



December 20, 2023

Submitted Electronically to: <https://rfi.grants.nih.gov/?s=64f73ac725d412ff4a0ae202>

**RE: Response to Request for Information (RFI) on Proposed Guidance to Assured Institutions on Cephalopod Care and Use (NOT-OD-23-176)**

To Whom It May Concern:

We write to offer comments in response to the National Institutes of Health (NIH) Office of Laboratory Animal Welfare's (OLAW) request for comments in response to its *Request for Information (RFI) on Proposed Guidance to Assured Institutions on Cephalopod Care and Use (NOT-OD-23-176)* ("RFI"). COGR is an association of over 200 public and private U.S. research universities and 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 we 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 ensuring the health, safety, and welfare of all laboratory animals used in research, and our institutions strive to adopt and promote effective practices in this area. When scientific research provides new knowledge about animal health and behavior, we appreciate that government regulators may need to update regulations, guidelines, and policies to reflect this new knowledge. These activities may include expanding the applicability of such regulations, guidelines, and policies to encompass additional classes of animals when there is an appropriate authority for doing so.

However, we are deeply concerned that the RFI's extension of the *U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research and Training* ("Principles") as described in the RFI exceeds OLAW's authority. Further, the RFI's call for implementation of institutional cephalopod-specific policies and standing operating procedures (SOPs) is not supported by the current state of scientific knowledge regarding cephalopod physiology and behavior. For these reasons, we urge OLAW to reconsider the approach outlined in the RFI. Instead of offering guidance on the Principles' application to research using cephalopods, OLAW should modify the guidance set forth in the RFI to provide suggested approaches that assured institutions may consider when conducting this research. The remainder of this letter details our concerns and offers recommendations for modifying the guidance proposed in the RFI.

## Concerns

As noted above, we have two major concerns regarding the approach OLAW has taken in the RFI:

- Lack of Authority to Modify the Principles Unilaterally: The RFI seeks to apply the Principles to cephalopods. However, the Principles apply *only* to vertebrate animals. Additionally, the Principles were not promulgated by the Department of Health and Human Services (HHS). Rather, the Office of Science and Technology Policy promulgated the Principles in 1985, and they were adopted by the members of the Interagency Research Animal Committee, which included the HHS.<sup>1</sup> Accordingly, OLAW does not appear to have the authority to unilaterally expand the scope of the Principles to include non-vertebrate species, including cephalopods, and the RFI provides no explanation as to why OLAW believes it possesses such authority. Further, as the RFI acknowledges, cephalopods are not regulated under the Animal Welfare Act nor the *PHS Policy on Humane Care and Use of Laboratory Animals* (“PHS Policy”), thus, OLAW offers no legislative or policy basis for its regulation of cephalopods.
- Insufficient Base of Scientific Knowledge to Support the Implementation of Specific Care and Use Standards: The RFI states that cephalopod-specific “standards for husbandry and housing, and professional standards for veterinary care *are still being developed* by the veterinary and research communities and require additional scientific study and validation.” [*Emphasis added*]. Yet the RFI would require assured institutions to develop standard operating procedures (SOPs) for cephalopod care and subject research activities using cephalopods to IACUC review, approval, and oversight. This approach is premature because the husbandry, housing, and veterinary standards that form the requisite foundation for institutional SOPs do *not* yet exist for the hundreds of animal species that are collectively known as cephalopods.

## Recommendations

To address the foregoing concerns, we offer the following suggestions for modifying the RFI’s “proposed guidance”:

- (1) The RFI states that “NIH is seeking input on the following proposed guidance for institutions with approved Animal Welfare Assurances.” However, OLAW’s guidance pertains to implementation of the PHS Policy,<sup>2</sup> which does not cover cephalopods, and as previously noted, the Principles also do not apply to cephalopods. Accordingly, we believe

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<sup>1</sup> 50 F.R. 20864 (May 20, 1985) (“The following Interagency Research Animal Committee member agencies are committed to these Principles as published: The Department Health and Human Services (HHS) the Department of Agriculture, the Department of Defense, the Department of State, the Department of the Interior, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, and the Veterans Administration. Components of the Public Health Service within the HHS that are represented on the committee include the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, the Food and Drug Administration, the National Institutes of Health, and the Office of International Health.”)

<sup>2</sup> See, [OLAW Disclaimer](#).

that any advice offered by OLAW regarding research using cephalopods should not be framed as “guidance” regarding the implementation of either the Principles or PHS Policy. Rather, such advice should be framed as “suggested approaches” for institutions with approved animal welfare assurances to consider when reviewing and conducting PHS-supported laboratory animal research using cephalopods.

(2) Below we provide specific suggestions for modifying the Proposed Guidance” set forth in the RFI. These recommendations are listed under the text of the paragraph to which they refer.

- **First Paragraph:** *Assured Institutions are expected to ensure that cephalopod activities are subject to review and approval by IACUCs or other oversight bodies, and subsequent post-approval oversight, in accordance with U.S. Government Principles. This would involve including cephalopod programs and facilities in semiannual evaluations. Institutions may also choose to include cephalopod programs in other methods of post-approval monitoring used by the institution and may choose to voluntarily self-report any deficiencies to OLAW. Ad hoc consultants may be invited to assist with oversight activities. Institutions using cephalopods are expected to provide appropriate husbandry and veterinary care by employing research, husbandry, veterinary care, and physical plant staff with qualifications and training relevant to the species being used, as determined by the IACUC or other oversight body.*

As previously noted, COGR firmly believes that the requirements contemplated by this paragraph are inappropriate because neither the Principles nor the PHS Policy encompass cephalopods and OLAW does not have the authority to unilaterally expand them to do so, particularly via the mechanism of a guidance notice. Additionally, these requirements are premature because as the RFI states “species-specific standards for husbandry and housing, and professional standards for veterinary care are still being developed by the veterinary and research communities and require additional scientific study and validation.”<sup>3</sup> To address these concerns, we strongly encourage OLAW to make the following changes to the wording of this first paragraph:

- **First Sentence:** Delete “are expected to ensure that cephalopod activities” and substitute “are encouraged to see that PHS-supported cephalopod research activities.” Delete “in accordance with U.S. Government Principles.”
- **Second Sentence:** Delete “would” and substitute “may.”
- **Third Sentence:** Insert “PHS-supported” before “cephalopod.” Delete “and may choose to voluntarily self-report any deficiencies to OLAW.”
- **Fifth Sentence:** Delete this sentence and substitute the following text: “Institutions using cephalopods in PHS-supported research are encouraged to work with IACUCs and attending veterinarians to determine how best to provide appropriate husbandry and veterinary care for the species of cephalopods being used.”

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<sup>3</sup> RFI, Background Statement.

- **Second Paragraph:** *IACUCs and oversight bodies are encouraged to develop institutional policies and Standard Operating Procedures (SOPs) that summarize expectations and promote consistency and quality of cephalopod care and use. OLAW recognizes that there is tremendous variation in the life history, reproductive strategies, development, and captive breeding challenges among the several hundred known cephalopod species. Care requirements will necessarily differ based on these biological and environmental factors. In addition, cephalopod use varies with research aims (please see the OLAW Cephalopods in Research webpage for selected resources on these topics). Institutions have the discretion to develop institutional guidance that works best for their needs but should base their requirements on the U.S. Government Principles, as well as the most current data and professionally accepted standards. The Guide for the Care and Use of Laboratory Animals, 8<sup>th</sup> edition includes a section on aquatic animals with information on water quality and life support systems that can assist with some aspects of cephalopod care. In addition, information on current practice standards may be found on the AAALAC Resources page. The AVMA Guidelines for the Euthanasia of Animals provide guidance on the humane euthanasia of invertebrates, and institutions are expected to follow the most current version of these guidelines for the euthanasia of cephalopods. Practice standards will evolve based on new information in this expanding area of interest, and institutions are expected to keep apprised of the most updated information. Institutions are also encouraged to share their knowledge on the welfare of these research animals in conferences and publications.*

For the reasons detailed under the First Paragraph of the Proposed Guidance, we urge OLAW to make the following modifications to this paragraph:

- Sentences 4 through 10: Delete these sentences and substitute the following text:

In addition, cephalopod use varies with research aims. Institutions have the discretion to develop institutional guidance that works best for their research and program needs but should ensure that this guidance considers the most current data and professionally accepted standards for the care and use of cephalopods to promote the animals' health, safety, and welfare. This guidance will evolve as new information is developed, and institutions are encouraged to share their knowledge on the welfare of these research animals in conferences and publications. The following resources may be of use to institutions who are conducting PHS-supported research using cephalopods:


- The *Guide for the Care and Use of Laboratory Animals, 8<sup>th</sup> edition*, section on aquatic animals with information on water quality and life support systems.
- *AVMA Guidelines for the Euthanasia of Animals* guidance on the human euthanasia of invertebrates.
- OLAW "Cephalopods in Research" webpage
- *AAALAC Guidelines for the Care and Welfare of Cephalopods in Research*

## Conclusion

We appreciate the opportunity to offer comments on the RFI and hope that OLAW will give serious consideration to the recommendations that we have offered. Additionally, we hope that NIH will fund research on cephalopod physiology and behavior that is essential to developing standards for the veterinary care and husbandry of cephalopods used in research. In addition to forming the basis for these standards, this scientific groundwork is crucial for supporting any statutory, regulatory or policy changes, including changes to the Principles and PHS Policy. COGR and its member institutions look forward to playing a key role in this vital research and in contributing to this important body of knowledge.

Should you have any questions regarding this letter, please feel free to contact me or Kris West, COGR's Director for Research Ethics & Compliance at [kwest@cogr.edu](mailto:kwest@cogr.edu).

Sincerely,

A handwritten signature in black ink that reads "M. M. Owens". The signature is written in a cursive, slightly slanted style.

Matt Owens  
President