**WorkforceGPS**

**SMART 3.0 Training: Personnel Compensation, Systems and Policies**

**Tuesday, November 12, 2019**

*Transcript by*

*Noble Transcription Services*

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GRACE MCCALL: Again, if you haven't already done so or if you're just joining us, please introduce yourself in that welcome chat, we'll have that chat up throughout today's webinar where you can type in your questions or comments at any time. And welcome to "Personnel Compensation, Systems and Policies SMART 3.0 Training."

So without further ado, I'd like to turn things over to one of our speakers for today, Tom DiLisio, senior accountant, DFMAS, United States Department of Labor Region 6, San Francisco, California and Debbie Strama, fiscal policy unit supervisor, United States Department of Labor - OGM DPRR, Chicago, Illinois. Take it away.

DEBBIE STRAMA: All right. Thank you, Grace. Good afternoon, everyone and welcome to another SMART 3.0 Training Module. This is the 14th module that we've done since the start of October. If you have attended the past sessions, thank you and if you have not attended any of the past sessions, we are archiving and posting all of the previously recorded sessions on our workforcegps.org page.

And so if you go to our community page, which is grants application and management, you will find all of the previously recorded SMART modules that we have hosted over the last few months. Today's session will be conducted by myself, Debbie Strama in the fiscal policy unit in the Office of Grants Management. I deal with policy issues covering formula grants and discretionary grants as well as providing training for internal staff as well as grant recipients and key stakeholders.

Joining me today is Tom DiLisio. He was previously located in the Chicago office. He decided to move to a warmer climate and is now in the San Francisco office. He used to be a fiscal supervisor in the Chicago Regional Office and now he works with the wonderful people in the San Fran office. So he and I will be doing this training for the next hour and a half and what we would like to do is spend at least an hour or so on the actual PowerPoint and then leave about a half hour or so for questions and answers.

So let's begin. So as you know, we have conducted 13 different modules and they're all around the Uniform Guidance. So this is the 2 CFR 200 and this is geared towards our SMART Training. And so the SMART Training series is a series of training modules on subjects that are from the Uniform Guidance ranging from equipment and intangible property to record retention and cost allocation.

And so what does SMART stand for? SMART is Strategies for sound grant management that includes Monitoring, Accountability, Risk mitigation and Transparency. And so these are four themes that are weaved throughout the Uniform Guidance at 2 CFR 200 as well as in our OMB Approved Exceptions or Department of Labor, which may be found at 2 CFR 2900.

So just to give you a little bit of background, the Uniform Guidance is the compilation of eight different circulars. So this is the Uniform Guidance that covers the administrative requirements, the cost principles and the audit requirements. And so all of those old circulars, such as A87, A102, 110 and 133 are all now merged into one single document and this is known as the Uniform Guidance.

So if you have not already printed out a copy of the Uniform Guidance at 2 CFR 200 or if you have not printed out the DOL exceptions which are only applicable to grants awarded by the Department of Labor, I would suggest that you go to the cfr.gov website and print those out.

So you could print it out by title, which is for both of these documents, are found under Title II and then if you go to 200 and 2900, you will see – you will find the full text of – for the Uniform Guidance and these DOL exceptions. Also included on our grant application and management webpage, which is located at the WorkforceGPS website, is our grant management toolbox.

And so what we have tried to highlight here, through the SMART Training as well as some additional features and tools and desk aids that we have posted on our grant application and management page, are all the available resources to you to help you better manage your grants.

And so not only can you find additional guidance through the grant agreement that you have received from our grant officer and the Funding Opportunity Announcement, but you can find additional technical assistance through the gps.org website, the SMART modules, the Core Monitoring Guide, which is our monitoring tool that our federal project officers and federal staff use when they go out onsite and conduct a compliance review of your project or your program.

And so all of these resources, all of these desk aids are available to you through the GPS website as well as going to DOLETA.gov\grants and there you will find a link to the e-reporting system where you have to submit an ETA-9130. Also, it will provide you a link to the Core Monitoring Guide as well as to our technical assistance guide.

Currently, we are updating the One-Stop Financial Management TAG and that will be published shortly and it will include updates from the Uniform Guidance and for our program also known as the Workforce Innovation and Opportunity Act.

And so with this tool – or this graphic, we also wanted to highlight the importance of these resources that are available to you as a grant recipient, but that if you are also working with partners in your community that are also considered subrecipients, that they can also turn to those resources to find additional guidance in helping them manage that subaward, that subgrant on behalf of your organization.

So the next hour or so what will we be talking about? We'll be talking about some of the changes that have taken place in the Uniform Guidance as it deals with payroll, personal expenses, fringe benefits and post-retirement – or post-employment systems, such as retirement or pension systems and post-help systems.

We'll also talk about what is allowable and unallowable as it relates to salaries and fringe benefits and then talk a little bit more about the salary cap. The salary cap is very important, because anybody who has received a Department of Labor grant, if it is a program that has a stipulation in their grant agreement, that anybody who's being paid a salary must adhere to the salary cap.

And so it is for any individual that is being paid out of federal dollars and it could be for a full-time employee or a part-time employee in which that salary cap must be applied to. So documenting the payroll distribution.

If you have been in the system long enough, you know that there were quite a number of different standards available to organizations depending on whether or not you were a nonprofit or an institution of higher education or a local government, that those standards for tracking and recording time and salaries and wages was a little bit different from one organization to the next, because there were different standards contained in each of those circulars.

With the merging of all of those circulars under one single roof, also known as the Uniform Guidance, the Office of Management and Budget has streamlined the requirements for tracking and reporting time being spent on a program and for salaries and wages being paid out using grant funds. So I'll talk a little bit about what those are.

So there's some basic standards. So the basic standards for personnel expenses, which would include wages and salaries. So it's any person who is considered an employee of that grant or that – or an employee of the subrecipient. You can find what is defined as compensation under 2 CFR 200.430(i) and what the Uniform Guidance says is that compensation and the systems being used to pay out employees must be supported by a system of internal control.

And as you know from earlier SMART Module Training sessions or if you have read through the Uniform Guidance, you know that there is a stronger emphasis placed on internal controls in the Uniform Guidance. And so internal controls plays a factor in all elements, all factors in your grant application and administration.

So it should not only touch upon the way you procure products, goods and services, but it should also touch upon how you are dispersing and paying out employees. And so this includes hourly employees as well as salaried employees. What the Uniform Guidance also says is that any salaries or wages being paid out using grant funds needs to be reasonable in that it also needs to show that it's an allowable expense and an allocable expense.

And so what does that mean? If you have a person who's working on more than one project, more – is working on more than one grant, that there needs to be a system in place to ensure that the portion of their salary that is being picked up by that Department of Labor grant or any other grant can be supported to show that it's been – that there is a benefit to be received by that charge and that payment of the wages or salaries.

So again, we want to also make sure that the systems allow for accurate reporting. As you know, you are to report back to us either quarterly through a 9130 or if you're reporting through a pass-through entities, that pass-through entity then collects that information and reports it back to us. So anything that turns into an expense needs to be traced back to the source documentation.

So as you know, a significant portion of all grant expenditures is related to salaries and fringe benefits. And so what are the things that you need to consider? So for payroll, we would expect that the payroll system and the tracking system that you're using for federal grants is the same system you're using for all other employees in your organization.

So we want to make sure that it's consistent and that it is also part of the official record. So whatever tracking system that is being used to record the person's time and effort being spent on the project is part of their – your official employee records or your official timekeeping records.

Secondly, as I indicated earlier, that it needs to be part of your internal control structure and of course, with any types of internal controls that you have, you want to periodically look back at those internal controls to make sure that they're operating adequately recently reflects the employee's total activity.

So if you have individuals that are only spending a portion of their time on this DOL grant or a particular DOL grant, there needs to be evidence of what they're spending the rest of their time on, because in order for us to determine that that portion of time is adequate and allowable, we need to see the big picture.

We need to see whether or not that whole pie is accounted for and our portion or our slice of that pie or that slice of time is equitable and reflects benefit received. Secondly – or another standard is making sure that when you're providing raises or salary increases or any type of change benefits that is consistent across employee classes and organizations or divisions.

So again, you don't want to treat the employees working on federal grants any differently than employees working on, say, state grants or any other operations or activities in your organization. If you are required to follow – well, you would be required to follow generally accepted accounting principles.

So making sure that when you're working with your auditors, that any tracking and reporting of salaries, for any benefits or post-employment benefits are consistent with any standard or statement coming out of generally accepted accounting principles or if you are a state – a local government that you're adhering to – (inaudible).

And then of course, supporting the salaries and fringe benefits. There's multiple ways in which you could provide support. And so if a person is going out and monitoring and looking behind those expenses, that that documentation should be sufficient to trace back from the activity or the function to the actual payment of that person's salary.

So what are some things that meets the standards according to what is contained in the Uniform Guidance and what does not meet the standards. So we want to make sure that all payroll records supports the actual payments of the salary or the wages. There should be nothing that is in addition to that. Anything that is –

Well, we want to make sure that fair labor standards are being met. So there should be, again, no special treatment given to that employee or that person who's working on that federal grant. Anything related – there are some unique standards for the institutions of higher education. Those are further explained in the Uniform Guidance.

And so with anything – or within certain grants, you have a match requirement. And so if you are using any employee's salaries or wages to support match, then again, we would have to make sure and see that the revenue source covering that person's expense is not coming from that federal grant.

So being able to have a system that actually tracks the revenue being received and being used to pay the salaries as well as the expenses needs to be detailed enough so that we can follow those expenses and those payments through your system.

Use of budget estimates, so oftentimes when you begin and you fiscal your calendar year or program year, you have a budget meeting and you talk with your staff and there are certain projections that you are going to – you know, that you hope that 40 percent of your staff time is going to be spent working on serving dislocated workers.

Well, for budgetary and any purposes, it's great and it's often needed to start off with budget estimates. And so you can start off the fiscal year or the calendar year using budgets, but what needs to be happening when you actually start charging a grant for actual payroll expenses is that it needs to tie out to actual activity.

So you may have made some projections, you may have made some estimates, but hopefully throughout the years, through the months or through that quarter you're reconciling and shoring up what your projections were to the actual activity. The substitute systems, so there are some substitute systems that are available to certain agencies that are awarded federal grants.

And so substitute systems, such as random moment sampling or time studies or case counts can be used by state, local government and Indian tribes. And so if those substitute systems are being used, they have to be supported by sampling standards.

And so to take a sample once a year maybe during a high point or a period in which there is high activity may not be reflective of the work that that person is being – or that the work – it may not be reflective of the work being conducted by that employee or that class of employees throughout the year. So it may be important, again, to take another sample at another point in time.

So substitute systems, often they're used because it may be easier or less – or it may be easier or not as time consuming as maintaining timesheets that track a person's time by the minute or by the quarter hour. And so that it also helps with the efficiency of actually paying out employees. So this may be something that may be useful to organizations that have sealed offices across the state, that it may not be as easy to collect those timesheets.

So using a substitute system may be the best option available to them. With any type of system just like a substitute system, we would expect that your agency – your organization would use internal controls in terms of managing that system. So now we'll take a minute to do a knowledge check. So there are three things here and we wanted to see if there is – see how you're doing in terms of following the presentation.

So the first one, budget estimates alone provide sufficient documentation of payroll distribution as long as they are approved by the CFO. It seems like everyone is listening. So that is false.

So again, as I had indicated earlier that for planning purposes, just to start off a new fiscal year or calendar year that you may need to use some projections and some estimates, but as actual activity is incurred, that actual timekeeping records and charges or expenses tied out to payroll and fringe benefits needs to tie out to actual activity.

Number two, substitute systems may be used to document the distribution of payroll cost whenever they are consistent with the entity's system of internal controls. That is false. So substitute systems are only – or can only be used by certain entities and that includes states, local governments and Indian tribes.

And our last statement is federal agency may require the use of personnel activity reports if the recipient fails to meet the payroll distribution standards in the Uniform Guidance. And that is true.

So if it's determined at the time of the grant award that there is a risk involved in giving out the money, then an additional or a special condition can be attached to your grant agreement, which may also include the submission of personnel activity reports or the requirement to complete personnel activity reports in order to justify or support time charges to that particular grant.

So that can be a personal condition. I'm sorry, that can be a special condition placed on your grant. So moving on, we'll talk a little bit more about the standards for allowable personnel expenses. So this includes wages and salaries. So reasonable level of compensation, oftentimes, we've gone (inaudible) to organizations that they try to justify paying their CEO, their director, a very hefty salary.

So if it's beyond $200,000 or more and it includes bonuses and fringe benefits, then the agency will try to justify it saying it's like running a Fortune 500 company. Well, we respond to that in saying that these are grant funds, these are taxpayer dollars. And so that – the reasonable level of compensation has not be met if they have exceeded or have – or that they're paying out at that level.

One additional thing to consider is with many of the grants that we award at the Department of Labor, you have to adhere to the salary cap and currently, that salary cap is under $200,000. So in those situations when we discovered that the level of compensation is unreasonable, then we would question a portion of that salary until they can prove otherwise or that they find another source to cover those expenses.

With anything paid for – paid out to salaried or waged – or employees that are earning a wage, we would expect that there are written policies in place so that they are on a level playing field, that it is clear to them as to what their salary or wages will be as well as their benefits are when they enter employment at your agency.

And so this is just a common good business practice. We want to make sure that the way you're operating and the way you're providing raises and promotions is fair and equitable to everybody that is in your organization.

Documentation, we want to make sure that there is documentation for not only increases and promotions, but there is documentation for anything related to the fringe benefit package or a severance package, because it needs to be in writing and needs to be approved by the board or it needs to be evidenced before that payment or that disbursement is being made.

Allowable appointments, this is mostly related to organizations that – well, with allowable appointments, this also deals with budget. So if you have an approved budget that contains 10 FTE, when we go out onsite, we would expect that you are only charging the federal grant 10 FTE. So that is Full-Time Equivalent Employee.

And then the same standards that are being used to actually pay out salaries and wages would also be used if you're meeting a cost-sharing or match requirement. So reasonable compensation, what does it actually mean to be reasonable? So here's a few things that need to be considered. So we would like, of course, to consider the local labor markets and what is being paid out to, say, other case managers in the local labor market.

And so that is one level standard that we would use to determine reasonableness and then of course, looking at your organization as a whole. Does it seem reasonable that case managers are being paid $20,000 and then case manager supervisors are being paid $90,000? Again, we look at a variety of different things to determine reasonableness.

Again, it has to be – you know, we also compare it against similar work in that same labor market. So the one thing we would not expect to be reasonable is if you are trying to determine the salaries of a person who's working in Wichita, Kansas and you're using the salary standard of somebody being paid from New York City.

We know that the cost of living in New York City is much higher than Wichita, Kansas. And so if you're determining – or trying to determine a reasonable salary level or wage level for a particular employee, you would have to look at your local labor market. And then with a salary cap requirement, most of the time this is applicable to the higher officials or the executive officials in your organization and we'll be talking about that – well, we'll be going into that in greater detail in a few minutes.

Reasonable compensation, again, as I indicated earlier, in order to determine whether or not the share in apportioned salary or wages is equitable and reasonable, we would need to make sure that 100 percent of his or her time is accounted for. So we would have to look at all of those records tied to that person given a work week or the given month. Again, we only pay for the work that is actually being performed.

Oftentimes, we hear, I'm filling in for my executive director while they're out on medical leave, so the board offered to give me an additional bonus, again, we would expect that they're only being paid for the salary in which they were hired to do. So temporarily they could possibly see an increase in salary, but there is no way that they could charge or claim the salary of two employees for one individual.

So there's some additional provisions contained in the Uniform Guidance that talk about extra service and that can be found in 2 CFR 200.430 and those are listed on the slide. Incentive compensation, is that allowable? Certain incentive compensation packages or payments is allowable. In order for it to be allowable, again, it has to meet the standards of reasonable, necessary and allocable.

Another thing is it has to be in a written policy. And so that policy has to apply to all different classes and all different employees and it doesn't – and it should not matter whether or not they are working on a federal grant or another project in your office. Also, typically, if incentives are being awarded, hopefully that is part of the employee handbook that you have out there and it could also be part of that employee's personnel file.

One provision that is contained in all of our grant agreements is a provision called the FFATA. So this is the Federal Funding Accountability and Transparency Act. And so if you have given out subawards to agencies, then if you have – and those employees – or if you have given out subawards, then you need to complete a report tied to the Federal Funding Accountability Transparency Act.

And so this report has to be submitted through the Federal Reporting System, which is the fsrs.gov system. And so here you would have to identify by name the five highest compensated individuals in that organization. And so this is part of the USASpending.gov website so that anybody from the general public can take a look at those numbers and tie it out to your particular project or program.

So next knowledge check before I turn it over to Tom is another set of true of false. So compensation for personal services is reasonable if it's comparable to an employee doing similar work in an organization or in the same labor market. Yes, everybody has been listening, thank you, and it's true. Number two, if there is no similar position in the organization, compensation may be established at any level needed to attract qualified candidates, true or false.

And that answer is false. As with any cost charged to our grants, it needs to meet the standards of reasonable, allowable, allocable and necessary. So before I turn it over to Tom, I'm not sure why we had this one slide in here before the next section, but here is the definition on fringe benefits. And so fringe benefits can be found and is defined in the Uniform Guidance at 2 CFR 200.431.

And so these fringe benefits that you are paying out to employees that are using taxpayer dollars, these grant funds, needs to be consistent and needs to be benefits that are normally provided to other individuals that work in the same kind of field. So cannot be anything extraordinary or excessive. And as with compensation, your fringe benefit package needs to be part of the written policy. Tom, I'll now turn it over to you.

TOM DILISIO: Thank you, Debbie. Great. I'll be talking about fringe benefits and going more into detail about the salary cap. Just want to say good afternoon and we'll get into a little more detail. Certainly, when you're talking fringe benefits, as Debbie said, there's a variety of types of things that are covered under fringe benefits.

You know, we're talking about leave, annual leave, sick leave, family-related leave, military leave, things like that, various types of insurances that organizations provide, medical and dental and so forth, pensions and things like, also incentive compensation things. So we're going to go into a little more deeper dive in each of these and explain sort of the requirements around those policies and this area of fringe benefits and how the Uniform Guidance treats that.

So we'll skip this slide. So generally, the standard is if it's required by law or if it's part of an employer-employee relationship agreement, a union agreement, we honor those as well as the big thing here we have to see is established written policies around what the compensation and what are all the fringe benefits an employee is going to be entitled to as they work for an organization.

A lot of times we see various benefits provided, but there's no employee manual or no employee handbook to say what are the allowable ones or what are we providing and we're asked can we do this, can we do that. It has to be part of your handbook. You know, you need to have a personnel handbook that really addresses all these and that should apply the various leaves, the type of health and life insurances, if it's provided, are there copays when a person becomes eligible to receive these benefits?

Sometimes there's a waiting period, things like that. Workers' compensation, how is that treated? Is there incentive paying severance pay? A lot of organizations forget that as grants stop, sometimes people are without employment and is – are we allowed to – is it allowable to charge severance pay? Well, a system has to be in place before that occurs in order to accrue set-aside dollars to pay for that severance pay as well as pension plans.

You know, pensions are a big interest now, to be sure that they're properly funded. So we're going to talk about methods and how you do that as an organization to provide these fringe benefits. Assigning cost, usually, we – they're assigned specific individuals or groups of individuals and we allocate those costs.

You know, they're generally compensation costs depending on where that person is assigned or how they charge the time. That share of their benefits and fringe benefits costs go with that group and follow that person depending on how they're allocated. So people that may be in the administrative cost pool their fringe benefits apply, go into that pool.

People that are direct charging times to program services, those fringe benefits follow those individuals. So we could have – that system should be in place to track those fringe benefits associated with the wages and it follows where those people are charged if you're using a time distribution system or some kind of activity system to allocate salary cost and so forth.

Leave costs, now, when you're dealing with leave, we're talking sick leave probably and we're also talking vacation leave or as we call them the federal government annual leave, could be family medical leave. There's two ways you treat leave costs and you have to set up – you pick one and you stay with that. You can't switch, you have to apply this consistently, because there's rules around the IRS also of how you set these up.

One is a cash basis. One is you charge leave to the grant as people take it. As people leave the grant, if there's any unused leave left, it just – it's not paid, it goes into the indirect cost pool because the person has left. So you pay it as you go. It's a pay-as-you-go system. The other method is an accrued basis and that's where you set aside grant dollars that are charged to our grants as leave is accrued by each employee.

It becomes a liability to the organization and money is set aside and kept separate to pay leave as they take that and usually we'd say you set aside the lesser amount, the liability of the amount that is accrued or what you're funding. You may fund the actual total amount or something less, because sometimes all leave is not taken and so forth, but you have to pick one method, either a cash basis or an accrued basis and you stay with that.

If you were to change methods, for some reason, you have to come in for grant officer approval, because that's a big change from the big requirements of your funding your leave system. Pension costs are generally allowable costs. It's part of a fringe benefit package. Usually, they're based on a policy of when people – how long they have to work and the formula to calculate what that pension would be.

Certainly, if you're part of state government or local governments, they have pension systems in place and we pay our share of those costs as they're applied to the employees that work on our grants, but if you're a nonprofit, you may have a 401 system that has a match that could be part of a pension or an actual set-aside pension, but you have to define the eligibility when people become vested.

It has to be reasonable, you must have a policy, allocation cannot be discriminatory, that's based on the pension laws in ERISA where you can't have higher-paid pensions for the upper individuals or higher paid individuals compared to the lower individuals, it has to be the same for everybody and then we look at how we accrue those costs.

Those are accrued each year based on gap requirements, because there's a lot of issuances now coming out about accruing pension costs to be sure that you're funding your system and you usually fund the system as you go along. It has to be funded within six months of each yearend to see what those – what people accrue and how you set aside money.

These are usually – you set up these systems and usually you get approval, also, with the IRS when you're designing your pension system, because they have – there's a big impact and there's a lot of requirements besides DOL requirements. We just look at how much you charge our grants when you're dealing with pensions, but setting it up you're really working with the IRS and probably working with a compensation consultant to establish these plans.

Also, severance, we get a lot of questions certainly about severance. When grants end, can we pay severance and so forth? They are allowable if they are required by law, if they're part of your employee-employer agreement, if you have it in the policy that stipulates that it's in the agreement for all workers if there's severance and when they earn a severance pay, how many years they work.

Some organizations pay a week of salary for every year somebody has worked and so forth and then there's some unique things, some unique circumstances when you're dealing with certain types of employment that may be just short-term in nature, that it's a negotiated contract where there may be a severance associated with it, but you want to be sure you address this, because certainly as grants end, if people have to be let go, are they entitled to severance?

And you have to be sure you have funds that you've set aside for these severance payments, otherwise, they would come out of other funds. Usually, we have normal type severance and that's usually allocated at the end of – you know, we allocate those costs if you set aside. Again, we talk about is it a funded system or is it a pay-as-you-go, but you set aside funds and you allocate those costs certainly based on how other fringe benefits get allocated.

You can set up a reserve as acceptable for charged current operations, but you have to set that up in advance. So you have to fund that. If you have a mass layoff, for some reason there's just a complete shutdown of the organization, usually, we do not accrue for those costs, because it's – something major has happened, like maybe a whole organization has gone defunct or something like that.

So that's a different situation. In order to pay severance based on that case, you would come in for prior grant officer approval assuming we have funds in the organization to pay severance. That would be as if maybe we just stopped an activity and said stop as of today and we're ending this program, we would look to see like do we owe severance to the individuals because it was a complete mass change to the grant award.

Other provisions, there's a new thing in the Uniform Guidance about providing employee health and welfare costs and these are dealing mainly with improving working conditions. It's a little different in the past the way it was written under the circulars, but this talks about changing conditions, but I want to just read what it says about that real quick in the Uniform Guidance.

This is dealing with such costs are applicable when they're – for activities to improve the employer-employee relations, employee's health, employee's performance, things of that nature. So we're not talking can we join a health club and all these other things or what about if we belong to a certain club and so forth, but it's really dealing with improving working conditions of the employee and so forth.

Also, there's information in there about – for institutions of higher education. Can they allow to pay for tuition for staff and individuals working under that? And that's usually allowable for individuals that are working on our grants. There's allowability that they can have fringe benefits that says that we'll fund some of the tuition or all of the tuition if you take classes for continuing educational.

It's usually not allowable for it to fund for family members. So you can't set up programs that staff could say I get charged costs for my son or daughter to go to college and things like that, but it's really for the employee person. And there's other little nuances in there that are dealing with that in the Uniform Guidance. So I'd say be sure you read those clauses completely in the Uniform Guidance, because they do have little nuances to them.

We also – again, we talk as a pay-as-you-go. So some benefits we have we just pay them as we go. For example, unemployment insurance and workers' compensation and sometimes health insurance are pay-as-you-go. You pay those as the costs are incurred by the individual. So if there's – you're paying for unemployment insurance because a person was laid off and they're entitled to a benefit, we do not set up a reserve for that, we just pay it as we have to incur those costs.

Sometimes when pension plans are terminated, there may be a one-time amount that has to catch up and fund the plan. We pay that as we go. Leave you can do two ways. Leave can be set aside as an accrued, you can fund a leave or you can do it as a pay as you go. That's the big thing is when you set up these compensation plans and set up these fringe benefits, you have to determine how you're going to fund them.

Are they going to be pay-as-you-go? And some of them, because they're infrequent like in unemployment insurance and workers' comp, you pay maybe once a year depending and you don't know what that premium's going to be, you just pay it as you get the bill. Others you set up a reserve and you fund that in advance.

So you really want to look at each of these type of benefits that your organization provides and determines is that a pay-as-you-go type cost or is that something we can fund in advance and accrue dollars and set aside to cover that when we have to pay out. Unemployment insurance and workers' comp only is usually self-insurance.

We pay those as we go. We make – we estimate. Usually, we get premiums, they charge us – the unemployment agency will send you, based on your rating, what your premiums are going to be and you pay those as you incur them and charge our grants. They're allocated just like any other fringe benefits cost.

It may got into a pool and allocate it indirectly or they could go to the assigned person and they follow that person's costs. The premiums change. So you want to be aware that as you – you know, if you have higher layoffs, your rates, your premium goes up, same with workers' compensation, I know, depending on what your coverage for workers' compensation.

For example, we've seen discretionary grants that have very high workers' compensation insurance, because they're dealing with equipment, they're out in the woods, they're clearing up – there's a higher incidence of maybe a workers' comp claim as opposed to somebody who's in an office and so forth. So those we really want to look at and be sure we're – and sometimes they're estimates.

We've seen where you get an estimate and you pay that and then down the road you get a refund and we have to be sure those are properly accounted for and returned back to our grant or adjusted and there's usually a lag in these. So that – you have to have a method to how you handle that, because usually, your premium comes in based on prior activity that's a year later.

So you want to be sure you have a system that measures as you charge these costs. Is there going to be a refund or a credit, how do you deal with that? Pension plans, this is our post-retirement plans that usually – that may not be included. There's usually two methods. Again, we say that it's a pay-as-you-go. You pay as people are incurred and that could be like a 401 match.

You know, sometimes organizations will say we'll match the first 3 percent of an employee's salary. So that would be a pay-as-you-go method for a 401 plan. Setting aside monies would be setting up a reserve and setting up an accrual and accruing dollars as they earn pension, a defined benefit plan.

You would set aside those dollars based on an actuarial estimate of what it's going to cost to set aside monies for your individuals or each staff person based on the years of service, the rate of pay and how their pension is calculated. 200.431 talks about how you calculate and the timeframes you're paying it. So you may want to take a look at that if your organization has a defined benefit plan, but you need to follow one method or the other.

Conflict of interest and code of conduct, this is really important and this is – we've – these are sort of parts that we bring up throughout a lot of the other SMART Training webinars. It's real important that you have conflict of interest policies in your employee manual and code of conduct, not just for conflicts, apparent and real conflicts or certain code of conducts dealing with sexual harassment, political activities.

There's all sort of areas under code of conduct that says employees can do this, employees cannot do that. But a recent example, and this is just a public example, is the CEO of McDonalds was fired for having a relationship with an employee. That was part of their code of conduct. So it covers good business practices.

You want to be sure your organization has a well-defined employee manual that covers conflict of interest for employees and how they disclose that conflict and what do you do to mitigate what the organization does to mitigate that conflict.

Certain activities we've defined in the WIOA regulations are – could potentially be conflicts that have to be mitigated as well as the code of conducts that addresses a variety of situations that are not just financial in nature, but also how we conduct ourselves in business. Are we an ethical organization?

You know, it's the moral code of the organization and it comes from the top-down to all employees in how we handle a situation. Does it cover outside employment, things like that. So you want to be sure you have a well-defined code of conduct and conflict of interest and that should be a big part in sort of the beginning part of your employee compensation and employee manual.

Again, we talked about these need to be written – it's really important that you have written policies and procedures around all these defining the compensation, how fringe benefit packages are going to work, when people are entitled to these benefits, such as waiting periods. It may also outline salary ranges or steps, things like that.

As people get raises, how will that work each year? Is there an automatic raise or raises voted by the board? You know, we accept those as long as they're reasonable and so forth. Again, you respond to the requirements of the FFATA Act and put things up on USASpending.gov for the top-five highest paid people in the organization.

It also may have restrictions, when you can use leave, when you cannot use leave, when you're entitled certain things, what they will cover, what they will not as well as some things that are unallowable and maybe fringe benefits that they don't provide and so forth. So you want to make sure you have a well-defined handbook that covers all these things and it's written.

Other things we see unallowable, things that are fringe benefits. We've seen a variety of things tried to be charged to grants. One is paying for personal use of cars that really benefit the individual and not part of our organization. Those are usually indirect costs. Late charges, taxes, any kind of penalties we do not accept.

Severance pay that an excessive amount, that's – you know, a plan wasn't set up in place, there was no policy and then suddenly a grant ends and we're going to ask can we pay severance and so forth or if a person is let go at the management level, can we pay severance if it was not part of the original agreement?

Pension fund losses, funds are invested in pension funds. If there's losses, we do not charge those losses to the grant. Certainly, we've seen cases where organizations try to make up for the – the balance of their pension fund is unfunded, so they have a surcharge that said, no, you can't do that, they should've been funded.

The actuarial should've funded them when they occurred or you should accept those funds in advance and so forth. So you can sort of (inaudible) say, we need to increase it because our liability just shot up. And things like interest expense, any kind of penalties or fines, those are unallowable. So we don't cover those for any staff or so forth, but those are straightforward things.

They're very specific, they're just not allowed to be charged to our grant. It's not to say you can't charge them to other non-federal funds, they're just not chargeable to our grant. So let's do a knowledge check, let's try this, unused leave after retirement or termination is allowable in the year of payment as an indirect cost.

I'm going to say true. Let's see what that answer is. Where is my – I can't – the answer to that one is true. And they give you – actually, I gave you the answer to the second question too. Under specific circumstances an entity may establish a funded reserve account to cover fringe costs instead of using pay-as-you-go method and that is true.

You have a choice to make, then once you make that choice you have to consistently use it. You cannot go between each one and switch back and forth. You define it and you stay with it. In order to change it, you would have to come in for the grant officer approval and possibly IRS approval to pay on what you're trying to change.

Debbie mentioned this; let's talk a little bit about the ETA salary cap. This goes back – I think we've had this in place maybe about seven, eight years or so. It comes out of Region 5 where we had some really abusive salaries paid under some of our WIA grants where once it became public the senators put this – defined a salary cap that nobody should be paid in excess or at least charged to our grant in excess of a certain level of salary in which is the executive level II limit for federal workers.

So that's defined by OPM, the Office of Personnel Management in the federal government. It goes up each year. As the federal government grants are raised, they lift that limitation. Right now it's about $190,000. It's a public law, 109-234. It applies to all appropriated funds, including grants, contracts and interagency agreements.

It's been around since 2006. That's a little longer than I thought, 13 years. It limits salary and bonus payments to individuals. That cap is also listed in our WIOA law and there's also guidance around how that law applies and how ETA interprets that law and applies it under Training Employment Guidance Letter 5-06.

It applies all WIOA funds, including Wagner-Peyser, unemployment insurance administrative funds, SCSEP or older worker grant funds, Native American 166 program funds, veteran funds and any other grants that uses appropriated funds. Again, it applies across the board to all appropriated grant funds and contracts and agreements, however, there are some exceptions.

It does not apply to H-1B grant funds. So if you've got a grant that's funded with H-1B, and you would know that when you get your grant agreement, because that's generated with fee payments from employees, that's exempt from the salary cap, not to say we look at compensation in that area, it's just exempt, it does not apply.

It also does not apply to disaster unemployment insurance assisted benefit funds, because those come from FEMA. Job Corps has a separate limitation under contracts that they apply for their contractual relationships. WIOA Incentive grants, it does not apply, because those are funded with the Department of Education appropriation and as well as UI benefits.

It does not apply to that, because those are paid from a state UI Trust Fund. So there are very limited exceptions. The one that mainly applies to us is probably the H-1B funds, because we do put those out each year for certain grant activities and the salary cap is not included, but for all other appropriated funds, it is in your agreement.

Who is covered? It covers all individuals in – that are funded under that grant, both as direct recipients and as subrecipients all the way down the chain, anybody receiving wages and benefits at the recipient level, at the subrecipient level or all the way down the chain, it applies to everyone. It doesn't matter if it's a direct charge or through an indirect cost rate or through cost allocation plans or an indirect allocation of somebody's salary.

We do calculate to see there within the limitation. And again, just a real big distinction contractors are not subject to the limitation. So when we're buying things commercially in the public marketplace, we're buying a car, we do not look beyond that to see how much the chairman of General Motors or Ford made as applied to that card.

It strictly applies to grant agreements, subrecipient relationships, subawards and so on. It does not apply to contractors. What's included? We look at the compensation on the W2, including any bonuses or any other monetary prizes or awards, incentive payments, profit sharing provided to that individual, if they're a sole proprietor or partnership, any income they received from that side of the business.

So that's what's included. What we do not include are fringe benefit costs. We do not calculate that dollar amount, any nonmonetary compensation or corporate profit or corporate profits paid out of per share basis. So we really look at what's included on the W2 and any other awards or incentive payments that may have been paid to that individual and that total has to be within the salary – to charge our grant, it must be within the salary limitation.

It's not to say people can earn above it, it just cannot be charged to our grant and we'll go into a little allocation after that. Right now the rate is $192,300. It's usually adjusted annually. I know a lot of us are at that level or we're bumping up to it and so forth out there, but we do come across it with big organizations that individuals are paid above these amounts.

It's expressed as either an annual amount or as an hourly rate, depending on how much time is charged, because we look at allocation of costs, we break it down to an hourly rate and it's done on a calendar basis per the IRS definition of what person, because we look at a W2 statement, we look at what did they make during that annual basis, calendar year basis to see if they exceeded the cap or not.

There's more information – there's a website listed there on this slide that will go into a little more detail about that also, about how it's calculated, what the rate is if you're not sure what it is. It's usually put into your grant agreement, but it changes every year. So it updates every year usually in January. And as with any costs or any requirement, states can also set lower limits for their subrecipients.

So they're allowed to pass that on. They could pass a lower level. So states could say the rate is going to be $160,000 or $150,000 or whatever in their state. Even if it's paid from multiple funding sources, we still look at how much was paid and if it – if the rate was calculated properly. So the fact that you're allocating that salary to multiple grants does not mean you've met the requirement.

We look at what amount is being allocated to all those grants as opposed to did all of that add up to $192,000? We also look at if the person's an indirect cost pool. Is – what amount was put into the indirect cost pool? So even though you may just get a very small sliver from an indirect cost from another entity that doesn't exceed it, we look at how much of a salary for that individual is put into the indirect cost pool and gone in to determine the cost rate.

It can only be $192,000. So if a person makes substantially more, they cannot put the full salary into the cost pool, they can only put $192,000 into the cost pool. And it doesn't apply to – as you know, there's a consultant limitation rate in your grant agreements now. It does not apply to that. That's considered a separate requirement for dealing with consultants.

This is strictly for employee-employer relationship type positions for the employee, what they are paid. So let's just go through a quick example. You know, your full-time employees that are funded, let's say, with our grant and you may have a director that gets paid $200,000 and a couple other individuals $100,000, $180,000, they charge 100 percent of their costs to our grant, we would apply the cap, $192,300 and the first example, the director, we'd say that they exceeded the limitation by $7,700.

So those costs would either be questioned or they – you would have to demonstrate to us that they were charged to a non-federal funding source. That is the key. We don't say you can't – we just say you can't charge this. You can still pay $200,000, but they'd have to charge $7,700 to another funding source and show us that.

What about less than full-time employees? So we have the same sort of condition and different percentages of time being charged. We also apply that percentage to their rate and come up with what's ETA's grant share and then we show the limitation next to it. We take 50 percent of the limitation, we take 25 percent of the limitation and so on and so forth and we can still see that they still exceeded.

So even though a grant may have been charged $100,000 for the director, it only should've been charged $96,150, because they're above the salary limitation. So in those cases, we had two individuals that their rate of pay and the time spent on our grant exceeded the salary limitation. So we would say that amount of money in column E would have to be charged to non-federal funds.

I'll show you another example. What about indirect costs? Sometimes you have indirect costs that are put into a grant pool or indirect cost pool. You have the actual salary. We look at the allocation of those individuals' time and that's what gets put into the cost pool and we see did they – what percentage of $192,000, the limitation.

We look at the percentage of time to that limitation and we apply it. We see in this example the CFO exceeded the salary limitation. So we're actually allocating the limitation based on the amount of time that that person is charging. So if they're working less than 100 percent, we take less than 100 percent of the salary limitation and apply those two figures and that's how we're doing that.

We see if it exceeds the limitation or not. A lot of times that's where we see it. So I caution to really look at your indirect cost plans and cost rate agreements, be sure individuals in there, the right amount is put into that pool before it's allocated, because it cannot exceed – what's in the pool cannot exceed the limitation.

If they're working less time, then you have to make an adjustment for what you put into that pool. So if you're only charging 30 percent, only 30 percent of the pay goes in the pool and 30 percent of the limitation goes in the pool. We do that calculation to be sure if they've exceeded or not. So we've got a real quick question here, salary limitation applies to direct recipients but not subrecipients.

Wow, that was a good one and 100 percent, I like that. And let's do the second one, salaries of employees in an indirect and working only part-time are excluded from the salary limitation, that is false. Everybody – employees working, if they're funded with appropriated grant funds, they come under the salary limitation.

Keep in mind there are exceptions and you might have – several of you may have these grants. The H-1B grants are exempt from the salary limitation. It also doesn't apply to the consultant limitation. Again, let's just summarize the module, we'll wrap up soon. The Uniform Guidance strongly relies on a system of internal control and that's really the basis of supporting documentation.

It also applies to payroll distributions and so forth. Do you have procedures in place? Do you define all the things you're paying for? Do you address how they're being funded, how they're being charged to our grants and so forth? That's all part of your internal control system. You want to certainly define – have, in part of your cost allocation plans, how payroll and related costs related to benefits – how those get allocated out.

Are they based on time distribution, as Debbie talked about? And there's various methods to do that and so forth and how they get charged out to our grant. We look at the amount of compensation. Is it reasonable, is it necessary, is it allocable? Be sure there's written policies around that. A lot of times, for example, severance and all these other little parts of fringe benefits are not addressed in your personnel manuals and you need to have a thorough personnel manual.

Fringe benefits are allowable costs as long as they're reasonable, they're required by law or employer-employee agreements are established written policy. And then finally, the salary cap, be sure it applies to all our grant funds. So you want to look at your top individuals that are – what are they paid? If it exceeds the limitation, you want to be sure that those costs are not charged to our grant, they're charged to non-federal funds.

If we see that, we'll come out and say show us – document how you charge them. What are you charging these other costs to? You have to have other non-federal funds to charge them to.

Just a reminder again, we have other resources. In ETA, we have the Core Monitoring Guide, we have the Grant & Financial Management Technical Assistance Guide that hopefully is going to be coming out very soon, there's, again, a Training Employment Guidance Letter 5-06 that just talks strictly about the salary limitation and then some other – the websites and so forth for Uniform Admin Requirements at 2 CFR 200 in which we call the Uniform Guidance.

And again, some other web resources for more training, as you know, we're still doing the SMART Training, we've got a few more sessions to do and so forth, but here are some other web resources and that's it. With that, we'll take questions.

MS. STRAMA: Okay. Tom, it looks like no one has any questions. So we're just checking again to make sure.

MR. DILISIO: Did we stun them all?

MS. STRAMA: I guess so or maybe it was just an easy enough subject everybody knew already what we were talking about, I don't know.

MR. DILISIO: Oh, we got one. So it says, do only grants with subrecipients and subcontracts need to be reported to FFATA? It applies to all grants. All grants both have to – each entity makes their reporting to FFATA. So the direct recipient would make a report. As it goes down to a subrecipient, that organization's responsible for also filing a subrecipient report and so forth and so on.

MS. STRAMA: Just to clarify, it's with organizations that have subawards. So the FFATA you would not be reporting your subcontracts. So it would just be the subawards. So you can take a closer look at the web link that is available on that one particular slide.

MR. DILISIO: There's another question on the other side. Are salary limits and caps part-time workers prorated? That is true, yes. I mean, you do an allocation. The salary limitation is based on the percentage of time; it applies to the person as well as to the limitation. That was one of our examples. So if they're working less than 100 percent, we take less than 100 percent of the salary limitation and apply it to what their salary is at that level.

MS. STRAMA: There is a question on consultants. Right now all of our grant agreements, including formula grantees and discretionary grantees has a grant term in there regarding consultants.

And so there is a daily limitation on what you can pay consultants for consultants per day and I want to say it's at $710, but please take a look at your grant agreement. So for Department of Labor grants, we do have a consultant limitation.

MR. DILISIO: Okay. Well, with that, with no further questions, thank you, again, for participating. We really appreciate you coming and we have a few more webinars to go.

MS. STRAMA: All right. Thank you, everyone.

MS. MCCALL: All right. Excellent. And I'd like to thank all of our participants and presenters for today's webinar.

(END)