April 8, 2004

The Honorable John Marburger  
Director, Office of Science and Technology Policy  
Eisenhower Executive Office Building, Room 43  
1650 Pennsylvania Avenue, NW  
Washington, D.C. 20502-0001

Dear Jack:

We write to transmit to you the final report of the Joint AAU/COGR Task Force on Restrictions on Research Awards and Troublesome Research Clauses.

In the spring and summer of 2003, AAU and COGR solicited from their member institutions examples of restrictive clauses imposed on research projects and provided that information to OSTP. The AAU/COGR task force - which consisted of 20 institutions - was created in August 2003 to expand upon these earlier efforts.

The Task Force was chartered jointly by AAU/COGR to focus specifically on identifying contract and grant language inconsistent with the Administration’s stated policy as outlined in National Security Decision Directive 189 (NSDD 189). In addition, the Task Force was asked to identify controls being imposed on research projects that might compromise the fundamental research exemption under current export control regulations, with special emphasis on publications and the participation of foreign nationals. An additional goal of the Task Force was to understand if the number of troublesome clauses (or the instances of the same troublesome clause reappearing) was increasing, remaining constant, or decreasing over the period of the report.

We believe the findings contained in the attached report illustrate that, despite affirmations of NSDD 189 by the Administration by you and other high level officials in the Administration, troublesome clauses restricting publication and participation by foreign nationals in research awards continue to be a significant problem for universities. As illustrated by the report, this is particularly true in subcontracts which transmit restrictions down to universities from industry. As noted in the report, one clause which appears several times in which industry subcontracts was the DFARS 252.204-7000 clause.

We hope the that the enclosed report will prove useful to you and look forward to working with you to develop an effective policy to begin to address this issue, which is so important for our research universities.

Sincerely,

Nils Hasselmo      Katharina Phillips  
President      President  
Association of American Universities   Council on Governmental Relations

cc: John T. Casteen, III, President, University of Virginia; Chairman, AAU  
Mark S. Wrighton, Chancellor, Washington University in St. Louis; Vice Chairman, AAU