SOUTH DAKOTA SCHOOL OF MINES AND TECHNOLOGY

Procedure: Fixed Price Contracts

This procedure is in accordance with SDM policies IX-12, IX-13, IX-14, IX-16, IX-18, and IX-22

1. Definition

In fixed-price contracts, the sponsor pays a set price for agreed upon work, within an established timeframe, regardless of the ultimate cost to complete the project. In general, payment is tied to receipt of deliverables within an agreed upon scope of work. If the deliverables are satisfied, the sponsor is contractually obligated to pay the specified agreement amount. If the deliverables are not satisfied, the sponsor is not obligated to pay.

Financial risks are greater for fixed-price contracts than cost-reimbursable contracts because all work must be completed within the established timeframe, even if there are cost overruns. The institution, however, can retain any cash balance remaining after the work has been completed and all expenses related to the contract have been paid. Nonetheless, significant residual balances (i.e., those greater than 10% of the award total) may indicate either that the budget estimation used in developing the proposal was inaccurate, or that some costs were not appropriately charged to the project, so that the university is, by default, partially funding the project.

In general, if a contract proposal is appropriately budgeted and all allowable and appropriate expenditures are posted to the contract account, the unexpended balance should be no more than 10% of the awarded amount.

2. Procedures

2.a. Establishing a Fixed-Price Contract

The PI should work through the Office of Sponsored Programs during proposal planning, budget development, contract development, and negotiation to ensure the accuracy of contract terms and conditions, which include scope of work, deliverables, budget, and timeline. The Office of Management and Budget (OMB) Uniform Guidance on grant management and university policies are used to determine allowable costs, ensure that cost estimates are comparable to other contracts, and provide a basis for determining whether the budget is reasonable for the scope of work. All fixed-price contract proposals will be processed through the normal South Dakota Mines sponsored programs approval process.

In all fixed-price contracts the following conditions must be met:

1. Funding is sufficient to support the scope of work.
2. The payment schedule is clearly established and provides sufficient cash flow to allow for on-time completion of the project.
3. Deliverables and deadlines are reasonable and specific.

4. Facilities and Administrative (F&A) costs based on the University's cost rates are included, in accordance with university policy.

2.b Monitoring the Fixed-Price Contract

The PI is responsible for monitoring the timing of tasks, completion and submission of deliverables, and all reporting requirements. These responsibilities include monitoring expenditures and receipts associated with the contract to ensure that costs are consistent with the budget and that payments are in accordance with the agreement. The scope of work must be completed by the project end date. All applicable expenditures are required to be charged before contract termination, **including, if applicable, any expenses incurred between award notification and the availability of funds**.

2.c Closing a Fixed-Price Account

After full payment is received, any excess funds will be distributed in the following order:

1. Indirect cost recovery at the full federally negotiated Facilities and Administrative Cost (F&A) rate, irrespective of the F&A rate charged to the sponsor, will be collected on the full contract amount, and allocated according to the distribution model at the time the award was processed (Policy IX-22).
2. Uncollectible receivables and deficits, if any, on other sponsored projects under the PI's direction will be paid using excess funds.
3. Remaining funds, up to 10%, will be transferred to the PI's F&A account. Any subsequent use of those funds must meet applicable purchasing guidelines of the university.
4. Remaining funds over 10% will be transferred to the F&A account of the Office of Research.

For balances that exceed 10% after all appropriate charges to the contract are made, the PI will provide an explanation of the discrepancy between the budgeted and expended costs to OSP.

Deficit balances will need to be covered by discretionary funding of the PI or of the Department (and Center, if applicable) that the contract was routed through.