

Minutes*

**Senate Research Committee
Monday, January 28, 2002
1:15 - 3:00
238A Morrill Hall**

- Present: Gary Balas (chair pro tem), Victor Bloomfield, James Cotter, Kris Davidson, David Hamilton, Leonard Kuhi, Phillip Larsen, Sharon Neet, James Orf, Mark Paller, Sarah Shoemaker
- Absent: Scott McConnell, Melissa Anderson, Robin Dittman, Susan Miller, Diane Nguyen, Stephanie Root, Virginia Seybold
- Guests: Vice President Christine Maziar; Ed Wink (Sponsored Projects Administration), Win Ann Schumi (Sponsored Financial Reporting); candidate for the Director of Research Compliance; Mark Bohnhorst (Office of the General Counsel)
- Other: none

[In these minutes: (1) internal service organizations in the Academic Health Center; (2) candidate interview; (3) an exception to the research secrecy policy]

1. Academic Health Center Internal Service Organizations

Professor Balas convened the meeting at 1:20, explained that Professor McConnell was out of town, and welcomed Professor Feeney to talk about Internal Service Organizations (ISOs) in the Academic Health Center (AHC). Professor Feeney is chair of the Academic Health Center Finance and Planning Committee (AHC F&P).

Professor Feeney said that a concern about the financial viability of the ISOs in the AHC had been brought to his committee, so they looked into the matter. Their committee could not solve the financial problems but they could look at organizational and structural issues; they talked with the people involved in the ISOs and received exemplary support from the AHC financial staff.

The goal was to make sure that the ISOs are financially stable and placed correct organizationally. The latter is something that could change over time: should it stay in a department or move to a cross-department or cross-college status? was it a viable cross-unit ISO in the past that has now become a niche ISO that does not serve broad needs in the AHC? This question can only be addressed with periodic review. While a financial review can be conducted every year, it is not however reasonable to do a justification and placement review annually.

Professor Feeney said the committee talked with Dr. Paller about management assistance for the ISOs; faculty rely on the ISOs to do research but they are not managers. His office now provides those

* 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.

services so they get the help they need. Their goal was to avoid a financial crisis and financial problems (such as collecting fees, etc.), and there is no absolute dogma that the ISOs must be self-supporting. Operating in the black is the goal, Professor Feeney said, but if an ISO is providing a vital service to the AHC there is an opportunity for it to be supported. What they wanted to avoid was the annual "we are going broke" claims.

And there are different circumstances under which an ISO could garner contributions, such as support from other colleges if users can be identified.

Another concern of his committee, Professor Feeney related, is that ISOs not languish because of poor management, and thereby not acquire state-of-the-art equipment and so on. So they called for the ISOs to have a business plan identifying what they will look like in 3-5 years in terms of structure and finances.

That, Professor Feeney concluded, was the gist of their report: They wanted to get past crisis management in the ISOs. One interesting question is "what is an ISO?" There is a definition but there is no boilerplate language about their operation because one size does not fit all. Different ISOs need different plans; they can be department-based or cross colleges and the finances can be quite different. The AHC F&P committee concluded that it was not in its purview to do anything about the ISOs but it needed to identify problems and review them annually.

Dr. Paller said Professor Feeney's committee did a great job of synthesizing the information about the ISOs and provided some good guidelines to keep ISOs functioning. There will be recurrent problems because ISOs reside in different places in the organization. Those that receive money from the AHC and support from his office must have a business plan and he reviews their finances each month. The same level of oversight is not appropriate for an ISO located within a department; the department must decide on the level of scrutiny.

One issue that needs to be dealt with is the culture: The faculty value an ISO when it is threatened—but not prospectively, when it comes to including ISO costs on their grants. This probably comes from the idea that a grant is less likely to get funded if it has too many items on it—which is probably not true in many areas, where a lack of certain expenses could hurt a grant application (e.g., a line item for bioinformatics in a sequencing proposal).

Is there a toolbox to help administer ISOs, Dr. Maziar asked? There is not, Dr. Paller said; they have to be invented for each ISO. But they share common business needs (e.g., billing users, tracking if they get paid, and so on), she said. The information is available, Dr. Hamilton commented; it is just very hard to find. If one is going to set up an ISO, Mr. Wink said, it comes under the aegis of the Controller; it is a business issue. Whether there is a need or a market for an ISO is up to the individual, but the business side is quite prescribed. The ISOs are examined carefully when the University makes the case for its indirect cost rate. The concern is who paid for equipment, Dr. Maziar asked? It is, Mr. Wink affirmed.

Professor Balas said it appears that ISOs have less oversight than graduate programs. Is that a good thing? Dr. Paller replied that there is oversight when the ISO is set up; the management rests with the area in which it is set up, so depends on how good the management is there. In the case of those his

office supports, with oversight there also comes a lot of help; the bigger ISOs have fewer problems than the small ones.

Is there a sunset clause on ISOs, a time when they will be shut down, Professor Balas next asked? There is not, Mr. Wink said; they continue as long as the market will bear. Should there be a sunset clause, Professor Balas asked? If an ISO is within a department, and losing money, it is the department's burden, Mr. Wink said. If it is viable it will receive funds to underwrite its costs. These arrangements are ad hoc all the way through. There is a need for flexibility, Dr. Paller agreed; they recently combined two ISOs.

This issue came to the Committee because he was concerned about three ISOs with financial problems because units did not live up to their commitments, Dr. Hamilton said. He was REALLY concerned because an ISO is often the only way to provide essential research infrastructure. The institution has not made an attempt to set priorities in what it needs in order to be a major research university and identify how to fund those priorities. As one looks at the list of ISOs in the AHC, there are not many of interest to him as a researcher.

Dr. Bloomfield agreed; the list does not contain many ISOs that might buy the sophisticated research instrumentation that many faculty need. Dr. Hamilton's question is significant, he said: how does the University set priorities for purchasing the most expensive, cutting-edge equipment? In one case, a PI needed a specialized form of electron microscopy that had no other clear demand at the University, but there was such microscopy available at another institution 1000 miles away. There needs to be consideration of when the University needs its own equipment and when PIs can make use of regional resources. Dr. Hamilton agreed, and said that it is now feasible to do electron microscopy from Minnesota in a lab in California, for example. But these kinds of questions have not come to the Committee before.

Is there an issue with keeping the academic or scholarly focus of the ISOs, so they do not become financially driven, Professor Balas asked? That is where the issue of the institutional subsidy comes in, Dr. Maziar commented. The willingness of the unit to provide a subsidy will depend on the research or educational component of the ISO's activities; if there is little or no research or educational justification, the subsidy should evaporate. With something like a copy center, that is not likely, Dr. Hamilton said; with electron microscopy or genomic centers, he dislikes the idea of an ISO for something so central to the institution. User advisory groups can determine if an ISO has an academic focus, Dr. Bloomfield added. There are facilities that faculty want to use but do not look at usage patterns; or it may be dominated by one person who resists outside use.

Another problem that arises is with equipment (an ISO) originally funded by a grant but later funded by outside users, Dr. Paller said. That is when a business plan is needed if the ISO is to be sustained.

When the question about cross-charging or charging the government, Professor Balas supposed, it must take a lot of time to be sure that the government is not being charged when it should be. Mr. Wink said he was correct; when an ISO does a business plan, the rates are submitted to the Controller for review, for that reason. An ISO administrator does not have to worry about that on a daily basis, Dr. Maziar added, but that is why one cannot simply hang up a shingle and declare "I am an ISO now."

Institutional priorities determine whether or not an ISO receives a subsidy, Professor Feeney said; Some, he agreed with Dr. Hamilton, are vital to research groups and something needs to be worked out, as with a business plan. The call to address that issue is one of the primary reasons for the report from his committee.

Does his committee have any recommendations about boundaries on the service an ISO should provide for those outside the University, Dr. Maziar asked? The report says the focus should be on internal service but that external service may keep the program running and relieve pressure on University funds. Presumably it would be a problem if something like 75% of the ISO's work were for outside contractors. The committee did not address that issue, Professor Feeney replied; that is up to her office. If an ISO can help the private sector, fine, but that is not the goal. If research interests will look elsewhere or go to her office--if the ISO is not serving University interests but receiving a subsidy--there will be criticism. The goal, however, is to minimize the subsidies needed.

Professor Balas asked if the Vice President for Research office has thought about funding equipment needed at the University, or providing support for such equipment, rather than responding to a request from someone for a particular piece of equipment? Dr. Maziar said her office does not have the money to fund equipment except on a matching basis, and they are stretched to the limit on the matching funds they can provide. Dr. Bloomfield added that "matching funds" means there is an external grant with peer review and that there is also a match with the college or department so that it is clear the equipment is important to the unit.

There is no department decision about areas it should not support and areas it should focus on, Professor Balas asked? Those are pretty well in balance, Dr. Bloomfield said; if a college or department says something is important and wants to put money in, they have been able to go along with the request. If the faculty are more successful in obtaining grants that need matching money, however, the Vice President for Research office will have trouble keeping up with the needs.

Dr. Maziar noted that her office is not formula-funded, like IMG in the colleges, and the University has gone from approximately \$350 million to \$500 million in external grants in recent years; college research and budgets are growing while matching funds are not. The central office ability to provide matching funds is constrained.

Genomics or proteomics receive funds because they have been identified as academic initiatives important to the University and for which it received state funding; they have tried to emphasize state-of-the-art funding for those fields with legislative dollars, AHC special funding, and matching funds from departments. There has been attention, in modern biological science, to obtaining modern equipment in the most efficient fashion possible. In other areas funding has been more ad hoc (although very successful, but they do not have the broad collective interest in specific technologies that exists in modern biology).

There is also a difference in federal agency expectations about cost-sharing, Dr. Maziar pointed out. NIH rules are not the same as those of NSF or the Department of Defense, so there are different strategies used. The University should not let them get away with making the institution subsidize equipment, Professor Balas commented. Vice presidents for research complain about this all the time, Dr. Maziar reported. NSF pays indirect costs but then takes back the money in cost-sharing, so it is NOT providing the infrastructure support it says it is. NSF program officers have been told not to use

institutional ICR rates as a bargaining chip in cost-sharing, she said, but she was not sanguine about the practice ending.

Professor Balas thanked Professor Feeney and Dr. Paller for their report.

2. Candidate for Director of Research Compliance

Professor Balas solicited and received a motion to close the meeting for a personnel matter. The motion was adopted unanimously.

The Committee interviewed the candidate for the position of Director of Research Compliance. Following the interview, Professor Balas agreed to draft a letter to President Yudof transmitting the sentiments of the Committee about the candidate.

3. A Research Secrecy Matter

Mr. Wink now explained to the Committee that the University has had a contract with Network Computing Services, Inc., which is a contractor on the army high performance computing contract. There is some language in the contract that creates a restriction on publishing research results. The University is a subcontractor and has had a letter of understanding (but not a contract) under which it has been working; the letter of understanding had no restrictive language. The final contract, however, does contain such language; the Committee must approve the contract in order for the University to be paid for its work.

The issue arises because there were two University staff scientists on the project who came into contact with classified information; the Army has restrictions on publishing so that information does not leak.

Mr. Wink said he was asking the Committee to approve this one contract and he does not expect to have the issue arise again in this context. There will be no further contact with classified information and the Army has been asked to remove the publication clauses (which it likely will do). Mr. Wink confirmed that it is the Army, not the company, that has imposed this requirement.

Dr. Bloomfield said that when a company restricts publication, it is in order to prevent proprietary information from becoming public; the RESEARCH can be published but the underlying information can be restricted. Is that the case here? Mr. Wink said it was a similar situation, but companies ask for the right to review, to be sure proprietary information is not being released, but they do not require "approval." The Army requires approval.

One of the concerns about freedom to publish rests on academic freedom and the ability of students to publish their degree work, Dr. Bloomfield said; were there students involved in this work? There were not, Mr. Wink said, only the two staff scientists. The rest of the work involving the Army—summer programs, a newsletter, etc., are not at issue.

Has there been a history of this kind of problem with the contract, Professor Orf asked? Is this setting a precedent that could be repeated, or is this truly an exception? Mr. Wink said it was an exception. The University had the letter of understanding and a long history with the project; he said he

thought he knew what would be in the contract based on that experience. The University does not usually do work on the basis of a letter of understanding and insists on a contract up front; the lesson from this may be that the University will have to always insist on a contract.

Mr. Bohnhorst reported that the University has a few contracts with clauses similar to the one in this contract, where the government asks for the right to review sensitive information, even though it is not classified. The contracts are written so the government must "approve" so the publication does not include sensitive data.

Is this a sudden change or does this pattern appear every two or three years, Professor Davidson asked? The last few years there have been more such restrictive clauses, Mr. Bohnhorst said. There was a concern in 1982 that led to a policy; Condoleeza Rice, President Bush's National Security Advisor, has said the 1982 policy is in effect and the government will enforce it. In part this is a wave from the events at Los Alamos, Mr. Bohnhorst agreed, but it is a developing problem nationally.

The Committee must approve the exception, Professor Balas noted. It was moved and seconded and unanimously voted to approve the contract (retrospectively).

Professor Balas adjourned the meeting at 2:55.

-- Gary Engstrand

University of Minnesota