



RESEARCH Compliance Conference

October 20-22, 2008
Chicago, IL | Westin Michigan Avenue




The Good, The Bad, and The Very Ugly

Terry L. Reeves, CPC, CHC, CHRC
Institutional Compliance Officer
The University of Texas Medical Branch at Galveston

Health Care Compliance Association
6500 Barrie Road, Suite 250, Minneapolis, MN 55435
888-580-8373 | www.hcca-info.org

Effort Reporting Fundamentals

- Before developing an Effort Reporting Practice or Procedure you must have a clear understanding of the following:
 - Institutional Base Salary (IBS)
 - Cost Sharing
 - Cost Transfers
 - Payroll Policies
 - Budgeting/Salary Distribution Policies and Procedures
 - Effort Reporting Policies
 - Reconciling effort reported with salary paid by effort reporting period



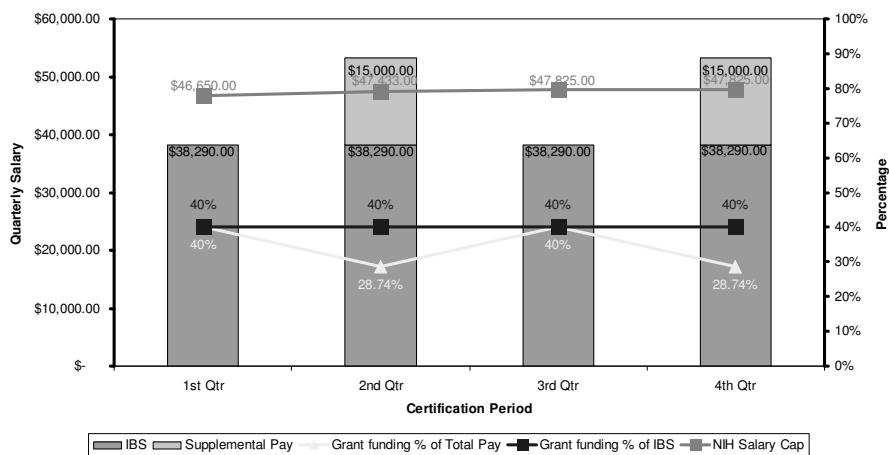
888-580-8373 | www.hcca-info.org

2

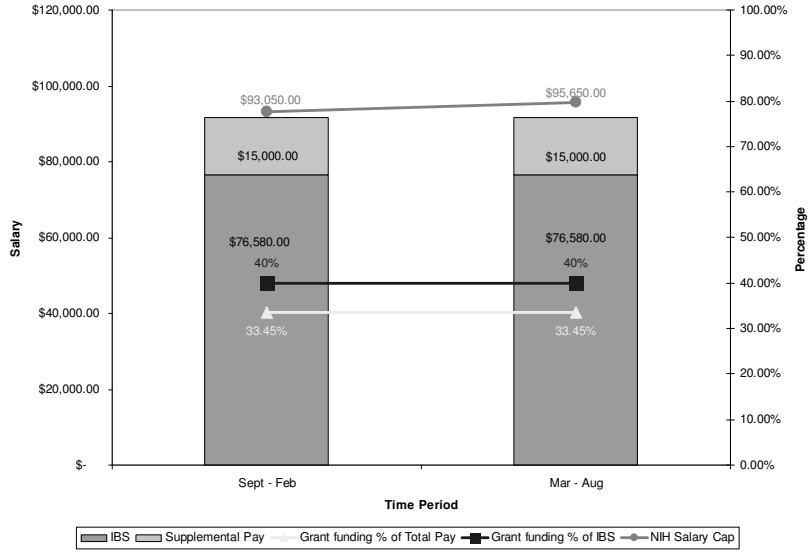
Institutional Base Salary (IBS)

- Salary used to determine amounts requested for personnel in applications and proposals and charged to NIH grants and contracts
- Annual compensation paid for an employee's appointment, whether that time is spent on research, teaching, patient care, or other activities
- Excludes income an individual is permitted to earn outside of duties for the applicant/grantee organization
- May not be increased as a result of replacing organizational salary funds with NIH grant funds. See NIH Grants Policy Statement 12/1/2003 page 11. http://grants.nih.gov/grants/policy/nihgps_2003/NIHGPS_part2.htm
- Fixed and guaranteed for the fiscal year, cannot fluctuate throughout the fiscal year within the period for which total IBS is confirmed by the grantee institution
- Develop a clear policy of what constitutes IBS in your organization and what specific compensation components are excluded from IBS and the specific annual amount(s) that will be used to determine salary requests for grant applications for all years of the application
- <http://grants2.nih.gov/grants/guide/notice-files/NOT-OD-05-061.html>

Effect of Fluctuations of Total Salary on Effort Reporting



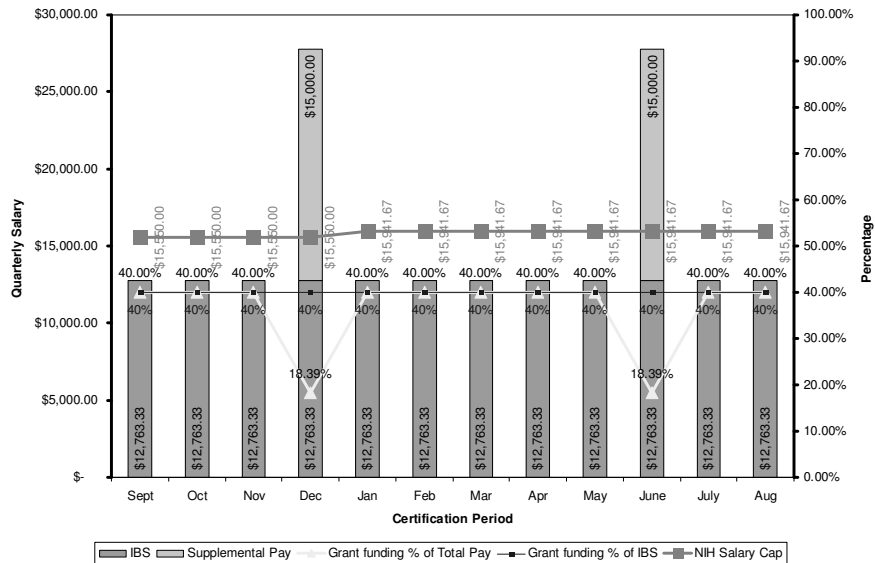
Six Month Certification Example



HCCA
HEALTH CARE
COMPLIANCE
ASSOCIATION
888-580-8373 | www.hcca-info.org

5

Monthly Certification Example



HCCA
HEALTH CARE
COMPLIANCE
ASSOCIATION
888-580-8373 | www.hcca-info.org

6

Other Salary Issues

- Salaries and Wages are allowable costs
 - Reasonable and consistently applied regardless of funding source
 - Reflect no more than the percentage of time actually performed on an individual project
- Method for reporting salary percentage- number of decimal places (rounding)
- Effort reports must reflect all compensated activities, including efforts not federally funded (e.g. instruction, governance, and academic advising)
- Activities within the scope of the standard employment relationship are considered compensated
- Consider whether employees should be appointed 100% on sponsored research or require a minimum percentage for administrative or teaching responsibilities

Cost Sharing

- Cost sharing is the mandatory or voluntary commitment of institutional resources contained in the proposal or award. The concept of matching is synonymous with Cost Sharing.
- Mandatory Cost Sharing (Account and Track)
 - Salary-cap
 - Voluntary committed
- Voluntary Uncommitted Cost Sharing
- No cost sharing from another federal source or a source for which you must report effort



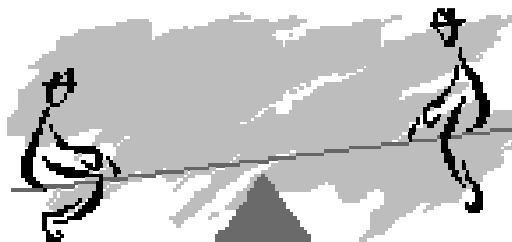
Cost Transfers

- Appropriate segregation
- Tracked and individuals or departments with excessive amounts or numbers monitored
- Occur timely and within 90 days of the original transaction
- Three year retention period
- Not permitted after Effort Reports are completed and signed by the individual or after the Sponsored Program closeout date, unless it benefits the sponsor

Payroll and Effort Interdependency

Payroll

Effort Report



Must stay in balance!

Payroll Policies/Salary Distribution

- Never make a change to a prior pay period after the effort reporting period for that pay period has been certified and closed unless it's absolutely required.
- Plan to pay the employee the full amount of effort requested in the grant application. Cost share any difference when necessary, for example "over the cap" personnel must be cost shared. If committed 40% then pay 40% from the grant.
- Round to whole numbers in salary distribution percentages when reporting.
- Validate that the salary distribution process, including changes, works correctly and flows to the book of record.
- Must have a strong dialogue/relationship between Payroll and Research Services.

Effort Reporting Policy Required Elements

- Frequency of reports
- Time allowed to complete forms
- Who signs the confirmation/acknowledgement
- Forms not completed or submitted
- Reporting in whole numbers
- Recertification?
- Tolerance

Effort Report Components

- Reflect all compensated activities
- Activities within the scope of the employment relationship are considered compensated.
- Reasonable estimate of the work performed by the employee during the period.
- Supplemental Activities “Incidental Work”
- Signature requirements
 - Employee, principal investigator, or responsible official
 - Suitable means of verification that the work was performed
 - “Responsible official” is not your secretary

Effort Reporting Basis

- Effort reports should be prepared on a percentage of effort basis so as to assure consistency with award terms.
- Separate from:
 - Payroll appointment (should be aligned)
 - Time sheets
 - Time studies
 - Physician Time Allocation Agreement (PTAA)
 - If completing a PTAA, the PI should ensure that at least as much effort reported on Contracts and Grants is shown on the PTAA as well.

Confirmation

- Effort reports must be confirmed by an individual with full knowledge of all aspects of the employee's effort.
- Reports should be confirmed or acknowledged by the employee whenever possible, but may be approved by the PI or Chair in the employee's absence
- Assessments of payroll and effort consistency should occur by reporting period, permitting variations between effort and payroll on the effort reporting period basis.

Tolerance within Effort Reports Related to Committed Effort

- 25% tolerance
- If committed 30% effort 25% of 30 is (7.5%)
- 22.5% - 37.5% range without having to ask advance permission from NIH to change budgeted amount.

Tolerance within Effort Reports Related to Actual Paid

- Supposed industry standard 5% tolerance of reported effort compared to paid salary.
- If actually paid 30%, the tolerance of actual worked can only be 1.5%, i.e. 5% of 30. Actual effort could be as low as 28.5% without having to initiate a cost transfer.
- Carefully consider the tolerance that you maintain. This should be carefully analyzed, it can reach substantial amounts charged to the grant.
- A-21 states: "A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate"
- Council on Governmental Relations (COGR) in the whitepaper, "Compensation, Effort Commitments, and Certification" states "Institutions that use a 5 percent standard should clearly document the context in which it is used."

Impact of Tolerance

	Count	Amount	Cumulative Count	Cumulative Amount	Cumulative Count Percentage	Cumulative Amount Percentage
0.50%						
<=200	857	133,794.25				
201-300	631	148,444.57	1488	282,238.82		
301-400	318	110,919.96	1806	393,158.78		
401-500	208	93,638.02	2014	486,796.80		
501-600	116	62,898.57	2130	549,695.37		
601-700	94	60,984.87	2224	610,680.24		
701-800	134	101,147.90	2358	711,828.14		
>=801	132	112,856.61	2490	824,684.75		
1%						
<=75	1	75.00				
76-100	0	0.00	1	75.00	0.04%	0.00%
100-150	4	543.15	5	618.15	0.20%	0.04%
151-175	4	667.25	9	1,285.40	0.36%	0.08%
176-200	6	1,137.39	15	2,422.79	0.80%	0.15%
201-225	12	2,578.16	27	5,000.95	1.08%	0.30%
226-250	171	42,482.80	198	47,483.75	7.96%	2.88%
251-275	51	13,725.25	249	61,209.00	10.00%	3.71%
276-300	140	40,649.52	389	101,858.52	15.62%	6.18%
301-400	486	160,917.76	845	262,776.28	33.94%	15.93%
401-500	482	211,724.65	1327	474,500.93	53.29%	28.77%
501-600	159	88,774.11	1486	563,275.04	59.68%	34.15%
601-700	186	121,562.19	1672	684,837.23	67.15%	41.52%
701-800	132	99,837.53	1804	784,674.76	72.46%	47.58%
801-900	103	87,507.27	1907	872,182.03	76.59%	52.88%
901-1000	107	101,372.40	2014	973,554.43	80.88%	59.03%
1001-1100	68	70,786.42	2082	1,044,340.85	83.61%	63.32%
1101-1200	48	55010.71	2130	1,099,351.56	85.54%	66.65%
1201-1300	39	48125.92	2169	1,147,477.48	87.11%	69.57%
1301-1400	55	73,843.82	2224	1,221,321.30	89.32%	74.05%
1401-1500	72	106,118.76	2296	1,327,440.06	92.21%	80.48%
1501-1600	61	94,575.19	2357	1,422,015.25	94.66%	86.22%
1601-1700	71	116,947.14	2428	1,538,962.39	97.51%	93.29%
>=1701	62	110,667.73	2490	1,649,330.12	100.00%	100.00%
1.50%						
<=600	845	393,834.65				
601-1000	760	564,267.28	1605	958,101.93		
1001-1400	344	406,835.48	1949	1,364,937.41		
1401-1800	181	282,048.85	2130	1,646,986.26		
1801-2200	121	240,798.83	2251	1,887,785.09		
2201-2600	193	457,353.00	2444	2,345,137.89		
>=2601	46	123,729.01	2490	2,468,866.90		

Summary of Tolerance Analysis

Total Salary for "Under Cap"	\$ 65,580,757.32
Total Salary for "Over Cap"	\$ <u>7,768,551.20</u>
Grand Total Projects Salary	\$ 73,349,308.52

Total Effect of Various Tolerance Levels

0.50%	1.00%	1.50%	2.00%	3.00%	4.00%	5.00%
\$824,685	\$1,649,330	\$2,468,867	\$3,287,479	\$4,897,728	\$6,480,606	\$8,043,698
1.12%	2.25%	3.37%	4.48%	6.68%	8.84%	10.97%

Effort Committed but No Salary -- Cost Sharing

- Key personnel who have committed effort on grant proposals must perform the effort regardless whether they are paid from the grant.
- If they are not paid, often this is a manual process to add the project to the actual effort report.
- This is voluntary committed cost sharing.

Time and Effort Reporting an Attorney's Perspective*

- Proposed effort v. available effort v. charged effort v. documented effort
 - Relationship between research effort reporting and Medicare time studies and time allocation
 - Objective
 - Research: allocate individual physician effort and salary related costs to specific grants
 - Medicare: identify portion of aggregate physician compensation costs to be claimed as allowable "Part A" teaching and administrative service costs
 - Procedures
 - Research: "effort report = total effort in relevant period
 - Medicare: two week per quarter or one week per month "snapshot" of physician activities
 - Compliance Issues
 - Unrealistic to expect 100% consistency
 - Examine material differences

* From Gary W. Eiland, Esquire; Partner, Health Industry Group; Vinson & Elkins LLP

Time and Effort Reporting an Attorney's Perspective*

- Reported Investigations and Settlements
 - University of Alabama at Birmingham (\$3.39 M, April 2005)
 - Johns Hopkins University (\$2.6 M, March 2004)
 - Northwestern University (\$5.5 M, February 2003)
 - East Carolina University- OIG Audit (\$2.3 M at risk, August 2004)
 - Florida International University- OIG Audit, subsequent investigation (\$11.5 M, February 2005)
 - Yale University- OIG Audit (\$193,770 at risk, February 2006)
 - Northeastern University (\$5.5 M, June 2003)

* From Gary W. Eiland, Esquire; Partner, Health Industry Group; Vinson & Elkins LLP



- Not reconciling effort reported to salary paid
- Salary distribution changes not flowing through to your book of record
- Dynamic payroll system with a static effort reporting system
- Lack of accountability and responsibility
- Excessive and poorly documented recertification of effort reports



- Ambiguous Institutional Base Salary Definition
- Ineffective communication between research staff and PIs
- Excessive changes in salary distribution
- Tolerance levels that are too high or too low
- No effort report for staff with committed effort but no pay (cost sharing)



- Well thought out policies and procedures
- Good relationship between research areas, Research Administration, and Payroll
- Well monitored salary allocation
- Timely and efficient reconciliation of effort worked to salary paid
- Monitoring and tracking committed effort in relationship to effort worked

HCCA
HEALTH CARE
COMPLIANCE
ASSOCIATION 888-580-8373 | www.hcca-info.org

23



RESEARCH Compliance Conference


October 20-22, 2008
Chicago, IL | Westin Michigan Avenue




Practical Applications

Health Care Compliance Association
6500 Barrie Road, Suite 250, Minneapolis, MN 55435
888-580-8373 | www.hcca-info.org

**Scenario:
Grant begins in Biweekly 2 (Classified)**

Biweekly 1		Biweekly 2	
<u>Committed Effort</u>			
0%		100% Grant funding	
<u>Salary Distribution</u>			
0%		100% Grant funding	
<u>Actual Effort Worked</u>			
0%		100% Grant funding	
<u>Calculations</u>			
<u>Salary Distribution</u>		<u>Reported Effort</u>	
$100\% * \frac{1}{2} = 50\%$		$100\% * \frac{1}{2} = 50\%$	
 HCCA <small>HEALTH CARE COMPLIANCE ASSOCIATION</small>			
888-580-8373 www.hcca-info.org			25

**Scenario:
Grant starts in Month 5 (A&P)**

Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
<u>Committed Effort</u>					
0%				25%	
<u>Salary Distribution</u>					
0%	0%	0%	0%	25%	25%
<u>Actual Effort Worked</u>					
0%	0%	0%	0%	25%	25%
<u>Calculations</u>					
<u>Salary Distribution</u>			<u>Reported Effort</u>		
$25\% * \frac{2}{6} = 8\%$			$25\% * \frac{2}{6} = 8\%$		
 HCCA <small>HEALTH CARE COMPLIANCE ASSOCIATION</small>					
888-580-8373 www.hcca-info.org					26

**Scenario:
Annual Salary \$120,000**

Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
<u>Committed Effort</u>					
50%					
<u>Salary Distribution</u>					
100%	100%	100%	0%	0%	0%
\$10,000	\$10,000	\$10,000	\$0	\$0	\$0
<u>Actual Effort Worked – 50%</u>					
50%	50%	50%	50%	50%	50%
\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Overdrawn \$5,000	Overdrawn \$10,000	Overdrawn \$15,000	Overdrawn \$10,000	Overdrawn \$5,000	

HCCA HEALTH CARE COMPLIANCE ASSOCIATION 888-580-8373 | www.hcca-info.org

27

**Scenario:
The Unexpected**

Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
<u>Committed Effort</u>					
50%					
<u>Salary Distribution</u>					
100%	100%	100%	0%	0%	0%
\$10,000	\$10,000	\$10,000	\$0	\$0	\$0
<u>Actual Effort Worked – 33%</u>					
50%	50%	50%	0%	0%	50%
\$5,000	\$5,000	\$5,000	\$0	\$0	\$5,000
Overdrawn \$5,000	Overdrawn \$10,000	Overdrawn \$15,000	Overdrawn \$15,000	Overdrawn \$15,000	Overdrawn \$10,200

HCCA HEALTH CARE COMPLIANCE ASSOCIATION 888-580-8373 | www.hcca-info.org

28

**Scenario:
Fluctuations**

Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Committed Effort					
50%					
Salary Distribution					
50%	50%	50%	50%	50%	50%
\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Actual Effort Worked – 50%					
50%	50%	25%	25%	50%	100%
\$5,000	\$5,000	\$2,500	\$2,500	\$5,000	\$10,000
		Overdrawn \$2,500	Overdrawn \$5,000	Overdrawn \$5,000	

HCCA
HEALTH CARE
COMPLIANCE
ASSOCIATION
888-580-8373 | www.hcca-info.org

29



RESEARCH Compliance Conference

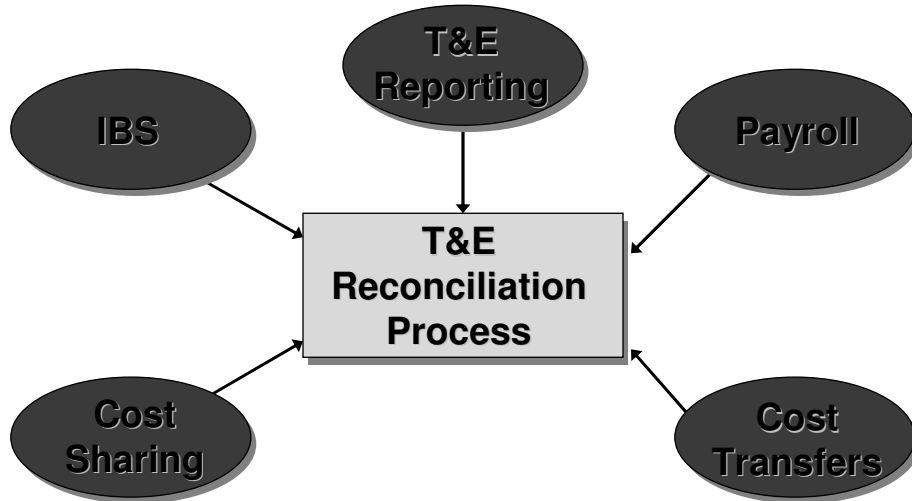
October 20-22, 2008
Chicago, IL | Westin Michigan Avenue



UTMB's Reconciliation Process

Health Care Compliance Association
6500 Barrie Road, Suite 250, Minneapolis, MN 55435
888-580-8373 | www.hcca-info.org

Convergence of Theory, Functional, and Analytical Issues



Word Problem: A&P Over the Salary Cap

Agent 99 is a physician with an annual salary of \$244,850. Additionally she is eligible to receive supplemental pay every six months based on performance goals. She is paid from local, state, and federal grants.

Word Problem: A&P Over the Salary Cap

Agent 99 reported effort:

130112 (state)	20%
212240 (local)	5%
219710 (local)	30%
425493 (grant)	20%
425630 (grant)	15%
425850 (grant)	10%

Agent 99's salary distribution at the time of recon sheet generation:

130112 (state)	26.7%
212240 (local)	0%
219710 (local)	62.97%
425493 (grant)	18.36%
425630 (grant)	9.18%
425850 (grant)	14.01%

Sample 1: A&P T&E Recon Sheet (Over Salary Cap)

Employee Name	55192 Agent 99						Assigned to Org	2680000	
Position Number	23717								
Cert Period 1									
Account #	Account Title	Salary	Max Salary per NIH Cap	Salary Percent	Effort % Reported	Difference	Cost Share	Cost Transfer	Cost Share Account
Institutional Base Salary (IBS)									
130112	ANESTHESIOLOGY	\$12,455.00	9,175.00	26.70%	20.00%	6.70%	N/A	N/A	
212240	MSRDP ANESTHESIOLOGY PT. CARE(See Suppl pay below)	\$0.00	2,293.75	0.00%	5.00%	-5.00%	N/A	N/A	
219710	SHRINE BURNS ANESTHESIOLOGY SURGER	\$29,375.01	13,762.50	62.97%	30.00%	32.97%	N/A	N/A	
425493	BETA ADRENERGIC BLOCKADE AND - I	\$8,565.42	9,175.00	18.36%	20.00%	-1.64%	\$765.06	N/A	
425630	SUBSTRATE CYCLING IN ENERGY	\$4,282.99	6,881.25	9.18%	15.00%	-5.82%	\$2,715.03	N/A	
425850	NUTRITIONAL COUNTERMEASURES TO AME	\$6,534.09	4,587.50	14.01%	10.00%	4.01%	N/A	\$1,870.67	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00	0.00	0.00%	0.00%	0.00%	N/A	N/A	
SubTotal	**SALARY OVER THE CAP**	\$61,212.51			100.00%		\$3,480.09	\$1,870.67	
SALARY AMOUNT APPLIED		\$46,650.00							
Other Pay Sources									
212240	MSRDP ANESTHESIOLOGY PT. CARE	\$3,058.52							
0		\$0.00							
0		\$0.00							
0		\$0.00							
0		\$0.00							
0		\$0.00							
0		\$0.00							
Other SubTotal		\$3,058.52							
Total HCCA		\$64,271.03							

Word Problem: A&P Under the Salary Cap

Maxwell Smart is a faculty member in a basic science department. His annual salary is \$177,499.92. Additionally he is eligible to receive supplemental pay every six months based on performance goals. He is paid from local, federal grants and an endowment.

Word Problem: A&P Under the Salary Cap

Maxwell Smart reported effort:	
130228 (state)	0%
132500 (state)	10%
423295 (grant)	15%
424581 (grant)	25%
425360 (grant)	35%
464701 (grant)	5%
518328 (endowment)	10%

Maxwell Smart's salary distribution at the time of recon sheet generation:	
130228 (state)	1.55%
132500 (state)	16.25%
423295 (grant)	14.99%
424581 (grant)	26.01%
425360 (grant)	35.00%
464701 (grant)	6.2%
518328 (endowment)	0%

Sample 2: A&P T&E Recon Worksheet (Under Salary Cap)

Employee Name	62951 Maxwell Smart	Assigned to Org	7490000
Position Number	56987		

Cert Period 1									
Account #	Account Title	Salary	Max Salary per NIH Cap	Salary Percent	Effort % Reported	Difference	Cost Share	Cost Transfer	Cost Share Account
130228	OCCUPATIONAL THERAPY	\$687.78		1.55%	0.00%	1.55%	N/A	N/A	
132500	SAHS DIVISION OF REHAB SCIENCES	\$7,212.24		16.25%	10.00%	6.25%	N/A	N/A	
423295	LONGITUDINAL STUDY OF MEXICAN AMER	\$6,653.87		14.99%	15.00%	-0.01%	\$4.44	N/A	
424561	STROKE RECOVERY IN UNDERSERVED POP	\$11,540.77		26.01%	25.00%	1.01%	N/A	\$448.19	
425360	DISABLEMENT PROCESS IN MEXICAN AME	\$15,530.75		35.00%	35.00%	0.00%	N/A	N/A	
464701	FUNCTIONAL STATUS AND PATIENT SAT	\$2,749.57		6.20%	5.00%	1.20%	N/A	\$532.50	
518328	SEALY CENTER ON AGING	\$0.00		0.00%	10.00%	-10.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
0		\$0.00		0.00%	0.00%	0.00%	N/A	N/A	
SubTotal		\$44,374.98			100.00%		\$4.44	\$980.69	

SALARY AMOUNT APPLIED		\$44,374.98
------------------------------	--	--------------------

Other Pay Sources		
130220	INTERDISCIPLINARY ALLIED HLTH EDUC	\$14,264.59
0		\$0.00
0		\$0.00
0		\$0.00
0		\$0.00
0		\$0.00
Other SubTotal		\$14,264.59
Total		\$58,639.57

Notes:

Word Problem: Classified

James Bond is a research technician with an annual salary of \$43,492.93. He is paid from state, federal grants, and clinical trials. During this certification period he received a tuition reimbursement payment.

You're Not Through Until.....

- Departments and payroll have made necessary salary distribution changes
- Follow the process to the end!
- Verify that the salary distribution changes have occurred in the payroll system and in the general ledger. Reimbursement from the federal government is typically driven by general ledger.
- Ensure changes flow to your book of record

Summary

- Effort is entered in the form of percentages
- Total effort must add up to 100%
- Effort reporting is not based upon a forty-hour work week
- Include all work spent on institution-related activities
- Provide a reasonable estimate of work spent on each project
- Always report actual effort
- Report accurately – Be aware of the effort percentage commitment that has been awarded for you/your position on each sponsored project
- Report timely – Completion of delinquent effort reports is difficult and crossing fiscal years is very problematic.
- Reconcile effort with salary

Effort Reporting Resources

- NIH Office of Extramural Research Home Page
<http://grants.nih.gov/grants/OER.htm>
- OMB Circular A-21
http://www.whitehouse.gov/omb/circulars/a021/a21_2004.pdf
- OMB Circular A-110
<http://www.whitehouse.gov/omb/circulars/index.html>
- OMB Circular A-133
<http://www.whitehouse.gov/omb/circulars/a133/a133.pdf>
- NIH Grants Policy Statement (12/2003)
http://grants.nih.gov/grants/policy/nihgps_2003/
- OASC-3 Revised (July 1974 Hasn't been revised since.) A Guide for Hospitals Cost Principles and Procedures for Establishing Indirect Cost and Patient Care Rates for Grants and Contracts with the Department of Health, Education, And Welfare