

ASSOCIATION OF UNIVERSITIES FOR RESEARCH IN ASTRONOMY, INC.



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OPERATING FOR THE NATIONAL SCIENCE FOUNDATION

Gemini Observatory
La Serena, Chile & Hilo, Hawai'i

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Space Telescope Science Institute
Baltimore, Maryland

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Boston University 1993
California Institute of Technology 1972
Carnegie Institution of Washington 1997
Fisk University 2010
Georgia State University 2008
Harvard University 1957
Indiana University 1957
Instituto de Astrofísica de Canarias 2005
Iowa State University 1992
Johns Hopkins University 1982
Kiepenheuer-Institut für Sonnenphysik 2005
Massachusetts Institute of Technology 1981
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Montana State University 2005
New Jersey Institute of Technology 2010
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University of Florida 2002
University of Hawaii 1978
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University of Maryland 1986
University of Michigan 1957
University of Minnesota 1995
University of North Carolina at Chapel Hill 1995
University of Pittsburgh 2012
University of Texas at Austin 1972
University of Virginia 2003
University of Washington 1986
University of Wisconsin 1957
Vanderbilt University 2010
Yale University 1958

January 30, 2015

Suzanne H. Plimpton,
Reports Clearance Officer
National Science Foundation
4201 Wilson Boulevard
Arlington, Virginia 22230

Dear Ms. Plimpton,

I am responding to the Federal Register notice of 12/30/2014 on the proposed "Implementation of Proposed NSF Management Fee Policy". This comment is submitted on behalf of the Association of Universities for Research in Astronomy (AURA). We support the intent of this proposal and welcome the clarifications.

AURA is a non-profit organization which has acted under a cooperative agreement with the NSF to operate astronomical facilities for the benefit of the scientific community. A nonprofit organization is an entity organized and operated exclusively for charitable, scientific, or educational purposes, of which no part of net earnings inure to the benefit of any private shareholder or individual, and which is exempt from Federal income taxation under section 501 of the Internal Revenue Code. AURA has limited other sources of income and depends on management fees as a crucial element of our long term financial viability.

Dating back to the Bell Report of 1962, issued by the Bureau of the Budget and signed by President Kennedy, the Government has recognized the need to provide fees to nonprofit organizations. Whereas fees paid to for-profit entities provide contributions to profits, modest fees paid to nonprofit organizations provide some degree of operational stability, including operating capital and the ability to meet ordinary business expenses not reimbursable under Federal awards.

As is evidenced by NSF solicitations for major facility management awards over the past several years, eligibility is open to academic institutions, non-profit institutions, and for-profit institutions. For-profits institutions may be awarded up to 15% profit on research and development work, or 10% on other work. The less than 1% average management fee for non-profits presents a substantial challenge in remaining competitive with such other entities, which have many diverse sources of income and typically much more reserve funding. Elimination of management fees, or sharp limitations on the flexibility for using them exacerbates this inherent competitive disparity.

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The new proposed policy on management fees would permit their inclusion in cooperative agreements for non-profit managing organizations for the construction or operation of large facilities. Specific purposes would include:

- Working capital necessary to fund operations under an award
- Facilities capital necessary to acquire assets for performance
- Amounts for other expenses that are ordinary and necessary for business operations but that are not otherwise reimbursable under the governing cost principles.

The proposed policy includes a list of uses of management fee that are discouraged. For the most part, these are appropriate guidelines.

We believe that the NSF should consider a fee proposal for each cooperative agreement and enter into negotiations that best suit that agreement and the Managing Organization's needs. In instances where a managing entity has more than one operation receiving management fee, management fee income has been used to the benefit of NSF on an aggregate level, not specifically related to one agreement, thus the NSF should consider an organization's overall needs. In general, we believe that management fee up to a 1% level of the annual award would suffice in most circumstances.


The maintenance of working capital for a non-profit organization is a long term need and cannot be quantified on an annual basis. In many cases it may take several years to build a retained earnings basis necessary to make an organization considered "credit worthy". It is critical that the NSF provide some flexibility in implementing this feature of the policy as circumstances arise.

The proposed policy states that "Information on actual uses of management fee previously awarded by NSF in the preceding five-year period under any award shall be included in the proposing organization's fee proposal. For incumbent awardees, fee proposals submitted in response to a NSF program solicitation shall include information regarding their management fee usage under the preceding award(s)."

We point out that the reports we will provide on past use of management fees will not fully conform to the proposed policy in this notice. Previous NSF audits have not required the segregation or justification of the use of management fee. The government and independent audits have been focused on ensuring that cost not allowable per federal regulations are not charged to the project cost, and have accepted use of management fee to cover those unallowable costs.

I hope these comments will be helpful to the NSF in finalizing this policy.

Sincerely,



William S. Smith, Jr.
President