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an organization of research
universities

COUNCIL ON GOVERNMENTAL RELATIONS

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February 28, 2005

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SUBJECT: Terms and Conditions for Grants under Federal Research and
Research-Related Programs – Policy

Dear Ms. Phillips:

The Council on Governmental Relations (COGR) is an association of 160 research intensive universities, affiliated hospitals and research institutes in the United States. COGR works with federal agencies to develop a common understanding of the impact that federal policies, regulations and practices may have on the research conducted by the membership. The proposed policy establishing government-wide terms and conditions for research and research-related Federal awards lies at the heart of COGR's mission.

General Assessment of the Proposed Policy

Publication by the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget (OMB) of the Proposed Policy on Research and Research-Related Grant Terms and Conditions on January 28, 2005, is a significant step. If embraced by the agencies and the public, the policy could bring about fundamental and much needed improvements in the way federal agencies and their academic research partners conduct business with one another. The thrust of the proposed policy is in harmony with Congressional intent, expressed in the Federal Financial Assistance Management Improvement Act of 1999 (P.L. 106-107), and clearly reflects the direction which the Presidential Management Council has emphasized at various times, culminating in the call for consideration of new research business models.

The member universities of COGR welcome the simplification and streamlining that the proposed policy on research and research-related grant terms and conditions aims to bring about. We recognize this moment as an opportunity which we have not seen since 1993, when the revised OMB Circular A-110 was promulgated. This OSTP/OMB proposal for decisive streamlining will have a high probability for success because many involved parties have had the opportunity to gain experience with the delegation of responsibility and with streamlined grant management processes. These efforts began more than fifteen years ago, when the initial Federal Demonstration Partnership (FDP, then the Florida Demonstration Project) was formed in 1986. By now, years of cumulative experience have provided assurance that these changes can lead to clear benefits to both agencies and grant recipients without undue exposure to risk. Expanding these terms and conditions to all research and research-related

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grant recipients is timely and a fair recognition of the state of practices in the academic community

Even when there is a fairly high degree of policy uniformity among major agencies regarding grants for research at universities, diversity is likely to emerge as agencies address operational implementation. Ingrained practices must not become obstacles to innovation. OSTP/OMB has been very wise in focusing the policy on research and research-related grants. We trust that OSTP/OMB will not only strive for participation by all federal agencies but will also discourage deviations from the standard terms and conditions except in truly exceptional circumstances. To achieve the goals of the proposed policy, OSTP and OMB will need to seek and secure the endorsement of department and agency leadership at the highest levels.

We believe the success of this policy will depend to a large extent on a common understanding and approach to the proposed terms and conditions based solidly on OMB Circular A-110. In this regard we remain cautious about some of the aspects of the proposed policy. The questions raised and suggestions made in the following paragraphs are intended to strengthen OSTP/OMB's proposal, not to criticize the goal.

Technical Comments

a) Standard Terms and Specific Exceptions.

It is essential that agency specific exceptions to the core terms and conditions be reduced according to defensible standards. We respect the need for terms or conditions resulting from authorizing statutes but note that even the FDP terms and conditions are not uniformly applied among participating funding agencies. While the administration of the terms and conditions under OMB Circular A-110 has been simplified, it is far from simple. This can be easily seen by reviewing the FDP Prior Approval and Other Requirements matrix. Prepared by FDP to assist grantees in understanding the implementation differences, the matrix documents the diversity of exceptions, not all of which are based on statutory requirements.

Non-statutory exceptions should be subjected to strict scrutiny and approval by OMB and their continued use resisted in the interest of the streamlined business approach. We note OSTP/OMB's admonition to agencies to take a cautious approach to exceptions but we fear this will not provide sufficient incentive. Currently, agency deviations from the use of standard forms (SF) for grants administration require OMB approval. But the policy letter is silent on the question of whether OSTP/OMB intends to mandate a similar rigorous review of all current and proposed exceptions or whether it intends to grandfather existing exceptions into the new system by entering them into the proposed Internet site. We recommend the former approach.

A first step towards such admittedly difficult decisions will be the promulgation of clear specific criteria to guide agencies in their arguments to retain exceptions and propose new exceptions beyond their authorizing statute. Criteria might elaborate on the general principles of demonstrated enhancement of programmatic purposes and improved stewardship of federal funds – which are briefly described in the proposed policy. The question as to who, beyond the agency itself, will be involved in such deliberations needs to be addressed. We recommend that all current exceptions and new exceptions be reviewed to ensure as much consistency as possible and that this review be performed by a special interagency working group.

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The proposed policy also appears to recognize that there will be new developments that the new system of core terms and conditions may need to incorporate. However the policy fails to describe how the assessment of new terms and conditions would be handled. We urge OSTP/OMB to utilize a stringent review process in consultation with stakeholders and public comment prior to posting such changes.

The OSTP/OMB policy recognizes the need for clear information and accessibility by the public to the core terms and any exceptions to them. The proposed internet site providing government-wide information is a good means for meeting this need.

b) Identification of Research and Research-Related Programs

Because the policy proposes expansion of the core terms and conditions beyond research programs to research-related programs, it may be prudent to provide more guidance as to how research and research-related are defined. It has been the experience of many institutions that, at times, some agencies have defined these terms narrowly, resulting in the avoidance of the FDP terms and conditions. Developing a standard definition of "research" and "research-related" across the board will ensure the broadest possible application of the terms and conditions.

In conclusion:

The challenge with the proposed task is to rise beyond cataloging the host of existing agency policies and making them electronically available in a mirror image of the FAR and DFARS system. The challenge is to seize this opportunity to accomplish a true reform of the administrative process that will be accepted on an all inclusive basis. We applaud the proposed policy because it truly seeks to reduce administrative burdens on the research community while maintaining high standards for the stewardship of Federal funds. We urge OSTP and OMB to address these few issues as it finalizes the policy. It will take some persuasion by OSTP and OMB. You have our full support in this worthy initiative.

Sincerely,

Katharina Phillips
President