

SALARY LIMITATION ON GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

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National Institutes of Health (NIH)

(<http://www.nih.gov/>)

This notice provides updated information regarding the salary limitation for NIH grant and cooperative agreement awards and extramural research and development contract awards. On March 18, 2003, the Fiscal Year (FY) 2003 information on the salary limitation was published in the NIH Guide for Grants and Contracts.

For fifteen consecutive years, Congress has legislatively mandated a provision for the limitation of salary. For FY 2004, the Consolidated Appropriations Act, Public Law 108-199, which includes appropriations for the Department of Health and Human Services, restricts the amount of direct salary of an individual under an NIH grant or cooperative agreement (referred to here as a grant) or applicable contract to Executive Level I of the Federal Executive Pay scale. The Executive Level I annual salary rate was \$171,900 for the period January 1 through December 31, 2003. Effective January 1, 2004, the Executive Level I salary level increased to \$174,500.

For the purposes of the salary limitation, the terms "direct salary," "salary," and "institutional base salary" have the same meaning and are exclusive of fringe benefits and facilities and administrative (F&A) expenses, also referred to as indirect costs. An individual's institutional base salary is the annual compensation that the applicant organization pays for an individual's appointment, whether that individual's time is spent on research, teaching, patient care, or other activities. Base salary excludes any income that an individual may be permitted to earn outside of the duties to the applicant organization.

NIH grant/contract awards for applications/proposals that request direct salaries of individuals in excess of the applicable RATE per year will be adjusted in accordance with the legislative salary limitation and will include a notification such as the following:

According to the Consolidated Appropriations Act 2004, "None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I" of the Federal Executive Pay Scale. This is the fourth year that the limitation has been linked to Executive Level I of the Federal Pay Scale.

Please see the salary cap summary and the time frames associated with existing salary caps at http://grants.nih.gov/grants/policy/salcap_summary.htm

Implementation of new salary limitation:

- o No adjustments will be made to modular grant applications/awards or to previously established commitment levels for non-competing grant awards issued with FY 2004 funds.
- o NIH competing grant awards with categorical budgets reflecting salary levels at or above the new cap(s) issued in FY 2004 will reflect adjustments to the current and all future years so that no funds are awarded or committed for salaries over the limitation.
- o For awards issued with FYs 2003, 2002 and 2001 funds, if adequate funds are available in active awards, and if the salary cap increase is consistent with the institutional base salary, grantees may rebudget to accommodate the current Executive Level I salary level and contractors may charge at the higher level. However, no additional funds will be provided to the prior year grant awards and the total estimated cost of the contract will not be modified.
- o An individual's base salary, per se, is NOT constrained by the legislative provision for a limitation of salary. The rate limitation simply limits the amount that may be awarded and charged to NIH grants and contracts. An institution may pay an individual's salary amount in excess of the salary cap with non-federal funds.
- o The salary limitation does NOT apply to payments made to consultants under an NIH grant or contract although, as with all costs, those payments must meet the test of reasonableness and be consistent with institutional policy.
- o The salary limitation provision DOES apply to subawards/subcontracts for substantive work under an NIH grant or contract.
- o COMPETING grant applications and contract proposals that include a categorical breakdown in the budget figures/business proposal should continue to reflect the actual institutional base salary of all individuals for whom reimbursement is requested. In lieu of actual base salary, however, applicants/offerors may elect to provide an explanation indicating that actual institutional base salary exceeds the current salary limitation. When this information is provided, NIH staff will make necessary adjustments to requested salaries prior to award.

Questions & Answers

1. If a grant award (competing or non-competing) has already been issued in FY 2004, will an adjustment be made? No adjustments will be made. However, rebudgeting is allowable.

2. Can I rebudget grant funds or charge contracts issued with FY 2001, 2002 or 2003 funds to allow for the 2004 salary cap increase? Yes, provided funds are available and the increase is warranted. Prorated figures should be used for the applicable months, i.e., the \$174,500 level is effective beginning January 1, 2004.

3. If an application/proposal fails to provide needed salary information, will an adjustment be made based on the new rates? No adjustment will be made if an application fails to provide adequate information regarding the individual's actual salary level.

4. Does the NIH appropriation language link the salary cap to a Federal Executive Level or to a dollar level? The link is to the Federal Executive Level pay scale (i.e., Executive Level III for FY 1999 and Executive Level II for FY 2000 and Executive Level I for FYs 2001, 2002, 2003 and 2004). As the cap is linked to Federal Executive Levels, can grantees/contractors with ongoing awards rebudget/charge up to the various salary caps, based on the fiscal year of the award and the time of the salary expense is incurred? Yes, salary may be charged in accordance with the FY cap(s), as long as the levels are consistent with the individual's institutional base pay. Please refer to the salary cap summary with times frames for existing salary caps, at http://grants.nih.gov/grants/policy/salcap_summary.htm

5. Will grantees be permitted to submit revised budgets reflecting higher base salaries? Not as a general rule. NIH policy states that grantees should always reflect actual base salaries in the requested budgets or provide an explanation indicating that actual institutional base salary exceeds the current salary limitation. As a general rule, NIH will use the information available in the existing application and make adjustments for the salary cap based on information available at the time of award.

The following are examples of the adjustments that NIH will make when salaries exceed the current salary limitation:

EXAMPLE 1. INDIVIDUAL WITH FULL-TIME APPOINTMENT (based on grant award/contract issued after January 1, 2004 with a \$174,500 salary limitation)

Individual's institutional base salary for a FULL-TIME twelve month appointment \$ 180,000
Research effort requested in application/proposal - 50%

Direct Salary requested	\$ 90,000
Fringe benefits requested (25% of salary)	\$ 22,500
Subtotal	\$ 112,500

Applicant organization's F&A (indirect) costs at a rate of 45% of subtotal	\$ 50,625
Amount requested - salary plus fringe benefits plus associated F&A (indirect) costs	\$ 163,125

If a grant/contract is to be funded, the amount included for the above individual will be calculated as follows:

Direct salary - restricted to a RATE of	\$ 174,500
Multiplied by effort (50%) to be devoted to project	\$ 87,250
Fringe benefits (25% of allowable salary)	\$ 21,813
Subtotal	\$ 109,063
Associated F&A (indirect) costs at 45% of subtotal	\$ 49,078
Total amount to be awarded due to salary limitation	\$ 158,141
Amount of reduction due to salary limitation (\$163,125 requested minus \$158,141 awarded)	\$ 4,984

EXAMPLE 2. INDIVIDUAL WITH HALF-TIME APPOINTMENT (based on a grant award/contract issued after January 1, 2004 with a \$174,500 salary limitation)

Individual's institutional base salary for a
HALF-TIME appointment (50% of a full-time
twelve month appointment) \$ 90,000

Research effort requested in application/proposal 30%

Direct Salary requested	\$ 27,000
Fringe benefits requested (25% of salary)	\$ 6,750
Subtotal	\$ 33,750

Applicant organization's F&A (indirect) costs at a rate
of 45% of subtotal \$ 15,188

Amount requested - salary plus fringe benefits
plus associated F&A (indirect) costs \$ 48,938

If a grant/contract is to be funded, the amount included in the award for the above individual will be calculated as follows:

Direct salary - restricted to a RATE of	\$ 87,250
for a 50% appointment multiplied by 30% effort	\$ 26,175
Fringe benefits (25% of allowable salary)	\$ 6,544
Subtotal	\$ 32,719
Associated F&A (indirect) cost at 45% of subtotal	\$ 14,723

Total amount to be awarded due to salary
limitation \$ 47,442

Amount of reduction due to salary limitation
(\$48,938 requested minus \$47,442 awarded) \$ 1,495

INQUIRIES

Questions concerning this notice or other policies relating to grants
or contracts should be directed to the grants management or contracts management office
in the appropriate NIH Institute or Center.

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