COGR
Council On Governmental Relations
An Association of Research Institutions

June 27, 2019

June 6-7 COGR Meeting Report

Membership Survey: COMING SOON

COGR will release a Membership Survey in July. We will address topics such as meeting format, communications, membership engagement, and other areas of interest. We will report results in aggregate and all responses will be confidential. SurveyGizmo will be the platform, and a hard copy (not to be completed) will be available if you want to use it as a guide. Only one survey can be completed per person, though there is no limit to how many from an institution can complete the survey (of course, we would like to keep it to those who are engaged with research administration, compliance, costing, etc.). Much of the survey is in multiple-choice format, though there are free-form questions that you can respond to, as well.

Completion due date will be mid-August and we will present a summary of the results at the October 2019 COGR Meeting. The action items that come out of the survey will be determined by the COGR Board and Leadership. We encourage all to participate! Look out for a note from the COGR Listserv in July when the survey is ready to be completed.

Cross-Cutting Areas

Science and Security: Speaker and Panel Discussion at COGR Meeting

Guest Speaker- Dr. James Mulvenon

Dr. James Mulvenon, General Manager, Special Programs Division, SOS International, spoke at the COGR meeting on the topic of Chinese economic espionage. Dr. Mulvenon is a Chinese linguist by training and a leading international expert on Chinese cyber, technology transfer, espionage, and military issues.

In his talk Dr. Mulvenon identified four main areas of concern:

> *Confucius Institutes.* There is a need for greater transparency. This includes documenting how and where the Institute was established; the approval and hiring process (credentials, were faculty involved?) and the funding. The silver dagger is the issue of academic freedom (preventing or censoring speakers based on political beliefs, becoming political in orientation). As contracts expire these questions all should be raised. Policymakers would prefer the contracts not be renewed. There is no need for the Institutes to be affiliated with U.S. universities.
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> *Student visas*. Security agencies are aware of the financial dependence of U.S. universities on Chinese students, and their dependence on Chinese researchers in the hard sciences. There is increasing scrutiny of visas, especially when they involve Chinese going to U.S. universities that comprise the defense industrial base. Better tracking through SEVIS is necessary. There are a

range of Chinese universities with intimate ties to the Chinese military that are not obvious (citing the Australian Strategic Policy Institute (Joske)) report.

Conduct of research. There have been flagrant violations of peer review, including exploitation of research ideas. In addition, only a small number of researchers have notified their institutions of acceptance of money from or debriefings in China, which raises issues of double dipping. The result is tighter government notification/disclosure rules. IGs have been given the mandate to review grants. The Chinese are removing internet data on foreign talent recruitment programs.

Intellectual Property. The government is considering changes in deemed export rules (Commerce ANPRM). There is a belief that inter-university transfers that evade export control licenses might be happening. Dr. Mulvenon reminded COGR members that inter-university transfers of technology to satellite campuses abroad require export licenses. The USG is reviewing U.S. university relations with China's Ministry of Ed. There is a move in Congress to close the Hong Kong customs zone status, which some see as a loophole.

In the Q and A, questions were raised about the Huawei equipment issue; chilling effect and discrimination concerns; the "smaller yards; higher fences" approach; and concerns about the DOD supply chain. Dr. Mulvenon identified several key resources: UCSD 21st Century China program, Center for New American Security, Australian Strategic Policy Institute. He noted the new DOE rule banning participation in foreign talent recruitment programs (see below) as an exemplar. He also talked about the need for more language study (e.g. China Scholarship programs). A final question concerned the effect on university—industry collaborations. Dr. Mulvenon expressed the view that universities should not accept money from Chinese companies. The government currently is reviewing UARCs for these issues.

Science and Security Panel

A panel consisting of **Teresa Domzal**, National Counterintelligence and Security Center in the Office of the Director of National Intelligence; **Lauren Midgley**, Senior Foreign Affairs Advisor at the OUSD(P) Protecting Critical Technology Task Force; and **Jeff Stoff**, Factor 8 Program Lead of Open Source Enterprise (CIA) discussed security agency concerns about foreign interference on university campuses.

Dr. Domzal discussed foreign threats in the context of the need to preserve and strengthen American and democratic values and alliances. She particularly focused on China's Belt and Road Initiative for a world connected by Chinese physical and digital infrastructure. She also discussed the United Front activities which includes efforts to control and utilize the Chinese diaspora, to coopt foreigners to provide access to strategic information and technical knowledge, to support a global multi-platform pro-PRC communication strategy, and the Belt and Road initiative to form a China-centered economic, transportation and communication strategic bloc. She also mentioned China's transfer of technology efforts that are not illegal but also not transparent. She summarized challenges posed by Chinese

interference in U.S. university research: academic freedom is at risk, unsustainable long-term financial dependency, lack of transparency, no reciprocity in openness, and potential for loss of research integrity. She presented a chart on Chinese operations on university campuses. A copy of Dr. Domzal's presentation is posted on the COGR website.

Dr. Midgley discussed the activities of the DOD Task Force on Protecting Critical Technologies. She noted that DOD wants to know who is working on its funded projects. She stressed that DOD is not interested in revising NSDD 189 nor in changing the Ash Carter 2010 memo on fundamental research. She indicated that the critical technologies identified by DOD closely match the list in the Commerce ANPM (see COGR December 2018 Update and February 2019 Meeting Report).

Mr. Stoff discussed China's ambition to be a S&T superpower by the mid-21st century. He noted that China is not a mirror image of the U.S., but rather a technologically advanced surveillance state. All data that crosses China is subject to state control, which has serious implications for researchers who bring laptops to China. Technology and knowledge transfer is a whole of society activity. He noted that the threat threshold that China presents is not in terms of criminal activity. There are over 200 foreign talent recruitment programs that target access to U.S. federally-funded research. The selectees all are funded by the Chinese government. Many U.S. researchers supported by these programs have contractual obligations to China. He cited the example of a recent successful prosecution of a NOAA researcher who was receiving a salary from China. He indicated that the CIA is compiling a list and plans to share more information on programs of concern. He stressed that this is an unclassified environment and that the concerns are not restricted to individuals of ethnic Chinese origin.

Other Science and Security Developments

DOE Implements Prohibition on Participation in Foreign Talent Recruitment Programs

The February Meeting Report discussed the DOE policy prohibiting DOE and contractor employees from participating in talent recruitment programs sponsored by countries determined sensitive by DOE. On June 7, DOE issued an order formally implementing this policy (DOE O 486.1). The order applies to DOE employees and contractors but **not** to grantees. The order requires disclosure and approval of any such participation. A Contractor Requirements Document is attached to the Order with instructions to contractors on compliance.

The DOE order raises many questions: e.g. is it effective prior to development of the list of talent recruitment programs that DOE is to develop; is it applicable to existing contracts; unclear reporting requirements and whether they apply to contractor employees not working on the DOE contract; what constitutes the required "due diligence" to assure that no contractor employee is participating in such a program while performing work on the DOE contract; etc. We plan to raise these questions with DOE.

DOE has indicated that it plans eventually to extend the prohibition to grantees but will proceed slowly with further implementation.

Department of Education, Section 117 of the Higher Education Act

The February and May COGR updates included information regarding Section 117 of the Higher Education Act requiring institutions to file disclosures when an institution receives gifts or enters into contracts with a foreign source with an aggregate value of $250,000 or more per calendar year attributable to a particular country.

COGR, the American Council on Education (ACE) and the Association of American Universities (AAU) continue to collaborate and seek answers to your questions, urging the Department of Education to issue clear guidance on a number of issues. For example, how institutions are to know under the current definition of foreign sources whether entities are "created solely under the laws of a foreign state or states." It can be especially challenging if the funds are coming from what might be a US subsidiary, since institutions may have no information about whether the entity is "acting on behalf of a federal source." Disclosing nationality of donors is also of concern. An initial ACE letter was sent to the Department of Education in January, seeking clarification related to compliance with Section 117. Since then, the Department has sent letters to two institutions regarding their reporting of foreign funding, prompting ACE and other associations including COGR to submit a second letter on June 21, 2019.

Senate Hearing on Foreign Threats to Taxpayer-Funded Research

On June 5, 2019, the Senate Finance Committee held a hearing entitled "Foreign Threats to Taxpayer-Funded Research: Oversight Opportunities and Policy Solutions." Witnesses on the first panel included Captain Michael Schmoyer, Assistant Deputy Secretary for National Security, Department of Health and Human Services; Larry Tabak, Principal Deputy Director, National Institutes of Health; Les Hollie, Chief of Investigative Operations, Office of Investigations, HHS Office of Inspector General; and Louis Rodi, Deputy Assistant Director, Homeland Security Investigations, United States Department of Homeland Security. Joe Gray, Gordon Moore Endowed Chair, Department of Biomedical Engineering, Oregon Health and Science University, testified on a second panel during the last 15 minutes of the hearing. The FBI declined to participate.

Senator Grassley, Chairman of the committee, expressed his strong support for tax-payer funded research and the free exchange of research information while suggesting that he also wanted to strengthen research integrity and preserve valuable work products through "reasonable and proportionate common-sense efforts." Captain Schmoyer and Dr. Tabak described HHS and NIH efforts to work with intelligence agencies and grantees to address foreign influences on research integrity. Dr. Tabak suggested that the number of scientists who have not disclosed obligations to foreign institutions is small, but that this is nonetheless an important issue. Sixty-one letters have been sent to institutions regarding potential nondisclosure. Some of these scientists have been removed from grants and terminated.

Dr. Tabak indicated that NIH is partnering with institutions to ensure proper disclosure and the integrity of the peer-review process, and that the engagement of institutions will go a long way toward protecting NIH research. Senator Cornyn suggested during the hearing that institutions needed to "up their game." Les Hollie of the HHS OIG office indicated that 16 allegations of non-compliance have been referred to the OIG but could not provide further details on the still active referrals.

Louis Rodi of DHS Homeland Security Investigations (HSI) noted agency efforts to screen F1 visa applicants for threats as well as robust outreach efforts with academia. He suggested that the largest number of investigations on controlled exports involve China, Iran and Russia. HSI's Visa Security Program screens and investigates potential threats prior to the State Department's visa determination. In addition, the Student and Exchange Visitor Program monitors nonimmigrant visa holders and the Counterterrorism and Criminal Exploitation Unit coordinates actions when students overstay or violate the terms of their visas.

Joe Gray of Oregon Health and Science University highlighted the need for intellectual diversity and to maintain a free and open system as a means to foster innovation and to not place additional burdensome requirements on research. He suggested the use of legal and political mechanisms (e.g., vigorous enforcement of existing laws) to address foreign influence. Dr. Gray suggested that additional vetting stigmatizes the community and decreases enthusiasm for advancing U.S. scientific endeavors. Senator Grassley was respectful of this position but indicated that he believes additional vetting is needed.

NIH Advisory Committee to the Director Update on Foreign Influences on Research Integrity

On June 19, 2019, Mike Lauer, Deputy Director for Extramural Research, provided an update on the agency's efforts to address foreign influences on NIH research and follow-up on recommendations made by the ACD working group on Foreign Influences on Research Integrity in December 2018. Dr. Lauer indicated that a small number of NIH-funded scientists are violating laws and policies, largely with respect to failure to disclose substantial foreign resources, including employment, grant support, labs and equipment, and patents and equity in foreign companies related to their NIH research. Also mentioned was "time theft," researchers with 15-16 months of total committed obligations in one year, domestic and foreign. These individuals are effectively employed by more than one institution and overcommitted. It was noted that these were not small omissions, rather, (intentional) failure to report significant resources. Letters addressing primarily lack of disclosure have been sent to over 60 institutions and 18 cases referred to the HHS Office of Inspector General. Concerns are identified by the FBI, the agency through publications citing foreign grants, co-workers, and increasingly institutions.

Dr. Lauer mentioned the agency's efforts to address this issue in collaboration with institutions and associations, including AAU, APLU, COGR, FDP and the National Academies; federal agencies, including NSF, DOD and DOE; and law enforcement and security agencies, including the FBI. Dr. Lauer mentioned the DOE memo prohibiting DOE personnel, including contractors, from participating in foreign talent recruitment programs, indicating that 300 DOE employees had employment arrangements with foreign governments. Dr. Lauer mentioned a study by the JASON group that will assess the balance

between openness and collaboration in science with economic and other security concerns, noting that the group will meet over the summer and issue an unclassified report.

Dr. Lauer suggested that the situation doesn't necessarily require an NIH policy change but rather making clear that having another job with similar work, overlap and overcommitment would violate policies that already exist. He mentioned NSF's development of a webform for reporting other support and commitments and suggested that NIH may adopt it outright. Dr. Lauer mentioned efforts by higher education associations to share best practices among institutions and NIH's efforts to do the same as they encounter "outstanding practices." Penn State's website addressing the issue of foreign influence was highlighted. One ACD member suggested that NIH provide funding for patents (which she estimated to cost approximately $50 million annually) to help protect federally funded resources.

Legislative Developments

A great many pieces of legislation have been introduced in Congress that address science and security issues. **Michael Ledford**, President, Lewis-Burke Associates, LLC, and **Lizbet Boroughs**, Associate Vice President for Federal Relations, Association of American Universities, joined a number of COGR committees to provide a legislative update with respect to foreign influence, and other academic research related topics. Prospects for the passage of stand-alone legislation are not good. However, the FY'20 National Defense Authorization Act (NDAA) may be the vehicle to which some of this legislation is attached. As of this report, both House (H.R. 2500) and Senate (S. 1790) versions of the NDAA have been introduced. The higher ed. associations including COGR have endorsed H.R. 3038, which has been added to the House bill. It would establish an interagency working group led by OSTP to coordinate information sharing among the agencies and establish policy guidance for agencies and grantees to help defend against threats, including developing common definitions and recommendations for control mechanisms. It also would create a National Science, Technology and Security Roundtable at the National Academy to identify security threats and effective approaches to mitigate the threats while ensuring continued openness.

A number of other amendments have been adopted including a requirement that the Director of National Intelligence create a list of foreign entities that pose threats to critical U.S. technologies, and report language that would require DOD to report Chinese and Russian universities with a history of conducting espionage. S. 1790 includes an amendment to include training requirements for researchers to promote security and protect against threats. Another amendment (*Protect Our Universities* Act) would establish a DHS-led interagency task force to develop a list of "sensitive research topics." Lists of agency funding for such topics would be compiled and universities carrying out the projects would be provided instruction as to the espionage threats and risks. Screenings and approvals would be required for the participation of any students from China, Russia or Iran in such projects. The associations do **not** support this amendment, which potentially could result in wasteful duplication of effort and confusion.

Effective Practices Survey

AAU and APLU, with COGR's assistance, are identifying and sharing practices that universities are employing to ensure the security of research, protect against intellectual property theft and academic espionage, and prevent actions or activities by foreign governments and/or other entities that seek to exert undue foreign influence. **Sarah Rovito**, Science & Research Policy Director at APLU, and **Katie Steen**, Federal Relations Officer at AAU, presented the results of a recent survey of AAU/APLU members. 39 institutions submitted 140 examples. They fell into a number of buckets: communication, coordination, training, enhanced reviews, cyber and data security, IP protection, security agency interaction, foreign travel, international visitors, and export controls. The presentation slides have been posted to the COGR website.

Practical Steps for Dealing with Foreign Threats

The CIP report at the meeting included some practical suggestions for steps that might be taken by institutions to deal with foreign threats and academic espionage (see last page of slide presentation included in meeting materials posted on the COGR website). The status of actions taken by individual funding agencies also was discussed in the report and is included in the presentation materials. Many of these actions previously were discussed in the COGR May Update.

Committee Reports

COSTING POLICIES

Committee: Cindy Hope - Chair (University of Alabama), Joseph Gindhart (Washington University-St. Louis), Lynn McGinley (University of Maryland-Baltimore), Jeffrey Silber (Cornell University), Cathy Snyder (Vanderbilt University), Michael Daniels (Northwestern University), Michael Legrand (University of California-Davis), Sarah Axelrod (Harvard University), Nate Martinez-Wayman (Duke University), Marcia Smith (University of California – Los Angeles), Michael Moody (Massachusetts Institute of Technology), Vivian Holmes (Boston University)

Costing and Audit Update: Recap of Thursday Morning Session

The COGR Costing Policies Committee led a panel discussion on costing and audit related issues as one of the Thursday morning sessions at the June 6-7 COGR Meeting. The PPT presentation, covering all of the topics summarized below, is available on the COGR website.

- **DOJ Settlement, Procurement Rebates.** Kim Moreland, University of Wisconsin, provided details on the recent DOJ settlement for $1.5 million, and Sarah Axelrod, Harvard, provided an HU case study. Interestingly, at UW, P-card rebates were the initial focus of the federal review, though review and final settlement turned to the treatment of rebates at central stores. At issue was

application of rebates directly to federal awards, versus an approach that applies rebates in lump-sum as an offset to the F&A cost rate calculation. The final settlement did not result in a specific finding on how rebates should be applied. Consequently, COGR's position remains as follows: application of rebates as an offset to the appropriate cost pools within the F&A cost rate calculation is a long-standing and appropriate methodology that has been accepted by federal F&A cost rate negotiators for years. Still, we recommend institutions review their policies to ensure the basis for the approach taken is documented and that institutional practices are consistent with policy.

- **Recent OIG Audits.** Mike Daniels, Northwestern University, provided a summary of the NU subrecipient monitoring audit conducted by the Office of Inspector General, Department of Health and Human Services. Joe Gindhart, Washington University, provided a broad summary of recent audit activity from the Office of Inspector General, National Science Foundation. Also, the July 2016 DOJ settlement was raised as a reminder to pay attention to policies and practices for applying the appropriate F&A rate to on on-campus versus off-campus research; especially in those situations where faculty may move between on and off-campus sites.

- **F&A Cost Rate Negotiations.** Cathy Snyder, Vanderbilt University, provided an update on VU's recent F&A cost rate negotiation. While the negotiation "went well," most notable was the timing between F&A cost rate proposal submission and F&A cost rate negotiation (over 13 months). Also worth noting is the scrutiny of projections associated with new, renovated research space. COGR's position is that new research space, whether created via new building construction or existing building renovation, is allowable.

- **HHS/NIH G-Accounts and Reconciliation.** A number of institutions are struggling with "settling up" in the Payment Management System (PMS) as their pooled G-accounts are being closed. COGR is working with these institutions to facilitate a solution with representatives from PMS. This is discussed in more detail in the following section.

- **Procurement and Uniform Guidance Check-in.** Cindy Hope, University of Alabama, provided a check-in on the status of various topics related to implementation of the UG Procurement Standards. Cost/Price analysis, Sole Source documentation, and Micropurchase threshold (MPT) and Simplified Acquisition Threshold (SAT) compliance all were addressed. Except for some issues raised related to the MPT and SAT (see 2019 OMB Compliance Supplement later in this report), implementation of the UG Procurement Standards seems to be proceeding without major concerns at most institutions.

If you have issues you would like to follow up on, please contact David Kennedy.

HHS/NIH G-Accounts and Reconciliation: COGR Conference Call with HHS/PMS

On June 20, COGR organized a call with representatives from HHS/Payment Management System (PMS). Dan Long, Director of PMS, was on the call, along with several of his PMS colleagues. In addition, nine member institutions from COGR, each of which has been struggling with the G- account reconciliation process, participated on the call.

The primary request by those institutions on the call is to ensure there is a collaborative reconciliation process in place, that allows the institution to work with PMS to determine a fair, documented deficit/surplus amount associated with those G-accounts (pooled cash draw accounts) that are being closed. Mr. Long acknowledged that part of the PMS "rush" to close the G-accounts has been prompted by pressure under the 2016 GONE Act, which requires federal agencies to close expired accounts and to better account for unused federal funds. Consequently, some PMS representatives have been overly enthusiastic in requiring institutions to quickly resolve alleged deficit balances.

From the COGR membership standpoint, a "rushed" process to closing G-accounts could lead to unilateral action by PMS and result in deficit amounts being sent to collections, with no recourse for the institutions to dispute the amount. Some of the institutions that participated in the call indicated amounts in question of over $500,000, and even approaching $1 million.

The call was productive. Mr. Long committed to: 1) a slow-down of the process, 2) work with institutions, collaboratively, to determine the fair deficit/surplus amount, and 3) provide 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 establish a process for the institution to address its unique situation. If your institution is impacted, contact David Kennedy and he will provide contact information for Mr. Long and answer other related questions.

OMB Compliance Supplement for 2019: Still Waiting

We expect the 2019 Compliance Supplement (CS) to be available soon; however, OMB cannot commit to an exact date. In the early spring, COGR responded to OMB with comments on the draft version of the 2019 Compliance Supplement. We commented on Part 5, Research & Development Cluster, with the most notable change being that the 12 compliance requirements will be rotated on an annual basis. Consequently, our understanding is that only 6 of the 12 will be flagged for testing in the 2019 CS. We asked OMB to confirm that a rotational approach is their intention.

We also provided comments related to implementation of the micropurchase threshold (MPT) and simplified acquisition threshold (SAT) as they relate to the Procurement Standards in 2 CFR 200.317-326, and as addressed in OMB Memo M-18-18 (June 20, 2018). We specifically commented on draft language concerning the $10K MPT and $250K SAT, emphasizing that the NDAA of 2017 and 2018 are now

applicable law, and that institutions have definitive protection under OMB Memo M-18-18 (and further in NIH Notice NOT-OD-18-219) when using thresholds up to these values in their procurement practices.

Finally, we again were disappointed that OMB is not addressing the Payment / Reimbursement Request / Documentation issue that continues to come up in some audits. COGR first raised this issue in regard to the 2017 Compliance Supplement (see COGR Comment Letter, dated October 20, 2017), and we will continue to remind OMB and the audit community that our concerns from 2017 – i.e., creation of reporting burden without any value-added to accountability – still are applicable. We will keep the membership posted on all developments.

The COGR F&A White Paper is Available, and Slide Deck to Follow: VOLUNTEERS NEEDED!

The COGR F&A White Paper, "Excellence in Research: The Funding Model, F&A Reimbursement, and Why the System Works," is available at www.cogr.edu. We are publishing a limited number of bound, hard copies and will provide one complimentary edition to each COGR institution. ***At the June COGR meeting we distributed a copy to those who were in attendance.*** If your institution did not attend the COGR meeting and is interested in receiving your one copy, contact Toni Russo. If you are interested in additional copies, we will take orders and provide them at cost.

The paper is a memorial to a wide variety of F&A issues, with the hope that it will be a longstanding educational resource to the research community, as well as an advocacy piece that can be used when F&A (inevitably) comes under scrutiny in the future (see May 2019 Update, Ongoing F&A Advocacy). The paper was completed through the active and dedicated efforts of COGR leadership and staff, the COGR Board, the COGR Costing Policies Committee, volunteers from the COGR RCA Committee, and at-large volunteers from throughout the research community. A special "THANK YOU!" goes out to all of those who were involved in this project. We have tried to recognize all of you in the first two pages of the paper, and if we made an oversight, please accept our apologies and we will make sure you are included.

In addition, the COGR Costing Committee is organizing a Workgroup for those who would like to assist in developing a PPT Slide Deck, the idea is to produce approximately 5 to 10 slides for each chapter from the paper, which then can be available for COGR institutions to present findings from the paper to faculty, staff and other stakeholders. Cindy Hope (University of Alabama) and Vivian Holmes (Boston University) will be the university representatives leading this effort. If you are interested in volunteering, contact Toni Russo or David Kennedy.

NIFA Update: 2018 Farm Bill and its Impact on Research

The 2018 Farm Bill (Agriculture Improvement Act of 2018 – signed into law, December 20, 2018) reauthorized many of the programs from the 2014 Farm Bill. However, the 2018 bill also included changes from the 2014 legislation, which will impact research programs implemented under the USDA, National

Institute of Food and Agriculture (NIFA). ***Four items from the 2018 Farm Bill are of particular interest to the research community:***

1) Sec. 7614 repeals the matching requirement exception for selected institutions/programs.
2) Further, and to exacerbate the repeal of the matching requirement exception, the Secretary of Agriculture does not have the authority to waive matching requirements for certain programs (e.g. SCRI).
3) Sec. 7125, Limitation on Indirect Costs for Agricultural Research, Education, and Extension Programs, redefines the treatment of subawards as it relates to the "30 percent Total Federal Funds Awarded (TFFA) F&A reimbursement cap."
4) Sec. 7163 allows the Secretary of Agriculture, in consultation with OMB, to review and revise time and effort reporting requirements.

During the Wednesday afternoon Committee Meetings, the RCA and Costing committees met with NIFA representatives **Cynthia Montgomery** (Deputy Director, Office of Grants and Fiscal Management) and Melanie Krizmanich (Senior Policy Specialist, Policy and Oversight Division). ***Several takeaways from the Wednesday meeting are worth noting:***

1) NIFA policy implementation must reflect the intent of the statutory language from the 2018 Farm Bill. As NIFA representatives were not privy to some of the changes, nor were they the lawmakers who were behind the changes, NIFA implementation guidance has had some challenges.
2) Per Sec. 7614, there seems to be little wiggle room in how NIFA can respond to the repeal of the matching requirement exception. And since the Secretary no longer has waiver authority, institutions now will have to assume new matching requirements for NIFA sponsored programs (also see NIFA's Matching Requirement FAQs).
3) How the matching requirement can be met, however, could be open to interpretation. For example, 1) can F&A (up to the 30% TFFA) be used to satisfy the matching requirement; and/or can F&A (up to the 30% TFFA) on the matching portion be used? According to FAQ #9, the answer is "No." However, NIFA indicated in the Wednesday meeting they are willing to review this internally.
4) Per Sec. 7125, this also seems to be a situation where the statutory language provides little wiggle room. Consequently, institutions are faced with the new administrative burden of managing and complying with the 30% TFFA indirect cost cap for the entire award, on top of the existing requirement that both the prime and sub charge no more than their NICRA (negotiated indirect cost rate agreement) or 30% TFFA for their portion of the award. In addition, this new requirement may force institutions into making undesirable choices – for instance, some institutions have decided to forgo the F&A allowable on the first $25,000 of a subaward to keep the indirect costs for the award within the 30% TFFA cap. NIFA's 2018 Farm Bill Indirect Cost Provision Guidance is confusing; however, NIFA is working on a revised version.
5) Depending on how Sec. 7163 is implemented, new time and effort reporting requirements could be imposed on federal formula funds, i.e., Hatch and Smith-Lever funds.

Next steps are focused on how COGR and the community can work with NIFA to minimize new administrative burden and identify solutions that will be helpful to the research community. ***Some ideas that we discussed with NIFA at the Wednesday meeting include:***

1) Work with NIFA to address whether regulatory changes to matching requirements may be possible. If so, we will suggest addressing the NIFA Matching Requirement FAQs – specifically, "fix" the FAQ #9 that disallows F&A to be used for cost sharing.
2) Work with NIFA to ensure all 2018 Farm Bill implementation guidance minimizes administrative burden and is user-friendly.
3) Work with NIFA to ensure post-award compliance is done with maximum flexibility. NIFA indicated that F&A cap compliance will be monitored at the end of each budget period, and not on each funding draw. This is a positive. We also want to explore the possibility of being able to rebudget costs to F&A at the end of the budget period and/or project period, if the 30 percent TFFA was not reached.
4) Work with NIFA to explore using the NSF model of "linked / collaborative" proposals. In effect, awards would be issued directly to each collaborator, which would eliminate the messy subaward / F&A management issue.
5) Confirm "grandfathering" awards issued prior to the 2018 Farm Bill is uniformly implemented at NIFA to ensure that the provisions of the 2014 Farm Bill are applicable.
6) Consider use of fixed award / subawards, when appropriate.
7) Work with NIFA to ensure that any new time and effort reporting requirements, especially as they relate to Hatch funds and Smith-Lever funds, are consistent with all NIFA programs and consistent with 2 CFR 200.430, Compensation – Personal Services.
8) Be available to provide data and other support to NIFA if legislative solutions are being considered.

The COGR RCA and Costing Committees are engaging with NIFA on the issues above. In addition, the Association of Public and Land-grant Universities (APLU) is on the front line working with NIFA and Congress on addressing these concerns, and COGR will partner with APLU, AAU and others in these efforts. We will keep the membership updated on all developments.

RESEARCH & REGULATORY REFORM

Committee: Lois Brako-Chair (University of Michigan), Kerry Peluso (Florida State University), Suzanne Rivera (Case Western Reserve University), Ara Tahmassian (Harvard University), Lynette Arias (University of Washington), Naomi Schrag (Columbia University), Marti Dunne (New York University), Martha Jones (Washington University – St. Louis), Mary Mitchell (Partners), J.R. Haywood (Michigan State University), Rodolfo Torres (University of Kansas), Debra Thurley (Pennsylvania State University), Michelle Christy (Massachusetts Institute of Technology)

Research Regulatory Reform

Research Regulatory Reform Update from OSTP and NIH at the June COGR Meeting

Jennifer Shieh, Assistant Director for Entrepreneurship, White House Office of Science and Technology Policy (OSTP), discussed OSTP priorities and initiatives at the June 6-7 COGR meeting. Dr. Shieh highlighted a new joint committee of the National Science and Technology Council's (NSTC) Committees on Science and Science and Technology. The joint committee will address issues facing the U.S. research community including administrative burden, rigor and integrity, inclusive research settings and protecting research assets. The President's Management Agenda was also discussed.

Michelle Bulls, Director of the NIH Office of Policy for Extramural Research Administration, provided an update on reform efforts underway at HHS and NIH under the 21st Century Cures Act. Slides from the session can be found here.

Regulatory Reform Related to Subrecipient Monitoring

During the discussion Michelle indicated the subrecipient monitoring language had been drafted and agreed to share the language with COGR for review and comment. COGR suggested only minor wording adjustments for making the language clearer in how auditors may choose to interpret and inadvertently mandate business practices that effectively negate the benefits that the language offers.

The following language was submitted to Jean and Michelle on June 7th.

The pass-through entity (PTE) is only responsible for addressing the deficiencies that are specifically related to its subaward. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's auditors and cognizant agency oversight for routine audit follow-up and management decisions. Such reliance does not eliminate the obligation of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring and to follow up with deficiencies that are identified specifically with the subaward issued by the pass-thru entity.

COGR also asked that the language be incorporated in the forthcoming changes in the Uniform Guidance in order to offer optimal relief in administrative burden government-wide.

Please stay tuned for further updates. Questions or comments can be submitted to Jackie Bendall.

Regulatory Reform Related to Costing and Financial Policies

Federal Cash Transaction Report (FCTR), SF 272. At the February COGR Meeting, Michelle Bulls from NIH indicated the 5-year effort to "eliminate" this redundant report was close to happening. The FCTR became reductant and obsolete after HHS and NIH implemented "subaccounts" in PMS – under subaccounts, award balances are available in real-time, making the FCTR unnecessary.

HHS/NIH Award Closeout. At the June COGR Meeting, Michelle Bulls indicated two additional policy changes that would be helpful and may be within reach. First, per 2 CFR 200.343(a), HHS/NIH still are considering implementation of the 120-day submission deadline for all closeout reports, rather than the 90 days recommended in 200.343(a). Second, HHS/NIH also are interested in utilizing the full one year (365 days) allowed under 200.343(g), rather than 270 days HHS originally implemented, to complete all closeout actions for a federal award.

Procurement. We believe with the pending release of the 2019 OMB Compliance Supplement (CS), this will resolve the lingering concerns related to implementation of the Micropurchase threshold (MPT) and the Simplified Acquisition threshold (SAT). See the section of the report, 2019 OMB Compliance Supplement, for more details on the MPT and SAT.

COGR Session on Exploring Regulatory Barriers to Innovative Academic Research

Bridget Dooling, research professor at the George Washington University Regulatory Studies Center, and **Susan Dudley**, Director and former Administrator with the White House Office of Information and Regulatory Affairs (OIRA), joined COGR Research and Regulatory Reform committee members on June 5 and COGR members on June 6 to discuss the regulatory process and challenges specific to federally funded academic research. Also discussed were potential outcomes and recommendations from an April 2, 2019, meeting focused on reducing regulatory barriers and creating efficiencies in the oversight of federally funded research.

Of interest to Center staff was that many of the federal requirements highlighted by university participants as areas in need of reform were not regulations and therefore largely outside of OIRA's oversight structure. In considering recommendations, the Center is likely to focus on structural issues, including agencies analyzing their own work, the absence of OIRA engagement, the need for more rigorous policy development and how to institutionalize changes. A consideration is that, unlike the Office of Science and Technology Policy, OIRA mostly relies on career staff rather than appointees and personnel on detail from agencies. Other considerations include a lack of incentive to engage stakeholders in policy development

and a trigger to re-analyze policy or engage in federal-wide efforts. Slides from the session can be found here.

COGR Session on the Academies Report on Reproducibility and Replicability in Science

The National Academies Committee on Reproducibility and Replicability in Science released its report and recommendations on May 7, 2019. The study was undertaken at the direction of Congress and funded by the National Science Foundation and Alfred P. Sloan Foundation. The committee reviewed the extent of issues related to, and efforts to improve, reproducibility and replicability.

David Allison, Dean of The Indiana University School of Public Health-Bloomington and a member of the committee, presented an overview of the report and the committee's findings and recommendations at the June 6-7 COGR meeting. Dr. Allison suggested that there is no crisis, but also that improvements are needed. The committee noted issues with terminology, offered definitions of reproducibility and replicability, and highlighted the role of research synthesis and meta-analysis. Sources of non-reproducibility and replicability and the criteria for undertaking these studies was discussed, as well as recommendations for institutions, researchers, and NSF and other funders. **Steve Meacham**, Section Head, Office of Integrative Activities, National Science Foundation, provided the agency's initial perspective on the report and indicated that NSF will address agency-specific recommendations in the coming weeks. Slides from the session can be found here.

NSF Merit Review Report

The National Science Foundation recently published a report on the merit review process for fiscal year 2017. NSF's funding rate was 23%, ranging from 19% in engineering to 32% in Geosciences, and was 18% for early career scientists. The mean annual research award amount was $169,324, and the mean duration 2.9 years. In FY17, NSF research awards supported 26,693 graduate students, 4,442 postdocs, and 33,296 senior research personnel. Additional data can be found in the report.

Statement on HHS Research Involving Human Fetal Tissue

On June 5, 2019, the Department of Health and Human Services issued a statement regarding HHS-funded research involving human fetal tissue from elective abortions. The statement indicates that the department is discontinuing NIH intramural research that requires new acquisition of fetal tissue from elective abortions effective immediately. Extramural research will not be affected during the currently approved project period. For new applications and renewals, an ethics advisory board (EAB) will be convened to review the research proposal and recommend whether NIH should fund the research project.

The HHS Secretary will make appointments to the board which would include at least one attorney, ethicist, practicing physician, and theologian, and no fewer than one-third and no more than one-half scientists with substantial accomplishments in biomedical or behavioral research. Per the statement, the department will also undertake rulemaking and NIH grants policy changes to strengthen "safeguards and program integrity requirements applicable to extramural research involving human fetal tissue." Scientific

and higher education associations have spoken out against the measures. COGR and other associations signed on to a letter in support of the Pocan amendment which would block the restrictions on extramural research.

NIH Director's Report at the June 13-14 NIH Advisory Committee to the Director Meeting

The NIH Advisory Committee to the Director met on June 13-14, 2019. The meeting agendas and links to the archived webcasts can be found here. Dr. Collins announced seven new committee members. All are women who will join what had been a predominantly male committee. This coincides with Dr. Collins announcement, noted in the press and at the ACD meeting that he would no longer participate on "manels," all or predominantly male, but also predominantly Caucasian, panels. Several new staff members were introduced including new and incoming institute and center directors, Bruce Tromberg, Director, National Institute of Biomedical Imaging and Bioengineering; Noni Byrnes, Director, Center for Scientific Review; and Debora Tucci, incoming Director, National Institute of Deafness and Other Communication Disorders.

Dr. Collins mentioned struggles on the part of NIH and its grantees with the EU's General Data Protection Regulations. He suggested that it is complicated and there is a lot of room for interpretation, which varies by country and even institution, and that lawyers tend to be conservative due to possible penalties for violations. NIH is working to see a way through it in order to maintain its EU partnerships including attendance at a planned meeting in Brussels.

Dr. Collins announced the formation of a new ACD working group: *Enhancing Reproducibility and Rigor in Animal Research*. Dr. Collins and Principal Deputy Director Larry Tabak published an article in Nature in 2012 outlining plans to enhance the reproducibility of NIH-funded research and the agency has implemented a number of changes. The 21st Century Cures Act called for a working group to address the issue of reproducibility. The agency considered what has been done to date and where additional work is needed and determined that animal models for human disease warranted review. The proposed charge of the new committee includes identifying gaps and opportunities "to improve the rigor, reproducibility, translational validity, and transparency of studies involving animal models;" evaluating how "animal models of human disease are currently developed, validated and accepted into routine use and how this process could be improved;" assessing "the current state of science for validating alternative models to animal research;" considering "the benefits and burdens of registering animal studies that aim to lead to first in human trials;" modeling "the financial implications of potential changes in the average costs of grants using animal models, the number of studies funded, or the need to develop multi-lab consortia to achieve appropriate statistical power;" and, to "consider how rigor in animal research is incorporated into training."

Changes to NSF Policies and Procedures for Generating Biosketches

NSF has announced that beginning with the next iteration of the Proposal and Award Policies and Procedures Guide (PAPPG), (anticipated effective date, January 2020), NSF will only accept PDFs for

biographical sketches that are generated through use of an NSF-approved format. NSF-approved format(s) will be posted on the NSF website when the PAPPG is issued.

NIH's SciENcv (Science Experts Network Curriculum Vitae) is an approved format that aims to reduce the time that investigators take to generate biosketches by maintaining information for subsequent proposal submissions. A tutorial can be found here.

Executive Order on Evaluating and Improving the Utility of Federal Advisory Committees

On June 14, the White House issued an Executive Order on Evaluating and Improving the Utility of Federal Advisory Committees. The order directs federal agencies to evaluate the need for existing advisory committees not required by statute and terminate at least one third of the committees, including those for which the stated objectives have been accomplished, the work has become obsolete, the primary functions have been assumed by another entity, or the agency determines that the costs are excessive in relation to benefits. The order does allow for waiver. Potential impact on the research community is difficult to predict, but many groups have expressed concern, in part because of recent developments related to advisory groups to the EPA.

The order also places limitations on the formation of new committees. A government-wide combined total number of eligible committees is not to exceed 350, after which agencies will be required to seek a waiver from OMB to create a new committee. Concern has been expressed about this seemingly arbitrary cap on committees and the implications for scientific advisory groups. Merit review panels are exempt from the order.

CONTRACTS AND INTELLECTUAL PROPERTY

Committee: Patrick Schlesinger-Chair (University of California-Berkeley), Alexandra Albinak (The Johns Hopkins University), Elizabeth Peloso (University of Pennsylvania), Kevin Wozniak (Georgia Tech Research Corporation), David Winwood (Louisiana State University), Fred Reinhart (University of Massachusetts), John Ritter (Princeton University), Jennifer Ponting (Harvard University), Dan Nordquist (Washington State University), Cindy Kiel (University of California, Davis), Michael Moore (Northwestern University), Janna Tom (University of California)

Meeting with NIST

The CIP Committee met with **Paul Zielinski**, Director of the NIST Technology Partnerships Office. The first topic of discussion was the transition of the iEdison invention reporting system from NIH to NIST. We learned that NIST has formally acknowledged the transition from NIH, and that an initial meeting for discussion was to be held the week of June 10. A 1.5 yr. timeframe is envisioned for the transition. NIST would like to simplify the basic data elements in the system with the possibility of agency-specific portals, as well as upgrade the system, such as adding auto-population of data from the USPTO patent database. Data security is a concern. An RFI is planned for late summer. The feedback would inform a subsequent

RFP for system design from vendors. The RFI would ask for input into user issues and concerns with the system. NIST may also hold one or more public workshops. We raised several issues with Paul, including the cumbersome wording requirements for the government support statement and the issue of the 10-month notification period for non-provisional filing. We also suggested that the final invention report for grant close out could be generated through the system and that NIST explore possible linkages with research.gov or grants.gov and the FDP.

We next discussed with Paul the implementation of the ROI Intended Actions (see COGR December 2018 and February 2019 Updates). NIST plans to develop both a legislative and regulatory package. The legislative package would not involve any changes to Bayh-Dole (only the Stevenson-Wydler Act). The regulatory package would include implementation of the government use license and march-in rights Intended Actions, among others. NIST plans to submit the regulatory package for interagency discussion in July and to issue an NPRM in September. In addition to the ROI implementation, the NPRM would include deletion of obsolete or repetitive language in the current 37 CFR 401.14 Bayh-Dole regulations (CIP previously had provided Paul with some suggestions).

While we fully support NIST in these efforts, the timetable may be too optimistic, especially for the iEdison conversion. It also is possible NIST may conclude that development of a new system is too costly, and/or that enhancements to the existing iEdison or other current government invention reporting system (e.g. NASA) is preferable given resource constraints. We plan to work closely with NIST as these efforts proceed and will keep the COGR membership informed.

Patent Reform: Changes to Section 101

The February Meeting Report discussed comments and discussions about patent subject matter eligibility (Section 101 of the Patent Act; 35 USC 101). We also discussed responses to questions from Sen. Tillis's 101 Roundtable held in May. We and the other higher ed. associations consistently have expressed the view that that Section 101 should perform a broad gatekeeping function that should be subsequently narrowed by application of other parts of the patent law on eligibility. The confusion and inconsistency resulting from recent judicial decisions have had a destabilizing effect on university technology transfer processes and planning.

Sens. Tillis and Coons have developed a draft Section 101 reform proposal. It would do away with the current judicial exceptions to subject matter eligibility ("abstract ideas," "laws of nature," or "natural phenomena"). Section 101 instead would allow patenting of any invention or discovery that provides specific and practical utility in any field of technology through human intervention, considering the invention as a whole. While this would provide for broad eligibility for a patent, the other patent law requirements of novelty (Sec. 102), non-obviousness (Sec. 103) and enablement (Sec. 112) still would apply for a patent to be granted.

There has been substantial criticism of the proposal. On June 3 a coalition of organizations wrote to the Senators expressing their opposition. A series of hearings on the proposal was held the week of June 3 by Sen. Tillis's Senate Judiciary Committee Subcommittee on Intellectual Property.

At the second hearing on June 5, AAU was represented by Rick Brandon, Associate General Counsel of the University of Michigan. He discussed the patenting uncertainties resulting from recent court decisions, and the difficulties experienced by universities in securing licensee investments due to these uncertainties, particularly with medical diagnostic technologies. He listed a number of concerns with the draft but expressed overall AAU support for the thrust of the draft legislation.

While COGR and other associations previously had joined in comments and responses on these issues, we did **not** join in the testimony (the Subcommittee website erroneously identified COGR as having joined with AAU). The draft proposal raises serious policy and legal issues. More discussion is needed within the CIP Committee and with COGR leadership about the appropriate COGR position with regard to Congressional testimony on these issues.

RESEARCH COMPLIANCE AND ADMINISTRATION

Committee: Pamela Webb -Chair (University of Minnesota), Jeffrey Friedland (University of Delaware), Walter Goldschmidts (Cold Spring Harbor Laboratory), David Norton (University of Florida), Jennifer Lassner (University of Iowa), Steven Martin (Indiana University – Bloomington), Lisa Mosley (Yale University), Allen DiPalma (University of Pittsburgh); Jeremy Forsberg (University of Texas-Arlington), Stephanie Endy (Case Western Reserve University), Twila Reighley (Michigan State University), Jennifer Rodis (University of Wisconsin – Madison)

Research Misconduct Session with the Office of Research Integrity (ORI)

Loc Nguyen-Khoa from the ORI Division of Education and Integrity gave an update at the Thursday morning session of the COGR meeting. Following the October 2018 NIH Notice "Responsibilities of Recipient Institutions in Communicating Research Misconduct," COGR expressed concern that reporting a mere allegation of research misconduct violates the spirit and letter of the PHS regulation and undermines the due process we strive to preserve in research misconduct cases. (See letter). During Mr. Nguyen-Khoa's discussion, he reinforced that no changes to the PHS regulations on research misconduct have been made with respect to protecting the confidentiality of respondents. He also spoke about the handling of plagiarism allegations, pointing out that ORI's practice is to refer these to the institution for handling, the same way ORI handles allegations of fabrication or falsification. Mr. Nguyen-Khoa stated that allegations of plagiarism received by ORI are often credit or authorship disputes, which does not fall under the definition of plagiarism. Additionally, the regulatory definition of plagiarism does not include self-plagiarism as research misconduct. A slide during the presentation showing the "ORI Policy on Plagiarism" indicated that "ORI generally does not pursue the limited use of identical or nearly-identical

phrases which describe a commonly-used methodology or previous research because ORI does not consider such use as substantially misleading to the reader or of great significance." ORI encourages ongoing dialogue and COGR will continue to engage as necessary. Please contact Jackie Bendall for additional questions or comments.

NSF Update on Sexual Harassment

During the Thursday afternoon session **Jean Feldman**, Head of the Policy Office in NSF's Office of Budget Finance and Award Management, gave an update on NSF's experience with its new term and condition regarding sexual and other forms of harassment.

The format for this session was for Ms. Feldman to present any new updates but more so, to hear from the audience regarding the implementation aspects since the term and condition went into effect. No issues from the audience were raised. COGR will continue to stay on top of this topic are more data is available to make meaningful conclusions. No changes to the term and condition are being considered by NSF at this time and the PAPPG (currently out for comment) will remain unchanged with respect to this issue.

FDA Federal Register Notice Regarding "Scientific Data and Information About Products Containing Cannabis or Cannabis-Derived Compounds"

The FDA has extended the comment period for the Federal Register notice entitled, "Scientific Data and Information About Products Containing Cannabis or Cannabis-Derived Compounds," first published in April, to July 16, 2019. The notice follows a public hearing held on May 31, 2019, for the purpose of obtaining scientific data and information about the safety, manufacturing, product quality, marketing, labeling, and sale of products containing cannabis or cannabis-derived compounds. Of interest to COGR and many others during this hearing was the vast majority of statements made impressing on the FDA the need to open the doors for research on cannabidiol (CBD) and cannabis. CBD, a non-psychoactive form of cannabis, often derived from hemp, is in products being sold all over the country in retail stores and is also available online. Although hemp is now legal after the passage of the 2018 Farm Bill, some issues remain uncertain. In addition, the federal government considers any hemp plant containing more than 0.3 percent tetrahydrocannabinol (THC) to be, by definition, marijuana (highly addictive with no medicinal benefit) and therefore a controlled substance on the federal governments Schedule I drug list (along with heroin, LSD, and others). The Drug Enforcement Agency (DEA) controls, enforces, and oversees any changes to the Schedules.

There continues to be limited varieties of marijuana available for research under federal law. Despite many petitions to re-classify marijuana from Schedule 1, the recent approval of Epidiolex (derived from the cannabis plant and proved through clinical trials to have medicinal benefit), DEA's own words, and over two dozen applicants, the only entity in the country allowed to grow marijuana for research under

federal law remains the University of Mississippi through an ongoing contract with the National Institute of Drug Abuse. With a flurry of unregulated products and dietary supplements hitting the market, researchers continue to emphasize the need to properly research CBD and cannabis and their impact on public health. Currently there is no way for consumers to know how much THC is in products, whether they contain contaminants such as pesticides, and whether they might conflict with other medications taken. COGR will continue to advocate on behalf of our members and will respond to the Federal Register notice by July 16, 2019, largely focusing on the need to reduce barriers to the ability to conduct research to provide such scientific data. Please send your comments to Jackie Bendall.

NSF Seeks Comments on Draft Proposal and Award Policies and Procedures Guide (PAPPG)

On May 29th NSF released a federal register notice seeking comments on the draft PAPPG. The most controversial change is to Current and Pending Support. See *Page II-23 (h) Current and Pending Support:*

*"Current and pending support information must be separately provided for each individual designated as senior personnel on the proposal through use of an NSF-approved format. Information must be provided about all current and pending support, including this project**, for ongoing projects**, and for any proposals currently under consideration from whatever source, irrespective of whether such support is provided through the proposing organization or is provided directly to the individual.* ***All projects and activities****, current or proposed, that require a* ***time commitment*** *from the individual must be reported, even if the support received is only* ***in kind*** *(such as office/laboratory space, equipment, supplies, employees, students).* ***The total award amount for the entire award period covered (including indirect costs) must be provided, as well as the number of person-months (or partial person-months) per year to be devoted to the project by the senior personnel involved****.*

Concurrent submission of a proposal to other organizations will not prejudice its review by NSF, if disclosed. ***If the project (or any part of the project) now being submitted has been funded previously by a source other than NSF, provide the required information describing the last period of funding."***

Of particular concern is whether "ongoing projects" and "all projects and activities" are limited to those that are within the scope of an individual's institutional responsibilities, or Institutional Base Salary (IBS). "All activities" could be interpreted to mean activities typically captured in separate and distinct reporting systems such as self-disclosures pursuant to an institution's conflict of interest or conflict of commitment disclosure processes, or could include activities such as serving on a Board of Directors, having an adjunct

position, or giving lectures. These activities have never required the documentation of a time commitment. Furthermore, in-kind support that will benefit a particular project is currently reported in the Facilities, Equipment and Other Resources section of a proposal and not quantified in the same way. This statement leaves institutions wondering whether this type of support, generally considered cost sharing, will be required going forward and a departure against current NSF policy. Other questions include whether the portion of salary above mandatory federal salary caps (HHS) and faculty start-up funding will require disclosure. Although some of these activities are documented and accounted for, many outside the IBS are not. The proposed revision of the current and pending support will be a substantial change in practice for institutions, will increase administrative burden and will require cross coordination with multiple offices. COGR intends to respond to the call for comments and remain actively engaged with NSF on this issue. Please send your comments to Jackie Bendall on this as well as other revisions being proposed to the PAPPG. Comments are due July 29th.

Office of Management and Budget Update

On June 20, COGR staff met with OMB staff for a general update on Uniform Guidance and progress on the Cross-Agency Priority (CAP) Goals under the President's Management Agenda. The timing was good; we were told that an update on the Cap Goal 8 Action Plan had just been posted to performance.gov prior to our arrival. The four key strategies are: standardize the grants management business process and data; build shared IT infrastructure; manage risk; and achieve program goals and objectives.

Over the course of several months, OMB and the Research Business Models working group have been looking at a variety of issues, including individual provisions and cost allocation requirements that create burden, with a move to focus more on the performance of grants and less on the compliance standards. One challenge mentioned during the meeting is to determine what best to measure to show that program objectives are being achieved for different kinds of awards. Once that is determined, OMB would provide guidance to agencies on what information to include in Funding Opportunities. The output from OMB is likely to be an approach to performance management practices that agencies can use to obtain results.

OMB indicated that the research community can expect to see proposed revisions to the Uniform Guidance later this year. The scope of the revisions includes changes to remove barriers to achieving PMA and CAP goals, to reflect recent statutes, and to incorporate clarifications, such as those that are currently included in FAQs. Also mentioned was OMB memo M-19-16, a new federal agency wide shared services strategy designed to reduce duplication, provide better services and improve accountability through the designation of Quality Services Management Offices (QSMOs) and other key business strategy functions. Click here to read the OMB memo. OMB encourages the continual sharing of information and open dialogue with the research community, including new and innovative practices taking place on your campuses. We will continue to engage with OMB and will be responding to the Uniform Guidance notice when it comes out. Before then, we intend to make some suggestions to OMB of changes we would like to see to Uniform guidance, in the hopes that they can be incorporated before being published. Please contact Jackie Bendall for additional questions.