

## **COUNCIL ON GOVERNMENTAL RELATIONS**

### **Effort Reporting- How Universities Meet the Current Federal Requirements**

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## **Summary**

Recent audit findings surrounding compensation charges on federal research awards have raised the awareness of both federal agencies and universities to issues concerning such costs. This working paper describes the current situation in terms of the federal requirements, university responses to those requirements, the strengths and weaknesses of the current guidelines, and the key issues under discussion. Two specific examples of how institutions operate within the current environment help to demonstrate the flexibility permitted under current guidelines.

## **Current Federal Requirements**

Throughout the long history leading to the current situation, the federal government repeatedly has acknowledged the need to allow flexibility in how specific institutions meet its requirements for accountability. OMB Circular A-21, the primary federal guidance on research funding requirements, recognizes the commingled nature of academic research and teaching, and the imprecision inherent in attempting to separate costs in these two activities. “A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance is placed therefore on estimates in which a degree of tolerance is appropriate.” (Circular A-21, Section J.10.b.1 (c))

The Circular A-21 (Section J.10) guidelines describe two requirements concerning the compensation charged directly to an award or through the Facilities and Administrative rate. First, the Institutional Base Salary (IBS) charges on an award must fairly represent the work performed on that sponsored agreement. Second, the IBS must follow consistently applied institutional policies regarding compensation and be allocated through an official payroll system that ties with the financial records of the institution. It is important to point out that the term “effort reporting” does not exist in the OMB Circular. The main focus in A-21 is verification that the compensation charged is appropriate to the activity performed. (See Appendix A for Section J.10 for Circular A-21).

The federal circular which relates to administration of grants (OMB Circular A-110) similarly does not use the term “effort”; it refers to “time devoted to the project”.

The NIH Grants Policy Statement stipulates that clinical practice plan compensation may be included as IBS if it is guaranteed and paid by the institution, and included and accounted for in the effort reports. NIH is further clarifying its guidance to address situations where a medical clinical practice may be a separate organization and paymaster, but integrated into the compensation program of the university. In these cases, clinical compensation may be included in IBS if the compensation is set by the university, shown on its payroll or salary appointment forms, paid by or at the direction of the university, and shown on its official payroll distribution or effort reports.

### ***What is the Federal Interest?***

Accountability is important for both the individual funding agencies and OMB. The agencies have the additional interest of wanting to get the most productivity possible for the dollars they invest. Agencies that fund basic research primarily through grants, e.g. NSF and NIH, strongly support the percent effort method of accountability. Nevertheless, their auditors have attempted to impose a level of precision to an extent that is difficult to accept in the academic environment, where people do not work according to the time clock. Agencies that commonly deal with commercial entities and the procurement of goods and services, e.g. Dept. of Defense, sometimes issue requests for proposals (RFPs) for research agreements which ask for budgeting based on person hours. While universities sometimes will agree to estimate budgets on this basis, the award is granted with the understanding that IBS charges will follow the institutional payroll distribution system. The flexibility inherent in the OMB guidance serves the federal agencies well.

Award terms and OMB Circular A-110 stipulate that agency approval is required only for a significant reduction in time or effort devoted to a project. Recently, however, government auditors have pressed for some verification that the effort committed by the principal investigator at the time of the award actually occurred during the life of the award. Most universities have relied on individual principal investigators to assure that commitments they made when a project was awarded have been met, and indeed, federal agencies expect that the principal investigator will report any significant changes to these commitments (at a minimum) at the time of the annual progress report. In general, the institutional effort reporting systems have not addressed the need to verify this committed effort. Now many institutions are modifying systems to allow this to be included in the official effort reporting process.

### ***What is the University interest?***

Most research-intensive universities have embraced the percent of activity system. This is because the current OMB guidance allows the flexibility to meet the accountability requirement without rigidly requiring the separation of naturally commingled costs, such as research and teaching, or requiring faculty to use time clocks or other hourly accounting mechanisms to verify time charged to a project. As a result, differences in the responsibilities that constitute a full workload can be accommodated within the same institution.

Current guidelines also permit the different accounting and compensation systems in place among universities to meet the accountability requirement without standardizing to a common approach or system.

Another university interest is to receive fair compensation for the time faculty and staff spend on research projects. The current effort reporting approach acknowledges that faculty and most research staff are exempt employees and permits billing the sponsor on the basis of the proportionate share of the total work period devoted to the grant.

## **Current Methods for Meeting the Requirements**

The government does not prescribe a standard method for providing the assurances required under A-21, but identifies specific criteria for an acceptable method and, then, provides examples of acceptable methods (Plan-Confirmation, After-the-Fact and Multiple Confirmation Records).

### ***Plan Confirmation***

A Plan Confirmation method uses an official institutional system to budget, plan or assign activity levels for all sponsored research and other activities for which an individual is compensated. Significant long-term changes in the planned activity levels must be modified in the system and documented by a responsible official of the institution. The employee, principal investigator, or responsible official annually must sign a statement verifying that the direct and indirect charges to a sponsored award are reasonable for the work performed.

A specific university example:

A private research-intensive university in the Northeast adheres to the plan confirmation method.

University policy clearly states that effort committed in a research proposal, awarded by the sponsor and expended on the project must be matched with an equivalent salary charge. Salary charges are allocated to appropriate University accounts on a prospective basis utilizing approved sponsored project budgets, predetermined university responsibilities and other means. Salary charges in support of a sponsored program are normally made directly to the sponsored account or, in the case of cost sharing, to an unrestricted account, or to some combination of both. These dollars are then tracked<sup>1</sup> and become part of the university's indirect (Facilities and Administrative, or F&A) cost rate calculation. For NIH investigators whose salary is above the current NIH cap, salary above the cap will be designated (e.g., transferred via an accounting entry) to an unrestricted university account. Effort may not be reduced to accommodate for the salary cap.

In addition to the reporting of effort on individual awards, the University is obligated by the plan confirmation method to certify, at least annually, that the distribution of an individual's salaried effort is reasonable in relation to the work performed. This certification is done on payroll "action" forms whenever an individual's salary distribution is reallocated to different projects, when a change (increase or decrease) is made on the IBS, or there is some other significant change in an individual's work activity (e.g., assignment of additional administrative duties). The certification

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<sup>1</sup> Tracking of mandatory and voluntary (the latter for the purposes of calculating the research F&A base) committed effort is managed by a number of mechanisms. It is identified and approved at the proposal stage, tracked by project and account in the sponsored programs database and University financial system, verified for the purposes of submission of financial reports to the sponsor and annually, for base calculation. Because this University does not assign unique account numbers for cost shared effort, this effort is also identified via an annual fiscal year survey and certification of cost sharing, in addition to any project specific reporting.

applies to the payroll distribution that is being modified and states: "I certify that the present pay distribution is a reasonable reflection of the effort devoted during the period prior to the effective date of the proposed change." The certification of effort stated on the forms must be signed by a person with a suitable means of verification that the work was performed on the sponsored project, preferably the Principal Investigator.

Finally, the University is also obligated by the plan confirmation method to provide for an independent internal evaluation of the system to ensure the system's integrity and compliance with standards. This system-wide evaluation is conducted on an annual basis and is referred to as the plan confirmation system review. This review is done by providing to each department a listing of the salary distribution for faculty, staff and graduate student assistants for a specific and predetermined period of time, noting any questions or possible discrepancies. This listing is reviewed and initialed by a person in a position to verify the reasonableness of the salary distribution. The Department Chair/Director is required to sign a statement that accompanies the listing that the listing is being used to monitor the current effort distribution of personnel in his/her department and that, when necessary, required changes are made.

#### *After-the-Fact Activity Records*

An After-the-Fact method uses the actual charges of compensation to reflect the distribution of work among the sponsored and other activities for which an individual was compensated. Original estimates must be adjusted if the actual work distribution changes. The employee, principal investigator, or responsible official must sign a statement verifying that the direct and indirect charges to a sponsored award are reasonable for the work performed. Such statements are required at least semi-annually for professional employees and monthly for other employees.

A specific university example:

Salaries for individuals paid on grants or contracts are based on estimates made prior to the beginning of the bi-monthly payroll period. The University generates effort (activity) reports for all faculty members who are paid on a grant or contract and/or who have a cost sharing commitment during the time period being reported. The information is downloaded from the accounting systems and includes salary data for all salary sources and cost sharing pledges. Salary sources include two external 501c3 medical clinical practice plans and one internal dental clinical practice plan.

Compensation for both external clinical practice plans is set by the University and paid at the direction of the University, but through a separate paycheck. One of the external clinical practice plans and the University are common paymasters for tax purposes and the other is not. Addenda to faculty effort reports are created for faculty with salary cap cost sharing and any necessary cost sharing becomes a part of the confirmation of effort.

The effort report documents the activity for each sponsored agreement including both paid and cost shared activity (committed and mandatory). A third category covers all other activity a faculty member might engage in including administration, teaching, clinical, voluntary uncommitted cost sharing. Effort reports are generated quarterly on the academic quarter for faculty in most colleges and every six months (January 1-June 30 and July 1-December 31) for faculty in the School of Medicine whose appointments and activities do not follow the academic quarter.

The effort reports are circulated in paper form to faculty for their review and signature. Any significant changes in the work activity are identified and corrected on the report. Academic departments then submit any payroll distribution changes, and those are posted into the University's accounting system. The individual faculty member is required to sign his/her own form and confirm that the distribution of activity reasonably reflects effort performed during the reporting period. The report is returned to the central office for review and retention. Non-faculty personnel report monthly. Principal investigators confirm effort performed by employees working on their awards for each sponsored project.

### ***Multiple Confirmation Records***

This method allows different records to be used to verify the direct charges on sponsored agreements and those that are charged indirectly through the F&A rate. While different records may be used, the same standards of using an institutionally based payroll distribution system, and securing the signature of an individual with reasonable means for verification apply.

While this is a method described in the Circular A-21 guidelines, it is not used broadly within the university community.

### ***Other Methods***

While there are three examples of acceptable systems described in Circular A-21, other methods can be proposed and adopted if they meet specific criteria. The most important criteria are that the system must provide confirmation that the actual charges to a sponsored award are reasonable for the work performed, and that the system is used as the official institutional system for distributing payroll expenses for all activities.

If an institution wants to implement a standard hourly work week as the basis of compensation, it could do so within the existing A-21 guidelines. What it cannot do under current guidelines is to charge a different hourly rate for sponsored awards than is charged for other activities, or argue that extra "uncompensated" hours are devoted only to activities other than research. Of course, there are Fair labor Standard Act provisions that may affect this approach, as well.

## **Key Issues Surrounding Effort Reporting**

Recent federal audit attention has heightened the focus on effort reporting and the systems that are used by institutions to meet the Circular A-21 and NIH policy guidelines. Specifically, there are five issues that have surfaced.

### ***One vs. Multiple Organizations***

Academic medical centers are complex organizations that have different organizational and legal structures surrounding the clinical practice activity. In some cases, the clinical practice is considered part of the university's activity, but faculty compensation for these activities is paid through a separately organized practice plan rather than through the university. Following a difficult audit discussion at a particular university, the NIH sought to clarify the existing federal guidance for these situations. Now compensation from both sources may be considered base salary if the clinical compensation is guaranteed by the university, paid by the university and shown on the effort reports of the university. This means that if the clinical practice uses its system to pay a faculty member for clinical activity and then is reimbursed by the university, the university can treat that salary as part of the institutional base salary for effort reporting purposes.

### ***Who Certifies the Effort Reports***

Circular A-21 does not require the principal investigator or employee to sign their own confirmations of salary charges for work performed, but allows a responsible official “using suitable means of verification” to certify the work was performed. To date, many universities have not required principal investigators and employees to sign their own effort reports, but have relied on a responsible official in the department to provide such certifications. This was done to minimize the already voluminous compliance requirements placed on principal investigators working on federal awards. However, given the increasing scrutiny the federal auditors are placing on effort reporting, more and more institutions are beginning to require principal investigators and other faculty to sign their own effort reports.

### ***Salary over the NIH Cap***

The NIH appropriations bill limits the rate of pay on NIH grants to the rate of pay of federal employees at Executive Service I level, which is currently \$180,100. Accordingly, if the compensation level for an individual working on an NIH award exceeds this level, the institution must treat a portion of the salary as cost sharing. For example, if a principal investigator earning \$200,000 commits to spend 30% effort on a research award, then \$54,030 may be charged to the NIH award and \$5,970 must be charged to another source of funding. The effort report must acknowledge that \$60,000 of compensation was charged to the research project, and identify the two sources separately. This compliance requirement is complicated further when an investigator has multiple NIH grants awarded under different fiscal years and thus subject to different salary caps.

### ***Tracking Committed Effort vs. Actual Effort***

Circular A-21 does not address the method by which an institution might verify that effort committed at the time of the award was met. However, agency grant terms and conditions do make clear that the award is, to some degree, based on the proposed time or effort of the principal investigator, and possibly other key personnel. Sponsors require that a significant decrease in the time or effort devoted to the project (defined in OMB Circular A-110 as a reduction in time of 25% or more) be approved in advance by the agency. Recent audit activity has increased the demand to be able to verify at an institutional level that such commitments have been met.

There are three main issues that make this a difficult requirement for a system to capture and report effectively without significant administrative burden. First, many proposals are submitted for each award that is granted, requiring that faculty reallocate their time based on the awards that were funded not the awards they proposed. This requires a reassignment of effort every time a new award is made. Second, agency terms and conditions allow considerable flexibility to the Principal Investigator to adjust the committed effort within certain limits. Only a reduction of 25% or more requires prior approval from the granting agency. Lastly, audit attention has focused also on an investigator's other institutional commitments to try to determine if the time charged to federal grants is reasonable. If a faculty member is scheduled to provide four clinic sessions a week, attend the Human Subjects Committee meetings, teach a class, and attend a university-wide planning meeting weekly, all of these commitments must be taken into account in determining what effort was devoted to the research project. Most of these other commitments are not recorded in existing systems, and change frequently, making it difficult and costly to maintain records on these commitments. The value and necessity of monitoring this level of information is a heavily debated issue.

### ***Individually Defined Work Week vs. Standard Hourly Work Week***

Throughout the long history of government funding of academic research there has been the strong recognition on both sides that flexibility in assigning costs among the multiple activities of faculty is a necessity. The increasingly competitive environment for research funding has driven many faculty members to increase the hours required to fulfill all of the requirements of their responsibilities to the university, the funding agencies and other donors. The issue then is that all of these activities are receiving the benefit of longer working hours by faculty and staff.

For example, when a faculty member agrees to spend an additional two hours a week advising graduate students, he does not receive additional compensation, nor does he reduce his responsibilities related to a federally funded research project. However, some might argue that he must reduce the charges to the federal award because he must take into account the additional time spent advising students as part of his overall effort for which he was compensated by the institution. However, the value of a faculty member's time on the grant has not changed. There are two alternatives to resolve this issue: (1) pay the faculty member more for the additional hours worked, or (2) value an hour of time differently for different activities of the faculty member. The former would likely lead to economic hardship for many institutions and a greater focus on time accounting

systems. The latter would require getting the federal government to agree to pay a higher rate of pay for research related hours than for education and/or clinical practice hours. This seems unlikely in view of the government's long-term insistence that it pays no more than non-federal or foreign sponsors, and that it is not subsidizing other sponsors. In addition, OMB has measured all of the recently proposed A-21 changes against a budget neutral standard.

### **Advantages and Disadvantages of the Current Guidelines and Methods**

The current guidelines require recipients of federal research funding to state that the compensation charged directly or indirectly to a grant is in accordance with the work performed for that grant. They recognize the essential need for flexibility in the academic environment and do not require time clocks or other burdensome methods for verifying actual work performed. The wide range of university accounting systems, organizational structures, and compensation practices can be accommodated within the current guidelines because there is no standard method that must be used.

The primary disadvantages of the current guidelines are that there is no standard value of time, and there is a lack of clear guidance on specific issues (e.g. defining effort).