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## **A Note Concerning Additional Compensation Paid from Sponsored Program Accounts**

A previous *Note* in this series<sup>1</sup> clarified the rules, regulations, and procedures governing the payment from sponsored program accounts of summer additional compensation or summer salary to UMass Boston faculty members. Summer salary is any compensation paid for work performed during the period that starts on the day after Commencement in the spring and ends on August 31 (the day prior to the first day of the fall semester, which is September 1 each year). A faculty member can in some special cases be paid additional compensation from sponsored program accounts during periods other than the summer (i.e., during the academic year), but such payments must be made with great care to ensure compliance with the rules and regulations of the sponsor, federal and state law, and UMass Board of Trustee policy. This *Note* is written to provide specific guidelines for the payment of additional compensation to faculty members from sponsored program accounts.

*What is additional compensation?*

According to Trustee policy T01-12, additional compensation is defined as “any compensation paid to faculty by the university in excess of the full-time salary.” The definition excludes money a faculty member may earn and be paid by other organizations acting as an independent contractor. An employee is distinguished from an independent contractor by the following two conditions:

- An employee is on the university payroll; that is, he or she occupies a position with an on-going contractual relationship with the university, has FICA and other taxes deducted, and is covered by unemployment and workmen’s compensation insurance. An independent contractor is not on the payroll; he or she handles the required tax and insurance deductions independent of the university.
- An employee is closely and routinely supervised and reports to a supervisor who is a university official. An independent contractor is neither closely nor routinely supervised, but rather is given performance guidelines in a scope-of-work document. His or her efforts yield a required product and are reported in a project final report.

Trustee policy allows additional compensation to be paid to a faculty member provided the work to be performed does not interfere with the “satisfactory disposition of his or her regular assignments and responsibilities” to the university. Each campus is required to establish

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<sup>1</sup> See *A Note Concerning Summer Salary Supported by Sponsored Programs*, published July 22, 2008.

procedures to implement the Trustee policy, which must be approved by the UMass president's office.

*Is there a limit on the amount of additional compensation I can earn?*

Faculty members who are full-time nine-month, academic-basis employees can earn up to 33% of their institutional base salary (IBS) as additional compensation in a given calendar year from all sources, contingent upon prior written approval from the department chairperson, dean, and provost<sup>2</sup>. As specified in Trustee policy T94-023 and in the Professional Staff Union contract, a faculty member who is a full-time, twelve-month, administrative-basis employee cannot exceed 12% of IBS as additional compensation in a given calendar year. IBS is defined as follows:

The total base compensation an individual receives annually from a UMass campus, whether the individual's time is spent on research, teaching, or other activities. IBS includes: compensation for instruction, public service, research, and other activities. IBS excludes: fringe benefit payments; reimbursed expenses; temporary, supplemental compensation for incidental work; income earned outside of duties to the institution; and any portion of compensation deemed to be at-risk.

Because sponsored programs are set up as restricted university accounts, the payment of sponsor funds to a faculty member as additional compensation is allowed under the policy, provided that the payment is consistent with the terms and conditions of the award, and with state and federal rules and regulations, which will be clarified shortly. The policy does allow the possibility of exceeding the IBS percentage limit in special circumstances, but only with the prior written approval of the provost and the concurrence of the chancellor.

*Is additional compensation different from buyout<sup>3</sup>?*

Often a sponsor will allow the university to recover the costs associated with the time that the faculty member devotes to a project. In this case, the sponsor's dollars buy out a portion of the faculty member's salary while he or she works on the sponsored program. The full amount of the sponsor dollars for the buyout will be spent to pay the faculty member and are not available for allocation to other purposes. The faculty member's paycheck amount will be the same as it was prior to the sponsored program award, but it will now be obtained from two sources: the buyout portion will be paid from the sponsored program budget, and the non-buyout portion will be paid from the university budget from which the faculty member is typically paid. The university dollars freed up by the buyout are transferred to a salary reserve fund that can only be used to pay the costs (i.e., salary, wages, and benefits) of personnel (e.g., adjunct faculty, technical, professional, and classified staff, graduate assistants).

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<sup>2</sup> The *Pre-Approval for Payment of Additional Compensation and Bonus Payments* form is available on the HR Web site.

<sup>3</sup> Complete information about the university's buyout procedures is available in *A Note Concerning Buyout* published June 14, 2005.

*What rules and regulations govern payments of additional compensation for work performed on sponsored programs by faculty members?*

Trustee policy and guidelines approved by the UMass president's office state that faculty members may receive additional compensation for activities beyond traditional expectations, including federally-funded research, provided the payment is consistent with federal rules and regulations. The applicable federal regulations concerning payments of additional compensation to faculty members, whether during the academic year or the summer, for work performed on sponsored programs, including federal flow-through awards to the university from non-federal sponsors, are set out in Section J.10.d. of the U.S. Office of Management and Budget Circular A-21: *Cost Principles for Educational Institutions*. The first part of Subsection (1) deals with payments from sponsored programs during the academic year through **buyout** of a faculty member's time:

Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution.

The remainder of Subsection (1) sets forth very restrictive conditions concerning the payment of additional compensation **during the academic year** to faculty members from sponsored programs, as follows:

Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charge for such work representing extra compensation above the base salary is allowable provided that such consulting arrangements are specifically provided for in the agreement and approved in writing by the sponsoring agency.

Massachusetts regulations are even more restrictive, as set forth in Massachusetts General Law Chapter 29: Section 6B, which states:

Federal grants shall not be used to supplement the regular salary or compensation of any officer or employee of the commonwealth for services performed during his regular working hours.

The federal regulations concerning payments to faculty members for work performed **during periods outside the academic year** (e.g., during the summer) are presented in Subsection (2) of OMB A-21 Section J.10.d., which states:

- (a) Except as otherwise specified for teaching activity in subsection (b), charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates and will be limited to charges made in accordance with other parts of this section.
- (b) Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

The amount the sponsor can be charged for a buyout of a faculty member's time or for the payment of additional compensation either during or outside the academic year is determined by multiplying the faculty member's IBS by the percent effort to be devoted to the sponsored program during the period of work. It should be noted that some federal agencies specifically limit the amount of effort that a faculty member may devote to sponsored programs during the summer<sup>4</sup>.

*Under what conditions can a faculty member receive additional compensation from a sponsored program account during the academic year?*

Given the restrictive federal and state regulations, the payment of additional compensation to a faculty member from a federally- or state-sponsored program account for work performed **during the academic year** will be allowed only if **all** of the following conditions are met:

1. The sponsor has been informed of the intent to pay a faculty member additional compensation during the academic year and has provided approval in writing and in advance of the payment of the additional compensation.
2. The work to be performed is a well-defined task of short duration<sup>5</sup> (i.e., less than 3 months) that is included in the scope-of-work document of the sponsored program and separately identified in the project budget.
3. The PI of the sponsored program that will pay the additional compensation does not have the training or expertise to perform the required task.

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<sup>4</sup> See *A Note Concerning Summary Salary Supported by Sponsored Programs* for the rules and regulations on summer salary, details on the calculation of summer salary, and a specific example.

<sup>5</sup> A faculty member who makes a significant long-term commitment to a sponsored program during the academic year should be paid directly by the sponsor through buyout.

4. The faculty member who will perform the work is (a) not a member of the same department as the PI of the sponsored program, and (b) the best individual available to perform the work.
5. The work to be performed is clearly not related to the normal workload and performance expectations of the faculty member who will perform the work.
6. The work will not be performed under the direction, supervision, or control of the university.
7. The work will be performed outside normal work time (e.g., evenings, weekends, holidays, vacation days).
8. The faculty member will not use university resources to perform the work.

In addition to these specific conditions, the following university requirements must also be met:

- The additional compensation to be paid, when added to all other additional compensation paid to the faculty member from all sources in the present calendar year, will not exceed the IBS percentage limit set by the Trustee policy.
- The PI, department chairperson, dean, vice provost for research, and provost have provided approval in writing and in advance of the payment of the additional compensation using the university approval form.
- The payment of additional compensation must be appropriately charged to the sponsored program through the university's financial accounting system within 30 days of when the work is completed.

The following are examples that might meet these conditions:

- A faculty member in the statistics department may be eligible to receive additional compensation for brief consulting services provided to a PI who is a faculty member in the criminology department regarding complex and sophisticated statistical analyses of a particular dataset of crime, justice, and sociodemographic variables.
- A faculty member in the archaeology department may be eligible to receive additional compensation for translating into English an original source document concerning crop irrigation written in Mayan script for a PI who is a faculty member in the agriculture department.

*Are the rules and regulations governing payments of additional compensation different if the sponsor is a corporation or private foundation?*

The rules and regulations governing a particular sponsored program are specified in the terms and conditions of the award document. In the case of sponsored programs funded by corporations and private foundations, the terms and conditions of the award often require the university to comply with "all applicable federal laws, rules, and regulations governing

sponsored programs.” The professional staff of ORSP will determine whether federal rules apply and will advise the faculty member accordingly.

If the award document from a corporate or private foundation sponsor is silent on the payment of additional compensation, then Trustee policy allows faculty members to earn additional compensation throughout the academic year and the summer period at a rate negotiated with the sponsor. The negotiated rate must be specifically provided for in the grant or contract award or approved in writing by the sponsoring agency in advance of payment, and it must have the necessary approvals in writing and in advance of the payment of the additional compensation using the university approval form. **Please note that additional compensation may not be charged to corporate- or privately-sponsored programs during the same pay periods that effort is committed to federally- and state-sponsored programs.**

*How do I obtain the prior written approval of the sponsor to be paid additional compensation?*

Prior written approval of the sponsor is generally obtained through the sponsored program proposal submission and award execution processes. A PI who intends to hire and pay a faculty member in a different department additional compensation during the academic year must determine if such a payment will be allowed under the terms and conditions of the award. The proposal submitted to the sponsor must include the name, title, and position of the faculty member to be paid additional compensation, the specific task for which the additional compensation will be paid, the time period in which the work will be performed, the amount to be paid as additional compensation, and the justification for why the PI cannot perform the task and why the faculty member is the best individual available to perform the task. The execution of the award document from the sponsor **with no alterations** that includes the payment of the additional compensation in the budget is taken to be the sponsor’s written and advance approval of the proposed payment. In cases where there may be any confusion, the staff of ORSP will seek the separate, written, prior approval of the sponsor for the payment of additional compensation.

Prior written approval of the sponsor does not, however, constitute prior written approval from the university. Prior to the work beginning, the faculty member to be paid additional compensation from a sponsored program account must also obtain the prior written approval of the PI, his or her department chairperson and dean, the vice provost for research, and the provost using the university’s additional compensation pre-approval form.

*If additional compensation is approved, how will I be paid?*

If the proposed additional compensation from a sponsored program account meets all of the specified conditions and has been fully approved by the sponsor and by the university, then the work may begin. The additional compensation payment will not be made, however, until the PI of the sponsored program submits an *Additional Compensation Payment Form* to the provost’s office, indicating that the work has been completed satisfactorily. At that point, the provost’s office will inform ORSP, so that an encumbrance will be made against the sponsored program account. After it is processed by the payroll department, the additional compensation payment will be made on the next regularly scheduled pay date.

*Will I be held accountable for certifying to the sponsor that the work for which I received additional compensation was actually performed?*

Federal regulations require that the payment of additional compensation from a sponsored program account “must be for actual work performed on the sponsored program from which the funds are paid and must be paid for personal services performed during the period stipulated.” The faculty member will be required to file a *Certification of Effort* that documents and verifies the time and effort spent on the sponsored program during the period in which the work was carried out and for which the payment of additional compensation was made. This documentation is provided through the university’s ECERT (electronic effort certification) system that is based upon payroll information maintained in the PeopleSoft system.

*Can I receive additional compensation from more than one sponsored program account for work performed during the academic year?*

A faculty member may undertake work during the academic year and receive additional compensation from more than one sponsored program account provided (a) the work does not interfere with the faculty member fulfilling her or her regular duties and responsibilities, (b) **all** of the conditions listed above are met in **each** case, (c) the additional compensation pre-approval form is executed in **each** case, and (d) the total amount of additional compensation received for the calendar year does not exceed the IBS percentage limit. As noted previously, additional compensation may not be charged to corporate- or privately-sponsored programs during the same pay periods that effort is committed to federally- and state-sponsored programs.

Any questions concerning additional compensation paid from sponsored program accounts should be directed to the professional staff of ORSP.

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*June 2, 2009*