



July 30, 2024

Submitted Electronically to: <https://www.regulations.gov>

CC: Office of Science and Technology Policy (OSTP)

RE: Response to Request for Comments: Biosketch and Current and Pending Support Disclosure Policy (NASA Document No: NASA-24-040; NASA Docket No: NASA-24-0003)

To Whom It May Concern:

We are writing to provide our comments in response to NASA's Grants Policy and Compliance (GPC) in the Office of Procurement solicitation for public comment on the Agency's forthcoming [Biosketch and Current and Pending Support Disclosure Policy](#), published on June 28, 2024.

COGR is an association of over 200 public and private U.S. research universities, affiliated academic medical centers, and research institutes. We focus on the impact of federal regulations, policies, and practices on the performance of research conducted at our member institutions and advocate for sound, efficient, and effective regulation that safeguards research and minimizes administrative and cost burdens. COGR and its member institutions recognize the importance of being good stewards of federal research funds and work diligently to ensure full transparency and accountability regarding how these funds are used in accordance with federal policies.

We firmly believe the National Science and Technology Council (NSTC) common disclosure forms for Biographical Sketch and Current and Pending (Other Support) (i.e., common forms) will help ensure uniformity, reduce administrative burden, and facilitate compliance, thereby promoting efficiency and transparency in the research funding process. We support all federal research agencies, including NASA, in promptly implementing these forms, as directed by the OSTP, permitting deviations only when specified by statute, regulation, specific agency authorities, or other compelling reasons with OMB/OIRA review and clearance.¹ Adopting the NSTC common disclosure forms consistently across research agencies is not only crucial, but also beneficial.

The remainder of this letter outlines our comments to align NASA's Biosketch and Current and Pending Support Disclosure Policy, effective October 1, 2024, with the NSTC common disclosure forms. Please contact me or Krystal Toups at ktoups@cogr.edu if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "M. M. Owens". The signature is fluid and cursive.

Matt Owens
President

¹ See, OSTP [Memorandum](#) for the Heads of Federal Research Agencies, February 14, 2024

Comments

Below is a summary of COGR's review of NASA's Biosketch and Current and Pending Support Disclosure Policy. The notice² specifies that NASA will implement the common forms with "minor deviations" but does not specify the deviations. It also states that NASA will provide a resource table entitled *NASA Pre-award and Post-award Disclosure Requirements*. However, the notice does not include a copy or link to the table. As such, we have limited our review to the policy contained in the notice. **We strongly recommend that NASA implement the common forms with no deviations, using the NSTC approved forms for the [Common Form for Biographical Sketch](#) and [Common Form for Current and Pending \(Other\) Support Information](#) along with the corresponding [Definitions](#) and [Table](#).** Utilizing the approved forms will ensure consistency and compliance.

Definition of Senior/key persons

1 (b) and 2 (b) - Senior/key persons. Per National Security Presidential Memorandum 33 (NSPM-33), a "senior/key person" is defined as an individual who (a) contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and (b) is designated as a covered individual by the Federal research agency concerned.

NASA will designate as a senior/key person all Principal Investigators (PIs), all co-Principal Investigators (CoPIs), and co-Investigators (Co-Is) proposing to spend 10 percent or more of their time in any given year on a NASA-funded grant or cooperative agreement. NASA program offices may designate additional personnel categories as a senior/key person on a project-by-project basis, and these designations must be explicitly stated in all Notices of Funding Opportunities (NOFO).

COGR supports the implementation of the NSTC-approved common forms and corresponding definitions. While the first portion of NASA's definition (first paragraph) aligns with the [NSPM-33 Definition](#), the remaining portion (second paragraph) introduces a *unique* requirement. It defines senior/key persons as PIs, Co-Is, and Co-PIs proposing to spend more than 10% effort annually on a NASA-funded grant or cooperative agreement. This differs from and adds to the NSPM-33 definition's criteria.

It appears NASA is attempting to streamline the identification of personnel that are particularly integral or meaningful for the project with level of effort as the driving criterion. While this is appreciated, it would create an inconsistent and difficult new reporting requirement. Unfortunately, level of effort is often an inaccurate criterion to identify the scientific and leadership roles in research. The greatest level of effort proposed and committed may be due to the level of effort needed for certain researchers to perform experiments or analyses outlined in the proposal, even though other investigators might have been responsible for the design and oversight of the project. Conversely, often those with the greatest influence

² See, <https://www.federalregister.gov/documents/2024/06/28/2024-14170/request-for-comments-biosketch-and-current-and-pending-support-disclosure-policy>

have the least amount of effort proposed and committed to the project as they are simultaneously designing and overseeing the conduct of multiple related research endeavors. Additionally, it is common for investigators to adjust their level of effort over time as a project unfolds, and evaluating effort to ascertain whether an investigator continues to meet or annually will meet the NASA 10% disclosure reporting threshold would be administratively burdensome and impractical for recipients. As such, we are concerned that by not aligning with the NSPM-33 definition, NASA is creating an inconsistent disclosure reporting standard that will make implementation and monitoring at our member institutions extremely difficult.

At the same time, we are grateful that NASA is considering the differences represented between those that an investigator may list in a proposal in roles as Co-PI or Co-I for internal academic or reputational purposes compared to those that NASA believes may not be quite as integral to the design and conduct of the research. It is common for federal research agencies to make their own determinations as to who should be listed as senior/key, Co-PI, or Co-I in an award document, and thus bear the added responsibilities related to design and conduct of the research. We support NASA and other research agencies in this exercise of judgement and anticipate that it provides appropriate efficiencies for all parties.

We recommend that NASA aligns the definition of Senior/key persons with the NSPM-33 definition to align and standardize disclosure form requirements across the federal research agencies to the greatest extent practicable, in accordance with the [NSPM-33 Implementation Guidance](#).³ Additionally, we urge NASA to support the NSPM-33 determination that broader classes of individuals (e.g., graduate, undergraduate students) listed in the proposal as senior/key personnel should not automatically be considered senior/key personnel in the Notice of Award (with rare exceptions as outlined in NSPM-33.)

Forms Format and Digital Signatures

1(c) and 2(c) - Submission. Each senior/key person is responsible for preparing, signing, and submitting a biographical sketch form as part of their proposal. The form is available on the NASA Grants Policy and Compliance website as well as the NASA Shared Services Center website. There is no page limit to the biographical sketch form, and all data elements marked as required shall be submitted to NASA using the form. Senior/key personnel have the option to provide their Persistent Identifier in the "Persistent Identifier (PID) of the Senior/Key Person" section of the form.

The submission sections (1 (c) and 2 (c)) specify that the Biographical Sketch and the Current and Pending Support forms will be made available "on the NASA Grants Policy and Compliance website as well as the NASA Shared Services Center website." However, it does not specify the format expected to be used to submit the forms, e.g., PDF.

Furthermore, subsection i. requires institutions to maintain original forms with signatures due to the limitations of NASA's system NSPIRE, as stated below:

³ See, the [NSPM-33 Implementation Guidance](#), January 2022

i. Applicants are encouraged to digitally sign their disclosure forms. However, if a form with a digital signature is submitted to NASA via the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES), the system will remove the certification data associated with that digital signature. The signature will still be legible, but NASA will not be able to view any certification data embedded in the form. As such, award recipients shall maintain original forms with digital signatures and make them accessible to NASA in accordance with [2 CFR 200.334](#), Retention requirements for records, and 200.337, Access to records.

COGR is concerned that NSPIRES' inability to read digital signatures, necessitating the retention of digital copies, creates undue administrative burden on applicants. Many of our member institutions use SciENcv to complete the common disclosure forms for the National Science Foundation (NSF), which permits digital signatures. The National Institutes of Health (NIH) will also leverage SciENcv to complete and certify the common disclosure forms.⁴ The duplicative maintenance requirements proposed by NASA's policy contradict the aim of streamlining administrative processes and compliance.

We strongly encourage NASA to use SciENcv for the common disclosure forms. Additionally, NASA should be clear on the required submission format (e.g., PDF). Adopting SciENcv – already employed by NSF and soon by NIH – would significantly reduce the administrative burden on the research community and streamline the process, aligning with broader goals of efficiency and compliance, including making forms accessible to NASA in accordance with 2 CFR 200.334 and 200.337.

Post-award Disclosures

2(e) - *Post-award disclosures. After an entity receives an award, entities shall disclose new current and pending support activities that have arisen since submission of the proposal. Entities shall indicate that there are new current and pending support disclosures in the first Research Performance Progress Report (RPPR) that is due to NASA after the new current and pending support has been disclosed to the entity. Entities shall indicate that new current and pending support has been identified in the "Participants & Other Collaborating Organizations" section of the RPPR. If there are new disclosures, senior/key persons must prepare, certify, and submit a revised current and pending support form along with the RPPR. The NASA Pre-award and Post-award Disclosure Requirements table describes which new support requires disclosure as part of performance reports.*

Section 2(e) of the Current and Pending Support Disclosures references "entities" as the party to disclose new current and pending support activities since the submission of the proposal or the RPPR when Principal Investigators generally submit RPPRs directly to NASA.

⁴ See, slide #14 https://www.cogr.edu/sites/default/files/NIH%20Updates_0.pdf

Therefore, we recommend replacing “entities” with “senior/key persons” as follows. This approach is consistent with other federal research agencies.⁵

2(e) - *Post-award disclosures. After an entity receives an award, senior/key person shall disclose new current and pending support activities that have arisen since submission of the proposal. Senior/key person shall indicate that there are new current and pending support disclosures in the first Research Performance Progress Report (RPPR) that is due to NASA after the new current and pending support has been disclosed to the entity. Senior/key person shall indicate that new current and pending support has been identified in the “Participants & Other Collaborating Organizations” section of the RPPR. If there are new disclosures, senior/key persons must prepare, certify, and submit a revised current and pending support form along with the RPPR. The NASA Pre-award and Post-award Disclosure Requirements table describes which new support requires disclosure as part of performance reports*

In-Kind Contributions

3.A. - *In-kind contributions that support the research activity for use on the project/proposal being proposed, and*

The NSTC common forms specify that *all in-kind contributions with an estimated dollar value of \$5,000 or more and that require a commitment of the individual's time* must be disclosed. Additionally, it states that *in-kind contributions with an estimated value of less than \$5,000 need not be reported*. NASA's policy on in-kind contributions in the Facilities, Equipment, and Other Resources section sets no threshold and, therefore, does not align with the NSTC common forms.

COGR recommends that NASA align with the NSTC common forms by setting a \$5,000 threshold for in-kind contributions. This alignment would standardize practices across federal research agencies, reduce administrative burdens, and improve consistency in federal award management.

Malign Foreign Talent Recruitment Programs (MFTRP)

(b) Upon completing a biographical sketch and current and pending support form, senior/key personnel will be required to sign a certification statement reading “I also certify that, at the time of submission, I am not a party to a malign foreign talent recruitment program.”

i. 42 U.S.C. 19232(a)(1) requires that covered individuals submit a certification stating that they are not a party to a MFTRP annually after proposal submission for the duration of the award. As such, all NASA award recipients shall ensure that senior/key personnel have signed a certification annually stating that they are not a party to a MFTRP. These annual certifications do not have to

⁵ See, NSF [PAPPG Chapter IX.C.2](#)

be submitted to NASA, but award recipients must maintain them in their grant files and make them available to NASA upon request in accordance with 2 CFR 200.334, Retention requirements for records, and 200.337, Access to records.

(c) Upon submitting a proposal in NSPIRES, entities' Authorized Organizational Representatives (AOR) will be required to certify that all senior/key personnel associated with the proposal have been made aware of and have complied with their responsibility under 42 U.S.C. 19232 to certify that they are not a party to a malign foreign talent recruitment program.

NASA's policy requires award recipients to ensure that senior/key personnel: 1) sign a certification statement for the biographical sketch and current and pending forms, and 2) sign an annual certification that they are not a party to a MFTRP. NASA's policy also requires an institutional certification upon submitting a proposal.

COGR recommends that NASA acknowledge that an institution's annual process of certification that a covered individual is not participating in a MFTRP will suffice to document the requirement. Additionally, COGR strongly encourage that NASA use SciENCv for the common disclosure forms, as noted above. We also recommend that federal research agencies work together to create a single system for capturing institutional certifications (such as SAM.gov).

Conclusion

COGR and its member institutions recognize the importance of ensuring the integrity of research and protecting the U.S. research enterprise through full transparency in disclosure requirements. Equally important is the need for standardized instructions across federal research agencies, which is critical for effective institutional training and the accuracy of disclosure reports. We are concerned that NASA's deviations and unique requirements for completing the common forms impede uniformity. Consequently, we stress the need for consistent standards across *all* federal research agencies. We appreciate the opportunity to comment on the proposed policy and firmly believe that our recommendations will facilitate institutions' implementation to ensure compliance.