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*University Guidance*

## **Federal Salary Cap or Salary Limitations on Sponsored Awards**

### **REASON:**

The purpose of this guidance is to document the University's established practice to calculate, monitor and remain compliant with the federal salary cap limitation. (Note: as clarified below, this guidance incorporates multiple DHHS agencies and is not limited to the National Institutes of Health – NIH. Certain programs within the United States Department of Agriculture (USDA) may also impose salary caps. Salary cap limitations will generally be noted in the terms and conditions of the award – [NIFA Terms and Conditions](#))

### **KEY POINTS:**

Effective January 1, 2025, the salary limitation for Executive Level is \$225,700. Click [here](#) for the full text of Notice.

### **BACKGROUND:**

The *2012 Consolidated Appropriations Action* (Public Law 112-74) required the Department of Health and Human Services (DHHS) and its agencies [most common HHS agencies include but not limited to the following: National Institutes of Health (NIH), Human Resource and Service Agency (HRSA), Substance Abuse and Mental Health Services Administration (SAMHSA), Centers for Disease Control (CDC) and Agency for Healthcare Research and Quality (AHRQ)], to set a cap on salaries awarded by these agencies:

- This salary rate cap applies to grants, cooperative agreements and contracts except for the Food and Drug Administration (FDA) (funded under the USDA appropriations bill) and the Indian Health Service (funded under the Department of Interior appropriations bill).
- Applicability to contracts is limited to Research and Development contracts only.
- Salary rate cap limitation also applies to flow-through awards in which Clemson is a subaward of DHHS funds.
- Other sponsoring agencies may impose the DHHS salary cap or a similar salary limitation and incorporate as part of their own terms and conditions.
- Previous cap history:
  - From 2001-2012, the cap was legislatively set at Executive Level I of the Federal Executive Pay schedule.
  - Effective December 23, 2011, the salary rate cap was changed from Executive Level I to Executive Level II of the Federal Pay schedule.

**FEDERAL REGULATION:**

All academic and summer salaries charged to DHHS and HHS agency awards must be performed in accordance with the DHHS salary cap amount. Therefore,

- All salaries charged to DHHS awards must comply with the Federally mandated cap (i.e., upfront, and not after-the-fact).
- Faculty whose salary exceeds the cap and are charged to DHHS awards during the academic year (AY) must have the representative portion of salary, based on the effort percentage charged to the grant, allocated to a non-sponsored project account.

**APPLICATION:**

In general, faculty with a 9-month appointment receiving summer compensation from a sponsored award is for work performed outside of their academic responsibilities during the summer months and paid by submitting a Summer Faculty Compensation Packet, not as part of their academic pay. The salary paid for a 9-month appointment reflects the academic year salary only, even though salary is paid out over 12 months.

- It is important to read the sponsor's funding announcement and the terms and conditions of an award to confirm the existence of a salary limitation.
- **Summer months pay** – Amounts up to the DHHS cap limitation may be paid on DHHS awards commensurate with work performed. Since there are typically no contracts provided to the 9-month faculty to work during the summer, faculty can receive up to the cap in pay **if it is commensurate with work performed for the period being paid.** However, any pay that exceeds the cap limitation, to reflect an individual's Institutional Base Salary (IBS), must ensure that the proportionate amount of cap dollars is paid by an institutional fund source.
- For the 9-month faculty whose salary is in excess of a salary rate cap, the portion that exceeds the cap must be paid with non-sponsored project funds, as:
  - salary in excess of the cap is considered by the Federal government to be an unallowable expense as a direct charge to other awards and must be treated as an institutional cost share.
  - **federal regulations do not permit the use of salary over the cap to meet cost sharing required by the sponsor.**
  - While not required, a cost share project may be established and mapped to the NIH/HHS project to accumulate cap funds in order to ensure funds are allocated appropriately.

**EXAMPLES:**

**2025 Salary Cap** – Effective January 1, 2025 - \$225,700 (**\$169,275** for 9 months pay) \*\*

- \$225,700 divided by 24 pay periods = **\$9,404.17**

Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

**\*\* \$9,404.17 x 18 (for 9-month-pay personnel)**

**2024 Salary Cap – Effective January 1, 2024 - \$221,900 (\$166,424.94 for 9 months pay) \*\***

- \$221,900 divided by 24 pay periods = **\$9,245.83**

Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

**\*\* \$9,245.83 x 18 (for 9-month-pay personnel)**

**2023 Salary Cap – Effective January 1, 2023 - \$212,100 (\$159,075 for 9 months pay) \*\***

- \$212,100 divided by 24 pay periods = **\$8,837.50**

Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

**\*\* \$8,837.50 x 18 (for 9-month-pay personnel)**

#### **Academic Year Effort/Pay on HHS awards:**

- Pam Smith, PI - Works and charges 12.5% time to her HHS award during the AY.
- Institutional Base Pay (IBS) = \$172,000 for AY (\$229,333 converted to 12 month)
- 12.5% Effort and Pay charged to HHS Award during academic year = \$1,194.44 pay charged per pay period.
- Amount over the Cap =  $\$225,700/24 \times .125 = \$1,175.52 - \$1,194.44 = \$18.92$  over the cap pay that must be paid by Department (non-sponsored funds) each pay period.

#### **Summer Effort/Pay on HHS awards:**

- Pam Smith, PI - Plans to work and charge 100% time to her HHS award during the summer for the month of June 2025, \$19,111.11 = one month (i.e., 2 pay periods @ \$9,555.55 per period)
- The maximum she can charge to HHS is \$9,404.16 per pay period and \$18,808.33 for the month.
- Since there are no contracts provided to 9-month faculty for work during the summer, she can elect to only receive up to the cap amount of  $\$9,404.16 \times 2 = \$18,808.33$  in pay for the pay period worked on the HHS award. However, if she were to receive her full IBS pay for those two pay periods, the additional amount representing the amount over-the-cap must be paid from a Department/Non-sponsored project.

**NOTE: Federal regulations require that if an individual is paid, it must be commensurate with work performed and effort expended during the period for which they are paid. It cannot represent an accumulation of pay from “other” periods of time throughout the year.**

#### **PROCESS: Grants and Contracts Administration (GCA) SALARY CAP REVIEW:**

At least twice per year and prior to the release of the Sponsored Compensation Verification (SCVS) reports in February and August, a query is executed to report all salaries paid on DHHS/NIH agency

awards by pay date since the last SCVS report period confirmed. Each individual and pay period amount is reviewed against the cap amount (i.e., for FY25 =  $\$225,700/24 = \$9,404.17$ , which is the same for 9-month faculty pay  $\$169,275/18$ ). Any pay that exceeds the cap requires correction. The College Post-award representative (CPAC) is contacted to make the necessary review and correction(s) to the project account.

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REVISION HISTORY		
EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
August 2021	001	Original
March 2022	002	Updated for 2022 Salary Cap Rates
February 2023	003	Updated for 2023 Salary Cap Rates
January 2024	004	Updated for 2024 Salary Cap Rates
January 2025	005	Updated for 2025 Salary Cap Rates