COGR Update

Northeast Conference on College
Cost Accounting (NECA) Annual Meeting
August 2018

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COGR

COGR Overview

- Council on Governmental Relations (www.cogr.edu), established in 1948
- 190+ Member Institutions
- Staff of 6 and 4 Committees: 1) Costing Policies, 2) Research Compliance, 3) Intellectual Property, 4) Research & Regulatory Reform
- Active Board and Committees, comprised of 25 individuals from Member institutions
- Regular Collaboration with other Partners

Session Overview

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- Regulatory Reform
- F&A Developments
- Procurement resolution
- Audit and Other Issues
- Nonprofit Funder and Research Institution Partnership
- Federal Contract Issues
- Q&A

Regulatory Reform Statutory Requirements

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American Innovation and Competitiveness Act (AICA):

- Section 201 – Interagency Working Group on Research Regulation

21st Century Cures Act:

- Section 2034 – Reducing Administrative Burden for Researchers

Research Business Models Working Group Report

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The long-established Research Business Models (RBM) subcommittee is executing responsibilities to implement the provisions required under the AICA, with a focus on:

- Centralized, government-wide annual standard set of assurances
- Managing research profile data
- Simplified and uniform grant application format and associated processes
- Simplification of progress reports

21st Century Cures Provisions

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Subrecipient Monitoring

- NIH Director to reduce administrative burden
- Possible exemption where subrecipient is subject to single audit

Review Financial Conflict of Interest Policies

- Review by the HHS Secretary within two years of enactment

Evaluation of Financial Reporting Procedures

- Avoid duplication between HHS and NIH and minimize burden

Clarify or Affirm Alternatives to Effort Reporting

- HHS Secretary to clarify applicability of the UG for management and certification systems, including those for documentation of personnel expenses.

21st Century Cures Provisions

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Review of Animal Research Regulations

- Within two years of enactment NIH, USDA and FDA are charged with identifying and eliminating inconsistent, overlapping or unnecessarily duplicative regulations and policies and improving coordination.

21st Century Cures Provisions

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- OMB to establish the Research Policy Board
- Federal and non-federal/university members
- Charged with:
  - Coordinating and improving regulations and policies
  - Discussing policy and regulatory gaps and challenges
  - Ongoing assessment of regulatory burden
- Expert subcommittees

Regulatory Reform
Mixed Results

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- "Talk" of 21st Century Cures action (e.g., Sub-recipient monitoring, Federal Cash Transactions Report); however, TBD
- President's Management Agenda (PMA); released by the Administration in April. Seems to be the Administration's and OMB's priority vehicle to address regulatory burden … a fresh lens???

Regulatory Reform
Mixed Results

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- And as the Senate deliberates FY 2019 Budget Appropriations, language in a recent Statement of Administration Policy (SAP), dated August 15th, and in response to the Senate deliberations, may provide insight into the Administration's views on Regulatory Reform and F&A …
- In short, what does the Administration really want … is it still about F&A???

August 15; Statement of Administration Policy (SAP)

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The Administration states:

- Disappointed by the continued inclusion of language in the bill (section 226), which prohibits changes to the method NIH uses to pay grantee institutions for administrative and facilities costs.
- Strongly opposes any attempts to prohibit NIH or any other Agency staff from developing strategies to make Government programs more effective and efficient.
- Disappointed that the bill does not authorize the use of NIH funding to establish and operate the 21st Century Cures Act Research Policy Board, as requested in the FY 2019 Budget. T
- The indirect cost policy provision noted above makes it difficult to address regulatory burden in a meaningful way. As a result, the Administration will not be able to establish the Research Policy Board as directed by the Congress.

F&A Developments

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- Is it still about F&A??? COGR's view … maybe, and if so, let's be ready!

COGR White Paper. COGR continues its participation in the "Associations F&A Working Group," (COGR, AAU, AAMC, APLU, AIRI, ACE, and NACUBO). Also, the COGR Costing Committee, with assistance from the RCA Committee, has organized around the development of an F&A White Paper to address many of the themes related to transparency, alternative models, education and myths. Targeted release date is October/November 2018.

Procurement and Approval of Micropurchase Threshold

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OMB Memorandum M-18-18, *Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance*

- Released on June 20, 2018
- Raises the threshold for micropurchases under Federal financial assistance awards to $10,000, and raises the threshold for simplified acquisitions to $250,000 for all recipients.
- Established an approval process for MPT >$10,000
- HHS Policy Office and ONR responsible for approvals; to-date, approval process has worked well!

Audit and Other Issues

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- 2018 "Skinny" Compliance Supplement. Auditors will use the 2017 CS and the 2018 CS together to guide their audits.
- Advance vs Reimbursement under 2 CFR 200.305. Not addressed in 2018 CS and remains a concern. COGR views this as an open item and hopes to pursue it further at a Single Audit Roundtable meeting later this year.
- NIH/HHS pooled accounts in the Payment Management System. As the conversion to subaccounting almost is complete, some are reporting examples of discrepancies between PMS available balances versus the remaining funds per an institution's financial system. Case-by-case resolution.

Nonprofit Funder & Research Institution Partnership

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- 2012 initial meeting.; focus on intellectual property (IP) and technology transfer.
- 2016 meeting; focus on F&A. After Administration 2017 attack on F&A, momentum for Partnership grows!
- May 16, 2018; Partnership kick-off meeting, supported by the NAS Government University Industry Research Roundtable (GUIRR).
- Workstreams include IP, F&A (research project costs), and streamlining administrative requirements.
- Next GUIRR-supported meeting; November 7, 2018, to be held in Washington, DC.

FAR - Trafficking in Persons

- Trafficking in Persons - Federal law and various state laws prohibit trafficking in persons and related activities
- Trafficking in persons includes the recruitment, harboring, transportation, provision, or obtaining of persons through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery
- It also includes sex trafficking, procurement of a commercial sex act and prostitution in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age

Compliance Plans

- An anti-trafficking compliance program must be in place for any federal contract and subcontract where the estimated value of the supplies acquired or services required to be performed outside of the United States exceeds $500,000
- The compliance plan will be appropriate to the size and complexity of the contract and to the nature and scope of the activities to be performed thereunder, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons
- The PI is required to make annual certifications to research administration for the duration of the project

Protecting Life in Global Health Assistance (Mexico City Policy)

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- On January 23, 2017, the U.S. Government reinstated and expanded the provisions of the Mexico City Policy.
  - Pursuant to the Presidential Memorandum Regarding the Mexico City Policy, on May 15, 2017
- Foreign non-governmental organizations (NGOs) must certify that they will not "perform or actively promote abortion as a method of family planning," using funds from any source (including non-U.S. funds), as a condition for receiving U.S. government global family planning assistance and, as of January 23, 2017, any other U.S. global health assistance, either directly or indirectly.
  - This is a significant expansion of scope under Trump administration. It now applies to the vast majority of U.S. bilateral global health assistance, including funding for HIV (PEPFAR), maternal and child health, malaria, nutrition, and other programs.

Mexico City Policy

- The recipient will be liable to the Federal funder for a refund for a violation by the subrecipient only if:
  - the recipient knowingly furnishes health assistance under this award to a subrecipient that performs or actively promotes abortion as a method of family planning, **or**
  - the subrecipient did not abide by its award terms and the recipient failed to make reasonable due diligence efforts prior to furnishing health assistance to the subrecipient, **or**
  - the recipient knows or has reason to know, by virtue of the monitoring that the recipient is required to perform under the terms of this award, that a subrecipient has violated any of the award terms
- **AND**
  - the recipient fails to terminate health assistance to the subrecipient, or fails to require the subrecipient to terminate assistance furnished under a subaward that violates any award terms

Mexico City Policy

- Prior to entering into an agreement to furnish health assistance to a foreign NGO under a federal award, the University must receive a certification from the NGO certifying that it will not engage in the prohibited activities
- The University may be terminated and liable to the federal funder for a return of funds for a subrecipient's violation
- The policy is applicable to awards when the award document contains the provision, including a new or modified agreement

Questions and Discussion

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