

October 3, 2003

Dr. Michael J. Holland  
Office of Science & Technology Policy (OSTP)  
1650 Pennsylvania Avenue NW  
Washington DC 20502  
mholland@ostp.eop.gov

Dear Dr. Holland,

I am pleased to provide responses to the National Science & Technology Council (NSTC) Subcommittee request for data and examples, as published in the August 6, 2003 Federal Register.

The collaboration between federal agencies and universities has led to significant scientific achievements. However, both the federal government and universities face current economic challenges, which may now be placing this relationship under some stress. The stream of new federal regulations increases the costs of compliance with no commensurate increase in funding. Universities seek to comply fully, but are encountering dwindling resources to meet the costs of compliance.

*“Inconsistency of policies and practices among Federal agencies”*

1) Effort Certification and Inconsistent Application

Federal agencies are inconsistent in applying Office of Management & Budget (OMB) Circular standards within A-21, *Cost Principles for Educational Institutions*. This increases unnecessary administrative burdens and compliance costs for universities.

As an example, the United States Department of Agriculture (USDA) recently promulgated regulations advising that A-21 effort guidelines did not apply to its Food Stamp Nutrition programs. Rather, universities must maintain a daily time reporting system for this project in addition to any effort certification system already in place.

Our local principal investigator indicated this duplicate and more onerous effort system would involve approximately 800 staff members, since this project encompasses staff in virtually each county in the state. Obviously, this administrative burden diverts valuable time from researchers, who will now have less of their attention available for research.

The OSTP/NSTC subcommittee can greatly assist the research enterprise by working with federal agencies to ensure consistent application of federal regulations (i.e., A-21). [Also see comment under “Regulatory Requirements” below.]

## 2) Inconsistent Reimbursement of Facilities & Administrative (F&A) Costs

Federal agencies are inconsistent in their F&A rates used on sponsored agreements. Universities must negotiate government-wide rates under OMB Circular A-21 guidelines; however, some agencies do not use these rates, which leads to an under recovery of legitimate costs incurred by institutions.

For example, USDA reimburses its research grants with a 19% rate, and the National Institutes of Health (NIH) permits only an 8% rate for its training grants. By comparison, most universities have federally-negotiated rates in the 45-50% range.

These lower F&A rates are well below most universities’ federally-negotiated Administrative component which is capped at 26% (but may be lower in some instances). These lower F&A reimbursement levels permit no funding of very expensive facilities costs such as building depreciation, utilities and so forth.

OSTP/NSTC can ensure equity by working with federal agencies to ensure consistent application of federally negotiated F&A rates or, at a minimum, more reasonable reimbursement levels.

## 3) Inconsistency of Policies and Practices among Federal Agencies

OMB circular A-110 is based on principles that provide a reasonable approach to managing research sponsored through federal grants at universities. These principles have not been uniformly implemented by the federal sponsoring agencies. In fact, over the last two decades the regulations have grown to be quite inconsistent among the federal agencies. Institutions now must deal with a minimum of three (3) levels of source information when administering federal grants. They are: the OMB A-110 basic principles (which are inconsistently applied from one federal agency to another); agencies’ terms and conditions (which are inconsistently applied) and limited and inconsistent use of the expanded authorities by federal agencies.

COGR has put together a matrix, which reflects each federal agencies implementation of A-110. The matrix reflects the wide diversity in agency implementation:

- language that is verbatim from A-110
- agencies that require approval for one-time extensions,
- approvals for rebudgeting of funds,
- agencies that require annual equipment inventory *versus* biennial equipment inventories as required by A-110.

Currently, for universities participating in the Federal Demonstration Partnership (FDP), inconsistencies exist between FDP member research funding agencies. The FDP standard terms and conditions implement the expanded authorities contained in OMB A-110 , however, some agencies’ specific requirements vary in their implementation of these prior approvals. For

example Office of Naval Research will acknowledge the FDP terms and conditions, but will then state that prior written approval is required for the first no-cost extension request. NIH training grants (T32) vary from institute to institute on whether or not they are issued with FDP terms. The National Heart, Lung and Blood Institute has decided to use the National Research Service Award training grant specific terms and conditions versus the FDP terms and conditions.

As a result of these inconsistencies, researchers and their staff spend valuable time searching through various source documents before locating answers to their administrative questions.

### *“Regulatory Requirements”*

#### 1) Overall simplification of Effort Certification Business Model

The current requirements in A-21 can be simplified to improve the efficiency and cost effectiveness of the research enterprise, while still retaining a proper level of accountability.

The current system creates administrative burdens and costs for universities while diverting researchers' time from doing research.

For example, at the University of Minnesota we recently did a Cost of Effort Compliance study, which showed that our cost of compliance is \$2 million per year (including researchers' time to complete the statements).

OSTP/NSTC can improve research efficiency by working with the current FDP project to change A-21 and implement the proposed annual Payroll Verification system, which would still provide adequate accountability.

This would have favorable impacts to:

- Reduce unnecessary administrative burdens and costs of compliance,
- Retain a proper level of control to ensure that salary and wages charged to federal grants and contracts are commensurate with the time/effort/activity devoted to research activity
- Increase the time available for researchers to do research.

### *“Research Infrastructure”*

#### 1) Simplification of Federal Regulations over Facilities costs

Current federal regulations (i.e., A-21) impose many unnecessary administrative burdens upon universities to substantiate facilities costs (building depreciation, utilities, external bond interest) within F&A rate proposals. As an adverse consequence, universities incur massive administrative costs or must outsource these tasks to even more expensive external consultants in order to document facilities costs.

Examples within A-21 standards include:

- Documentation for “Excessive Cash Flow” analyses to substantiate interest claimed within F&A proposals
- Laborious space surveys for rooms utilized mainly to house research activities
- Inconsistent application of new building cost projections included in F&A rate proposals

The “cash flow” analysis requires a laborious annual tracking of costs and is based upon financial theory. Also, most universities do not utilize the bonding instruments (i.e., “balloon” financing) that this analysis is designed to detect.

For space survey expenses, one university was forced to expend \$250,000 with external consultants during its recent F&A proposal development process. Another institution estimated the necessity for a like amount via approximately 1,100 hours in billable external consultant hours.

In terms of new building cost projections, we were advised during our most recent F&A rate negotiations with federal auditors in our region that such factors were not acceptable. We subsequently learned that another university in another region was able to increase its F&A rate based on new building cost projections.

OSTP/NSTC can ensure that universities have the proper incentives and F&A reimbursement to construct major new research buildings. The subcommittee may want to participate in the current FDP “Facilities” project. This proposes to change A-21 and implement simplified space survey procedures as well as eliminate unnecessary administrative burdens.

## 2) OMB Suspension of A-21 Utility Cost Adjustment

OMB has unilaterally suspended work to extend the Utility Cost Adjustment (UCA) for currently ineligible educational institutions. This A-21 provision properly allows a 1.3 percentage points increment to negotiated F&A research rates.

The UCA is intended to compensate universities for the significantly higher energy costs incurred in conducting sponsored agreements. For example, the utility expenses incurred in university facilities housing research grants is many times the costs for instruction rooms or administrative offices.

It should be noted that this UCA provision became effective on July 1, 1998 (within A-21). Originally, 66 universities were permitted the UCA increment since their prior energy studies proved that research rooms incurred such heavy energy consumption. Given these data, the federal government promised to extend the UCA to all institutions by July 1, 2002.

As an adverse consequence, the currently ineligible universities face an underrecovery of utility costs incurred during their performance of work on federal sponsored agreements. This embodies another shifting of costs to educational institutions. The underrecovery means that institutions must divert funds from the construction of necessary and costly state-of-the-art research facilities.

There are many studies that fully demonstrate the necessity of the UCA:

- Our local study showed that research rooms consume \$9.35 in utility costs per square feet of space versus \$3.67 for instructional/administrative rooms
- During August 2002, the Council on Governmental Relations (COGR) issued correspondence to OMB fully demonstrating similar results at Princeton, Iowa and schools in the California system
- Also, the NIH director issued a 2001 report detailing the insufficiency of biomedical research facilities

OSTP/NSTC can ensure that universities receive proper F&A reimbursement by working with OMB to implement a fair and equitable UCA application. In turn, this will assist universities in developing the facilities infrastructure needed to adequately perform work funded by sponsors.

### 3) Limit on Administrative Cost Reimbursement

A crucial current issue is the “cap” imposed upon the administrative component of the F&A cost rate. The October 1991 revision to A-21 mandated that administrative costs charged to sponsored agreements must be limited to only a 26% level (within the total F&A rate).

As an adverse consequence, this has yielded yet another shifting of costs for compliance to universities in the face of a stream of new federal regulations. This underrecovery of administrative infrastructure costs is straining institutional resources available to ensure compliance.

Many studies provide examples in this area:

- The 2000 Rand report documented an overall underrecovery between \$700 million to \$1.5 billion annually
- Many F&A rate studies demonstrate that most universities calculate the administrative component to be well in excess of the 26% cap, even when these calculations are performed under the stringent A-21 costing guidelines
- Locally, our last F&A proposal showed 32% as our calculated administrative component
- The “cap” is not included in OMB Circulars governing non-profit organization (A-122); state governments (A-87) or for-profit (federal acquisition regulations-FAR) organizations receiving sponsored funding.

OSTP/NSTC can ensure that universities receive equitable reimbursement for the administrative infrastructure by working with OMB to augment the current “26% cap”. In turn, institutions would then have more resources to better ensure compliance with federal regulations.

### “Electronic Research Administration”

While the federal government has aggressively promoted electronic means to simplify the grant administration process, the slowness of the agencies in agreeing on a common interface has increased costs at institutions. Institutions like the University of Minnesota have invested in

information technology to improve our ability to comply with federal regulations. However, inconsistencies from agency to agency have created a situation in which universities will be required to develop systems for each agency at great cost.

OSTP/NSTC can help here by influencing agencies to adopt a common approach to electronic research administration, and to work closely with FDP in accomplishing our common goals.

In summary, the research community and the University of Minnesota believe that many of the changes proposed in the comments above will improve the overall national research enterprise by making it more efficient and by streamlining business processes that will benefit the federal government and its higher education institutional partners. There are many excellent ideas that have been put forward by the research community that, if adopted, will lead to positive change. The University of Minnesota appreciates the opportunity to express its views and trusts that they will be received in the positive manner in which they were intended.

Sincerely,

David W. Hamilton, Ph.D.  
Interim Vice President for Research