



**NIH Salary Cap
Effort Certification Memos**

Presented by Shirley Mitchell
April 23, 2010

Salary Limitation on Grants, Cooperative Agreements, and Contracts

Notice Number: NOT-OD-08-035

Update: The following updates relating to this Notice have been issued:

- March 19, 2009 - See Notice (NOT-OD-09-069). This notice provides updated information regarding the salary limitation for NIH grant and cooperative agreement awards and extramural research and development contract awards (referred to here as grants).
- January 16, 2009 - See Notice (NOT-OD-09-037). This notice provides updated information regarding the salary limitation for NIH grant and cooperative agreement awards and extramural research and development contract awards (referred to here as grants).
- July 30, 2008 - See Notice (NOT-ES-08-008). Notice of Increase in Salary Cap and Research Development Support costs for Mentored Patient Oriented Research Development Awards (K23) and Mentored Clinical Scientist Research Development Awards (K08) funded by NIEHS.

Key Dates

Release Date: January 15, 2008

Issued by

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 (referred to here as grants). On February 22, 2007 NIH published Fiscal Year (FY) 2007 information on the salary limitation in the NIH Guide for Grants and Contracts ([NOT-OD-06-031](#)).

Every year since 1990 Congress has legislatively mandated a provision limiting the direct salary that an individual may receive under an NIH grant. For FY 2008, Public Law 110-161: *Consolidated Appropriations Act, 2008* restricts the amount of direct salary to Executive Level I of the Federal Executive Pay scale. The Executive Level I annual salary rate was \$186,600 for the period January 1 through December 31, 2007. Effective January 1, 2008, the Executive Level I salary level increased to \$191,300.

Guidance on other legislative mandates contained in P.L. 110-161 will be issued in the near future.

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: None of the funds in this award shall be used to pay the salary of an individual at a rate in excess of the current salary cap.

This is the eighth 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 salary caps at http://grants.nih.gov/grants/policy/salcap_summary.htm.

Implementation of new salary limitation:

- No adjustments will be made to modular grant applications/awards or to previously established commitment levels for non-competing grant awards issued with FY 2008 funds.
- NIH competing grant awards with categorical budgets reflecting salary levels at or above the new cap(s) issued in FY 2008 will reflect adjustments to the current and all future years so that no funds are awarded or committed for salaries over the limitation.
- For awards issued in those years restricted to Executive Level I (see Salary Cap Summary, FY 1990 – FY 2008), 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.
- 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.
- 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.
- The salary limitation provision DOES apply to subawards/subcontracts for substantive work under an NIH grant or contract.

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.


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 Intellectual Property Policy
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Salary Cap Summary (FY 1990 - FY 2010)

Updated: January 6, 2010

FY 2010 Awards (Executive Level I)

October 1, 2009 through December 31, 2009	\$196,700
January 1, 2010 through December 31, 2010	\$199,700

FY 2009 Awards (Executive Level I)

October 1, 2008 through December 31, 2008	\$191,300
January 1, 2009 through December 31, 2009	\$196,700

FY 2008 Awards (Executive Level I)

October 1, 2007 through December 31, 2007	\$186,600
January 1, 2008 through December 31, 2008	\$191,300

FY 2007 Awards (Executive Level I)

October 1, 2006 through December 31, 2006	\$183,500
January 1, 2007 through December 31, 2007	\$186,600

FY 2006 Awards (Executive Level I)

October 1, 2005 through December 31, 2005	\$180,100
January 1, 2006 through December 31, 2006	\$183,500

FY 2005 Awards (Executive Level I)

October 1, 2004 through December 31, 2004	\$175,700
January 1, 2005 through December 31, 2005	\$180,100

FY 2004 Awards (Executive Level I)

October 1, 2003 through December 31, 2003	\$171,900
January 1, 2004 through December 31, 2004	\$175,700 *

* \$174,500 used for calculation from 1/1/04 - 3/2/04; \$175,700 approved 3/3/2004.

FY 2003 Awards (Executive Level I)

October 1, 2002 through December 31, 2002	\$166,700
January 1, 2003 through December 31, 2003	\$171,900

FY 2002 Awards (Executive Level I)

October 1, 2001 through December 31, 2001	\$161,200
January 1, 2002 through December 31, 2002	\$166,700

FY 2001 Awards (Executive Level I)

October 1, 2000 through December 31, 2000	\$157,000
January 1, 2001 through December 31, 2001	\$161,200

January 1, 2002 through December 31, 2002	\$166,700
FY 2000 Awards (Executive Level II)	
October 1, 1999 through December 31, 1999	\$136,700
January 1, 2000 through December 31, 2000	\$141,300
January 1, 2001 through December 31, 2001	\$145,100
FY 1999 Awards (Executive Level III)	
October 1, 1998 through December 31, 1999	\$125,900
January 1, 2000 through December 31, 2000	\$130,200
FY 1992 - FY 1998 Awards (\$125,000 - Not Tied to Executive Level)	
October 1, 1991 through September 30, 1998	\$125,000
FY 1990 - FY 1991 Awards (\$120,000 - Not Tied to Executive Level)	
October 1, 1989 through September 30, 1991	\$120,000

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[Top of Page](#)

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Reporting Period: July - December 2009

Fund Type: 13 - CR HSC
 Org: 490A - Neurology
 Fund Code: 387G0 - ARRA-3R87G-Volumetric Mapping of
 Grant Code: 3R87G - ARRA-3R87G-Volumetric Mapping of
 Index Code: 490382 - ARRA-387G0-Volumetric Mapping of Br
 PI: Posse, Stefan

Employee Name	Accounting String	Earnings	Current Pd Adjustments	Period Earnings	Pct Of Effort	Prior Pd Adjustments	Net Charges
Heals-ALot, Suzy 12212212							
0990B8-362E0 - IBC - Royce-2000		\$3,492.42	\$1,746.21	\$5,238.63	5.00	\$0.00	\$5,238.63
0990D8-HR 372W0 Association Between Diabet-2000		\$873.11	-\$873.10	\$0.01	0.00	\$0.00	\$0.01
0990GJ-UNMCC Main Campus Surgical Oncology-2000		\$42,782.01	-\$873.11	\$41,908.90	40.00	\$0.00	\$41,908.90
099856-220499-SURGICAL SPEC - ST-2000		\$5,238.62	\$0.00	\$5,238.62	5.00	\$0.00	\$5,238.62
490382-ARRA-387G0-Volumetric Mapping of Br-2000		\$1,047.73	\$0.00	\$1,047.73	1.00	\$0.00	\$1,047.73
523052-General Surgery FOM-2000		\$51,338.47	\$0.00	\$51,338.47	49.00	\$0.00	\$51,338.47
=====							
		\$104,772.36	\$0.00	\$104,772.36	100.00	\$0.00	\$104,772.36
=====							
0990CS-362E0 - IBC - FIGS-20F0		\$12,239.67	\$3,190.76	\$15,430.43	66.64	\$0.00	\$15,430.43
451417-BBI - Bustillo - Glutamate/PEPSI-20F0		\$957.23	-\$957.23	\$0.00	0.00	\$0.00	\$0.00
490334-Neurology/ Support (Posse)-20F0		\$2,233.53	-\$2,233.53	\$0.00	0.00	\$0.00	\$0.00
490382-ARRA-387G0-Volumetric Mapping of Br-20F0		\$7,725.00	\$0.00	\$7,725.00	33.36	\$0.00	\$7,725.00
=====							
		\$23,155.43	\$0.00	\$23,155.43	100.00	\$0.00	\$23,155.43
=====							

Memorandum

Date: March 11, 2010

To: Suzy Heals-Alot, MD

From: Shirley Mitchell, Accounting Manager, Contract & Grant Accounting, HSC

Subject: NIH Salary Cap - Effort Certification Period of July to December 2009

To be in compliance with the Federal Office of Management and Budget’s Circular A-21, each grant must have an effort certification on file to demonstrate to auditors that effort committed in the proposal was actually performed and charged on the Contract or Grant. As part of the certification process, UNM is required to certify that salaries charged to NIH awards do not exceed the established NIH salary cap. I am sending this letter to you because:

- a. You have been identified as having been paid from an NIH award, and
- b. Your salary exceeded the annual NIH salary cap of \$196,700 (\$98,350 for this 6-month time period*).

I am asking you to **certify that only the allowable portion of your salary was charged to an NIH award(s)**. The NIH awards are summarized below for your reference. Any amount above the NIH salary cap is considered salary subsidy by UNM.

Please return the **signed letter** to the following address on or before March 24, 2010:

Contract & Grant Accounting, HSC
 MSC 09 5225
 Attn: Connie Jefferson

NIH Award Summary for the period of July – December, 2009:

Index	Fund	Title	NIH Cap*	Salaries Charged to NIH	% of Effort based on NIH Cap (e/d)	Total Earnings	Total Dollars Committed (f*g)	Salary Over NIH Cap (UNM subsidy) (e-h)
a	b	c	d	e	f	g	h	i
490382	387G0	Volumetric Mapping of Br	\$98,350	\$1,047.73	1.07%	\$104,772.36	\$1,116.15	(\$68.42)
Total amount over NIH Cap (UNM subsidy)								(\$68.42)

I certify that only the allowable portion of my salary was charged to my NIH award AND the salary amount over the NIH Cap was not charged to another Federal award.

Signature:

Date:

If you have any questions about effort reporting procedures, please refer to the OVPRED website at http://research.unm.edu/policy_procedure/Effort_Reporting_Guidance.pdf. Please contact Shirley Mitchell with questions.

Reporting Period: July - December 2009

Fund Type: 13 - CR HSC
Org: 099A - Cancer Research Treatment Ctr CRTC
Fund Code: 374A0 - 3R74A The Transposase Protein Metna
Grant Code: 3R74A - HR 3R74A The Transposase Protein Me
Index Code: 0990DZ - HR 374A0 The Transposase Protein Me

PI: Hromas, Robert A.

Employee Name	Accounting String	Earnings	Current Pd Adjustments	Period Earnings	Pct Of Effort	Prior Pd Adjustments	Net Charges
0990DZ-HR 374A0	The Transposase Protein Me-20A0	\$2,167.91	\$0.00	\$2,167.91	16.67	\$0.00	\$2,167.91
564108-3R074	Mechanism of M. tuberculosis-20A0	\$10,839.55	\$0.00	\$10,839.55	83.33	\$0.00	\$10,839.55
-----		\$13,007.46	\$0.00	\$13,007.46	100.00	\$0.00	\$13,007.46

Researcher, Robert 12345678

0990DB-HR 332G3	Senior Leadership-2000	\$3,189.49	-\$7,688.25	-\$7,688.25	-5.00	-\$8,970.00	-\$16,658.25
0990DZ-HR 374A0	The Transposase Protein Me-2000	\$23,064.77	-\$0.02	\$23,064.76	2.07	\$0.00	\$3,189.47
0990EI-HR 330H3	P3 SCOR in Acute Leukemia-2000	\$7,688.26	\$0.01	\$7,688.27	5.00	\$0.00	\$7,688.27
0990GE-UNMCC	Main Campus Medical Oncology-2000	\$37,995.44	\$0.00	\$37,995.44	24.71	\$0.00	\$37,995.44
0990HL-ARRA-383F0	Transposase Protein Metn-2000	\$17,939.25	\$2,562.76	\$20,502.01	13.33	\$0.00	\$20,502.01
0990I9-332G4	Senior Leadership-2000	\$6,560.64	\$0.00	\$6,560.64	4.27	\$0.00	\$6,560.64
0990J9-330H4	P3 SCOR in Acute Leukemia-2000	\$7,688.25	\$0.00	\$7,688.25	5.00	\$0.00	\$7,688.25
099119-316J0	The Homeoprotein Hex Regulate-2000	\$0.00	\$0.00	\$0.00	0.00	\$1,281.75	\$1,281.75
099763-220419-CRTC	CIG TAX REVENUE-2000	\$2,562.75	\$0.00	\$2,562.75	1.67	\$0.00	\$2,562.75
099765-Startup	Support - Hromas-2000	\$2,562.75	-\$2,562.75	\$0.00	0.00	\$0.00	\$0.00
099853-220488-MEDICAL	ONCOLOGY-ST-2000	\$7,688.25	\$7,688.24	\$15,376.49	10.00	\$7,688.22	\$23,064.71
8510PX-I&G	Hematology/Oncology-2000	\$22,358.69	\$1,168.58	\$23,527.27	15.30	\$0.00	\$23,527.27
8510Q5-FOM	Hem-Onc-2000	\$4,471.77	-\$412.55	\$4,059.22	2.64	\$0.01	\$4,059.23
8510QY-UNMH	Central Admin-2000	\$4,997.35	-\$756.01	\$4,241.34	2.76	\$0.00	\$4,241.34
851170-FOM	DoIM-2000	\$4,997.34	\$0.00	\$4,997.34	3.25	\$0.00	\$4,997.34
-----		\$153,765.00	\$0.00	\$153,765.00	100.00	\$0.00	\$153,765.00

Memorandum

Date: March 10, 2010

To: Robert Researcher, MD

From: Shirley Mitchell, Accounting Manager, Contract & Grant Accounting, HSC

Subject: Effort Certifications for July – December 2009

Attached is a report of exempt employees who received payment for work performance on a particular Contract or Grant during the period of July 1, 2009 through December 31, 2009. To be in compliance with the Federal Office of Management and Budget’s Circular A-21, each grant must have an effort certification on file to demonstrate to auditors that effort committed in the proposal was actually performed and charged on the Contract or Grant. I am sending the effort certifications directly to your attention because:

- a. You have been identified as having an NIH award, and
- b. Your salary exceeded the annual NIH salary cap of \$196,700 (\$98,350 for this 6-month time period*).

In addition to reviewing and signing each effort certification, I am asking you to also certify that only the allowable portion of your salary was charged to your NIH award(s). Your NIH awards have been summarized below for your reference. Any amount above the NIH salary cap is considered salary subsidy by UNM.

When signing an effort certification, you are certifying that the gross amount of earnings listed for the employee is a “reasonably accurate approximation of effort applied and charged”. Work which is not certified is subject to disallowance. If the effort certification report is not correct, note the correction on the original effort certification report and request a labor redistribution. After the effort certification report has been certified, the charges cannot be redistributed.

Please return the signed certifications and this letter to the following address on or before March 24, 2010:

Contract & Grant Accounting, HSC
MSC 09 5225
Attn: Connie Jefferson

NIH Award Summary for the period of July – December, 2009:

Index	Fund	Title	NIH Cap*	Salaries Charged to NIH	% of Effort based on NIH Cap (e/d)	Total Earnings	Total Dollars Committed (f*g)	Salary Over NIH Cap (UNM subsidy) (e-h)
a	b	c	d	e	f	g	h	i
0990DB	332G3	Senior Leadership	\$98,350	\$3,189.47	3.24%	\$153,765.00	\$4,986.57	(\$1,797.10)
0990DZ	374A0	The Transposase Protein	\$98,350	\$23,064.78	23.45%	\$153,765.00	\$36,060.56	(\$12,995.78)
0990HL	383F0	Transposase Protein Metn	\$98,350	\$20,502.01	20.85%	\$153,765.00	\$32,053.80	(\$11,551.79)
099019	332G4	Senior Leadership	\$98,350	\$6,560.64	6.67%	\$153,765.00	\$10,257.21	(\$3,696.57)
099119	316J0	The Homoprotein Hex Reg	\$98,350	\$1,281.75	1.30%	\$153,765.00	\$2,003.95	(\$722.20)
Total amount over NIH Cap (UNM subsidy)								(\$28,966.34)

I certify that only the allowable portion of my salary was charged to my NIH award AND the salary amount over the NIH Cap was not charged to another Federal award.

Signature:

Date: