

March 18, 2011

Mr. Daniel Cohen
Assistant General Counsel for Legislation, Regulation and Energy Efficiency
US Department of Energy
Office of General Counsel
1000 Independence Avenue, SW
Washington DC 20585

SUBJECT: Reducing Regulatory Burden – EO 13563 Retrospective Review

Dear Mr. Cohen:

We are encouraged that President Obama has asked the federal agencies to conduct this retrospective review of existing rules to assess which should be maintained, modified, strengthened or repealed to increase efficiencies and decrease burden. MIT participated in the development of the letter of recommendation from COGR, AAU and APLU to the National Research Council's (NRC) on-going Committee on Research Universities' examination of actions that can be taken by all stakeholders to assure the ability of the American research university to maintain excellence in research and doctoral education. Sponsored in part by the Department of Energy, this Committee requested recommendations for regulatory reforms that could improve research universities' ability to carry out their research and educational missions. A copy of the joint Association response is attached here for your information. We believe that the issues spelled out in the letter are consistent with the principles articulated in Executive Order (EO) 13563, notably the need for coordination and harmonization, as appropriate; the burden of cumulative, prescriptive regulations; and the need for a balance between regulation and flexibility in the performance of work under a Federal grant or contract.

Of specific relevance are the recommendations that call for harmonization of regulations and information systems across agencies to eliminate duplication and redundancy; and elimination of regulations that do not add value or enhance accountability. We offer the specific examples related to our experience in managing Department of Energy projects.

We recommend that the Department of Energy (DOE) review the terms and conditions used in its research agreements across the Department's programs and laboratories. We urge the Department to implement the Federal Research Terms and Conditions established in January 2008 to provide a uniform standard core set of

administrative terms and conditions on research and research-related awards that are subject to OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (2 CFR part 215). Built on the work of the Federal Demonstration Partnership, these standard award terms and conditions provide consistency and efficiencies for the administration of Federal awards. Particular emphasis should be placed on inappropriate or unnecessary terms and conditions issued by DOE National Labs to Universities. Universities continually receive terms that impact their ability to perform research, while trying to maintaining the fundamental research exclusions allowed for university research. Master Agreements were established with some DOE National Laboratories yet have not been used by some of the DOE National Labs.

The Department of Energy should consider eliminating excessive reporting requirements that fail to provide greater accountability. In particular, American Recovery and Reinvestment Act (ARRA) reporting requirements for DOE have been difficult. We are regularly asked by DOE to revise and resubmit ARRA reports, provide additional reports, provide monthly expenditures reports, and have principal investigators provide other specialized reporting that are not required for ARRA under other agencies.

MIT has been in contact with senior management of APRA-E regarding additional onerous reporting requirements that appear to be designed for more high-risk awardees, and conflict with university standards governed by various OMB administrative circulars. For example, ARPA-E has issued new requirements for research institutions to submit monthly very detailed reports as a supplement to the Standard Form (SF) 270 breaking costs by cost category and transaction by transaction. Contractors working for DOE then follow up with repeated requests for MIT business process and internal controls already reviewed by the government through regular A-133 and other audits. We fail to understand the need for this level of detail, not required by any other agency, and which constitutes a significant burden to researchers as well as administrators.

Finally, we agree with the COGR letter on the issues of limiting cost sharing, lowering barriers to participation in DOE projects through access restrictions, particularly those relate to National Laboratories and the harmonizing the DOE's policy on ownership of data and software with those of the other agencies.

We appreciate the opportunity to comment and look forward to the opportunity to discuss any of these topics with you further.

Sincerely yours,



Claude R. Canizares