Minutes[*]

Senate Research Committee
Monday, March 19. 2007
1:15 - 3:00
238A Morrill Hall

Present: Steven Ruggles (chair), Linda Bearinger, James Cotter, Sharon Danes, Donald Dengel, Steven Gantt, Bridget Helwig, Shikha Jain, Paul Johnson, Jennifer Linde, James Luby, Ellen McKinney, Selam Rodriguez, Thomas Schumacher, Virginia Seybold, Charles Spetland, Jean Witson

Absent: Richard Bianco, Arlene Carney, Dan Dahlberg, Robin Dittman, Stephen Ekker, Genevieve Escure, Timothy Mulcahy, Mark Paller, Federico Ponce de Leon, George Trachte, Barbara VanDrasek, Michael Volna, Sanford Weisberg

Guests: Associate Vice President Ed Wink

Other: Peggy Sundermeyer (Office of the Vice President for Research)

[In these minutes: (1) guidelines for institution decision-making about indirect cost recovery practices, including waivers; (2) REPA issue and conflict of interest; (3) parking for graduate students]

1. Guidelines for Institutional Decision-Making Regarding Indirect Cost Recovery Practices

Professor Ruggles convened the meeting at 1:25 and turned to Associate Vice President Wink to lead a discussion of decision-making regarding indirect costs.

Mr. Wink explained that there has been a procedure to request waivers or reductions of indirect costs in place since 2000 and that there have been questions, since then, about these waivers (which requests go from department head to dean to the Office of the Vice President for Research). What has been found was that the waivers were being granted on an ad hoc basis and that there were no guiding principles. When Dr. Mulcahy came to the University as Vice President for Research, he appointed a committee to make recommendations on the issue. The committee members were research associate deans and staff from the Vice President's office; the recommendations were discussed with the Council of Research Associate Deans and, now, are being reviewed by this Committee. (The policy can be found at **http://www.fpd.finop.umn.edu/groups/ppd/documents/procedure/WaiverProc.cfm**)

The committee made several recommendations.

-- In general, there needs to be a better understanding of the true costs of research, including the actual indirect costs, the effective recovery rate, and how indirect cost recovery works with the new budget model. Some do not realize, Mr. Wink said, that even with a published indirect cost rate of 49.5% (negotiated with the federal government), the University only collects about 31% as its effective rate.

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

With the new budget model, colleges are being asked to pay for things that were in the indirect cost pools; it may be that the University cannot do business as usual.

In terms of groups that sponsor research:

-- The committee recommended that the University should negotiate an indirect cost rate with the State of Minnesota. Mr. Wink related that he was asked by the internal auditors why the University does not charge indirect costs on research sponsored by state agencies. When the University received a larger proportion of its budget from the state, perhaps the lack of indirect cost charges could be overlooked; now, however, the University might consider negotiating a rate with the state. Eight of the 11 Big Ten schools charge their states for indirect costs.

-- The University should accept indirect costs allowed by all foundations. In the past the University has not charged indirect costs on projects funded by foundations that are members of the Minnesota Council on Foundations. One of the recommendations is that if foundations indicated that they will pay indirect costs, the University should accept the rate the foundation is willing to pay (e.g., 10%).

-- The University should use the actual indirect cost rate (58%) for business and industry projects. The negotiated rate is 49.5%, but that is lower than actual costs, in part because of the federal government's cap on administrative costs. The committee concluded that business and industry should not receive the lower, negotiated rate, and most Big Ten schools charge business and industry more than the negotiated rate. At the same time, the University needs to be careful of long-term relationships already in place with corporate sponsors. The committee recommended the use of a 10% rate for corporate consortia memberships. Corporate consortia are partnerships formed with industry and faculty to pursue very early-stage fundamental research in areas of common interest and to share the outcomes of this research.

The committee dealt with clinical trials:

-- The committee defined clinical trials to differentiate between pre-clinical research and clinical trials themselves.

-- The committee recommended a clinical trial indirect cost rate of 26% for pharmaceutical and medical-device companies. The rate is reduced because the trials take place in clinics or hospitals, which are not covered by the University's indirect cost rate. It is similar to the off-campus rate.

-- Investigator-designed clinical trials funded by the federal government continue to use the federally-negotiated research rate of 49.5%.

The committee dealt with associations:

-- Commodity associations have complex relationships with the University. They do not pay indirect costs but they are businesses, so should they pay? Yes, but given the complex relationships, Sponsored Projects Administration needs to work with the College of Food, Agriculture, and Natural Science (CFANS) to negotiate reasonable and assignable indirect costs with the commodity associations. Mr. Wink later agreed with an observation by Mr. Schumacher that if costs can be identified for

commodity associations, they could be charged as direct costs; they have to do a lot of scrubbing and cross-checking to be sure that costs are appropriately attributed.

-- Health voluntary associations/professional associations look like foundations in terms of indirect costs, so pay at the reduced foundation rate.

The committee addressed reductions of indirect costs:

-- Deviations from the published rate require approval, with approval authority lodged in the college for projects of less than $50,000. Requests for deviation for projects over $50,000 will follow existing procedures. They will, however, track waivers granted at the college level to see how much money is not being collected, Mr. Wink said; the University receives over $100 million in indirect costs, so this is not a trivial source of income and needs to be tracked.

-- No indirect cost reductions will be allowed for proposals or awards that were not processed through institutional channels. The decision on waiving indirect costs must be made at the proposal stage, Mr. Wink said, not when the money has been awarded. Professor Ruggles said that this happens mostly out of ignorance; must the award be turned down, under this rule? If the unit accepts the award, it will be charged indirect costs, Mr. Wink said—especially if it is known that the sponsor will pay them. Ignorance is no excuse, he added, because indirect costs are part of Responsible Conduct of Research training; if one is going to be a PI, this is something one needs to know about.

Professor Danes asked about small awards, $5-10,000, from family businesses. How do those fit in? They could be considered gifts, Mr. Wink said, but if there is competition for them, and the recipient promises to do X, Y, and Z, it is more like a grant. If the award will be considered a sponsored project, the University would have to sort out whether indirect costs should be charged. In the case of awards to individuals, however, such as Guggenheims, they are not sponsored research, Mr. Wink said. Most humanists receive awards like that, Professor Ruggles said, and do not realize when it may be a grant. Mr. Wink commented that organizations are becoming less likely to award funds to individuals because that requires them to deal with tax and payroll issues.

What about when a company provides goods or products rather than money, Professor Dengel asked? Those are material transfer agreements, Mr. Wink said, and they often come with a contract that allows the donor to own any intellectual property that is generated from use of the products. He said that people should not sign such contracts, which can be all-encompassing and deleterious. "Free" is not good when the products come with so many conditions; Sponsored Projects Administration needs to see a copy of any contract. Equipment given as a gift, however, is a gift.

-- Even if they were granted a waiver initially, indirect costs will be assessed on fixed-price projects that have a balance at the end. This is the current practice.

The deans brought up the subject of cost-sharing.

-- There needs to be a clear understanding of cost-sharing. People do not understand its impact on indirect costs. For example, offered cost-sharing becomes an obligation or commitment. Committed cost-sharing must be documented.

Professor Bearinger asked about the 26% cap and the actual 31% administrative costs and whether that was proportionate to departmental administration. Mr. Wink responded that department administration is a cost that departments and colleges already absorb in their budgets. Administrative costs are calculated by identifying them institution-wide. For example, administrative and clerical salary costs are identified by the job codes and other administrative costs are captured by using information in the University's financial system. These costs are then allocated to research, instruction, outreach/public engagement, and other institutional activities. For research, the associated administrative costs are divided by the direct costs of research in order to calculate the administrative cost rate. Professor Bearinger asked if the University would be able to reach the top 3 and where the University's indirect cost rate is in comparison to its peers. Mr. Wink said the University's negotiated rate is in about the middle of the Big Ten. Professor Bearinger said that the University wants to be more proficient in research, and have it funded, but one hears that research costs the University money. One could see that this is not a good message, that the University is losing money.

The University says it incurs research costs, Mr. Wink said, and it has never said "no" to a foundation grant. What this policy is saying is that the University should get what it is entitled to and that it should ask for indirect cost funds from the state. Other Big Ten schools get 10-20% from their states.

Professor Johnson said that when colleges are charged for heat and light, it is assumed that some of the costs will be paid back by ICR funds—or are the charges paid by the college and then paid again by ICR funds? Professor Ruggles said that the formula to determine how much ICR money a college receives is unrelated to how the college may choose to use the funds. ICR funds may or may not be used for heat and light—money is fungible and the colleges use funds from all sources to pay their costs. There is only one "tag" on ICR funds, Mr. Wink said: an institution must spend at least as much on building or renovating buildings as it receives in ICR depreciation funds (although the funds need not be used for building or renovation), and the University is not anywhere close to falling below that level.

How do the University's costs compare with Big Ten schools, Ms. Witson asked? If Michigan negotiated a 52% ICR rate, its costs are probably 60%, Mr. Wink said. Other institutions may have higher costs for land or buildings or salaries, and typically the private institutions have a higher negotiated ICR rate than the publics.

Professor Bearinger said that when the University receives a grant, the college gets the ICR funds. The PI incurs costs that he or she cannot bill as direct expenses; it is assumed the college will provide the funding. But that does not account for specific costs a PI incurs; if indirect cost funds are supposed to pay for something, but the college or department will not do so, the PI has a Catch-22. Nor is there consideration given to the fact that a tenured faculty member might not ever obtain another grant, in which case the college will pay 100% of the person's salary—whereas if the person gets a grant, it will support the salary, other FTEs, and so on. There is something for the common good. Mr. Wink agreed and said there is much at the University that could not be done without grants.

The Committee talked about royalties, Professor Bearinger recalled, and none go to the PI in some cases because there is insufficient income, but there are PIs who have costs and who do not get support. That is a problem, Mr. Wink agreed. If the negotiated ICR rate is 49.5%, actual indirect costs are 58.7%, and the University only recovers an effective rate of 31%, units must find the money as best they can. ICR money is also unequally distributed, Professor Ruggles observed; some must rely more heavily on foundation money. Moreover, the expense of research also varies dramatically by field. Mr.

Wink agreed, but said there is only one negotiated rate because the federal government will only pay one rate.

Professor Seybold noted that programs must pay $700 per computer for information technology security (and even more for clinicians), even though in her case they use almost no human beings in research. Are they reconsidering that charge? There are a lot of unfunded mandates imposed by the government, Mr. Wink observed, but there remains a 26% cap on administrative costs. Ultimately, the institution pays the cost and builds it into its ICR rate.

Mr. Schumacher said he has heard the argument that the federal government could pay more, but universities get to keep their intellectual property and make money on it. The federal government could take Bayh-Dole back. So academics tend to be wary about changing the structure of ICR rates too much. The University doesn't do research as a money-making venture, Mr. Wink said, but it does need to be cognizant of costs, and with the new budget model the central administration does not take care of costs any more And since the ability to generate ICR funds is not even across the University, there must be transfers of some money from rich units to less-rich units. Those are decisions made by the President and Provost, Mr. Wink said.

Professor Ruggles thanked Mr. Wink for the presentation. Mr. Wink said that if anyone has questions, they should send them to him at ewink@umn.edu.

2. REPA Issue

Professor Ruggles reported that he had received a notice from Associate Vice President Bianco that a project would be suspended because the PI had not filled out the REPA form. He became involved, he said, and got an extension; he and Mr. Bianco agreed on the need to improve the process for notification about problems.

Minnesota is the outlier in comparison with other institutions, Professor Ruggles said. Few institutions require that one fill out the full conflict-of-interest form; at some, the signature on the annual report also affirms one has no conflict of interest. He said he thought conflict-of-interest had to with intellectual property, but it actually has more to do with human subjects protection. Mr. Wink said that conflict-of-interest policies are designed to protect the integrity of research. The federal government requires there be no financial conflict of interest as a requirement of awarding a contract, Mr. Schumacher reported. But it does not say how to ensure there are no conflicts of interest. Some institutions are moving to on-line certification to confirm there are no conflicts of interest.

Institutions do this differently, Professor Ruggles said. What is the actual risk? What happens bad when there is a conflict of interest? The main issue one sees reference to is drug companies giving materials for clinical trials, which results in research that is not objective. The primary reason is objectivity in research, Mr. Schumacher repeated, and transparency is the most effective way to achieve it. At Penn, the researcher had a financial interest in the company when one of the research subjects died, so that became the focus, but the rationale, whether research involves animals or airplanes, is that the research is not tied to the company. From an institutional perspective, there is a need to control intellectual property and understand the researcher's interest and exposure.

Professor Ruggles asked Mr. Schumacher if he had any idea of the number of conflict-of-interest reports that are not approved. Mr. Schumacher said the chair of the AHC conflict-of-interest committee has never had a case not approved; they have always found a way to manage conflict. In how many cases is some action required, Professor Ruggles inquired. Mr. Wink and Mr. Schumacher thought dozens if not hundreds.

The challenge, Mr. Schumacher said, is that the University wants entrepreneurial faculty, and wants to support start-ups, and venture capitalists want faculty members involved in those start-ups (e.g., on the board of the company). The standards shift based on the nature of the research; that which involves human subjects or students is different from other kinds of research. The standards also protect graduate students, Ms. Sundermeyer commented, so they are not obligated to choose research because of the financial interest of the faculty member. This is a very hot topic for compliance offices, Mr. Schumacher reported, and it is one the federal government is very interested in. Mr. Bianco could talk to the University about where it stands vis-à-vis its peers.

The question is whether the University is doing this is the most efficient, Professor Ruggles said Does it screen what it needs to without an excessive amount of time and effort required? Professor Luby added that the faculty are alerted annually that they must update their conflict-of-interest reports, but a lot of key research staff do not receive that annual reminder, even though some do have conflicts of interest. Even if they have a REPA on file, they do not receive a reminder. Mr. Wink said that faculty and P&A staff do receive annual reminders; Civil Service staff may not. Theoretically, the University wants a conflict-of-interest report on everyone.

Mr. Wink reminded the Committee of one conflict-of-interest provision that people may not think about: if someone at the University has purchasing authority and buys from a company in which he or she has a financial interest, the purchase is a violation of state law.

3. Other Issues

The proposal that Vice President Mulcahy brought to the Committee to change the distribution of royalty income has been withdrawn. The Committee will see any revised proposal.

Professor Weisberg brought to his attention an article in the Daily about graduate student parking, Professor Ruggles reported. The request was to make parking spaces available, for a nominal charge to cover administrative costs, to graduate students after 4:30 and on weekends. Right now they must park in a regular lot and pay regular prices—just as other students do. What he hears, Professor Johnson said, is that if a graduate student must teach and hold office hours, that student is not like all other students. Mr. Schumacher said that if one travels as an employee and must park, one will be reimbursed. They do not want reimbursement, Professor Johnson pointed out, they just want a break on the rates.

Ms. McKinney said that she takes work home (and rides the bus) rather than pay $12 per day for parking. If there were night parking, that would help a lot. Graduate students are more likely to work nights and weekends, Professor Ruggles said.

The Committee voted unanimously to endorse the general idea of providing reduced-rate parking for graduate students on nights and weekends and to ask the Senate Committee on Finance and Planning to take up the issue when it reviews parking rates.

Professor Ruggles adjourned the meeting at 2:45.

-- Gary Engstrand

University of Minnesota