

Minutes*

**Senate Research Committee
Monday, October 14, 2002
1:15 - 3:00
238A Morrill Hall**

- Present: Gary Balas (chair), James Cotter, Sharon Danes, Robin Dittman, Sabine Fritz, Yev Garif, Paul Johnson, James Luby, Scott McConnell, James Orf, Mark Paller, Virginia Seybold, Thomas Schumacher, Barbara VanDrasek, Mehul Vora
- Absent: Melissa Anderson, Gerry Baldrige, Victor Bloomfield, Kathleen Conklin, Kris Davidson, David Hamilton, Lawrence Jacobs, Katherine Klink, Phillip Larsen, Wendy Pradt Lougee, Sharon Neet
- Guests: Edward Wink, Sheryl Goldberg (Sponsored Projects Administration), Winifred Schumi (Oversight Analysis and Reporting)
- Other: none

[In these minutes: (1) indirect costs (how negotiated, libraries, units that generate/receive funds, rate variations); (2) report from the Director of Compliance (how his office will operate)]

1. Indirect Costs (Facilities and Administrative Costs)

Professor Balas convened the meeting at 1:30 and turned to Mr. Wink to lead a discussion of Facilities and Administrative (F&A) costs (what used to be termed Indirect Costs).

Mr. Wink began with the definition of F&A costs: institution-wide and/or department overhead expenses which cannot be specifically identified to a project/activity (instruction, research, or public service). One example would be accountants managing the financial transactions and reporting for a large number of sponsored and/or non-sponsored projects. They are costs that sponsors will reimburse based on a calculated average rate developed and negotiated in accordance with OMB Circular A-21. The rate is negotiated with the federal government and used with all sponsors.

The components of the F&A rate include, in the administrative category, general administrative costs (payroll, accounting, purchasing, etc.), department administration (departments and colleges), and sponsored administration (Sponsored Projects Administration, Vice President for Research, IRB, IACUC, etc.); in the facilities category they include operation and maintenance, building and equipment depreciation, interest costs on buildings and equipment, and the libraries. In response to a question from Professor Orf, Mr. Wink said that all buildings and equipment, system-wide, are included in the depreciation category.

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus Assembly; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

Are there missing components? Mr. Wink explained that the University puts in everything it reasonably can--all that are allowed by the A-21 circular. One area to improve is having better space correlation study data (what is going on in a specific space?); the better the University can document space use, the better it can incorporate those space expenses in the F&A rate.

Mr. Wink next explained a chart identifying the various F&A rates associated with different kinds of activities (research, instruction, and public service and outreach). They are calculated by dividing allowable administrative and facilities costs by the total direct costs; the University spends \$92 million on allowable facilities and administrative costs for research and spends \$190 million on direct costs (a modified total to accommodate federal rules), so the University's F&A rate for research is 48.5% for 2002 (92/190). Mr. Wink noted that an important concept is that as the base (the \$190 million denominator) increases, the F&A rate decreases.

What drives up the costs, Mr. Gariv asked? More costs in the numerator of the fraction, Mr. Wink said. For example, of the University's 800 buildings, only 30 have costs that can be allocated to research. They are high-cost facilities but there are not a lot of them. That seems a small number, Professor Balas commented; was there not a study of how space is allocated? Mr. Wink said that Facilities Management inventories and codes space by use and asks departments to look at their reports to be sure space is properly coded. Are faculty offices and research assistant space allocated to research, Professor Balas asked? Those are considered multi-use spaces and allocated across functions. All office space is allocated on the basis of the proportion of institutional costs for research, instruction, public service, and "other institutional activities."

Mr. Wink noted that any cost-sharing or matching expenditures go into the denominator. The more generous the University is in cost-sharing or matching, the more the rate is driven down. The government auditors try to include all cost-sharing to be sure that they are not missing anything that should be in the base/denominator. He surmised that the University in some cases may offer more cost-sharing or matches than is necessary for proposals for funding to remain competitive.

Mr. Wink next reviewed the components of the 48.5% rate. For example, facilities operations and maintenance make up 12%, the libraries 1.5%, building depreciation 3.9%, departmental administration 19%, and so on. Committee members held a lengthy discussion about the contribution of the libraries to the F&A rate and whether their costs are being adequately calculated. The University proposed 2% for the libraries (and proposed an overall rate of 53% when the negotiations were taking place); the auditors looked at the University Libraries web site, which talks about the thousands of users. Based on that, and other data, they reduced the amount to 1.5%. Professor Balas maintained that a large part of library expenses are journals needed by the faculty to do research, which are very different from the costs of a walk-in patron borrowing a book. The two cannot be equated. There is a case to be made that the libraries are more and more valuable to faculty, he said. Mr. Wink agreed.

What is the rate across the Big Ten, Professor Balas asked? It varies, Mr. Wink said, but the total is in the range of 45-53%, with the libraries at 1.5 - 2%. A lot of faculty are using electronic access, Professor Orf said, which is very expensive for the libraries to provide. He agreed that there should be a strong case for a higher percentage for the libraries.

The F&A rates for 95-99, 00, and 01-03 were provided on a table. The research rate was 47% 1995-99, 48% in 2000, and 48.5% 2001-2003. The F&A recovery to the University for the five years

beginning in 1998 were (in millions of dollars), 56, 57, 64, 72, 82--so the funds have increased steadily. Of that money, 51% is allocated to the colleges and 49% retained by central administration; the portion allocated to the colleges is based on the calculation of department administration and equipment depreciation (unit expenses) as a proportion of the total rate. The central share of the F&A funds go to Facilities Management, the libraries, the Vice President for Research office, Sponsored Financial Reporting, debt service, and so on. Committee members debated for some while whether the libraries receive more or less than what they account for in setting the rate; it was finally made clear that they receive somewhat more money back from the F&A funds than they contribute to the setting of the rate.

Colleges use the money in a variety of ways, Mr. Wink reported: for grant matches, recruitment packages for new faculty, department expenses, effort certification and grant management costs, bridge funding, support of junior faculty, and equipment. He reviewed how three colleges allocate the F&A funds they receive.

Are there restrictions on how F&A funds can be spent? Only to the extent that new buildings, major improvements, or equipment expenditures must equal or exceed the amount of recovered building and equipment depreciation, Mr. Wink explained--and the University has had no trouble meeting that standard. Otherwise, any allowable expenditure under University rules is permissible.

Finally, Mr. Wink provided a table of data on the F&A costs received compared to the total direct costs by college, thus identifying an EFFECTIVE recovery rate. These are rough data, he cautioned, and they include training, public service, and research (the first two have lower F&A rates than research; training has an 8% rate and clinical trials have a 23% rate). The Department of Agriculture only pays 19% on its research grants; the State of Minnesota pays 0. Foundations are notorious for only paying small amounts, if anything, so there are a lot of reasons the effective rate is substantially below the 48.5% negotiated with the federal government. (A few of the effective rates follow.)

Medical School	28%
Dentistry	40
Pharmacy	33
Vet Med	22
IT	29
COAFES	12
Biological Sci	28
Education	17
Liberal Arts	28
Management	22
Law	11
General College	8
Ag Exp/Exten Svc	0
UMD	16
UMM	4
UMC	2

Mr. Wink also told the Committee that there is a registry of Minnesota (private) foundations; the University has agreed not to charge indirect costs to any foundation on that list (because they are Minnesota foundations). Professor Danes said that it would be helpful to have an F&A rate the

University wants from foundations; there is none and the word is out, she said, that the University will not charge indirect costs. In some cases, the University could negotiate some modest rate but that never happens. Mr. Wink responded that if a foundation is on the registry, the University will not charge them--but if the foundation says "we will pay 10%," the University will accept the money. Some foundations have no policy, Professor Danes observed.

Ms. Schumi said if the University negotiates a rate with a sponsor, it will start with the 48.5% rate. Few organizations pay the 48.5%, Professor Balas observed. The University could take the position it will not accept a grant unless it also has the 48.5% F&A costs, Ms. Schumi pointed out, but few think that would be a good idea. Most foundations will not pay the 48% but they would negotiate a lower rate, Professor Danes maintained.

If faculty call about an F&A rate for a foundation, Mr. Wink said, Sponsored Projects Administration will look at the foundation's web site or ask about the rate. And they will inquire of the top officers, not just accept whatever a program officer might offer. Faculty members and program officers often want to cut the best deal they can, a deal that may not be fair to the University because there ARE real costs behind the F&A rate. He said the University does not want faculty to be making deals on indirect costs. He said that when preparing a grant proposal to a foundation, it should include indirect costs but should also be realistic--if the foundation pays 10%, the proposal should include 10%. Ms. Goldberg noted that Sponsored Projects Administration can help with these negotiations. Moreover, Mr. Wink added, if someone offers a budget number to a foundation that does not include indirect costs, and they discover it, the faculty will be required either to ask for a waiver from the University's policy of requiring indirect costs or he or she will have to take the indirect costs out of the direct costs of the project. He said he would rather have that discussion before the grant is negotiated. If a PI is doing basic research for a company, Mr. Wink said, he or she should ask for 48.5%.

Professor Balas recalled the discussion at an earlier meeting about the liability for uncollectibles (which come from companies, not the government); has there been any thought given to using part of the F&A funds from the private sector to set up an "uncollectibles fund" to help departments, he asked? Mr. Wink said that this discussion should take place during the compact process. The Vice President for Research does not control the \$82 million in F&A funds--they are part of the normal University budget process. It would be possible to consider setting aside money for an uncollectible fund; he noted that there are also business non-profits (industry or trade groups) that have bad debts as well.

It is also a myth that Sponsored Projects Administration and Sponsored Financial Reporting receive money "off the top," Ms. Goldberg commented; they do not. The Vice President for Research asks for funds to support those offices as part of the budget process.

Professor Balas said this discussion is making the case for a higher F&A rate. Mr. Wink agreed, but said that it is difficult enough to sell the 48.5% rate. Professor McConnell observed that there is a fundamental difference between one's behavior as a grant-writer and what is best for the University. In his college, where some of the F&A funds are directed back to the PI, there is a direct relationship between one's success as a PI and the funds one receives. The accounts are not large, perhaps an average of \$1200, but that is money they do not need to find elsewhere. There is also a big psychological difference, Professor Danes said, because faculty do ask why they do not receive at least some of the money back.

Faculty are also being encouraged to look at other revenue sources, Professor McConnell said, such as external sales. They might write a contract as an external sale rather than a grant. Ms. Goldberg said the definitions are clear; there is not a lot of "wiggle room" to call something an external sale rather than a grant. It is not possible to do the same project either way, Mr. Wink agreed.

On the other side, Professor Balas contended, the institution provides the infrastructure, faculty receive tenure, offices, support staff, salary increases, and so on. The University has a lot of expenses and the grants that PI's bring in COST the University money. If one brings in the 48.5%, it is almost as if one is subsidizing other researchers who do not get that rate. And that misses the point as well, Dr. Paller said, because the numbers are artificial; even the "best" citizens who can get the 48% are costing the University money because research costs more than that. The 48% is really 53%, Mr. Wink said. The University lost 6% on the administrative side because the government caps administrative expense at a rate lower than what the University actually spends, so it loses money in that category on every grant that is received. Is the University in this to make a profit, he asked? No, it supports research because of its mission--but at the same time, it must try to obtain as much funding as it can.

Professor Balas suggested that the Committee might mull over whether the University could change how it does business in this respect and that it should have Mr. Wink back at a future to meeting to discuss the subject. The more that faculty are asked to be entrepreneurial without thinking about the implications, Professor Dane added, the more the University will be behind the eight ball.

With respect to external sales, Mr. Wink said, they should benefit the University's mission. If they do not, the sales should not be made. And if a sale undercuts a private business, because the University's sale is tax-exempt, there will be other problems to deal with.

Professor McConnell said the University could also be successful in the wrong ways. It could, for example, win grants totalling \$100 million from Minnesota foundations (which would carry no indirect cost reimbursement). That could be bad news, he said. Mr. Wink said he was not sure he would regard that as bad news.

Mr. Garif asked how this discussion related to the work of the Senate Committee on Finance and Planning. What is the purpose of the discussion, he asked, if the Committee has no say in how the F&A rates are set? Professor Balas explained that research pays for some expenses; faculty must be informed about the funds the University receives, how they are spent, and the Committee provides a voice to advise the University on how the funds SHOULD be spent. Ms. Schumi agreed; she said that if the Committee believes, for example, that the research infrastructure is not sufficiently supported, it should tell the administration.

Professor Balas thanked Mr. Wink for his presentation.

2. Report from the Director of Compliance

Professor Balas turned next to Mr. Schumacher for a report.

Mr. Schumacher distributed copies of the mission statement for his office, the Office of Institutional Compliance. He said he wished to introduce himself to the Committee, describe his

responsibilities, and inform it of his goals and objectives. He said he also wanted to be clear that any Committee member should call him with any questions or concerns.

The University decided to have a central compliance program. This is a choice frequently made in highly-regulated industries (health care was the first) that have been charged with misconduct by the federal government. If an organization has a compliance program, it receives credit from the federal government if there are sanctions involved; the programs have generally been shown to be very effective. The University decided to create a compliance program to provide support and structure to its efforts to comply with regulations in ALL areas (research, athletics, student financial aid, and so on). He said he would look at what other institutions do as well as meet with people at the University about what they need.

There are two models of compliance programs, centralized and decentralized. In the latter, the unit is responsible for compliance, and this is the kind of program he plans, Mr. Schumacher told the Committee. He will look at areas where the University has compliance responsibilities and identify an office and individual who is responsible. Through this designation, one can follow the delegation of compliance responsibilities.

Mr. Schumacher noted that he has been on the job for one month. His first task has been to identify where the University has compliance responsibilities; next he will identify the features of a successful compliance program.

Awareness, training, and education will be central to his activities, Mr. Schumacher said. His philosophy is that almost everyone wants to do the right thing; he will try to ensure that they have the tools to do so, so will evaluate training to enhance compliance ethics and awareness. He will also help people find the resources they need to make the right decision; he intends to create a compliance one-stop to ensure that people with questions are put in contact with the person or office who can provide the answers.

Another of his responsibilities is to help implement a system to monitor compliance; he said he will work with designated individuals to identify ways to measure compliance. The people who are accountable and who must deal with the issues are the ones who must do the monitoring and must be involved in the process. Relatedly, they must identify a way to track resolution when a problem has been identified.

It will also be his responsibility, Mr. Schumacher said, to identify what is coming. The University has been largely reactive in dealing with compliance problems and regulatory trends; it needs a system to identify what is coming and to provide comment on proposals. It also needs to know what it will be audited for.

Professor Orf recalled that the Committee had discussed ways to subdivide faculty or employees so that the University knows which areas have compliance responsibilities and which it must be aware of. Does he intend to try to categorize people, he asked Mr. Schumacher? He noted that he works with plants and would not want to receive a lot of emails or information about the use of animals in research. If that happens, people will begin to throw everything in the trash and pay no attention. It will be important to be sure people receive the right information. Mr. Schumacher agreed and said it will also be important

that the training programs are right for faculty. He said he wanted a decentralized system so that people who face the issues have a say in what is done.

At the same time, Professor Orf said, that would result in passing the buck to the next level with the result that the PI does not receive the information needed. Mr. Schumacher said he wanted education, training, and awareness led by people who know what they are doing--something at present that occurs in some places and perhaps not in others. It needs to be set up and he will work with units to do so. But he urged patience; he could not get all of this accomplished in 30 days.

Mr. Garif asked if Mr. Schumacher would establish relationships with offices that track existing standards (the use of animals, auditors, etc.)--would his office replace or supplement their activities? Mr. Schumacher said he would work with auditors, for example, but he would not replace what they do. Auditors do one kind of monitoring; his is different. He will not be taking regulatory obligations away from existing organizations; he will try to be sure organizations are inspecting for the right thing or following up on concerns that a group has too many obligations or not enough money, for example, but he will not be doing the compliance monitoring himself. It is his job to ensure that organizations are doing what they are supposed to and that they are doing it right.

Professor McConnell asked Mr. Schumacher to define compliance and its relationship to integrity; his office, he said, is responsible for the University's integrity. Mr. Schumacher replied that compliance is a verb and that everyone must conduct their activities in a way that meets University expectations. The University must have a culture that values integrity; his office will help promote it but will not take over or call if concerned about an individual's integrity. He will seek to include ethics and compliance in evaluations by Human Resources. He will also try to provide access to information and get questions answered. Finally, he will try to promote and enhance the value the University places on integrity.

How is his office connected to the rest of the University, Professor McConnell asked? He will report to the Academic Vice Presidents' Committee, and through it to the Audit Committee of the Board of Regents. Will he have an advisory board, Professor McConnell asked? He will, Mr. Schumacher said; it will consist of four or five senior people from across the University with whom he can brainstorm.

Professor McConnell said that Mr. Schumacher presents a clear vision and he (Professor McConnell) hoped that Mr. Schumacher stayed at the University for hundreds of years. Short of that, Professor McConnell told Mr. Schumacher, he worries about the potential power. In the case of the protection of human subjects and the Institutional Review Board, for example, the protection of subjects is VERY important--but it is easy for the institution, with many burdens, to lose site of the vision and for the office to become insular and disconnected from the community. There is a dilemma: If the University is not ethical enough, it should not drag the office down, but at the same time the office must be informed by the values of the academic community. What controls and mechanisms are there, Professor McConnell asked, to prevent creating an office of great power with little connection or communication with broader University community?

Mr. Schumacher said that is why he wants a decentralized system. He would like to see a system that puts the most emphasis on those who own the compliance risk and what they need to do the job. His goal is to build a system to provide the resources and support needed, not to make value judgments.

Professor McConnell said Mr. Schumacher will need to think about ways to KEEP his office organized that way--or to make an intentional change that the community understands.

Professor Balas asked how the office would be able to show the University it was getting service for the resources provided. How does the University know this is a good way to spend money and that it will be getting value over time? Mr. Schumacher said there will be a regular report to the President, who, he assumes, will demand deliverables and accountability. But he is not providing service to the President, Professor Balas pointed out; he is providing service to faculty and staff and must be accountable to them. Mr. Schumacher said that he hoped he would hear, through the Academic Vice Presidents' Committee, of any problems.

Professor McConnell said he was saying something different. He trusts Mr. Schumacher, he said, but there is a strong desire by faculty and staff for open consultation. It is not enough to say that he will report to the President and Executive Vice President; the faculty and staff must ALSO hear about problems. They will not make funding or office-structure decisions but they can complain if there are problems. How the office is accountable is important, he concluded.

Professor Balas thanked Mr. Schumacher for his report and adjourned the meeting at 3:00.

-- Gary Engstrand

University of Minnesota