

From: Sabrina Allan
Sent: Tuesday, September 15, 2015 3:39 PM
To: Craig Nessler; Bill McCutchen; David Lunt
Cc: Paula Mathers
Subject: USDA APHIS - Director's Guidance Requested

Dear Drs. McCutchen, Lunt, and Nessler,

We have a cooperative agreement in negotiation at SRS with USDA APHIS (attached). One of the terms included requires AgriLife to adhere to OSHA requirements, including reporting and recordkeeping (Article aa on Page 6 of 21); this language is new and has not been required in the past.

The end result of allowing this language, which is likely to be included in all amendments and new agreements under USDA, is the burden of conforming to the requirements of OSHA. After speaking with Mr. McGinnis, the Executive Director of Risk Management and Benefits Administration, we are currently not staffed with someone knowledgeable enough to make sure that we conform to these requirements and we are not fully aware of the burden that accepting this language would provide. From the date of signature we would be in breach of the requirements of this agreement as it is written now. We should be exempted as an agency of the State of Texas as OSHA covers most private sector employers and their workers. Workers at state and local government agencies are not covered by federal OSHA. Many folks have been involved in this, including OGC, Mr. Kevin McGinnis, and Ms. Robertson, the Director of the Environmental Health and Safety, a department under the Safety and Security and VP for Finance and Administration here at TAMUS.

Some background: This language has been run up through OGC; the initial recommendation by our office and OGC was to have the language removed as it was not applicable. Removal of the language was denied. OGC also spoke with Ms. Christina Robertson. The revised language suggested by OGC with the aid of Ms. Robertson was an overall acceptance of the language in the agreement but with a caveat that we would not be required to adhere to the burdensome recordkeeping and reporting requirements included in OSHA. This has been submitted to the sponsor for their review as of September 2nd.

USDA-APHIS has asked some follow up questions but no decision has been made by the sponsor as to whether or not the revised language would be accepted. Though they have not responded to the language provided on the 2nd of September, SRS has been told that funds will be de-obligated if a decision is not made by the 21st of September (next Monday). If the modified language is not accepted, there has been a request for guidance as to whether or not AgriLife would agree to this language as written.

As with TDA, this may require a higher level discussion with the sponsor as to why Texas A&M AgriLife Research would not be able to accept these terms. Please let me know if you would have an opportunity to discuss shortly.

Thank you,
Sabrina

Sabrina C. Allan, MBIOT, J.D. | Program Manager AgriLife Contract Office
| Texas A&M AgriLife Administrative Services
2147 TAMU | College Station, TX 77843-2147
P: (979) 862-2425 | F: (979) 845-0365
Sabrina.Allan@ag.tamu.edu<mailto:Sabrina.Allan@ag.tamu.edu> |
<http://agrilifeas.tamu.edu/co/index.php>