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OFFICE OF THE VICE PRESIDENT – RESEARCH AND INNOVATION

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Submitted through: https://rfi.grants.nih.gov/?s=642efed5df978d53f508c072

October 9, 2023

Office of Laboratory Animal Welfare
National Institutes of Health
6700B Rockledge Drive, Suite 2500, MSC 6910
Bethesda, MD 20892

RE: UC Comments in Response to Request for Information (RFI) on Flexibilities for Streamlining IACUC Review of Protocols and Significant Changes (NOT-OD-23-152)

Dear Sir or Madam:

I write on behalf of the University of California (UC) system regarding the Request for Information (RFI) on Flexibilities for Streamlining IACUC Review of Protocols and Significant Changes (NOT-OD-23-152) issued on July 11, 2023.

The UC system – comprised of ten campuses, six academic health centers, an Agriculture and Natural Resources division, and three affiliated U.S. Department of Energy national laboratories – stands at the forefront of cutting-edge research and technology development. The UC system supports the integrity and credibility of research findings and protection of research animals, as expressed in the 21st Century Cures Act. UC is committed to animal health, safety, and welfare, while simultaneously reducing administrative burden. We appreciate this opportunity to provide input on potential flexibilities for streamlining IACUC review of protocols and significant changes.

We submit the comments and recommendations below for your consideration. In addition, as a member of the Council on Governmental Relations (COGR), UC supports the comments that the Council has submitted on its members' behalf. Similarly, as a member of the National Association of Biomedical Research (NABR), UC supports the comments that the Association has submitted on its members' behalf.

Recommendations for the examples provided

1. "Designated member approval does not require subsequent reapproval by the IACUC at a convened meeting."

UC recommends adding the clause "or notification to" to the eighth example under the Proposed Guidance for Streamlining Designated Member Review (DMR) section. It should read, "Designated member approval does not require subsequent reapproval by, ***or notification to***, the IACUC at a convened meeting." This change is consistent with the fourth example under the Proposed Guidance for Streamlining Veterinary Verification and Consultation (VVC) and the third example under the Proposed Guidance for Streamlining Administrative Handling of Increase in Previously Approved Animal Numbers sections.

2. "The IACUC may expedite the three-year complete review of an ongoing protocol that is due to expire. This may only occur during extenuating circumstances, such as disasters impacting research or extended unplanned PI unavailability. The intent of this flexibility is to permit the continuation of research in accordance with PHS Policy IV.C.5."

UC does not believe that "expedite" is the best term to use to describe this process as human subjects researchers and research administrators already use a similar term, "expedited", to describe the review of activities where there is no greater than minimal risk to the human subjects and the activities fall into at least one of nine federally-defined categories. Applying the term "expedite" to describe a shortened Designated Member Review period may be confusing, particularly for researchers and research administrators that are involved in both animal and human subjects research. We propose using a different term such as "accelerated", "abbreviated" or "shortened" to describe the proposed IACUC process and will help avoid this confusion.

The RFI states that the "expedited" review process may only be used "during extenuating circumstances." Since maintaining an exhaustive list of extenuating circumstances is not possible, who at an institution may determine when it is appropriate to use the "expedited" review process? It is likely that each institution will have different definitions of "extenuating circumstances."

Additionally, one of the provided examples of an extenuating circumstance is an "extended unplanned PI unavailability." The UC sees a few issues with this scenario:

- Unless there is a Co-PI already associated with the expiring protocol, there would be no individual in an appropriate position to confirm to the IACUC that the animal work on the new protocol will be performed according to all applicable regulations and policies. Who would be responsible for overseeing the animal work on the new protocol?
- While the details of this example do require some clarification, the intention ultimately seems to be avoiding the euthanasia of research animals or their transfer to a holding protocol by allowing the animal work to continue unchanged during an extenuating circumstance. If this is the case, it should be explicitly stated so that Assured institutions fully understand the purpose of allowing a protocol to undergo an "expedited" review process.

3. "For both FCR and DMR, the use of alternate IACUC members may help to ensure timely review and approval of animal activities. However, alternates may only serve when the regular member is truly unavailable (e.g., out of the office, on sabbatical, travelling) (NOT-OD-11-

> 053). The IACUC should have a procedure to identify when an alternate is serving, and which alternate is serving in place of a regular member for DMR, FCR, or other IACUC activities."

While not a part of the Information Requested section, UC would like to comment on the above paragraph from the Full Committee Review (FCR) and DMR subsection of the Background. We recommend removing the word "truly" from the description. The use of this term suggests that there are situations where an IACUC member may indicate that they are unavailable to fulfill their role during the FCR or DMR processes, but should not be considered unavailable if their reason does not meet this Notice's definition of "unavailable". This term is not used in Office of Laboratory Animal Welfare's (OLAW) NOT-OD-11-053, "Guidance to Reduce Regulatory Burden for IACUC Administration Regarding Alternate Members and Approval Dates." UC finds the use of this term to be problematic as it would likely require IACUC administrators to inquire further into the nature of a member's absence. This inquiry could be considered an invasion of an IACUC member's privacy. The UC IACUC administrators trust the decisions of their committee members when they inform us that they are unavailable to participate in the FCR or DMR process.

Further, the statement that the "IACUC should have a procedure to identify when an alternate is serving, and which alternate is serving in place of a regular member for DMR, FCR, or other IACUC activities" seems to exceed the scope of the referenced notice, NOT-OD-11-053, "Guidance to Reduce Regulatory Burden for IACUC Administration Regarding Alternate Members and Approval Dates." NOT-OD-11-153 does not indicate that IACUCs need a procedure to identify when an alternate is serving and who that alternative is.

Comments on Request For Information Notices

The UC IACUCs find the Request For Information (RFI) in National Institutes of Health (NIH) Notice NOT-OD-23-152 to be scant on novel guidance for encouraging the use of DMR, DMR subsequent to FCR, VVC, and administrative handling of increases in previously approved animal numbers. Most of the suggested flexibilities are either restated guidance from previous publications or processes that are already being used at our campuses based on our interpretations of previous guidance. For instance, the second example in the "Proposed Guidance for Streamlining DMR" section is just a restatement of OLAW FAQ D.22. Similarly, the third example in the same section is mostly a restatement of NOT-OD-14-126, "Guidance on Significant Changes to Animal Activities." The relatively minor recommendation that DMR not be used for studies where United States Department of Agriculture (USDA) species are involved does not help with streamlining reviews and could have been published as an answer to Frequently Asked Question D.3. on the OLAW website.

The UC IACUCs do not find soliciting stakeholder input on these relatively minor clarifications through the RFI process to be conducive to the mandate of the 21st Century Cures Act as reviewing and responding to these requests places additional burden on IACUC administrators. While the UC system does appreciate the opportunity to provide stakeholder input on proposed changes to animal

research regulations, we would prefer if RFIs were only sent when a there is a significant change to how OLAW expects Assured institutions to run their animal care and use programs.

The following are a few examples of potential regulatory changes and clarifications that can be made by OLAW which would result in a meaningful reduction of administrative burden for researchers and research administrators:

1. Public Health Service (PHS) Policy IV.A. states "Approval of an Assurance will be for a specified period of time (no longer than five years) after which time the institution must submit a new Assurance to OLAW." If it is possible for an institution's Assurance to be approved for up to five years, why does OLAW only ever approve an Assurance for, at most, four years? Allowing an institution's Assurance to be approved for the five-year maximum, would help reduce administrative burden. Perhaps OLAW would consider a five-year Assurance approval period for institutions that are AAALAC accredited.

   There are a number of other changes OLAW could make to the Assurance renewal process to reduce the burden of research administrators. For example, OLAW could revise Section III, "Institutional Program for Animal Use and Care", of the Assurance template to have fewer open-ended questions and not require as much detailed input from an institution, similar to the other Sections in the template. Many of the procedures and actions an institute is required to describe in detail in its Assurance (e.g., protocol review, semiannual inspection, etc.) do not have much variation in how they are conducted by different institutions. If OLAW would include in the Assurance template the exact language (i.e., references) from the PHS Policy, *Guide*, or OLAW Notices that institutions are required to follow, this would greatly reduce the amount of detail an institution would need to provide in their responses. The Office for Human Research Protections (OHRP) previously changed the Federalwide Assurance for the Protection of Human Subjects to a similar format, and human subjects research administrators have had generally positive comments about the change.

   Additionally, if OLAW were to remove the requirement for periodic Assurance renewal entirely, as USDA-APHIS has removed the requirement for institutes to renew their registration, this would be a significant reduction in administrative burden. An institution's Assurance is a "living document", meaning that it is modified by the IACUC as needed to fit the needs of their program. Each year, Assured institutions send a list of the (usually minor) changes to their Assurance from the previous twelve months to OLAW as part of their Annual Report. Since Assured institutions already report any changes to their Assurance to OLAW, it seems unnecessary to require the full Assurance be submitted for renewal. This change would also likely reduce the administrative burden to OLAW as they would no longer have to read through lengthy Assurance documents for each renewal.

2. To further reduce IACUC administrative burden, UC recommends extending the maximum period for which an IACUC protocol may be approved to five years. Since many federal

awards are active for a period of five years, having an IACUC protocol approval period to match that timeline would be beneficial for both researchers and research administrators. If this is not possible, OLAW should explain why three years was chosen as the maximum length of time for which a protocol could be approved.

3. Another suggestion that would greatly reduce IACUC administrative burden is to modify the Just-in-Time (JIT) process to be more flexible for researchers working with vertebrate animal subjects. When a researcher receives a JIT notification for an award involving animal subjects, they are required to provide the date of approval for the IACUC protocol that will be associated with the award. However, this creates a situation where the researcher must rush to get an IACUC protocol approved to respond to the Just-in-Time notification within 120 days, but often more quickly. If a researcher has no other funding sources associated with that protocol, it is likely that they will not submit the protocol for IACUC review until they are notified of the potential for funding and JIT documents are requested. Setting a narrow time frame for researchers to confirm that they have received IACUC approval for the project's animal subject use is burdensome for both researchers and research administrators. If NIH were to accept an institutional Sponsored Projects Office's certification that a researcher's IACUC protocol approval is pending, but will be in place before animal work begins (should the award be funded), this would significantly reduce administrative burden for researchers and research administrators.

Thank you for the opportunity to comment on NOT-OD-23-152. UC is appreciative of NIH and OLAW's continuing efforts to reduce administrative burden for researchers and research administrators. We look forward to continued engagement on this important issue.

Sincerely,

Deborah Motton, Ph.D.
Executive Director
Research Policy Analysis and Coordination
University of California, Office of the President