NIH Salary Cap—FY2012

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SRA International Webinar, February 23, 2012

Learning Objectives

1. Salary Cap – What is it?
2. What the recent changes are all about and how they will affect NIH grantee institutions.
3. How should NIH awardees handle the salary cap in submissions and awards?
Reminders—What is Salary Cap?

- A legislatively mandated provision limiting the direct salary that an individual may receive from an NIH grant (commonly called salary cap)
- Provided annually in the Appropriations Language
- Limits the amount NIH can award and institutions can charge a grant; not the actual institutional base salary of the individual
- Caps salary, not fringe benefits and F&A costs
- Institutional base salary = annual compensation an organization pays for an individual's appointment regardless if the individual’s time is spent on research, teaching, patient care or other activities
- Does apply to subrecipients
- Does not apply to consultants

A Bit of History

- In effect since FY1990
- Initially tied to a dollar level ($120,000 then $125,000)
- In FY1999 began to be associated with an Executive Level of the Federal Executive Pay Scale
- Allowed for periodic increases as Fed salaries increased
- FY1999 = Executive Level III (started @ $125,900)
- FY2000 = Executive Level II (started @ $136,700)
- FY2001 – FY2011 = Executive Level I ($157,000 - $199,700)

For summary information see:
FY2012 Salary Cap:
The Basics

• Salary Limitation dropped to Executive Level II ($179,700) effective with awards with an *initial* award Issue Date on/after 12/23/2011, the date the President signed the Appropriation into law

• See NIH Guide Notice NOT-OD-12-035:

FY2012 Salary Cap:
The Basics (cont.)

• Since effective date is 12/23/2011, FY2012 awards (competing and non-competing) with an initial award Issue Date on/before 12/22/2011 are subject to Executive level I ($199,700) for the FY2012 award only

• Future years (FY2013 and beyond) will be subject to Executive Level II ($179,700); unless legislation provides otherwise

• A list of grants in this cohort is found on the RePORT website at:
Awards w/initial Issue Date on/before 12/22/2011

- FY2012 Award = Executive Level I ($199,700)
- Future Year Commitments* = Executive Level II ($179,700)
- Competing Grants
  - Those based on detailed budgets will be revised to adjust future year commitments only
  - Modular Budgets
    - Awards will not be adjusted
    - Grantees apply EL I for FY2012
    - Grantees apply EL II for FY2013 unless legislation provides otherwise; rebudgeting of excess is allowed

*Assumes legislation supports this provision and does not otherwise provide

Awards w/initial Issue Date on/before 12/22/2011 (cont.)

- Non-competing Awards (SNAP and Non-SNAP)
  - Awards will not be adjusted
  - Grantees apply EL I for FY2012
  - Grantees apply EL II for FY2013 unless legislation provides otherwise; rebudgeting of excess is allowed
Awards w/initial Issue Date on/after 12/23/2011

• FY2012 Award & Future Year Commitments = Executive Level II ($179,700)
• Competing Grants
  o Those based on detailed budgets will be issued using EL II for FY2012 and all future years
  o Any previously issued on/after 12/23/2011 will be revised and adjusted using EL II when applicable
• Modular Budgets
  • Awards will not be adjusted
  • Grantees apply EL II
  • Rebudgeting of excess is allowed

Awards w/initial Issue Date on/after 12/23/2011 (cont.)

• Non-competing Awards (SNAP & non-SNAP)
  o Awards will not be adjusted
  o Grantees apply EL II for FY2012
  o Rebudgeting of excess is allowed
Questions and Answers

Q: In previous years when the cap would increase January 1st, grantees could begin charging at the higher cap effective with the date of the increase. Why is this change being handled differently?

A: In previous years the salary level remained constant at Executive Level I, although the amount of Executive Level I routinely increased on/about January 1st. Grantees adjusted the rate charged based on the date of the expenditure and the Level I salary in effect on the date of the charge.

This year the actual Executive Level changed effective the date the Appropriation was signed into law, 12/23/2011. Therefore, the applicable level is based on when the FY2012 award was initially issued, not when the actual salary cost is charged.
Q: The Guide Notice uses the term “initial Issue Date”. Where do we find that date and how do we know it is the “initial” date?

A: The Issue Date is in the Header information of every Notice of Award (NoA). When an award is revised, the NoA shows “REVISED” next to the Grant Number field and the Issue Date reflects the date of that revision; therefore the “initial Issue Date” is the date on the FY2012 NoA that has no reference to “REVISED”. See next slide for example.
Q: Does reference to “initial Issue Date” refer to the date of the award for this budget period; or does it refer back to the initial issue date for the start of the project period?

A: The change in salary cap is tied to the FY2012 Appropriation; therefore, any reference to Issue Date refers to the Issue Date of the FY2012 award.
Q: How can grantees tell if an award is issued with FY2012 funds?

A: The Fiscal Year is a data field on the award located in SECTION I – AWARD DATA, in the Fiscal Information section as well as in the chart immediately below. See the following example.
**Rebudgeting**

**Q:** A grant was issued on/after December 23, 2011. The award was based on Executive Level I. Can the grantee rebudget funds awarded in excess of the new Executive Level II salary limit, or will NIH adjust the award?

**A:** It depends.
- If non-competing, NIH will not adjust the award. Grantees must apply EL II and may rebudget any excess.
- If competing award based on a detailed budget, the NIH IC will revise the award when an adjustment for the lower salary limit is needed.
- Competing modular awards will not be adjusted for salary cap; however, grantees must apply Executive Level II. Rebudgeting of any excess funds is allowed.

**Impact on Future Years**

**Q:** For awards issued on/before 12/22/2011, will future year commitments be adjusted to reflect Executive Level II?

**A:** For competing awards (non-modular) issued on/before 12/22/2011, future year commitments will be adjusted when applicable to reflect EL II. (No adjustment will be made to the FY2012 award level for salary cap).

Non-competing awards will not be adjusted to reflect Executive Level II for either the FY2012 award or any future year commitments; however grantees must still apply the appropriate rate.
FY2013 Applicability

Q: An award has a November 1 start date; for FY2012 the applicable salary cap is Executive Level I. If FY2013 begins under a Continuing Resolution, which salary cap level will apply to the FY2013 award?

A: Generally, a Continuing Resolution extends the provisions of the previous fiscal year Appropriation. Therefore, unless there is language in the Continuing Resolution to state otherwise, Executive Level II ($179,700) would be the applicable cap for the FY2013 award since Executive Level II is the level provided in the Consolidated Appropriations Act, 2012. This would be regardless of what the applicable level is for the FY2012 award.

FY2013 Applicability (cont.)

Q: In follow-up to the previous question, is there any difference if Fiscal Year 2013 begins with a Full Appropriation (rather than a Continuing Resolution)?

A: Possibly. It will depend on the language provided in that law.
Q: Can a researcher impacted by the lower salary cap reduce their level of effort in accordance with the lower salary?

A: The salary limit is a yearly rate applied to an individual's institutional base salary rate. Since the institutional base salary rate for the individual remains constant, reducing effort would only help to minimize the impact to a particular grant. Further, some programs have minimum effort required; some grants may specifically restrict percent effort of an individual; and significant changes in effort could trigger a change in scope requiring NIH prior approval. All of these issues must be considered before reducing effort based solely on the lower salary cap.

Q: A grant with an initial Issue Date on/before 12/22/2011 was awarded and included funding for a “to be named” position; the “to be named” person will not begin employment until after January 1, 2012. Which salary limit is applicable?

A: Apply Executive Level I for FY2012. The salary limit is tied to the limit in effect when the grant was initially funded, regardless when the individual's employment became effective.
No-cost Extension

Q: An award initially funded with FY2011 funds is now going into a no-cost extension period that will span FY2012 and a few months of FY2013. What salary limit applies during the extension phase?

A: Executive Level I ($199,700) would be the applicable limit for the entire length of the no-cost extension period.

Carry Over

Q: My institution will carry over funds from the FY2011 award into the FY2012 budget period. Which salary cap applies to the carryover?

A: Assuming the carryover will be used for salaries, Executive Level I ($199,700) would be the appropriate level to charge for the carryover amount only. Accordingly, institutions will need to ensure adequate separation of accounts as necessary to demonstrate compliance.
**Consortium/Subrecipient**

Q: A new grant funded 12/1/2011 has a consortium to a subrecipient, but the consortium agreement isn’t finalized until 1/1/2012. Which salary limitation applies to this subrecipient?

A: Executive level I ($199,700). The key date is the initial Issue Date on the Notice of Award to the Prime grantee; it is not the date of the consortium agreement. Prime grantees hold the responsibility for ensuring the appropriate salary limit flows to subrecipients.

**Supplements**

Q: My organization is preparing an administrative supplement request that includes salary for a researcher affected by the cap. Which salary limit applies?

A: Assuming that the administrative supplement (T-3) will be issued for the first time after 12/23/2011, then the applicable salary limit is Executive Level II ($179,700). This would apply to competitive revision applications funded on/after 12/23/2011 as well.

Q: Does is matter when the parent grant was awarded in FY2012?

A: No. Timing of the applicable cap is tied to the date the FY2012 Appropriation was signed into law. So T-3s issued on/after 12/23/2011 will be subject to EL II regardless of what level the parent grant is subject to for FY2012.

(Note same principles apply for Competitive Revisions.)
**Administrative Increases vs. Supplements**

**Q:** An institution submits a request for additional funds in Feb 2012 with salary that is impacted by the cap. The parent grant was awarded 12/1/2011 so is subject to EL1. The additional funds will be awarded as an administrative increase (not a separate supplement award) in March 2012. What will be the applicable salary cap for the increase?

**A:** Since the increase is in response to a discrete request for additional funds, and the decision to support the request is made on/after 12/23/2012, Executive level II would apply. When a salary cap is involved, NIH ICs are strongly encouraged to award such an increase as a separate supplement (T-3) award to help manage this requirement. If an IC awards such an increase through a revised FY2012 award instead of a T-3, an award term will be included that specifically references that the additional funds are subject to Executive Level II. Note this does not apply to revised awards to restore funds to awards initially issued under a Continuing Resolution. This only applies when the revision is to provide additional funds in response to a discrete prior approval request.

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**Applications and Progress Reports**

**Q:** What salary limitation level should be used in applications and progress reports being prepared now for submission to NIH?

**A:** NIH application instructions remain unchanged. Applications with a detailed budget should continue to reflect actual institutional base salary of individuals for whom reimbursement is requested. NIH will make any adjustment necessary using the applicable salary limit in effect at the time of award. In lieu of actual base salary, institutions may elect to provide an explanation in the budget justification narrative indicating that the actual institutional exceeds the current salary limitation. When this information is provided, NIH staff will make necessary adjustments to requested salaries prior to award.

When preparing an application using the modular budget format, applicants should use the current salary limit when estimating the number of modules requested.

For progress reports (non-SNAP), requested salary may not proportionally exceed any imposed salary limit.
Q: An application using a detailed budget was submitted using Executive Level I as the salary cap. Can the institution submit a revised budget that reflects the new, lower cap and rebudget the extra funds elsewhere?

A: No.

Q: A progress report (non-SNAP) was submitted 12/1/2011 and in accordance with instructions showed salaries capped at Executive Level I. Will NIH adjust the requested budget to reflect Executive Level II?

A: No, NIH will not adjust any non-competing awards for salary cap. In this situation, the grantee must apply Executive level II once the award is issued.
**Multi-Year Funded Grants**

Q: A grant is multi-year funded in FY2011. It is now in its 2nd year of the project period. What salary cap level applies?

A: Since the entire project period was issued with funds from FY2011, Executive Level I will be the applicable salary cap for the entire project period.

**Transfer Applications**

Q: An FY2012 grant awarded 12/1/2012, transfers June 1, 2012. The initial FY2012 award is subject to Executive Level I. What would be the applicable level for the transfer award to the new institution?

A: Since the transfer award is the initial award to the new institution, Executive Level II would be the applicable level for the new institution. NIH will not make any adjustment for salary cap in the transfer award; however, the new grantee must apply Executive Level II.
NIH Resources

- Salary Cap Summary Webpage:
- FY2012 NIH Guide Notice NOT-OD-12-035:
- List of FY2012 Grants subject to Executive Level I on RePORT:
- Salary Cap – FY2012 Frequently Asked Questions:

Institution Considerations
Considerations for Awardees

• The policy references “issue date” not award date, project date or budget period. Check eRA Commons.

• Have you set up a pre-award budget?
  o Need to track any pre-award spending when allowed 90 days prior to award.
  o Are alternative budgets being charged or do dreaded cost transfers need to be done to reconcile?

More Considerations

• Can you track carry forwards to accommodate dual salary cap rates?
• Can your system keep track of supplements that may have dual salary cap rates?
• How will you track no-cost extensions that may be at the ELI and the next year award is at the EL II?
Effort Reporting Issues

• Will your effort reporting system accommodate two salary cap levels? If not, can a manual override be done?
• Faculty will need additional guidance on filling out effort reporting. A good time to remind them of the general requirements for effort reporting.

More Considerations

• Do you have sub-awards that have been issued with the EL I that need to be revised?
• Have you let your sub-awardees know when budgets should be revised or that they can re-budget?
• Do you have flow through awards from a prime recipient of NIH funds? If so, have you been contacted regarding any flow through awards affected by the reduction in the cap?
Thank you!

**Presenters:**
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