

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Workforce System
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TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
ALL ETA FEDERAL ASSISTANCE AWARD RECIPIENTS AND
SUBRECIPIENTS

FROM: JOSÉ JAVIER RODRÍGUEZ /s/
Assistant Secretary

SUBJECT: Salary and Bonus Limitation Imposed by Appropriations Language

1. **Purpose.** To provide guidance to states and other Employment and Training Administration (ETA) federal assistance award recipients and subrecipients on the limitation on salary and bonus payments that can be made using funds appropriated to ETA.
2. **Action Requested.** All ETA federal assistance award recipients and subrecipients must comply with the salary and bonus limitation imposed by ETA’s appropriations bills, as discussed in this guidance, throughout their federal assistance award’s period of performance, unless one of the exceptions discussed in section 4.b. of this guidance applies. Additionally, ETA federal assistance award recipients should inform all staff and subrecipients of this guidance to facilitate and ensure compliance with the salary and bonus limitation.
3. **Summary and Background.**
 - a. Summary – This guidance expands upon the salary and bonus limitation language contained in the terms and conditions of the recipient’s federal assistance award and provides examples of how the limitation is applied to covered individuals and transactions.
 - b. Background – Since Public Law 109-234 was signed into law on June 15, 2006, ETA’s appropriation language has carried the salary and bonus limitation forward into each succeeding Fiscal Year (FY) and this will likely continue for the indefinite future. The language in ETA’s most recent appropriation, Further Consolidated Appropriations Act, 2024, Public Law 118-47, Division D, Title I, Section 105 states:

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SEC. 105. None of the funds made available by this Act under the heading “Employment and Training Administration” shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in Office of Management and Budget Circular A-133. Where states are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the state, the compensation levels for comparable state or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs.

The Office of Personnel Management (OPM) updates the Executive Level II limitation annually. As such, ETA federal assistance recipients should review all terms and conditions in their agreement which reference compensation limitations and follow the guidance provided by this Training and Employment Guidance Letter. Recipients must ensure their subrecipients are aware of and comply with the limitation.

4. **Applying the Executive Level II Limitation.** Recipients and subrecipients should use the following guidance to ensure compliance with the salary and bonus limitation as follows:
 - a. **Programs Impacted by this Provision.** Unless specifically exempted as outlined in section 4.b, the Executive Level II salary and bonus limitation on compensation applies to all individuals administering and operating programs and activities undertaken through ETA appropriations and funding sources, including:
 - i. **Multi-Funded Organizations** – When a recipient/subrecipient receives a combination of ETA and non-ETA funds, the limitation applies to only the portion funded by ETA appropriations. The ETA portion cannot exceed the proportional Executive Level II rate applicable for that calendar year. For example, if a staff person’s salary is paid using 75% ETA funds and 25% non-ETA funds, the proportion limited to be charged to ETA funds is 75% of the Executive Level II rate for that calendar year.
 - ii. **Multiple ETA Program Organizations** – The salary and bonus limitation **also** applies to funds appropriated to ETA which are administered through more than one statute or program. For example, the Senior Community Service Employment Program (SCSEP) and Workforce Innovation and Opportunity Act (WIOA) programs are authorized under two separate statutes but are both administered through ETA. If an individual’s salary and bonus are paid from both of these funding sources, the portion received from each of the programs cannot exceed the proportional Executive Level II rate applicable for that calendar year. For example, for a staff person who is working on ETA programs for a cumulative total of 75% of the calendar year, the base in which to apply the 75% rate is on the Executive Level II rate and not the person’s salary. Within that 75% total, if the person spends 50% of the calendar year working on WIOA programs and 25% working on SCSEP, the two portions of the

person's salary funded through these programs cannot exceed 50% and 25%, respectively, of the Executive Level II rate.

b. **Exceptions.** The salary and bonus limitation does not apply to the following:

- i. H-1B Awards – The H-1B program is authorized by the American Competitiveness and Workforce Improvement Act of 1998 and is funded by resources generated from employer fees collected under the H-1B program rather than ETA appropriations. Thus, any grants funded by H-1B resources are not covered by the salary and bonus limitation.
- ii. Disaster Unemployment Assistance (DUA) – Federal awards made under the DUA program are funded with resources appropriated to the Federal Emergency Management Agency and are transferred to ETA. Thus, DUA awards are not covered by the salary and bonus limitation.
- iii. Contractors/Vendors – Section 105 of the appropriation provides that the salary and bonus limitation does not apply to “vendors” as defined in Office of Management and Budget Circular A-133. This circular was superseded by the Uniform Guidance at 2 CFR part 200. The Uniform Guidance uses the term “contractor” to refer to these entities. Therefore, contractors of recipients and subrecipients are not subject to the salary and bonus limitation.

c. **Covered Entities/Individuals.** Any salary or bonuses paid using ETA appropriations are covered by this compensation limitation:

- i. Recipients/Subrecipients – Entities including states, one-stop partners, and service providers that receive a federal assistance award from ETA appropriations are subject to the salary and bonus limitation.

d. **Other Considerations.**

- i. Consultants – Limitations on daily consultant fees in ETA's federal assistance awards must continue to be followed.
- ii. State Limitations – State determined limitations on salaries and bonuses are generally more restrictive. When a state has adopted a salary cap consistent with the requirements of 20 CFR 683.290(d) for Title I of WIOA and Wagner Peyser, the state limitation would apply rather than the Executive Level II limitation. When setting a state limitation, the state must consider various factors including the relative cost-of-living in the state, the compensation levels for comparable state or local government employees, and the size of the organizations that administer Federal programs.

e. **Application of the Limitation.** The appropriations language sets the limit on salaries and bonuses at a rate that does not exceed the Executive Level II rate of pay. The Executive Level II rate is updated annually and can be found in the Rates of Pay for the Executive Schedule on OPM's website: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (see Executive & Senior Level Employee Pay Tables). The

following factors must be considered when determining whether an individual's compensation complies with the salary and bonus limitation:

- i. What is Included/Excluded in the Calculation – The limitation applies only to salary and bonuses paid during any calendar year; it does not apply to fringe benefits, insurance premiums, or contributions to pension plans paid by a recipient or subrecipient.
- ii. Measurement Period – Compliance with the salary and bonus limitation is measured per individual on a calendar year basis.
- iii. Full-Time Equivalent – The salary and bonus limitation is calculated on a full-time equivalent (FTE) basis of 2,080 hours. The salary and bonus limitation needs to be adjusted, as shown in Example 2 below, if an employer's full-time hours are not 2,080 hours, or if the employee works on the ETA-funded project on a part-time basis.
- iv. Two or More Positions – If an individual is paid for two or more positions within the same recipient or subrecipient, the total income earned, and bonus received must not exceed the salary and bonus limitation. For example, an individual who is an employee and consultant for the same recipient or subrecipient cannot earn more than the salary and bonus limitation.
- v. Direct/Indirect – Regardless of whether the compensation is charged to the ETA award as a direct or indirect cost, the totality of compensation must not exceed the limitation.
- f. **Examples** – The various concepts discussed above are elaborated upon in the following examples:

Example 1 – Full-Time Salary

Annual Salary + Bonus	Executive Level II Limit	% of Actual Time Spent on ETA Award	Salary Charged to ETA Award	Adjusted Executive Level II Limit Based on % of Time	Is Employee's Compensation in Compliance with Executive Level II Limit?
A	B	C	D = A * C	E = B * C	D ≤ E
\$200,000 + \$25,000	\$221,900	100%	\$225,000	\$221,900	No - exceeds the limit by \$3,100

Table 1

Example 1 Explanation: When 100% of an employee's annual salary and bonus is paid through one ETA federal assistance award, no adjustment to the salary and bonus limitation is necessary. However, the combined salary and bonus in this example exceed the Executive Level II Rate/Limit for rate of pay. **The amount that exceeds the Executive Level II Rate/Limit, \$3,100, must be credited back to the ETA federal assistance award in the federal**

award recipient's accounting and payroll systems. Any amount that exceeds the Executive Level II Rate/Limit must not be paid with any ETA federal assistance awards.

FTE Concept – When a salary is paid using multiple funding sources, the FTE concept is used to ensure that the **rate of pay** (in proportion to hours worked) does not exceed the limitation. The calculation uses the standard 2,080-hour calendar year formula to determine the percent of time spent on ETA programs and applies any necessary adjustment to the limitation based upon hours allotted to ETA-funded programs.

Example 2 – Part Time or Multi-Funded Organization

Annual Salary + Bonus	Executive Level II Limit	% of Actual Time Spent on ETA Award	Salary Charged to ETA Award	Adjusted Executive Level II Limit Based on % of Time	Is Employee's Compensation in Compliance with Executive Level II Limit?
A	B	C = Hrs./2,080	D = A * C	E = B * C	D ≤ E
\$230,000	\$221,900	1,040 hrs. = 50%	\$115,000	\$110,950	No - exceeds the adjusted limit by \$4,050

Table 2

Example 2 Explanation: *When less than 100% of an employee's annual salary and bonus is paid through an ETA federal assistance award, an adjustment to the salary and bonus limitation is necessary. Since the employee only worked 50% of their time on the ETA federal assistance award, the Executive Level II Rate/Limit must be adjusted accordingly, based on the employee's time worked on the ETA federal assistance award. Based on the adjusted limit and the amount of time the employee worked on the ETA federal assistance award, this individual's compensation has exceeded the salary and bonus limitation. **The recipient must use non-ETA funds in the amount of \$4,050 to pay the full salary and bonus. If this calculation was performed after the compensation was paid to the employee, the \$4,050 that exceeds the limitation must be credited back to the ETA federal assistance award in the recipient's accounting/payroll systems.***

Multiple Funding Sources – Federal and Non-Federal – It is permissible for the combination of funding sources (ETA funds, state, municipal, or private) when totaled, to exceed the Executive Level II rate of pay. However, the limitation still applies, proportionally, to the share of time attributable to work on a single ETA award or combination of ETA awards.

Example 3 – Working in Multi-Program Organizations

Budgeted Annual Salary Charged to Each Program	Executive Level II Limit	% of Actual Time Spent on ETA Award	Salary Charged to ETA Award	Adjusted Executive Level II Limit Based on % of Time	Is Employee's Compensation in Compliance with Executive Level II Limit?
A	B	C = Hrs./2,080	D = A * C	E = B * C	D ≤ E
SCSEP: \$158,000	\$221,900	353.6 hrs. = 17%	\$42,500	\$37,723	No - exceeds the adjusted limit by \$4,777
WIOA Adult: \$22,000	\$221,900	780 hrs. = 37.5%	\$93,750	\$83,213	No - exceeds the adjusted limit by \$10,537
RESEA: \$70,000	\$221,900	946.4 hrs. = 45.5%	\$113,750	\$100,964	No - exceeds the adjusted limit by \$12,786
Total: \$250,000	--	100%	\$250,000	\$221,900	No - exceeds the limit by \$28,100

Table 3

Example 3 Explanation: The annual salary for a project manager (PM) was budgeted across three ETA programs – SCSEP, the WIOA Adult program, and the Reemployment Services and Eligibility Assessment (RESEA) grant – based upon projected responsibilities at the beginning of the year (Column A). The actual time the PM spent on each program is reflected in Column C. The limit was adjusted based on the hours worked for each program. The adjusted limits are then compared to the portion of salary charged to each ETA program to determine if the employee's pay for each program complies. **Each of the three programs/ETA federal assistance awards will need to be credited back the respective amount that exceeds the adjusted Executive Level II Rate/Limit, for a total of \$28,100, in the federal assistance award recipient's accounting/payroll system and the \$28,100 must be paid using non-ETA funds.**

Direct and Indirect Expenditures – Any compensation charged to an ETA federal assistance award, as either a direct cost or through an indirect cost rate, is covered by the compensation limitation. The allowable amount to charge to each funding stream is proportionally based on each funding stream and the indirect cost pool's share of the employee's salary and bonus. Ultimately, the proposed salaries must be reconciled to actual time and the actual amount charged directly to the programs and to the indirect cost pool.

Example 4 – Proposed Direct and Indirect Costs of One Employee

Direct or Indirect Costs	Annual Salary + Bonus	Executive Level II Limit	% of Salary	Adjusted Executive Level II Limit	Is Proposed Compensation Less than the Total Allowable Cost for Salaries Paid with ETA funds?
	A	B	C = A / \$235,000	D = B * C	A ≤ D
#1 – Indirect Cost Pool	\$125,000 Overhead and Administration	\$221,900	53.1915%	\$118,032	No - exceeds adjusted limit by \$6,968
#2 – Direct Cost	\$50,000 YouthBuild	\$221,900	21.2766%	\$47,213	No - exceeds adjusted limit by \$2,787
#3 – Direct Cost	\$50,000 WIOA Youth	\$221,900	21.2766%	\$47,213	No - exceeds adjusted limit by \$2,787
#4 – Direct Cost	\$10,000 REO Youth	\$221,900	4.2553%	\$9,442	No - exceeds adjusted limit by \$558
Total:	\$235,000	--	100%	\$221,900	No - exceeds the limit by \$13,100

Table 4

Example 4 Explanation: An agency charges 100% of their Executive Director’s \$235,000 compensation to ETA programs subject to the salary and bonus limitation. Based on the agency’s Negotiated Indirect Cost Rate Agreement (NICRA), their salary is paid directly from three ETA awards with the remaining paid through the indirect cost pool of a different ETA grant. After reconciling the salary dedicated to each ETA program, the amount that exceeds the adjusted limitations cannot be paid using ETA funds. ***Instead, the excess \$13,100 cannot be directly allocated or charged to ETA programs and must not be paid using ETA funds.***

It should be noted that when preparing NICRA and Cost Allocation Plans (CAP) to recover indirect costs, recipients and subrecipients must disclose all salary and salary breakdowns for allocated direct and indirect costs to their Federal cognizant agency (FCA) or pass-through entity to verify that applicable indirect cost charges are in compliance with the limitations imposed by ETA and this guidance. If an evaluation of the salary and bonus limitation identifies excessive compensation, recipients and subrecipients must make required adjustments to indirect cost proposals to help ensure that compliant NICRAs and/or CAPs are issued by the FCA or pass-through entity for the applicable fiscal year periods. Unallowed direct costs associated with excess compensation due to the salary and bonus limitation must remain as part of the indirect cost allocation base approved by the FCA or pass-through entity.

For examples of proposed salary breakdowns, please see the Excel file incorporated herein as [Exhibit A](#), as part of [A Guide for Indirect Cost Rate Determination](#), Section III, Examples of Exhibits to Support Indirect Cost Proposals in the Cost and Price Determination Division’s (CPDD) website. In addition to the examples previously provided, CPDD’s website also provides an [Excel file](#) that can be used to determine unallowable compensation based on the pro-rated share of costs.

Where More Restrictive Limitations Prevail – If a state has established a lower salary and bonus limitation, that state-established amount is the salary and bonus limitation. The salary and bonus limitation imposed by the ETA appropriation does not change the state-established limitation.

Example 5 – State Determined Compensation Limit

Annual Salary + Bonus	State Determined Limit	Time Spent on ETA Award	Salary Charged to ETA Award	Adjusted State Determined Limit Based on % of Time	Does Employee’s Pay Comply with Adjusted State Determined Limit?
A	B	C = Hrs./2,080	D = A * C	E = B * C	D ≤ E
\$140,000 + \$18,000	\$145,000	1,456 hrs. = 70%	\$110,600	\$101,500	No - exceeds the adjusted limit by \$9,100

Table 6

Example 5 Explanation: A municipality aligns its pay rates to the state merit staffing schedule and an individual cannot be paid more than \$145,000 a year. The Board would like to give the Director a bonus of \$18,000, for a total of \$158,000 in salary and bonus, but based on the Director’s actual time spent on the ETA award (70%), the Director’s salary and bonus would not comply with the adjusted state determined limit, as adopted by the municipality. In this example, the Director could only be provided a bonus of \$5,000 (\$145,000 - \$140,000) using ETA funds and comply with the adjusted state determined, locally adopted limit.

- Inquiries.** Recipients of federal assistance awards funded with ETA appropriations should direct all inquiries to their Federal Project Officer. Alternatively, inquiries may be directed to the appropriate Regional Office.

For assistance with NICRA and indirect cost rates, recipients and subrecipients may contact CPDD with any questions. CPDD contact information is located at:

<https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division/contact>.

- References.**

- Pub. Law 109-234, *Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006*, Section 7013;
- Pub. Law 118-47, *Further Consolidated Appropriations Act, 2024*;
- American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 3224a);

- Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR Part 2900, DOL Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 20 CFR 683.290, Are there salary and bonus restrictions in place for the use of title I of Workforce Innovation and Opportunity Act and Wagner-Peyser Act funds?.

7. **Attachment(s)**. Not applicable.