Minutes*

Senate Research Committee
February 21, 2000
1:30 - 3:00
Room 238 Morrill Hall

Present: Leonard Kuhi (chair), Victor Bloomfield, Daniel Brewer, Bianca Conti-Fine, John Finnegan, Lorraine Francis, Eric Klinger, Mark Paller, Richard Poppele, Fay Thompson, Barbara VanDrasek

Regrets: Patricia Gladchild, Scott McConnell

Absent: Phillip Larsen, Amy Levine

Guests: David Hamilton, Ed Wink, Win Ann Schumi; Richard Bianco (Department of Surgery), Dale Cooper (Veterinary Compliance); Michael Volna (Controller's Office)

[In these minutes: policy on purchase of controlled substances for research; discussion of NIH letter; policy on uncollectible costs and overdrafts]

1. Controlled Substances Policy

Professor Kuhi convened the meeting at 1:40 and turned to Mr. Bianco to introduce the revised policy on controlled substances.

Mr. Bianco explained that the revisions, to an administrative policy, are a response to problems that have arisen in the Academic Health Center and were prepared by a task force of faculty and administrators. The new policy also conforms to federal law.

The major change is that the policy now requires that controlled substance purchases be made through a unit Drug Enforcement Agency registrant unless the investigator qualifies for an exemption and has individual DEA licensure. Each investigator or laboratory using controlled substances will be registered with the State Board of Pharmacy. Individual licenses are granted when the investigator is using the most dangerous drugs; it is granted for security reasons, where unit licensure would present excessive risk to the registrant. The need is for a University-wide policy, and the ones who use the Schedule I or II drugs are not the concern; it is those who need to use drugs in training or instruction only occasionally that have presented problems in tracking.

Those people holding individual DEA licenses will be asked to give them up (except for those using Schedule I and II drugs) and responsibility will be shifted to the unit.

Mr. Cooper said that Research Animal Resources has been asked to stop dispensing controlled substances; units will now be required to have their own DEA registrant. This policy will not affect

* 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 represent the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

veterinarians who use drugs in their practice, Mr. Bianco reported. Drugs will be ordered by the DEA registrant in each department; researchers should not notice any extra steps.

This has been an unusual challenge, Dr. Thompson observed. The external regulatory agency in this matter has not been helpful; it deals with individuals, not institutions. It is has been difficult to get information from the DEA so that the University can take action and be sure it knows what is happening. Usually the regulatory agencies are "all over" the University to get things done.

The intent of the policy changes is to reduce institutional and faculty risk; it allows his office and Dr. Thompson's office to do their work better, Mr. Bianco told the Committee. There will be a phase-in period before compliance is sought. They will also want to pursue tracking purchases through Forms Nirvana, Mr. Cooper said; that will not be a trivial undertaking, Professor Hamilton pointed out. Mr. Bianco noted that many new regulatory and compliance issues require databases that talk to each other.

The Committee thereupon unanimously approved the policy changes; Professor Kuhi said he would present it to the Faculty Consultative Committee for forwarding to the Faculty Senate.

<u>2. Report on the NIH Letter</u>

Professor Hamilton next reported on the contents of the letter from NIH that restored the University's expanded authorities. He recalled that there were 55 critical revisions that the University had to meet; NIH scored the efforts as met, partially met, or not met. There were three the University did not meet (two of which were the same thing and one was a policy revision on direct and indirect charges to grants).

On the latter, the University was going through a review of its cost accounting standards with federal auditors and said it did not wish to change its policy until it heard from the auditors. The auditors thought the policy was fine, so the University only needs to reaffirm it. At issue is the interpretation of the policy in terms of risk to the University (e.g., if a charge to a grant was wrong, what sanctions might be imposed on the University); Vice President Maziar is appointing a group (including faculty, administrators, and an auditor) to evaluate that question.

The two other revisions the University did not meet were related to the education program in the proper conduct of research. The program was designed but not operative when NIH was on campus in December; it is now starting. The concern of NIH was who was trained, in what, and when; continuing education is an important part of the program. The University must show that it has a viable and ongoing program. There are 3400 PIs at the University for whom participation is required.

There were 13 items where the University partially met the revisions; those were mostly trivial and are being taken care of.

What is interesting, Professor Hamilton reported, is that NIH is partnering with the University's Department of Audits to be informed whether the University is meeting the rest of the requirements. Is that a sign of trust, asked one Committee member? It is, Professor Hamilton affirmed.

With respect to the training sessions, Dr. Bloomfield reported that five individuals will take turns presenting on the topic of conflict of interest; others will present on financial management and intellectual property. He had asked, with respect to certification of participation before grant funds are released, what happens if the next increment of non-competitive grants funds comes before the investigator can take the training session? The answer he had received was that there would be reasonable accommodation if the investigator takes one soon. This seemed vague, he said, and it was agreed that there need to be clear guidelines about when the session can be taken and that a reliable database of attendance needs to established and maintained. Professor Hamilton agreed. He also affirmed, in response to a question, that one must go through training for a grant renewal as well.

Professor Kuhi commended Professor Hamilton and Ms. Schumi for all their work in achieving this result. Professor Hamilton said it was due to the work of hundreds of people, many of whom worked selflessly, on evenings and weekends, and who did not get paid for their extra effort.

3. Policy on Uncollected Costs

Professor Kuhi now welcomed Mr. Terry O'Connor and Mr. Michael Volna from the Controller's Office to discuss a new policy on what to do when a contractor does not pay what it is owed on a sponsored project. The policy provides that the department must pay the Controller's Office; this could create a considerable liability for departments.

Mr. Volna explained that the genesis of the policy was questions from NIH about financial management. In 1998 Senior Vice President Cerra sent a letter to Mr. O'Connor asking that he develop a policy concerning uncollected debts. They did so, with a great deal of consultation and communication.

The purpose of the policy is to make sure that when a project incurs a cost not paid by the sponsor there is a mechanism to move the costs where they will be paid. When the policy was developed, there was about $7 million in uncollected costs, some up to 10 years old.

There are three basic groups of uncollected costs: the sponsor does not allow them, they are allowable but unallocable, or they are allowed and allocable but the sponsor will not pay them. There is communication to the department when an uncollectible cost has been identified. If the department does not identify a budget to which to charge it, the Controller's Office has a default account and the department is then charged.

The Committee then reviewed two lists that identified (1) the amount of uncollectible costs by unit and (2) the amount by reason it was uncollectible. The summary by unit was broken into two parts, uncollectibles and overdrafts. The former totalled $1.34 million; the latter 3.19 million, for a total of $4.5 million. The single largest item of the uncollected costs was because the agency had not received, or said it had not received, the technical report from the PI. Mr. Volna said that these debts are those at least 180 days old, and that their goal is to do the best job they can to collect the money and to communicate with the departments about the costs.

Where are departments to get the money to pay for these uncollected costs, asked one Committee member? The ones with the largest research programs set aside money for this purpose, responded another, but not all do so. Ultimately, Mr. O'Connor said, it is the dean's responsibility.

Before this policy was adopted, Professor Hamilton commented, the University was inadvertently paying the $4.5 million in uncollected debt, the majority of which came from IT and the Medical School.

The rest of the University was supporting these units by these charges, which is not appropriate. The units should be held accountable for the $3.2 million in overdrafts, said one Committee member; people need to know that they're spending too much. This is clearly a local issue, as is the failure to provide the technical report. (Professor Hamilton pointed out that EGMS tells people when they are spending too fast (or too slowly)).

But it can be argued, it was said, that SPA should track agencies that have been difficult in paying their obligations so that PIs could be warned. Mr. Volna said that there is no rigorous way to identify those organizations, but the Controller's Office is working on installing a new Accounts Receivable system that would include a database on sponsors. One can argue, said one Committee member, that it is the University's responsibility to warn PIs about dangerous sources and if notice is not provided them, then it is the University's obligation to pay uncollected costs. Mr. Wink reported that SPA has contracted with Dun & Bradstreet to build procedures for looking at the records and history of a company. One assumes, he said, that the government will pay.

One Committee member said that if the University is taking on that responsibility, and if the PI is provided the information, he or she might negotiate a contract differently. There must be central responsibility if that approach is to be taken.

The policy will be applied retroactively, Mr. Volna affirmed. This has been discussed with Dr. Cerra and the President's Executive Council. Department chairs have not heard about this, warned one Committee member; where will the funds come from? For a small department, this can be a serious burden. And what efforts is the University making to collect the money?

Mr. Volna said that to say a debt is uncollectible does not mean it will not be collected. After 180 days, letters are sent and the General Counsel's office is involved, and sometimes the debts are referred to collection agencies. They do continue to try to collect the money.

Some costs should be locally paid, agreed one Committee member, but pointed out that the big numbers are in colleges that have big research programs. One could argue that these debts are part of doing business in sponsored research that could be covered, for example, by ICR funds. They should be treated that way, agreed another, because the entire University is trying to do research and dampening effects of this kind of policy on departments need to be considered. But the majority of the costs, pointed out another Committee member, is because people are not paying attention to the state of their grants. In some cases, however, departments do everything right (Mr. Wink related a story of how one such department had) and are still saddled with costs. The overdrafts, said the first proponent, should be a local responsibility; it is the other costs that could be covered centrally.

It was noted that the administration gives all spare money to the units so there are no central funds to cover these costs. The spare funds are in the colleges and it is not unreasonable to expect them to cover these costs.

One Committee member then observed that the University will need to pay out millions of dollars in accrued vacation time. The business model of the University is puzzling; it acts like it is a collection of small businesses, like the Mall of America, but it has big corporation business policies that have an awkward interface with the small businesses. There is no institutional control over the small businesses, but the University expects them to behave in certain ways. The Committee spent a period discussing this possible clash in approaches; there was little agreement on any proposition.

Professor Kuhi related that the matter of this policy had arisen because he had received a call from a faculty member who believed he would have to pay uncollected costs out of his own pocket. That will not be the case, Mr. O'Connor assured the Committee. If the faculty member acted in good faith in the sponsored project, he or she is not personally liable. If the department head refuses to pay the costs, the matter then goes to the dean. Faculty will not have to write out personal checks. Moreover, legally the University is the grantee, and there is no way to force individuals to come up with funds (unless the department withheld salary increases or discretionary bonuses or some such thing, but no one expected this to happen). Mr. Volna observed that these costs are spread across many departments and no one unit has hundreds of thousands of debts.

It was confirmed that when colleges return some of the ICR funds to departments, it would be permissible to use those funds to pay uncollected costs.

Professor Kuhi thanked Messrs. O'Connor and Volna for joining the meeting.

4. Future Agenda Item

Professor Kuhi reported that Professor McConnell had asked for interaction with oversight committees for human subjects and for animal use in research. The chairs might be invited periodically to provide a report to this Committee on how they work, timeliness, workload, and so on.

It was agreed that the chairs would be invited to an upcoming meeting.

Professor Kuhi thereupon adjourned the meeting at 3:00.

-- Gary Engstrand

University of Minnesota