

Request for Information (RFI): Input on Reduction of Cost and Burden Associated with Federal Cost Principles for Educational Institutions (OMB Circular A-21)

Summary of Public Comments November 29, 2011

1 Introduction

On June 28, 2011, an A-21 interagency Task Force issued a Request for Information (RFI) via the National Institutes of Health (NIH) offering the opportunity for input on potential revisions to OMB Circular A-21, 2 CFR Part 220 (Cost Principles for Educational Institutions) that could reduce administrative burden or costs associated with compliance requirements for Federal research grants and contracts awarded to educational institutions. The Task Force is reviewing issues surrounding Circular A-21 with respect to its application to the conduct of Federally-sponsored research at educational institutions, including the consistency of application by Federal agencies, costs, and administrative burdens. Preliminary information gathered by the Task Force focused on the following areas:

- Effort reporting
- Recovery of direct costs associated with administrative and project management support for investigators
- Institutional eligibility for the Utility Cost Adjustment
- Consistency among agencies that establish government-wide Facilities and Administration (F&A) rates
- Programs with F&A reimbursement at other than government-wide rates
- Rationalization between agencies of regulations and reporting requirements (e.g. deemed exports, Institutional Review Boards, visas...)
- Audits of research institutions and awards, and
- Definitions of general and research equipment

The Task Force will consider possible improvements in these and other areas as it conducts its review. Consideration of changes to the administrative costs cap of 26% or of compliance issues related to research conducted by other types of organizations (including non-profit institutions, hospitals, and for-profits) is beyond the scope of the Task Force. The Task Force will recommend specific revisions and clarifications to Circular A-21 to the National Science and Technology Council (NSTC) for review and transmission to OMB.

NIH received written comments via electronic posts at http://grants.nih.gov/grants/guide/rfi_files/a-21/add.htm. The web comment form included response fields for name, email address, affiliation (self or organization), uploading up to three attachments, and responding to three comment text fields as follows:

- **Comment 1:** For any of the areas identified in the June 28, 2011 NIH Guide Notice and any other specific areas of Circular A-21 you believe are worthy of consideration by the Task Force, please:
 - a. Identify the issues(s) and impact(s) on institutions, researchers, or both;

- b. Where possible quantify the impacts, e.g., in terms of cost to the institution or the estimated number of hours (or percentage of time) that researchers or compliance staff spend addressing the issue(s).
- **Comment 2:** Please identify and explain which of the issues you identified are, in your opinion, the most important for the Federal Government to address. As a reminder, consideration of a change to the 26% administrative cap is beyond the scope of the Task Force.
- **Comment 3:** You may also offer proposed wording changes to Circular A-21 or any other Federal Government policy issuance that you believe would best address an identified issue. Please be as specific as you can, e.g., if possible, provide a line-in and line-out markup of the pertinent paragraphs of the current language

All comments received during the public comment period (June 28, 2011 – July 28, 2011) were stored in a database and logged with a unique identifier in the chronological order received. All comments were read and classified as part of the analysis process.

2 Analysis

2.1. Classification Process

Each comment was read in its entirety and classified into one or multiple categories. Analysis of comments included reading all text in the three possible comments fields plus any attachments. Table 1 shows the classification categories and their descriptions.

Table 1: Category Descriptions

Category:	Description:
General	Comment expresses general concerns about A-21 or endorses another organization without specific recommendations.
Effort Reporting	Concerns about the burden of effort reporting requirement.
F&A Rates	Concerns about the consistency of F&A (also called indirect or overhead) rates and the negotiation and reimbursement process.
Administrative and/or Project Management Support	Concerns about the lack of ability to directly charge administrative or project management support.
Audits/Monitoring	Concerns about Circular A-133, sub-recipient monitoring, and audits.
Regulations/Reporting	Concerns about regulations in general or specific regulations and reporting requirements, including compliance, oversight, and other requirements.
Cost Sharing	Concerns specifically about cost sharing.
Definitions of Equipment	Concerns about the definitions of equipment, including computers.
Utility Cost Adjustment (UCA)	Concerns specifically addressing the UCA.
Other	Comments about issues that do not fit into any other category.
Editorial	Specific comments with new language or editorial recommendations.
Non-responsive	Comment is incoherent, inconclusive, or not declarative in nature in relation to the RFI.

2.2. Endorsements

Endorsements were identified as comments containing boilerplate language that could be attributed to an organization(s) as the source for the language, and comprised 57% of the comments received. The purpose of identifying the endorsements was to count these responses and ensure consistent classification. Although the comments containing the boilerplate language were identified, each comment was counted as an individual response for the data summary. Table 2 shows the organizations and endorsements received for those organizations' recommendations. Please note that a responder could have endorsed one or both of these organizations.

Table 2: Endorsement Counts

Organization Name	Number Received
Council on Governmental Relations (COGR)	81
Association of American Universities (AAU) and Association of Public and Land-grant Universities (APLU)	48

The COGR response (www.cogr.edu/viewDoc.cfm?DocID=151853) contained 20 specific recommendations that each had supporting rationale in a 45 page narrative. The comment addressed all of the classification categories. Their recommendations focused on three groups: A) Clarification or Modification of Existing Regulations to Enhance Faculty Productivity and Administrative Efficiency, B) Enforcement of Current Rules with an Emphasis on Consistency, Fairness and Simplicity, and C) Expand Scope of Reform Initiatives to Capture Additional Regulatory Areas, which can lead to Further Reduction of Burden and Cost.

The AAU/APLU response (www.aau.edu/WorkArea/DownloadAsset.aspx?id=12432) addressed a majority of the classification categories with 15 specific recommendations. Their response stated support for the COGR recommendations and was intended as a complement to COGR's more detailed recommendations.

It should be noted, however, that endorsements were only marked if the responder specifically stated the support or agreement with the organization's recommendations. Some respondents may have used a variation or small portions of language from the organizations' recommendations this was not identified or counted as an endorsement.

2.3. Results

A total of 154 comments were received via the public comment web site. Five comments were not separately tabulated because they were non-responsive or were a repeat submission from the same responder. Comments were classified as general or in one or more specific categories. Over 80% of comments addressed more than one classification category. The totals for each category are shown in Table 3.

Table 3: Count of Comments by Category (in order of prevalence)

Classification Category	Number of Comments	% of Total Comments
Specific	124	81%
Effort Reporting	88	57%
F&A Rates	76	49%
Administrative and/or Project Management Support	70	45%
Audits/Monitoring	68	44%
Regulations/Reporting	65	42%

Classification Category	Number of Comments	% of Total Comments
Cost Sharing	59	38%
Definitions of Equipment	34	22%
UCA	33	21%
Other	29	19%
Editorial	22	14%
General	25	16%
Non-responsive/repeat	5	3%

The RFI requested that responders prioritize their concerns. If a responder indicated a clear rank order for the issues, the priority was recorded. Almost half of the comments (42%) specified a rank priority. The priorities specified in each comment were given point totals (9 points for priority 1, 8 points for priority 2, etc) and the points for each category totaled. Appendix A contains the detailed priority information. Based on the sum of points in each category, the overall priority ordinance is as follows:

1. Effort Reporting
2. F&A Rates
3. Administrative and Project Management Support
4. Cost Sharing
5. Audits/Monitoring
6. Regulations and Reporting
7. UCA
8. Definition of Equipment
9. Other

Responders were also allowed to submit attachments. The majority of the comments (62%) contained attachments. Attachments sometimes contained the entire comment, contained a duplication of the comment, expanded on the comment field, or contained reference material.

In regards to the comment affiliation, 27 (18%) were marked as self-affiliated and 127 (82%) were marked from organizations. Also, if the comment was marked as organizational, but was clearly from one individual who did not necessarily represent the entire organization, the affiliation was recorded as self. For example, a responder may have identified themselves with a particular organization, but did not explicitly identify themselves as a leader or representative of the group or the group's views.

2.4. Examples of Comments

The following describes the issues addressed in each category and samples of each. The samples may be excerpts of the entire comment if the responder addressed multiple categories.

(Note: The examples used in this section are representative of the content of the comments only and not their merit or factual accuracy.)

Effort Reporting (88, 57%):

Comments in this category recommended elimination of effort reporting or appropriate revisions to the system. Many responders understood the rationale for effort reporting, but stated that it was not realistic in practice. They felt the current system is time-consuming, costly, complex to

manage, untimely, inefficient, inconsistent, and ineffective. The main reason for requesting elimination was the effect on research productivity and extreme burden to scientific staff. They felt that effort reporting does not affect the outcome of the research goals or quality of the work, nor does it enhance financial compliance. Some respondents noted that the concept actually penalized researchers who devote the most time working because sometimes the level of effort expressed as a percent on each project is reduced.

Responders commented that the current methods do not work and offered alternative methodologies if the Government continues with effort reporting. One idea proposed is to permit institutions to utilize simpler methods to document work performed on Federal awards, such as the Payroll Certification method outlined by the Federal Demonstration Partnership. Another recommendation was to replace the current system with a performance-based approach which would measure progress against the proposal submitted to the Government. A progress or final report on a project which is accepted by the sponsoring agency would serve as a proxy for assuring that the amount of time spent on the project was adequate.

Responders typically felt that the burden of effort reporting far outweighed its value. Many universities reported their costs associated with effort reporting systems as several hundred thousand dollars. Some responders stated that the time and money could be better spent on improvements to facilities rather than management and IT resources for effort reporting systems. They also reported the difficulty of reporting when researchers simultaneously work on multiple projects. Some respondents noted that government auditors considered “effort” synonymous with “hours,” and assumed that there is no possibility that faculty education and research efforts may be intertwined.

Examples of these comments are as follows:

“Effort reporting has long been discussed as redundant, lacking in precision, expensive, and confusing. A system which focuses on technical progress reports and the fulfillment of research objectives is already in place and is a better indicator that effort has been performed...”

“...The current effort reporting requirements should be discontinued. The current system is a management and administrative burden that does not advance either accountability or transparency. It is largely repetitive, given that awardees provide agencies regular progress reports. It also implies a level of precision that is unreliable. Moreover, it has created a hodge-podge of institutional systems that do not allow effort to be compared across institutions and is thus not considered useful by agencies, faculty, or their institutions. It contributes nothing, but its cost is enormous. It should be replaced by a system focused on outcomes, linked to existing progress and final reports. We suggest that the Federal Demonstration Partnership be utilized to aggressively test alternatives to effort reporting, building on and expanding ongoing demonstration projects. ...”

“...Recommendation: Effort Reporting should be discontinued and replaced with institutionally designed compliance-based approaches that meet accountability standards for “Payroll Distribution” systems with an emphasis on research outcomes. Confirmation of effort through effort reporting systems is overhead intensive and requires significant researcher time for a process that is not well understood and has evolved significantly away from the original intent of validating that salaries charged to federal projects represent reasonable estimates of the work performed. Institutional payroll distribution systems are designed to allocate payroll costs to Federal projects and to provide mechanism and controls that allow for adjustments to the original allocation. Effort Reporting requires the development of an additional, expensive system layered on top of existing payroll distribution systems. As an alternative, we recommend that institutions be authorized to include reports from their payroll distribution system with progress and final reports. The reports would include a personnel list, the amount paid for the reporting period, and PI statement that the salaries funded by the project are reasonable for the outcomes described in the report...”

“...Effort Reporting: The effort reporting requirements attributed to OMB Circular A-21 Section J. 10 are an expensive, time-consuming and excessively burdensome administrative task that yields little to no benefit to

the institution or the federal government. Effort reporting puts a high level of administrative burden on individuals throughout the academic enterprise including faculty as well as departmental, school and central administrators but is widely recognized as being of little or no value. Due to the nature of their work, a researcher's time is difficult to monitor in a manner similar to that used for a lawyer or accountant's time. Trying to compartmentalize investigator time is extremely difficult because the lines between scholarship, research, clinical care, mentoring, teaching, advising, etc. cannot be clearly drawn. Spending considerable time on an administrative issue such as effort reporting provides no benefit to the institution or the government and reduces the time available to spend conducting the research. The existing progress reports required by government sponsors and scientific publications should provide adequate documentation to verify that the requested work is progressing or has been completed. The elimination of the effort reporting requirements would allow researchers to focus on research instead of spending time on a low value administrative compliance issue..."

"Eliminate requirements for effort reporting by significantly revising Section J.10 (Compensation for Personal Services). The practice of effort reporting has been described by investigators as a "pointless exercise," "a total pain," and "a pseudosystem" that does not add value in the world of research performed by universities. Effort reporting provides the illusion of precision in accounting for the effort of faculty and others paid on grant funds, but is widely acknowledged to produce information of doubtful accuracy and minimal utility. We accept without question our obligation to be good stewards of federal research funds and to be accountable for the expenditure of funds awarded to our institutions. We believe that adequate information supporting the salaries charged to individual grants is already being provided in required financial and progress reports. The distribution of salary and wage charges to research grants should certainly have to meet the test of "reasonableness," but not to the degree of precision that might be expected in a setting where the government is buying goods and services. Ultimately, the success of the government's investment in research is best judged on the outcomes of research projects, rather than on the process by which those outcomes were achieved. Examples of outcome measures include publications in refereed journals, number of citations, invention disclosures, research tools developed, number of graduate students and postdocs trained..."

F&A Rates (76, 49%):

Comments in this category addressed the inconsistency of F&A rates between research institutions. Some respondents recommended a single fixed indirect percentage while others recommended a separate, but uniform percentage rate for private versus state institutions or uniformity by state or region. Respondents felt that by establishing a consistent rate, both the government and the research institutions would lessen their administrative burden. Some suggested pre-established rates for sub-recipients to remove burdening the prime awardee.

M-many respondents suggested reform to the F&A negotiation process and model. They noted inconsistencies between the methodologies of DHHS and ONR and differences in the practices of the four DHHS regions. Respondents recommended creation of a formal, consistent negotiation model through collaboration between Federal entities and research institutions that would review methodologies. Respondents also proposed a central authority to appeal decisions and review equitable practices.

Many respondents felt that some financial reimbursement policies imposed by federal funding agencies are inconsistent with the official OMB requirements delineated in Circular A-21 and referenced a recent GAO study. They noted that some agencies and programs allow for full recovery of negotiated rate while others do not, creating mandatory cost sharing. (See also Cost Sharing category.)

Other specific recommendations included rectifying disparities in on and off- campus research rates; creating a national repository of negotiated F&A rate agreements; removing limitations on F&A recovery for bulk purchases and high-volume and/or significant dollar transactions, such as genomic arrays; and coordinating a study with institutions that explores the use of a "Research Compliance Cost Pool" (RCCP) for developing F&A rates. Comments also proposed

eliminating the 26% cap on administrative costs even though the RFI explicitly stated that the issue was outside of the Task Force scope.

Examples of comments related to F&A rates are as follows:

"...3) The Negotiated F&A Rate should be reimbursed by all Federal funding agencies on all Federally-sponsored research, service and educational programs, unless statutorily prohibited. Each rate is federally negotiated, but it is not observed by all institutions...."

"...Sponsored research is at the core of America's excellence in higher education, and it is part of the foundation of American economic and technological prowess. Nonetheless we are endangering the future of sponsored research by progressively shifting the financial cost of supporting research to Universities. For example, if a sponsor is free to limit F&A recovery to an arbitrarily imposed limit; e.g., 8%, while our federally negotiated rate is currently 54%, the costs associated with the unrecovered difference of 46% do not simply disappear. The University has to fund them from sources that would normally support teaching, research, or necessary student services. Federal sponsors should be statutorily prohibited from imposing an F&A rate different from an institution's federally negotiated rate. In addition, F&A rates are currently negotiated in an arbitrary manner and are often dependent on the Region and auditor assigned to the negotiation. We recommend that the formula for developing the F&A rate be respected and the resulting percentage routinely accepted...."

"... The continually rapid growth in our research base has resulted in significant need for more administrative support. Additional reporting and compliance issues has place tremendous burden on our support staff, yet the administrative cap has remained at 26% for many years. This has had the undesirable effect of requiring researchers to spend more of their time on administrative function when they should be concentrating on their ground-breaking research. The matter has been further exacerbated by federal agencies that have set arbitrary caps on F&A rates and mandatory cost sharing requirements. Even then "voluntary" cost share is, in most instances, required if the investigator is to have any chance of receiving the award and funding. It is therefore evident that revisions to the current, failing system and methodology are necessary...."

"... 2. The Negotiated F&A Research Rate, unless statutorily prohibited, should be reimbursed by all Federal funding agencies on all federally sponsored research, service and educational programs. This would simplify budget preparation, account set-up, expense allocations, budget management, account reconciliation, billing and award reporting. It would make the accounting more predictable, less complicated, less confusing and less laborious in tracking. Having less specialized rates with non-standard limitations/inclusions/exclusions would significantly lower the likelihood of mistakes. This in-turn simplifies accounting, lowers the need for account transfers and billing corrections. ...5. Simplify the way the F&A rate is determined and ensure that F&A rates are consistently derived. We estimate that it costs approximately \$350K in administrative costs to prepare the proposal, perform the space survey and employ consultants to negotiate the rate every 4-5 years. If a model was used that was tiered by institution size, location, etc... and one that required fewer resources to implement, this would be more cost-effective and the time and effort currently spent on F&A Rate Negotiation could be better utilized for other research activities. ..."

"... All Federal funding agencies should honor the negotiated Facilities and Administrative Rate on all Federally-sponsored research programs, unless it is statutorily prohibited. In times of budget stress, efforts to nibble at F&A costs at the individual program level become endemic and are contrary to sound Federal stewardship. The Office of Management and Budget (OMB) should more forcefully prohibit agency- and program-level policies and practices that seek to modify or evade Circular A-21.... We also urge that agency limitations on F&A recoveries associated with bulk purchases, high volume transactions, or significant dollar transactions should be prohibited in an effort to provide consistency. F&A rates are based on cost averages and these exemptions are unwarranted. The OMB should ensure that government negotiators are consistent and fair in the rate setting process -- regardless of cognizant agency, institution, or region. Moreover, a clear appeals process should be established when agencies and institutions have serious disputes concerning the rate setting process....We also urge the A-21 Task Force to consider the vital role that academic health center libraries play in advancing Federally-sponsored research. It appears that some cognizant agency rate negotiators are unaware of the significant expense involved in operating a modern research library. Increased attention to the cost of maintaining and storing vital research data, often managed by libraries, should be supported by cognizant agencies during the rate setting process."

Administrative and Project Management Support (70, 45%):

Comments in this category requested authority to directly charge administrative and project management expenses as a portion of grant activities. Respondents felt that reducing the burden to scientific staff would increase research productivity. They remarked that the administrative burden of compliance has increased, which is then shifted to the researchers due to lack of funds for professional staff. Some noted that a researcher's time is more valuable and the lack of direct administrative charging costs the Government more money. Some respondents recommended that allowable charges be based on reasonableness and whether they are allocable to a specific project and consistently applied. Some noted that these charges should be outside the indirect costs so they are not counted twice. Also, some comments stated that the prohibition of direct charging is outdated since it originated when secretaries existed as opposed to the level of specific project management support required today. Examples of comments related to administrative and project management support are as follows:

"... In light of the fact that the 26% administrative cap is off the table in terms of this discussion we would next like to address the issue of the possibility of direct charging for administrative and project management support for investigators. An NIH survey of PI's conducted several years ago revealed that an estimated 40% of PI's time is currently being expended on administrative work rather than scientific/programmatic efforts on projects. As funding levels have declined and many state supported institutions like ours, are being forced to prioritize competing goals in a time of scarce resources, the administrative function often takes a back seat to the more pressing and immediate needs of instruction, research and public service and we are constantly being asked to do more with less. Frequently this pushes administrative type tasks to PI's who resent time away from more pressing matters. It would be exceedingly helpful if institutions were allowed to directly charge for administrative/support type costs, as it is a readily easy cost to identify and much less costly than having a faculty member expend time on these tasks. We don't have a method to precisely estimate what these costs are, but certainly administrative support costs are much cheaper than PI time. ..."

"...Allow the direct charging of costs associated with Project Management Activities when those activities can be specifically identified with an individual project - There are many costs associated with conducting a research project. Many of these costs are carried by the institution when they are really tied to research. ..."

"...OMB Circular A-21 limits direct charging of clerical and administrative salaries to few instances which are enumerated in Exhibit C. There are many instances, however, where significant project compliance and management related costs can be readily identified with specific sponsored awards. In such instances, these costs should be allowed as a direct-charge to the projects. Furthermore, Exhibit C should be completely eliminated. Alternatively, Exhibit C should be re-written to exclude references to "major projects" and instead refer to administrative activities that can be readily and specifically identified to sponsored awards..."

"...The recommendation to revise section F.6.b of OMB Circular A-21 is designed to allow research institutions the ability to enhance our productivity by eliminating onerous and non-productive requirements currently imposed on faculty. Allowing the direct charging of costs associated with project management activities when those activities can be specifically identified to an individual project is essential for the growth and success of any research enterprise. The enforcement of the current language negatively impacts the researchers' ability to focus on scientific aspects of the project. These activities include protocol and compliance support, human resources actions, procurement activities, travel arrangements, conference scheduling, and other project specific areas. Furthermore we encourage and support the requested change to this section that would allow the direct charging of allocable personnel to the project that would be assigned these responsibilities. ..."

"... Please also understand that we feel that greater leniency should be available for smaller institutions as it relates to the recovery of direct costs for administrative and project management support for investigators. Without a large base of indirect/facilities and administrative costs recovery that a larger institution will have, it is difficult to prioritize expenditures for this type of personnel costs, especially with the standard management and reporting burdens related to the Federal awards. This leads to a situation where the investigators are left without the support they need to effectively and efficiently perform the work under the

Federal awards, and thus a smaller return of work output for the Federal funds that have been invested in the project. ...”

Audits and Monitoring (68, 44%):

The vast majority of comments in this category addressed the duplicative nature of subrecipient monitoring. Respondents recommended that sub-recipient monitoring should not be required for subrecipient institutions already subject to OMB Circular A-133. The rationale was the enormous amount of time spent and expense incurred responding to auditors by providing various pieces of information and data. Some remarked about the burden of assisting inexperienced or unknowledgeable auditors. For subrecipients not subject to the A-133 audit, some commenters felt that more rigorous monitoring was reasonable.

Some respondents also stated a need to update Circular A-133 to correspond to updates made to Circular A-21. They felt that all regulations required consistency and harmonization. Some commenters recommended a multi-agency team to reduce the number of audits or the ability to use internal or state audits as well that could result in significant cost savings to universities and governments by reduced travel and administrative burdens. Other specific recommendations included that all agency audits and reviews should be subject to pre-approval by a Federal Ombudsman to determine which aspects of a proposed audit or review are duplicative of the A-133 audit and that OMB should raise the F&A cap from the first \$25,000 to the first \$100,000 of each sub-award for F&A recovery to help cover the costs of monitoring.

Examples of audit and monitoring comments are as follows:

“...Recommendation: Reduce Sub-recipient Monitoring requirements for those sub-recipients subject to Single Audit Act/OMS Circular A-133 Audits and Federal National Policies Compliance Assurances with the Federal Government. Over the past decade, federal agencies have changed their approach with respect to collaborative research by relying on the designation of a prime awardee to manage the collaboration through subawards. Thus, prime awardees are required to perform sub-recipient monitoring on all entities receiving Federal funds through a subaward mechanism. The guidance for this monitoring is distributed throughout various regulations and is inconsistent across agencies and mechanisms. In the overwhelming majority of cases, our sub-recipients are organizations who receive Federal funding and are already subject to A-133 requirements. The expectation for the level of sub-recipient monitoring under the A-133 audit is often higher than the monitoring provided by the Federal funding agency. For other Federal regulations, the sub-recipients continue to report to and be monitored by the appropriate Federal agency. Thus, we recommend

- For sub-recipients subject to A-133, audits require confirmation that most current audit is posted to the Federal Audit Clearinghouse and certification by sub-recipient of compliance with Research Policy Terms and Conditions, Appendix C, national Policy Requirements, as applicable.

- For those policy requirements requiring a separate Federal assurance, e.g, protection of human subjects, care and use of animals, the prime will ensure the sub-recipient has the appropriate current assurances or certification on file. There should be no implied requirement for secondary review...”

“...6. Eliminate subrecipient monitoring requirement for other entities, like research universities, that receive federal awards. Many grant funded research projects involve collaboration among investigators at multiple institutions and, therefore, require that subawards be made to the partnering institutions. In these instances, the prime award recipient is required to “monitor” the business practices and internal controls at the subrecipient institution. While there may be value to monitoring subrecipients that are not established recipients of federal funding, to monitor other research universities that regularly receive federal awards and also have to report is a wasteful exercise and should be eliminated. ...”

Regulations and Reporting (65, 42%):

Comments in this category addressed the lack of consistency and harmonization between regulations as well as different interpretations of A-21 among Federal agencies. The comments in this category covered numerous issues; many of which do not fall under the A-21 Task Force. Respondents remarked that the costs of various new reporting and compliance requirements

extend beyond the 26% F&A cap. Examples of reporting that respondents felt were repetitive included that related to the American Recovery and Reinvestment Act (ARRA), the Federal Funding and Accountability and Transparency Act (FFATA), Digital Accountability and Transparency Act (DATA), expanded IRS Form 1099, and the Federal Financial Report (FFR). Examples of regulations that respondents felt lacked consistency of interpretation and implementation among Federal agencies were human subjects, conflict of interest, responsible conduct of research, animal welfare, export controls, select agents, and chemical facilities anti-terrorism standards.

Specific examples of some respondent recommendations for regulations and reporting are as follows:

- Establish a clear path for addressing regulatory inconsistencies; designate a high level official within OMB's Office of Information and Regulatory Affairs to serve as a Federal Ombudsman responsible for addressing regulatory concerns
- Share information among agencies to reduce repetitive reporting and compliance
- Refocus metrics on the science/performance goals, not the accounting
- Exempt research from the HIPAA Privacy Rule
- Streamline research training requirements
- Develop national standard for training in human subjects safety
- Use Grants.gov for all Federal grants programs
- Use iEdison for reporting all inventions and eliminate reporting through annual and closeout reports
- Allow flexibility for institutions to address federal requirements as long as they are compliant
- Through the use of Executive Branch authority, provide exemptions for research universities and academic medical centers similar to protections provided for small entities under the Regulatory Flexibility Act
- Extend coverage provided under the Unfunded Mandates Reform Act (UMRA) to research universities. Agencies should calculate costs of new regulations and allow institutions to better account for these costs and to charge them to Federal awards
- Recognize efficiencies with electronic record keeping and remove paper document retention requirements
- Eliminate I-129 Deemed Export Certification
- Allow export compliance issues related to award performance be an allowable cost
- Eliminate Cost Accounting Standards, which require institutions to disclose in writing accounting policies that are already documented in other institutional systems.

Cost Sharing (59, 38%):

Comments related to cost sharing mostly contained two recommendations with similar language: 1) prohibit voluntary cost sharing on all Federally-funded research and 2) create a mandatory cost sharing exemption for research institutions. The respondents' rationale for these recommendations asserted that cost sharing creates inequities across institutions and causes an excessive amount of administrative management. Comments noted that there are varying cost sharing policies among Federal agencies and excessive paperwork required by agencies to ensure compliance. Some remarked that larger institutions have unfair advantages. Commenters also felt that cost sharing contributes nothing to the value of the science and creates unnecessary audit costs. If cost sharing was removed, some commenters felt that the number of investigators able to apply for funding would increase. Examples of cost sharing comments are as follows:

“...Recommendation: Prohibit voluntary committed cost sharing on all Federally-sponsored research. Through a formal program announcement, discussion with a Principal Investigator (PI) or during negotiation of the award budget, program officers on occasion encourage institutions to pledge voluntary cost sharing commitments or waive F&A costs as an alternative measure. This leads to an uneven playing field, where institutions with the most resources have an unfair advantage, drains institutional resources, and devalues the peer-based merit review system. Managing voluntary cost sharing commitments is a manual and time-consuming process that requires onerous record keeping. It is often the subject of audit scrutiny and requires significant hospital staff time to manage the audit and respond to auditors. When academic medical centers are compelled to make voluntary cost sharing commitments in order to be “competitive,” this results in a diversion of institutional financial resources away from other important areas.

Recommendation: Create a Mandatory Cost Sharing Exemption for Research Institutions.

The 2009 National Science Board Report on NSF cost sharing policies encourages mandatory cost sharing requirements for a small subset of NSF programs: those where it has been determined that an institutional commitment is critical to the long-term program success, as well as program built on partnerships with industry and state and local government. We recommend that programs sponsored by other agencies should be subject to similar scrutiny before mandatory cost sharing can be imposed. As noted above, managing cost sharing commitments is a manual and time-consuming project and diverts resources from other important institutional areas....”

“... Increasing cost share requirements have become an increasing burden on the university community as well. Policies should be implemented that distinguish between universities and industries regarding cost share requirements. While mandating cost sharing for industry partners often is appropriate, requiring university partners to cost share is a much larger burden due to their limited funding sources and their status as non-profits. To that end, the President’s Counsel of Advisors on Science and Technology has recommended that universities be exempt from cost sharing requirements. Further, agency ‘encouragement’ of cost share results in unfair competition (as institutions with more resources are given an advantage in the peer review process) and results in a further drain of university resources. The National Science Foundation has recently implemented a policy prohibiting voluntary committed cost share and we recommend that this prohibition be adopted by all agencies. ...”

Definition of Equipment (34, 22%):

Comments in this category addressed how the limiting definition of equipment puts US researchers under a significant disadvantage. Many responders felt that computing and communication devices used directly for research should be allowable charges. Responders also felt that the regulations are obsolete due to technological advancements. Examples of devices mentioned include computers, laptops, tablets, cellular phones, video equipment and printers. Some responders suggested specific exclusions to general equipment such as IT systems. Some responders wanted supplies and books included in the definition. Examples of these comments are as follows:

“The rules governing the ability to direct charge to grants a variety of “research communication equipment” (and related supply items) are antiquated and need to be changed. The use of computers (both desk top and laptop), printers, cell phones, other electronic devices that are used in data processing/ transfer/ collection, and related equipment are used continuously by faculty as “research tools”. In addition, the frequency with which computer platforms/operating systems advance make it necessary to replace much of this equipment with an ever increasing frequency. Given the importance of this equipment to the successful conduction of research it is imperative that these “research tools” be allowable as direct charges to Federally sponsored research, service, and educational programs.”

“In addition to the strict interpretation of F.6.b related to administrative support, the somewhat vague description of “general office supplies” is assumed to prohibit direct charging of computers, printers, and other electronic devices that are necessary for the successful completion of any research project. When this section of OMB Circular A-21 was written, computers were used primarily for word processing and the prohibition seemed reasonable. Today, when highly technical applications are run on a standard computer and a researcher can collect field data most efficiently using a hand-held device, the prohibition no longer makes sense. Even if such electronic equipment might be used for more than one project or purpose, it saves countless hours of labor for researchers and staff, making research more efficient, less costly, and more precise.”

“Classifying equipment as research or general should not determine its allowability. Like all other expenses, if it can be demonstrated that the equipment cost is reasonable, allocable and consistently applied, the expense should be allowable as a direct charge. In short, Principal Investigators should have greater flexibility in determining the need for equipment; if the expense is necessary in the judgment of the Principal Investigator, and the need can be documented, the PI should be allowed to purchase the equipment.”

UCA (33, 21%):

Comments in this category suggested the current application of the UCA is unfair because it is limited to those institutions that performed special studies prior to July 1, 1998. Responders recommended that the UCA be extended to all institutions. Many referred to a GAO recommendation that OMB should re-examine the UCA policy. They also noted the high utility costs associated with research facilities as opposed to non-research facilities. Examples of these comments are as follows:

“Per OMB Circular A-21, section F.4.c, on or after July 1998, only the institutions that previously included utility cost studies in their last rate negotiations were permitted to include 1.3% to their F&A rates. This methodology was arbitrary and inherently unfair to the other institutions. A-21 further specifies that as of July 1, 2002 Federal agencies would “periodically reassess the eligibility” of other institutions for the UCA. However, the list has remained the same since it was initially created. To remedy this obvious inequity, ALL educational institutions covered under OMB Circular A-21 should be eligible to receive the UCA effective immediately.”

“... The A-21 Working Group should urge the extension of the Utility Cost Adjustment to all institutions, not just those who performed special studies prior to July 1, 1998. GAO recommended this change and the OMB earlier said it would consider allowing other institutions to use the adjustment, but never finalized the extension. Given the escalation in energy prices since 1998, the extension of the adjustment to all institutions is fully justified.”

Other (29, 19%):

Comments in this category addressed a variety of issues related to cost and administrative burdens that did not clearly fit into the other classification categories. Respondents remarked about travel costs, cost disclosure requirement, principal investigator (PI) salary recovery, salary caps, building depreciation, interest, financial incentives to hire students and research assistants versus scientists, funding gaps, cost of compliance analysis, ambiguities related to specialized service facilities, minor inventories, publication costs, scholarship costs, proposal costs, entertainment costs, meetings and conferences, and the allocation and documentation standard. Many respondents recommended a cost of compliance analysis. An example is as follows:

“...Recommendation: Require a cost of compliance analysis as part of the Unfunded Mandates Reform Act requirements for any proposed regulations required of an entity receiving at least \$500,000 annually in research support. The Congressional Budget Office should estimate the cost impact of proposed legislation on research institutions without regard to annual dollar thresholds. The development and implementation of the compliance cost analysis elements should be conducted in consultation with representatives of the affected communities including colleges, universities, academic medical center, independent research institutes and other research performing organizations. We strongly recommend allowing research institutions to recover the costs for meeting the federally mandated unfunded compliance costs either through a direct charge or through a research compliance pool that would be an addition to the institution's F&A rate thereby allowing institutions to meet the financial burden of federal regulations. ...”

General (25, 16%):

Comments in this category were typically endorsements without offering any unique information or generalizations about the significant burden to administrators and researchers caused by Circular A-21. An example is as follows:

“The University strongly supports the responses developed by the Council on Government Relations (COGR) and the Association of American Universities and Association of Public Land Grant Universities (AAU-APLU).”

Editorial (22, 14%):

If a responder remarked about making revisions to language but did not provide specific text, the comment was not classified as editorial. Editorial comments typically were complementary to specific issues addressed in the areas of definition of equipment and indirect costs. Many

responders wanted sections or exhibits deleted due to redundancies or outdated text. Other responders complained about vagueness or difficulty to follow the Circular and recommended re-formatting for clarity. Sections mentioned included the following:

- C.6. Costs incurred by State and local governments
- C.10. Consistency in estimating, accumulating and reporting costs
- C.11. Consistency in allocating costs incurred for the same purpose
- C.12. Accounting for unallowable costs
- C.13. Cost accounting period
- C.14. Disclosure statement
- F.2.c. Large Research Facilities
- F.4. Operation and maintenance expenses
- F.6. Departmental administration expenses
- G.2. The distribution basis
- G.8. Limitation on reimbursement of administrative costs
- J.8. Commencement and convocation costs
- J.10. Compensation for personal services
- J.14. Depreciation and use allowances
- J.18. Equipment and other capital expenditures
- J.26. Interest
- J.38. Proposal costs
- J.39. Publication costs
- J.42. Recruiting costs
- J.45. Scholarships and student aid costs
- J.53. Travel Costs
- Exhibit A - List of Colleges and Universities Subject to Section J.12.h of Circular A-21
- Exhibit B - Listing of Institutions that are eligible for the utility cost adjustment
- Exhibit C - Examples of "major project" where direct charging of administrative or clerical staff salaries may be appropriate
- Appendix A - CASB's Cost Accounting Standards (CAS)
- Appendix B - CASB's Disclosure Statement (DS-2) J.39. Publication and Printing Costs

3 Summary

Overall, the public comments indicated that universities are highly impacted by the burden of Circular A-21. A majority of the comments were from universities with some responses from medical centers, research institutes, associations, and individuals. Although the total response count was only 154, presumably the number of people supporting the comments was significantly greater because universities typically only submitted one response representing all staff affected by research grants.

The responses typically addressed the specific categories listed in the RFI, however, many comments, including the official statements from COGR and AAU/ APLU, expanded the topics to other regulatory and compliance issues. The most prevalent topic addressed was the significant administrative burden to the scientific staff due to the effort reporting requirement and lack of ability to directly charge administrative and project management support staff. The responders were also greatly concerned with the consistency of overhead costs as well as consistency of regulatory and compliance burdens among various regulations and agencies. Some responders offered specific examples for their universities while others generally stated concerns.

Appendix A: Priority Matrix

Classification Categories: Based on the priority specified in the comment, a point total was given. Priority 1 = 9 pts, Priority 2 = 8 pts, Priority 3 = 7 pts, etc.

Comment ID	Priority Specified (Y/N)	Effort Reporting	F&A Rates	Admin/ PM Support	Cost Sharing	Audits / Monitor.	Regs / Reporting	UCA	Def of Equip.	Other
1	N/A									
2	no									
3	N/A									
4	no									
5	no									
6	no									
7	N/A									
8	N/A									
9	no									
10	yes	9	8							
11	no									
12	no									
13	no									
14	no									
15	no									
16	no									
17	no									
18	no									
19	yes			9						
20	yes				9					
21	yes	9				8	7			
22	no									
23	no									
24	yes	9	7	6	8		4	5		
25	no									
26	yes		8							9
27	yes		8	7	6		9			
28	no									
29	no									
30	no									
31	yes		8	9	7					
32	no									
33	no									
34	yes	9		8		7				
35	yes		9		8					
36	no									
37	no									
38	no									

Comment ID	Priority Specified (Y/N)	Effort Reporting	F&A Rates	Admin/ PM Support	Cost Sharing	Audits / Monitor.	Regs / Reporting	UCA	Def of Equip.	Other
39	yes	9								
40	yes	9		8						
41	yes	9	6			8	5	7		
42	yes	8	9	7		6				
43	no									
44	yes	9		8	6		7			
45	yes	9	7	8			6			
46	no									
47	no									
48	no									
49	no									
50	yes	9			8					
51	no									
52	yes	7	9		8					
53	yes		9					8		
54	yes	9	8							
55	no									
56	no									
57	yes	8	9	6	7			5	4	
58	yes		9			8				
59	yes	9	8							
60	no									
61	yes	8				9	7			
62	no									
63	no									
64	no									
65	yes	9				8	7			
66	no									
67	no									
68	no									
69	yes	8	9	7	5	4		6	3	
70	no									
71	no									
72	no									
73	no									
74	no									
75	yes	9								
76	no									
77	no									
78	no									
79	no									
80	no									

Comment ID	Priority Specified (Y/N)	Effort Reporting	F&A Rates	Admin/ PM Support	Cost Sharing	Audits / Monitor.	Regs / Reporting	UCA	Def of Equip.	Other
81	yes	8	9	7	6	4	5			
82	yes	9		8						
83	no									
84	no									
85	yes	7		9	6	8				
86	no									
87	yes	7	9	6		5	4	8		
88	no									
89	no									
90	no									
91	no									
92	yes					9				
93	no									
94	yes		8	9		7				
95	yes	9	8					7		
96	yes	9	8	4	7		6	5		
97	no									
98	no									
99	yes	9		7				8	6	
100	no									
101	no									
102	no									
103	no									
104	yes	9		5	8			7	6	
105	no									
106	no									
107	no									
108	no									
109	yes	9	7			8	5		6	
110	yes		9			8	7			
111	yes	7	9	8	5	6	4			
112	no									
113	no									
114	yes	9	6	7	5	8	4			
115	no									
116	yes	9	5	8		7	4		6	
117	yes				9					
118	yes	9	7	8					6	
119	no									
120	yes			9						
121	no									
122	yes	7	9		8	6	5			

Comment ID	Priority Specified (Y/N)	Effort Reporting	F&A Rates	Admin/ PM Support	Cost Sharing	Audits / Monitor.	Regs / Reporting	UCA	Def of Equip.	Other
123	yes				9					
124	yes	9	5	8	4	6	7	3		
125	yes	9				7	8			
126	yes		9				8			
127	no									
128	no									
129	yes	9	7	6	5	8			3	4
130	yes	6	9	7	4	5	3	8		
131	no									
132	yes	6	9	8	5		3	4	7	
133	no									
134	no									
135	yes		9	7	8					
136	no									
137	no									
138	yes	9	8		6	7				
139	yes	9			7	8	6			
140	yes	9								
141	no									
142	no									
143	yes			9						
144	N/A									
145	yes	8	9	7	5	6	4	3		
146	yes	5	9	6	7	4	8			
147	yes	9	6	8			5	7		
148	no									
149	no									
150	yes	9								
151	yes	9		8		7				
152	no									
153	yes	9	7				6		8	
154	yes	9			8					
TOTAL	65	406	312	252	194	192	154	91	55	13