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August 13, 2001

Brooke Dickson
 Office of Information and Regulatory Affairs
 Office of Management and Budget
 Washington, D.C. 20503

Dear Ms. Dickson

This letter provides comments on the "Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies" published in the Federal Register on June 28, 2001.

We agree that federal agencies should ensure that information provided by the federal government is as reliable as possible. However, in general, we believe that existing agency procedures already provide adequate assurances in this regard, especially concerning the release of scientific information. We believe the imposition of new, redundant tests and checklists that must be satisfied before information is released may be contradictory to the goal of transparency in government, and the spirit of the Paperwork Reduction Act, Freedom of Information Act and other federal law. In this regard, we appreciate that the OMB's notice states that agencies are encouraged "to rely, to the extent possible, upon existing agency processes for evaluating information dissemination activities rather than require the creation of new and potentially duplicative or contradictory processes."

However, we remain concerned that the effect of the June 28 notice may be to make release of government information more cumbersome. Prominent among our concerns here is the new requirement that agencies must consider "whether the information is useful to all users of the information, including the public." We believe that the Paperwork Reduction Act already addresses this objective adequately and that the June 28 notice imposes new and unnecessary obstacles to releasing information. There is no single "public," and information may be useful to some members of the public and not to others. Furthermore, we are concerned that this test may provide still another avenue for interested parties to impede release by the government of material to which they object on political or economic grounds, simply by challenging its "usefulness" to an ill-defined "public." One of the historic roles of research universities is to assist the public to answer questions and obtain

information. We believe the benefit of the doubt should lie in favor of releasing information already in the government's possession (subject to appropriate protections for national security, confidentiality, privacy and proprietary value).

The June 28 notice has raised a number of serious concerns within the scientific and academic community. Foremost among our concerns is the degree to which research performed by university faculty with federal support may fall within the scope of this notice. We believe that, given the intent of these guidelines as we understand them, it would be inappropriate to include within the scope of the notice faculty research supported by federal grants. However, the definitions of "dissemination," "government information" and "government publication" contained both in the June 28 notice and in Circular A-130, (6)(e, h and i) do not provide adequate reassurance that faculty research results are excluded from the June 28 notice. We would strongly oppose the imposition of confusing new requirements on faculty that could limit their right to publish under long-standing academic practices.

We believe that the June 28 notice exceeds the statutory mandate contained in Public Law 106-554. The statute does not require specific reference to scientific research information, and we would urge that paragraph V.ii.a. ("With respect to scientific research information, the results must be substantially reproducible upon independent analysis of the underlying data") be deleted altogether. If that paragraph is not deleted altogether, we urge that it be clarified. Who is to perform said independent analysis, and who is to pay for it? Will there be safeguards to ensure that the parties doing this analysis are themselves objective and have scientific credibility?

Because the statute requires "administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply" with these new rules, we are troubled at the prospect of interested parties seeking to review, with the intent of discrediting, the scientific basis for any position taken by the government. We do not believe OMB should establish procedures that could facilitate the harassment of scientists who may be investigating questions of economic or social importance, simply because someone may dislike the conclusions reached through those investigations. Safeguards should be provided to prevent frivolous challenges and harassment. At a minimum, "affected persons" should not be permitted to challenge the substance of information without showing that a qualified scientist has found fault with its quality or integrity.

The term "substantially reproducible" also raises many questions. Original research results are necessarily published before they have been replicated. Such results may be challenged later, and this is part of the long-standing process of scientific progress. However, the "substantially reproducible" standard may interfere with the publication of research results and delay important scientific discoveries from being publicized. If the entire paragraph is not to be deleted, we urge clarification that existing agency review procedures, including grant approval through peer review panels, as well as long-standing peer review requirements for publication in reputable scientific journals, satisfy the requirements of this paragraph.

If paragraph V.ii.a. is not to be deleted, we urge clarification of the term "underlying data." We hope this term could be defined in a manner consistent with other existing federal policies and guidelines.

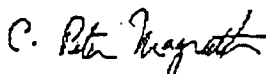
In general, we find the June 28 notice confusing, raising many questions that merit serious review. For this reason, we question whether OMB can promulgate a notice that adequately addresses these questions and satisfies the public interest within the short time between the August 13 deadline for comments and the September 30 mandate for issuing these guidelines. We would encourage OMB to request that Congress extend the September 30 deadline.

We hope these comments are helpful and would be pleased to be of assistance to the OMB in any way that we can.

Cordially,



Nils Hasselmo
President
Association of American Universities



C. Peter Magrath
President
National Association of State Universities and Land Grant Colleges