

COUNCIL ON GOVERNMENTAL RELATIONS
ALTERNATE BOARD
WASHINGTON, D.C.

2011 Northeast Conference
 on College Cost Accounting (NECA)
 Wednesday, August 31st, 2011
 Saybrook Point Inn
 Old Saybrook, Connecticut

David Kennedy
 COGR

COGR

- Council on Governmental Relations (www.cogr.edu), established in 1948
- 180+ member institutions
- Staff of 5: Costing, Compliance, Intellectual Property
- Active Board and Committees, comprised of 25 individuals from member institutions
- Close working relationship with other Higher Education Associations

COGR Mission

Foster strong working relationships with Federal Agencies and their representatives. Primary goals are to facilitate federal policies and regulations affecting university research, and to advocate for and represent the research and university community with a single voice.

- ✓ Comment Letters on Proposed Regulations
- ✓ Policy Papers, Publications, and Surveys
- ✓ Update Letters to the Membership, 7-8 per year
- ✓ Membership Meetings, 3 per year
- ✓ Other, as needed

Discussion Topics, Costing Policies

- Research Funding and the Budget
- Financial and Regulatory Reform
 - National Academies Study
 - Executive Order 13563
 - RFI: Reduction of Cost and Burden Associated with Circular A-21
- Financial Reporting & Audit Landscape
- A Couple Other "Hot Topics"

**Research Funding
 And the Budget**

Research Funding - FY11 and FY12

- Remember, flirting with a Shutdown in April ...
- FY2011 final budget bill (Department of Defense and Full-Year Continuing Appropriations Act of 2011 - P.L. 112-10):
 - NIH: \$30.7B (\$300M cut)
 - NSF: \$6.8B (\$65M cut)
 - DOE-Office of Science: \$4.9 B (\$30M cut)
- FY2012 Budget Deliberations and the likelihood of a new budget by October 1, 2011 ??? ...

President's Budget for FY 2012

- Targeted Increases for Major Research Agencies:
 - NIH - \$1 Billion increase, + 3.4%
 - NSF - \$875 Million, + 16.1%
 - DOE Office of Science - \$412 Million, + 9.1%
- However, are these targeted increases even relevant?
- The "good news" is R&D "survived" in FY2011, but "good news" truly is a relative term ...

FY 2013 Budget Planning looks bleak

OMB Director Jacob Lew on August 17 issued OMB's budget guidance for FY 2013 directing each federal agency to submit to OMB a proposed FY13 budget that cuts discretionary spending by five percent from its FY11 level and to identify additional discretionary spending cuts that would lower the budget by 10 percent from the FY11 level.

Impact of Government Dysfunction

- Major concerns related to the Debt Ceiling, Gov't Shutdown - will we be up against again in Sept?
 - Purloughing of Federal workers – Essential vs. Non-essential personnel
 - Processing of applications and awards stops
- Cash draws? Ongoing projects? OMB and Agency Shutdown plans – Circular A-11: cannot make obligations or disburse funds:
 - NIH, Payment Management System
 - NSF, Fastlane

Financial and Regulatory Reform

Financial and Regulatory Reform

- Multi-faceted COGR Initiative since 2010
- In collaboration with Washington-based Associations, AAU and APLU
- Important Momentum:
 - *Study on Research Universities*, National Academies, National Research Council (NRC)
 - President's Executive Order 13563: "*Improving Regulation and Regulatory Review*", 1/18/2011

NRC Study on Research Universities

- In June 2009, a bipartisan request from Senators Mikulski and Alexander and Reps. Gordon and Hall for a follow-up to *Gathering Storm* focused on the future of US research universities
- Blue-ribbon Committee to guide the Study, which includes: CEOs, University Presidents, a former Undersecretary of Energy and a former Deputy Director of National Lab, members from the National Academies, a other distinguished academic leaders

NRC Study on Research Universities

- “What are the top ten actions that Congress, the federal government, state governments, research universities, and others could take to assure the ability of the American research university to maintain the excellence in research and doctoral education needed to help the United States compete, prosper, and achieve national goals for health, energy, the environment, and security in the global community of the 21st century?”

NRC Study on Research Universities

- November Study Meeting – Senator Lamar Alexander provides encouragement to the Committee
- COGR Presentation at the November Meeting focuses on Financial and Regulatory Issues – Positive Response from Committee
- COGR asked to provide Recommendations – 10 Actions that cost little or no money
- Final Study to be released this Fall

COGR-AAU-APLU Recommendations to the NRC

- Harmonize where reasonable
- Eliminate those with no value added
- Provide exemptions similar to those under the Regulatory Flexibility Act
- Performance-based rather than prescriptive
- Extend coverage of the Unfunded Mandates Reform Act, requiring a cost impact analysis

COGR-AAU-APLU Recommendations to the NRC

- Simplify sub-recipient monitoring requirements
- Reinforce original intent of the Single Audit Act
- Prohibit voluntary committed cost sharing and create an exemption for mandatory cost sharing
- Fast-track approach to amend laws that create unintended regulatory burden
- Federal Ombudsman to minimize regulatory burden

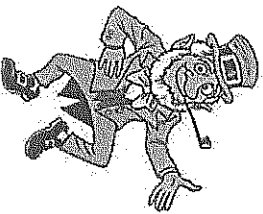
Executive Order (EO) 13563

- January 18, 2011: Improving Regulation and Regulatory Review
- Reaffirms EO 12866 (Clinton, 1993)
- Coordination Across Agencies
- Tailor Regulations to different Entities
- Take into Account Cumulative Impact
- Retrospective Analysis of Existing Rules
- 120 Days for Agencies to submit a preliminary plan to OMB/OIRA
- Agency plans are available

Other COGR Initiatives, with an Emphasis on Financial Reform

- November 2010, COGR Paper: “*Federal Funding Agency Limitations on Cost Reimbursement*”
- September 2010, GAO Study on Indirect Costs (GAO-10-937), addresses topics specific to the 26% cap, the 1.3% utility cost adjustment, and differences in negotiation models for DCA/ONR
- March 2011, COGR Paper: “*Improving the F&A Rate-Setting Process with the Federal Government*”

AND THEN ... a wide open door?



NIH Notice: NOT-OD-11-091
Dated: June 28, 2011

- Request for Information: Input on Reduction of Cost and Burden Associated with Federal Cost Principles (OMB Circular A-21)
- Responses were due July 28, 2011
- Everything except the 26% cap on the table
- A-21 Task Force includes OMB, NIH, DOD, etc.
- Task Force to make public their initial Recommendations by end of September

COGR Responses to the RFI

A. ENHANCE FACULTY PRODUCTIVITY AND ADMINISTRATIVE EFFICIENCY:

- Effort Reporting – discontinue and place emphasis on outcomes
- Project Management Activities – allow as direct
- Subrecipient Monitoring – reduce regs
- Research Communications, Tools and Similar Equipment – allow as direct

COGR Responses to the RFI

B. ENFORCEMENT OF CURRENT RULES – CONSISTENCY, FAIRNESS, SIMPLICITY:

- Negotiated F&A Rate – reimburse it
- Bulk Purchases/High Volume/Significant Dollar Transactions – no arbitrary restrictions
- Voluntary Committed Cost Sharing – enforce ban on “vague” requests and prohibit it
- Mandatory Cost Sharing – exemption for Research Universities and Institutions

COGR Responses to the RFI

B. ENFORCEMENT OF CURRENT RULES – CONSISTENCY, FAIRNESS, SIMPLICITY:

- F&A Rate Negotiation Model – improve it
- 1.3% Utility Cost Adjustment – extend to all
- Documentation Retention Regs – utilize electronic efficiencies (PAR consistency with grants)
- A-21 Updates – selected “low-hanging fruit”

COGR Responses to the RFI

B. ENFORCEMENT OF CURRENT RULES – CONSISTENCY, FAIRNESS, SIMPLICITY:

- A-133 Single Audit – harmonize enforcement
- Federal Financial Report (FFR) – eliminate duplicative reporting regs
- A-133 Compliance Supplement – update to reflect accepted Recommendations and communicate to the audit community

COGR Responses to the RFI

- C. EXPAND SCOPE OF REFORM INITIATIVES TO CAPTURE ADDITIONAL REGULATIONS:
- Harmonize Regulations – Human Subjects, etc.
 - Grants.gov – stabilize it as the platform
 - Federal Ombudsman – to address concerns
 - Cost of Compliance – required analysis per UMRA for proposed regs
 - Regulatory Flexibility Act – targeted exemptions

Financial Reporting & Audit Landscape

HR 2146: Digital Accountability and Transparency Act (DATA Act) of 2011

- Bi-partisan and unanimous support by House Committee on Oversight and Government Reform
- Similar bill tracking in the Senate and further support by the Administration
- Expenditure Reporting (no Jobs reporting) and rescinds FFATA (USAspending.gov)
- But ... another layer of reporting, on top of the quarterly Federal Financial Report (FFR)?

AUDIT: College and University Indirect Costs Claimed as Direct Costs

- Three HHS OIG audit reports: 2007, 2008, 2009
<http://oig.hhs.gov/oas/nih.asp>
- HHS OIG has prioritized this audit area. Eight new audits kicked off; one just completed
- Another one "fingering" from the initial pilot
- It's all about F6b(2) and (3) ... Next Slide

AUDIT: College and University Indirect Costs Claimed as Direct Costs

F6b(2) The salaries of administrative and clerical staff should normally be treated as F&A costs. Direct charging of these costs may be appropriate where a major project or activity explicitly budgets for administrative or clerical services and individuals involved can be specifically identified with the project or activity. "Major project" is defined as a project that requires an extensive amount of administrative or clerical support Exhibit C.

F6b(3) Items such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs

AUDIT: Other Topics, plus ARRA

- HHS OIG - Recharge Centers at Colleges and Universities; "pilot" will determine priority
- HHS OIG - Review of Extra Service Compensation Payments; uncertain if this will be prioritized
- NSF OIG - Labor Effort Audits: Capstone Report, will summarize their audit findings from the past five years and it should be released soon?
- Most ARRA audit activity seems to be NSF OIG driven, though some Energy and NIH activity detected

Other Financial Topics

- NIH Request, Costing on Core Facilities
- NIH: Genomic Arrays policy and COGR "Costing and the Science" response
- NSF: New Cash Payment System, FY2013
- HRSA: "Subaccounting" practice (grant-by-grant drawdowns) suspended
- 2011 A-133 Compliance Supplement: ARRA "Best Available Data" and FFATA compliance
- DOD: 35% R&A Limitation

A Couple Other "Hot Topics"

Financial Conflicts of Interests

- PHS/NIH Final Rule, Aug. 22nd – *Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought and Responsible Prospective Contractors* ... 365 days from Aug. 24, 2011 for institutions to implement
 - And note, Jan. 2011 HHS IG reports on "Institutional Conflicts of Interest" at NIH Grantee
- FDA draft *Guidance for Clinical Investigators, Industry and FDA Staff: Financial Disclosure by Clinical Investigators*

Human Subjects

OSTP and the DHHS through the Office for Human Research Protections (OHRP) announced the availability of an Advanced Notice of Proposed Rulemaking (ANPRM) on the *Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay and Ambiguity for Investigators*. Currently the ANPRM is available on the OHRP website at:

Human Subjects

www.hhs.gov/ohrp/humansubjects

The 90+ page text version was published in the *Federal Register* on July 26, 2011. Comments are due 60 days from publication, though extension is being sought. Could be a positive development, though many questions. COGR is crafting a response, as we speak.

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