NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY

INTRA-INSTITUTION OF HIGHER EDUCATION CONSULTING
AND EXTRA SERVICE PAY ON SPONSORED PROJECTS

PURPOSE OF POLICY

The purpose of this policy is to establish formal guidelines necessary to comply with the restrictions governing intra-institution of higher education consulting and extra service pay under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. These regulations do not allow for a faculty member's or exempt employee's institutional base salary to be increased as a result of obtaining sponsored project funding unless specific circumstances and authorizations occur.

2 CFR 200 defines which costs are allowable for reimbursement purposes. These rules apply to all sponsored agreements at NMIMT.

The terms and conditions of any sponsored agreement between the University and an external organization will prevail in the event of any conflict between that agreement and the provisions in this policy.

DEFINITIONS

ALLOWABLE ACTIVITIES – Charges to external awards may include reasonable amounts for activities contributing and directly related to work under an agreement. (2 CFR 200.430(h)(1)(i))

EXEMPT EMPLOYEE – An individual working in a position that passes one of the tests exempting it from adhering to the requirements of the Fair Labor Standards Act (FLSA). Employees in exempt positions are paid for performing a job, receiving a fixed amount of pay each pay period. They do not normally track hours worked.

FACULTY MEMBER – A full-time employee of the University whose principal title is Instructor, Assistant Professor, Associate Professor, or Professor.

INCIDENTAL ACTIVITIES for which extra service pay is allowable under written institutional policy at a rate not to exceed institutional base salary must either be specifically provided for in the award budget or receive prior written approval by the awarding agency. (2 CFR 200.430(h)(1)(ii)) These assignments are restricted to one-time service or project or periodic jobs of limited time commitment. Both faculty and staff may be authorized for extra service pay for incidental work.

INSTITUTIONAL BASE SALARY – IBS is defined as the annual compensation by an Institution of Higher Education for an individual's faculty or staff appointment, whether that individual's time is spent on research, instruction, administration, or other activities defined by internal workload. Negotiations between the chairperson and the faculty member can result in replacing part of the teaching component of one FTE by time assigned to research or other activities which contribute to the mission of the University. Depending on the nature of the assignment, approval of the Vice President for Academic Affairs is required. The academic year for returning faculty begins in May when IBS is established by the University in an annual contract. IBS for new faculty and staff is established on the employee's PAF. IBS includes regular salary and pay for a second assignment such as chair of a department, as verified by Academic Affairs, but excludes incidental pay, external consulting payments, bonuses, honoraria, extra service pay that is the result of intra-institutional consulting on external awards or any income that an individual earns outside of the duties performed for the University. IBS may not be increased as a result of the University having received an externally sponsored award.

NON-EXEMPT EMPLOYEE – An individual working in a position that must adhere to all requirements of the Fair Labor Standards Act (FLSA). Employees in non-exempt positions are paid an hourly rate, track hours worked, and must receive a minimum wage as well as overtime pay for hours worked in excess of 40 in a work week.

PART-TIME FACULTY – Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments. (2 CFR 200.430(h)(6))

PRIVATE OUTSIDE CONSULTING or other remunerated services of a professional nature are the subject of the Employee Policy on Faculty Consulting and are not subject to this policy.

REGULATIONS

INTRA-INSTITUTION OF HIGHER EDUCATION (IHE) CONSULTING (FORMERLY EXTRA COMPENSATION) (2 CFR 200.430(h)(3))

Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the award or approved in writing by the awarding agency. (2 CFR 200.430(3))

In no case will the principal investigator (PI) receive extra compensation for effort on his or her own project.

Faculty may engage in extra activity for extra compensation as is consistent with maintaining a satisfactory disposition of their full-time obligations to the University. The written approval of the department chair, Vice President for Research and Economic Development and the Vice President for Academic Affairs are required before a faculty member may engage in any activity for extra compensation. The Vice President for Academic Affairs shall review the faculty member's commitments to ensure that the faculty member is satisfactorily performing his or her full-time obligations. If the Vice President for Academic Affairs determines that the faculty member is not satisfactorily performing his or her obligations, the faculty member must reduce his or her additional commitments accordingly.

EXTRA SERVICE PAY (FORMERLY SUPPLEMENTAL COMPENSATION)
(2 CFR 200.430(h)(4))

Extra service pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Incidental activities for which supplemental compensation is allowable under written institutional policy at a rate not to exceed institutional base salary must either be specifically provided for in the Federal award budget or receive prior written approval by the awarding agency. (2 CFR 200.430(h)(1)(ii))

Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of reasonableness (2 CFR 200.430(b)) that apply to any compensation for personal services – that it be consistent with that paid for similar work in other activities of the non-Federal entity. Where extra service pay is a result of intra-IHE consulting, it is allowable if ALL of the following conditions are met:

1. The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.
2. The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred.
3. The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed.
4. The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.
5. The total salaries charged to Federal awards including extra service pay are subject to the Standards for Documentation as described in 2 CFR 200.430(8)(i).

Non-faculty full-time professional personnel may also earn extra service pay in accordance with the University's written policy and consistent with 2 CFR

200.430(h)(1)(i) which states that allowable charges to awards may include reasonable amounts for activities contributing and directly related to work under an agreement.

These types of payments to an employee are subject to all applicable payroll deductions. In addition, Extra Service Pay for non-exempt personnel requires that the payments are in compliance with all applicable Fair Labor Standards Act (FLSA) minimum wage and overtime regulations. Non-Exempt employees who perform work classified within their same occupational category cannot be paid by task but must be compensated for overtime worked.

PERIODS OUTSIDE THE ACADEMIC YEAR (SUMMER SALARY)

Charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the proportionate share of the IBS (2 CFR 200.430(h)(5)(i)) Such charges must take into account commitments to summer instruction or administrative responsibilities, and sponsoring agencies may also limit summer compensation.

Nine-month faculty may charge non-Federal funding at 120% of the proportionate share of IBS for the period during which the faculty member worked on the award if fully disclosed in the proposal.

Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods. (2 CFR 200.430(h)(5)(ii))