

Guidance on Paying Federal Employees with NIH Grant Funds

On April 11, 2019 in Washington DC, the VA Office of Research and Development hosted a stakeholder meeting (PACERS) to address the administration of extramural awards at VA medical centers. Key stakeholders included Associate Chiefs of Staff for Research (ACOS-R) at VA medical centers, Executive Directors at VA-affiliated Non-Profit Corporations (NPC), representatives from Academic Affiliates (AA), the Association of American Medical Colleges (AAMC), the National Association of Veterans' Research & Education Foundations (NAVREF), and the National Institutes of Health (NIH) Office of Policy for Extramural Research Administration (OPERA). NIH is the single-largest funder of extramural research at VA medical centers.

NIH OPERA provided clarifying guidance about NIH policy concerning payment from NIH grant funds to support Federal employees. The NIH Grants Policy Statement paragraph 17.6 states, "In most circumstances no salary or fringe benefit payments may be made from NIH grant funds to support Federal employees." Paragraph 17.6 provides three exceptions to allow payment of salary and fringe benefits when prior approval is obtained from an authorized official of the employee's agency and the employee is one of the following:

1. A temporary employee specifically hired to assist in the performance of an NIH grant
2. A civil service employee participating in a grant to a non-Federal organization as part of an approved IPA assignment in a role other than as PD/PI
3. A part-time VA employee at a VA NPC for which NIH grant funds are used to pay the differential between the individual's VA part-time salary and the salary level for a full-time VANPC commitment in proportion to the level of effort devoted to the project.

NIH Grants Policy Statement paragraph 17.6 can be found at:

[https://grants.nih.gov/grants/policy/nihgps/HTML5/section_17/17.6_allowable_and_unallowable_costs.htm#Federal_\(U.S._Government\)_Employees_](https://grants.nih.gov/grants/policy/nihgps/HTML5/section_17/17.6_allowable_and_unallowable_costs.htm#Federal_(U.S._Government)_Employees_)

Exception #1 - A temporary VA employee specifically hired to assist in the performance of an NIH grant

- VA temporary, term, and time-limited appointments meet the intention of NIH GPS 17.6 exception 1 for an individual hired specifically to assist in a research project. These individuals will be identified as "tenure group 0" or "tenure group 3" in box 24 of their SF 50 (see table on pages 3-5 from HR Smart user guide, Part II Appendix 2D).
- The VA employee does not need to be working on the NIH grant exclusively for this exception to apply and they can have been hired by the VA prior to the start of the NIH grant.
- The VA employee must have the appropriate skills and expertise to be hired on the NIH research project.
- Total remuneration must not exceed 40 hours/week (e.g. 8/8ths)
- The VAMC must review and document that there will be no dual compensation.
- Example: *A VAMC research engineer being proposed for work part-time on an NIH grant administered by the NPC or the academic affiliate.*
 - The individual is appointed in a full-time temporary position (Tenure Group 0 or 3 on their SF 50) and will continue to be full-time VA employee while working on the NIH grant.

- Their VA personnel file should indicate that part or all of their temporary VAMC employment is working on the NIH award for the period of the award.
- The Associate Chief of Staff for Research should affirm in writing that there will be no dual compensation.

Exception #2: A VA employee on an IPA to a non-Federal institution with an NIH grant

- The individual is on an approved IPA between the VA and the NPC, or between the VA and the academic affiliate.
- Only permanent VA employees are eligible for IPAs. This would be indicated as tenure groups 1 or 2 on box 24 of their SF50 form.
- Federal employees are limited to lifetime maximum of six years on an IPA. Like all other IPAs, the duration of a given IPA cannot exceed four years without a break in service and a return to the Federal (VA) institution for at least one year. IPAs can be full-time or part-time.
- The VA employee on an IPA cannot be serving as the PI/PD.

Exception #3: A part-time VA employee who is also working part-time at a VA NPC on an NIH grant.

- A part-time VA employee can also work on an NIH grant at VA-NPC as an employee of the NPC. (Note that the NPC is not reimbursing the VA for the employee's salary but is hiring the individual as an NPC employee).
- The VA employee can be on a term, time-limited, or permanent career position at the VA but must be less than full-time VA in order to be able to be paid by the NPC.
- The total number of VA and NPC hours cannot exceed a full-time position, e.g. 8/8th or 40 hours per week.
- The employee can work on research at both the VA and NPC, but the duties at the NPC need to be separate from his or her VA duties. In practice this means that the work paid for by the NPC must not be for the same project paid for by VA time for VA salary.
- The VA employee will need a WOC appointment to cover the work performed as an NPC employee since this will be outside of the scope of their VA job and must be performed outside of their VA tour of duty.
- *Example: A clinical coordinator works on a VA-funded CSP study and works on a NIH-funded clinical trial at the NPC*
 - The individual is a part time clinical coordinator (Tenure Group 3) for VA-CSP study: 15 hours per week, for which he or she receives a salary from the VAMC. The individual is also a clinical coordinator for NIH-funded clinical trial awarded to the VANPC for 25 hours per week for which he or she receives additional compensation.
 - The VA-CSP trial and the NIH study at the VANPC are separate projects and the VAMC is prepared to certify there is no possibility of dual compensation.
 - This case fits under the third exemption in GPS 17.6, in which the employee works on the VA-CSP trial as well as the NIH trial at the VANPC (two separate projects), but no more than 40 hours combined.