



UWM POLICY ON SPONSORED PROGRAM FIXED PRICE CONTRACT CLOSE OUT

No: SAAP 4-2

Date: October 2016

Authority:

2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
University of Wisconsin System, Administrative Policy G2: Extramural Support Administration

Initiators: Provost and Vice Chancellor for Academic Affairs; Vice Provost for Research

Responsible Parties: Vice Provost for Research

Policy on Sponsored Program Fixed Price Contract Close Out

I. PURPOSE

Definition: Sponsored program fixed price contracts are characterized by payments of predetermined amounts by a sponsor to support a project. The payments are either lump-sum or based on an agreed schedule. The payments are not reimbursement for actual project costs, but are predetermined payments based on negotiated, fixed unit prices for specific services or a percentage of project completion.

Sponsored program fixed price contracts are permissible under federal regulation as long as they are priced so that the recipient or subrecipient will realize no increment above actual cost. Federal regulations mandate that cost principles apply to the pricing of sponsored program fixed price contracts and subcontracts. Excess revenue over expense (an unexpended balance) on a fixed amount award or subaward will not be considered profit if the price for the original fixed price transaction was properly established in accordance with federal cost principles. These cost principles apply to both federal and nonfederal sponsored program fixed price contracts.

It is important to note that, in addition to federal regulations (Uniform Guidance 2 CFR 200), federal laws such as the Truth in Negotiations Act and False Claims Act also govern the pricing of sponsored program fixed price contracts. Under the Truth in Negotiations Act, the government can recover for defective pricing from contractors and/or subcontractors. The False Claims Act protects the government against contractors and/or subcontractors knowingly submitting defective pricing claims and/or pricing with the proposal.

Sponsored program fixed price contract close out should occur within 90 days from the project end date. Cost overruns are the responsibility of the division/school/college, and post-award administration will help Project Directors/Principal Investigators and their unit to develop a plan to cover overages. Significant fixed price unexpended balances (residual balances) may indicate weak internal controls related to budget development and may call into question the integrity of accounting for project expenses incurred. In addition, transfers of residual funds that occur after 90 days from the project end date may indicate weak internal controls. Project Directors/Principal Investigators must ensure that work on sponsored program fixed price awards meets the requirements of the sponsor and not try to maximize unexpended balances on fixed price agreements. Project Directors/Principal Investigators should not use other funds to support the project in an attempt to generate a residual balance in the restricted account at the end of a project.

This policy is needed to:

- strengthen accountability for use of funds;
- provide for accurate budgeting and costing of sponsored program fixed price award activities;
- ensure accuracy of effort certification; and
- lower the risk of non-compliance.

II. POLICY

This policy addresses the closeout of sponsored program fixed price contracts and treatment of residual balances that are greater than 25% of the total award amount or \$10,000, whichever is greater. Residual balances occur when expenses are less than cash received from the sponsor at project completion. The project is considered complete when all deliverables have been provided to the sponsor.

This policy requires transfer of residual balances as follows:

1. If the residual balance is equal to or less than \$50, the project account will be closed. (Accounts with positive or negative balances of \$50 or less are closed, and residual balances less than \$50 are used by the school / college to cover cost overruns of less than \$50.)
2. If the residual balance is greater than \$50 but equal to or less than 25% of the total award amount or \$10,000, whichever is greater, indirect (F&A) costs on the residual amount at the indirect cost rate agreed to by the parties to the sponsored program fixed price contract will be deducted from the residual balance. The remainder of the balance after F&A costs are recovered will be transferred to a discretionary account for use by the Project Director/Principal Investigator (PD/PI), and the project account will be closed.
3. If the residual balance is greater than 25% of the total contract award amount or \$10,000, whichever is greater:
 - a. The PD/PI will provide written justification for the entire residual balance for review and approval by a three person panel consisting of the Director of Office of Sponsored Programs (OSP), the Associate Dean responsible for research from the PI/PD's school or college, and an

Associate Dean responsible for research from a school or college not affiliated with the PI/PD or the contract.

- b. If written justification is approved, indirect (F& A) costs at the indirect cost rate agreed to by the parties to the sponsored program fixed price contract will be deducted from the entire residual balance, the remaining amount transferred to a discretionary account for use by the PI/PD, and the project account will be closed.
- c. If written justification is not approved, indirect (F&A) costs at the indirect cost rate agreed to by the parties to the sponsored program fixed price contract will be deducted from the entire residual balance. Appropriate transfer and distribution of remaining balance will be determined by the Vice Provost for Research. After the balance is transferred, the project account will be closed.

III. PROCEDURES

Procedures that inform and align practice with this policy must be dynamic to meet current guidelines, regulations and laws. To ensure responsiveness to evolving technology for budget monitoring and management and business best practices and processes, the Office of Research will develop, periodically review, and update procedures to align practice with this policy. The procedures will be reassessed regularly by the Office of Research to promote and enhance compliance with this policy.

To comply with policy and follow procedures for close out of sponsored program fixed price contracts, the following people have specific roles and responsibilities:

1. *Project Director/Principal Investigator (PD/PI)*
 - a. Develop a budget appropriate for the scope of work in conjunction with Unit Business Representative/Associate Dean responsible for research.
 - b. Participate in cost accounting, monitoring of expenditures, and financial reporting for sponsored program fixed price contracts with Unit Business Representative/Associate Dean responsible for research.
 - c. Ensure work on fixed price awards meets the requirements of the sponsor and does not attempt to maximize unexpended balances on sponsored program fixed price agreements.
 - d. If project cannot be completed by the project end date, contact OSP to facilitate a request for a no-cost extension from the sponsor.
 - e. Provide to Director of OSP written justification for residual balance, within the timeframe identified in the procedures.
2. *Unit Business Representative/Associate Dean responsible for research*
 - a. Assist PD/PI with budget development, cost accounting, monitoring of expenditures, and financial reporting for sponsored program fixed price contracts.
 - b. Identify discretionary account for distribution of residual balances to PD/PI and department/school.

- c. Associate Dean responsible for research participates in review of residual balances above the identified threshold.
3. *Office of Sponsored Programs (OSP)*
 - a. Approve sponsored program fixed price contract budget.
 - b. Monitor expenditures in conjunction with PI/PD and Unit Business Representative/Associate Dean responsible for research.
 - c. Confirm project expenses have posted to fixed price project account and determine if there is a residual balance within the timeframe identified in the procedures.
 - d. Review written justification for residual balance from PD/PI.
4. *Office of Research*
 - a. Implement this policy.
 - b. Work with PDs/PIs and schools/colleges to foster awareness and understanding of the policy.
 - c. Review adherence to the policy yearly.
 - d. Determine appropriate transfer and distribution of remaining balance when written justification for residual balance provided by PD/PI is not approved.

IV. TRANSFER / DISPOSITION OF FUNDS IN THE EVENT A PI / RESEARCHER IS NO LONGER WITH THE UNIVERSITY

If the PD/PI is no longer associated with the university at the time of sponsored program fixed price contract close out and the balance is greater than \$50, indirect (F&A) costs on the residual amount at the indirect cost rate agreed to by the parties to the sponsored program fixed price contract will be deducted from the residual balance. Of the remaining balance, 50% of the funds will be distributed to the PD/PI's former unit and 50% to the Office of Research. After all remaining funds are distributed, the project account will be closed.