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05/28/2002 05:40:36 PM

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Record Type: Record

To: John Morrall@EOP

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Subject: Suggestion for Regulatory Reform

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Name of Guidance:

Cost Accounting Standards for Educational Institutions

Regulating Agency:

Office of Management and Budget

Subagency (if any):

CAS Board/ OMB

Citation (Code of Federal Regulation):

48 CFR Part 9903, 9905 and OMB Circular A-21

Authority (Statute/Regulation):

41 USC

Description of Problem (Nature of Impact and on Whom):

The government Cost Principles for Educational Institutions are set forth in OMB Circular A-21. The circular establishes principles for determining costs applicable to federally funded grants, contracts and other agreements with educational institutions.

Between 1992 and 1996 OMB undertook three successive revisions of the Circular. They were the result of a dispute between the Department of Defense and Stanford University, which led to a broad review by OMB, to assure that the circular provided sufficiently clear guidance. Among the subsequent changes were a more precise definition of certain costs that

are unallowable, an imposed cap on administrative costs, mandatory long term predetermined facilities and administrative FandA rates, the elimination of special studies and prohibitions to prevent the shifting of capped indirect costs to uncapped costs. Although some of the changes were considered arbitrary, such as the imposition of an unprecedented 26 cap on administrative costs, the community generally welcomed the clarification provided by the revisions.

However, we understand that the Deputy Director of OMB at that time believed that these new accounting rules were not tough enough to demonstrate to Congress the appropriate concern for proper accountability. He directed that four relevant sections of the Government Cost Accounting Standard Board rules CASB should be incorporated into Circular A-21 and imposed on educational institutions. Universities objected strongly, arguing that CASB rules were designed for large commercial contractors and that 85 of university awards are in the form of grants. They argued that the CAS rules are duplicative of the existing Circular and that the CAS Disclosure statement adds a no-value-added burden, which imposes extensive compliance costs both on universities and Federal agencies. Universities cited examples of the disadvantage of having duplicative rules especially where the standards would likely be interpreted differently under the OMB Circular than under CAS. The CAS standards are complex and confusing by themselves. Precedents for their interpretation are established by auditors familiar with auditing defense contractors. Different precedents are established in auditing colleges and universities engaged in research. Serious disagreement and disallowances seemed inevitable.

When the regulations became effective for university contracts in 1994, these objections were not addressed. In addition, a formal CAS Disclosure Statement requirement was imposed, which in itself contained rules for applicability and coverage and submission that were difficult to understand. The only relief universities obtained was that the required CAS disclosure document was reduced from a 130 pp draft to a more manageable format.

Over the objection of the entire university community, OMB took the next step and incorporated these CAS standards into Circular A-21. They became effective in 1996. Subsequently, universities prepared their disclosure documents as required, at considerable expense, and transmitted them for federal review and approval. Today, it is clear that the concern of the universities has come true: a bottleneck has resulted from the implementation of the CAS rules at the agencies. Review and approval of the university materials has stalled, due to lack of funds and lack of personnel trained to deal with CAS rules outside of the Defense Contract Audit Agency. Most of the universities are under the cognizance of DHHS. To date, only a handful of universities have received official agency endorsement of their disclosure statement. The great majority of DS-2 disclosure statements from universities are pending. The DHHS Audit office has indicated to us that their priorities have shifted to other issues. The majority of universities are left in uncertainty whether their disclosure statements have been approved, and if so, how to proceed when changes in their procedures may require a revision of the disclosure.

Proposed Solution:

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Estimate of Economic Impacts (Quantified Benefits and Costs if possible / Qualified description as needed):

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