****

**Office of Internal Audit**

**Compensated Effort**

**July 23, 2018**

**Distribution List**

Mark A. Nook, President

Jim Wohlpart, Provost and Executive Vice President for Academic Affairs

Tolif R. Hunt, Director of Research and Sponsored Programs

Board of Regents, State of Iowa

Office of Auditor of State

**Compensated Effort**

**BACKGROUND**

Compensated effort at the University of Northern Iowa (UNI) is based on each employee’s institutional base salary (IBS), which comprises all activities and duties the employee performs on behalf of the University without regard to the number of hours worked. When an employee obtains federal sponsored program funding, compensated effort charged to the federal program is regulated by Federal Uniform Guidance (FUG) 2 CFR 200.430 “Compensation – personal services.” For more information related to the FUG regulations, please see Appendix A at the end of the report.

The University has developed and documented an Effort Reporting and Certification policy that is maintained on the RSP website. UNI’s effort reporting policy and procedures align with the effort reporting practices of 34 sister, peer, and other higher education institutions reviewed during the audit. The common elements include:

* Definition of IBS.
* Effort not based on a number of hours per week or only within business hours; it covers any time used to perform IBS activities, whether during business hours, after business hours, or on weekends. This is a common interpretation of FUG.
* Effort pro-rated between sponsored programs and other activities when proposed and budgeted.
* Actual costs verified for correct effort percentages during the periodic effort reporting and certification process.
* Corrections made when actual effort varies from budgeted.
* Certified effort not exceeding 100%. (See Appendix B for further information about effort reporting and certification.)
* Compensation charges for faculty paid for periods outside their 9-month contract, such as summer, are to be based on the faculty’s IBS during the academic year according to 2 CFR 200.430 (h) (5).
* Faculty compensation charged to a sponsored program should be under 100% unless extraordinary circumstances apply.
* Effort reporting systems based on the university’s payroll system, whether it is a system generated paper report or an electronic system.
* Main offices to manage, monitor, and review effort reports and certifications, which at UNI is RSP.

UNI certifies effort twice a year, while other universities certify annually, after each semester and session, quarterly, or even monthly. FUG does not require a certain type of system or process for effort certification or specify the frequency of certification. However, there are no examples within the reviewed higher education institutions where faculty/staff were allowed to create, document, and certify their own effort reports without a University’s office involvement. The University office assigned to effort reporting responsibilities included periodically generating, verifying information before distribution, distributing to applicable faculty/staff, and monitoring completion and return of the certified reports.

Of the 34 higher education institutions reviewed, nine were penalized in the millions of dollars for non-compliance with effort reporting requirements (see table in Appendix C). The Federal government audits effort reporting more than any other federal regulation since compensated effort usually comprises 75 to 80% of sponsored program budgets. UNI complies and ensures that effort is accurately calculated, distributed, reported, and certified by applicable employees in accordance with the FUG with the assistance of RSP.

**PURPOSE AND SCOPE**

The audit was a limited review of compensated effort controls and documented governance for compliance with FUG 2 CFR 200.430 for compensated effort and effort reporting. The University’s sponsored programs and non-sponsored compensated activities since May 1, 2017 were included in the review. Audit procedures focused on reviewing winter break special compensation and summer appointment actions and comparing the University’s effort reporting policy and procedures to other higher education institutions’ effort reporting policies and procedures.

**DISCUSSION AND AUDIT RECOMMENDATIONS**

**1) Effort Reporting and Certification Policy**

*Discussion –* The Effort Reporting and Certification policy documented on the Office of Research and Sponsored Programs (RSP) website does not include some best practices being used by sister, peer, and other higher education institutions. The following were identified:

* It is difficult to find the effort reporting and certification policy and instructions on the RSP webpage. In addition, bullet points are not used in the policy to emphasize important information, such as salary increases due to increased sponsored program funding are not allowable. The policy is included with the effort certification instructions rather than being separate.
* The specific section of the FUG is not identified in the policy and effort definitions do not include language indicating the definitions are the common interpretation of the Federal regulations.
* IBS is not defined in the effort section of the policy. Most other higher education websites define IBS as recommended by the National Council of University Research Administrators (NCURA) training in March 2018. The effort definition does not indicate effort is related to the amount compensated by the University. The language "hired to perform" does not have the same meaning as compensated.
* The policy does not include an explanation of academic year and summer work effort, including sponsored program restrictions imposed by sponsors and effort limitations allowed to be charged to sponsored programs, a practice that is supported by the common interpretation of the FUG.
* Cost sharing information and definitions are not included in the effort reporting and certification policy, even though all committed effort, which includes cost sharing, is considered part of effort reporting and certification by FUG.
* Effort certification instructions do not include an example of an Effort Certification Report with comments for the items that should be verified.
* There is no list of frequently asked questions or a discussion of the importance of effort reporting and certification with examples of higher education institutions that have been penalized for non-compliance.

*Audit Recommendation* – Management should improve the effort reporting and certification policy on the RSP website for the identified issues. The effort reporting and certification policy should also be easy to find on RSP’s website, including being identified on RSP’s homepage.

*Management’s Action Plan* – RSP will take the concrete step to install a RSP-specific search box to help users of the RSP website conduct RSP website-specific searches and better separate out the Effort Certification Instructions and the policy. RSP will evaluate the placement of the Effort Reporting & Certification Policy (the policy) and, if necessary, make location changes to group it with other project management policies and guidelines. RSP will also review the policy and certification instructions to better highlight key risk areas, such as how salary relates to increases in base compensation.

RSP will revisit the policy to add more language informing the reader that the policy is based on commonly accepted best management practices and interpretations of federal effort and compensation regulations associated with sponsored programs administration. Also, RSP will provide, where appropriate, more specific references to applicable sections of 2 CFR 200.

RSP will revisit the policy and better articulate the link between total university effort and total university compensation and the fact that a grant to the institution is a part of the total university effort and compensation. Language related to “hired to perform” will be amended.

RSP will provide definitions of summer and academic year compensation in the policy. RSP will also explicitly reference the fact that a commonly accepted best management practice for assigning effort to a sponsored program is an effort under 100% unless extraordinary circumstances apply, which will be documented with the personnel action form.

RSP will add cost share information to the policy because of the direct relation to effort allocation and certification regardless of direct compensation from the sponsored award (committed effort). RSP does require certification of cost share effort however this is not covered in the policy at present.

RSP will add a sample effort certification report to the instructions sections of the effort certification section of the website. RSP will build and maintain a FAQ for effort and effort certification on the RSP website.

*Individual Responsible* – Director of RSP

*Target Date* –March 2019

**SUMMARY**

Management has been responsive to the recommendation. Implementation of the audit recommendations will improve internal controls for compensated effort. Internal Audit will perform a follow-up review of the action plans after March 2019.



Carla Kelley, Internal Auditor



Linda Nielsen, Lead Auditor



Debra A. Johnston, Associate Director of Internal Audit



Patrice Sayre, Chief Audit Executive

**APPENDIX A – FUG Regulations**

2 CFR 200.430 (a) states, “*Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees: (1) is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity* ***consistently applied*** *to both Federal and non-Federal activities…*” Consistent application of an organization’s policies and procedures ensures that federal activities are treated fairly and in the same way as non-federal activities. A university’s compensation practices are to be “consistently applied.”

Because the FUG requires consistent application of the University’s policies and procedures to federal and non-federal activities, the Office of Research and Sponsored Programs (RSP) does not distinguish between federal and non-federal sponsored programs. After compensation has been charged to sponsored programs, RSP assists employees with reporting, verifying, and certifying actual effort percentages charged to sponsored programs and university activities.

**APPENDIX B – Effort Reporting and Certification**

Certified effort cannot exceed 100% as outlined by 2 CFR 200.430 (i) (iii) – (v), (vii): “*Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must... Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities; Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis; Comply with the established accounting policies and practices of the non-Federal entity; and... Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one* *Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity…*”

The Effort Reporting and Certification policy includes an explanation of how effort is determined; “*Whether a faculty/staff spends 40 hours or 60 hours a week completing the duties, the sum of time spent completing the duties is 100% effort.  When UNI receives external funding the addition of effort from the sponsored project does not change the total percent effort (100%) available to work; the sponsored project effort should fit into the person’s 100% workload by having the faculty/staff be relieved of some of their existing duties or by increasing the Project Staff’s workload.  A sponsored program will not result in a temporary increase of compensation specifically to complete the work of the sponsored program.*” This language is based on the common interpretation of the FUG and found on other higher education institutions’ effort reporting webpages. Effort certification should accurately reflect actual effort percentages for all activities, but 2 CFR 200.430 (i) (x) allows non-sponsored activities to be recorded as total other activities rather than separate percentages for teaching, research, service, and administration.

In addition, 2 CFR 200.430 (h) (2), which is the section for institutions of higher education (IHE), states, “*Salary basis:* *Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate… This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the* ***proportionate share*** *of the IBS for the period during which the faculty member worked on the award.*”

Faculty compensation charged to a sponsored program should be under 100% because the faculty have other university activities that occur throughout the academic year when they are contractually paid and during the summer when they may not be paid but are still performing university activities. This is a common understanding and practice based on the FUG which states that only a “proportionate share” of IBS should be charged to a sponsored program.

**APPENDIX C – Why Effort Reporting is Important**

The table below lists effort reporting related monetary settlements identified in the report “Summary Of University Audits, Settlements And Investigations Related To Federal Programs” by Charlene Blevens in September 2016. The report is maintained on the NCURA website and used for educational purposes.

**Settlements for Compensated Effort Non-compliance**

*(Amounts reported in millions)*

| **University** | **Penalized Amount** | **Non-Compliance Area** | **Federal Agency Audit or Court Case** |
| --- | --- | --- | --- |
| Northwestern University (2003) | $5.5 | Effort Reporting | Department of Justice |
| Johns Hopkins University (2004) | $2.6 | Effort Reporting | Department of Justice |
| East Carolina State University (2004) | $1.7 | Time and Effort | Health & Human Services |
| Florida International University (2005) | $11.5 | Effort Certification | Health & Human Services |
| University of Alabama – Birmingham (2005) | $3.4 | Effort Certification | Department of Justice |
| University of Connecticut (2006) | $2.5 | Summer Effort Reporting | Department of Justice |
| St. Louis University (2008) | $1.0 | Effort Reporting | Department of Justice |
| Yale University (2008) | $7.6 | Summer Effort Reporting | U.S. Attorney General |
| Cornell Weill Medical College (2009) | $2.6 | Committed Effort | National Institutes of Health |
| University of California – Santa Barbara (2012) | $1.9 | Summer Effort Reporting | National Science Foundation |
| University of California – Los Angeles (2014) | $2.1 | Summer Effort Reporting | National Science Foundation |
| Columbia University (2014) | $9.0 | Effort Reporting | Health & Human Services |
| University of California – Berkley (2015) | $1.6 | Effort Reporting | National Science Foundation |
| University of North Texas Health Science Center (2018) | $13 | Effort Reporting | Department of Justice (02/16/18 press release) |

Note: Department of Justice and U.S Attorney General indicates a federal court case based on a settlement under the False Claims Act. The University contested the results of a federal audit in federal court, which resulted in the noted settlement amount against the University.