

15.01.01 Sponsored Agreements – Research and Other

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Regulation Statement

The purpose of this regulation is to define sponsored activities and establish roles and responsibilities applicable to sponsored agreements performed by members of The Texas A&M University System (system). In addition, this regulation provides administrative and fiscal guidance on policies related to the administration of sponsored agreements.

Reason for Regulation

Sponsored agreements are contracts which establish requirements for accepting funds in support of a specific project or program. Entering into a sponsored agreement creates a contractual obligation to fulfill requirements and comply with terms and conditions.

Procedures and Responsibilities

1. GENERAL

- 1.1 In accepting sponsored agreements, members are obligated to fulfill the purposes, and to meet the requirements, of the sponsored agreement. Sponsored agreements will be conducted in accordance with the terms of a written agreement between the member involved and the sponsor.

- 1.2 Federally sponsored agreements issued prior to December 26, 2014 are subject to 2 CFR 220, Office of Management and Budgets (OMB) Circulars A-21 (*Cost Principles for Educational Institutions*), 2 CFR 215, A-110 (*Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*) and A-133 (*Audits of States, Local Governments, and Non-Profit Organizations*). Federally sponsored agreements issued December 26, 2014 and later are subject to OMB Uniform Guidance 2 CFR 200 (*Grants and Agreements*). A federal sponsor may require adoption of Uniform Guidance on awards made prior to December 26, 2014, in which case Uniform Guidance will be applied.

- 1.3 Sponsored agreements with industry, state, foreign entities, etc., will be conducted in compliance with the terms and conditions of the written agreement.
- 1.4 Expenditures of funds or use of resources provided by the sponsor or cost shared by the member are governed by the sponsored agreement and system policies and regulations. The system is entrusted with the use of public funds, facilities, and other property for the welfare of the public. Such funds or facilities cannot be diverted, nor personnel assigned, to serve the specific interests of a private firm or individual unless the costs for such use of facilities and personnel are reimbursed under the terms of a specific sponsored agreement. Each faculty and staff member who participates in sponsored research or other sponsored activities is responsible for ensuring that any research or other activity undertaken or recommended for approval is clearly consistent with this regulation.
- 1.5 The initiative for establishing a sponsored agreement may be assumed either by a member or an outside party. The chief executive officers (CEOs) of each member will prescribe written standards for the preparation, approval, and submission of proposals. The standards will designate those personnel authorized to initiate sponsored agreements with potential sponsors, to prepare proposals, to define the statement of work and time schedule, to conduct negotiations on the cost/price and terms of sponsored agreements, and to conduct final negotiations. Proposals will be approved by the member CEO or designee.
- 1.6 Personnel responsible for conducting negotiations will ensure that terms and conditions contained in a sponsor's regulations, manuals, or other publications that will constitute a part of the agreement, are acceptable under system policy and regulations and consistent with the delegations of authority granted by the members to SRS. Meeting such terms and conditions will become a legal obligation of the member upon execution of the agreement. Further, the terms and conditions of a solicitation for proposal must be screened carefully to ensure that a sponsored agreement awarded as a result of a formal response to the solicitation will be in accordance with this system regulation.

2. TYPES OF SPONSORED ACTIVITIES AND AGREEMENTS

- 2.1 Sponsored agreements are projects and activities that are supported (in whole or in part) with funds, materials, or other resources provided by sources outside the system. These projects and activities include:
 - (a) Sponsored instruction and training – specific instructional or training activities established by grant, contract, or cooperative agreement.
 - (b) Sponsored research – a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. Sponsored research includes all research and development activities that are externally sponsored by federal and non-federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

- (c) Other sponsored activities – sponsored programs and projects which involve the performance of work other than instruction and organized research. Examples are health service projects and community service programs.

2.2 Definitions of major types of sponsored agreements include the following:

- (a) Contracts – an award by a sponsor to procure goods or services (including research) needed by the sponsor. Contracts awarded by federal agencies are usually subject to the *Federal Acquisition Regulation*, jointly issued by the Department of Defense, General Services Administration, and the National Aeronautics and Space Administration.
 - (1) Cost Reimbursement Contract – a contract issued on the basis of an estimate of the cost of performing the work arrived at by negotiation between the sponsor and the contractor. The contract provides for payment to the contractor for costs actually incurred up to a ceiling amount equal to the total estimated cost stated in the contract. The contractor is normally excused from further performance after the contractor's costs reach the ceiling, unless the sponsor increases the ceiling.
 - (2) Cost-Plus-A-Fee Contract – a cost-reimbursement contract under which the contractor is paid a fee in addition to costs incurred. The fee may be set as a fixed percentage of the total estimated cost (a cost-plus-fixed-fee contract), or it may vary depending upon specified parameters such as cost, performance or schedule incentives set at the time the contract is negotiated (a cost-plus-incentive-fee contract). While cost-plus-a-fee contracts are valid arrangements, they are not normally used for sponsored agreements of the system.
 - (3) Fixed Price Contract – a contract in which the contractor agrees to deliver or to perform the contract work within the period specified at a fixed price agreed upon in advance and payable regardless of the actual costs.
 - (4) Fixed Price Contract with Price Revision – a fixed price contract that contains a provision for negotiating the price, sometimes either downward or upward within preset limits, after the work has been completed.
- (b) Grants – an award of financial assistance to accomplish a public purpose. Grants may be in the form of cash or property. The cash or property is designated by the grantor to be used for a specific activity or research project, thus serving a specific interest or objective of the grantor. Grants awarded by federal agencies prior to December 26, 2014 are subject to OMB Circular A-110 and regulations established by the awarding agencies. Grants awarded by federal agencies issued December 26, 2014 and later are subject to OMB Uniform Guidance 2 CFR 200 and regulations established by the awarding agencies. A federal sponsor may require adoption of Uniform Guidance on awards made prior to December 26, 2014, in which case Uniform Guidance will be applied.
 - (1) Project Grant – the most common form of grant. It provides funding for a specific project or program with a defined scope of work. Most project grants are for organized research.

- (2) Consortium Grant – a grant made to one institution/organization in support of a project in which the program is carried out through a cooperative arrangement between or among the grantee institution/organization and one or more participating institutions/organizations.
 - (3) Demonstration Grant – a grant, generally of limited duration, made to establish or demonstrate the feasibility of a theory or approach.
 - (4) Formula Grant – a type of grant awarded on the basis of some formula for distribution prescribed by legislation or executive directive. Examples are formula grants to agricultural experiment stations.
 - (5) Grant-In-Aid – another name for a project grant or formula grant.
- (c) Cooperative Agreement – an award of financial assistance, similar to a grant, except that “substantial involvement” is anticipated between the awarding agency and the recipient during performance of the project or activity. “Substantial involvement” means that the recipient can expect programmatic collaboration or participation from the awarding party in the management of the award. Cooperative agreements awarded by federal agencies are usually subject to the same administrative requirements as grants.

3. RESPONSIBILITY OF SYSTEM MEMBERS FOR PERFORMANCE OF SPONSORED AGREEMENTS

3.1 The member CEOs have primary responsibility for the content, scope, quality, facilities, funding, and conduct of sponsored agreements under their jurisdiction. The CEO will normally assign responsibility for each project or program to a principal investigator (PI) or a program administrator to assure satisfactory progress in the conduct of the work and compliance with the terms and conditions of agreements.

3.2 Members are responsible for having written standards for the following areas:

- (a) preparation, approval, and submission of proposals for sponsored agreements;
- (b) negotiation and acceptance of sponsored agreements;
- (c) determination of allowability of costs on sponsored agreements;
- (d) documentation of costs charged to sponsored agreements;
- (e) recovery of all Facilities & Administrative (F&A) costs, based on rates approved by the federal cognizant agency;
- (f) documentation and other aspects of cost sharing; and
- (g) ownership, management, and use of data and project results arising from the performance of sponsored agreements, consistent with System Policy *17.01, Intellectual Property Management and Commercialization*.

To the extent practicable, Texas A&M System Sponsored Research Services (SRS) and members should work together to align written standards pertaining to the areas referenced in (a)-(f) above.

3.3 Compensation of faculty and staff members who participate in sponsored research and other sponsored agreements is governed by System Policy 31.01, *Compensation*.

4. AUTHORITY TO EXECUTE SPONSORED AGREEMENTS

Contracts (excluding construction contracts), grants, memoranda of agreement, and other legal instruments relating to sponsored agreements administered by a member will be executed by the member CEO or designee. All contracts related to sponsored agreements shall comply with System Policy 25.07, *Contract Administration*.

5. SPONSORED AGREEMENTS ADMINISTERED BY THE TEXAS A&M RESEARCH FOUNDATION

5.1 The Texas A&M Research Foundation (Research Foundation) is an independent, nonprofit organization affiliated with and representing the system and its members in sponsored arrangements with research sponsors from industry, government, foundations, private business organizations, and other nonprofit organizations.

5.2 Use of the Research Foundation for new, renewal and continuation agreements not required to be administered by a 501(c)(3) must be approved by both the member and the executive director of SRS or designees. Use of the Research Foundation for agreements requiring a 501(c)(3) will be at the sole discretion of the SRS executive director or designee.

5.3 Sponsored agreements administered by the Research Foundation through SRS as described in System Policy 15.04, *Sponsored Research Services*, will be executed by the CEO of the Research Foundation or designee, with review by the involved member if an award contains significant deviations from the proposal or from standard clauses. The Research Foundation commits members for performance of the scope of work of the sponsored agreement by execution of an ancillary agreement with the system.

6. ALLOWABILITY OF COSTS ON FEDERALLY SPONSORED AGREEMENTS

6.1 Regardless of whether they are treated as direct costs or F&A costs, the allowability of costs on sponsored agreements with federal agencies awarded prior to December 26, 2014, is governed by the cost accounting principles prescribed by OMB Circular A-21, *Cost Principles for Educational Institutions*. Federal awards with effective date December 26, 2014, and later are governed by OMB Uniform Guidance. A federal sponsor may require adoption of Uniform Guidance on awards made prior to December 26, 2014, in which case Uniform Guidance will be applied. These cost principles are also used in determining the cost of work performed by educational institutions under subrecipient agreements and other awards under federally sponsored agreements.

6.2 The cost principles of OMB Circular A-21 and OMB Uniform Guidance do not apply to:

- (a) arrangements under which federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as educational allowances or published tuition rates and fees of an institution;

- (b) capitation awards;
- (c) fixed amount awards under Federal Acquisition Regulation based contracts (an exclusion only under OMB Uniform Guidance);
- (d) other awards under which the institution is not required to account to the federal government for actual costs incurred; or
- (e) conditional exemptions as listed in A-21 Section A.3.d. or Uniform Guidance section 200.102, depending on applicable regulations.

6.3 The System Office of Budgets and Accounting (SOBA) is responsible for ensuring that F&A cost proposals for federally sponsored agreements comply with the provisions of OMB Circular A-21 and OMB Uniform Guidance. The member chief financial officer (CFO) or designee is responsible for ensuring compliance with the federal cost principles for federally sponsored agreements administered by the member. For those federally sponsored agreements administered by SRS, SRS will be responsible for ensuring compliance with the federal cost principles based on agreed Delegations of Authority and procedures defined in System Policy 15.04.

6.4 Recipients of federal awards shall have written standards for determining the allowability of costs on federally sponsored agreements and shall monitor those standards according to OMB Circular A-21 and OMB Uniform Guidance. Furthermore, recipients of federal awards are required to monitor the activities of subrecipients to ensure that federal awards are used for authorized purposes under OMB Circular A-110 and OMB Uniform Guidance. A subrecipient is an entity that receives an award from the prime awardee and is accountable to the prime awardee for the use of the federal funds provided by the subaward.

6.5 Unallowable costs must be separately identified in the accounting system by charging these costs to specific expense object codes. The costs recorded in these expense object codes are excluded from the direct charges to federally sponsored agreements and are excluded from F&A cost pools.

OMB Circular A-21, Section J, *General Provisions for Selected Items of Cost*, and OMB Uniform Guidance, Subpart E, Sections 200.420-200.475, provide principles to be applied in establishing the allowability of certain items.

7. CONSISTENT TREATMENT OF DIRECT COSTS AND FACILITIES AND ADMINISTRATIVE COSTS OF SPONSORED AGREEMENTS

7.1 Consistent Treatment of Costs

7.1.1 Federal regulations require that the same types of costs be treated consistently as either direct costs or F&A costs. OMB Circular A-21 and OMB Uniform Guidance require that all costs incurred for the same purpose, in like circumstances, be treated consistently as either direct costs or F&A costs. This requirement is intended to ensure that the same types of costs are not charged to federally sponsored agreements both as direct costs and as F&A costs. This concept is reinforced and emphasized in *Cost Accounting Standard 9905.502 (CAS 502)*.

- 7.1.2 Certain types of costs, such as the salaries of administrative and clerical staff, office supplies, and postage are normally considered F&A costs. However, the circumstances related to a particular project influence whether there is an exception and an “unlike circumstance” exists. For example, postage, which is normally treated as an F&A cost, may be considered a direct cost when associated with a large quantity of survey questionnaires. This would constitute an “unlike circumstance” when compared with routine postage requirements. All exceptions or “unlike circumstances” must be fully documented in the project files. When treating these costs as direct, they must be removed from the administrative cost pool for the F&A rate calculation.

8. FACILITIES AND ADMINISTRATIVE COST RATES AND RECOVERIES

- 8.1 SOBA is responsible for the preparation of F&A cost rate proposals for federally sponsored agreements and for conducting negotiations to establish the rate with the federal cognizant agency for the system. This responsibility applies to F&A cost proposals of all members. Each member will provide, when requested, assistance to SOBA in preparing F&A cost rate proposals.

8.1.1 The F&A cost rate calculation is prepared by SOBA for College Station-based members including System Offices, Texas A&M University, Texas A&M University at Galveston, Texas A&M AgriLife Research, Texas A&M AgriLife Extension Service, Texas A&M Veterinary Medical Diagnostic Laboratory, Texas A&M Engineering Experiment Station, Texas A&M Engineering Extension Service, Texas A&M Transportation Institute, Texas A&M Forest Service, and The Texas A&M Health Science Center. Also incorporated into this rate is the Texas A&M Research Foundation. SOBA coordinates with all other members to prepare, or assist in preparing, their F&A cost rate calculation for submission to the federal cognizant agency. In all cases, SOBA will negotiate F&A cost rates with the federal cognizant agency.

8.1.2 The negotiated F&A cost rates of all members are applicable to sponsored agreements with federal, state, local and private sponsors. The estimated fringe benefit rate is used only for budget/proposal preparation. Actual fringe benefits are charged as direct costs on sponsored agreements. (See **Related Statutes, Policies, or Requirements** section for links to current rate schedules.)

- 8.2 It is the intent of the state legislature that all state agencies and institutions establish guidelines to recover all F&A costs based on the rates negotiated with the federal cognizant agency. Any exceptions to the use of the negotiated rate will require a statement of explanation to be included in the internal member routing documentation. The statement must outline the benefits to the system and to the state of Texas that justify cost sharing a portion of the F&A costs of a particular program by the member, and must have CEO or designee approval.

- 8.3 The following are guidelines to be observed in establishing sponsored agreement terms for recovery of F&A costs:

- (a) Agreements with federal agencies will provide for F&A cost recovery at the rates negotiated by the system with the federal cognizant agency, except: (a) where the F&A cost reimbursable by a federal agency on a particular project is fixed by statute or regulation, or (b) where other circumstances dictate the necessity for accepting a lesser F&A cost rate.
- (b) Agreements with Texas state agencies and political subdivisions, at the option of the member, except where the agreement is funded with federal flow-through funds, may provide for cost sharing of F&A costs with full justification for such cost sharing.
- (c) Agreements with private business organizations will provide for F&A cost recovery at the negotiated rate or higher unless there is suitable compensation made for the difference between the F&A recovery and the negotiated F&A rate. The risk involved with contracting with private sponsors may warrant a separately approved F&A rate as determined by the member.
- (d) Agreements with private foundations will provide for F&A cost recovery at the rates negotiated by the system with the federal cognizant agency, except where precluded by regulations of the foundation.

9. INTELLECTUAL PROPERTY, PROGRAM DATA AND RESULTS

Ownership, management, and utilization of intellectual property, including but not limited to data arising from the performance of a sponsored agreement is described in System Policy *17.01* and System Policy *15.01, Research Agreements*.

10. EQUIPMENT

Management of equipment funded or furnished by sponsors is subject to the requirements of the sponsor or terms of the agreement under which funds for equipment are acquired. All equipment acquired in connection with sponsored agreements, except those acquired on Research Foundation accounts, will be managed in accordance with System Regulation *21.01.09, Fixed Asset Management*. Equipment acquired on Research Foundation accounts will be managed according to SRS's procedures for equipment acquired on Research Foundation projects.

Related Statutes, Policies, or Requirements

2 CFR, Part 220: [OMB Circular No. A-21, Cost Principles for Educational Institutions](#)

2 CFR, Part 215: [OMB Circular No. A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations](#)

[OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations](#)

[OMB Uniform Guidance 2 CFR 200, Grants and Agreements](#)

[Federal Acquisition Regulation](#)

[System Policy 10.01, Internal Auditing](#)

[System Policy 15.01, Research Agreements](#)

[System Policy 15.02, Export Controls](#)

[System Policy 15.04, Sponsored Research Services](#)

[System Policy 17.01, Intellectual Property Management and Commercialization](#)

[System Policy 25.07, Contract Administration](#)

[System Regulation 21.01.09, Fixed Asset Management](#)

[The Texas A&M University System Facilities and Administrative \(F&A\) Cost Rates](#)

[The Texas A&M University System Fringe Benefit Rates](#)

Definitions

See Section 2 of this regulation for a list of definitions on sponsored agreements, including: Sponsored Agreements, Research, Sponsored Instruction and Training, Sponsored Research, Other Sponsored Activities, Contracts, Cost Reimbursement Contract, Cost-Plus-A-Fee Contract, Fixed Price Contract, Fixed Price Contract with Price Revision, Grants, Project Grant, Consortium Grant, Demonstration Grant, Formula Grant, Grant-In-Aid, and Cooperative Agreement.

Direct costs – those costs that can be identified specifically with a particular sponsored project, or that can be directly assigned to such activity relatively easily with a high degree of accuracy. Examples of costs charged directly to a sponsored agreement are the compensation of employees for performance of work on the project, the costs of materials expended on the project, and other items of expense incurred for the project. Direct costs are described in OMB A-21, Section D and OMB Uniform Guidance, Sections 200.420 – 200.475.

Facilities and Administrative (F&A) costs or Indirect costs –F&A cost rates are negotiated with the federal government and are applied to sponsored project direct expenditures to compensate an institution for indirect or overhead costs such as the use of its facilities and administrative services provided to the projects. These costs are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity or any other institutional activity. Examples of F&A costs are general administrative expenses, departmental administration, sponsored projects administration, equipment and building use allowances, and physical plant operation and maintenance. Indirect

(F&A) costs are described in OMB A-21, Section E and OMB Uniform Guidance, Section 200.412.

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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