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SENATE LABOR, HHS, EDUCATION BILL EMERGES FROM COMMITTEE; NIH GETS BOOST

Senator Arlen Specter (R-PA) is one of the busiest people in Washington. With President Bush's nomination of Judge John Roberts to the U.S. Supreme Court, Specter takes center stage as the Chairman of the Senate Judiciary Committee, which will hold hearings on Judge Roberts' nomination. At the same time, Specter chairs the Senate Appropriations Subcommittee that recommends spending allocations for the Departments of Labor, Health and Human Services, and Education.

On July 12, the Subcommittee marked up its FY 2006 bill, and two days later the full Senate Appropriations Committee ratified the recommendations. Specter, who is fighting cancer, has always championed the **National Institutes of Health (NIH)**. His counterpart on the Subcommittee, Ranking Democrat Tom Harkin (D-IA), has also strongly supported health research as well. For FY 2006 the panel gave NIH \$29.415 billion, significantly more generous than the House's \$28.507 billion, an increase of \$1.050 billion over the FY 2005 appropriation and \$905 million over the President's budget request. Like the House, the Senate Committee provided a significant boost for the Office of the Director in order to give him more control over trans-institute research support.

In the report accompanying the spending bill, the behavioral and social sciences are clearly viewed as an integral part of health research. The report calls for almost all of the individual institutes within the NIH to work with its Office of Behavioral and

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HOUSE COMMITTEE HOLDS HEARING TO DISCUSS NIH REAUTHORIZATION

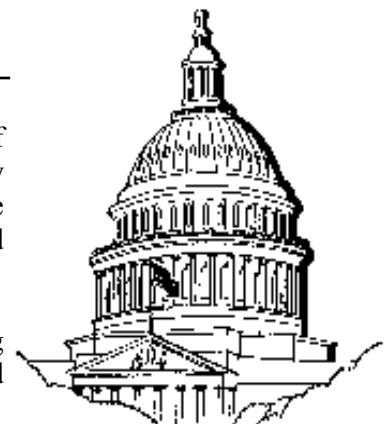
Less than a week after releasing its draft bill to reauthorize the National Institutes of Health (NIH), the House Energy and Commerce Subcommittee on Health, chaired by Rep. Nathan Deal (R-GA), continued its attempt to push for a restructuring of the agency. On July 17, the panel held its eleventh hearing on the NIH in the last two and half years.

Deal expressed his strong belief that NIH needs a reauthorization now. Echoing Deal, Rep. Joe Barton (R-TX), chair of the Energy and Commerce Committee, declared that it was time for the authorizing committee to reestablish its oversight role on NIH,

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Social Science Research (OBBSR) in order to develop research portfolios in these areas. In addition, once again the National Institute of General Medical Sciences (NIGMS) is urged, as they have been for many years, to support basic behavioral science research and training.

The National Institute of Mental Health (NIMH) is also advised to maintain a “balanced program” and a continued commitment to support research on the “promotion of mental health” and the “study of psychological, social, and legal factors that influence behavior.” The Committee expressed hope that NIMH would continue its funding of research focusing on depression in adolescents, in the workplace, and in older adults. The Senate is also interested in NIMH continuing studies of the “psychological impacts of terrorism.”

The National Institute on Child Health and Development (NICHD) should, according to the Committee, also maintain its support for behavioral and demographic research, including funding the Adolescent Health and Fragile Families surveys. It should also support research on the risk and protective factors that foster family formation, examining resilience in children exposed to violence, as well as investigating learning and school readiness. The panel also conveyed its hope that the National Children’s Study will attain field readiness by 2007.

At the National Institute on Aging (NIA), the Committee expressed support for research on the demographics and economics of aging, including support for the Health and Retirement and Long-Term Care studies. Alcoholism and adolescence should become a special focus for the National Institute on Alcohol Abuse and Alcoholism (NIAA), while exploring the relation between drug use and crime should remain a concern for the National Institute on Drug Abuse (NIDA), according to the Senate panel. The National Cancer Institute (NCI) received praise from the panel for its support of research on how patients process information, its affects on their behavior, and the HINTS networks that examine how patients use information about cancer and its prevention. NCI, according to the Committee, should also support research on social work interventions for cancer patients and their families.

The Committee also recommended continued support across NIH for studies on health disparities, stress and behavior, as well as child abuse and neglect.

The Senate panel allocated a program level of \$6.254 billion for the **Centers for Disease Control and Prevention (CDC)**. This includes \$265.1 million via transfers available under section 241 of the Public Health Services Act. The FY 2005 comparable program level was \$4.776 billion and the Administration’s FY 2006 requested level for the program was \$4.306 billion. The House appropriated \$6.106 billion. For the **Agency for Healthcare Research and Quality**, the Senate Committee provided \$323.7 million, \$5 million more than last year, the President’s request, and the House FY 2006 level. **Policy research** would receive close to \$40 million from the Department’s evaluation set-aside.

Education

The bill appropriated \$522.7 million for the **Institute of Education Sciences**. Of this, \$164.2 million is for research, development, and national dissemination activities. This is the same as last year, the President’s request, and the House. In the report, the Committee stressed the critical importance of “developing, identifying, and implementing scientifically-based research” to the success of No Child Left Behind and the increased effectiveness of education programs and interventions. It also approves of “authorized evaluations of Federal education programs using rigorous methodologies, particularly random assignment...” The National Center for Education Statistics receives \$90.9 million, similar to last year, the Administration’s request, and the House level. Another \$24.8 million was designated for the development of longitudinal statewide data systems to help them more adequately measure individual student performance. The Senate also joined the House in rejecting the Administration’s attempt to eliminate the regional educational laboratories.

Despite the widely recognized growing importance of training American students in **international studies and foreign languages**, the Senate provided only a \$1,000 increase over last year for the Department of Education’s programs for these purposes. The Senate panel again treated the **Fund for the Improvement of Postsecondary Education** as a place to reward institutions with earmarks by allocating \$162.2 million. The comprehensive competitive program would receive \$17.4 million. The **Javits Fellowship program**, which provides support for graduate students in the social sciences, humanities, and the arts, would receive \$9.8 million in FY 2006, same as last year, same as the House, and same as the request. The Senate panel joined the

House in eliminating funding for the Thurgood Marshall legal educational opportunity program. This \$3 million program has been left for dead before, but resuscitation efforts have succeeded in the past.

Bureau of Labor Statistics

The Senate Committee approved the Administration's request for a \$13.5 million increase for the Bureau of Labor Statistics. The FY 2006 mark is \$542.5 million; the same as the House. The Senate report notes the continuation of the Mass Layoff Statistics program.

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rather than allowing the appropriations panels to determine the agency's structure and funding priorities. With the appropriators doubling NIH's budget from 1998 to 2003, reauthorization is an even higher priority to the Committee.

Ranking Subcommittee Member Sherrod Brown (D-OH), agreed that reauthorizing the NIH is a high priority, but signaled his unhappiness with the short time period that members had to examine the Committee's proposed bill before the hearing. He noted that "while this committee has had numerous hearings on NIH . . . [m]embers of Congress and stakeholder groups have had less than a week to review legislation that translates general concepts into operational changes in a very complicated structure." Brown argued for more time for scrutiny "so that the bill does what we think it does and that those changes are beneficial." Ranking full committee member Rep. John Dingell (D-MI) and Rep. Michael Bilirakis (R-FL), who chaired the Subcommittee for a decade, also indicated concern about the short time frame. Bilirakis cautioned that "haste makes waste" and conveyed his hope that whatever is done "will not cause more harm than good."

Dingell also pointed out that the "proposed concentration of budget, management, and grant-making authority in the office of the NIH... may go further than necessary to achieve these goals." He also expressed concern that the draft bill establishes four specific authorizations of appropriations line-items that "may dramatically impact the ability of the constituencies of the 27 research institutes and centers (ICs) from having a place at the table in the appropriations process."

THE PROPOSED NIH BILL WOULD:

- Assign the NIH Institutes and Centers (ICs) to one of two categories: institutes with "mission-specific" responsibilities, and those with "science-enabling" responsibilities.
- Establish a Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI) within the Office of the Director, a Division of Program Coordination, Planning, and Strategic Initiatives.
- Limit the number of "mission-specific" institutes to fifteen, and "science-enabling" institutes to nine.
- Allows the NIH Director, with the approval of the Secretary of Health of Human Services, to reorganize the ICs, "including the addition, removal, or transfer of functions of such institutes and centers... and [their] establishment or termination... if the Director determines that the overall management and operation of programs and activities conducted or supported by the National Institutes of Health would be more efficiently carried out under such a reorganization."
- Allows the NIH Director, with the approval of the Secretary, to reorganize the offices within the Office of the Director, including the addition, removal, or transfer of functions of such offices, if the Director determines that the overall management and operation of programs and activities supported by such offices.
- Eliminates the Director's Discretionary Fund
- Mandates the NIH Director to appoint an advisory council within the Office of the Director to advise on matters related the policies and activities of DPCPSI, including making recommendations with respect to the conduct and support of research.
- Authorizes appropriations for FY 2007 – FY 2009, for four line items: 1) Office of the Director; 2) DPCPSI; 3) "mission-specific" institutes; and 4) "science-enabling" ICs. The draft does not provide specific dollar figures for these authorizations.
- Authorizes the NIH Director to transfer funds from ICs for research identified as pursuant to DPCPSI, and to transfer funds between ICs. Limits the amount by which funding may be reduced. Transfers would be subject to the approval of the Director's Advisory Council.

Reps. Henry Waxman (D-CA) and Diana DeGette (D-CO) declared that the NIH "is not an agency which is broken." Waxman cautioned that changes to improve

the agency must be “thoughtful and measured.” We must be certain, he said, that we are not unintentionally taking actions which “reduce the very features that have made it strong.” DeGette stressed the need to maintain the autonomy currently exercised by the 27 ICs. Rep. Michael Burgess (R-TX) agreed that they should not be consolidated.

The proposal to further enhance the power of the NIH Director led Rep. Thomas Allen (D-ME) to question to what degree the Director should “have the authority to add, remove, and transfer institute responsibilities without ensuring a transparent public process.” He also warned that concentrating power “could result in ideological and political considerations trumping good science.” Rep. Heather Wilson (R-NM) expressed support for the prioritization of research and the flexibility provided for the NIH Director to fund particular research projects.

One of the “goals” of the Committee, Waxman counseled, should be to “maintain and defend the peer-review process, which is at the heart of [the NIH’s] strength...” Rep. Tammy Baldwin (D-WI) expressed concern about this as well. She noted, “I have observed ongoing and recently heightened efforts to politicize science and the conduct of research, and I believe we have to insist upon safeguards to prevent this.” The “time-tested peer-review process must be protected at all costs,” she argued.

Zerhouni Responds to the Proposal

In his seventh appearance before the Committee, NIH Director Elias Zerhouni reminded the Committee that the NIH’s basic authority comes from the Public Health Service Act, Section 301, which states that the Director will “*encourage, cooperate with and render assistance to other appropriate public authorities, scientific institutions and scientists in the conduct of -- and promote the coordination of -- research, investigations, experiments, demonstrations and studies relating to the causes, diagnosis, treatment, control and prevention of physical and mental diseases...*”

“What the committee is doing is actually trying to reinforce this fundamental authority,” Zerhouni argued. According to the NIH Director, these basic authorities allow the agency to prioritize research into a fundamentally organizational structure; institutes and centers that are created for special purposes and related to perceived scientific opportunities or public health priorities.

Zerhouni asked, “What is the organizational challenge we need to tackle as we go into an era of biomedical and behavior and social science research that is characterized by much more complex problems - - problems that affect an entire population at times; problems that affect an aging population; conditions that have become more chronic, more long-term than the conditions we dealt with 30, 40 years ago? The landscape has changed and [the NIH] needs to adapt as well,” he observed.

According to Zerhouni, the Committee is “correctly focused on organizational efficiency and effectiveness, which is the principle challenge for an increasingly large and complex organization.” He agreed that the NIH needs an organization, such as the proposed Division of Program Coordination, Planning and Strategic Initiatives (DPCPSI), to serve as a coordinating office for evaluations on the progress of science in the context of public health priorities.

This division will have the responsibility of analyzing and reporting the portfolio of NIH research that “crosses the boundaries of multiple Institutes” and will identify “trans-NIH research needs that no single Institute can address but that all of NIH needs to support,” he explained. Noting that the Administration has proposed the creation of such an office, Zerhouni voiced his support for it as long as it is able, “through a codified process that includes participation from all of the Institutes and the scientific community at large, to allocate resources to initiatives that serve the common good.” It would be subject to review by an advisory committee (See *UPDATE*, March 21, 2005), but would not “actually conduct the research resulting from any initiatives that it identifies.”

Zerhouni pointed out that the Committee’s proposal to categorize the ICs into either “mission-specific” or “science-enabling” responsibilities has “resulted in the perception that one category is more significant than another.” Noting that he understands that this is not its intent, the director emphasized that all of the ICs support vital research. “Their research is of equal value to the scientific community,” but that he “will work with the Committee to clarify the roles of each of NIH’s Institutes and Centers.”

Defunding Grants

Responding to Rep. Waxman’s question as to whether he believed the NIH director should be able to defund a grant that has already passed institutional peer review, Zerhouni stated that it “would have to be really a very, very scientifically justified reason... issues of

integrity of the science; misconduct,” but “not on the basis of a political decision.” Waxman’s question was in reference to language in the bill that would make the NIH Director responsible for eliminating “unnecessary, duplicative research and for ensuring balance in research.” Chairman Barton made his belief clear that “nothing in the current draft legislation in any way denigrates the peer-review process.”

With regard to the NIH’s transfer authority, Zerhouni noted that “balance is key here...A dictatorial transfer authority would not work...” The Director should lead a trans-NIH planning process in which everybody is at the table to identify major cross-cutting issues in their associated research. “Not having any such authority removes the accountability of the Director to be able to direct the agency to do what it needs to do,” he explained.

Barton asked Zerhouni if he supported the general concept of going “from multiple [authorizing] line-items, in this case, from 26 down to four.” The NIH Director said that he thought the conceptual approach the Committee has taken is, in his view, “a good approach.” The plan of implementation, he said, “is obviously something we need to work on.” When asked by Baldwin whether he was comfortable with legislation that places a limit on the number of institutes in the two categories, Zerhouni responded that while the issue should be subject to a public process, as recommended by the Institute of Medicine (IOM), he believes that “limits are good thing.”

Rep. Lois Capps’ (D-CA) inquired about an IOM-recommended, trans-NIH fund. Zerhouni explained that he did not think it “necessary for the Director to have grant-implementation authority... You don’t want to create an institute,” he advised. When Capps also asked about the creation of the new division, DPCPSI, he replied that the division should provide “synchronization and coordination.” Zerhouni did not think “that the division should be in charge of all strategic planning for all missions of the NIH.” Regarding certain components of the DPCPSI, including OBSSR and the Office of AIDS Research, he insisted that they “should continue their role” in a coordinated fashion.

Finally, Rep. Gene Green (D-TX) noted that the current organizational structure of NIH “affords the institutes and center directors with a great amount of authority in priority setting.” He called attention to the autonomy of the NCI with its by-pass budget authority, and asked whether Zerhouni envisioned the

NCI retaining that authority to go directly to Office of Management and Budget. The Director reiterated that he did not “think that the NIH director has the sole-priority setting authority,” and again stressed the need for balance. “I think the institutes should retain their fundamental missions and authorities,” he added. As far as NCI, “I think that it should be preserved, provided that they also participate in the common fund and the common good,” he argued.

The bill is scheduled to be marked up by the House in September, but still faces an uncertain future. If it passes the House, the Senate may not have sufficient time left in this legislative year to enact the reauthorization.

NIJ HOLDS CONFERENCE ON CRIMINAL JUSTICE RESEARCH

On July 18 – 20, researchers and practitioners from across the nation convened for the National Institute of Justice’s (NIJ) annual conference on criminal justice research and evaluation. The event, held in Washington, DC, offered three days’ worth of panels and discussions on the most pressing issues in criminal justice research today.

The conference began with opening remarks from NIJ Director Sarah V. Hart, followed by a panel moderated by now-Assistant Director for Research and Evaluation Thomas Feucht (see *UPDATE*, July 11, 2005). This plenary panel focused on evidence-based practices and researchers’ ability to provide the evaluation that criminal justice policymakers need. Afterwards, attendees were given several concurrent panels to choose from on a wide range of criminal justice research topics, including strategies to reduce homicide and gun violence, trends in electronic crime, drug courts, and violence against women. Stephen Goldsmith, a professor of government and Director of the Ash Institute’s Innovations in American Government program at Harvard University’s John F. Kennedy School of Government, delivered the keynote presentation on the need for political leaders to become catalysts for evidence-based innovations.

Neighborhoods and Racial Disparities in Violence

Tuesday’s agenda began with a panel moderated by John S. Morgan, Assistant Director for Science and Technology at the NIJ, entitled “Marrying the Physical and Social Sciences: DNA Forensics as a Case in Point.” A highlight of the first round of concurrent panels was a

discussion of the policy lessons learned from recent longitudinal research on criminal behavior in relation to neighborhoods, race, and adolescent employment. Jeffrey Morenoff, an associate professor at the University of Michigan, elaborated on his NIJ-supported paper, "The Social Anatomy of Racial and Ethnic Disparities in Violence." Morenoff explained his views as to why criminal justice literature has thus far failed to explain the racial disparities in crime. He pointed out that many explanations remain untested, with few studies that are truly multi-level, longitudinal research of crime and youth violence. In addition, he argued that most studies ignore Latinos, which creates a sizeable gap of missing information that could be key in deciphering crime indicators.

Using the Project on Human Development in Chicago Neighborhoods (PHDCN), Morenoff looked at socioeconomic status, immigration status, and criminal offenses, among other factors, in each of the 80 focal neighborhoods of the project. In looking at the five sub-studies used by the PHDCN, Morenoff found that African Americans in the focal neighborhoods were more likely than Mexicans and Whites to commit violent crimes. For all races, the curves peaked in the 16-19 year old group, with Mexicans having the least propensity of the three groups to commit violent crimes.

Of the numerous factors that were examined for the purpose of finding developmental causes of violence, the single factor that consistently came into play, argued Morenoff, was neighborhood context. He found that the more immigrants in a given neighborhood, the less inclined the neighborhood was toward violence. Also, as affluence in the neighborhood increased (numbers of people holding professional and managerial positions), the community was proportionately more protected against violent crimes. One of the more interesting and surprising factors that Morenoff found was legal cynicism; the fewer people in the neighborhood that trusted the legal system and government, the higher the likelihood of violence. Individual factors such as immigrant generation, marital status of parents, length of residence in the neighborhood, IQ, and impulsivity account for a significant portion of disparities. However, Morenoff argued, when neighborhood context is added into the equation, it explains an additional 33 percent of the gap.

Christopher Uggen, a professor of sociology at the University of Minnesota, followed Morenoff by presenting his findings on the relationship between work and crime. He opened his presentation by arguing that often, researchers and policymakers get caught up in the "big picture;" ensuring the implementation of broad policy initiatives related to work and crime without truly

examining the details and contingencies that can "make or break success" in this area. Uggen went on to explain some of the problems associated with using current crime and employment theory. In reality, he said, risk-prone people are embedded in two different opportunity structures. While the traditional focus has remained on how extensive their job opportunities are in the mainstream workforce, he argued that we also need to focus on the quality of their illegal job opportunities, which are often "rich and dense." For adolescents, social controls and life-course timing also play leading roles.

His studies found that as autonomy, wages, and managerial status increased, so did adolescents' propensity for delinquency. Of the adolescents who worked, jobs that supported their education, promoted learning, were long in duration, paid lower wages, and had minimal peer contact showed the best results for this age group, according to Uggen.

Elliott: Eliminate Ineffective Prevention Programs

The luncheon keynote address on Tuesday was delivered by Delbert S. Elliott, Director of the Center for the Study and Prevention of Violence at the University of Colorado. Elliott's presentation focused on distinguishing the most effective crime prevention programs and intervention strategies from those that are ineffective or harmful.

Overall, Elliott argued that some of the most effective programs in the marketplace today are unable to expand on a national level because they simply lack the resources to do so. If we can eliminate programs that have proven to be ineffective or harmful over time, we can find the monies needed to take the best programs to a higher level, he argued. The fact that most serious crime patterns are initiated in the second decade of life, Elliott explained, tells us two things: first, that individuals do not necessarily start out as criminals; and second, that it is important to intervene in order to prevent such behavior before children enter into adolescence. The most protective factors for individuals, he argued, were a commitment to moral action, high IQ, positive social orientation, and high academic achievement. Also, children who were most protected against criminal activity were those who had a commitment to and positive outlook toward school.

Elliott contended that most programs fail not necessarily because of the quality of their concepts, but because of a low quality of implementation. He named several of the most effective programs in practice today, along with a list of those that show promise. However,

he argued, we must implement only the proven programs and include a mandatory evaluation component for funding those that are unproven. As for the ineffective or harmful programs, Elliott was resolute in calling for their discontinuance, regardless their political connections.

Can the Law Keep Up With Emerging Surveillance Technology?

Another interesting panel during day three of the conference included a discussion of how the newest innovations in surveillance technology for detecting potential threats such as bombs or concealed weapons may legally impact privacy and policy. Julie Raffish and Carlos De La Guerra, both deputy city attorneys in the Los Angeles City Attorney's Office, posed the question, "Emerging Surveillance Technology: Can the Law Keep Up?" Raffish began by setting forth the two major legal issues that come into play where surveillance technology is concerned: the first is admissibility of evidence, and the second is the constitutional constraints of the fourth amendment. The first question that always needs to be addressed where technology and the fourth amendment are concerned is whether or not using a given technology constitutes a "search," Raffish explained. Throughout the past five decades, there has been a progression of case law that defines a "search," ultimately concluding that using a given technology requires a warrant if it allows law enforcement to see or ascertain information that they would have been unable to obtain any other way without a physical search.

To illustrate this principle, Raffish explained the case of *Kylo v. United States*, in which a thermal imaging device was used by law enforcement to detect marijuana cultivation in a residence. But in terms of individuals, not residences, the fourth amendment forbids "unreasonable" search and seizure, but not all search and seizure, she explained. As such, the courts use a two-pronged test to determine if an individual's rights have been violated during a search: a) does the person exhibit an actual (subjective) expectation of privacy?; and b) is that expectation one that society is willing to recognize as reasonable?

De La Guerra then began a discussion about what measures in this day and age can be taken to reduce the expectation of privacy for individuals. He pointed out several major characteristics that can be taken into consideration when attempting to balance the privacy interests of the individual with the government's need to gain information. Whether the enhanced technology is being used from a public or private vantage point, whether personal items as well as potentially dangerous items can be seen during surveillance (level of intrusion), whether detaining the individual is required in order to screen them, and whether individuals are given sufficient notice of the search as well as an opportunity to decline or not participate in it are all major factors that must be accounted for when deploying new technologies. For an expanded discussion on the evolution of privacy and technology, transcripts of COSSA's recent congressional briefing entitled, "Protecting Privacy: How Much Are We Willing to Give Up?" will be available in the coming month. Watch *UPDATE* for details.

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The Consortium of Social Science Associations (COSSA), an advocacy organization for Federal support for the social and behavioral sciences, was founded in 1981 and stands alone in Washington in representing the full range of social and behavioral sciences.

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OSTP/OMB SEEK REACTIONS TO MULTIPLE INVESTIGATOR PROPOSAL

In a Federal Register notice on July 18th (pp. 41220-41222), the Office of Management and Budget (OMB) and the Office of Science and Technology Policy (OSTP) issued a request for information about a proposal to allow multiple Principal Investigators (PIs) on awards made under Federal research and research-related programs.

On January 4, 2005 OSTP issued a memorandum to all Federal research agencies requiring them to permit more than one PI on individual research awards. OSTP argued that many areas of today's research necessitate multi-

disciplinary teams “in which the intellectual leadership of the project is shared among two or more individuals.” The Federal agencies are now seeking input from the research community on how best to implement this policy.

Several core issues are still under consideration. OSTP wants to know if there are any difficulties associated with listing more than one individual as a PI. The current expectation is that institutions could designate any investigator “whom they judge to have the appropriate level of authority and responsibility” related to conducting the study.

OSTP would require the institution to designate a “contact” PI in order to facilitate communication, and wants to know if this could potentially pose problems. It also asks several other questions, including: What application instructions are necessary to reflect the new policy of multiple PIs? What complications could arise from having multiple PIs from different institutions? How should agencies recognize PIs in a team effort involving multiple departments and institutions? What issues should the agencies consider in deciding on the most appropriate award structure?

Further issues concerning access to award and review information, access to public data systems, and listing in agency databases are also part of OSTP’s inquiries.

Comments should be addressed to Beth Phillips, Office of Federal Financial Management, at ephillips@omb.eop.gov . **They must be received by September 16, 2005.** For further information contact Geoff Grant at ggrant@ostp.eop.gov or (202)456-6131.

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