Federal Register. It is possible that the format of Subparts/Appendices will be easier to understand when the final rules are published by the DoD.

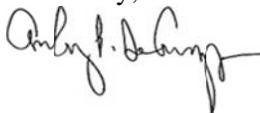
3) Does the use of plain language and pronouns improve the readability and understandability of the content of the proposed parts?

The use of plain language makes clear the potential for increased administrative burden. The sections below illustrate some of the potential variance across DoD components that will serve to make awards more challenging to administer.

- 1128.419(h)(4), page 78397: This section would allow a DoD Component to "modify the default wording as appropriate to the awards using its general terms and conditions" and provides the example of limiting authorization for pre-award costs to less than 90 calendar days. This has the potential to create additional burden, if DoD Components vary significantly in their requirements. Financial assistance awards at research institutions have been operating under the expanded authorities of Section C FMS Article IV. Will there be a central review of terms and conditions by DoD to ensure that some level of consistency exists across Components?
- 1134.125(b)(2)(ii), page 78420: This states that "final reports for research awards should be cumulative..." Does the use of "should" mean that DoD Components might be inconsistent in requiring whether or not reports are cumulative? If so, that could make reporting challenging.
- REP Article I and REP Article II, page 78423: Final performance reports are due 90 calendar days after the end of the period of performance. Final financial reports are due 120 calendar days after the end of the period of performance. 1134.125(c)(1)(ii) enables the DoD component to pre-approve a 30-day extension for performance reports. There is potential for inconsistent due dates for the same reports across DoD Components, which could make reporting challenging. Final reports would be more easily administered with one consistent due date of 120 days after the period of performance.

Overall, we are pleased with the additional clarifications noted in the NPRMs. The additional information above what is provided in the Uniform Guidance will be very helpful and useful. If you have further questions, please contact Jackie Bendall at jbendall@cogr.edu or (202) 289-6655. Thank you for the opportunity to comment.

Sincerely,



Anthony P. DeCrappeo
President