

**DRAFT DIRECTIVE
COVER PAGE**

NAME OF DIRECTIVE

GENERAL INSTRUCTIONS

The attached directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email no later than **May 24, 2023**

All comments received within the comment period will be considered before issuing the final directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final directive.

Comments received after the specified due date will not be considered.

Email: arodriguez@tularewib.org
Include "Draft Directive Comment" in the email subject line.

Mail: Workforce Investment Board of Tulare County
Attn: Anabel Rodriguez
309 W. Main St., Ste. 120
Visalia, CA 93291

If you have any questions, contact Anabel Rodriguez at 559-713-5201

WORKFORCE INVESTMENT BOARD OF TULARE COUNTY WORKFORCE INNOVATION AND OPPORTUNITY ACT TITLE I	DATE: April 24, 2023
	SUBJECT: Salary and Bonus Limitations for 2023

WIB DIRECTIVE

TUL 23-01

TO: WIB Subrecipients
WIB Staff

SUBJECT: SALARY AND BONUS LIMITATIONS FOR 2023

EXECUTIVE SUMMARY

This policy provides guidance and establishes the procedures regarding the 2023 salary and bonus limitations for individuals paid by funds appropriated to the Department of Labor (DOL) Employment and Training Administration (ETA). This policy applies to all subrecipients expending Workforce Innovation and Opportunity Act (WIOA) program funds. The 2023 salary rates for executive-level employees are effective January 1, 2023.

This policy contains no local or state-imposed requirements.

This policy supersedes *WIB Salary and Bonus Limitations for 2022* (TUL 22-06), dated September 14, 2022. Retain this Directive until further notice.

REFERENCES:

- *Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006* (Public Law 109-234), Title VII, Section 7013
- Title 2 Code of Federal Regulations (CFR) part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- Training and Employment Guidance Letter (TEGL) 05-06, Implementing the Salary and Bonus Limitations in Public Law 109-234 (August 15, 2006)
- United States Office of Personnel Management, 2023 Rates of Basic Pay for the Executive Schedule)
- Workforce Service Directive, Salary and Bonus Limitations for 2023, WSD 22-10, March 21, 2023

BACKGROUND:

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

“None of the funds appropriated in Public Law 109-149 or prior acts under the heading ‘Employment and Training Administration’ that are available for

expenditure on or after the date of enactment of this section shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under Section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in the Office of Management and Budget (OMB) Circular A-133*. Where states are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, considering factors including the relative cost-of living in the state, the compensation levels for comparable state or local government employees, and the size of the organization that administers federal programs involved including Employment and Training Administration programs.”

As a result of this law, the DOL ETA issued TEGl 05-06 on August 15, 2006. This TEGl discusses the limitations on salary and bonus payments allowable with funds appropriated to the DOL ETA. Specifically, this TEGl provides information on programs impacted by this provision, effective dates and funding cycles, covered individuals and transactions, application of the limitation, and related grant and contract modifications.

*Note that the Uniform Guidance replaced the OMB Circular A-133 referenced above.

POLICY AND PROCEDURES:

Public Law 109-234 sets the limit on salary and bonus compensation for individuals paid by funds appropriated to the DOL ETA at a rate equivalent to no more than Executive Level II. These levels are adjusted annually and are listed on the federal [Office of Personnel Management](#) website. Salary Table No. 2023-EX provides the [2023 Rates and Basic Pay for the Executive Schedule](#).

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

Effective January 1, 2023, the salary and bonus limit is set to \$212,100. These limitations do not apply to benefits that are not salary and bonuses. For example, fringe benefits, insurance Page 3 of 5 premiums, or pension plans paid by a subrecipient are not included in this calculation. Per the DOLs ETA Region 6 Office, the salary and bonus limit applies to both the gross amount of salary and bonus, and to the rate at which the salary is paid. As a result, for individuals who do not work full-time on DOL ETA funded projects or who are only employed part-time or part of the year, the salary and bonus limit will be prorated based on the amount of time the individual is dedicated to the DOL ETA funded grant. The following examples, provided by the DOL ETA Region 6, illustrate how the limitations are calculated based on salary and bonus levels, as well as the rate at which they are paid:

Example 1

An Executive Director’s W-2 for 2023 includes \$173,500 of gross compensation. The Executive Director worked part-time (.50 Full Time Equivalent [FTE]) all year. One hundred percent of the Executive Director’s salary costs benefited DOL ETA-funded programs.

Example 1: Calculations	Total
2023 Salary and Bonus Limit	\$212,100
Salary eligible for the salary and bonus limit .50 FTE x 100% of salary = 50% (Calculation: \$212,100 x 50%)	\$106,050
Total gross compensation	\$173,500
Salary costs benefitting DOL ETA-funded programs (Calculation: \$173,500 x 100%)	\$173,500
Salary in excess of the salary and bonus limit (Calculation: \$173,500 - \$106,050)	\$67,450

In this scenario, the Executive Director’s salary is eligible for 50 percent of the annual salary and bonus limit (.50 FTE x 100% of his salary benefited DOL ETA-funded programs). Therefore, \$106,050 ($\$212,100 \times 50\% = \$106,050$) of the salary may be paid using DOL ETA appropriated funds or other federal funds. The remaining \$67,450 ($\$173,500 - \$106,050 = \$67,450$) of the salary is in excess of the allowable 2023 salary and bonus limit and must therefore be paid using non-federal funds.

Example 2

An Executive Director’s W-2 for 2023 includes \$173,500 of gross compensation. The Executive Director worked part-time (.50 FTE) all year. Seventy percent of the Executive Director’s salary costs benefited DOL ETA-funded programs.

Example 2: Calculations	Total
2023 Salary and Bonus Limit	\$212,100
Salary eligible for the salary and bonus limit .50 FTE x 70% of salary = 35% (Calculation: \$212,100 x 35%)	\$74,235
Total gross compensation	\$173,500
Salary costs benefitting DOL ETA-funded programs (Calculation: \$173,500 x 70%)	\$121,450
Salary in excess of the salary and bonus limit (Calculation: \$121,450 - \$74,235)	\$47,215

In this scenario, the Executive Director’s salary is eligible for 35 percent of the annual salary and bonus limit (.50 FTE x 70% of his salary benefited DOL ETA-funded programs). Therefore, \$74,235 ($\$212,100 \times 35\% = \$74,235$) of the salary may be paid using DOL ETA appropriated funds or other federal funds. Since only 70 percent of the Executive Director’s salary costs benefited DOL ETA-funded programs, the remaining amount of \$47,215 ($\$173,500 \times 70\% = \$121,450 - \$74,235 = \$47,215$), which is in excess of the allowable 2023 salary and bonus limit, must be paid using non-federal funds.

Example 3

An Executive Director’s W-2 for 2023 includes \$210,000 of gross compensation. The Executive Director worked full-time all year. Forty percent of the Executive Director’s salary costs benefited DOL ETA-funded programs. In this example, the Executive Director’s eligible salary does not exceed the 2023 salary and bonus limit.

Example 3: Calculations	Total
2023 Salary and Bonus Limit	\$212,100
Salary eligible for the salary and bonus limit (Calculation: \$212,100 x 40%)	\$84,840
Total gross compensation	\$210,000
Salary costs benefitting DOL ETA-funded programs (Calculation: \$210,000 x 40%)	\$84,000
Salary in excess of the salary and bonus limit (Calculation: \$84,000 - \$84,840)	\$0

In this scenario, the Executive Director’s salary is eligible for 40 percent of the annual salary and bonus limit (40% of his salary benefited DOL ETA-funded programs). Therefore, \$84,840 (\$212,100 x 40% = \$84,840) of the salary may be paid using DOL ETA appropriated funds or other federal funds. While only 40 percent, or \$84,000 of the Executive Director’s salary costs benefited DOL ETA-funded programs, the amount is below the allowable 2023 salary and bonus limit of \$84,840, there is no excess of the salary and bonus limit which is represented by \$0 in the above Table, resulting in no need for any supplemental non-federal funds.

ACTION:

Please bring this Directive to the attention of all WIB Subrecipients and WIB Staff.

INQUIRIES:

Please direct inquiries regarding this Directive to the WIB at (559) 713-5200.

ADAM PECK
Executive Director

DM:AR:LLG