

# COGR

an organization of research universities

## COUNCIL ON GOVERNMENTAL RELATIONS

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Karen Murphy  
U.S. Fish and Wildlife Service  
Western Alaska LCC Coordinator  
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1011 E. Tudor Road MS 281  
Anchorage, AK 99503

Subject: Funding Opportunity Announcement Number: F15AS00464

Dear Ms. Murphy,

I am writing on behalf of the Council of Governmental Relations (COGR), a non-profit association of 190 research universities and affiliated academic medical centers and research institutes. COGR concerns itself with the impact of federal regulations, policies, and practices on the performance of research conducted at its member institutions.

With the implementation of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, we continue to ask our members to bring issues to our attention that create confusion or undue burden. As such, many of our members have spent a considerable amount of time trying to interpret and comply with the different Conflict of Interest requirements found in various agency funding opportunities and award terms. As noted in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, §200.112 Conflict of interest, "The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy."

The COI section in the attached FOA (pages 9 and 16) provides no reference to a published US Fish & Wildlife Service Conflict of Interest policy, thereby making it difficult to meet any resultant compliance obligations or expectations. Additionally, we find no reference to key terms or definitions such as conflict of interest or close personal relationships, or criteria for how the Service plans to evaluate any subsequent disclosures. The COI section also assigns the right and responsibility of conducting conflict of interest reviews and determining how to manage the conflicts to the Service, thus removing it from the recipient institution. This requirement places an important responsibility in the hands of individuals who may not fully understand the unique characteristics of the recipient institution and the impact of the potential conflict of interest on the research. In addition, this requirement completely contradicts with the long-standing existing conflict of interest policies from federal agencies (the Public Health Service (PHS) and the National Science Foundation (NSF)), which recognize the expertise, the infrastructure, the experience, and the skills recipient institutions have in addressing the conflict of interest issues of their employees.

The COI section (page 16) also requires disclosures of actual or potential COIs known at the time of application. The use of the word “known” implies that an inquiry has taken place. Due to the vast amount of agency proposals sent by the required due dates, gathering disclosures from recipients employees or recipients when it is unknown if the proposal will be funded, is onerous and overly burdensome. We ask that the language in the announcement, at a minimum be revised to reflect disclosure requirements at a “just in time” stage or at such time when the PI has been selected for funding. In addition, under most grant programs, the recipient name is the name of the institution. It would be highly unlikely that disclosures could be collected from all employees of an institution at the time of application, including employees that play no role in the conduct of the science being funded.

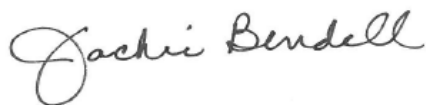
The final sentence of the COI section, “Failure to resolve conflicts of interest in a manner that satisfies the Service may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including termination of this award” is especially alarming because the remedies referenced include severe punishments including suspension or debarment. This general and vague statement allows the Service to apply any remedy described in 2 CFR 200.338, Remedies for Noncompliance, without giving recipient institution’s any power to provide input during the conflict of interest process or disagree with the Service’s determination.

We seek clarity regarding the following:

- What type of conflicts of interest is the Service interested in reviewing (procurement vs. financial conflict of interest similar to the PHS and NSF requirements)?
- Please provide definitions for key terms including conflict of interest, close personal relationships.
- Who should be disclosing (e.g., principal investigator, all individuals funded by this project, certain individuals meeting a certain definition)?
- What criteria will the Service use to evaluate the disclosed actual or potential conflict of interest?
- Does the Service expect the recipient institution to complete a review of the disclosed interests prior to the time of application based on the requirement stating that applicants must notify the Service of actual or potential COIs known at the time of application?
- Would the Service consider removing or revising the reference to remedies in 2 CFR 200.338?

We appreciate your attention to this email and are available to discuss this matter in more detail. We’ve had recent success working with other federal agencies in trying to resolve matters where such language has been unclear. We hope that you will be willing to work with us as well.

Warm regards,



Jackie Bendall, Director  
Research Compliance & Administration

cc: Gilbert Tran, Office of Federal Financial Management  
Office of Management and Budget