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Announcements

COGR Announces Matt Owens as Incoming COGR President

On January 4, COGR announced[1] Matt Owens as the next President of COGR. Matt is currently the Executive Vice President and Vice President for Federal Relations at the Association of American Universities (AAU). Matt has served in a multitude of leadership roles during his 20-year career at AAU and on various committees, and has testified before Congress on matters of importance to higher education. Matt succeeds Wendy Streitz whose upcoming retirement after 20 years of service to COGR, including four as President, was announced in August.

Read the full announcement here.

February 28-March 3 Virtual COGR Meeting: Registration Still Open

Registration COGR's February 28-March 3 Virtual Meeting is still open[2] and the agenda is available on the Meeting Materials page. If your institution will be registering five or more individuals, please contact memberservices@cogr.edu for a special promo code which will deduct $50 from each registration. Zoom links will be sent to all registered attendees by Monday, February 27, and again one day and one hour prior to each session.

As part of this meeting, we'll be hosting a "Meet & Greet with COGR Leadership" on Tuesday, February 28 at 4 pm ET, led by COGR Board of Directors Jeffrey Silber and COGR President Wendy Streitz. In this session attendees will learn more about COGR and hear from COGR's Incoming President Matt Owens. This session is ideal for new attendees, as well as those that generally attend virtual COGR events but have not yet had the opportunity to attend a similar session in-person.

Please contact memberservices@cogr.edu if you have questions on the meeting.

Reminder: COGR Board Nominations Due March 10

On January 10, COGR opened the 2023 Call for Nominations for the COGR Board of Directors[3]. Successful candidates will have a broad view of the research enterprise, and the Nominating Committee will consider program needs, public/private balance, regional distribution, and a diversity of expertise. ***In addition to individuals responsible for the broad research enterprise, there is currently a need for expertise in areas of costing and intellectual property, though other areas of expertise are helpful as well.*** Board members are appointed to three-year terms, which may be renewed once, to a maximum of

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[1] *Via the COGR listserv*
[2] *COGR Member Portal log in required. If you do not already have access to the COGR Member Portal, sign up here: https://www.cogr.edu/cogr-portal-log-and-account-creation*
[3] *As sent to the COGR listserv on January 10, 2023.*

six years of service. The present call for nominations seeks to fill positions that will be effective August 1, 2023. For more information on required qualifications, selection criteria, and what should be included in the application, click here. Application packages should be received by COGR no later than March 10 and may be emailed to memberservices@cogr.edu.

Save the Date: COGR's 75th Anniversary in Washington D.C. October 26, 2023

Later this year, COGR will be celebrating its 75th anniversary during its October 26-27, 2023, meeting in Washington, D.C. Beginning as a standing committee within the National Association of College and University Business Officers (NACUBO), COGR began operating as an independent organization in 1994 and today has a membership of over 200 of the most research-intensive institutions in the U.S. More details to come as we get closer, but for now, save the date!

NIH Data Management and Sharing Policy: Cross Cutting

NIH Data Management & Sharing Policy Is Now Live (NEW)

The NIH Data Management & Sharing (DMS) Policy went live on January 25th. All funding proposals subject to the new policy must include a data plan and be in compliance with other requirements of the new policy. COGR has developed a Resource Page on NIH Data Management and Sharing to support the membership and also will continue advocacy efforts to address the issues and concerns of the COGR membership. The sections that follow describe these COGR efforts to date. In addition, the FDP has initiated a pilot to address a number of aspects of the new DMS policy, and as appropriate, COGR will engage with the FDP and provide support during the pilot.

As a reminder, NIH maintains a Scientific Data Sharing site with many resources and materials, including FAQs that address budget/costs.

At the upcoming Virtual COGR Meeting (February 28 - March 1), we expect to provide a short update on the implementation of the new DMS policy during the Committee Reports & Hot Topics session on Friday, March 3rd. In addition, if you have questions on any issues related to the new DMS policy, please reach out to Krystal Toups at ktoups@cogr.edu.

COGR Review of the NIH Policy: Budgeting and Costing Focus (NEW)

On December 19th, COGR updated the NIH Data Management and Sharing Readiness Guide, releasing Chapter 4 Part I: *COGR Review of the Final NIH Policy for Data Management and Sharing: Budgeting and Costing*. This review identified implementation challenges related to budgeting, costing considerations, and other topics of concern, which could affect both central administration and PIs/researchers. COGR shared this document with leaders at NIH. We also are aware that the FDP pilot will identify and document some of the issues raised in the COGR document. COGR will stay connected to the issues raised in the COGR Review, as well to other issues that arise and will keep the membership updated on all developments.

Chapter 4 Part II - Budgeting and Costing: Institutional Considerations document will be released within the coming week. This document identifies budgeting and costing considerations for institutions preparing proposals subject to the new DMS policy, addressing topics related to identifying, budgeting, and reviewing DMS costs. This document includes an illustration of the single line-item budget issue and presents approaches to identify and quantify DMS costs. The document will be published in COGR Readiness Guide Chapter 4 - Budgeting and Costing.

NIH Data Management and Sharing Policy Readiness Webinar Recording (NEW)

On January 17, 2023, COGR hosted Michelle Bulls, NIH Director for the Office of Policy for Extramural Research Administration (OPERA) to discuss NIH's implementation of the new DMS policy. NIH discussed efforts to reduce administrative burden through a two-phase FDP DMS Demonstration Pilot. Phase I focuses on piloting two DMS plan templates and Phase II will address costing policies for DMS. During the webinar COGR provided a summary of *COGR's Review of the Final NIH Policy for Data Management and Sharing: Budgeting and Costing* as noted above. The webinar also provided extended time for Q&A. The recording of the webinar and slides are located on COGR's website.

For additional information and past webinars, visit COGR Meeting Materials Page: NIH DSMP.

Cost Impact: NIH Data Management & Sharing Policy Survey (UPDATE)

We are currently doing the data analysis on the *Cost Impact: NIH Data Management & Sharing Policy Survey*. Thirty-four institutions completed the survey, and we are thankful for your participation! We presented initial findings during the Data Management & Sharing Panel session at the October 2022 COGR meeting and additional results at the recent January 17th webinar. While we are still finalizing our analysis, we can confidently claim that:

- there will be significant administrative and cost impact for Pre-Award, IT, Campus Libraries, Academic Department Administration, Researchers, PIs, and Graduate Students;
- the cost burden will exceed $1 million per year for many institutions; and
- smaller and emerging research institutions will experience a disproportionate level of administrative and cost impact.

If you have questions on the survey, please reach out to David Kennedy at dkennedy@cogr.edu. We expect to release a final report in March.

Implications of NIH DMS Requirements for Tech Transfer (NEW)

COGR has discussed the DMS requirements extensively in recent Updates and provided materials on its website as well as holding a recent webinar[4]. One aspect of the DMS requirements that needs further

[4] *See COGR's Resource Page on NIH Data Management and Sharing: https://www.cogr.edu/nih-data-management-and-sharing*

consideration is the potential impact on patentability of inventions and technology transfer at institutions. The timing of the requirement to share data in advance of publication is a particular concern. Sharing unpublished research data through a repository may constitute a public disclosure that could be considered as prior art with respect to a later-filed patent application covering an invention to which the data pertains. Similar issues arise with regard to potential commercialization of data sets (genomic sequences, chemical structures, etc.).

Since the requirement for DMS plans was effective only on January 25, it may be some time before the impacts become clearer. Institutions may want to consider alerting researchers to the potential impacts and suggest consultation with the Tech Transfer Office prior to submitting plans or sharing the data.

2 CFR 200 "Uniform Guidance": Cross Cutting Issues

OMB Request for Information: Updating 2 CFR 200, aka "The Uniform Guidance" (NEW)

On February 9[5], OMB released a Request for Information to inform upcoming proposed revisions to 2 CFR 200, i.e., "the Uniform Guidance." Also under consideration is Universal Identifier and Systems for Award Management (Chapter 1 Part 25) and Reporting Subaward and Executive Compensation Information (Chapter 1 Part 170). OMB expects to release these proposed revisions sometime in 2023, with a final update to the Uniform Guidance scheduled to be released in December 2023. The original version of the Uniform Guidance was published in December 2014 and the next version, with limited revisions, was published in August 2020[6]. OMB has structured the RFI to invite a broad scope of suggestions from the grantee community and other stakeholders with the four following questions:

1. What specific section(s) of 2 CFR would benefit from revision in order to support the goal of reducing administrative burden?
2. What specific section(s) of 2 CFR have been interpreted differently by Federal agencies and recipients leading to inconsistent implementation of Federal financial assistance?
3. What specific section(s) of 2 CFR would benefit from improved clarity or more precise language?
4. What specific suggestions do you have for otherwise improving the language of 2 CFR (*e.g.,* consistent use of terms, other suggested edits)?

Comments to the RFI are due Monday, March 13th, and should be submitted through regulations.gov. COGR will respond. We will speak to the RFI in more detail at the upcoming 2023 February-March COGR Meeting during the Costing Hot Topics session on Wednesday, March 1st.

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[5] *COGR first notified the membership of the RFI posted to Public Inspection on February 8th via the COGR News Digest.*

[6] *See COGR Uniform Guidance Readiness Guide, published November 2020: https://www.cogr.edu/sites/default/files/UG%20Readiness%20111720%20Final_0.pdf*

Uniform Guidance Resource Page and Membership Participation

In regard to the OMB RFI, we encourage you to submit "institution-specific" comments on issues that are of the particular importance to your institution. At the same time, COGR's comment letter will be on behalf of the entire membership and will advocate for revisions that will be important for the entire research community. If there is an issue that is important to your institution, we welcome you to share it with COGR, and as appropriate, we can include it in the COGR comment letter.

Also note, we have developed a Uniform Guidance Resource Page. This page includes links to past COGR comment letters and other resources applicable to prior correspondences around the Uniform Guidance. In fact, our first engagement with this issue was in 2011, when, under the auspices of an NIH RFI, COGR provided comments to the "A-21 Task Force" to address OMB Circular A-21! As COGR develops the comment letter to the OMB RFI, we welcome all input and ask that you direct feedback to Krystal Toups at ktoups@cogr.edu and David Kennedy at dkennedy@cogr.edu.

Science & Security: Cross Cutting

NSPM-33 and CHIPS & Science Act Research Security Provisions (UPDATES)

COGR staff and NSF's Rebecca Keiser provided the ABA Grants Law Committee with updates on government and institutional efforts concerning research security. Dr. Keiser provided the following updates regarding NSPM-33 implementation and the CHIPS and Science Act:

- **Proposed Disclosure Forms** – NSF received many comments concerning the proposed forms and is working with OSTP to address them. Agency stakeholders met to address the timetable for putting out the next iteration of the forms, which will be published in the Federal Register with a 30-day comment period. After this second comment period, the disclosure forms will go to agencies for implementation. Dr. Keiser was unable to provide specific dates for these events, but she noted that the implementation of the forms is OSTP's main priority.

- **Research Security Project Standards** – Dr. Keiser advised that NSF and OSTP are in coordination with OMB with respect to issuing a Request for Information to collect public comments on the proposed NSPM-33 research security program standards. She was unable to provide a specific date for this publication, but she noted that providing these standards is OSTP's second priority, after publication of the disclosure forms.

- **Information Sharing Organization** – Dr. Keiser also mentioned that OSTP's research security subcommittee is actively discussing the research security information sharing organization (ISO) contemplated under the CHIPS and Science Act. A "Dear Colleague

Letter" will be issued to request comments and white papers on what the ISO should look like, functions, etc.

Research Security Provisions in the James M Inhofe National Defense Authorization Act for Fiscal Year 2023 (2023 NDAA) (NEW)

The 2023 NDAA contained several provisions aimed at countering threats from China and bolstering the scientific and technological capacities of the U.S. Provisions of particular interest to academic research institutions are as follows:

- **Secs. 222 & 223**: The Department of Defense (DOD) will establish a pilot program to provide support to select HBCUs and other minority serving institutions to foster continuing development as top-tier research institutes.

- **Sec. 872**: In the November 2022 Update, COGR detailed SBIR/STTR "Foreign Risk Management" provisions set forth in the SBIR/STTR Extension Act of 2022 (S. 4900). Under these provisions small businesses that apply under the SBIR/STTR program are required to disclose "the identity of all owners and covered individuals… who are a party to any foreign talent recruitment program of any foreign county of concern," including China. Section 872 amends this provision by deleting the words "of concern" and requiring this disclosure for any foreign country.

- **Sec. 1258**: The Secretary of DOD and the Director of National Intelligence "shall identify each entity that is an institution of higher education domiciled in the People's Republic of China that provides support to the People's Liberation Army," and report to Congress with a list of such institutions by Sept. 30, 2023, and annually thereafter for next 5 years. The list will have classified and unclassified components, and the unclassified portion of list will be published in Federal Register.

- **Sec. 6503**: A working group composed of representatives from intelligence services will analyze China's economic and technological capabilities including China's efforts to recruit foreign talent and acquire U.S. technology.

Associations Response to Department of Education Section 117 ICR (UPDATE)

On December 27, the Department of Education (ED) published a revised Information Collection Request (ICR) for foreign gift and contract reporting including a revised rule (20 USC 111f), a revised reporting instrument, and a Supporting Statement.

The concerns of COGR and other higher ed. associations over ED activities in recent years related to Section 117 reporting have been extensively discussed in COGR Updates and Meeting Reports (e.g., see

COGR September 2022 and June 2020 Updates). In November 2019, ACE, on behalf of 30 higher ed. Associations, submitted extensive comments on a substantially expanded Information Collection request proposed by ED. COGR did not join in the ACE letter. Instead, we submitted our own comment letter mostly focused on objections to the "true copies" uploading requirement (see October 2019 Meeting Report; the true copies submission requirement ultimately never was implemented).

COGR is participating in a joint association working group led by ACE to develop a response to the new ICR. The main change is to transfer responsibilities for Section 117 reporting from the ED Office of General Counsel (OGC) to the Federal Student Aid (FSA) office, where the responsibility formerly resided. This confirms a change that ED had discussed in a webinar last year (see COGR June 2022 Update). Another change is a confirmation in the revised reporting instrument that "contracts involving purchases by institutions from foreign sources are generally not reportable so long as they are arms-length, fair market value transactions." ED over time has issued confusing messages on the reporting of "money out" contracts. Both the transfer of 117 responsibilities and the money out clarification appear to be positive developments.

However, a large number of concerns identified in the November 2019 ACE letter remain unresolved. These include reporting of gifts and contracts to "intermediaries" of institutions of higher education; the requirement to report names and addresses of anonymous gift donors; confusion over the requirement to report tuition payments by foreign sources; continuing issues with the ED Partner Enterprise Business Collaboration (PEBC) reporting portal; and sanctions for reporting violations. There also are concerns that the ED ICR vastly underestimates the administrative and cost burden resulting from the 117 reporting requirements.

Not all of these issues relate directly to COGR's areas of focus. However, we fully share the concerns about the reporting portal and burden estimates. Also, the Supporting Statement states: "(the CHIPS and Science Act) recently imposed a requirement that NSF request certain disclosures from institutions of higher education of the current financial support received from a foreign source associated with a foreign country of concern. The Department is aware of this NSF requirement, which appears to seek similar information to the proposed information collection, and the potential for duplication from the perspective of an institution of higher education."

In fact, the new requirement for institutions receiving NSF funding to submit "summaries" of foreign gifts at $50K or above to NSF clearly will result in some duplication. The comments will address the need for ED and NSF to coordinate on these similar reporting requirements and work with stakeholders to conform definitions and reduce administrative burdens. We understand that NSF has stated that it does not intend to use ED's PEBC portal and will seek to develop a more "user friendly" system. Over time, hopefully Section 117 reporting may migrate to the new NSF system.

Comments are due February 27. We hope to have a draft available a week in advance for member institutions to consider submitting their own comments.

New CMMC and CUI Requirements Expected (NEW)

We've been following and reporting on developments with regard to the DOD Cybersecurity Maturity Model Certification (CMMC) program (e.g., see COGR May 2022 Update). Developments are continuing with regard both to CMMC and requirements for Controlled Unclassified Information (CUI). The landscape is becoming increasingly complicated.

In recent meetings and webinars DOD has stressed that contracts that include the DFARs 252.204-7012 Safeguarding clause for CUI (Controlled Defense Information (CDI) in DOD parlance) require compliance with the 110 cybersecurity requirements included in the National Institute for Standards and Technology (NIST) Special Publication (SP) 800-171 (see COGR October 2017 Meeting Report). The pending CMMC rule will provide another means of enforcing the requirement, with required 3rd party compliance assessments (self-assessments currently are required). That rule is expected to be issued this spring, with a likely 2024 implementation. NIST has indicated plans to update the 800-171 standards, with publication also expected this spring. The Department of Homeland Security (DHS) is expected to release a final rule with new requirements for handling CUI and reporting cyber incidents shortly. The long-delayed FAR CUI clause was sent to OMB/OIRA last summer. Questions raised in the OIRA review currently are being addressed. The FY22 National Defense Authorization Act requires clarification of the definition of CUI, which also is expected later this year. And as a reminder, the cybersecurity requirements in the NSPM-33 implementation guidance include compliance with 12 of the 15 requirements of the FAR 52.204-21 *Basic Safeguarding of Covered Contractor Information Systems* and two additional requirements.

A question is whether organizations handling CUI should seek a third-party assessment now under the DoD joint surveillance voluntary program. DoD previously announced that companies who receive a CMMC certification prior to the update to NIST SP 800-171 will only need to meet the requirements in the current standard. The intent is for the certification to be good for three years once the rule becomes final. However, there are a limited number of certified assessors currently. In addition, given the anticipated changes in NIST 800-171 and the pending new CMMC rule, advocating for institutions to have 3rd party assessments performed at this time seems questionable.

As federal agencies continue rulemaking around cybersecurity and CUI standards, we may see a confluence of federal requirements in the 2023 timeframe with expectations for implementation sometime in 2024. Assuring consistency among these requirements may be a challenge. Institutions will need to be prepared to implement at least 12 of the FAR 52.204-21 requirements across all federal awards and contracts, including fundamental research awards. DOD informally has advised COGR that CMMC is not intended to cover fundamental research (basic (Level 1) CMMC requirements include additional practices not included in the NSPM-33 implementation). We will need to see if the upcoming DOD CMMC rule addresses this.

Confucius Institutes Report and Survey (NEW)

NASEM Report on DOD Waiver Criteria for Institutions with Confucius Institutes (NEW)

The National Academies of Sciences, Engineering, and Medicine (NASEM) has released a preliminary report recommending criteria that the Department of Defense (DOD) should consider in developing a waiver process to potentially allow U.S. institutions of higher education to receive DoD funding while hosting a Confucius Institute (CI). The study is in response to the 2021 NDAA provision barring those institutions that house CIs from receiving DOD funding. The committee found that while CIs do pose risks to academic freedom, freedom of expression and to national security, those risks are manageable if proposed criteria are met. The criteria include:

1. The CI is a formally established center or institute at the host institution, subject to normal institutional governance policies and procedures.
2. The host institution must demonstrate the ability to comply with applicable DOD requirements for research security, including information, data, and physical security.
3. The host institution should ensure that no agreements related to the CI include the application of foreign law to operations on U.S. campuses.
4. The host institution should provide fiduciary and financial oversight of the CI.

Only 7 CIs remained open in the U.S. at the time of the report. A second report from the study is planned for release in the summer of 2023. This final report will more broadly explore foreign-funded partnerships to support programming in foreign languages and culture at U.S. Institutions.

GAO Survey on Confucius Institutes (NEW)

The U.S. Government Accountability Office (GAO) is conducting a survey of institutions that previously hosted or continue to host a Confucius Institute (CI). This survey is being conducted on behalf of Congress as part of a larger study that will result in a publicly available report that will describe the perspectives of U.S. colleges and universities regarding CIs. GAO will be sending the survey to about 100 institutions of higher education that host or have hosted a CI in recent years. The person who answers the survey will need to be able to answer, or work with colleagues to obtain answers to a series of questions on CI operations, funding, risks, and benefits.

Responses were due to GAO by January 25, 2023.

NASEM NSDD-189 Discussion (NEW)

At NSF's request NASEM convened a panel of experts[7] to discuss NSDD-189 in the New Global Context on January 25-26. A focus was on whether NSDD-189 needs to be tailored to meet current geopolitical realities. A variety of perspectives was discussed as well as some of the background of NSDD-189. There was discussion of moving away from protection of specific technologies to protection of technology platforms, as recommended in a recent NASEM report (see COGR November 2022 Update). Workforce concerns also were discussed, as was more focus on research security by nations in Europe. There were no firm conclusions, although at the end NSF expressed the need for "proactive policy ideas." The meeting was recorded, but no further output is planned. We understand the Defense Science Board also may be reviewing NSDD-189.

Center for Research Security and Integrity Report on Research Collaborations (NEW)

The Center for Research Security and Integrity recently released a report on research collaborations between Germany and China focusing on assessing risks in the collaborations. The report found a large number of collaborations involving entities associated with the Chinese military. Many also involved U.S. collaborators, some of whom received research funding from USG agencies, including DOE and NSF. The report found that despite recent "crucial efforts to bolster policies and guidelines on research security, the PRC continues to exploit scientific research collaboration on an immense scale, and current oversight and research security regimes are wholly inadequate or impractical." The report concluded that "New redlines must be drawn that restrict scientific research collaborations with PRC entities based on assessed risk" and "… deficiencies and limitations of both governments and research institutions require a rethinking of roles and responsibilities concerning research security."

Research Security & Cost of Compliance: REPORT IS AVAILABLE (ONGOING)

COGR released the *Research Security and the Cost of Compliance, Phase I: Results from the Initial Phase of COGR's Survey on the Costs of Complying with Research Security Disclosure Requirements*[8] paper in November. Our primary finding is this:

> *The projected year one, average total cost per institution for compliance with the Disclosure Standards, regardless of institutional size, is significant and concerning. The figure ranges from an average of over $100,000 for smaller institutions to over $400,000 for mid-size and large institutions. Although some of these expenses are one-time costs, a sizeable portion will be annual recurring compliance costs. Overall, the cost impact to research institutions in year one is expected to exceed $50 million. Further, all research institutions will experience significant cost burden and*

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[7] *For background and the agenda, see: https://www.nationalacademies.org/event/01-25-2023/committee-on-science-engineering-medicine-and-public-policy-fundamental-research-openness-and-protecting-the-us-technological-advantage-nsdd-189-in-the-new-global-context-a-meeting-of-experts*

[8] *COGR's resource page on Science & Security can be found here: https://www.cogr.edu/cogrs-resource-page-science-and-security*

administrative stress, and smaller research institutions with less developed compliance infrastructure may be disproportionately affected.

We will continue to share the paper with various stakeholders, and we will keep the membership updated on all developments. If you have questions or concerns, please contact Kris West at kwest@cogr.edu or David Kennedy at dkennedy@cogr.edu.

Research Security & Intellectual Property (RSIP)

Many Committee activities related to Science & Security and NIH Data Management and Sharing are reported above under the Cross Cutting Issues sections of the COGR Update. Other items being followed by RSIP are covered below.

Bureau of Industry & Security (BIS) Identification of "At Risk" Institutions for Expanded Outreach (UDPATE)

The September Update discussed the new BIS Academic Outreach Initiative. As discussed, under this initiative BIS Export Enforcement will strategically prioritize academic research institutions with elevated risk profiles; assign Outreach Agents to those institutions to help prevent unauthorized exports and brief institutions as to security risks; and provide related training. In July we joined AAU, APLU and ACE in a communication to GAO requesting the list of at-risk universities that GAO had identified in its report on Export Enforcement. We never received a response.

In a recent AAU meeting, the BIS Assistant Secretary for Export Enforcement, Matthew Axelrod, disclosed that 20 institutions had been initially chosen for the expanded outreach. These were based on several factors including $500M+ overall research funding, significant DOD funding (including a UARC), and considerations related to collaborations with China. He implied that an additional group of institutions would be selected later. Since other institutions presumably also would meet the criteria, the basis for the selection still is not clear.

GAO Reviewing DOE's Domestic Manufacturing Waiver Requirements (UPDATE)

Recent COGR Updates have discussed DOE's strengthening of the Bayh-Dole Act domestic manufacturing requirements in its award terms (see COGR March and February 2022 Updates).

We understand that GAO has been requested by Reps. Rodgers and Barrasso to review the new DOE policies. We don't know what prompted the request, but the transfer of DOE-funded battery technology to China has been much in the news[9]. It should be noted that this did not involve a U.S. university and that the transfer of the manufacturing license to China was approved by DOE. However, the GAO review heightens the concern that the DOE requirements may spread beyond DOE. AUTM is conducting a survey of TTO Directors on their experiences with the waiver process.

[9] *See: https://www.npr.org/2022/08/03/1114964240/new-battery-technology-china-vanadium*

The "Invent Here, Make Here Act" was passed as part of this year's NDAA. The provision, co-sponsored by Sens. Baldwin (D-WI) and Portman (R-OH), was a direct response to the DOE battery technology transfer case. While it applies only to DHS programs, the plan is to expand it to other agencies[10].

The text of the Act duplicates existing requirements in the Bayh-Dole Act. It appears that Congress essentially re-enacted Bayh-Dole's domestic manufacturing provision. Since institutions already are subject to these requirements government-wide, further expansion to other agencies may not have further implications beyond existing requirements. It is possible that this could change if there are further changes in the Act's provisions. It also demonstrates the intense focus on and visibility of the domestic manufacturing issue.

Research Ethics & Compliance (REC)

Select Committee activities related to Science & Security are reported above under the Cross Cutting Issues section of the COGR Update. Other items being followed by REC are covered below.

Proposed Biosecurity Oversight Framework for the Future of Science (NEW)

In January, two working groups of the National Science Advisory Board for Biosecurity published a report in response to a charge to evaluate the effectiveness of the frameworks that currently govern the review of potential pandemic pathogens (P3), enhanced P3 research, and dual use research of concern (DURC):

- Recommended Policy Guidance for Departmental Development of Review Mechanisms for Potential Pandemic Pathogen Care and Oversight (P3CO)
- USG Policy for Oversight of Life Sciences DURC
- USG Policy for Institutional Oversight of Life Sciences DURC

The report contained multiple recommendations on these frameworks, and major cross-cutting themes are detailed below:

- The current definitions of P3 and enhanced P3, as well as the list-based approach to DURC items are too narrow, and consideration should be given to their expansion, including expansion to encompass non-federally funded research. Frameworks should continue to focus on human pathogens, but oversight frameworks for animal and plant pathogens also should be developed. The report acknowledges that expanding these definitions will add burdens and require additional resources.

[10] *See: https://www.npr.org/2023/01/30/1152527049/congress-tightens-u-s-manufacturing-rules-after-battery-technology-ends-up-in-ch?sc=18&f=*

- The present frameworks do not adequately define roles for investigators and institutions in the identification, review, and oversight of P3 and DURC research. The government needs to provide more guidance to facilitate consistent review, as well as providing technical and financial assistance to institutions to improve processes. Processes also must be developed to ensure that institutional review and oversight functions are being carried out effectively, and all processes must be transparent to improve public confidence in the oversight system.

- Most research in this area can be conducted as fundamental research and communicated responsibly during the early stages of the research lifecycle; however, publishers, editors, scientific societies, and others should be engaged to work together to "encourage development and adoption of more uniform editorial policies, review processes, and best practices for identifying material that may raise significant biosecurity and biosafety concerns." Global research regarding P3 and DURC is important but should be conducted with international partners who also have rigorous oversight standards.

FDA Guidance for Industry - Cannabis and Cannabis-Derived Compounds: Quality Considerations for Clinical Research (NEW)

In January, the FDA published guidance for sponsors/sponsor-investigators who desire to conduct clinical investigations using cannabis/cannabis-derived compounds under an IND. The Guidance makes clear that cannabis with more than "0.3 percent delta-9 THC on a dry weight basis" for use in IND trials is considered a Schedule I Controlled Substance and must be obtained from DEA-approved sources, thus keeping in place limitations on researchers' ability to use cannabis from state-only licensed sources. The Guidance does not prescribe sources for cannabis that meets the definition of "hemp" under the 2018 Farm Bill ("at or below 0.3 percent delta-9 THC on a dry weight basis"), but it makes clear that IND quality requirements for botanical drug products are equally applicable to all cannabis used in clinical investigations, regardless of delta-9 THC content. The Guidance goes on to provide references to U.S. Pharmacopeia (USP) principles that sponsors can consult in meeting these quality requirements. It also makes clear that an IND must include documentation regarding the methods the sponsor uses to calculate the amount of delta-9 THC in the investigational drug.

Animal Research

Request for Information (RFI) on Update to NOT-OD-05-034 Guidance on Prompt Reporting of Noncompliance to OLAW (NOT-OD-23-063) (NEW)

The Office of Laboratory Animal Welfare (OLAW) issued an RFI (NOT-OD-23-063[11]) to solicit public comments on minor changes to the requirements for NIH grantees to report non-compliance with the

[11] *Issued as an update to NOT-OD-05-034 Guidance on Prompt Reporting to OLAW under the PHS Policy on Humane Care and Use of Laboratory Animals (February 24, 2005).*

Public Health Service (PHS) Policy on the Humane Care and Use of Laboratory Animals. The RFI does not change any of the examples of situations to be reported or timeline for reporting, but it does provide a list of examples of situations that do not require reporting. Comments are due on May 5, 2023, and REC has established a working group to draft a response.

USDA APHIS Advance Notice of Proposed Rule Making (ANPRM) "Wild and Exotic Animal Handling, Training of Personnel Involved With Public Handling of Wild and Exotic Animals, and Environmental Enrichment for Species" (86 FR 1151) (NEW)

For registered research institutions, the most important component of this ANPRM is its request for comments on a proposed requirement for licensees and registrants to provide species-specific environmental enrichment for all species of animals within their care. At present the AWA regulations only contain environmental enrichment requirements for non-human primates and marine mammals. Comments are sought on the possibility of requiring written enrichment plans from registrants/licensees and/or presentation of enrichment requirements as performance standards. The ANPRM also solicits comments regarding requirements for licensed exhibitors who permit public handling of exotic or wild animals and training for exhibitors and staff in handling requirements. Comments are due March 10, and REC has established a working group to develop a response.

Human Subjects Research

COGR Response to OSTP Request for Information: Clinical Research Infrastructure and Emergency Clinical Trials (87 FR 64821) (UPDATE)

As noted in prior updates, COGR has been participating in discussions with representatives from OSTP on ways in which the federal government can improve and speed the conduct of clinical research during emergency circumstances, such as the recent COVID-19 pandemic. One result of these discussions was the issuance of an RFI seeking formal public comment on these topics and others. REC submitted a response letter that expressed strong support for OSTP's efforts in this area, and urged OSTP to assemble a stakeholder group to develop process maps that identify logistical and regulatory chokepoints and pinpoint factors. The response noted that the COVID-19 pandemic illustrated the need for research to involve non-traditional research sites and personnel, such as home health care providers, pharmacies, and community clinics, but that these sites are often hesitant to participate in research efforts.

COGR recommended that OSTP work with the Office of Human Research Protections (OHRP) to remove hurdles that prevent these sites from participating, such as applying Federalwide Assurance (FWA) requirements to providers mainly performing clinical tasks. COGR also recommended leveraging existing clinical trial networks with broad community outreach, such as the National Center for Advancing Translational Sciences (NCATS) supported Clinical Translational Science Awards (CTSA) program and the National Cancer Institute's Community Oncology Research Program. Finally, COGR noted the many past efforts to develop master clinical trial agreements and encouraged OSTP to consider use of existing contract templates such as those developed by the Federal Demonstration Partnership and the Accelerated Research Agreements Initiative.

COGR Response to Department of Health and Human Services (DHHS) Notice of Proposed Rule Making (NPRM) Confidentiality of Substance Use Disorder (SUD) Patient Records (87 FR 74216) (NEW)

COGR provided comments in response to this NPRM, which makes changes to the regulations concerning the confidentiality of substance abuse disorder records at 42 CFR Part 2s ("Part 2 Records") to bring them into better alignment with HIPAA regulations. COGR fully supports the NRPM's objectives but recommended additional changes to increase consistency with HIPAA provisions permitting greater use of de-identified data and limited data sets for research.

Agency Conflict of Interest (COI) Policies

There have been a number of notable developments in the COI arena since the last COGR Update, as agencies continue responding to the General Accountability Office's (GAO) October 2021 testimony, "Federal Research – Agency Actions Needed to Address Foreign Influence" (GAO-22-105434), and the accompanying full report of the same name (GAO 21-130). This report recommended that agencies adopt financial COI requirements for awardees (if they did not already have them in place), as well as requirements for non-financial COIs, i.e., conflicts of commitment (COC). The report defines a COC as "a situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities."

The GAO report also includes specific recommendations to the following agencies: Office of Science and Technology Policy (OSTP), Department of Health and Human Services (DHHS), Department of Defense (DOD), Department of Energy (DOE), National Aeronautics and Space Administration (NASA), and the National Science Foundation (NSF). To date, GAO has only closed out its recommendations to OSTP, upon OSTP's publication of the NSPM-33 Implementation Guidance. The remaining recommendations remain open, and the agencies listed below have taken the following actions in response to the report:

Department of Energy (DOE) Interim Financial Conflict of Interest Policy FAQs (UPDATE). In December 2021, DOE adopted an interim financial conflict of interest policy (FAL 2022-02) and presented on it during the June 2022 COGR membership meeting. The policy addresses financial COIs and organizational COIs in the procurement area. COGR members had a number of questions concerning the interim policy that COGR brought to DOE's attention during and after their presentation at the COGR meeting. DOE has published a set of FAQs that address a number of the questions that were raised. In these FAQs, DOE makes clear that it will publish a NPRM for a final financial COI ***and*** COC policy. In the meantime, the interim FCOI policy will take effect as follows:

- For DOE's Office of Science, the interim policy is effective once it is included in new/renewed financial award terms and conditions, and the awardee has 180 days to come into compliance with the policy's requirements.
- For Other DOE/NNSA Offices – Applicants selected for award negotiation must ensure

that prior to an award: (a) investigators complete significant financial interest disclosures; (b) disclosures undergo review processes to determine if an FCOI exists; (c) if an FCOI exists, a management plan is developed/implemented; and (d) the institution provides DOE with an initial FCOI report that includes all FCOIs, managed and unmanageable. Awardees have 180-days after the date of award to comply with all other requirements of the interim policy, and they must certify ***prior to the award*** that they are in compliance, or will be in compliance with the policy, within 180 days of the award date.

The FAQs elaborate on the definition of "investigator," which is broader than the NIH definition (i.e., an individual "responsible for the design, conduct, or reporting" of the NIH proposed/funded research). DOE defines "investigator" as the PI and "any person, regardless of their title or position, who is responsible for the purpose, design, conduct or reporting" of the DOE proposed/funded project. The FAQs state that "purpose" means the reason for which the "project is proposed or carried out" and that this term is broader than "design, conduct or reporting." The FAQs also state that post-docs or graduate students may meet the definition of "investigator," and they confirm the interim policy's statement that DOE program officers have the discretion to expand the definition of "investigator" to include "any person who is responsible for the purpose, design, conduct or reporting" of the DOE proposed/funded project. All investigators must undergo training on the institution's FCOI policy and responsibilities under the DOE interim policy, and they must agree to and sign any FCOI management plan and/or disclosure form.

NASA: Conflict of Interest and Conflict of Commitment Policy for Recipients of NASA Financial Assistance Awards RFI (NEW). This notice seeks comments on NASA's proposed new policy on financial COIs and COCs, which NASA published in response to the GAO's recommendations. The policy has several substantive differences from FCOI policies issued by NSF and NIH, including:

- Absence of a definition of "significant financial interest";
- Conflation of the disclosure and review of financial COIs and COCs, which institutions typically handle under very different processes;
- Different requirements for "foreign government COIs and COCs"; and
- Involvement of NASA's Office of General Counsel if an entity discloses a financial COI or COC that cannot be managed, eliminated, or reduced.

Designated REC members will be meeting with representatives from AAU and APLU to discuss drafting joint comments to the notice. Comments are due March 1, 2023.

NSF Modification to Definition of Significant Financial Interest (SFI) (NEW). The NSPM-33 Implementation Guidance includes the following disclosure requirement:

Collection of information related to financial conflicts of interest within R&D award application processes. Research agencies should require that recipient organizations instruct

> covered individuals on how to disclose information related to potential financial conflicts of interest, including but not limited to: private equity, venture, or other capital financing. If required by law or policy, covered individuals must provide these disclosures to both the research agency and to the organization applying for or receiving the Federal funding. Policies at some other research agencies require that covered individuals provide conflict of interest disclosures only to the organization applying for or receiving the Federal funding.

In response, NSF has changed its definition of "significant financial interest" in the 2023 PAPPG to include private equity and venture/other capital:

> "Significant financial interest" means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options, private equity, or other ownership interests); ***venture or other capital financing,*** and intellectual property rights (e.g., patents, copyrights, and royalties from such rights). [***Emphasis added***.]

COGR has contacted NSF with questions and concerns regarding this change because the venture and capital financing is typically given to corporate entities, as opposed to individual investigators, who are the subject of the NSF's financial conflict of interest policies. Further, institutions and investigators often have no access to the identities of investors in venture capital funds. NSF has indicated that it will be publishing FAQs regarding this definitional change, but the publication date has not yet been announced.

Finally, with respect to all the foregoing COI initiatives, COGR has the following overarching concern: the lack of interagency consistency. This inconsistency goes against OSTP efforts to harmonize agency requirements in areas that may impact research security and adds tremendous additional burden to institutions that must develop policies and processes that are individually tailored to each agency. Equally important, consistent obligations improve institutions' ability to train their investigators on disclosure and other requirements and to develop overarching policies and processes that facilitate compliance.

REC continues to work on an update to COGR's publication "Recognizing and Managing Personal Financial Conflicts of Interest" and the revision will include analysis of these recent developments.

Contracts & Grants Administration (CGA)

Select CGA Committee activities related to NIH Data Management and Sharing, and the Uniform Guidance are reported above under the Cross-Cutting Issues section of the COGR Update. Other items being followed by CGA are covered below.

Meeting with GAO to Discuss the GREAT Act (NEW)

In January, COGR staff met with GAO in response to their request to discuss the initial implementation of the Grant Reporting Efficiency and Agreements Transparency Act of 2019 (GREAT Act). As part of their work, GAO is examining steps federal agencies have taken to develop grant reporting standards and the extent to which agencies consulted stakeholders. They were also interested in understanding the burdens associated with implementation and seeking to engage with stakeholders in the grant community. In the discussion, COGR shared the value of having consistency across agencies' implementation of requirements, the importance of having an opportunity to provide comments, and provided examples of where there are inconsistencies and burdens in the process.

NIH Salary Cap, NRSA Stipend, Fiscal Policies for FY 2023 (NEW)

NIH released notices for FY 2023 salary cap, NRSA stipend levels, fiscal policies, and legislative mandates. NIH's annual guide notice (NOT-OD-23-056) provides information regarding salary caps. The salary level for Executive Level II salary increased from $203,700 to $212,100, effective January 1, 2023. Recipients may rebudget funds to accommodate the current Executive Level II salary level for active awards, including competing awards issued in FY 2023. NIH published its annual guide notice (NOT-OD-23-071) for Fiscal Operations for Fiscal Year 2023 to implement the *Consolidated Appropriations Act, 2023* (Public Law 117-328), signed into law on December 29, 2022. Non-competing continuation awards made in FY 2023 will generally be issued at the commitment level indicated on the Notice of Award. NIH published its annual guide notice (NOT-OD-23-076), increasing NRSA stipends by approximately three percent for predocs and three percent for postdocs. For additional information, visit the guide notices linked above.

NIH Seeks Comments on Proposed Simplified Review Framework for NIH Research Project Grant (NEW)

On December 8, 2022, NIH released an RFI (NIH guide Notice NOT-OD-23-034), "Proposed Simplified Review Framework for NIH Research Project Grant Applications." NIH seeks comments on a proposed revised framework for evaluating and scoring peer review criteria for National Institutes of Health (NIH) research project grant (RPG) applications. This is an opportunity for the community to provide input before implementation. Contact Krystal Toups at ktoups@cogr.edu for any comments you would like to share with COGR as we work to fully understand the impact on the community. Comments are due March 10, 2023.

NIH Seeks Comments on Request for Information on Existing Data Sharing Processes for NIH-Funded Research (NEW)

On February 2, 2023, NCI released an RFI (NIH guide Notice NOT-CA-23-023), "Request for Information on Existing Data Sharing Processes for NIH-Funded Research." NCI seeks comments to understand the processes for storage, preservation, and sharing of scientific data generated by NIH-funded cancer research at academic, research, and medical institutions to develop guidance on scientific data management. NCI invites participants from across the research enterprise (e.g., individual research laboratories, staff from core facilities, sponsored projects offices, office of the provost, libraries, IT, IRB, bioinformaticians, and data scientists). A webform is provided to submit a response to this RFI, and comments are due by April 3, 2023. The RFI may be shared broadly with individuals in the research community to comment. Please contact Krystal Toups at ktoups@cogr.edu with questions.

NSF System Enhancements and Revised Biographical Sketch and Current and Pending (Other) Support Formats (NEW)

On January 30, 2023, NSF announced several enhancements to support the revised PAPPG (NSF 23-1) for proposals submitted or due on or after January 30, 2023. New proposals and supplemental funding requests must be prepared and submitted in Research.gov. Grants.gov remains a submission option for most NSF proposals (see Grants.gov Application Guide (NSF 23-006) for information). FastLane proposal preparation and submission functionality have been decommissioned. FastLane now has limited proposal capabilities, such as proposal file updates and budget revisions which will remain available for FastLane-submitted proposals until September 29, 2023. For additional information, refer to the FastLane Decommissioning page. Additional updates include:

- A new checkbox is included on the proposal Cover Sheet for Safe and Inclusive Working Environments for Off-Campus or Off-Site Research (per PAPPG Chapter II.E.9).
- Added new functionality to Research.gov Proposal Submission System for proposers to provide updated current and pending (other) support information requested by NSF program officers prior to making funding recommendations (refer to PAPPG Chapter II.D.2.h.(ii)).
- Added new functionality to Notifications & Requests (linked under Awards & Reporting on the Research.gov My Desktop page) for Post Award Disclosure of Current Support and In-Kind Contributions (see PAPPG Chapter 9.C. for additional information).
- Emails generated by the Program Suitability and Proposal Concept Tool (ProSPCT) for the concept outline submission type can be uploaded in the Research.gov Proposal Submission System. This applies to Rapid Response Research (RAPID), EArly-concept Grants for Exploratory Research (EAGER), Research Advanced by Interdisciplinary Science and Engineering (RAISE), and Planning proposals (see PAPPG Chapter I.D.1. for additional information).

As of January 30, 2023, proposers must use the new revised biographical sketch and current and pending (other) support formats. Any other format will generate a compliance error message. The revised formats are available in SciENcv and as fillable PDFs on the NSF biographical sketch and current and pending (other) support (CPS) websites. SciENcv will become mandatory for biographical sketches and CPS beginning October 23, 2023.

COGR received questions from the community as to whether the fillable PDFs require or accept digital certifications/signatures (e.g., DocuSign or Adobe Sign). NSF responded the requirement is for the senior personnel to type their name and date in the form. A digital signature or electronic signature is not required. For additional information, see the NSF presentation 2023 NSF Policy Office Webinar Series: NSF Biographical Sketch and Current and Pending (Other) Support: SciENcv and NSF Formats.

Also note that NSF published a revised disclosure table, NSF Pre-award and Post-award Disclosures Relating to the Biographical Sketch and Current and Pending (Other) Support, for reference information regarding pre-award and post-award disclosures, which appear to align with the September 1, 2022, version of the NSPM-33 Implementation Guidance Pre- and Post-award Disclosures Relating to the Biographical Sketch and Current and Pending (Other) Support.

Grant & Contract Administration: Other Issues (NEW & ONGOING)

The items below are additional issues that the CGA Committee has recently reported on and issues that we continue to follow:

NIH Modular Grant Application. COGR submitted a letter to Dr. Tabak, Acting Director at the National Institutes of Health. In the letter, COGR presented to NIH support and analysis for raising the current modular cap ($250,000) or eliminating the direct costs cap altogether, and to consider eliminating the need for detailed budgets at the proposal stage. Justification included accounting for 24 years of inflation and the shift of applications covered by modular budgets (90% in 1998 compared to 29% in 2021). We will keep the membership updated on any developments.

NSF Safe and Inclusive Working Environments for Off-Campus or Off-Site Research Plans. NSF PAPPG 23-1 Chapter II.E.9 describes the new requirement for the AOR to certify that an organization has a plan in place for safe and inclusive research for any proposals that propose to conduct off-campus or off-site research. A joint CGA-REC workgroup is looking at the issue and expects to have more on this topic soon for COGR members.

OSTP Open Access. As previously reported, OSTP published a memo on August 2022 on "Ensuring Free, Immediate, and Equitable Access to Federally Funded Research." There will be two panels at the upcoming COGR meeting on this topic: a publisher's panel on March 2nd at 12 PM and the agencies' perspective at 2 PM. Representatives from OSTP, NIH, NSF, DOE, and NASA will present the agencies' perspective. NASA Science Information Policy recently

released policy SPD-41a: Scientific Information Policy for the Science Mission Directorate in response to the OSTP memo.

If you have questions, comments, or concerns on the above topics, please contact Krystal Toups at ktoups@cogr.edu.

Costing and Financial Compliance (CFC)

Select CFC activities related to Science & Security, NIH Data Management & Sharing, and the Uniform Guidance are reported above under the Cross Cutting Issues section of the COGR Update. Other items being followed by CFC are covered below.

HHS-OIG Audit of the NIH Grant Closeout Process (NEW)

In November, the Office of the Inspector General, U.S. Department of Health and Human Services (HHS-OIG) announced a new audit initiative aimed at the NIH's management of the grant closeout process. In that announcement, the HHS-OIG indicated: "*We will determine whether NIH closed its grants in accordance with Federal requirements and departmental guidance. We will also determine which actions NIH took to address noncompliance with closeout requirements*." Key federal requirements include both compliance with the 2016 GONE Act and compliance with 2 CFR 200.344(b) Closeout: "*a non-Federal entity must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the end date of the period of performance*." While the HHS-OIG audit is focused on NIH management practices, findings from the audit could have repercussions for the grantee community. We will keep the COGR membership posted on developments.

OMB & Office of Federal Financial Management (OFFM) Staffing Update (NEW)

COGR's long-time colleague and friend, Gil Tran, retired from OMB at the end of 2022. Gil was a key "go-to" resource in OMB's Office of Federal Financial Management. Since Gil's retirement, COGR staff and leaders from CFC have had the opportunity to connect with new staff at OMB and OFFM. The Acting OMB Controller is Deidre Harrison and key staff at OFFM include Steven Mackey and Andrew Reisig (both will be significantly engaged in revisions to the Unform Guidance, see below), and Mitzi Mayer (lead role in releasing the 2023 Compliance Supplement, see below). COGR looks forward to developing productive relationships with the new staff at OMB and OFFM.

2023 Compliance Supplement, Draft Version (NEW)

Also, as shared above, Mitzi Mayer from OMB is the new point person in regard to the Compliance Supplement. COGR reached out to Ms. Mayer and she indicated that the draft version of the 2023 Compliance Supplement currently is being worked on, and upon completion, the draft version will be distributed to key stakeholders, including COGR. In addition, OMB has reviewed the June 30, 2022, COGR Comment Letter concerning the 2022 Compliance Supplement. In that letter, COGR reiterated its longstanding concern with an audit position related to the appropriate timing for requesting cash reimbursements from federal agencies. According to Ms. Mayer, changes to the Cash Management

section (see page 3-C-3)—specifically Audit Objective 4—are being contemplated for the 2023 Compliance Supplement. Upon distribution of the draft version, COGR will review, share with the membership, and engage with OMB, accordingly. We will keep the membership updated on all developments.

NSF Higher Education Research & Development (HERD) Survey is Available (NEW)

The 2021 HERD was released on December 15th and includes the InfoBrief summary and the complete suite of 2021 data tables (which includes the popular *Table 22 – Higher education R&D expenditures, ranked by all R&D expenditures, by source of funds: FY 2021*). Also of interest is *Table 17 – Higher education R&D expenditures, by type of cost, highest degree granted, and institutional control: FYs 2010-21.* Table 17 includes data on recovered and unrecovered indirect costs, in aggregate, for all institutions; for FY2021, the total recovered indirect costs were $14.7 billion (rounded) and the total unrecovered indirect costs were $5.9 billion (rounded). At the upcoming 2023 February-March COGR Meeting, CFC will present a closer look at the results of the 2021 HERD.

COGR F&A Cost Rate Survey, Revisited (NEW)

The CFC will release the 2023 F&A Cost Rate Survey to the COGR membership at the end of February. The last survey was conducted in 2016-2017.[12] At the upcoming 2023 February-March COGR Meeting, CFC leaders will preview the survey and provide an opportunity for questions to be asked. We encourage all institutions to complete the survey. The results provide both a resource for the membership to benchmark key metrics, and also assist COGR in advocacy efforts around F&A issues. Note, all survey results are kept behind the COGR Portal firewall, and any results that are made public are in aggregate only and de-identify all institutions.

F&A Cost Rate Negotiations and Engagement with Cost Allocation Services (UPDATE)

As we reported in recent COGR Updates (see November Update), COGR members and other institutions that negotiate F&A cost rates (and fringe benefit rates) with Cost Allocation Services (CAS) have been concerned about not being able to complete timely negotiations and receive final cost rate agreements. In December, COGR sent a letter to Mak Karim, the National Director for Cost Allocation Services at the U.S. Department of Health and Human Services, to address the concern and request assistance to facilitate improvements in the speed of the review and approval process associated with indirect cost and fringe benefit rates. In addition to reaching out to Mr. Karim, we copied other federal partners on the letter who have an interest in this situation. COGR will continue to pursue this issue with Mr. Karim and other federal partners and we will keep the membership updated on any progress.

[12] *The 2016-17 Survey can be found on COGR's website here: https://www.cogr.edu/cogr-2016-17-fa-survey-results*

Costing & Financial Compliance: Other Issues (NEW & ONGOING)

The items below are issues that the CFC Committee has recently reported and/or issues that we continue to follow:

Federal Audit Clearinghouse to be moved to GSA in October 2023. A Federal Register Notice, dated December 22, 2022, announced the movement of the Federal Audit Clearinghouse (FAC) from U.S. Census Bureau, to GSA, effective in October 2023. Comments are due February 21st. Also note, a FAC Transition webpage has been established that can be checked for updates on the transition. COGR has reviewed the Federal Register Notice and has not identified any significant concerns. However, if your institution has identified any issues, please contact us. We are considering the submission of a Comment Letter, and if there is a concern that you believe should be addressed, we can incorporate it into a Comment Letter.

ARPA-H and Indirect Cost. The FY23 Omnibus Appropriations Bill, passed in December, included the authorization of ARPA-H. COGR followed negotiations on the Hill last year around the language applicable to indirect costs, which was problematic. The final language reads as follows: "*awards grants and cooperative agreements, which shall include requirements to publicly report indirect facilities and administrative costs, broken out by fixed capital costs, administrative overhead, and labor costs*." While this is not the ideal language, and definitely raises questions, we will engage with NIH and ARPA-H as appropriate to ensure that this language does not create unintended and unnecessary administrative burden.

Implementation of the New NIH Salary Cap Level. Also effective after the passage of the FY23 Omnibus Appropriations Bill was the new NIH salary cap level. As specified in an NIH Notice NOT-OD-23-056 released on January 12th: "*The Consolidated Appropriations Act, 2023 restricts the amount of direct salary to Executive Level II of the Federal Executive pay scale. The Office of Personnel Management recently released new salary levels for the Executive Pay Scale. Effective January 1, 2023, the salary limitation for Executive Level II is $212,100.*"

GAO Issues and Seeks Comments on Draft Updates to "Yellow Book," the Preeminent Standards for Government Auditing (GAO-23-106303). The GAO is requesting comments on this draft from federal, state, and local government officials; managers and auditors at all levels of government; the public accounting profession; academia; professional organizations; public interest groups; and other interested parties. To assist in developing comments, specific questions are presented in enclosure II of the 2023 exposure draft. All comments received from the public will be considered a matter of public record and will be posted on the GAO website. COGR does not expect to respond, but it you have concerns, please contact us.

Federal Office of Inspectors General (IG) and Single Audit Developments. We encourage COGR members to follow the HHS OIG Workplan (see previous section, HHS-OIG Audit of the NIH Grant Closeout Process) and the NSF OIG Reports & Publications page. Further, the NSF Management Responses to an External Audits is a helpful resource for reviewing NSF OIG audit

resolutions. COGR members are welcome to contact COGR when audit issues arise, and when appropriate, we can connect institutions and/or provide feedback that may be relevant to the issue at hand.

Please contact David Kennedy at dkennedy@cogr.edu to discuss any of these issues above, or other items that you would like to address.

COGR would like to thank COGR Board Chair Jeffrey Silber (Cornell University) 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.

Contracts & Grants Administration (CGA)

Jeffrey Friedland (Chair)	University of Delaware
Stephanie Endy	Brown University
Michael Glasgow	University of Connecticut
Stephanie Gray	University of Florida
Charles Greer	University of California Riverside
Vivian Holmes	Massachusetts Institute of Technology
Lisa Mosley	Yale University
Twila Reighley	Michigan State University
Craig Reynolds	University of Michigan
Jennifer Rodis	University of Wisconsin-Madison
Pamela Webb	University of Minnesota
Krystal Toups	Director, COGR

Costing & Financial Compliance (CFC)

Sarah Axelrod (Chair)	Harvard University
Jeremy Forsberg	University of Texas Arlington
MC Gaisbauer	University of California, San Francisco
Joseph Gindhart	Washington University - St. Louis
Michael Legrand	University of California, Davis
Nate Martinez-Wayman	Duke University
Gerald Mauck	University of Denver
Julie Schwindt	University Mississippi Medical Center
Maria Soliman	University of Iowa
Marcia Smith	University of California, Los Angeles
Renotta Young	Columbia University
David Kennedy	Director, COGR

Research Ethics & Compliance (REC)

Naomi Schrag (Chair)	Columbia University
Lynette Arias	University of Washington
Kristin Bittinger	Harvard University
Theresa Colecchia	Johns Hopkins University
Grace Fisher-Adams	California Institute of Technology
Karen Hartman	Mayo Clinic
J.R. Haywood	Michigan State University
Jennifer Lassner	University of Iowa
Deborah Motton	University of California
Brian Smith	University of California - San Francisco
Geeta Swamy	Duke University
Ara Tahmassian	Harvard University
Debra Thurley	Pennsylvania State University
Kristin West	Director, COGR

Research Security and Intellectual Property (RSIP)

Jennifer Ponting (Chair)	University of Chicago
Alexandra Albinak	Johns Hopkins University
Hannah Carbone	California Institute of Technology
Allen DiPalma	University of Pittsburgh
Sophia Herbert-Peterson	Georgia Institute of Technology
Bruce Morgan	University of California, Irvine
Michael Moore	Augusta University
Dan Nordquist	Washington State University
Elizabeth Peloso	University of Pennsylvania
Kenneth Porter	University of Maryland
John Ritter	Princeton University
Todd Sherer	Emory University
Robert Hardy	Director, COGR