

## Compensation Practices and Compliance



### Compensation Practices and Compliance

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### Learning Objectives

#### OBJECTIVE

- Understand the federal expectations for proposing and charging salary on federal awards under 2 CFR 200.
- Be able to assist institutions in addressing the challenges that may result from inappropriate charging of salary on federal awards.

#### AGENDA

- Foundational Requirements: 2 CFR 200
- Common Questions
- Moving Past Worst Practices

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## Compensation Practices and Compliance

### Foundational Requirements

#### Prior to 12/26/2014

- Educational Institutions: OMB Circular A-21 / 2 CFR 220
- Nonprofits: OMB Circular A-122 / 2 CFR 230
- Hospitals: 45 CFR Part 74 Appendix E

#### Post 12/26/14

- Uniform Guidance: 2 CFR 200.430



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### Compensation

- Reasonable
- Policies & Procedures
  - Conforms
  - Follows an appointment
- Supported by documentation



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### Reasonableness

#### Similar jobs

- **Consistent with that paid for similar work in other activities at the organization**

#### Non-similar jobs

- **Comparable to that paid for similar work in the organization's labor market**

Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement

2 CFR 200.430 (b)

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### Professional Activities Outside the Organization



If the Federal awarding agency considers the extent of non-organizational activities excessive or inconsistent with the conflict of interests terms and conditions of the award, appropriate arrangements governing compensation may be negotiated on a case-by-case basis.

2 CFR 200.430 (c) 2

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### Unallowable Costs/Salary Caps

- **Costs which are unallowable under other sections of the principles are also unallowable as a personnel compensation cost.**
- **The compensation for certain employees is subject to a ceiling in accordance with statute.**

2 CFR 200.429 (d) 1-2

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### Special Considerations for Allowability



Any change in compensation policy resulting in a **substantial increase in its employees' level of compensation** (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

2 CFR 200.430 (e)

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### Incentive Compensation

Incentive Compensation is allowable to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., provided overall compensation is determined to be:

- Reasonable and
- Such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

2 CFR 200.430 (f)

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### Nonprofit Organizations

For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination should be made that such compensation is **reasonable for the actual personal services rendered** rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.



2 CFR 200.430 (g)

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### IHE's and Allowable Activities

Charges may include reasonable amounts for activities contributing and directly related to work under an agreement, such as:

- delivering special lectures about specific aspects of the ongoing activity,
- writing reports and articles, developing and maintaining protocols (human, animals, etc.),
- managing substances/chemicals,
- managing and securing project-specific data,
- coordinating research subjects,
- participating in appropriate seminars,
- consulting with colleagues and graduate students, and
- attending meetings and conferences.

2 CFR 200.429 (h)

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### IHE's and Institutional Base Salary

Annual compensation paid for an individual's appointment, (research, instruction, administration, or other activities.)

- Excludes income earned outside of duties performed for the institution.

Charges for work performed by faculty members during the academic year are allowable at the IBS rate.

- Cannot exceed the proportionate share of the IBS for that period except for incidental activities except with prior approval.

2 CFR 200.429 (h) 3

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### IHE's Institutional Base Salary

#### Define in Policies & Procedures

- Earn/Pay Types
- IBS and non-IBS

#### Challenges to correctly costing salary

- Understanding IBS vs Non-IBS
- Access to salary data by individual developing budgets

2 CFR 200.429 (h) 2

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### IHEs & Intra-Institutional Consulting

Intra-Institutional consulting by faculty is assumed to be undertaken as an institutional obligation requiring no compensation in addition to IBS.

*In unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.*

2 CFR 200.429 (h) 3

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### IHE's & Extra Service Pay

- Overload compensation (faculty)- subject to institutional compensation policies for services above and beyond IBS
- Intra-Consulting (faculty) - Must be reasonable and is allowable if all of the following conditions are met:
  - Consistent written policies established which apply uniformly to all faculty members, not just those working on Federal awards.
  - Consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. May be described in appointment letters or other documentations.

2 CFR 200.429 (h) 4

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### IHEs & Extra Service Pay (cont'd)

- Intra-IHE consulting (faculty)- continued:
  - The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed.
  - The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.
- Non-faculty full-time professional personnel may also earn “extra service pay” in accordance with written policy and meeting the test for allowability

2 CFR 200.429 (h) 4

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### IHE's & Periods Outside the Academic Year

- Charges for work performed by faculty members during periods not included in the base salary period will be at a rate not in excess of the IBS.
- Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

2 CFR 200.429 (h) 5

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### IHE's & Part-Time Faculty

Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.



2 CFR 200.429 (h) 6

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### Sabbaticals

- Allowable costs for leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research
- Written policy must be provided
- Costs allocated equitably among all related activities
- If in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy

2 CFR 200.429 (h) 6

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### Ways to Err

- Absence of written policies
- Non-conformity to written policies
- Use of average salary for personnel based on a regional assessment of average pay for like positions in the region, versus actual base of individuals



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### Ways to Err

- Proposed salaries are not a realistic projection of salary
- Faculty contracts that identify institutional salary and grant supported salary vs. IBS
- No appointment letter or outdated documentation of appointments



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### Ways to Err

#### Augmenting salaries with federal awards:

- Pay above base
- Charging and paying more than 100% of salary
- Incidental pay that is on-going
- Intra-institutional consulting is a frequently occurring event



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### Ways to Err

#### Augmenting salaries with federal awards:

- Intra-institutional consulting is not identified in the proposal or approved by the awarding agency
- Awards are used to increase salaries once award is made and increases are not provided for by institutional policy or organization wide
- University salaries are not offset by Foundation compensation amounts



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### Risks with Raises and Promotions

- Raises allocated only to federally funded activities and awards.
- Projecting raises in proposals that are unreasonable.
- Projecting raises and then only distributing to individuals who have successfully secured a funded award at the rate identified in the proposal.
- Lack of consistency and/or justification for promotions.
- Job description revisions that result in a promotion.

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### Appointment and Overload Challenges

#### Appointments

- Part-time appointments. What if I am 50% employed and now I have a grant that will expand my employment commitment by 25%? Is supplanting an issue?
- Course overloads. What if I am compensated on an incidental/additional pay basis for teaching a course overload?
- Administrative overloads. What if I am a Department chair who receives an additional 25% compensation for my departmental leadership responsibilities?
- Investigator with an SBIR. What if I am an investigator with a company and I have an SBIR award?

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### 9 months paid over 12 months

**Faculty with 9-month appointments are paid over 12 months.**

**Is 9/12 a problem?**



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9 months paid over 12 months

**The answer is no.**

9/12 is a method of payment, it does not change institutional base salary.

Salary can increase in the summer due to additional compensation for work outside the appointment period. Summer salary rate should be based on the restated 9-over-9 academic salary rate. Salary/9 months = compensation per month for summer pay.

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Clinical Practice Plan Compensation  
as part of IBS

**Can Clinical Practice  
Plan Compensation be  
included in IBS?**



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### Clinical Practice Plan Compensation as part of IBS

The answer is maybe.

**Yes**---providing CPC is guaranteed by the university/Institution, the clinical practice effort must be shown on the appointment form and must be paid through the university/institution (common paymaster), and the CPC effort commitment is included in an individual's 100% effort distribution. Clinical practice effort must be included and accounted when proposing, charging, and reporting effort.

**No**---if it is paid separately and is not part of effort certification.

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### Take Home

Have policies, procedures, and training to ensure compensation is appropriately proposed and charged.



Written policies should define:

- Institutional base salary / total professional effort / full workload
- Incentive compensation
- Incidental work and additional/overload
- Non-institutional professional activities
- Raises
- Sabbaticals
- Leave

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## Take Home

Process and training should **document** expectations for:



1. Proposing salary
2. Validation of salary
3. Organizational raise increases
4. Extra service pay
5. Incentive compensation
6. Charging salary

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## Questions



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### Questions

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