

COUNCIL ON GOVERNMENTAL RELATIONS

COGR

an organization of research universities

March 19, 2001

~~Department of Health and Human Services~~

200 Independence Avenue SW
Room 517 D
Washington, D.C. 20201

To the heads of the individual working

These comments are provided by the Council on Governmental Relations, an association of 143 research-intensive universities in the United States, in response to the request for comment published on January 17, 2001 (66 FR 4583). The notice invited the public to assist federal agencies and their working groups in their ongoing effort to implement the provision of P.L. 100-107, the Federal Financial Assistance Management

The purposes of the Act

(2) ~~Simplify the effectiveness and performance of federal financial assistance programs;~~

(3) Improve the delivery of services to the public; and
(4) Facilitate greater coordination among those responsible for delivering such services.

1. General comments:

1. This could be watershed legislation. To gain the benefits of this legislation, however, the revisions to current administrative systems must be more than a paper exercise. Improvement of the effectiveness and performance of federal financial assistance programs, which is the first goal, cannot be accomplished by mere substitution of electronic systems that replicate the traditional paper records. Government agencies must make the fundamental changes in current agency policies that are essential to accomplish genuine comprehensive cross-agency administrative simplification. Without this resolve, the other goals, improved delivery services and greater coordination

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agencies, administrative costs to the universities will continue to drain resources from the essential research mission unless the federal agencies begin to present one face to the grantee community, streamlining the administrative activities needed to demonstrate compliance. We recognize that individual traditions gave rise to a multiplicity of requirements but believe that to accomplish Congress' statutory purposes each agency must weigh the necessity of the individual agency position against the greater public purpose.

2. The unique nature of the research performed by the government-university research partnership necessitates recognition of its performers as a distinct constituency within the larger community of recipients of assistance. The decision by the working groups to deal separately with issues that concern research oriented grantees from those that are service oriented is logical. It reflects the recognition of important principles that we have strongly defended in the past. The integration of research and graduate education and the undefined outcomes of many research projects, argue against mandating university compliance with the same requirements applicable to state service providers or large production entities. Such a "one-size-fits-all" approach would come at great costs and would not meet the intent of P.L. 106-107.

3. The groundwork has been amply prepared for regulatory simplification. Throughout the discussions about government-wide alignment of OMB Circular A- I 10 provisions in the late 80s, COGR and its member universities provided extensive comment. We believe that this discussion resulted in a thorough illumination of several controversial issues. Unfortunately, the revision to OMB Circular A- I 10 in 1993 did not achieve the goal of uniformity. It resulted only in limited agency agreement, complicated by a series of federal agency-specific terms and conditions, considered at that time as too essential to relinquish. The Florida Demonstration Project of 1979, later renamed Federal Demonstration Partnership (FDP), constituted itself for the purpose of pilot testing special terms, granted on a provisional basis only to those universities in the FDP membership. The opportunity for a definitive assessment is now at hand. We believe that experience shows that the agency-specific terms and conditions to OMB Circular A-110 should be rescinded. There is no persuasive evidence that the current special FDP terms should not be extended government-wide to all grantees covered by Circular A- I 10. Both actions are in concert with the goals of the Act and the authority granted for its implementation.

4. Although electronic data management is no longer an opportunity but a necessity, the use of electronic systems is primarily a means to an end, not an end in itself. The current effort to fully implement electronic data management is given added urgency by the stated goals of the administration to embrace electronic commerce. However, experience has painfully demonstrated that electronic systems are expensive and that investments in agency-specific

systems are wasteful and duplicative. The current proliferation of systems developed by different agencies for individual settings has, been documented by the FDP. COGR has cited specific examples of the lack of coordination between agencies and also pointed out the danger of premature implementation by discrete divisions in one agency, which resulted in bottlenecks

around deadline times. These problems can be avoided or minimized by implementing the Federal Commons. We strongly endorse the concept of the Federal Commons and urge that sufficient financial support be allocated to implement the concept.

5. Regrettably, the Act addresses only assistance, not procurement. Many of the problems universities encounter result from contract management and from the lack of understanding of grant mechanisms by procurement-oriented federal agencies. As data dictionaries and EDI transaction sets are finalized, we urge the federal tasks groups not to exclude the concerns of the universities regarding management of federal contracts. At a minimum, proposed streamlining and simplification for grants should not be structured to preclude applicability to the contracts area at a later time.

6. We trust that the work of the federal agencies will not focus only on the grant management circulars. We believe it is essential that the working groups also review the cost circulars since they define the costs on which the assistance is predicated. The spirit of the legislation clearly calls for comprehensive streamlining of the assistance process. It should be the goal of the working groups to make the cost circulars consistent in their treatment of allowable and unallowable costs and to make them up to date. Even within the same set of cost principles, we find agencies providing different regional interpretations. We understand that the process of analyzing the cost circulars for consistency has been started and we hope it will be the resolve of the working group to bring this effort to a successful conclusion.

11. Specific Comments on Targeted Areas.

We present here selected illustrations in support of the general comments made above, in the first four categories of the Federal Register notice. We do not address the electronic area, since the participants of the FDP, many of whom are COGR institutions, have made it a primary mission of their organization. We rely on their expertise in electronic processes. In accordance with the goal of looking ahead towards improvements, we will not dwell on enumerating existing divergence among federal agencies, since this has been done repeatedly over the years. We trust that the fact-finding phase which the federal working groups engaged in (Phase 1) will have served this assessment purpose.

Application and Reporting Forms

Agency-specific application forms and proposal guidance should become increasingly irrelevant, as we move to a government-wide data dictionary and electronic submission. We hope that the agencies will limit required data to the set of data elements currently identified in EDI TS 194 for proposals, EDI TS 850 for awards and EDI TS 860 for award modifications. It is also important for federal agencies to self regulate their processes, particularly so that subunits of agencies do not require paper documentation at later stages in the proposal consideration that mirror old paper application forms and processes.

Requirements for electronic reporting present complex challenges. For example, the EDISON electronic invention reporting system is based on a valid concept, which has been recognized as useful by several other agencies that recently joined the NIH to form Interagency EDISON. However, it also serves as an example of the difficulties of designing electronic reporting carefully in order to obtain desired responses. These difficulties arise in situations where the data input is neither straight text as in a progress report, nor financial data.

Document imaging for archiving purposes is becoming essential. We first alerted the agencies in October 1997 that OMB should initiate a Circular A-110 revision. A renewed attempt was made in the summer of 1999, when DHHS considered a policy issuance to permit organizations that receive the majority of their federal funding to use electronic records as substitutes for original records. The policy notice required procedures for the 1) creation and use of electronic records; 2) security of stored records; 3) selection and maintenance of electronic mediums; 4) retention, disposition and distribution of electronic records. We strongly support this effort.

Terms and Conditions

Mandatory uniform government-wide application of OMB Circular A-110, without agency specific terms and conditions and with the adoption of the FDP specific terms to benefit the general academic community, is the number one priority of our community. Our members report that at the agency level there is considerable confusion over the application of FDP terms and non-FDP terms. In addition to liberalizing terms, it is also necessary to apply terms in consistent manner. We understand that the working groups have spent much time trying to arrive at uniform definitions of commonly used terms. This is also much needed. Uniform governmentwide requirements for financial reports and budgets would be welcome.

Government-wide ethics regulations should not be excluded from this review of financial assistance management. With regard to the implementation of the government-wide misconduct in science policy, agency specific regulatory implementation has yet to take place. Clearly, the effort to agree on common principles was arduous. We reiterate our previous comments that this is an example where government-wide policy is necessary, and where uniform regulatory implementation of the policy is as essential prerequisite for success.

We have seen individual agencies experiment with a number of funding/budget models from which benefits for research are expected to flow. The current revision might provide an opportunity for a larger federal group to discuss the merits of these individual concepts and to inquire about the benefits of broader application. Examples in point are the NIH Modular Grants or the NSF calls for longer budget cycles. Opportunities for future agency-university pilots should be accommodated in any programmatic requirements.

We are mindful of the fundamental difference between assistance and procurement awards. We have made the point above that simplification is desirable in both award mechanisms. One area of consistent comment by COGR schools has been the intrusion of contract provisions into grant terms. A recent example is the DOE data rights revisions of 1997. Introducing procurement terms into assistance awards ignores this fundamental difference and should be avoided.

Payment Systems

We strongly support the pooled payment system. COGR expressed its specific arguments, justifications and proposals to OMB in response to its invitation for comment in June of last year. A pooled payment system, adopted government-wide for research awards, would be a significant step toward streamlining the payment procedures for recipients of federal assistance. Such systems would allow agencies to retain sufficient opportunity for monitoring and for ensuring stewardship of funded awards. At major research universities, cash 'draw downs are made many times during a month in amounts of several million dollars per month. Under a pooled payment system, the recipient estimates its needs for all its awards from the agency and then draws that amount, which is subsequently allocated appropriately among the agency awards. Financial reports submitted on a quarterly basis provide details of actual cash expenditures on a grant-by-grant basis. This gives the agency adequate opportunity for monitoring and for ensuring stewardship of the funds awarded. Conversely, drawing cash on a grant-by-grant basis is time consuming and adds no value to the process.

We reiterated our preference for the pooled payment system to representatives from the Department of Education as recently as last month. We hope that the Department will be persuaded to adopt the pooled payment system in lieu of its current system, which was implemented five years ago in spite of strong objections from our membership. Reports from our membership have confirmed that the Department of Education system is used in many cases as a cost reimbursement rather than a cash advance system. We support the efforts of the Chief Financial Officers' Council to require all federal agencies to offer grant recipients the option to request cash advances on a pooled basis.

Audit Issues

The Single Audit Clearinghouse offers the opportunity for verification of

subrecipient audit status by prime recipients of awards. We believe this is far preferable to the cumbersome process of requesting paper copies and encourage the government to strongly endorse the validity of the electronic verification option.

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Conclusion

The results of the simplification effort must truly apply government-wide. We welcome the fact that the Act brings agencies to a common table. We remind the working groups that any discussions of approaches must recognize the special needs of grants assistance focused on research. The NSTC report on the government-university partnership published in 2000 underscored the value of the partnership for the economic well-being and health of the nation. It represents a truly nonpartisan statement of principles that is the basis for and the justification of the government-university partnership in research. If ten years from now the Congress asks what has been accomplished by this enormous streamlining effort, it would be a true accomplishment to say that the simplification initiative has served to promote those principles, which the government stated are the basis for a fruitful relationship.

We thank you for this opportunity to participate in the review and comment process.