

**NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY EXTRA and  
SUPPLEMENTAL COMPENSATION ON SPONSORED PROJECTS**

*Document Modified 5/10/11*

**I. Purpose of Policy**

The purpose of this policy is to establish formal guidelines necessary to comply with restrictions governing extra compensation and supplemental compensation under the Office of Management and Budget's OMB Circular A-21, "Cost Principles for Educational Institutions" 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, as discussed in this policy, occur.

OMB Circular A-21 defines which costs are allowable for reimbursement purposes and are applicable to all sponsored agreements at NMIMT.

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

**II. Definitions**

A. Exempt Employee - is 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, receive a fixed amount of pay each payday and do not normally track hours worked.

B. External Additional Compensation - is any salary or wages paid by external sponsors.

C. Extra compensation - is defined as additional *compensation* paid above the base salary. The term is sometimes used interchangeably with overload payments.

D. Faculty Member - is a full-time employee of the University whose principal title is Instructor, Assistant Professor, Associate Professor, or Professor.

E. Faculty Work Load and Assignment Work Load and Full-time Equivalent - A full-time work load (one full-time equivalency or FTE) for a NMIMT faculty member is 14 hours of undergraduate teaching per semester combined with the other duties required by good academic citizenship (i.e., appropriate mix of teaching (14 hours), service (12 hours) and scholarly activity (14 hours) consistent with the requirements to obtain tenure).

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.

F. Non-exempt Employee - is an individual working in a position that must adhere to all requirements of the Fair Labor Standards Act (FLSA). Employees in nonexempt 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 workweek.

G. Overload Payment – is a monetary remuneration paid to an exempt employee for services in excess of full-time effort for university funded activities.

H. Private Outside consulting - or other outside remunerated services of a professional nature are the subject of the Employee Policy on Faculty Consulting and are not subject to this Policy

I. Supplemental compensation –is ordinary temporary and may be paid for “incidental work” as described under OMB A-21J.10.a but is restricted to one time service or project or periodic jobs of limited time commitment.

### **III. Extra Compensation**

OMB Circular A-21 places certain restrictions on extra compensation paid from projects sponsored with federal funds. The general rule is that Federal and/or State grant/contract monies may not be used to provide additional compensation at a rate that exceeds normal base compensation. Unless specific written approval has been obtained from the funding agency that specifies the activities and individuals for which extra compensation may be paid.

In most cases, Tech accepts funding from an external sponsor for projects that involve compensation to personnel within their base salary. OMB A-21 J.10.d.1 states, “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.” *The only exception to allow for compensation above the base salary during the academic year is a very specific exception for consultation across departmental lines which is discussed below.*

These rules are not applicable to summer salary for nine (9) month faculty. See OMB Circular A-21.J.10d(2)(a). Research compensation during the summer months or other periods not included in the base salary period is to be calculated for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates. Consequently, summer salary for 9 month faculty may be charged at 3/9 to federal funding sources. Nine month faculty may charge non-federal funding at 120% of 3/9, if fully disclosed in proposal.

Payments above the faculty member’s academic year base salary for work performed under an externally sponsored awards governed by OMB Circular A-21 allows for such extra compensation when all of the following conditions are met:

1. The work performed must be in addition to the faculty member's regular departmental load  
**and**
2. One of two circumstances must exist:
  - a. The consultation (by faculty member) is across departmental lines or
  - b. The work involves a separate or remote operation

**and**

3. The work performed cannot conflict with the faculty member's regular University duties and assignments.  
**and**
4. The consulting arrangement that specifies the activities and individuals for which extra compensation may be paid is specifically provided for in the written agreement with the sponsoring federal agency or otherwise approved in writing by an authorized representative of the sponsoring federal agency. If not specifically and explicitly provided for in the approved budget, this approval should be requested as soon as practical after receipt of the award, and before any work is done on an extra compensation basis.

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

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

#### **IV. Supplemental Compensation**

As distinguished from extra compensation, supplemental compensation may be paid for incidental work. It is expected that "incidental work" will represent an insignificant part

Revised on 5/10/2011 4:14:00 PM

of the overall activities of the university employee and that the effort devoted to it will be clearly in addition to, and unrelated, the employee's regular assignments.

Both faculty and staff may be authorized for task payments of incidental work. However, such payments must conform to the description of "incidental work" as found in the U.S. Office of Management and Budget's Circular A-21 J.10.a.

Examples of incidental work include specific tasks such as website design, delivery of a special lecture or attendance or participation in a conference. These task assignments are restricted to one time service or project or periodic jobs of limited time commitment. For example, an employee may be asked on a temporary basis to assume responsibilities for another position which is vacant.

Normally, a task rate is agreed upon between the University and an employee for work performed that is based on completion of an assignment rather than an explicit per hour rate. For example, an employee agrees to provide a service such as conducting a seminar. Because the hours of work needed to prepare for the seminar can only be estimated and the employee is to be paid only on successful completion of the seminar it is not possible to establish an hourly rate in advance of completion of assignment. However, some tasks may be authorized on an hourly basis.

Federal requirements governing salary and wages severely restrict supplemental pay charged to research projects. Supplemental Pay is only allowable for effort above 100% pay when services on the sponsored project meet all of the following conditions:

- Supplemental work is performed in addition to the employee's regular workload and does not involve release time;
- Rate of pay is consistent with the employee's base salary
- Approval of the supplemental pay and activities involved have been identified and provided for in the cost proposal and the funding agency did not take exception. If not specifically and explicitly provided for in the approved budget, this approval should be requested as soon as practical after receipt of the award, and before any work is done on an supplemental compensation basis.

These type of payments to an employee are subject to all applicable PR deductions and consequently must be processed thru the PR department. In addition, care must be taken to ensure that the payment is in compliance with all applicable Fair Labor Standard Standards Act (FLSA) minimum wage and overtime regulations. Particularly, non-exempt employees who perform work classified within their same occupational category cannot be paid by task but must be compensated for overtime worked.

The administration shall establish rules and procedures to implement this policy, including provisions for appeal and resolution of conflicts. Campus rules and procedures must receive the approval of the President.