Meeting Synopsis:

1. Call to Order
2. Approval of the Minutes from October 9, 2013
3. Update on Research Funding
4. Overview of the Export Control and Security Compliance Program
5. Review of Procedures Regarding Classified/Restricted Research
6. Request of FCR Approval of a New Subcontract Agreement: Site Excavation and Research Agreement from The University of Queensland (Australia)
7. Adjourn

1) Call to Order
The meeting was called to order by Chair Miller at 9:00 a.m.

2) Approval of the Minutes from October 9, 2013
The minutes from October 9, 2013 were approved as written.

3) Update on Research Funding

Mary Lidstrom, Vice Provost for Research, provided an update on research funding at UW. At the end of June 2013 research funding had been down 16% compared to a year before due to sequestration cuts. However, in terms of the federal fiscal year (October 2012 – October 2013) research funding has increased 6%. Lidstrom mentioned that while this shows strong growth for UW as a whole, individual departments vary dramatically.

Lidstrom discussed a bridge program that her office coordinates which provides assistance to junior faculty obtain research funding. If a faculty member is having difficulties obtaining full funding Lidstrom’s office will provide 1:3 matching. Interestingly, the number of faculty taking advantage of this program has dropped from 20 to 7 in the past year.

Overall research funding to UW is up by 6% with federal awards remaining flat. The increase is primarily due to private money, such as the case of a large grant awarded by the Bill and Melinda Gates Foundation. Lidstrom explained that expenditures reflect awards the year before and expects the numbers to be relatively flat over the next couple of years to reflect the resources faculty members spend in their labs, as well as indirect costs for infrastructure. The 6% increase was not anticipated because UW received a lot of money in July and August. Many private funders were cautious and were waiting to see if the economy would crash due to sequestration, thus the reason for the pause in funding during Spring Quarter. Lidstrom mentioned that with the government recovering from the federal shutdown money is beginning to trickle in.

4) Overview of the Export Control and Security Compliance Program
Carol Rhodes, Associate Director for Office of Sponsored Programs (OSP), provided a background of the Export Control and Security Compliance Program. Executive Order #8 (EO 8) related to classified, propriety and restricted research was created with the intent to open research environment so individuals can conduct research without limitations imposed on them. Additionally, EO 8 is meant to allow for the freedom to select research topics and publish and disseminate results without limitations by the sponsoring agency.

The goal is to work within this environment, but OSP will not accept sponsored funding or enter into any other agreement that has restrictions on publication or dissemination of research results. An example would be a federal agency or private sponsor which will not allow UW to publish research without prior agency approval. It would be acceptable for agencies to impose restrictions due to national security purposed, in which case the principle investigator (PI) would require FCR approval. This occurs typically at the time of the award, not the time of the proposal. Rhodes explained that in many cases nobody knows this research is restricted until the time of the award. In many cases the terms as imposed by the industry sponsor in which the terms flow down through the agency to UW. This will prompt UW to back and forth with the industry sponsor to determine why the limitation is required, and if can be negotiated out there is no need to seek FCR approval. Other restrictions which OSP will bring to FCR for review include restrictions on participation (such as foreign nationals) and restriction of access to campus facilities.

Restriction types can be categorized as:

- Export-controlled information and data
- Controlled unclassified information
- Classified information
- Any sensitive classified information

Export-controlled information refers to the type of technology and data regulated under the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) which is considered sensitive to national security. Rhodes clarified that this relates to the sharing and shipment of information based on an individual’s nationality.

Sensitive unclassified information has lots of different types of limitations. This can be tricky at some times when a project is shared with a UW researcher who does not know the limitations imposed of them. An example would be a research working on an agreement originally with no federal restrictions then receiving information from a government agency sponsor with new limitations. While the project itself is not restricted, it is now in a gray area because the information received is restricted. Another tricky issue is the OSP often hears passing references to limitations that were not originally provided and need to act on.

Export-controlled information can be generated from UW research projects through departments such as UW-APL and Engineering. Unless the unit can argue the project is fundamental research then they will have to deal with making sure export-controlled information from UW is not shared in violations of federal regulations. Export-controlled information can also be generated from outside third parties contributing to projects, such as software.

Rhodes went into detail of UW’s process when there are potential restrictions on information and participants. At the time the award is received at UW OSP will review the project for any restrictive
language in the agreement. If none is found then OSP accepts the agreement. If there is restrictive language OSP will try to negotiate it out, but if that is not successful will forward to FCR’s subcommittee on Classified/Restricted Research. The subcommittee with make its recommendation which will then require approval by the council. Once approved, the PI will present FCR’s approval to OSP to accept the restrictions. OSP will then apply certain measures in which the PI needs to put into place called a Technology Control Plan (TCP) which is coordinated by Bob Connelly and Jim Polland. The TCP is an overall program for the university which has specific templates for different projects.

5) Review of Procedures Regarding Classified/Restricted Research

Daniel Vogt discussed the change and responsibility of the subcommittee on Classified/Restricted Research. The basic principle is to maintain an open academic environment with the obligation to eliminate any restrictions on open academic environment. UW will not enter into any contract or accept any grant which:

- Prohibits the open publication or dissemination of research results within a reasonable period of time
- Restricts participation on grounds other than interest of competence
- Restricts access to campus facilities in ways that are judged to disrupt the overall research activity of UW

Vogt clarified the second point that a project could restrict participation on the grounds that it involves a security clearance, a student is involved with the work, or foreign nationals participate on the project. A more specific restriction could include individuals from a particular country group which are considered high risk.

There may be exceptions in which there are circumstances related to special scholarly expertise of a faculty member, national security issues, and whether the academic benefits justify the limitations. In the cases that these exceptions come up the council will review the project to ensure that the academic benefits to the university, and the communities it serves, will justify the exception.

EO 8 established 3 primary criteria used to determine approval of a project:

- Involves unique UW capabilities
- Has substantial scholarly, scientific or educational benefits
- Constitutes a very substantial public service

If the PI can justify that the proposal meets one of these criteria then FCR can justify going ahead and assume the benefits outweigh the negatives. As part of the process the PI must answer 6 total questions from FCR which include:

1. What unique capabilities do your program and the UW bring to this proposed project?
2. Describe the scholarly, scientific, and/or educational benefits of this proposed project.
3. In what ways does the proposed project provide a public or community service?
4. In what ways, if any, will UW students (graduate or undergraduate) be involved in the project? If they participate in the research, will they require security clearance or have restrictions placed on their thesis, dissertation, or other academic activities?
5. Does the proposed project engender any restrictions on publications by the PI, members of the research team, students or postdoctoral fellows?

6. Are there any ‘foreign nationals’ working on this project?

The subcommittee will review the answers submitted by the PI and ask Carol Rhodes for input if needed. If more information is required the subcommittee may meet with the PI directly to clarify any outstanding questions. The subcommittee will discuss the materials provided and come to a consensus if it fits one of the three criteria previously mentioned prior to making a decision to approve or reject. There are four members on the committee and most proposals receive unanimous approval. Vogt mentioned that he can only remember one time in which a proposal has rejected a proposal. This is probably due to OSP setting a good foundation of the approval process.

Discussion ensued. It would be useful to generate a document that explains the process for people to review. This cheat sheet would be able to explain the charge of FCR and the subcommittee, explain the questions that are being asked, and cover the procedures which must be followed. It would also be useful to post this document on the website for the public to review.

6) Request of FCR Approval of a New Subcontract Agreement: Site Excavation and Research Agreement” from The University of Queensland (Australia)

Daniel Vogt presented a request for FCR approval submitted by Ben Marwick in Anthropology who is a UW faculty member with Australian citizenship. Vogt clarified that the subcontract has already been approved by the University of Queensland (UQ) to be allocated to UW and UQ is just waiting for the subcontract proposal to be submitted to them for funding in the amount of $260,000 over 5 years. The project is for site excavation and research specifically in the Northern Territory of Australia that explores the nature of human behavior when people first colonized Southeast Asia and Australia. The project would incorporate his expertise on a project coordinated between UW and The University of Queensland (UQ) in which Marwick and his students would sift through samples in the site. The site is controlled by the Gundjeihmi Aboriginal Corporation (GAC) which has already been sampled. However, this project would go through the samples again in more detail to see if they come up with results that they hypothesized. The red flag on this project from OSP is that the GAC is a tribal organization in charge of the site. GAC is very sensitive of the display of human remains. Additionally, GAC is concern about the release of information of the site itself and publishing the location to ensure outsiders do not descend upon the site. As a result GAC made a restriction that anything published must go through them as well as UQ before UW can publish any work. GAC is not interested in the theory involved with the project but wants to ensure that their cultural traditions are respected. The subcommittee feels confident this would be worthwhile to go forward.

There will be students involved with the project but they will be closely observed. For example, they are not allowed to take pictures with cellphones and post photos online. A question was raised asking if students sign an agreement to these restrictions. There is no certainty in how to control that but the assumption is that students sign a waiver before entering the site. UW has dealt with this issue before and deceased individuals are not technically considered human subjects so not subjected to those restrictions. Discussion ensued. A comment was raised that presumably there is precedence for this from the Kennewick Man. This is an awkward issue because students have already visited the site.

The major issue that UW has to address is GAC’s concerns about the content that will be published. GAC is requesting that UQ should address all the concerns brought by GAC. If those concerns are not
addressed then content cannot be published until the concerns are resolved or GAC confirms in writing that publication has been approved. This is very broad control of what can be reported which goes on beyond publication. The only reason that UW is considering this is out of sensitivity to the native populations that may be exploited as part of this project. A suggestion was made to provide a disclaimer accompanying the distribution of any publications explaining the restrictions. Discussion ensued. FCR typically does not accept these types of restrictions. A comment was raised that this would just be disclosing a required constraint which appears to be reasonable. Presumably, this would just be included in a cover letter. The issue simply comes down to disclosure, but UW has had problems with constraints prior to publication. Discussion ensued.

FCR’s charge is just to review proposals that may have restrictions and limitations, if the PI agrees they are willing to risk being relegated by GAC then it is up to them. A question was raised whether this is something the council should start doing, such as approving proposals with certain conditions attached. Discussion ensued. Concern was raised that FCR cannot monitor and enforce these conditions. A comment was raised that the subcommittee is recommending FCR approve the proposal as is. Concern was raised that approving this would set precedence for future projects with tribes within the state.

ACTION: Miller moved to approve the recommendation of the subcommittee. Rosenfeld expressed difficulty in voting in favor because it would set precedent for future approvals. Discussion ensued. It would be nice to have this disclosure provided and Rosenfeld would be willing to support a motion suggesting the PI provide the disclosure on any publications. The question arose again asking if FCR is capable in enforcing this. Lidstrom explained that there is no policy in place that requires this oversight. This issue has never been brought to this group because it was never a requirement in any prior agreements. Discussion ensued. FCR could adopt a new policy on requiring disclosure.

Miller called the question. The council voted as followed:

- Approved – 3
- Opposed – 1
- Abstain – 2

ACTION: Miller moved to suggest that Ben Marwick append the following statement to any publication or communication:

“The information contained in this communication was subjected to the following test: no publication, presentation or reporting at conferences or public gatherings will proceed until the concerns of the Gundjeihmi Aboriginal Corporation (GAC) are resolved or the GAC consents in writing to such publication or reporting.”

The council voted as followed:

- Approved – 5
- Opposed – 0
- Abstain – 1

7) Adjourn
The meeting was adjourned by Chair Miller at 10:30 a.m.
Present: Faculty: Miller (Chair), Rosenfeld, Scheuer, Shields, Slattery, Vogt  
President’s Designee: Lidstrom  
Ex-Officio Reps: Louden  
Guests: James Polland (Faculty Security Officer), Carol Rhodes (Associate Director for Office of Sponsored Programs), Susan Camber (Associate Vice President for Financial Management)

Absent: Faculty: Aragon, Beauchamp, Demiris  
Ex-Officio Reps: James, Dhungana, Fridley