



ASSOCIATION OF
AMERICAN
UNIVERSITIES

ASSOCIATION OF
PUBLIC AND
LAND-GRANT
UNIVERSITIES



June 17, 2010

Ms. Sally Rockey
Acting Deputy Director for Extramural Research
National Institutes of Health
Building 1 – Shannon Building 144
1 Center Drive
Bethesda, MD 20814

Dear Ms. Rockey:

We write on behalf of the Association of American Universities (AAU) and the Association of Public and Land-grant Universities (APLU) to express concerns about changes recently announced by the National Institutes of Health (NIH) concerning its treatment of facilities and administrative (F&A) expenses pertaining to genomic arrays supported by NIH-funded programs (*Budgeting for Genomic Arrays for NIH Grants, Cooperative Agreements and Contracts – Notice Number: NOT-OD-10-097, May 13, 2010*). We agree in principle that the treatment of research costs might change periodically consistent with advances in scientific methods and instrumentation. However, speaking for virtually every U.S. research university – with over 200 U.S. universities among our combined memberships – we are increasingly troubled by what we believe to be unbalanced cost burdens on universities that have accumulated over some 20 years as a result of what appear to be similar arbitrary impositions by NIH and other agencies.

We seek an opportunity to discuss these concerns with NIH leadership. Given our excellent working relationship with NIH, the lack of an opportunity to provide input surprised us.

The recent decision not to provide full reimbursement of F&A costs on genomic arrays is thus a matter of great concern to our associations for several reasons.

- 1) To us, this policy contradicts OMB Circular A-21, which is “designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law.”** We believe it is unreasonable for NIH to arbitrarily set F&A reimbursement policies on a program-by-program basis on the grounds that NIH might be reimbursing F&A costs disproportionate to the actual administrative burden associated with cost items covered by the award. In fact, Circular A-21 assumes differing reimbursement cost burdens for certain grants/cost items. Disproportionate cost reimbursement by the government under one program may be offset by other programs where the administrative burdens on universities are disproportionately high and not fully reimbursed. While we certainly understand that F&A costs may be lower for new scientific methods and use of larger genomic arrays compared to the accompanying administrative burden associated with such items, we can easily point out several other NIH programs where the administrative burdens borne by our universities are exceptionally high and not fully reimbursed. In such instances, NIH has not offered to increase its share of F&A costs to compensate for excessive administrative burdens incurred by our universities.

- 2) **This decision represents a trend on behalf of NIH to arbitrarily establish agency policies that do not appropriately reimburse universities for costs required by universities to conduct research on the agency's behalf.** The NIH decision is particularly disturbing when considered in the context of other NIH policies that do not provide for F&A reimbursement at levels deemed appropriate by Circular A-21. Specifically, we would note that NIH Career Development, or K Awards, restrict F&A payments to 8 percent despite the fact that these awards carry F&A costs similar to those of NIH R01 awards. As a result, universities must pay for a significant degree of unmet administrative costs associated with K awards. We do not believe that NIH should be able to arbitrarily determine and set reimbursement rates that directly contradict and are different from OMB guidance for genomic arrays, or for that matter, K awards.
- 3) **Universities are already shouldering increasing costs associated with the conduct of federally sponsored research.** Since the 1970s, the proportion of funds contributed by universities to conduct research on their campuses has steadily increased compared to other research sponsors, including the federal government. This increase in the share of institutional funds being spent on research can be largely attributed to increasing administrative requirements – often imposed by federal agency sponsors – upon universities relating to compliance, training, and other government reporting requirements. Many of these costs cannot be directly charged to grants and therefore cannot be recovered because universities' costs exceed the current Circular A-21 26-percent cap on administrative reimbursements.
- 4) **The process by which this change was made and announced represents poor government practice.** Also troubling to us was the manner in which the NIH policy for the reimbursement of F&A costs associated with genomic arrays was changed. No advance notice was provided and there was no opportunity for public comment. The approach taken by NIH in making this particular policy change directly contradicts efforts to improve transparency and accountability in government. Moreover, it sends a negative signal to the university community and suggests that NIH can change its policies at will and that the agency bears no responsibility to use the regulatory process to seek input from the affected communities.

In conclusion, while we greatly value the longstanding partnership that our universities have with NIH, we believe that decisions such as this and the manner in which this policy change was enacted seriously strain that relationship. With this in mind, we urge NIH to reconsider its policy decision in this instance, as well as other existing policies inconsistent with the spirit and principles set forth by OMB in Circular A-21.

Sincerely,



Robert M. Berdahl
President
Association of American Universities



Peter McPherson
President
Association of Public and Land-grant Universities