

To: work2future Staff & Subrecipients
From: work2future Director
Effective Date: August 2021
SUBJECT: Salary and Bonus Limitations
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OPERATIONAL DIRECTIVE

work2future Workforce Development Board
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Purpose:

This policy issues the salary and bonus limitation for individuals compensated by monies appropriated to Silicon Valley Workforce Investment Network (SVWIN) via Workforce Innovation and Opportunity Act (WIOA) grant funds. The salary limits are periodically changed by the Federal Government, and work2future and all of its subrecipients are required to check the applicable limits. This policy provides a link to do that.

Scope:

This policy applies to all subrecipients expending Workforce Innovation and Opportunity Act (WIOA) program funds.

Effective Date:

This Policy is applicable until rescinded as of the date of issuance.

REFERENCES

- Public Law 109-234
- DOL Training and Employment Guidance Letter (TEGL) 05-06, Implementing the Salary and Bonus Limitations in Public Law 109-234 (August 15, 2006)
- U.S. Office of Personal Management (Pay for the Executive Schedule as applicable)

STATE-IMPOSED REQUIREMENTS

This directive contains no state-imposed requirements.

BACKGROUND

On June 15, 2006, President Bush signed into law an emergency supplemental appropriations bill, Public Law 109-234. Section 7013 of this public law limits salary and bonus compensation for individuals who are paid by funds appropriated to the ETA and provided to recipients and subrecipients. Specifically, Section 7013 states the following:

None of the funds appropriated in Public Law 109-149 or prior acts under the heading "Employment and Training" that are available for expenditure on or after the date of enactment of this section 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, except as provided for under Section 101 of Public Law 109-149. This limit shall not apply to vendors providing goods and services as defined in the 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 organization that administers federal programs involved including Employment and Training Administration programs.

Subsequently, on August 15, 2006, the ETA issued TEGL 05-06. This TEGL informs states and other ETA-funded recipients and subrecipients of limitations on salary and bonus payments that can be made with funds appropriated to the ETA. Specifically, this TEGL provides the workforce investment system with information on programs affected by this provision, effective dates and funding cycles, covered individuals and transactions, application of the limitation, and related grant and contract modifications.

POLICY AND PROCEDURES

Public Law 109-234 sets the limit on salary and bonus compensation for individuals who are paid by funds appropriated to ETA funded programs at a rate equivalent to no more than **Executive Level II**. A salary table providing this rate is listed on the Federal Office of Personnel Management website <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/executive-senior-level/> under "Policy, Pay and Leave." These levels are adjusted annually. Effective for 2021, (the most current information on the OPM website) the salary and bonus limit is set at \$199,300. The Public Law 109-234 limitation does not apply to benefits that are not salary and bonuses. For example, fringe benefits, insurance premiums, or pension plans paid by a subrecipient are not included in this calculation.

Per the DOL ETA Region 6 Office, the salary and bonus limit apply to both the gross amount of salary and bonus, and to the rate at which the salary is paid. As a result, for individuals who do not work full time on ETA funded projects or who are only employed part time or part of the year, the salary and bonus limit will be prorated based on the amount of time the individual is dedicated to the ETA funded grant. The following are examples provided by the DOL ETA Region 6 which illustrate how the limitations are calculated based on salary and bonus levels, as well as the rate at which they are paid:

Example 1

An Executive Director's W-2 for 2021 includes \$150,000 of gross compensation. He worked part time (.50 Full Time Equivalent [FTE]) all year. One hundred percent of the Executive Director's salary costs benefited ETA-funded programs.

2021 Salary and Bonus Limit	\$199,300
Salary eligible for the salary and bonus limit .50 FTE x 100% of salary = 50% (Calculation: \$199,300 x 50%)	\$99,650
Total gross compensation	\$150,000
Salary costs benefitting ETA-funded programs (Calculation: \$150,000 x 100%)	\$150,000
Salary in excess of the salary and bonus limit (Calculation: \$150,000 - \$99,650)	\$50,350

In this scenario, the Executive Director's salary is eligible for 50 percent of the annual salary and bonus limit (.50 FTE x 100% of his salary benefited ETA-funded programs). Therefore, \$99,650 (\$199,300 x 50% = \$99,650) of the salary may be paid using ETA appropriated funds or other

federal funds. The remainder of the salary, \$50,350 ($\$150,000 - \$99,650 = \$51,350$), is in excess of the allowable 2021 salary and bonus limit and must be paid using non-federal funds.

Example 2

An Executive Director’s W-2 for 2021 includes \$150,000 of gross compensation. He worked part time (.50 FTE) all year. Seventy percent of the Executive Director’s salary costs benefited ETA-funded programs.

2021 Salary and Bonus Limit	\$199,300
Salary eligible for the salary and bonus limit .50 FTE x 70% of salary = 35% (Calculation: $\$199,300 \times 35\%$)	\$69,755
Total gross compensation	\$150,000
Salary costs benefitting ETA-funded programs (Calculation: $\$150,000 \times 70\%$)	\$105,000
Salary in excess of the salary and bonus limit (Calculation: $\$105,000 - \$69,755$)	\$35,245

In this scenario, the Executive Director’s salary is eligible for 35 percent of the annual salary and bonus limit (.50 FTE x 70% of his salary benefited ETA-funded programs). Therefore, \$69,755 ($\$199,300 \times 35\% = \$69,755$) of the salary may be paid using ETA appropriated funds or other federal funds. Since 70 percent of the Executive Director’s salary costs benefited ETA-funded programs, the amount in excess of the allowable 2021 salary and bonus limit, \$35,245 ($\$150,000 \times 70\% = \$105,000 - \$69,755 = \$35,245$), must be paid using non-federal funds.

Example 3

An Executive Director’s W-2 for 2021 includes \$200,000 of gross compensation. He worked full time all year. Forty percent of the Executive Director’s salary costs benefited ETA-funded programs.

2021 Salary and Bonus Limit	\$199,300
Salary eligible for the salary and bonus limit (Calculation: $\$199,300 \times 40\%$)	\$79,720
Total gross compensation	\$200,000
Salary costs benefitting ETA-funded programs (Calculation: $\$200,000 \times 40\%$)	\$80,000
Salary in excess of the salary and bonus limit (Calculation: $\$80,000 - \$79,720$)	\$280

In this scenario, the Executive Director’s salary is eligible for 40 percent of the annual salary and bonus limit (40% of his salary benefited ETA-funded programs). Therefore, \$79,720 ($\$199,300 \times 40\% = \$79,720$) of the salary may be paid using ETA appropriated funds or other federal funds. Since 40 percent of the Executive Director’s salary costs benefited ETA-funded programs, the

amount in excess of the allowable 2021 salary and bonus limit, \$280 ($\$200,000 \times 40\% = \$80,000 - \$79,720 = \280) must be paid using non-federal funds.

All work2future subrecipients of WIOA program funds are required to comply with federal requirements regarding the limitations on salary and bonus payments. Additionally, subrecipients are required to follow the instructions for implementing the salary and bonus limitations as provided in TEGL 05-06.

ACTION

Bring this directive to the attention of all appropriate staff and subrecipients.

INQUIRIES

If you require further information regarding this policy, please contact the work2future Finance Manager at (408) 794-1146.