Guidance on Salary Cap for Department of Health & Human Services (DHHS) and National Institutes of Health (NIH) Sponsored Programs

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Background

Since 1990, Congress has legislatively mandated a limitation on direct salary that an individual may receive under certain sponsored projects, including NIH sponsored programs.

NIH provides a summary page listing all of the applicable salary caps by effective date:


The Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 (Public Law 115-245), restricts the amount of direct salary of an individual under all DHHS awards (*) to the Executive Level II of the Federal Executive pay scale.

(*) The DHHS agencies to which the salary cap applies include not only NIH but also CDC, ACF, CMS, FDA, HRSA, AHRQ and SAMHSA.
As of January 6, 2019 the current salary cap is $192,300 (NOT-OD-19-099)

This rate is based on a 12 month appointment. This translates to $16,025/month or $144,225 for a faculty with a 9 month appointment.

The salary cap applies only to institutional base salary, not fringe benefits.

The salary cap applies to salary included in subawards/subcontracts.

The salary cap does not apply to payments made to consultants.

For awards issued in those years that were restricted to Executive Level II, including competing awards already issued in FY2019, grantees may rebudget to accommodate the current level as long as:
1. Adequate funds are available; and
2. The salary cap increase is consistent with the Institutional Base Salary (IBS).

However, NIH does not provide any additional funds for these awards.
Institutional Base Salary (IBS)

The Institutional Base Salary (IBS) is the annual compensation that the University of Louisville pays for an individual's appointment, whether that individual's time is spent on research, teaching, patient care, or other activities.

Refer to the University of Louisville IBS Policy
• When the IBS exceeds the mandated salary cap, the portion of salary not covered by the sponsor, a.k.a. salary “over the cap”, must be covered by the University.

• The salary “over the cap” is considered by the Federal government and the University to be an unallowable cost. The University of Louisville has chosen to utilize Cost Sharing as the tracking mechanism to capture the salary “over the cap” even though this cost is not a “true” cost share.

• The salary “over-the-cap” must be funded from a non-sponsored, unrestricted source.

• It is the department’s responsibility to properly identify individuals whose salary exceeds the current salary cap and to include the appropriate amounts in proposals and payroll distributions.
Salary Cap Calculation Worksheet

- A **Worksheet** has been developed to aid departments in calculating the appropriate salary that can be charged directly to NIH sponsored programs and the salary “over the cap” that needs to be captured in the cost share account and funded from an unrestricted source.

  - Use the “Proposal Stage” Tab when preparing an NIH proposal budget.

  - Use the “Award Stage” Tab when preparing a budget for the awarded year and to direct Payroll distribution.

  - Use the “Effort Reporting Stage” Tab during the bi-annual effort report certification to verify the required “over the cap” salary and to certify total effort on all NIH awards.
Salary Cap Worksheet Calculation

1. Proposal Stage

Only fill cells highlighted in yellow

1) Enter the NIH 12 month salary cap amount and effective date
2) Enter faculty’s name
3) Enter faculty’s IBS (do not include X-Pay or X-ben)
4) Enter proposed cost of living escalation rate (usually between 2 to 5%)
5) Enter the effort month commitment by fiscal year in the appropriate 9, 10, 11 or 12 month appointment type.

The amount allowed to be charged directly to NIH and the amount “over the cap” will be automatically calculated for each budget year.

When preparing your budget, enter the number of months devoted to the project (either calendar, academic or summer), the current IBS (not the salary cap) and the requested amount at the capped salary level. In your budget justification, include a narrative stating that the requested salary is being adjusted for salary cap.
Salary Cap Worksheet Calculation

2. Award Stage

Only fill cells highlighted in yellow

1) Enter the NIH 12 month salary cap amount and effective date
2) Enter faculty’s name
3) Enter faculty’s IBS (do not include X-Pay or X-ben)
4) Enter NIH budget year
5) Enter the effort month commitment by fiscal year in the appropriate 9, 10, 11 or 12 month appointment type.

The amount allowed to be charged directly to NIH and the amount “over the cap” will be automatically calculated for the awarded budget year.

Items to keep in mind during the life of the award:
- Increase or decrease in the salary cap
- Increase or decrease in faculty salary
- Change in faculty effort on the project
Salary Cap Worksheet Calculation

**Example 1**

Appointment type: 12 months
IBS: $300,000
Applicable Salary Cap: $192,300 (12 month cap)
Effort month: 1.2 calendar month (representing 10% effort)

Total salary on the project:
$300,000 / 12 * 1.2 = $30,000

Direct salary chargeable to NIH:
$192,300 / 12 * 1.2 = $19,230  Amount chargeable direct to NIH
$19,230 / $300,000 * 100 = 6.41%  Effort

Required “Over the cap” salary to be tracked in cost share account and funded from an unrestricted source:
$30,000 - $19,230 = $10,770  Amount to be tracked in cost share account
$10,770 / $300,000 * 100 = 3.59%  Effort
Salary Cap Worksheet Calculation

Example 2

Appointment type: 9 months
IBS: $300,000
Applicable Salary Cap: $192,300 (12 month cap)
Effort month: 0.9 academic month (representing 10% effort)

Total salary on the project:
$300,000 / 9 * 0.9 = $30,000

Direct salary chargeable to NIH:
$192,300 / 12 * 0.9 = $14,422   Amount chargeable to NIH
$14,422 / $300,000 * 100 = 4.81%   Effort

Required “Over the cap” salary to be tracked in cost share account and funded from an unrestricted source:
$30,000 - $14,422 = $15,578   Amount to be tracked in cost share account
$15,578 / $300,000 * 100 = 5.19%   Effort
Salary Cap Worksheet Calculation

Example 3 – Summer Month

Appointment type: 10 months
IBS: $300,000
Applicable Salary Cap: $192,300 (12 month cap)
Effort month: 1 Summer month (when included in Proposal)

Total salary on the project:
$300,000 / 10 * 1.0 = $30,000

Direct salary chargeable to NIH:
$192,300 / 12 * 1.0 = $16,025  Amount chargeable to NIH

“Over the cap” salary to be tracked in cost share account and funded from an unrestricted source:
$30,000 - $16,025 = $13,975  Amount to be tracked in cost share account

Summer effort is processed via X-Ben as it is outside faculty appointment. In the Effort Report it is reported as “Sponsored Non-Base” effort.
Salary Cap Worksheet Calculation
Example 3 – Summer Month (contd)

In the example described in the previous slide, a 1 person month request for summer effort on a project would represent $30,000 (1/10 of IBS). However, only $16,025 can be charged direct to NIH ($192,300/12).

Since the University does not typically directly compensate for Summer salary, the faculty can opt to be paid either:
1) at the cap level and receive $16,025 instead of the full $30,000. In this case, there is no salary “over the cap” to be tracked in cost share account. However, it is necessary to document in the budget narrative and in the Effort Report that the faculty opts to be paid his/her summer effort at cap level and that no pay is taking the place of the “over the cap” portion.
2) at the IBS level and receive $30,000. In this case, the $13,975 “over the cap” portion will need to be tracked in a cost share account and funded via X-Ben from an unrestricted source (iRIF for example). None of the $13,975 can be paid from a sponsored source.
Salary Cap Worksheet Calculation

3. Effort Reporting Stage

Only fill cells highlighted in yellow

1) Enter the NIH 12 month salary cap effective date and amount
2) Enter faculty’s name
3) Enter the Total UofL Base Compensation, as identified in the Effort Report
4) Enter the Speedtype and the amount charged directly to NIH, as identified in the detailed page of the Effort Report, in the appropriate 9, 10, 11 or 12 month appointment type.

The worksheet will automatically calculate:
1) The “over the cap” salary that should have been tracked in a cost share account, and
2) The total effort on the project.

Verify that the calculated amount matches with the amount shown in the detailed page of the Effort Report and certify the total effort on the project.

Any variation between the actual Effort % on the project and the Payroll % reported in the Effort Report needs to be documented (if greater than 5%).
Salary Cap Worksheet Calculation

Effort Reporting - Example 1

Appointment type: 12 months
Total UofL Base Compensation: $300,000
Applicable Salary Cap: $192,300 (12 month cap)
Salary charged direct to NIH (from detailed page of Effort Report): $30,000

Total Effort on the project (direct + “over the cap”):
$30,000 / $192,300 = 15.6% effort
This represents 1.9 effort month

Total salary on the project (direct + “over the cap”):
$300,000 * 15.6% = $46,800

Percent Effort charged direct to NIH:
$30,000 / 300,000 * 100 = 10% Effort

Salary “Over the cap” required to account for $30,000 charged direct to NIH:
$46,800 - $30,000 = $16,800
$16,800 / $300,000 * 100 = 5.6% Effort
Salary Cap Worksheet Calculation

Effort Reporting - Example 2

Appointment type: 9 months
Total UofL Base Compensation: $300,000
Applicable Salary Cap: $144,225 (9 month cap)
Amount charged direct to NIH (from detailed page of Effort Report): $30,000

Total Effort on the project (direct + “over the cap”):
$30,000 / $144,225 = 20.8% Effort
This represents 1.9% Effort month

Total salary on the project (direct + “over the cap”):
$300,000 * 20.8% = $62,400

Percent Effort charged direct to NIH:
$30,000 / 300,000 * 100 = 10% Effort

Salary “Over the cap” required to account for $30,000 charged direct to NIH:
$62,400 - $30,000 = $32,400
$32,400 / $300,000 * 100 = 10.8% Effort