

Council on Governmental Relations Guide to Office of Management and Budget Uniform Guidance, Section 200.430 Compensation – Personal Services

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About This Document

The Council on Governmental Relations (COGR) Guide to 2 CFR 200.430 is intended to serve as a resource to assist your institution in implementing this section of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; [2 CFR, Part 200](#); (Uniform Guidance or UG), as published in the Code of Federal Regulations (CFR). Where applicable it adapts information from the 2007 COGR Guide, *Compensation, Effort Commitments and Certification*.

While the complete Uniform Guidance is applicable to Institutions of Higher Education (IHEs) and Nonprofit Research Institutions, as well as other non-federal entities including States, Local and Tribal governments and nonprofit organizations, significant sections of 200.430 are applicable to IHEs only. This document targets the application of 200.430 to IHEs. We suggest that this Guide be viewed as a *first assessment*, which is based on our initial understanding of this section. As we learn more about auditor perspectives and interpretation from Federal and Higher Education leaders, we will provide updates.

Introduction

We note throughout this document similarities with A-21 and other previous OMB Circulars. However, the Uniform Guidance differs from previous regulations in three important ways:

- **The UG provides greater flexibility in how IHEs account for salaries and wages charged to Federal awards.** In particular, that effort reporting and forms of certification, while still allowable, are not required.

- **The UG emphasizes strong internal controls that must be met, whether or not an institution chooses to maintain its current effort reporting system.** Per the preamble, “Section 200.430 Compensation—Personal Services strengthens the requirements for non-Federal entities to maintain high standards for internal controls over salaries and wages while allowing for additional flexibility in how non-Federal entities implement processes to meet those standards. In addition, it provides for Federal agencies to approve alternative methods of accounting for salaries and wages based on achievement of performance outcomes, including in approved instances where funding from multiple programs is blended to more efficiently achieve a combined outcome.” The preamble further indicates that “While many non-Federal entities may still find that existing procedures in place such as personal activity reports and similar documentation are the best method for them to meet the internal control requirements, this final guidance does not specifically require them. The focus in this final guidance on overall internal controls mitigates the risk that a non-Federal entity or their auditor will focus solely on prescribed procedures such as reports, certifications, or certification time periods which alone may be ineffective in assuring full accountability.”
- **The UG emphasizes the need for written institutional policies and procedures related to compensation.**

The sections that follow are organized by the order in which they appear in the UG. We have included comments on the text that we considered most significant. Throughout this Guide language taken directly from the UG is included in italics. Additional language from the UG specific to each section can be found in the Appendix to this document, beginning on page 21.

General, 200.430(a)

Section J.10 of Circular A-21 was directed toward the management and operations of the grantee's payroll distribution system. It required grantees to establish processes and functionality so that salaries could be distributed to multiple activities/accounts which would then be supported by a process to confirm these amounts/percentages in an after the fact manner. This section was the roadmap for how institutions receiving federal grants developed the basic elements of their infrastructure for compensation.

The UG provides an update to a 25-year-old Section J.10. It takes into account the significant changes in technology that are now available to manage the payroll distribution process. On-line access, data warehouses and research portals are now common tools that faculty and staff can utilize to manage federal funds.

Since the payroll distribution system functionality described in J.10 is now commonplace in the modern workplace of IHEs, section 200.430 spends limited time on process and data flow topics, but instead provides some guidance about a variety of payroll and compensation topics associated with IHEs. The outline for addressing these issues was largely taken from A-87 and serves as the template for 200.430(a).

Within the General section of 200.430, the use of the term “*remuneration*” (which previously appeared in A-87) is a new and broader term than “compensation”. A-21 mentions salary and benefits, but remuneration would also include all complementary benefits provided to an employee. As detailed in A-87 these include, but are not limited to, salaries, wages, directors and executive committee member's fees, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials. As noted above, J.10 focused on payroll distributions whereas the UG employs the concept of remuneration, which could include other amounts provided to the employee (e.g., “*not necessarily limited to salary and wages...*”), as a catch-all to account for new and emerging compensation practices that IHEs will develop over time.

J.10 categorized covered activities as either related to sponsored agreements or “other work allocable as F&A costs.” A-21 did not recognize the full extent of direct activities within an IHE (e.g., instruction, organized research, patient care) and the UG has applied a simpler approach. IHE activities can be separated into two categories, federal activities and non-federal activities (also adapted from A-87 and A-122). The term “*non-federal activities*” takes into account the broad spectrum of all the other direct activities and the usual indirect activities associated with F&A cost.

The UG removed the condition that compensation conform to the “established policies of the institution” that appeared in A-21 and now provides that “*costs of compensation are allowable to the extent that they satisfy the specific requirements of this Part*”. A-21 thus acknowledged the university’s role in managing compensation in accordance with its own policies. The UG’s new emphasis is on conformance with the Uniform Guidance itself.

Later in the paragraph, the UG acknowledges the role of institutional policies, but only as one standard for measure. Now, compensation costs are allowable if they “*satisfy the specific requirements of this Part*”, and also meet three conditions:

- They are reasonable, conform to the institutions written policy, and are applied consistently to federal and non-federal activities;
- They follow an appointment made in accordance with institutions rules and written policies and Federal statute; and
- They are supported by the Standards for Documentation provided for IHEs.

Given the reliance on a clear understanding of the “*specific requirements of this Part*” in addition to the conditions enumerated, the UG could be read as applying a high standard for allowability of compensation costs.

The UG has strengthened the documentation requirement for institutional policy by stating that compensation policies must be maintained in a written format (“... *established written policies...*”). Since the areas of compensation and effort reporting continue to receive significant audit scrutiny, the UG may be signaling that an IHE’s policies on this subject should/must;

- Be available and easily accessible to faculty, staff and auditors (i.e., on-line)
- Be up to date and consistent with current systems and practices
- Document internal controls and roles/responsibilities for all parties
- Address specific payroll/compensation issues described in section 200.430 (e.g., institution base salary, sabbatical, incidental activities, internal & external consulting)
- Be supported by monitoring to confirm compliance

Reasonableness, 200.430(b)

A-21, J.10 indicated that compensation charged to federal awards should be reasonable in relation to work performed on all sponsored agreements. This concept remains in the UG. Section 430(b) focuses on “*reasonableness*” in the context of the rate of pay for an individual working on a federal project, rather than solely on its allocation or distribution as in J.10. The UG has added language from A-87 and A-122 that expands the reasonableness definition to include the idea of consistent pay for similar work performed within a grantee institution or in the entity’s business sector. Per the UG, “*compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved*”.

The Reasonableness section emphasizes that individuals working on grants should not be receiving higher rates of pay than other employees within an institution who are performing the same work. Salary increases for individuals on grant funding due, for example, to a raise, change of appointment or responsibilities, or for merit or performance, should also be

consistent with institutional policy. Any change in compensation that yields a significant increase will be suspect – especially if it coincides with an increase in Federal awards.

Action Item:

- Institutions should review, and revise as needed, written policies addressing consistency in factors utilized to assess rates of pay and salary increases and consider acknowledging the concept of reasonableness as defined in the UG.

Professional Activities Outside the Non-federal Entity, 200.430(c)

This section of the UG related to typical consulting arrangements is not specific to IHEs. Per the UG, *“unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation.”*

This category is effectively unchanged from A-21 with two exceptions:

1. Like other aspects of the guidance, the UG now indicates that institutions must have written policies that govern outside activities; and,

2. In addition to indicating that *“if the Federal awarding agency considers the extent of non-organizational professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis”* as in A-21, the UG also includes the following *“or inconsistent with the conflicts-of-interest terms and conditions of the Federal award”*. The language simply exerts the authority of the federal government to make the determination that nonorganizational professional effort is excessive or in conflict with the terms and conditions of the federal award.

It is important to note that when institutional policies do not exist, the institution is more open to the risk of the federal government determining “appropriate arrangements” as noted in the UG (and previously in A-21, J.10e): *“Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal government may require that the effort of professional staff working on Federal awards be allocated between: (1) Non-Federal entity activities, and (2) Non-organizational professional activities. If the Federal awarding agency considers the extent of nonorganizational*

professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis”.

As noted in the section on Institutional Base Salary (IBS), professional activities outside the non-federal entity are not considered part of institutional compensation and workload expectations.

Action Items:

- Review written policies to ensure that they define the permissible extent of professional services with external entities (e.g., 1 consulting day for every 7 days worked) and the potential for conflicts of commitment. Institutions might consider whether and how this activity should be reported and captured (i.e., whether formal disclosure is necessary).

Unallowable Costs, 200.430(d)

Unallowable costs were not explicitly addressed in A-21, J.10. The UG states that *“costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation and that the allowable compensation for certain employees is subject to a ceiling in accordance with statute.”*

In 200.430(d)(2), the reference to a compensation ceiling for cost-reimbursement contracts is new and appears to address Public Law 113-67 (effective 12/26/13). The compensation limit is set at ~\$487,000 for covered contracts awarded on or after 6/24/14. FAR 31.2 (cost principles for contracts with commercial organizations) incorporates the applicable U.S. Code sections by reference and limits allowable compensation on covered contracts.

Special Considerations, 200.430(e)

The UG states that *special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.*

This topic was not explicitly addressed in A-21, J.10, but was addressed in A-122, Attachment B, 8.d(2). Providing substantial increases in the level of compensation due solely to an increase in the ratio of federal awards to other awards has always been considered an unallowable practice.

Action Item:

- Acknowledgement of this concept in the institution's written policies may be appropriate.
- Written policy should clearly indicate that salary increases cannot be based on grant activity (also see Reasonableness, 200.430(b), above). In exceptional situations where an increase is warranted, it should be highly scrutinized, heavily documented, and signed off by appropriate personnel.

Incentive Compensation, 200.430(f)

This section of the Uniform Guidance is not specific to IHEs. Providing incentive compensation based on institution-defined criteria, which does not discriminate between federal and non-federal sources of funding, always has been considered an allowable practice. While Incentive (bonus) Compensation was not explicitly addressed in A-21, J.10, it was included in OMB A-122, Attachment B, 8.j, and the language in the UG is identical. Per the UG, *Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.*

Incentive compensation typically is not charged to sponsored programs. However, a December 2003 NIH Grants Policy Statement indicates that a bonus or incentive payment could be charged "provided the payments are reasonable" if the institution has a policy that clearly articulates the conditions for allowability, while ensuring consistent application regardless of the source of funds. A practical problem is that a bonus may be awarded many months after the work to which it relates was performed so it is difficult to develop a workable mechanism for charging bonuses to sponsored agreements.

Where used as an incentive to accomplish a certain goal, Incentive Compensation should only be charged to a sponsored award (1) if the work provided benefit to the award and (2) only the portion of the incentive or bonus pay that benefits the sponsored project should be charged. This applies more often to scientists or technicians working on sponsored projects.

Action Item:

- Institutions should develop or review written policy to ensure that it clearly defines incentive pay and articulates the conditions for allowability, ensuring consistent application regardless of the source of funds.

Non-Profit Organizations, 200.430(g)

This section is applicable to Nonprofit Organizations only. The full text can be found in the appendix.

Institutions of Higher Education, 200.430(h)**Allowable Activities, 200.430(h)(1)(i)**

The UG states that “*charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.*” Examples of allowable personnel compensation costs include examples from A-21, J.10.a, and have been further expanded to cover additional examples (underlined above).

The UG thus creates a set of functions, loosely termed programmatic activities that are allowable direct costs and require no prior approval. These activities are clearly identified above, and they should be treated as normal direct costs for activities that directly benefit the project. It will be important for institutional policies to treat these programmatic activities separately from administrative and clerical costs, which are still normally indirect costs as described in 200.413(c).

Incidental Activities, 200.430(h)(1)(ii)

A-21, J.10a and the Uniform Guidance recognize and allow compensation for incidental activities to be charged directly to federal awards. Per the UG, *Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in*

paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.

Under both sets of guidelines, a definition or example of what constitutes incidental work at an IHE for faculty or staff is not provided. Incidental activities might be considered infrequent, irregular activity that would normally be considered too small to warrant tracking and meets an institutional, written definition of incidental or de minimis (1% for example).

Typically, incidental activity is work that is not part of the employee's regularly compensated activities (not part of IBS or Extra Service Pay-ESP). An example of an incidental activity might be the situation in which an employee receives compensation for a one-time activity, such as an acting or interim role for a brief period (<90 days). It might also include an honorarium for delivering a special lecture in an area outside the employee's normal field of study and possibly one-time or sporadic Intra-IHE Consulting. It should be noted that the term "incidental activity" is not described in A-87 or A-122; therefore, the COFAR considers it unique to IHEs.

Action Item:

- Review/develop a written institutional policy that defines incidental activities (forms of supplemental compensation) and documents conditions under which they are allowed.

Institutional Base Salary, 200.430(h)(2)

Reimbursement from the federal government for faculty compensation is allowable at the base salary rate. The concept of regular or base compensation remains relatively unchanged from A-21 with two exceptions:

First, the UG introduces the term *institutional base salary* and its definition. Per the preamble, this was in response to commenters who recommended "an explicit recognition of Institutional Base Salary rate (a type of policy most IHEs have well defined) instead of references to a more loosely defined 'base rate'". Per the UG, "*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*". This definition is closely aligned with the March 31, 2015 NIH grants policy statement, "the annual compensation paid by an organization for an employee's appointment, whether that individual's time is spent on research, teaching, patient care, or other activities. Base salary excludes any income that an individual is permitted to earn outside

of duties for the applicant/grantee organization.” However, the UG definition does not include a reference to patient care although it acknowledges faculty time spent on administration.

Second, A-21 stated that “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 UG indicates that “*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*”, allowing for possible charges exceeding proportionate share of IBS with prior agency approval.

For faculty members with a variety of salary sources (e.g., Veteran’s Administration affiliated organizations, clinical practice plan) and components (e.g., base pay, incentive compensation), it is important to clearly define, in writing, which are included (and excluded) from IBS. Ideally, the faculty appointment letter is the important document that ultimately specifies duties and activities. Clearly written policies, supported by appointment letters, will set the definitive basis for IBS. It is also important for institutions to clearly define the treatment of the clinical practice plan compensation (or other, similar outside entity compensation) in relation to IBS and to consistently apply the treatment to proposal preparation, salary cap limitation and charging. Depending on the legal status of the practice plan, as well as the organizational and financial structures, a faculty member may receive a single paycheck capturing all activities or multiple paychecks. NIH issued a notice ([NOT-OD-05-061](#)) on August 4, 2005 clarifying the treatment of clinical practice compensation and its inclusion (or exclusion) as part of IBS.

For most institutions, the base salary would exclude salary paid to the faculty member by a separate organization (e.g., consulting or outside lectures). These activities are not considered part of institutional compensation and workload expectations. IBS also would exclude incidental activities and incentive pay since generally these are not required as part of the duties of the appointment. Department Chair, Division Chief or Center Director Appointments are often considered to be an additional appointment to the individual’s academic appointment. This would normally include an administrative supplement to the base compensation. Institutions should document whether administrative supplements are included in IBS. The important point is to be sure that campus practices are in line with the decisions the institution has made about the components of IBS.

Action Items:

- Define and clarify components of IBS in writing, with examples of what is included and excluded. These examples may vary from institution to institution, and they could even address differences within colleges, schools and

departments within the same institution. What is essential is that IBS is well-defined and applied consistently with the institution's definitions and policies.

- Institutions should review appointment letters and other documentation to assess whether they define work components covered by IBS with sufficient specificity. Ideally, those letters would include such items as contract period, number of courses expected to teach, service/administration expectations, research, and clinical activities. Institutions might consider including the associated compensation amount for each component in the appointment letter/documentation. If an institution includes these components in the appointment letter, it will be necessary to update the letters in a timely fashion to reflect any changes made in the responsibilities of the faculty member.
- If an institution does not include the level of specificity described above in its appointment letters, the institution still should have a process in place to establish and update appointment letters, as the institution determines applicable.

Intra-IHE Consulting, 200.430(h)(3)

This concept is basically unchanged from A-21. Per the UG, *“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 additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency”*.

When meeting the above terms, compensation associated with intra-IHE consulting above the base salary is allowable (examples might include “consulting” related to statistical work or foreign language assistance, as applicable to the specific needs of an award). Such consultation should be separately identified via a separate earnings/account/object code or other mechanism so that it is appropriately documented in the payroll system.

Action Item:

- Institutions should clearly document in written policy what forms of intra-IHE consulting are allowable as direct charges to federal grants.
- Consider whether a separate earnings/account/object code is necessary for intra-IHE consulting.

Extra Service Pay, 200.430 (h)(4)

The term Extra Service Pay (ESP) was not included in A-21 or other previous circulars. The Uniform Guidance indicates that ESP “*normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS.*” This can be interpreted in a few ways. ESP can be viewed as a mechanism for addressing compensation for research grants at predominantly instructional institutions. If a faculty member at such an institution receives a federal grant, according to institutional policy it could be considered above IBS but would still be compensated at the IBS rate and subject to the standards of documentation. In that respect, ESP charged to federal awards would be rare at a research institution, but not at a predominantly teaching institution.

ESP also can be interpreted as compensation for extra service above and beyond associated services within the general scope of the appointment, e.g., if the appointment requires teaching 2 courses, but the individual teaches 3. However, if the individual requires a secondary appointment to carry out the service, that may involve a secondary salary line. For example, Department Chair, Division Chief or Center Director appointments are sometimes considered to be secondary appointments to the individual’s academic appointment but in some cases, at some institutions, they are not (e.g., for 9-month faculty). This may require a redefinition of the institutional base salary to include the administrative activities. This type of non-federal ESP is much more common at research institutions and is not typically a concern, but it can affect the denominator for schools using traditional effort reporting. There will invariably be variation in the treatment of administrative supplements between institutions. Institutions should ensure that the supplements are well documented and consistent.

ESP is allowable if certain defined conditions are met. Among them, that institutions “*have consistent written policies which apply uniformly to all faculty members;*” that they establish “*a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred*”, noting that this *may be described in appointment letters; it is commensurate with the IBS rate; and that it fall within the salary structure and pay ranges established by and documented in writing or other documentations.* Per the UG, “*the total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation*”. ESP paid from a federal grant must follow the documentation requirements – even though it is not IBS. Generally speaking, compensation charged to federal awards is at the same rate and subject to the standards of documentation (200.430(i)) or is subject to prior approval by the awarding agency.

Action Items:

- Institutions should clearly document in written policy what regular or continued services conducted at their institution can be designated as Extra Service Pay (i.e., services outside of IBS that are commensurate with the IBS rate).
- Institutions should consider cross-walking their institutional definition of Extra Service Pay with the definition in the UG. Per the UG, the terms ESP, overload, and supplementation are used interchangeably and appear to have the same meaning. This may not be the case for institutions, and consequently, clearly defining how these terms are used may be a useful exercise.

Periods Outside the Academic Year, 200.430(h)(5)

This concept has not changed from A-21. Per the UG, *“Except as specified for teaching activity ...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 IBS. (ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in the IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods”.*

The “period” is the base academic year (e.g., 9 months, 12 months, etc.). By example, a 9-month appointment (base academic year) at a base salary of \$90,000, results in a monthly rate of \$10,000. Therefore, summer salary at a monthly rate of \$10,000 would comply. Salaries for teaching activities for periods outside the academic year, applicable to faculty members also paid on sponsored agreements, may be made based on the normal written policy of the IHE. Payments to individuals performing work on sponsored agreements for these time periods must be captured in the institution’s payroll system and are subject to documentation.

In a number of its directorates, NSF has historically funded research with the expectation that an individual conduct his/her research in the summer months, and up to 2/9ths of his/her salary be charged during the same summer period, though it is acknowledged that the effort may occur during the academic year. The 2015 version of the NSF Proposal and Award Policies and Procedures Guide, published in December 2014, further clarifies allowable conditions for exceeding two months’ salary either through the budget proposal or post-award rebudgeting.

Even though the term “summer months” is not in the UG, the concept in A-21 remains the same and is useful to note. That is, that during the summer quarter or trimester, or other off-duty period, the pay to faculty or others whose salary is over the NIH salary cap, does not need to be supplemented by the department, school/college or institution. In other words, the faculty member can be paid at the rate of the NIH salary cap. The faculty member may choose to subsidize

his/her salary with institutional funds. Institutions should review their policies and faculty handbook to see if the concept above is consistent with institutional policy.

Action Item:

- Institutions should review written policies for compensation (including teaching) during periods outside the academic year. Such policies may already be included in a faculty handbook or similar document.

Part-time Faculty, 200.430(6)

The UG states that 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. The treatment of part-time faculty in the UG is consistent with A-21.

Sabbatical Leave Costs, 200.430(7)

Sabbatical leave costs are included in compensation – personal services rather than fringe benefits per A-21; however, the treatment of sabbatical leave costs is consistent with A-21. The full UG language is included in the appendix.

Salary Rates for Non-faculty Members, 200.430(8)

Per the UG, *non-faculty full-time professional personnel may also earn “extra service pay” in accordance with the non-Federal entity’s written policy and consistent with paragraph (h)(1)(i).* This area was not explicitly addressed in A-21, J.10. Also see the previous discussion on Extra Service Pay, 200.430(h)(4).

Standards of Documentation of Personnel Expenses; 200.430(i) (formerly Payroll Distribution)

In describing the rationale underlying reform related to Standards of Documentation, the preamble indicates that “this final guidance requires non-Federal entities to comply with a stringent framework of internal control objectives and requirements” (Internal Controls are further addressed in section 200.303). By eliminating the examples that appeared in A-21, the UG intends to provide institutions with increased flexibility to document personnel costs. As the Preamble to the rule states, “While many non-federal entities may still find that existing procedures in place such as personal activity

reports and similar documentation [are] the best method[s] for them to meet the internal control requirements, this final guidance does not specifically require them. The focus in this final guidance on overall internal controls mitigates the risk that a non-Federal entity or their auditor will focus solely on prescribed procedures such as reports, certifications, or certification time periods which alone may be ineffective in assuring full accountability”. The preamble also notes that “other certifications included by recipients in their applications and indirect cost rate agreements provide a layer of assurance that can be used in preventing and prosecuting instances of fraud.” It is important to note, however, that the Preamble to the Uniform Guidance has not been codified. While it conveys the intent of COFAR, additional confirmation by OMB and/or other federal entities will be helpful.

The Uniform Guidance, 200.430 (a)(1), indicates that “*costs of compensation are allowable to the extent that they [are] reasonable for the services rendered and conform to the established written policy of the non-Federal entity consistently applied...*” Per the UG, “*charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must* (adhere to the following standards i-x):

- (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;*
- (ii) Be incorporated into the official records of the non-Federal entity;*
- (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHEs, this per the IHE’s definition of IBS; for additional requirements review section 200.430(i))*
- (iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity’s written policy; and,*
- (v) Comply with the established accounting policies and practices of the non-Federal entity;*
- (vi) [Reserved]*
- (vii) 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 use of “*accurately reflect*” as an introduction to the specific standards that follow (i.e., (i) through (x)) was not included in A-21, J.10. This may suggest to some a higher standard to support salary charges to Federal awards. However, more important is an institution’s ability to demonstrate compliance with the specific standards (i.e., (i) through (x)). Standard (i)

is new and highlights the importance of a “system of internal control” instead of the 3 acceptable methods prescribed in A-21. This suggests that the institution has an option to choose a different framework to fulfill the requirements from (i). Ultimately, the system an institution uses to charge salaries to Federal awards is required to provide “*reasonable assurance that the charges are accurate, allowable, and properly allocated*”. Institutions may consider defining “accurate” within the context of “reasonable assurance,” rather than as an absolute standard.

Standards ii-iv are consistent with A-21. The new qualifier, “*not exceeding 100% of compensated activities*”, is consistent with the expectation under A-21 that the records supporting charges to Federal awards encompass the activities which are part of IBS. While the A-21 statement that “Compensation for incidental work ... need not be included” is not shown, the standard should be interpreted to mean that only compensation that is part of IBS is to be included. Standard (v) is also consistent with A-21. While the placement of this text has moved from a “General” introductory statement under A-21 to a standard of documentation under 200.430, this important principle, recognizing the value of the “established accounting policies and practices” of the institution, remains intact. Standard (vii) does not have an exact match to A-21, J.10. However, the requirement for the system to support distribution across multiple activities or cost objectives has not changed.

Action items:

- Institutions should review their policies and procedures to ensure that the UG language is appropriately addressed.
- Institutions might consider defining “accurate” within the context of “reasonable assurance”, rather than as an absolute standard.
- Institutions should be able to demonstrate that their payroll systems contain the controls to ensure that payroll charges cannot exceed 100%. This is a standard control in most payroll systems.
- Institutions may want to include in their policies and procedures that effort expended may exceed the amount charged to an award, however the amount charged cannot exceed the effort expended.

Budget Estimates, 200.430(i)(viii)

The use of budget estimates was included in A-21 as one of the Criteria of Acceptable Systems and 200.430 includes similar language under Standards of Documentation. The preamble notes that some commented “that allowance for costs based on estimates could result in a lack of sufficient documentation that the costs were in accordance with the work performed”. The UG incorporates new language indicating that budget estimates alone do not qualify as support for

charges to Federal awards, but may be used for interim accounting purposes. Standard (viii) incorporates three of the important criteria from A-21 into a single standard:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to Federal awards based on budget estimates. All necessary adjustment(s) must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

While the order of presentation and the wording has changed, the expectations applicable to use of budget estimates and identifying significant changes has not. Note, allowability of “Short term (such as one or two months) fluctuation between workload categories need not be considered” remains unchanged. There is, however, a subtle change in the “after-the-fact” requirement from “confirmation” to “processes to review after-the-fact ...”. In addition, there is a new statement that “all necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.” With the greater emphasis on Internal Controls in 200.430, IHEs may want to consider the following:

Action Items:

- Develop a process that addresses (and documents) how the initial salary distribution estimates are established and implemented through the project lifecycle. The proposal should reflect the best estimate of effort required by the proposed personnel to do the proposed work. Upon award, the salary is to be allocated based on estimates of effort on the project proposal, taking into account the project as awarded and any other relevant changes. The PI and departmental administrator should consider questions such as the following:
 - What positions and salaries were proposed and how do those compare with the awarded set of goals and objectives?
 - What is the awarded effort (commitment) that should be incorporated into the initial salary plan?

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- Are there cost sharing/matching requirements or salary over the cap costs that should be incorporated into the initial salary plan?
 - Was the budget cut and how does that affect the staffing/FTEs needed to accomplish the goals and objectives?
 - What is the status of the proposed personnel/positions? Are they still available to contribute time to the project?
 - Has the salary structure or grades for proposed personnel significantly changed recently?
 - Does work on this project require reallocation of personnel/effort on other projects?
 - If the award has a specific effort requirement (e.g., 75% for NIH career awards), is the overall salary distribution consistent with the effort requirement?

A checklist might be a useful tool to develop.

- Ensure the PI has access to salary distribution data and reviews the actual salaries charged to the project during the period (in a timely manner). The initial salary distribution should be modified/updated based upon significant changes in work activity.
- The grantee should consider developing institutional parameters for “significant changes” or “level of tolerance”, a threshold for when an adjustment is necessary. Most agree on 5% per the 2007 COGR Guide.
- The PI/designee should review the salaries charged to the project during an established period to ensure that they are reasonable in relation to the actual work performed. The grantee should establish a formal process to document the review of the salaries and it should be retained for the appropriate period.
- In addition, the Uniform Guidance incorporated the OMB Clarification Memorandum on Voluntary Uncommitted Cost Sharing dated January 5, 2001. Institutions and the Federal government should take into account that the final amount charged to the Federal award may not include voluntary uncommitted effort. Therefore, the final amount charged to an award may be understated.

Standards of Documentation (i)(ix)

Per the UG, *“Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.”* This standard is consistent with A-21. The standard appears to acknowledge that some institutions may continue to use effort reporting, at least for a period of time and that effort reporting remains an acceptable framework.

Standards of Documentation (i)(x)

The words “accurate” and “accurately” contained in the UG section on Standards of Documentation do not appear in A-21, J.10. In addition, A-21 contains a number of references to “reasonable estimates”. The addition of “accurate” and the elimination of “estimate” (except in reference to “budget estimates”) may suggest that the UG expects a higher standard of precision in documentation of personnel costs. However, the UG does indicate that records must be supported by a system of internal controls which provides “*reasonable assurance* [emphasis added] *that the charges are accurate, allowable, and properly allocated*” and “*reasonably reflect the total activity* [emphasis added] *for which the employee is compensated.*” It also retains the concept, in standard (i)(x), that “*teaching, research, service, and administration are often inextricably intermingled in an academic setting indicating that when recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.*” While the “degree of tolerance” qualifier from A-21 has been eliminated, the more important recognition that “*a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected*” remains intact.

Standards of Documentation, 200.430 (i)(2)(3)(4)

(2) Per the UG, “*for records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section*” (below, on non-exempt employees). Here the UG indicates that if records “*accurately reflect the work performed*” per the standards described in 200.430(i) no additional documentation is necessary.

(3) “*In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day*”. Compliance with FSLA is new, though always has been a requirement.

(4) Per the UG, “*salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.*” Compliance with the cost sharing requirements is new, though it always has been a requirement and was previously addressed in A-122, Attachment B, 8.m.

States, Local Governments and Indian Tribes, 200.430(i)(5)

This section is applicable only to States, Local governments and Indian tribes.

Standards of Documentation, 200.430(i)(6)(7)(8)

(6) Per the UG, “*cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.*” This section seems to indicate that alternatives to the requirements of (i)(1) require cognizant agency approval while approval is not required for plans that meet the requirements.

(7) The UG indicates that, “*for Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.*” Leveraging “blended funding” to account for funds from multiple sources is new and could result in opportunities to reduce administrative burden. However, the UG appears to set high-standards for allowability.

(8) “*For a non-Federal entity where the records do not meet the standards described in this section, the Federal government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.*” This suggests the prescribed methods from the past (i.e., effort reporting) are no longer required and would only be required if a new system did not meet the standards of documentation described in 200.430(i). Institutions may choose to move quickly in acting on alternatives or proceed cautiously, waiting for assurance from single auditors that their internal controls meet the standards in this section in the absence of effort reporting before eliminating their effort reporting system.

APPENDIX: 2 CFR 200.430 – CIRCULAR A-21, J.10

The APPENDIX to the COGR Guide to 2 CFR 200.430 compares the text from [2 CFR 200.430](#) to the text from OMB Circular [A-21, J.10](#). The first column, 2 CFR 200.430, is presented in full. The side-by-side from A-21, J.10 is aligned to represent the most comparable sections from A-21, J.10. Note, we have **highlighted in yellow** selected text that may be of interest. Also note, ***COGR comments are shown in bold-italic***. The more detailed comments and institutional considerations are included in the body of the COGR Guide.

2 CFR 200.430: Compensation – personal services	Circular A-21, J.10: Compensation for personal services (plus selected Circular A-122 citations)
<p>(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. 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:</p> <ol style="list-style-type: none"> (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; (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable. <p><i>[COGR: The emphasis on all forms of “remuneration” is a subtle definitional change. Connecting allowability with the institution’s written policies on appointments may suggest revisiting existing written policies. Connecting allowability with Standards for Documentation is addressed in 200.430(i).]</i></p>	<p>a. General. Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such amounts include salaries, wages, and fringe benefits (see subsection f). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as F&A costs are determined and supported as provided below ...</p> <p><i>[COGR: The remainder of J.10.a covers allowable activities and incidental work. This text is shown as a side-by-side to the corresponding section from 200.430(h)(1).]</i></p>

<p>(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.</p> <p><i>[COGR: The “reasonableness” concept always has existed, though the references to “similar work” are new for IHEs. Acknowledgement of this new concept in the institution’s written policies may be appropriate.]</i></p>	<p>c. Reasonableness. [note: A-122]</p> <p>(1) When the organization is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.</p> <p>(2) When the organization is predominantly engaged in federally sponsored activities and in cases where the kind of employees required for the Federal activities are not found in the organization's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.</p> <p><i>[COGR: This is addressed in OMB Circular A-122, Attachment B, 8.c.]</i></p>
<p>(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:</p> <p>(1) Non-Federal entity activities, and</p> <p>(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on</p>	<p>e. Noninstitutional professional activities. Unless an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for noninstitutional compensation. Where such institution wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on sponsored agreements be allocated between (1) institutional activities, and (2) noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis.</p>

<p>a case-by-case basis.</p> <p><i>[COGR: The allowability standards for non-organizational compensation for professional activities outside the institution is consistent with A-21. However, connecting allowability with the institution’s written policies may suggest revisiting existing written policies. The reference to conflicts-of-interest terms and conditions is new and may require special attention when addressing non-organizational professional activities.]</i></p>	
<p><u>(d) Unallowable costs.</u></p> <p>(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.</p> <p>(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.</p> <p><i>[COGR: The reference to compensation ceiling for cost-reimbursement contracts is new and appears to address Public Law 113-67 (effective 12/26/13). The compensation limit (i.e., salary and all benefits) is set at ~\$487,000 for covered contracts awarded on or after 6/24/14. FAR 31.2 (cost principles for contracts with commercial organizations) incorporates the applicable USC sections by reference and limits allowable compensation on covered contracts.]</i></p>	<p><i>[COGR: Unallowable compensation costs are not explicitly addressed in J.10]</i></p>
<p><u>(e) Special considerations.</u> Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of</p>	<p><u>d. Special considerations in determining allowability. [note: A-122]</u> Certain conditions require special consideration and possible limitations in determining costs ... :</p> <p>(2) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation,</p>

<p>specific types of compensation due to changes in Federal policy.</p> <p><i>[COGR: Providing substantial increases in the level of compensation due solely to an increase in the ratio of federal awards to other awards is new, though always has been considered an unallowable practice. Acknowledgement of this concept in the institution’s written policies may be appropriate.]</i></p>	<p>particularly when it was concurrent with an increase in the ratio of Federal awards to other activities of the organization or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.</p> <p><i>[COGR: This is addressed in <u>OMB Circular A-122, Attachment B, 8.d(2).</u>]</i></p>
<p><u>(f) Incentive compensation.</u> Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.</p> <p><i>[COGR: Providing incentive compensation based on institution-defined criteria, which does not discriminate between federal and non-federal sources of funding is new, though always has been considered an allowable practice. Acknowledgement of this concept in the institution’s written policies may be appropriate.]</i></p>	<p><u>j. Incentive compensation.</u> [note: A-122] Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.</p> <p><i>[COGR: This is addressed in <u>OMB Circular A-122, Attachment B, 8.j.</u>]</i></p>
<p><u>(g) Nonprofit organizations.</u> For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.</p> <p><i>[COGR: This section is applicable to Nonprofit Organizations only.]</i></p>	<p><u>d. Special considerations in determining allowability.</u> [note: A-122] Certain conditions require special consideration and possible limitations in determining costs ... :</p> <p>(1) Compensation to members of non-profit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.</p> <p><i>[COGR: This is addressed in <u>OMB Circular A-122, Attachment B, 8.d(1).</u>]</i></p>

<p align="center">2 CFR 200.430: Compensation – personal services</p>	<p align="center">Circular A-21, J.10: Compensation for personal services (plus selected Circular A-122 citations)</p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:</p> <p>(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.</p> <p>(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.</p> <p><i>[COGR: Examples of allowable personnel compensation costs include each example from A-21, J.10.a, and have been further expanded to cover additional examples. The description of incidental activities is consistent with A-21. However, it no longer includes the qualifier “(that in excess of normal for the individual)” and it now includes the qualifier “(at a rate not to exceed institutional base salary)”. The change to both qualifiers should be noted, but should not significantly affect how the institution defines incidental activities.]</i></p>	<p>a. General. Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements ...</p> <p><i>[COGR: The beginning of J.10.a is shown above as a side-by-side to the corresponding sections from 200.430(a). The remainder of J.10.a covers allowable activities and incidental work and is shown below.]</i></p> <p>... Charges to sponsored agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. Incidental work (that in excess of normal for the individual), for which supplemental compensation is paid by an institution under institutional policy, need not be included in the payroll distribution systems described below, provided such work and compensation are separately identified and documented in the financial management system of the institution.</p>

<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(2) Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. 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.</p> <p><i>[COGR: The concept of regular or base compensation remains relatively unchanged from A-21 with two exceptions: Institutional Base Salary (IBS) is explicitly defined, which was not the case in A-21, J.10.d(1). Second, where A-21 stated that “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 UG indicates that “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..”]</i></p>	<p><u>d. Salary rates for faculty members.</u></p> <p>(1) Salary rates for academic year. 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 ...</p> <p><i>[COGR: The remainder of J.10.d(1) covers intra university consulting. This text is shown as a side-by-side to the corresponding section from 200.430(h)(3), below.]</i></p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(3) Intra-Institution of Higher Education (IHE) consulting. 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 additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.</p>	<p><u>d. Salary rates for faculty members.</u></p> <p>(1) Salary rates for academic year. Charges for work performed on sponsored agreements by faculty members during the academic year ...</p> <p><i>[COGR: The beginning of J.10.d(1) is shown above as a side-by-side to the corresponding section from 200.430(h)(2). The remainder of J.10.d(1) covers intra university consulting and is shown below.]</i></p> <p>... Since intra university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full time</p>

<p><i>[COGR: The allowability standards for intra-IHE consulting is consistent with A-21. However, the emphasis on the institution’s written policies in other sections of 200.430 may suggest revisiting existing written policies in this area, as well.]</i></p>	<p>base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty 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 charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.</p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:</p> <p>(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.</p> <p>(ii) 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. This may be described in appointment letters or other documentations.</p> <p>(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.</p> <p>(iv) 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.</p> <p>(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.</p>	<p><i>[COGR: Extra Service Pay is not explicitly addressed in J.10.]</i></p>

<p><i>[COGR: Treatment of Extra Service Pay (ESP) is new. A 2004 audit by the NSF OIG may be an impetus to this section. In that 2004 audit, inadequate “overload compensation” policies were cited by the NSF OIG. At issue was the treatment of research as an overload activity, which may not be the normal practice at many research institutions. Still, institutions should review their written policies as they relate to definitions and the various types of ESP available.]</i></p>	
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(5) Periods outside the academic year.</p> <p>(i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, 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 IBS.</p> <p>(ii) 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.</p> <p><i>[COGR: Except for minor changes in the presentation, the treatment of periods outside the academic year is consistent with A-21.]</i></p>	<p><u>d. Salary rates for faculty members.</u></p> <p>(2) Periods outside the academic year.</p> <p>(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. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.</p> <p>(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.</p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(6) 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.</p>	<p><u>d. Salary rates for faculty members.</u></p> <p>(3) Part time faculty. Charges for work performed on sponsored agreements by faculty members having only part time appointments will be determined at a rate not in excess of that regularly paid for the part time assignments. For example, an institution pays \$5000 to a</p>

<p><i>[COGR: Except for minor changes in the presentation, the treatment of part-time faculty is consistent with A-21.]</i></p>	<p>faculty member for half time teaching during the academic year. He devoted one half of his remaining time to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one half of \$5000, or \$2500.</p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(7) <i>Sabbatical leave costs.</i> Rules for sabbatical leave are as follow:</p> <p>(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.</p> <p>(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.</p> <p><i>[COGR: Sabbatical leave costs now are shown under 200.430 (Compensation – personal services) rather than fringe benefits per A-21. However, the treatment of sabbatical leave costs is consistent with A-21.]</i></p>	<p><u>f. Fringe benefits.</u></p> <p>(4) Rules for sabbatical leave are as follows:</p> <p>(a) Costs of leave of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the institution.</p> <p>(b) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.</p>
<p><u>(h) Institutions of higher education (IHEs).</u></p> <p>(8) <i>Salary rates for non-faculty members.</i> Non-faculty full-time professional personnel may also earn “extra service pay” in accordance with the non-Federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.</p> <p><i>[COGR: Salary rates for non-faculty members and corresponding “extra service pay” is not covered under A-21. See COGR comments, above, under 200.430(h)(4).</i></p>	<p><i>[COGR: Salary rates for non-faculty members and corresponding “extra service pay” is not explicitly addressed in J.10.]</i></p>

<p align="center">2 CFR 200.430: Compensation – personal services</p>	<p align="center">Circular A-21, J.10: Compensation for personal services (plus selected Circular A-122 citations)</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;</p> <p><i>[COGR: The use of “accurately reflect” as an introduction to the specific standards that follow (i.e., (i) through (x)) is not used in A-21, J.10. This may suggest to some a higher standard to support salary charges to Federal awards. However, more important is an institution’s ability to demonstrate compliance with the specific standards (i.e., (i) through (x)). Standard (i) is new and highlights the importance of a “system of internal control” instead of the 3 acceptable methods prescribed in A-21. This suggests that the institution has an option to choose a different framework to fulfill the requirements from (i). Ultimately, the system an institution uses to charge salaries to Federal awards is required to provide “reasonable assurance that the charges are accurate, allowable, and properly allocated”. Institutions may consider defining “accurate” within the context of “reasonable assurance”, rather than as an absolute standard.]</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(1) General Principles.</p> <p>(b) The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will-</p> <p>(1) be in accordance with Sections A.2 and C; ...</p> <p><i>[COGR: The cross-reference to A.2, Policy guides, recognizes important principles to ensure successful application of the cost principles. The cross-reference to C, Basic considerations, describes key foundations, including allowability, reasonableness, and allocability.]</i></p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(ii) Be incorporated into the official records of the non-Federal entity;</p> <p><i>[COGR: Standard (ii) is consistent with A-21.]</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p> <p>(a) The payroll distribution system will</p> <p>(i) be incorporated into the official records of the institution;</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that</p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p>

<p>accurately reflect the work performed. These records must:</p> <p>(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);</p> <p><i>[COGR: Standard (iii) is consistent with A-21. The new qualifier, “not exceeding 100% of compensated activities”, is consistent with the expectation under A-21 that the records supporting charges to Federal awards encompass the activities which are part of IBS.</i></p>	<p>(a) The payroll distribution system will</p> <p>(ii) reasonably reflect the activity for which the employee is compensated by the institution; and</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;</p> <p><i>[COGR: Standard (iv) is consistent with A-21. While the A-21 statement that “Compensation for incidental work ... need not be included” is not shown, the standard should be interpreted to mean that only compensation that is part of IBS is to be included.]</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p> <p>(a) The payroll distribution system will</p> <p>(ii) encompass both sponsored and all other activities on an integrated basis, but may include the use of subsidiary records. (Compensation for incidental work described in subsection a need not be included.)</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and</p> <p><i>[COGR: Standard (v) is consistent with A-21. While the placement of this text has moved from a “General” introductory statement under A-21 to a standard of</i></p>	<p><u>a. General.</u> Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such amounts include salaries, wages, and fringe benefits (see subsection f). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as F&A costs are determined and supported as provided below ...</p>

<p><i>documentation under 200.430, this important principle that recognizes the value of the “established accounting policies and practices” of the institution remains intact.]</i></p>	
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(vi) [Reserved]</p> <p><i>[COGR: Standard (vi) is not defined and not applicable.]</i></p>	
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(vii) 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.</p> <p><i>[COGR: Standard (vii) does not have an exact match to A-21, J.10. However, the requirement for the system to support distribution across multiple activities or cost objectives has not changed.]</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(1) General Principles.</p> <p>a) The distribution of salaries and wages, whether treated as direct or F&A costs, will be based on payrolls documented in accordance with the generally accepted practices of colleges and universities. Institutions may include in a residual category all activities that are not directly charged to sponsored agreements, and that need not be distributed to more than one activity for purposes of identifying F&A costs and the functions to which they are allocable. The components of the residual category are not required to be separately documented.</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may</p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p> <p>(b) The method must recognize the principle of after the fact confirmation or determination so that costs distributed represent actual costs, unless a mutually satisfactory alternative agreement is reached.</p>

<p>be used for interim accounting purposes, provided that:</p> <p>(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;</p> <p>(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and</p> <p>(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.</p> <p><i>[COGR: Standard (viii) incorporates three of the important criteria from A-21 into a single standard. While the order of presentation and the wording has changed, the expectations applicable to use of budget estimates and identifying significant changes has not changed. Note, allowability of "Short term (such as one or two months) fluctuation between workload categories need not be considered" remains unchanged. There is, however, a subtle change in the "after-the-fact" requirement from "confirmation" to "processes to review after-the-fact ...".] In addition, there is a new statement that "all necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated." See also section 430(i)(1)(i) above regarding the standard of precision.</i></p>	<p>Direct cost activities and F&A cost activities may be confirmed by responsible persons with suitable means of verification that the work was performed. Confirmation by the employee is not a requirement for either direct or F&A cost activities if other responsible persons make appropriate confirmations.</p> <p>(c) The payroll distribution system will allow confirmation of activity allocable to each sponsored agreement and each of the categories of activity needed to identify F&A costs and the functions to which they are allocable ...</p> <p>(e) Direct and F&A charges may be made initially to sponsored agreements on the basis of estimates made before services are performed. When such estimates are used, significant changes in the corresponding work activity must be identified and entered into the payroll distribution system. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period.</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.</p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p> <p>(d) Practices vary among institutions and within institutions as to the activity constituting a full workload. Therefore, the payroll distribution system may reflect categories of activities expressed as a percentage distribution of total activities.</p>

<p><i>[COGR: Standard (ix) is consistent with A-21.]</i></p>	
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:</p> <p>(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.</p> <p><i>[COGR: Standard (x) has not changed. While the “degree of tolerance” qualifier from A-21 has been eliminated, the more important recognition that “a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected” remains in-tact.</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(1) General Principles.</p> <p>(c) In the use of any methods for apportioning salaries, it is recognized that, in an academic setting, teaching, research, service, and administration are often inextricably intermingled. A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate.</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.</p> <p><i>[COGR: This section is consistent with A-21.]</i></p>	<p><u>b. Payroll distribution.</u></p> <p>(2) Criteria for Acceptable Methods.</p> <p>(g) For systems which meet these standards, the institution will not be required to provide additional support or documentation for the effort actually performed.</p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.</p> <p><i>[COGR: This section is new, though FLSA compliance always has been a requirement.]</i></p>	<p><u>m. Support of salaries and wages. [note: A-122]</u></p> <p>(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subparagraphs (1) and (2), must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under FLSA.</p>

	<p><i>[COGR: This is addressed in <u>OMB Circular A-122, Attachment B, 8.m.</u>]</i></p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.</p> <p><i>[COGR: Compliance with the cost sharing requirements is new, though always has been a requirement. For Institutions considering moving to payroll confirmation, cost sharing/matching and salary cap differences should be identified and tracked as charges to sponsored projects.]</i></p>	<p><u>m. Support of salaries and wages. [note: A-122]</u></p> <p>(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as salaries and wages claimed for reimbursement from awarding agencies.</p> <p><i>[COGR: This is addressed in <u>OMB Circular A-122, Attachment B, 8.m.</u>]</i></p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include ...</p> <p><i>[COGR: This section is applicable to States, Local governments and Indian tribes only.]</i></p>	<p><i>[COGR: Substitute systems for States, Local governments and Indian tribes is not applicable to J.10.]</i></p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.</p> <p><i>[COGR: Encouragement to the Cognizant agencies for indirect costs to approve alternative proposals based on outcomes and milestones for program performance is new and could result in opportunities to reduce administrative burden.]</i></p>	<p><i>[COGR: Approval of alternatives is not explicitly addressed in J.10]</i></p>

<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.</p> <p><i>[COGR: Leveraging “blended funding” to account for funds from multiple sources is new and could result in opportunities to reduce administrative burden.]</i></p>	<p><i>[COGR: Blended funding is not explicitly addressed in J.10]</i></p>
<p><u>(i) Standards for Documentation of Personnel Expenses</u></p> <p>(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.</p> <p><i>[COGR: This new requirement suggests the prescribed methods from the past (e.g., effort reporting) are no longer required and only would be required if a new system did not meet the standards of documentation described in 200.430(i).]</i></p>	<p><i>[COGR: The requirements described in this section are not explicitly addressed in J.10]</i></p>