This notice provides updated information regarding the salary limitation for NIH grant and cooperative agreement awards and extramural research and development contract awards. On January 25, 2002, the Fiscal Year (FY) 2002 information on the salary limitation was published in the NIH Guide for Grants and Contracts. A notice on the continuing resolutions for FY 2003 regarding the salary limitation was published February 10, 2003.

For fourteen consecutive years, Congress has legislatively mandated a provision for the limitation of salary. For FY 2003, the Consolidated Appropriations Resolution 2003, Public Law 108-7, 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 $166,700 for the period January 1 through December 31, 2002. Effective January 1, 2003, the Executive Level I salary level increased to $171,900.

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 Resolution 2003, "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."

In summary, the following reflects the time frames associated with the existing salary caps from FY 1999 through FY 2003:

**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 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 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 2002 Awards** (Executive Level I)
- October 1, 2001 through December 31, 2001: $161,200
January 1, 2002 through December 31, 2002 $166,700

FY 2003 Awards (Executive Level I)
  o October 1, 2002 through December 31, 2002 $166,700
  o January 1, 2003 and beyond $171,900

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, 2003 with a $171,900 salary limitation)

Individual's institutional base salary for a FULL-TIME twelve month) appointment $175,000

Research effort requested in application/proposal - 50%

Direct Salary requested $87,500
Fringe benefits requested (25% of salary) $21,875
Subtotal $109,375

Applicant organization's F&A (indirect) costs at a rate of 45% of subtotal $49,219
Amount requested - salary plus fringe benefits plus associated F&A (indirect) costs $158,594

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 $171,900
Multiplied by effort (50%) to be devoted to project $85,950
Fringe benefits (25% of allowable salary) $21,488
Subtotal $107,438

Associated F&A (indirect) costs at 45% of subtotal $48,347
Total amount to be awarded due to salary limitation $155,785

Amount of reduction due to salary limitation ($158,594 requested minus 155,785 awarded) $2,809

EXAMPLE 2. INDIVIDUAL WITH HALF-TIME APPOINTMENT (based on a grant award/contract issued after January 1, 2003 with a $171,900 salary limitation)

Individual's institutional base salary for a HALF-TIME appointment (50% of a full-time twelve month appointment) $87,500

Research effort requested in application/proposal 30%

Direct Salary requested $26,250
Fringe benefits requested (25% of salary) $6,563
Subtotal $32,813

Applicant organization's F&A (indirect) costs at a rate of 45% of subtotal $14,766

Amount requested - salary plus fringe benefits plus associated F&A (indirect) costs $47,579

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 $85,950
Multiplied by 50% appointment by 30% effort $25,785
Fringe benefits (25% of allowable salary) $6,446
Subtotal $32,231
Associated F&A (indirect) cost at 45% of subtotal $ 14,504

Total amount to be awarded due to salary limitation $ 46,735

Amount of reduction due to salary limitation ($47,579 requested minus $46,735 awarded) $ 844

EXAMPLE 3. INDIVIDUAL WITH NINE MONTH APPOINTMENT (based on a contract award/grant issued after January 1, 2003 with a $171,900 salary limitation)

Individual's institutional base salary WITH NINE MONTH appointment $131,250

Research effort requested in application/proposal 50%

Direct Salary requested $ 65,625
Fringe benefits requested (25% of salary) $ 16,406
Subtotal $ 82,031

Applicant organization's F&A (indirect) costs at a rate of 45% of subtotal $ 36,914

Amount requested - salary plus fringe benefits plus associated F&A (indirect) costs $118,945

If a contract/grant 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 $171,900 (annual rate) divided by 12 months
Multiplied by 9 months by 50% effort $ 64,463
Fringe benefits (25% of allowable salary) $ 16,116
Subtotal $ 80,579

Associated F&A (indirect) cost at 45% of subtotal $ 36,260

Total amount to be awarded due to salary limitation $116,839

Amount of reduction due to salary limitation ($118,945 requested minus $116,839 awarded) $ 2106

NOTE: If a faculty member with a 9 month appointment works during his/her off months, the monthly salary rate limitation is $14,325 ($171,900 divided by 12 months) multiplied by the proposed percent of effort during those months.

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 wards issued with FY 2003 funds.

○ NIH competing grant awards with categorical budgets reflecting salary levels at or above the new cap(s) issued in FY 2003 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 with FY 2002 funds, if adequate funds are available in active FY 2002 awards, and if the salary cap increase is consistent with the institutional base salary, grantees may rebudget to accommodate these salary levels and contractors may bill at the higher level. However, no additional funds will be provided to the FY 2002 grant award 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 supplement an individual's salary 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.

Questions & Answers

1. Can I rebudget grant funds or bill contracts issued with FY 2003 funds to allow for the increase? Yes, provided funds are available and the increase is warranted. Prorated figures should be used for the applicable months, i.e., the $171,900 level is effective beginning January 1, 2003.

2. If a grant award (competing or non-competing) has already been issued in FY 2003, will an adjustment be made? No adjustments will be made. However, rebudgeting is allowable.

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 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 2001, 2002, and 2003). As the cap is linked to Federal Executive Levels, can grantees/contractors with ongoing awards rebudget/bill up to the various salary caps, based on the fiscal year of the award and the time of the salary expense? Yes, salary may be charged in accordance with the prevailing FY cap(s), as long as the levels are consistent with the individual's institutional base pay.

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 salary cap based on information available at the time of award.

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.