COGR
Council On Governmental Relations
An Association of Research Institutions

March 23, 2020

February 27-28, 2020 COGR Meeting Report

Cross-Cutting Areas

Committee Reports

COSTING & FINANCIAL COMPLIANCE

RESEARCH ETHICS & COMPLIANCE

RESEARCH SECURITY & INTELLECTUAL PROPERTY

DOD Cybersecurity Maturity Model Certification (CMMC) (UPDATE)
Update on NIST iEdison and ROI Green Paper Implementation (UPDATE)

CONTRACTS & GRANTS ADMINISTRATION

OSTP Request for Comment (RFC) on "Desirable Characteristics of Repositories for Managing and Sharing Data Resulting from Federally Funded Research" (UPDATE)
OSTP Request for Information (RFI) on Public Access to Peer-Reviewed Scholarly Publications, Data and Code Resulting from Federally Funded Research (NEW)
National Science Foundation (NSF) 2020 Proposal and Procedures Policy Guide (PAPPG) (UPDATE)
NIH Uniform Guidance (UG) Discussion with Michelle Bulls (UPDATE)
SciENcv Rollout (UPDATE)
Safe and Inclusive Research Environments (SIRE) (UPDATE)
EPA Supplemental Notice of Proposed Rulemaking to Strengthening Transparency in Regulatory Science Proposed Rule (UPDATE)
NASA Final Notice on New Term and Condition Regarding Sexual Harassment, Other Forms of Harassment, and Sexual Assault (UPDATE)

COGR Convenes Work Group Regarding COVID-19's Impact on Federal Awards (NEW)

As the impact of COVID-19 continues to evolve, COGR is monitoring these impacts specifically with respect to federal research funding. Many institutions have posted guidance on mitigating these impacts to research, and COGR has compiled a repository of such guidance links as a resource to our membership. This repository also includes any federal guidance as it becomes available, as well as resources on COVID-19 and general emergency preparation.

COGR has also convened a workgroup that has developed an FAQ Regarding COVID-19's Impact on Federal Awards. This FAQ includes questions that are already being asked at many of our member institutions regarding issues such as travel, salary charges, impact to federal contracts, and animal care during a potential extended closure. That document is posted to the COGR website, was sent to our listserv, and will be a living document that will continue to be updated as information becomes available.

In addition, on March 18 COGR, along with AAU, APLU, and AAMC, wrote a letter to OMB advocating for an expansion of M-20-11 to all federal awards. OMB followed up on this request with the release of M-20-17 on March 19, 2020, which provides similar administrative relief listed in M-20-11 to an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID-19 crisis.

COGR has received additional questions on COVID-19's impact on federal awards and staff have been busy reviewing and answering questions that could not be answered immediately with the objective of posting all answered questions in an easily accessible format. In the meantime, if you have additional questions regarding COGR's effort on monitoring COVID-19's Impact to Federal Awards or agency notices you'd like to share, or if you would like your institution's COVID-19 guidance posted on the COGR webpage, please send an email to COVID19@cogr.edu. COGR will be regularly reviewing this inbox to update question lists.

Science and Security

Panel Presentation - Framework for Reviewing Global Engagement: Case Studies with Audience Input

COGR released Version 1 of the Framework for Review of Individual Global Engagements in Academic Research in January to provide an underlying structure to support an institution's analysis of outside engagements, assess potential risks, and develop strategies for mitigation. At this session, the presenters - Naomi Schrag, Columbia University (moderator), Lois Brako, University of Michigan, and Michelle Christy, COGR - provided a high-level summary of the Framework, then discussed a few of the case studies presented in the Framework. We also polled the audience anonymously during the session to capture some real-time information from the membership regarding risk areas and member practices. The panel presentation can be found here.

Revised Department of Education (ED) Section 117 Reporting Requirements

COGR joined with 35 other higher education groups and associations in a comment letter submitted by the American Council on Education (ACE) on March 11 to ED. The main concern expressed in the ACE letter is the requirement to disclose individual donor names. While the revised reporting requirements now promise confidentiality as business and financial information under FOIA Exemption 4, the letter noted that the outcome

of disclosure requests is unpredictable. Another concern is the rebuttable presumption that a gift to or contract with a legal intermediary that operates substantially for the benefit of an institution (e.g. a foundation) must be disclosed. This appears to go beyond ED's statutory authority to require reporting under Sec. 117, which is limited to "institutions" as defined in the Higher Education Act.

In addition to joining the ACE letter, COGR submitted a separate brief comment letter. Our letter acknowledged the changes made in last year's Information Collection Request by the Department in response to stakeholder comments. However, we reiterated ACE's concern about donor confidentiality. We also expressed concern about ED's uncooperative approach to what should be a working partnership. We urged ED to reconsider its approach and to engage in normal rulemaking to clarify the reporting requirements under Section 117.

A panel at the COGR meeting discussed Sec. 117. On the rebuttal presumption, the suggestion was made to have documentation to rebut the presumption. In-kind gifts are reportable, so there is a need to track and value such gifts. There was discussion of when gifts or bequests should be reported that exceed the $250,000 threshold but are payable over time. The consensus is that the full value should be reported when received. However, there was not clear agreement on the reporting of multiyear contracts where the funds are obligated over time. Some seemed to feel that the reportable event occurs when the contract is executed. Others pointed to situations where payments may be contingent (e.g. depending on clinical trial enrollments) as requiring reporting only when the funds are received. Institutions should develop reporting protocols, document their assumptions and decision points for reporting, and pressure test the system. The distinction between what is required to be reported in response to an investigation and normal compliance reporting also was highlighted.

The next challenge will be the ED rulemaking on the "true copies" submission requirement. In the commentary accompanying the revised information collection request, ED asserts it has the authority to collect this information for enforcement purposes. This raises concerns similar to the donor confidentiality concerns but also logistic concerns with the volume of information that must be submitted. We expect to join with the other associations in engaging on this issue when the rulemaking is issued.

Huawei Equipment Restrictions

Sec. 889 of the FY'91 National Defense Authorization Act (NDAA; P.L. 115-232) contains prohibitions on procurement and use of telecommunications equipment or services provided by Huawei, ZTE and a number of other companies and their subsidiaries. There are two basic prohibitions. One involves procuring such equipment or services from these sources with government funds, including through the use of grant funds (889(a) and (b)). The other is a prohibition on contracting with an entity that uses such equipment or services "as a substantial or essential component" of any system. A FAR clause is under development to implement the prohibitions.

An obvious question is what constitutes a "substantial or essential component." The FAR clause may provide some clarification. Institutions might consider scanning their networks to identify equipment that might fall under the prohibition. There may be issues with components embedded within larger pieces of equipment. Institutions could have a significant amount of equipment that potentially might be affected by the prohibition.

(Note: the draft Uniform Guidance includes the prohibition (2 CFR 200.216) on buying such equipment with grant funds, but does not include the use prohibition, which is potentially more far reaching. It is entity based, and could adversely affect any entity that is determined to have met the "substantial or essential component" criteria).

DOE Order 142.3A Clarification

The February Update discussed the Limited Change to DOE Order 142.3A in December, 2019 that removed the exemption for grant-funded research from the requirement for DOE approval of foreign national access to DOE information, technologies, or equipment. The exemption applied to research at institutions of higher education funded by certain DOE components where the results were to be published. We noted that discussions with DOE Office of Science officials indicated that they had not intended this exemption to be removed. A further complication is the reorganization of the DOE components for whom the exemption had applied.

Further discussions suggest a disconnect between DOE headquarters management who continue to state that the exemption applies and contracting officers who are following the Limited Change guidance. OSTP recently advised us that based on their discussions with DOE a supplement will be issued clarifying the scope of the Limited Change. Presumably the supplement will clarify that foreign national approval will not be required for DOE-funded fundamental research projects performed at universities where there is no access to DOE laboratories or facilities. The situation has become urgent, since some COGR member institutions have reported that they are withholding approval of contracts pending clarification. We will continue to pursue the issue, and plan to discuss it directly with DOE management.

Costing and Financial Compliance

Proposed Revisions to the Uniform Guidance – 2 CFR Part 200 (UPDATE)

A COGR Workgroup of 15 individuals has been developing the COGR response to the Proposed Revisions to 2 CFR Part 200 (i.e., the Uniform Guidance). This represents an update to the current version of 2 CFR Part 200, which was made effective December 26, 2014. ***Comments are due Monday, March 23, 2020 and can be submitted by accessing the first link above (COGR and seven other higher education associations requested a 30-day extension – however, the request was denied).***

Gilbert Tran and Nicole Waldeck from the OMB Office of Federal Financial Management and Jean Feldman from the National Science Foundation presented an overview of the proposed revisions at the February COGR meeting. As shared during the session, OMB has framed the revisions to align with OMB's Results-Oriented Accountability for Grants, as specified in the President's Management Agenda (March 20, 2018). In addition, the revisions incorporate both statutory changes and updates that should reduce administrative burden.

The COGR Workgroup is addressing the topics below (and additional topics as determined by the Workgroup, plus suggestions from the membership). Note, and as encouraged by Jean Feldman, on those topics where a "Thank You" is warranted, we will express our gratitude and the importance of the proposed revision.

- Micro-purchase threshold clarity (200.319) – "Thank you" and critical review
- Close out period extended, 120 days (200.343) – "Thank you" and critical review
- Subrecipient monitoring improvements (200.331) – "Thank you" and critical review
- Agency definition of program goals and objectives (200.202) – Critical review
- Budget Period emphasis vs. Period of Performance (throughout UG) – Critical review
- Impact on Pre-award costs and Publication costs (200.458, 200.461) – Critical review
- Termination of an award (200.339) – Critical review
- Prohibition on use of certain equipment, FY2019 NDAA (200.216) – Critical review
- Prohibition on non-binding guidance (200.211) – Critical review
- DS-2 approval process (200.419) – "Thank you" and critical review
- F&A: Posting Rate Agreements, 1.3% UCA, Timely Negotiations (200.110, App. III) – Critical review
- Codification of FAQs (e.g., 200.101 - must/should, 200.414 - deminimis rate) – Critical review *

(* - if additional FAQs-July 2017 version should be codified, these should be suggested)

For those interested, COGR has created a new page titled "2 CFR 200 (Uniform Guidance)." On that page we provide the "track changes" version of the Proposed Revisions, the July 2017 FAQS, as well as documents tracing the history of and issues covered in COGR's engagement with OMB on the Uniform Guidance over the past ten years.

Additionally, we shared an initial draft version on the listserv on Thursday, March 19 and a closer-to-final draft on Saturday, March 21. COGR member institutions are welcome to use the DRAFT version to craft institution-specific responses. Finally, as you review the proposed revisions, please contact David Kennedy at dkennedy@cogr.edu if you have questions, concerns, or ideas that could be helpful to the COGR Response.

HHS/NIH G-Accounts and Reconciliation (UPDATE)

We have reported on this topic since June 2019 and provided an update during the Friday Committee Reports at COGR meetings. COGR's core priorities have been to protect institutions at risk of having non-reconciled G-accounts unilaterally closed and, in the case where there are alleged deficits, ensure these deficit amounts are not sent to collections. COGR and nine member institutions conferenced with Dan Long, Director of the Payment Management System (PMS), last June, and Mr. Long committed to: 1) slowing down the collection process, 2) working with institutions collaboratively to determine the fair deficit/surplus amount, and 3) providing a letter to institutions that have been affected that ensures deficit amounts will not be sent to collections. Institutions were invited to contact Mr. Long and his colleagues at PMS directly to provide support and work to address their unique situations.

In fall 2019, COGR conferenced with representatives from the HHS Grants Policy Office***. In that call, HHS representatives assured COGR that G-account deficit balances at the pooled account level would not move to collections.*** We agreed that that the reconciliation process may be a time-consuming process, and we were assured that institution accounts at the pooled account level would not go to debt collection.

In a follow-up call in January 2020, COGR spoke with HHS representatives Alice Bettencourt (the new Deputy Assistant Secretary, HHS Office of Grants) and Richard Brundage (Acting Director, Division of Grants Policy,

Oversight, and Evaluation) for a status update. ***Ms. Bettencourt and Mr. Brundage shared with COGR that HHS/PMS are undertaking an initiative to close all pooled G-accounts.*** Over the next couple of months, HHS/PMS will close pooled G-accounts and may move grants for which funds still remain available in the pool, for payment, into subaccounts. HHS awarding agencies will reach out to recipients should there be any required action on the part of the institution***. C****onsequently, we encourage institutions to proactively reach out to HHS Policy Office, PMS, and the HHS awarding agencies if you are uncertain on the status of your institution.***

We appreciate that closing the G-accounts is a complex process for all parties, especially when there are legacy projects that date back more than a decade (and in some cases, even further!). In the context of that complexity, COGR's commitment to its members is to continue to facilitate and advocate for a fair process. Please contact David Kennedy at COGR at dkennedy@cogr.edu if your institution has concerns.

Cloud Computing, MTDC, and F&A Application (UPDATE)

Jeff Silber from Cornell and David Kennedy from COGR provided an update at the COGR Meeting on a "Considerations" paper being developed by the Costing and Financial Compliance Committee (CFC). The presentation is available to the membership here. We have deliberated the treatment of cloud computing for F&A purposes over the past five years. COGR's position, generally, has been to not take a position, partly because to advance a particular policy position might be inconsistent with how some COGR member institutions view this issue. However, as cloud computing use increases, CFC has decided to craft the "Considerations" paper. ***We also have initiated a short Cloud Computing survey, and if you are interested in participating in the survey, please contact David Kennedy at dkennedy@cogr.edu.***

2020 Compliance Supplement – DRAFT VERSION AVAILABLE (REMINDER)

COGR has been notified that parts of the Draft Version of the 2020 Compliance Supplement (CS) are available. Note, the final version of the 2019 CS was released in August 2019 and is available on the OMB Office of Federal Financial Management home page (see 3rd link under "Resources and Other Information"). When the 2019 CS was released last June, COGR raised several issues in a July 26th Comment Letter to OMB. While our issues were not addressed, we expect to provide comments applicable to the 2020 CS. ***If you are interested in helping with 2020 CS review process, please contact David Kennedy at dkennedy@cogr.edu.***

NSF and HHS OIG Workplans (REMINDER)

The NSF OIG Workplan is now available on the NSF OIG website. In addition, we encourage members to review both the Audit Reports (see External Reports link) released by the NSF OIG and the Management Responses to External Audits and Internal Reviews. This latter page shows the arguably more important NSF audit resolution results, which includes the resolution letter from the NSF Division of Institution & Award Support to the institution.

The HHS OIG approach has moved to a more real time, dynamic version of their workplan where the plan is updated regularly. If you go the HHS OIG Workplan website and click on "Active Work Plan Items" link (and then search on NIH), you can see the status of workplan items. We will follow NSF and HHS OIG activity and encourage you to contact COGR when relevant issues affect your institution.

Reducing Administrative Burden in Federal Research Grants to Universities (REMINDER)

Lisa Mosley (Yale), Jeremy Forsberg (Texas-Arlington), and David Ngo (The New School)—regular COGR contributors—authored the recently released report, Reducing Administrative Burden in Federal Research Grants to Universities. This report focuses on the financial and programmatic compliance requirements of managing grants at universities, with the understanding that at a foundational level, the ethical conduct and integrity of conducting research is critical to the success of the U.S. research enterprise. However, the focus on procedural accountability is increasingly undermining the ability of academic researchers to focus their attention on conducting the research itself. We encourage COGR members to read the report, and as opportunities present themselves, advance those items of high priority to your institution.

Research Ethics & Compliance

Call for Nominations to the DHHS Human Fetal Tissue Research Ethics Advisory Board for FY20– Nominations Due March 21 (UPDATE)

In July 2019, NIH announced extensive new grant application requirements for proposing studies that use human fetal tissue from elective abortions. The new requirements call for all such applications selected for funding to undergo an additional review and approval by a specially formed Research Ethics Advisory Board. Health and Human Services recently published a Federal Register announcement seeking nominees for that Board. Nominations are due Saturday, March 21 (as confirmed by the NIH, Office of the Director). Secretary Azar will select the Board members.

Details about the formal charge to the Board and its composition are included in the announcement. The Board is expected to meet only once per federal fiscal year. The Board is likely to review as many applications as possible, as close to the end of the fiscal year as possible. This is necessary to make process awards by the end of the federal fiscal year (September 30).

COGR, along with many universities and associations, expressed deep concern regarding this DHHS's position on the issues on several occasions, including in our June 5th letter. Additional information on this topic can be found in the September 2019 Update and the June 2019 Meeting Report. COGR will continue to monitor this situation.

Clinical Trials – Comments Submitted (UPDATE)

The U.S. National Library of Medicine (NLM) issued a Notice seeking feedback on ways to modernize and improve ClinicalTrials.gov. The Notice requests feedback about proposed changes in website functionality and

the standards and information that awardees must submit through a web-based form. You may also attach a letter to provide one response to all of the questions. COGR submitted comments on March 12. Comments were due by Saturday, March 14 (as confirmed by the National Library of Medicine). COGR will continue to monitor this situation.

Nonprofit Funder and Research Institution Partnership (NFRI) Meeting POSTPONED (UPDATE)

Due to travel complications related to COVID-19, the in-person April 23 NFRI meeting will be postponed to a future date. However, a series of webinars will be presented that day to update the members on progress. All three teams will present, including representatives from:

- Streamlining administrative requirements
- Indirect costs/research project support costs, and
- Intellectual property and tech transfer.

More information about the April 23rd webinars may be found here. COGR will announce the new date for the in-person NFRI meeting as soon as it becomes available. Refunds will be given to any registration payments already made.

OSTP Summit on Research Reproducibility (UPDATE)

The Office of Science and Technology Policy (OSTP), in collaboration with other groups, held a half-day meeting on Friday, February 28 where representatives from several sectors of the research enterprise discussed openness of research results and research rigor and reproducibility. COGR member institutions were represented at the meeting by Naomi Schrag, the new Chair of the Research Ethics and Compliance Committee. OSTP reported the following highlights from the meeting.

- Research has its widest impact and is most trustworthy when its methodology and analysis are well-designed and the interpretation and reporting of results are clearly and transparently articulated.

- As stakeholders in the research endeavor, Federal agencies, academic institutions, philanthropic organizations, and publishers should work to ensure that the performance and reporting of the research that we fund, support, and communicate is consistent with this view of impact.
- The consistency and impact of research would be maximized by aligning our credit and reward systems, such as hiring and tenure and promotion processes, with rigorous, transparent, and open research practices.
- Federal agencies, academic institutions, philanthropic organizations, and publishers could enhance research rigor, integrity, openness, and transparency by actively aligning these systems and striving to coordinate policies and procedures.

The Open Research Funders Group reported more information about the meeting here.

FAA NPRM Regarding Remote Identification of Unmanned Aircraft Systems (NEW)

On February 27, COGR joined a number of other associations and institutions in a letter commenting on a Notice of Proposed Rulemaking for Remote Identification of Unmanned Aircraft Systems. The NPRM proposes to allow community-based organizations to petition for FAA Recognized Identification Areas (FRIAs), in which "the FAA is proposing to allow UAS to operate within visual line of sight and within certain defined geographic areas." A key request of the letter is to ask that universities also be able to request FRIAs. We will keep you updated on any developments.

Research Security and Intellectual Property

DOD Cybersecurity Maturity Model Certification (CMMC) (UPDATE)

The February Update discussed the draft Framework. There are 5 cybersecurity "maturity" levels, ranging from Basic (Level 1) to Advanced (Level 5). Each has a set of associated cybersecurity practices. Level 1 (Basic Cyber Hygiene) has 17 practices, equivalent to the FAR Basic Safeguarding Requirements (FAR 52.204—21). Level 5 has 171 practices, incorporating all practices from the lower levels (including all of the NIST SP 800-171 security requirements) plus an additional 15. DOD plans to phase the model in over the next 5 years, and eventually apply it to all DOD contracts. The requirements will be implemented through the DFARS 252.204—7012 clause. DOD plans to pilot the model with a small number (i.e.10) of large defense contractors starting later this year. DOD has indicated that the requirements may be implemented for "enclaves;" not necessarily the whole organization.

The COGR RSIP Committee met with EDUCAUSE representatives to discuss the model. A number of concerns were discussed. The Basic security level already is in effect for FAR contracts. All DOD contractors will be expected to achieve at least Level 1 certification. The 17 required security practices include limiting physical access to equipment and escorting visitors and monitoring visitor activity, among others. Currently only self-certification is required under the FAR. However, the third-party certification required by DOD may raise compliance issues. It is not clear how many institutions have achieved full compliance with these requirements

for government-funded fundamental research projects. There also has been some indication that DOD may consider extending the requirements to grants.

Compliance with higher security levels raises additional concerns. Level 3 (Good Cyber Hygiene) has 130 required practices. These include all NIST SP 800-171 requirements plus an additional 20 that "support good cyber hygiene." These will be required for contracts involving covered defense information. Even higher levels of security (e, g. NIST SP 800-171B; currently in draft) may be required in contracts where DOD determines the information may be of particular high value and/or of interest to nation state adversaries. Implementation of these levels of security requirements might be prohibitively expensive, even on an enclave basis. Institutions that accept the DFARS 252.204—7000 Disclosure of Information clause may be required to implement at least the Level 3 requirements with third party certification of compliance.

COGR and EDUCAUSE are reaching out to DOD to raise questions about the CMMC, particularly with regard to the implications for fundamental research. Even the Level 1 requirements raise serious concerns, given the open nature of fundamental research. By definition fundamental research information is not required to be protected, and the 7012 clause should not apply. It is not clear that DOD has considered these implications.

These concerns are of some urgency, given that DOD plans to pilot the model soon. While the pilot will involve large Defense Industrial Base contractors, it is possible that some projects may include fundamental research components that will flow down to universities. It is not clear what the consequences will be in such circumstances, and whether subcontractors would have to meet the same certification levels as the primes. While according to DOD the projected third-party certification costs for Level 1 is $5k, it does not include the actual

costs of implementation. We have raised these concerns with DOD Basic Research Office and suggested the need for a carveout or exemption for fundamental research. One approach might be to develop Procedures, Guidance and Information (PGI) provisions for the DFARS addressing fundamental research.

We currently are exploring different channels for raising these issues with other appropriate DOD officials. We understand DOD plans to conduct webinars on the CMMC. These could be vehicles for raising university questions and concerns. The DOD Basic Research Office also has contacted DOD acquisition officials about these issues. We will keep the COGR membership informed of developments.

Update on NIST iEdison and ROI Green Paper Implementation (UPDATE)

The February Update mentioned that COGR had submitted comments in response to the iEdison RFI. The RSIP Committee met with representatives of the NIST Technology Partnerships Office to discuss the status of iEdison as well as the implementation of the ROI Green Paper Findings.

Unfortunately, the transition of iEdison responsibility from NIH to NIST will be slower than expected. Apparently, the system is so interwoven with NIH requirements that a smooth transition will not be possible. NIH will continue to manage the system while NIST proceeds with a "ground up" rebuild. NIST plans to issue

shortly an RFI for the system rebuild. An award is planned for November, and a webinar also will be scheduled. NIST will establish an "agile development" user group as well as an ongoing stakeholder group (a COGR recommendation). Their goal is to have the new system up and running by 2022, with a program manager and dedicated funding. In the interim error messages, etc. will continue to be managed by NIH. However, NIH will have little incentive to continue to make improvements.

NIST is moving forward with revised Bayh-Dole regulations in furtherance of the ROI. The interagency review process has been protracted, and once the regulations go to OMB there will be another round of interagency review. NIST plans to issue a NPRM in April with a 60-day comment period. At this time NIST is not planning to submit a legislative package with any changes to Bayh-Dole (there will be a legislative package on the Stevenson-Wydler Act which mainly affects federal employees).

Most of the regulatory changes involve removing obsolete or explanatory language dating back to the original issuance of the regulations. There will be no changes to the standard patent rights clauses at 401.14. The march-in provisions at 401.6 may contain some changes. It was not clear from our discussion the extent of these changes, or whether the findings in the ROI Green Paper with regard to the government use license or U.S. manufacturing waivers will be addressed (the new iEdison system will incorporate manufacturing waiver requests). There apparently will be a clarification of the requirement to file a non-provisional patent application within 10 months of filing a provisional. This has proved troublesome for our institutions.

The Stevenson-Wydler changes will address joint inventions made with federal employees, allowing institutions to claim small entity filing status in such cases. It also will incorporate the Truman Executive Order presumption of rights to the government in federal employee inventions.

Contracts and Grants Administration

OSTP Request for Comment (RFC) on "Desirable Characteristics of Repositories for Managing and Sharing Data Resulting from Federally Funded Research" (Update)

Reported in the February 2020 COGR update, OSTP released a Federal Register notice on January 17 seeking comments on desirable characteristics of repositories for managing and sharing data due March 6, 2020. The call for comments aims to foster implementation of agency Public Access Plans that were developed in response to the 2013 White House Office of Science and Technology Policy (OSTP) memorandum entitled ''Increasing Access to the Results of Federally Funded Scientific Research.'' COGR and other associations requested an extension to the call for comments. OTSP granted the extension to March 17, 2020. In the FRN OSTP seeks to reduce burden for federally funded investigators, promote equal access and harmonize, to the extent possible, agency policies. OSTP set forth a non-exhaustive list of characteristics as a tool to be used for agencies and federally funded investigators, when identifying non-federal agency data repositories. The COGR response can be found here. For more information, contact Jackie Bendall at jbendall@cogr.edu.

OSTP Request for Information (RFI) on Public Access to Peer-Reviewed Scholarly Publications, Data and Code Resulting from Federally Funded Research (NEW)

OSTP released on February 19, 2020, an RFI on Public Access to Peer-reviewed Scholarly Publications, Data and Code Resulting from Federally Funded Research. Based on a request from COGR and other associations to extend the due date for comments, OSTP has extended the deadline to April 6, 2020. COGR anticipates responding to this request either independently or jointly with other associations. OSTP is interested in perspectives on several topics. To read more about the notice click here.

National Science Foundation (NSF) 2020 Proposal and Procedures Policy Guide (PAPPG) (UPDATE)

COGR reported in its February 2020 Update on the January 24 release of the NSF Proposal and Award Policies & Procedures Guide (PAPPG – NSF 20-1) effective for proposals submitted or due, and awards made, on or after June 1, 2020. The update included a non-exhaustive list of changes to the PAPPG, most notably concerning the section on Current and Pending Support. On February 6, 2020, NSF hosted a PAPPG Webinar that provided additional information and gave viewers the chance to submit questions. After the webinar, NSF released a set of FAQs addressing several of the questions that viewers asked. One important FAQ pertains to in-kind contributions to the Current and Pending Support section of the proposal application: "If the in-kind contributions not intended for use on the project/proposal being proposed to NSF but they **have associated time-commitment,** the information must be included as part of the Current and Pending Support section of the proposal" [emphasis added].

In addition, NSF is engaging with grants.gov for a fillable template for Current and Pending support. NIH is working with the National Library of Medicine and the National Center for Biotechnology Information (NCBI) to develop the template itself. Stay tuned for additional information.

NIH Uniform Guidance (UG) Discussion with Michelle Bulls (UPDATE)

The Contract and Grants Administration (CGA) Committee and the Costing and Financial Compliance (CFC) Committee hosted Michelle Bulls on Wednesday afternoon, prior to the general membership meeting on Thursday. During this informal question and answer session, Committee members were able to ask questions about revisions to and clarifications of the UG.

One of the concerns expressed is that the proposed revisions to 2 CFR 200 allow for termination of an award at the end of a budget period, i.e., the period of incremental funding, not just for performance issues, but also at an agency's discretion. Another consequence of the revisions is that NH may consider awarding multiple years at a time. However, they may be limited to 3-year awards, with the possibility of a transitional fourth year. One potential (unintended) consequence is that an agency would have the discretion to terminate an award based on shifting priorities.

Another issue that was discussed is that 200.202, Planning and Design, Funding Opportunity Announcements (FOAs), requires the inclusion of performance goals and indicators. These goals and indicators appear to be

required at the Catalog of Federal Domestic Assistance (CFDA) level. However, there are differences between outcomes for health-based programs versus financial assistance awards for research, for which outcomes are harder to describe up front. The observation was made that acquisition and grants seem to be getting blurred. Contact Jackie Bendall at jbendall@cogr.edu for additional information.

SciENcv Rollout (UPDATE)

The CGA Committee hosted members from NSF, NIH and ORCID to discuss the new approved NSF and NIH format for submitting Biosketches. SciENcv started as a Federal Demonstration Partnership (FDP) project to produce a method for capturing information required for a Biosketch across all federal agencies. ORCID, a non-profit organization, connects researchers to their contributions through the creation of a unique identifier that researchers can use throughout their entire careers. Registration for the unique identifier is free of charge. Although SciENcv is not mandatory at this time for NSF, it will be mandatory for proposals submitted or due on or after June 1, 2020. NSF encourages investigators to obtain an ORCiD ID and to test SciENcv prior to implementation. NIH has not mandated the use of SciENcv at this time. Applicants applying to NSF must use one of the two formats available, an NSF fillable format or SciENcv. SciENcv will produce an NSF-compliant PDF version of the Current and Pending information. Applicants must save this document and upload as part of their proposals via FastLane, Research.gov or Grants.gov for each submission.

Safe and Inclusive Research Environments (SIRE) (UPDATE)

The CGA Committee invited Tracie Lattimore from OSTP to give a briefing on the SIRE subcommittee, part of the cross-agency JCORE initiative that OSTP is leading. CGA asked about the plans for monitoring and evaluating the impact of policy actions. The subcommittee is in the process of performing an inter-agency policy analysis, including an analysis of the potential burden of new requirement on institutions and agencies. Tracie

discussed the need for a shift in the existing culture and the importance of institutional engagement. Currently OSTP is reviewing about 100 responses to its request for comments late last year, of which about 60 were on this topic. Sixteen federal agencies are currently part of subcommittee and others are asking to join. In response to a question about how COGR can be helpful, Tracie suggested feedback on what's working and what's not, feedback on burden levels, and information on agency-specific issues, if any. OSTP plans to host either late spring or early summer, a SIRE summit. Contact Jackie Bendall at jbendall@cogr.edu for additional information.

EPA Supplemental Notice of Proposed Rulemaking to Strengthening Transparency in Regulatory Science Proposed Rule (UPDATE)

On July 20, 2018, COGR along with AAU, APLU, and AAMC responded to EPA's proposed rule to "Strengthening Transparency in Regulatory Science." Of grave concern is the stance EPA proposes when considering rulemaking activities, i.e. only relying the studies for which the data are publicly available. We noted in our letter that there are legitimate, reasonable, and ethical reasons (e.g., privacy data, CUI data, proprietary information, etc.) that scientific data may not be made available to the public and that this should not prevent important underlying data and findings to be available for use in EPA rulemaking. Click here for the letter. EPA

received over 600,000 comments during the open comment period. COGR and other associations will continue to push back on the supplemental guidance. Stay tuned for additional updates.

NASA Final Notice on New Term and Condition Regarding Sexual Harassment, Other Forms of Harassment, and Sexual Assault (UPDATE)

NASA posted its final notice on reporting requirements regarding sexual harassment, other forms of harassment, and sexual assault to the Federal Register on March 10. COGR and other associations submitted a joint comment letter to NASA on August 16, 2019. Public comments received in response to the July 17, 2019 notice are included in the final notice. NASA has aligned itself with NSF on a number of areas COGR commented on in its letter, including the time frame for reporting findings and determinations regarding a PI or and Co-I. NASA has revised the reporting requirement to allow recipients 10 business days to report from the date of a finding/determination, the date of the placement of a Co-I on leave or the imposition of another administrative action. COGR notes that one difference in the reporting requirements from NASA is that the recipient must also provide: A description of the finding/determination and action(s) taken, if any; and/or **t**he reason(s) for, and conditions of placement of the PI or any Co-I on administrative action or administrative leave.

More information is expected to be made available in a possible NASA summit on diversity, equity and inclusion summit. Contact Jackie Bendall at jbendall@cogr.edu for additional information.

COGR would like to thank COGR Board Chair Pamela Webb, University of Minnesota, and the COGR Committee members for their time, dedication, and expertise without which the efforts and activities conveyed in these updates would not be possible.

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