



October 31, 2022

Suzanne H. Plimpton, Reports Clearance Officer
National Science Foundation
2415 Eisenhower Avenue
Suite E7400
Alexandria, Virginia 22314

Sent via email to splimpto@nsf.gov.

Subject: Request for Comment: Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support

Dear Ms. Plimpton:

The Council on Governmental Relations (COGR) submits this letter in response to the National Science Foundation's (NSF) Request for Comment regarding Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support published on August 31, 2022, in the Federal Register as [87 FR 53505](#), on behalf of the National Science and Technology Council's (NSTC) Research Subcommittee (the "Notice"). COGR is an association of over 200 public and private U.S. research universities and affiliated academic medical centers and research institutes. One area of significant interest and expertise for COGR is 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 the administrative burden associated with federal regulation.

COGR appreciates the opportunity afforded by NSF (on behalf of NSTC) as the steward for the collection and resolution of public comments on the above-captioned common disclosure forms before they are finalized. Establishing a common disclosure form for information collection across research agencies is a welcome step in harmonizing disclosure requirements. Our member institutions are eager for the much-needed clarification of an increasingly complicated disclosure process. We greatly appreciate the opportunity to comment on the documents to identify helpful recommendations for the research community and ensure agency expectations are met with the shared goal of safeguarding the integrity of federally funded research. We acknowledge the tremendous efforts of our agency colleagues, who worked diligently through cross-agency teams, and we look forward to continuing to partner with the agencies as the common forms are finalized and implemented.

While acknowledging the significant progress made, we identified opportunities to increase clarity and streamline processes. Below we provide comments on the four areas posed in the Notice.

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility.

The Notice states that *the purpose of the Biographical Sketch is to assess how well qualified the individual, team, or organization is to conduct the proposed activities*. The purpose of Current and Pending (Other) Support (CPS) is *to assess the capacity of the individual to carry out the research as proposed and to help identify any potential scientific and budgetary overlap/duplication, as well as overcommitment with the project being proposed*. As implied in the Notice, the activities listed in the [NSPM-33 Implementation Guidance Pre- and Post-award Disclosures Relating to the Biographical Sketch and Current and Pending \(Other\) Support](#)¹ (“Table”) should meet the stated objectives for the Biographical Sketch and CPS and have practical utility. Unfortunately, many of the activities listed in the Table can be interpreted broadly and creates confusion, leading to inconsistent responses. For example, the biographical sketch requires listing academic, professional, and institutional appointments and positions, but these terms can mean different things to different people, and no guidance or definitions are provided to clarify what these terms mean. For example, what is meant by an “institutional appointment”? Would this include service on university committees for university service (i.e., IRB, faculty advisor, parking committee)? Do professional positions include service on an editorial board? We also question the practical utility of some of the required data elements and how they contribute to the intended purpose of the forms, which is to assess the individual’s qualifications to conduct the proposed activities and to assess potential overlap or overcommitment.

We have similar questions about the purpose and utility of in-kind support, which is a relatively new area of disclosure, and one for which researchers have a significant number of questions. This support is often minor and of low value. It would be helpful if agencies could be more specific as to what aspects of in-kind support they believe are critical to the review or awarding of a research project.

Finally, a relatively new item has been introduced related to reporting “start-up companies that are unrelated to intellectual property licensed by the applicant institution.” The relation this has to the stated goals of CPS to *assess the capacity of the individual to carry out the research as proposed and to help identify any potential scientific and budgetary overlap/duplication* is not clear. Rather, this would be addressed more appropriately under the recipient’s conflict of interest and conflict of commitment policies and not as part of a researcher’s grant application.

¹ https://www.nsf.gov/bfa/dias/policy/nspm_disclosuretable/nspm33_disclosuretable_sept2022.pdf

Recommendations: We request that agencies: (1) critically assess and only require those data elements that truly serve the intended purposes of the forms, (2) provide information to the grantee community on the utility of the information needed for each type of activity and how it is necessary to meet the stated purpose and make grant decisions, and (3) provide definitions and examples for each data element.

(b) The accuracy of the Agency's estimate of the burden of the proposed collection of information.

The Notice estimates burden time as one hour for the Biographical Sketch and one hour for the CPS. COGR member institutions report that this is a significant underestimation of the actual time it takes to initially complete the form and update the information, considering the complexity of disclosure requirements. In a poll that COGR conducted during a recent webinar, the majority of respondents indicated it takes two hours or more to complete the biographical sketch for the first time, with almost half indicating it takes about an hour to update. An even larger majority indicated it takes two hours or more to complete the current and pending support for the first time, with almost half indicating it takes about an hour to update. We also collected anecdotal information from faculty, which shows that the initial completion of the CPS forms takes 4-6 hours. Due to limited resources, the cost and administrative burden may be significantly greater at emerging institutions. Another consideration is that the Notice only reflects the burden of CPS submissions at the time of proposal. Proposal or JIT (pre-award) submissions are not the only instances when CPS is collected. Should changes occur, agencies require updated CPS documents to be submitted with annual progress reports. Those updates take additional time, which is not reflected in the Notice.

Recommendations: We recommend working with organizations like the Federal Demonstration Partnership (FDP)² to identify a more accurate estimation of burden and to understand pain points for researchers and opportunities to streamline.

(c) Ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

As stated in the [NSPM-33 Implementation Guidance](#)³, agencies, as well as institutions, desire clear and comprehensive instructions as the objective of the common disclosure forms is to *provide clarity regarding disclosure requirements (e.g., who discloses what, relevant limitations and exclusions), disclosure process (e.g., updates, corrections, certification, and provision of supporting documentation), and expected degree of cross-agency uniformity*. While we are pleased that the forms align with agency requirements for NIH and NSF, we had hoped that the common forms and corresponding instructions would provide clarity to longstanding areas in the

² <https://thefdp.org/default/>

³ <https://www.whitehouse.gov/wp-content/uploads/2022/01/010422-NSPM-33-Implementation-Guidance.pdf>

disclosure requirements that remain ambiguous and in need of further clarification, definitions, qualifiers, and examples for simple interpretation as provided below.

- **Define Terms.** Noticeably absent throughout the documents are defined terms to ensure consistency of interpretation in the types of data provided. Definitions, qualifiers, and examples provide much-needed clarity for respondents. A great example defined in both documents is senior/key personnel which describes the qualifier of a key person (*listed by the applicant/awardee organization and approved by the Federal research funding agency...*). We recommend that the final document define essential (e.g., “titled,” “professional,” etc.) and vague terms (i.e., “in-kind”) and include qualifiers and examples. (See additional discussion associated with specific requirements below.)
- **In-kind contributions.** It is still unclear exactly what is required for in-kind contributions. According to 42 U.S.C §§ 6605 and the [CPS instructions](#)⁴ (pg. 1), CPS *includes in-kind contributions requiring a commitment of time and directly supporting the individual's research and development efforts*, whereas the [CPS instructions](#) later state (pg. 4), *In this section, please disclosure [sic] ALL in-kind contributions related to current and pending support. In-kind contributions include, but are not limited to, office/laboratory space, equipment, supplies, and employee or student resources.* COGR requests confirmation that the requirement to report in-kind contributions is limited to those contributions that (a) have an associated commitment of time on the part of the senior/key person, and (b) directly support the senior/key person’s research and development efforts. We also request that this be made clear in the form itself.

COGR encourages federal agencies to reassess the utility of disclosing in-kind contributions that do not have an associated commitment of time in the review for overlap and over-commitment. If, after this reassessment, the agencies continue to require reporting of all in-kind contributions, we note that in-kind contributions usually do not come with a specified “associated time commitment.” For example, researchers commonly receive cell lines or other reagents from colleagues at other institutions or from industry. These reagents may be in-kind contributions, but they do not require a specified time commitment. Considering they do not require a specified time commitment, it is arguable that these contributions would not be disclosable.

Similarly, when a PI or senior/key person hosts postdoctoral scholars, students, or visiting scholars, the arrangement usually does not come with a specified time commitment. It would be helpful for the CPS to clarify that reporting is not required in such cases. COGR notes that NIH appears to require disclosure of in-kind contributions regardless of whether they require a time commitment. Lack of consistency creates confusion for researchers.

Because most in-kind contributions do not involve time commitments, the format for reporting, with start/end dates, person months, and dollar values, usually is not applicable. For this reason, the format for in-kind should allow for the optional inclusion

⁴ <https://www.nsf.gov/bfa/dias/policy/researchprotection/FederalRegisterCPSfinal.pdf>

of start/end date, person months, and dollar values to address those situations in which these elements are not applicable. (See further comments on reporting format below.)

Finally, the absence of any minimum financial thresholds to trigger the disclosure of in-kind contributions creates unnecessary burden, as does the lack of a limit on how far back in time the contribution was received (a welcome clarification previously provided by NIH). COGR strongly encourages an assessment of the utility of this information in the review process.

- **Consulting.** The Table specifies that disclosure is not required for *consulting that is considered part of an individual's appointment/agreement with their home organization and consistent with the proposing organization's "Outside Activities" policies and procedures*. Disclosure is required for *consulting that falls outside of an individual's appointment/agreement*. This language can be confusing for researchers because institutions typically refer to consulting as an “outside activity,” and while universities may have policies applicable to “Outside Activities”, such as conflict of commitment and conflict of interest policies, the activities themselves are NOT part of the researcher’s institutional duties. This means that, even though such activities are disclosed and vetted, they are not exactly “part of an individual’s appointment” with their institution. We appreciate the clarification provided by an agency at the September Federal Demonstration Partnership meeting and, more recently, during a COGR meeting, that consulting that falls within institutional policies and is permitted by the institution is excluded from disclosure. Consulting that is not consistent with the institutional policy requires disclosure in CPS. We request that the language be revised to more clearly reflect a common understanding and interpretation of disclosure requirements for consulting.
- **Appointments and Positions.** The Proposed Instructions for Submission of the Biographical Sketch include instructions to list *all the individual's academic, professional, or institutional appointments and positions, beginning with the current appointment (including the associated organization and location)*. However, the subsequent paragraph states that for professional appointments, *senior/key personnel must only identify all current domestic and foreign professional appointments*. We would welcome confirmation that this means all past and present academic and institutional appointments must be listed, but only current professional appointments must be listed. Clarification on the differences between academic, institutional, and professional appointments (and examples thereof) would also be welcome, as would differentiation and explicit instruction on academic, institutional, and professional positions (again with examples). Finally, the Proposed Instructions state, “Appointments and positions include any titled academic, professional, or institutional position...” Clarification is requested regarding what is meant by “titled” and whether the instructions are intended to exclude the reporting of “untitled” positions. Defining “titled” with examples would be helpful.
- **Inconsistencies and Gaps.** We note that there are inconsistencies or gaps between the common forms, the summary of data elements, and the Table. For example, the [Proposed](#)

[Instructions for Submission of the Biographical Sketch](#)⁵ lists the Certification as an item that is not required. However, the [Summary of Data Elements](#)⁶ lists it as a required item. We assume the latter is true. Additionally, the Biographical Sketch instructions do not address page limits, and the CPS instructions specify that there is no page limit. Our members consistently hear from their investigators that the requirement to list all of their academic, institutional, and professional appointments and positions, when combined with a limit on the number of pages allowed for the Biographical Sketch, does not provide them with sufficient space to adequately demonstrate their qualifications to carry out the proposed project. Therefore, we ask that agencies not put a page limit on the Biographical Sketch or clarify that appointments and positions do not count against the page limit. We also note that the in-kind contributions section for *Summary of In-Kind Contributions* in the CPS specifies: *Enter a summary of the in-kind contribution... whether or not it has an associated time commitment*, which is contrary to the Table, which specifies an *associated time commitment*.

- **Format for Non-Project-Based Activities.** There are several types of activities that are not project-based, but the proposed CPS reporting format attempts to fit them into a project-based format. These activities include in-kind, consulting, postdoctoral scholars, students, visiting scholars, sponsored travel, and startup companies based on non-organization-licensed IP. These activities often do not have a dollar value, start/end date, associated time commitment, etc. The forms should provide a format that fits the requested activity and/or provide flexibility to indicate “not applicable.”
- **Certification.** Both forms list the following certification statement: *When the individual signs the certification on behalf of themselves, they are certifying that the information is current, accurate, and complete. This includes, but is not limited to, information related to domestic and foreign appointments and positions. Misrepresentations and/or omissions may be subject to prosecution and liability pursuant to, but not limited to, 18 U.S.C. §§ 287, 1001, 1031 and 31 U.S.C. §§ 3729-3733 and 3802.* There are questions about the intent for the wording of the first part of the statement *when the individual signs the certification on behalf of themselves*. As worded, this seems to imply that someone other than the senior/key person could sign, which we do not believe is the intent. The form would be more straightforward if it stated, “I certify that the information is current, accurate, and complete...”. Similarly, the instructions could clearly state, “When the senior/key person signs, they are certifying...”

The language also does not address unintentional omissions. NIH’s current language for other support (“false, fictitious, or fraudulent statements”) more clearly addresses this and focuses on intentional omissions. Also, to reduce administrative burden, we request that the agencies assess the number and types of certifications they impose on applicants. NIH, for example, will presumably require four levels of certifications (CPS form, Biosketch form, PI/Multi-PI certification per NIH GPS 2.3.7.6, and the institutional

⁵ <https://www.nsf.gov/bfa/dias/policy/researchprotection/FederalRegisterBiographicalSketchfinal.pdf>

⁶ https://www.nsf.gov/bfa/dias/policy/researchprotection/Biosketch_CPS_Fields_8.10.22_for_FR.xlsx

certification on the PHS 398 cover page). Consistency would also be welcome, considering the common forms require a certification that the information provided is current, accurate and complete (but not that it is true), whereas the institutional certification on the SF424 R&R cover page and the PI certification specified in NIH GPS 2.3.7.6 require certification that the information in the proposal is true, complete and accurate (but not that it is current).

Recommendations: As noted in this section, there is a need to be clear about reporting requirements and to have consistency across the various forms to reduce confusion. Confusion creates conditions for unintentional non-compliance in disclosure reporting, creates unnecessary administrative burden, and leads to multiple interpretations (including agency-specific or even program manager-specific interpretations).

We request clarification in the areas mentioned above (in-kind, consulting, and appointments and positions) and recommend adding defined terms, qualifiers, and examples to minimize confusion and give researchers clear and explicit instructions on what items require disclosure. We request an assessment of the utility of reporting such a broad range of in-kind support and a reporting format more appropriate to report these kinds of support in a non-project format. We urge NSTC to consider testing the use of any new forms on a pilot basis to receive feedback and questions from the community before finalizing the forms. The FDP might be an ideal partner. This will go a long way toward providing agencies with the desired outcome while reducing misunderstandings and unnecessary burdens.

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

As specified in the notice, variations among research agencies may be permitted as coordinated through NSTC or as cleared by OMB/OIRA. It is unclear at this time how agency-specific variations and deviations in the common disclosure forms will be handled (e.g., synergistic activities and personal statements). Agencies may request to supplement the forms or include agency-specific categories, which is counterproductive to creating true uniformity. We recognize the need for agency variations and appreciate that OSTP created a review and approval process to limit such variations to those absolutely necessary for an agency function. However, we are concerned that permitting agency-specific variations in the common disclosure forms will reduce our researchers' ability to maintain one form that can be utilized across the various agencies and create true harmonization. It also increases the likelihood that researchers will need to maintain multiple disclosure forms and update each separately according to the agency-specific form, increasing the burden and opportunities for errors. A comprehensive form with clear and consistent requirements across all federal agencies is ideal for recipients to develop systems and processes that will assure complete and accurate disclosures in a streamlined, efficient manner.

We also note that currently, the disclosure process varies across agencies, including timelines for when disclosures occur for initial submissions and updates. For example, at this time, only NIH

specifies reporting CPS for just those projects likely to be awarded (e.g., at Just-In-Time (JIT)). This is a significant benefit to the recipient community since only a fraction of proposals are awarded, and therefore time is not spent on CPS for unfunded projects. Also, the requirements for updated information vary across the agencies as well. NSF and NIH require updates submitted in the annual progress report. However, the Department of Energy requires updated disclosures within 30 days of the change *or on a timeline instructed by the program officer*, which is a significant burden. Variances in reporting timelines increase the administrative burden and reduce the clarity of expectations for researchers to know when to report and update disclosures.

The Notice specifies that variations among research agencies will be limited and coordinated through the NSTC. Additionally, *modification and/or supplementation of these common forms will require clearance by OMB/ OIRA under the PRA process*. We appreciate that form variations will be managed through a review process and hope that NSTC will support only those changes that are necessary *to meet programmatic requirements* and have practical utility. To set clear expectations for the research community, changes to the forms should be as infrequent as possible and occur at a singular point with ample advance notice for the community to adopt and implement.

It appears that NIH and NSF will utilize SciENcv and leverage Digital Persistent Identifiers like ORCID (Open Researcher and Contributor ID). However, only NSF and the Department of Education are currently ready for users to move to SciENcv. Currently, no federal agency feeds proposal or award information to SciENcv or ORCID, leaving institutions responsible for populating these systems with Biographical Sketch and CPS information. As such, consideration should be given to allow institutions and researchers to comment on the practicality of the reporting system, provide a period to test, and ample opportunity to transition and implement.

In regard to efficiency and ways to minimize the burden of the collection of information, it still appears that a driving indicator of the common forms is to elicit information indicative of whether the investigator is involved in a (malign) foreign talent recruitment program through the collection of a lengthy disclosure process, rather than asking the question outright. While it would be a very different approach, we think it could be valuable to consider asking more direct questions vs. expanding disclosure requirements.

Recommendations: We recommend that agency-specific information be collected separately from the standardized disclosure forms and be explicitly limited to additional (not revised or altered standards) data elements. This will increase the likelihood that the common forms and associated data elements/definitions remain consistent across federal agencies and will promote clarity and accuracy of what must be disclosed.

To help ensure coordination and consistency, we recommend that for the initial implementation, all agencies adopt the common forms during the same period and for each agency to make it clear how they plan to implement them. We recommend that the final forms, resources, training, and FAQs be posted and maintained by a single entity on a single site for a “one-stop-shop

approach” (perhaps hosted by the NSF similar to the federal-wide Research Terms and Conditions).

We also recommend that changes to the forms be reduced to a workable and predictable time frame, e.g., once a year, and apply to all agencies simultaneously. We request sufficient advance notice to implement changes in the requirements, especially those that require changes in IT systems and business processes. We also recommend continued engagement with stakeholders for input throughout the review process.


Conclusion:

COGR greatly appreciates the efforts of the NSTC Research Security Subcommittee and all the agencies who partnered to develop common disclosure forms. While we feel there is a need for clarification in key areas identified in this letter, we appreciate the effort to develop the common forms and the desire to “strike the right balance” to not unnecessarily burden the research process but harmonize and streamline disclosure efforts to provide the specific information awarding agencies need to make funding decisions.

We value our partnership with OSTP and the federal agencies on this important topic and look forward to future opportunities to provide input.

Once again, thank you for the opportunity to provide these recommendations on behalf of our member institutions. If you have any questions concerning our comments, please contact Krystal Toups, Director for Contracts and Grants Administration, at ktoups@cogr.edu.

Sincerely,



Wendy D. Streit

President