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**OMB Grants Reform Letter April 2012**

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Published Date: 05/02/2012

# COGR

an organization of research universities

## COUNCIL ON GOVERNMENTAL RELATIONS

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April 27, 2012

Mr. Daniel I. Werfel  
Controller, Office of Federal Financial Management  
Office of Management and Budget  
725 17<sup>th</sup> Street NW  
Washington, DC 20025

**Subject: Reform of Federal Policies Relating to Grants and  
Cooperative Agreements; Cost principles and  
Administrative Requirements (including Single Audit Act)**

**Advanced Notice of Proposed Guidance (ANPG)  
Federal Register, Vol. 77, No. 39 - February 28, 2012**

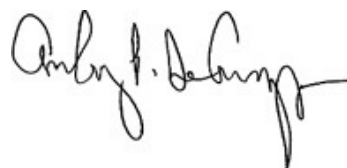
Dear Mr. Werfel:

On behalf of the Council on Governmental Relations (COGR) and its members, we appreciate the hard work you and many others have contributed to the grants reform initiatives being proposed. We recognize the significant challenge of this effort – our hope in this next phase of grants reform is that we remain trusting and collaborative partners and that implementation of grants reform is done in a constructive manner.

The Council on Governmental Relations (COGR) is an association of over 180 Research Universities and affiliated academic medical centers and research institutes. Our member institutions conduct over \$60 billion in research and development activities each year and play a major role in performing basic research on behalf of the Federal government. We bring a unique perspective to regulatory and cost burden and focus our concern on the influence of federal regulations, policies and practices on the performance of research and other sponsored activities carried out at COGR institutions.

Again, thank you for your hard work. The COGR responses to the Federal Register, ANPG are included on the pages that follow.

Sincerely,



Anthony P. DeCrappeo  
President

## BACKGROUND AND THE PARTNERSHIP

COGR previously responded to the June 28, 2011, National Institutes of Health NOT-OD-11-091 – RFI: Input on Reduction of Cost and Burden Associated with Federal Cost Principles for Educational Institutions (OMB Circular A-21).

The COGR philosophical approach to the RFI and the current ANPG remains the same: Grants Reform should be implemented in a manner that will result in a reduction of administrative burden and cost savings, without compromising the important responsible compliance and accountability standards in place at research institutions. Ultimately, Grants Reform should be designed to enhance research productivity by: a) eliminating onerous and non-productive requirements currently imposed on the faculty, b) providing more streamlined and effective administrative and compliance support to faculty and the broad scientific community, and c) reaffirming the grants process should be guided by the important principles of fairness, equity, and consistency.

We believe the Obama Administration shares this philosophical grounding, and the COGR response is based on this perspective. On February 28, 2011, President Obama issued the Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*. COGR's analysis of the February 28<sup>th</sup> Memorandum is that it is a thoughtful and sincere initiative that directs OMB to aggressively implement Grants Reform – a tepid approach by OMB will be a disappointment and inconsistent with the President's call "*to eliminate unnecessary, unduly burdensome, duplicative, or low-priority recordkeeping requirements and effectively tie such requirements to achievement of outcomes.*"

COGR's response also is based on honoring one of the long term foundational principles underlying our partnership – as defined in the preamble to OMB Circular A-21: *The [cost] principles are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law. Agencies are not expected to place additional restrictions on individual items of cost.*

We will continue to support Grants Reform and will remain enthusiastic partners as these important principles are advanced. The successful and longstanding Federal Government-Research University partnership is partly predicated on our shared conviction to continuously improve the infrastructure in which scientists and investigators conduct their work. We look forward to working with OMB to realize the important goals of Grants Reform.

## **EXPANDING GRANTS REFORM AND CORRESPONDING POLICY CHANGES BEYOND THE ANPG**

COGR's response to the June 28, 2011, NIH RFI, which resoundingly was supported by over one-hundred research institutions and leaders in higher education, included recommendations that were not addressed in the ANPG and which we consider crucial to grants reform.

We urge OMB to address the following items not covered in the ANPG:

**1) Develop a mechanism to address the ongoing problem where agencies implement Arbitrary Cost Reimbursement Policies.** These policies restrict reimbursement of selected payments and are manifested through F&A caps, “vague” requests designed to compel cost sharing, or other “creative” limitations (e.g., categorizing a cost item as a “subaward” rather than a vendor-purchase). If these agency practices go unchecked by OMB, the repercussion will be increasing institutional subsidies directed to specific research programs, at the expense of more strategic institutional investment in the research enterprise and other educational initiatives.

**2) Implement the COGR recommendation in the original June 28, 2011, NIH RFI: *Formalize an F&A Rate Negotiation Model that is transparent, unambiguous, consistent and collaborative between the Federal government and Research Universities and Institutions.*** Flat and/or Discounted F&A rates are not the solution. Instead, the recommendations made by COGR in the original June 28, 2011 response could be utilized to implement reforms that would improve the F&A rate negotiation model.

**3) Require all agencies that fund research activities to adopt the January 2011 NSF policy that prohibits Voluntary Cost Sharing** – this would provide important consistency across all research programs and activities. OMB should establish a workgroup that includes representatives from OMB, the research funding agencies, research institutions, and appropriate representatives from the research community to develop the plan to implement the NSF model, government-wide.

**4) Implement the COGR recommendation in the original June 28, 2011, NIH RFI: *Create a Mandatory Cost Sharing Exemption for Research Universities and Institutions.*** Mandatory cost sharing requirements, while appropriate in selected situations, generally are inappropriate for Federally-sponsored research, service, and educational programs. Institutional financial contributions are significant, and further “buy-in” does not need to be demonstrated through additional cost sharing requirements.

Managing mandatory cost sharing commitments is a manual and time-consuming process that requires onerous cost sharing record-keeping. It often is the subject of audit scrutiny, which requires significant university staff time to manage the audit and respond to auditors. When institutions are required to make mandatory cost sharing commitments, this diverts institutional financial resources away from the instruction and public service missions of the institution, as well as from the strategic investment in the institution's research enterprise.

**5) Establish a process to remove those FAR requirements that are more burdensome and inconsistent with what is required for grants and cooperative agreements.** For example, OMB should coordinate the elimination of FAR requirement (4.703), which requires retention of paper documents after imaging to permit periodic validation of the imaging system.

**6) Update the cost principles to allow prime awardees to recover F&A on the first \$25,000 of each subgrant or subcontract for each year during the life of the project.** While some of the reform ideas in the ANPG have potential to reduce the burden associated with the single audit and subrecipient monitoring, these activities will continue to be costly. And while simply permitting F&A recovery on an annual basis will not fully cover the costs associated with subrecipient monitoring, the COGR proposal provides some equity by recognizing the annual cost burden.

**7) Update the January 5, 2001 OMB Memorandum (M-01-06), Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing (VUCS) and Tuition Remission Cost.** While M-01-06 has been helpful since its issuance in 2001, the definition of VUCS should be clarified to include all expenditures, project cost overruns, salaries that exceed Executive Level salary limitations, and other similar uncommitted institutional cost sharing. An update to M-01-06 will provide consistency in the treatment of VUCS and will eliminate the unintended financial penalty incurred by institutions when expected to include non-reimbursable costs in the institution's research base.

**8) Implement the COGR recommendation in the original June 28, 2011, NIH RFI: “Designate a high level official within OMB’s Office of Information and Regulatory Affairs to serve as a Federal Ombudsman, responsible for addressing university regulatory concerns and for seeking ways to increase regulatory efficiency.”** The Ombudsman will be a critical point of contact to ensure frequent and effective contact between the Federal government and the research community – furthermore, the Ombudsman will serve as both a symbolic acknowledgement and practical implementation of the Administration's commitment to accountability and transparency in the Federal government.

**9) Implement the COGR recommendation in the original June 28, 2011, NIH RFI: “Through the use of Executive Branch Authority, provide targeted exemptions for Research Universities and Institutions similar to protections provided for small entities under the Regulatory Flexibility Act.”** OMB should issue a clarification that the Regulatory Flexibility Act (RFA) includes research organizations in the meaning of “small organization” [5USC§601 (4)].

## **SPECIAL COMMENT ON FACILITIES & ADMINISTRATIVE (F&A) COSTS AND OMB’S PROPOSED FLAT/DISCOUNTED F&A RATE OPTIONS**

COGR is disappointed that OMB included this topic in the ANPG. As a trusted partner for many years, COGR has shared data with OMB regarding the real cost sharing burden that research institutions incur due to arbitrary agency limitations, the 26-percent administrative cap, and discounts made during the negotiation of F&A rates. Internal COGR studies have shown that this number exceeds \$2.5 billion (federal projects) on an annual basis for all research institutions, and exceeds millions of dollars at institutions of all sizes. And in the most recent 2010 NSF survey on R&D expenditures for institutions of higher education, NSF states that the unrecovered indirect costs on all sponsored projects in 2010 exceeded \$4.6 billion (federal and non-federal) for all research institutions (see <http://www.nsf.gov/statistics/infbrief/nsf12313/>).

In the June 28, 2011, NIH RFI, we were instructed not to address the 26-percent administrative cap and we complied under a good faith understanding that this issue was not subject to discussion, even though the unfairness of the cap is well-documented – Research Universities are the only class of grant recipients subject to this restriction and it results in growing administrative subsidies incurred at our institutions. Consequently, while we support OMB grant reform initiatives that could result in burden reduction and cost savings, we do not support any policy changes that could lead to additional caps and limitations on F&A cost reimbursement.

The \$2.5 billion annual subsidy incurred by research institutions currently is being paid for by other sources of revenue and users. If the other grant reform initiatives addressed in the ANPG are implemented in full, and assuming we do not experience significant new and burgeoning compliance requirements, excessive reporting expectations, and duplicative audit activity, the \$2.5 billion annual subsidy could be reduced resulting in cost savings and increased research productivity. This is our understanding of one of the important endgames for Grants Reform.

On the other hand, if the endgame (or even part of the endgame) is to shift additional costs to research institutions, then the annual multi-billion subsidy incurred by research institutions will continue to be disproportionately funded by other revenue streams. COGR’s position is that this is ill-informed public policy due to the detrimental impact such cost shifting has on the instruction and public service missions of U.S. research universities.

COGR advocates for the F&A policy recommendations that we proposed in response to the June 28, 2011, NIH RFI – implementation of our original recommendations would enhance accountability and transparency in the F&A rate setting process and would not result in a policy change that drains other sources of revenue at research institutions. While we are committed to being good partners as OMB pursues Grants Reform, we do not support policy changes that have the potential to add to the multi-billion dollar annual subsidy incurred by research institutions.

## COGR’S RESPONSES TO THE OMB REFORM IDEAS

COGR’s responses address each of the three broad categories in part II. Reform Ideas for Comment, as described in the ANPG:

- Section A: reforms to audit requirements (Circulars A133 and A-50)
- Section B: reforms to cost principles (Circulars A-21, A-87, and A-122, and the Cost Principles for Hospitals)
- Section C: reforms to administrative requirements (the government-wide Common Rule implementing Circular A-102; Circular A-110; and Circular A-89)

For each reform idea included in the ANPG, we have provided a “COGR Response.” **We support many of the reform ideas – however, in certain situations our support is contingent on OMB implementing the reform in a robust and active manner that results in authentic grants reform.** As for part III. Questions for Comment, COGR has not responded directly to those questions and believe they are more appropriately responded to by research institutions – though note, many of our responses to the Reform Ideas in part II. incorporate the feedback sought by OMB in the Questions for Comment section of the ANPG.

### **Section A: Reforms to Audit Requirements (Circulars A133 and A-50)**

#### ***1. Concentrating audit resolution and oversight resources on higher dollar, higher risk awards.***

**COGR Response: COGR supports this reform initiative if OMB can expand the scope so that research institutions can share in the benefits of reducing audit burden.**

While we recognize that increasing the threshold of the single audit coverage to \$1 million may eliminate the burden on many small entities, this will increase the subrecipient monitoring burden on research institutions that can no longer rely on a single audit for these smaller entities. Research institutions utilize the single audit as a key source of information regarding the level of risk that exists with subcontractors and subgrantees subject to the single audit requirements. Without the single audit, this could lead to unintended consequences where research institutions shy away from subcontracting with small entities and/or where the institutional cost of oversight associated with monitoring small entities significantly increases.

The increased subrecipient monitoring burden partially could be offset by an OMB revision to Circular A-133 and/or the A-133 Compliance Supplement – OMB should issue new guidance that results in the reduction of monitoring responsibilities by the prime recipient on those subawards made to other entities subject to the single audit. The essence of the new guidance should be that when a prime recipient’s subrecipient is subject to the A-133 single audit, the primary responsibility of the prime recipient is to ensure the quality and integrity of the science that is being conducted and that any required follow-up/monitoring should be triggered only when there are A-133 findings that include questioned costs on the subgrant or subcontract issued by the prime.

OMB also should consider extending a “safe harbor” to research institutions that subcontract with small institutions that have less than \$3 million in federal awards. The “safe harbor” would be designed to replicate the audit relief that OMB has proposed for both institutions with less than \$1 million and institutions with less than \$3 million of federal awards. While research institutions would conduct reasonable due diligence before subcontracting with these smaller institutions, the “safe harbor” would eliminate any expectation of conducting site visits and other expensive, time consuming activities associated with these small entities and would further protect research institutions from any audit disallowances and unfavorable audit findings related to the subrecipient’s actions.

## ***2. Streamlining the universal compliance requirements in the Circular A-133 Compliance Supplement.***

### **COGR Response: COGR partially supports this reform initiative.**

While we support the elimination of unnecessary compliance requirements, A-133 auditors are able to use the same sample for testing various compliance requirements and to use audit procedures that achieve testing across multiple requirements. The elimination, therefore, of certain requirements from the A-133 Compliance Supplement would not necessarily reduce the overall burden of the A-133 audit.

We do not support unchecked power by the agencies to add back specific tests and provisions. We are troubled by two statements in the ANPG: “... *Federal agencies would have the ability, on a program-specific basis to place higher emphasis through the Compliance Supplement process on those elements (no longer universal) which the agency believes are relevant to prevent waste, fraud, or abuse*”, and “*Agencies could add back specific requirements under program specific tests and provisions where necessary.*”

Research institutions can be funded by over 25 separate research funding agencies, and despite our overriding focus on effective stewardship and accountability for federal funds, unchecked power by the agencies will result in the “piling-on” effect where different compliance emphases from different agencies will result in an unwieldy and significantly burdensome compliance environment.

## ***3. Strengthening the guidance on audit follow-up for Federal awarding agencies.***

### **COGR Response: COGR supports this reform initiative.**

Currently, OMB does not provide any helpful guidance as to how an institution should navigate the audit resolution process. Furthermore, the role of the cognizant audit agency is not well understood and every agency seems to implement a unique audit resolution process. An OMB “*senior accountable agency official*” that is accessible to research institutions that have been subject to an audit is a desirable reform initiative.



In addition, the official should be given the responsibility to review unusual audit findings that may prove to be inconsistent with agency and/or OMB policy – research institutions often are put in precarious positions where an audit finding by an agency’s IG is inconsistent with standard practice and/or official policy. The “*senior accountable agency official*” should be an advocate of the audited institution, especially in those situations where the audit finding is inappropriate.

We further support any technology and accessibility improvements that can be made to the Federal audit clearinghouse process.

***4. Reducing burden on pass-through entities and subrecipients by ensuring across-agency coordination.***

**COGR Response: COGR supports this reform initiative and asks OMB to implement additional processes and guidelines that will reduce audit burden.**

OMB should provide direction that the IGs and the agencies should rely on the audit work performed in the A-133 and Financial Statement audits and, when applicable, additional State audits, in order to minimize duplicative audit coverage. In situations where an institution believes that a proposed audit or review is duplicative of work covered in the institution’s A-133 single audit, the institution should have access to an OMB-managed appeals process that could result in either an “audit waiver” or a “reduction of scope” decision.

OMB should work with the audit community to explore ways to “protect” subrecipients of federal flow-through dollars from intrusive audits in those cases where the prime recipient (e.g., state or local government) disregards the results of the subrecipient's A-133 audit and engages in unnecessary audit activity.

OMB should work with the audit and research communities to find a process that would allow “exemptions” from selected audits or reviews when the institution has established itself as a long-term, low-risk auditee. This should include establishing clear procedures to require agencies to review the federal audit clearinghouse prior to initiating a new “not-for-cause” audit or review.

OMB should increase the threshold that requires questioned costs of \$10,000 or more to result in an audit finding (OMB Circular A-133, Subpart E, Section 510a(3)). The threshold should be increased to at least \$50,000.

OMB should allow selected institutions the option to change the frequency of their single audit to every two years – this option would be open to those organizations deemed low-risk and that have had no findings considered a significant deficiency or material weakness.

*5. Reducing burdens on pass-through entities and subrecipients from audit follow-up.*

**COGR Response: COGR partially supports this reform initiative.**

We support the idea that pass-through entities would no longer be required to resolve financial and internal control issues of their subrecipients, and could instead focus on the programmatic requirements of the subawards they make. This also would reduce the burden on the subrecipients who would not be required to engage in audit resolution with both the Federal government and the pass-through entities over the same financial and control issues.

We do not support that once the Federal government has resolved the financial and control issues with the subrecipient, the pass-through entity now would be responsible for audit follow-up monitoring of these general findings and to ensure that the subrecipient complies with the audit resolution. This requirement would result in an increase in audit oversight and administrative burden for research institutions.

**Section B: Reforms to Cost Principles (Circulars A-21, A-87, and A-122, and the Cost Principles for Hospitals)**

***1. Consolidating the cost principles into a single document, with limited variations by type of entity.***

**COGR Response: COGR does not support this reform initiative.**

Research institutions will not experience burden reduction or cost savings, and we are concerned that if in the future a specific cost principle unique to universities (or state and local governments, or nonprofits, or hospitals) has to be addressed, a single document containing all circulars would require the entire document to be opened up for public comment.

***2. For indirect (“facilities and administrative”) costs, using flat rates instead of negotiated rates.***

**COGR Response: COGR does not support this reform initiative. OMB should refocus on COGR’s recommendation from June 2011 and should consider several new ideas.**

Research institutions already are subject to discounted F&A rates due to arbitrary agency limitations, the 26-percent administrative cap, and discounts made during the negotiation of F&A rates. Flat/Discounted rates will result in unintended outcomes. The financial impact of Flat/Discounted rates will be to shift millions of dollars required to fund research infrastructure at an institution, and transfer that financial burden to other revenue streams and users.

We support the following:

1) COGR’s recommendation to the original June 28, 2011, NIH RFI: “*Formalize an F&A Rate Negotiation Model that is transparent, unambiguous, consistent and collaborative between the Federal government and Research Universities and Institutions.*” COGR proposed specific actions in our response to the RFI and we request that these be considered.

2) Provide an option, exercised at the discretion of an institution, where an institution can extend its current negotiated F&A rate at the same level utilizing an automatic, up to 5-year extension. The Federal cognizant agencies, OMB, research institutions, and appropriate representatives from the research community should agree on a simplified baseline level of documentation in support of the 5-year extension. At the end of the 5-year extension period, the institution can apply for an additional 5-year extension, subject to approval from its cognizant agency.

3) At the option of the institution, in those situations where a subrecipient does not have a negotiated F&A rate with the Federal government, a “default” F&A rate of 20% may be utilized for the subrecipient.

***3. Exploring alternatives to time-and-effort reporting requirements for salaries and wages.***

**COGR Response: COGR supports this reform initiative and asks OMB to advocate for the COGR solution proposed in November 2011.**

We agree with OMB that changing the paradigm for supporting salary charges to Federal programs could result in substantial reductions to the administrative burden currently associated with effort reporting – OMB should not be tepid in its support of this important grant reform initiative.

Immediately, OMB should eliminate the unhelpful examples in OMB Circular A-21 (Section J10.c) – this will open the door to new and improved solutions. Participation of institutions in a “pilot” could be appropriate, though we do not support an overly prescriptive pilot – this defeats the purpose of this grant reform proposal. Success in a pilot should be premised solely on demonstrating compliance with accounting principles and criteria for acceptable systems.

OMB should advocate for the solution proposed by COGR in a November 9, 2011 letter to the A-21 Task Force. This solution was provided at the request of the Task Force. The proposed Model Framework should be the basis for an alternative approach to effort reporting where it would be the responsibility of each institution to determine how each metric in the Model Framework is set.

*Common Characteristics of Payroll Distribution Systems*

*While there will be variation across the Model Framework for each institution, each institution through its internal policies and procedures may describe how its business practices address each of the following characteristics of its Payroll Distribution System:*

- 1. Medium. The PD system, to the extent possible, should be an electronic based system. The reports and output produced from the PD system can be electronic or paper-based. The reports and output supporting salary and wage charges to federal agreements should be reconcilable to the general ledger of the institution.*
- 2. Coverage. The PD system should encompass all federally funded projects that are subject to payroll charges. The extent to which non-federal projects are covered is optional.*
- 3. Uniformity. An institution, to the extent possible, should have a PD system that is applied consistently and uniformly to all classifications of personnel, though it is recognized that there may be differences as to how the PD system captures data for different classes of employees (e.g., hourly employees).*
- 4. Measurement. An institution should verify the salary amounts that are charged to a project. Verification based on relative payroll distributions (percentages) is an option, especially for institutions that are restricted in the disclosure, authorization or access of individual payroll data (e.g., this may be applicable when a PI reviews co-PI payroll data).*

5. *Frequency.* An institution should establish frequency standards for review of reports generated by the PD system, normally on an annual basis, but at a minimum at project close-out.

6. *Review Responsibility.* An individual who has direct or delegated responsibility for account oversight would verify payroll distributions to federal agreements. The individual who is assigned review responsibility can be authorized to conduct reviews of payroll charges for everyone who works on the federal project.

7. *Account Establishment.* Once the research personnel are set up in the PD system for a federal project, the ensuing payroll distribution normally should be assumed to be valid and reflective of payment for activities performed on the project until the PI or his or her designee change the payroll distribution.

8. *Integrity.* The internal policies and procedures that define the operation of the PD system may be subject to routine audits, which may include internal audits, annual financial report audits, or audits required by OMB Circular A-133.

9. *Feedback.* The results of the integrity test of the system should be provided to the appropriate departments or individuals so as to initiate any necessary corrections and reemphasize proper procedures and/or train departmental staff, as necessary.

10. *Cost sharing.* Cost sharing salary data may be either integrated into the PD system or accumulated through a stand-alone system that can be reconciled to the PD system.

**4. Expanding application of the Utility Cost Adjustment for research to more higher education institutions.**

**COGR Response: COGR supports this reform initiative, but asks OMB to not implement it in a manner that will be prohibitive to research institutions.**

Expanding the 1.3% UCA to all research institutions is equitable and appropriate. Specifically, we advocate that the COGR recommendation to the original June 28, 2011, NIH RFI be followed: “*The 1.3% Utility Cost Adjustment should be made applicable to each eligible higher education institution that does not currently receive it. Each affected university shall be issued an amended F&A rate agreement, subject to the discretion of the institution with respect to the timing of the amended agreement.*”

We do not support any requirement to link receipt of the 1.3% UCA to an institutional plan to reduce utility costs or to conduct an expensive utility study to justify application of the 1.3% UCA. Institutions have made considerable commitments to reducing utility costs. Research space will continue, however, to be the most utility-intensive space on campus. The 24/7 nature of research space, which includes energy-intensive equipment and the maintenance of climate-controlled environments, makes the high-consumption of utilities inevitable.

Studies suggest that the 1.3% UCA understates the actual utility costs associated with research buildings and labs. While conducting a prohibitively expensive study to prove this would be counter-intuitive to reducing cost and administrative burden, providing basic documentation that demonstrates the wide-breath of utility-intensive labs that are being utilized at the institution could be a reasonable approach. Normally, these labs are associated with research at the Schools of Medicine, Science, and Engineering. Some physical plant data also could be helpful to support the 1.3% UCA, though again, COGR does not support a requirement that links receipt of the 1.3% UCA to a prohibitively expensive study – this would be counter-intuitive to the goals of grants reform.

***5. Charging directly allocable administrative support as a direct cost.***

**COGR Response: COGR supports this reform initiative if OMB moves beyond simply “clarifying” and instead advocates for broad “allowability” of project-management activities.**

We support the reforms that would explicitly allow project-specific activities such as managing substances/chemicals, data and image management, and security to be direct charged. Allowability of directly allocable, project-specific costs will free up investigator time so that he/she can spend more direct time on research activities – this absolutely will result in investigator productivity gains.

However, the research community would be disappointed in a narrowly prescribed list of allowable activities. Allowability should be determined by those “project management activities” that can be specifically identified to an individual project – this is the cost allocation criterion defined in the cost principles and it should not be subject to arbitrary and selective limitations.

OMB should advocate for the COGR recommendation to the original June 28, 2011, NIH RFI: “Allow the direct charging of costs associated with Project Management Activities when those activities can be specifically identified to an individual project.” Any deviation from this recommendation would water-down the ultimate goal of enhancing Investigator productivity.

OMB also should specify that the important institutional criterion for supporting whether or not the activity represents a project management activity is the substance of the activity being conducted – not an artificial construct such as the individual’s title code.

***6. Including the cost of certain computing devices as allowable direct cost supplies.***

**COGR Response: COGR supports this reform initiative, though a clarification is necessary.**

COGR supports this reform initiative; however, the following language proposed in the ANPG should be deleted: “Applicants for Federal awards would be required to document these items as a separate line-item in their budget requests ...” Expanded budgeting authority allows institutions to rebudget in certain situations, and this language is counter to this longstanding and accepted practice.

*7. Clarifying the threshold for an allowable maximum residual inventory of unused supplies.*

**COGR Response:** COGR supports this reform initiative, though in the form of a “clarification” only.

COGR’s understanding is that the following example would be allowable under a clarification to OMB Circular A-110, section C.35.(a): An investigator purchases \$8,000 of supplies that are allocable to Project A, at the end of Project A a portion of the supplies are unused, the investigator would be allowed to utilize the unused supplies (up to the \$5,000 threshold) for Project B. While a clarification would be helpful, we would not support an evolution of a clarification into a prescription on how institutions should manage their lab supplies.

*8. Eliminating requirements to conduct studies of cost reasonableness for large research facilities.*

**COGR Response:** COGR supports this reform initiative.

COGR supports this reform initiative and the deletion of section F.2.c. “*Large Research Facilities*” from OMB Circular A-21.

*9. Eliminating restrictions on use of indirect costs recovered for depreciation or use allowances.*

**COGR Response:** COGR supports this reform initiative.

COGR supports this reform initiative and the deletion of sections J.14.h and Exhibit A from OMB Circular A-21.

*10. Eliminating requirements to conduct a lease-purchase analysis for interest costs and to provide notice before relocating federally sponsored activities from a debt-financed facility.*

**COGR Response:** COGR supports this reform initiative.

COGR supports this reform initiative and the deletion of sections J.26.b.(1), J.26.b.(4), and J.26.b.(6) from OMB Circular A-21.

*11. Eliminate requirements that printed “help-wanted” advertising comply with particular specifications.*

**COGR Response:** COGR supports this reform initiative.

COGR supports this reform initiative and the deletion of section J.42.b from OMB Circular A-21.

***12. Allowing for the budgeting for contingency funds for certain awards.***

**COGR Response: COGR supports this reform initiative.**

COGR supports this reform initiative and the revision of section J.11 in OMB Circular A-21.

***13. Requesting that the Cost Accounting Standards Board (CASB) consider increasing the minimum threshold for disclosure statements.***

**COGR Response: COGR partially supports this reform initiative.**

COGR supports an increase in the threshold to \$50 million that would require an institution to submit the CASB Disclosure Statement (DS 2). However, COGR's position is that all research institutions should be exempted from CAS coverage, as applicable to both grants and contracts. Correspondingly, all research institutions also should be exempt from maintaining DS 2.

Research institutions routinely incorporate CAS into their internal policies and practices, independent of CAS coverage, and exempting research institutions will not compromise accountability. The cost accounting policies and practices that are described in the DS 2 normally are included in other institutional documentation. A-133 auditors, independent of the DS 2, already incorporate reviews of items covered in the DS 2 into their audit plans. Many institutions that historically have maintained an up-to-date DS 2 have been frustrated by long delays in having their DS 2 and DS 2 revisions approved.

While our position is to exempt all research institutions, we are perplexed by the ANPG proposal to remove Appendix A from OMB Circular A-21 – if all research institutions are not exempted, then it may be necessary to maintain Appendix A as part of the Circular.

***14. Allowing for excess or idle capacity for certain facilities, in anticipation of usage increases.***

**COGR Response: COGR supports this reform initiative, though a clarification is necessary.**

COGR supports a proposal where the Federal government shares in the cost of idle facilities, though we do not support a requirement to complete a “*multi-year plan for reaching full capacity of the data center.*” As Federal agencies require more and more data storage capacity for high performance computing, it would be inappropriate to assign all the risk to research institutions and premise that any Federal sharing be contingent on a multi-year plan.

This reform initiative also should be applicable when research lab space is idle in anticipation of reaching full capacity at a later date. Idle capacity is addressed in OMB Circular A-21 section J.24 “*Idle Facilities and Idle Space*” – OMB should be clear that this reform idea is applicable to research lab space, in addition to the types of space (i.e., consolidated data centers, telecommunications, and public safety facilities) described in the ANPG.



*15. Allowing costs for efforts to collect improper payment recoveries.*

**COGR Response: COGR partially supports this reform initiative.**

COGR supports providing assistance to OMB in the implementation of the President’s directive to improve the Federal government’s ability to recover improper payments. However, we are concerned because this activity is an administrative activity, and over 95% of the research universities that could be instrumental in implementing this initiative have administrative rates that exceed the 26-percent administrative cap – effectively, research universities would subsidize this reform initiative.

We propose that OMB implement a system where research universities can apply for “*administrative cap waivers*” for those cost items and activities, such as the activities described in this reform initiative, when a research institution incurs new costs and has no mechanism to recover them due to the 26-percent administrative cap.

*16. Specifying that gains and/or losses due to speculative financing arrangements are unallowable.*

**COGR Response: COGR does not support this reform initiative.**

Universities and research institutions enter into debt financing arrangements as part of the institution’s strategic financial management plan, and these arrangements are applied consistently to all functions, not just to federally sponsored activity. Thoughtful and effective use of all available debt financing arrangements can result in significant cost savings, and subsequently, can result in a lower interest expense component in the institution’s F&A rate.

COGR and its members advocate for the highest standards of financial stewardship for all federally supported funding, as well as all other sources of institutional funding. While we would not advocate for the Federal government to share in the risk of questionable financial decisions, this reform idea could result in the refusal of the Federal government to assume a fair share of the cost of legitimate and reasonable financing arrangements.

*17. Providing non-profit organizations an example of the Certificate of Indirect Costs.*

**COGR Response: COGR does not support this reform initiative.**

COGR maintains that the “Certificate of Indirect Costs” should be eliminated for all recipients of federal funding. There are other remedies available to the Federal government if an institution is alleged to have committed fraud. The certification statement in OMB Circular A-21, section K.2.b states: “*I declare under penalty of perjury that the foregoing is true and correct*” – this is unfortunate language and diminishes the spirit of the research partnership.

***18. Providing non-profit organizations with an example of indirect cost proposal documentation requirements.***

**COGR Response: COGR partially supports this reform initiative.**

Standard F&A documentation requirements can be helpful and provide uniformity. However, documentation requirements also can be prescriptive, and ultimately burdensome. If new F&A documentation requirements are being contemplated, introduction of them should be done as a collaborative effort between grant recipients and the Federal government.

**Section C: Reforms to Administrative Requirements (the Common Rule implementing Circular A-102; Circular A-110; and Circular A-89)**

*1. Creating a consolidated, uniform set of administrative requirements.*

**COGR Response: COGR does not support this reform initiative.**

Research institutions will not experience burden reduction or cost savings, and we are concerned that if in the future a specific cost principle unique to universities (or state and local governments, or nonprofits, or hospitals) has to be addressed, a single document containing all circulars would require the entire document to be opened up for public comment.

*2. Requiring pre-award consideration of each proposal's merit and each applicant's financial risk.*

**COGR Response: We support merit review processes and the good stewardship of Federal funds. We do not support the specific reforms described in this reform initiative.**

The merit review process is well established and effectively administered by research awarding agencies – however, we are concerned with the proposed incorporation of merit review standards into an OMB Circular. We believe this type of standardization poses the risk of compromising successful practices employed by research funding agencies.

Specifically, we urge OMB to initiate guidance to all agencies to review and consider adoption of criteria and processes similar to the National Science Foundation (NSF) and the National Institutes of Health (NIH), which can ensure the identification of truly meritorious proposals and qualified applicants. Both NSF and NIH have layers of review beginning with a peer review of the scientific and technical merit of a proposal, including the qualifications of the investigator and scientific team and the institutional resources available to support the project. Program staff review these recommendations and bring other performance-based criteria including the integrity and risk assessments into the consideration of the grant-funding plan.

We do not support requiring agencies to establish new standards for the review of financial information – providing additional information on past financial performance is not necessary for a thorough Federal agency assessment of the recipient's risk. Federal recipients are subject to broad financial integrity and performance reviews under various Federal regulations, circulars and policies.

Research institutions have been and will continue to be covered by the full Single Audit under the OMB proposed changes. In addition to the Single Audit, research institutions are subject to the provisions of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417) Section 872, which required the development and maintenance of a Federal information system that contains specific information on the integrity and performance of covered Federal agency contractors and grantees. These provisions have been implemented under Federal Acquisition Regulations [48CFR parts 2, 9, 12, 42, and 52] and OMB proposed amendments to 2 CFR Part 35. The Federal Awardee Performance and Integrity Information System (FAPIIS) is designed specifically to address these requirements. FAPIIS provides agencies access to integrity and performance information from the FAPIIS reporting module in the Contractor Performance Assessment Reporting System (CPARS), proceedings information from the Central Contractor Registration (CCR) database, and suspension/debarment information from the Excluded Parties List system (EPLS). Information related to the compensation of the prime and subrecipient's five most highly compensated individuals is collected under the provisions of the Federal Funding Accountability and Transparency Act of 2006 (FFATA) in the CCR system.

While different types of federal assistance programs have different areas of risk, research institutions have controls in place to ensure financial compliance across programs. We find it alarming that OMB proposes to extend “*explicit authority for agencies to modify award decisions as well as the terms and conditions of any award based on the findings of a risk review.*” We fear agency specific, or even worse, award specific, assessment of risk will result in varying terms and conditions and could quickly become unmanageable for an entity with multiple funding sources.

We believe entities subject to Circular A-133 are assessed for risk and the A-133 audit is planned and executed appropriately, based on that risk assessment. Entities subject to Circular A-133 should, therefore, not be subject to terms and conditions that vary from the standard Research Terms and Conditions when findings from those audits are addressed through appropriate corrective action plans.

### ***3. Requiring agencies to provide 90-day notice of funding opportunities.***

#### **COGR Response: COGR supports this reform initiative.**

COGR supports a proposal that would require all Federal agencies to provide 90-day advance forecast of funding opportunities, in addition to the current requirement of posting actual notices of funding opportunities on Grants.gov.

*4. Providing a standard format for announcements of funding opportunities.*

**COGR Response: COGR supports this reform initiative and asks OMB to hold the agencies to the established standards.**

Standard data elements for funding announcements have been established by OMB and agencies have been directed to use these standard formats since 2003. OMB established standards in its October 2003 Memorandum M-04-01 for posting of electronic synopses to Grants.gov FIND; standards for complete Federal agency announcements of funding opportunities have been established through the Policy Directive for Financial Assistance Program Announcements finalized in June 2003; and most recently, these same elements have been proposed to be incorporated into Title 2 of the Code of Federal Regulations in February 18, 2010 as Part 27, Subpart B, Announcements of Funding Opportunities; Form and Content of Announcements, as required by the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417) Section 872.

We have and continue to endorse the use of these standard data elements. OMB should complete the process to incorporate all guidance into 2 CFR as proposed in 2010, as 2 CFR Subpart B. Policy, Part 25 and Part 27 Announcements of Funding Opportunities.

The key to standards will be if OMB is rigorous in holding Federal agencies to meeting the standards set in the proposed guidance – any agency that seeks to deviate from the June 2003 Policy Directive or from 2 CFR Part 27 must make a formal request to OMB and receive approval from the OMB Controller. If there are deviations, applicants should be able to formally petition the OMB Controller and receive a response from the OMB Controller at least two weeks before the grant application is due.

Funding announcements that include vague statements as to eligibility or review criteria place potential applicants at a significant disadvantage. For example, if cost sharing is to be included in the grant application, the agency clearly should describe the requirement in the eligibility section of the announcement and provide applicants with a specific understanding of how it will be scored in the review of the grant application. Vague references to cost sharing including statements that “encourage” applicants to waive indirect costs compromise the integrity of the merit and peer review process.

***5. Reiterating that information collections are subject to Paperwork Reduction Act approval.***

**COGR Response: COGR supports this reform initiative and asks OMB to provide a process for institutions to petition OMB when agencies do not comply.**

COGR supports data standardization across all agencies. The Federal government has established standard information collection elements for reporting and grant applications through the activities by the Grants Policy Council (now formally incorporated into the Council on Financial Assistance Reform, i.e., the COFAR). The Standard Forms 424 including the separate Research and Related Activities (SF 424 R&R) and other related standard formats for Performance Progress Reporting (PPR) and Research format (RPPR) and Final Financial Reporting (FFR), and others have provided sufficient information for agencies to review applications and monitor the progress of awardees to date. The necessary information for agency review and monitoring has been tested for several years.

The establishment of Grants.gov further has supported data standardization, though we do note that the continuing failure to stabilize the funding for Grants.gov has weakened the ability of Grants.gov to enhance its capabilities and to complete additional standard collections. The grantee community has built business systems and developed policies and procedures to ensure that potential applicants within these organizations can “FIND” and “APPLY” using the Grants.gov model. A well-funded and stable Grants.gov platform, preferably not driven by a GSA-created process, is necessary to enhance the functionality of Grants.gov.

Varying information collection requests (ICRs) and inconsistency across electronic systems utilized by Federal agencies result in a significant burden to the research community. The accumulated effect of variances across over 25 agencies that fund research results in a major reporting and compliance burden. We agree with OMB that any “*Approved collections would be designed to include necessary information for program measurement and monitoring*” and that this effort may and should “*limit Federal agencies’ ability to require unique information collections for particular program, except where required by statute.*” In order to ensure that agency requests and actions do not go unchecked, OMB should be the primary and active enforcer of the Paperwork Reduction Act, and when agencies don’t comply with the law, the affected institution(s) can formally petition OMB (and/or OIRA) to correct and/or retract the inappropriate agency action.