

SYSTEM REGULATIONS

15.01.01 Administration of Sponsored Agreements - Research and Other

August 19, 1997

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Supplements System Policy 15.01

1. GENERAL

- 1.1 Presented herein are administrative regulations that must be observed for all sponsored agreements.
- 1.2 In accepting sponsored agreements, System components are obligated to fulfill the purposes, and to meet the requirements, of the sponsored agreement.—~~A System component may not direct the funds or other resources to other uses without the specific written authorization of the sponsor, with the exception of fixed price agreements. This is an absolute requirement for any sponsored agreement~~
Expenditures of funds or use of resources provided by the sponsor or cost shared by the System component are governed by the sponsored agreement and System policies and regulations.
- 1.3 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 agreements is responsible for ensuring that any research or other activity undertaken or recommended for approval is clearly in consonance with this regulation.

2. TYPES OF SPONSORED 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. Sponsored agreements are included in the major functions of an institution as defined below:
 - (1) Instruction means the teaching and training activities of an institution whether offered on a credit or noncredit basis, and whether offered through regular academic departments or separate divisions, such as a summer school division or an extension division. This term does not include the training of individuals in research techniques (commonly referred to as research training) as described in 2.1(2)(a) Sponsored research.

- (a) Sponsored instruction and training means specific instructional or training activities established by grant, contract, or cooperative agreement.
 - (b) Departmental research means research development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for.
- (2) Organized research means all research and development activities of an institution that are separately budgeted and accounted for. It includes the following:
- (a) Sponsored research means 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.
 - (b) University research means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds.
- (3) Other sponsored activities means sponsored programs and projects other than instruction and organized research. Examples are health service projects and community service programs.
- (4) Other institutional activities means all activities of an institution except: (a) those described above, (b) facilities and administrative costs, formerly indirect cost activities, and (c) specialized service facilities such as Cyclotron and Proving Grounds. Other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are unallowable to sponsored agreements, unless otherwise indicated in the agreements.

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

- (1) 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*.

- (a) 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.
 - (b) 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). Cost-plus-a-fee contracts are not normally used for sponsored agreements of the System.
 - (c) 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.
 - (d) 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.
- (2) 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 educational, research, or extension project or activity, thus serving a specific interest or objective of the grantor. Grants awarded by federal agencies are subject to Office of Management and Budget (OMB) Circular A-110 and regulations established by the awarding agencies.
- (a) 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.
 - (b) Consortium Grant - a grant made to one institution in support of a project in which the program is carried out through a cooperative arrangement between or among the grantee institution and one or more participating institutions.
 - (c) Demonstration Grant - a grant, generally of limited duration, made to establish or demonstrate the feasibility of a theory or approach.

- (d) 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.
 - (e) Grant-In-Aid - another name for a project grant or formula grant.
 - (f) Step-Funded Grant - a project grant, usually for a period of three years, with the initial grant providing 100% of the funds for the first year, 2/3 of the funds for the second year and 1/3 for the third year. A year later, if the project is to be continued, the grant provides 1/3 of the funds for the second year, 1/3 for the third year and 1/3 for a fourth year.
- (3) 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 COMPONENTS FOR PERFORMANCE OF SPONSORED AGREEMENTS

3.1 The Chief Executive Officers (CEOs) of the System components 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 or a program administrator to assure satisfactory progress in the conduct of the work and compliance with the terms and conditions of agreements. ~~The universit and the ageneies should have a rule governing administration of sponsored agreements.~~

3.2 System components are responsible for having written procedures for the following areas:

- (1) preparation, approval, and submission of proposals for sponsored agreements;
- (2) negotiation and acceptance of sponsored agreements;
- (3) determination of allowability of costs on sponsored agreements;
- (4) documentation of costs charged to sponsored agreements;
- (5) emphasizing recovery of all F&A costs, based on rates approved by the Department of Health and Human Services (DHHS); and

(6) documentation and other aspects of cost sharing (see paragraph 10.6).

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

4. PREPARATION AND SUBMISSION OF PROPOSALS AND AGREEMENTS

4.1 Sponsored agreements will be conducted in accordance with the terms of a written agreement between the System component involved and the sponsor. The agreement will include, but is not limited to, the following:

- (1) statement of work, including specific responsibility of each party;
- (2) name or position of faculty or staff member directly responsible for the program;
- (3) the amount, terms of payment, and type of costs for which the funds may be expended;
- (4) F&A cost considerations;
- (5) provisions for progress and final reports; and
- (6) ownership of research results, patents, equipment, publications, and copyrights. (See System Regulation 17.02.01.)

4.2 The initiative for establishing a sponsored agreement may be assumed either by a System component or an outside party. The CEO of each System component will prescribe written procedures for the preparation, approval, and submission of proposals. The procedures 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 executed by the CEO or designee of the System component.

4.3 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. Meeting such terms and conditions will become a legal obligation of the System component 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 accord with this System regulation.

5. AUTHORITY TO EXECUTE SPONSORED AGREEMENTS

Contracts (excluding construction contracts and classified contracts), grants, memoranda of agreement, and other legal instruments relating to sponsored agreements administered by a System component will be executed by the CEO or designee of the component. If requested by a System component, the Vice Chancellor for Business Services will review the documents as to proper funding. All contracts related to sponsored agreements shall comply with System Policy 25.07., ~~and the Office of General Counsel will review the documents for legal sufficiency.~~

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

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

6.2 Sponsored agreements administered by the Research Foundation will be executed by the CEO of the Research Foundation, with review by the affected component if an award contains significant deviations from the proposal or from standard clauses. The Research Foundation binds the System for performance by execution of an ancillary agreement with the System.

6.3 System personnel employed to work on sponsored agreements administered through the Research Foundation will follow System Regulation 33.99.10.

7. ALLOWABILITY AND DOCUMENTATION OF COSTS ON FEDERALLY SPONSORED AGREEMENTS

7.1 Regardless of whether they are treated as direct costs or F&A costs, the allowability of costs on sponsored agreements with federal agencies is governed by the cost accounting principles prescribed by ~~Office of Management and Budget (OMB)~~ Circular A-21, *Cost Principles for Educational Institutions*. These cost principles are also used in determining the cost of work performed by educational institutions under subgrants, cost-reimbursement subcontracts, and other awards under federally sponsored agreements. Further, OMB Circular A-21 cost principles are used as a guide in the pricing of fixed-price contracts and sub-contracts performed by educational institutions where estimated costs are used in determining the appropriate price.

7.2 The cost principles of OMB Circular A-21 do not apply to:

- (1) 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;
- (2) capitation awards; or
- (3) other awards under which the institution is not required to account to the federal government for actual costs incurred.

7.3 The ~~System Office of Assistant Vice Chancellor for~~ Budgets and Accounting is responsible for ensuring that F&A cost proposals for federally sponsored agreements comply with the provisions of OMB Circular A-21. The Chief Financial Officer (CFO) or designee of each System component is responsible for ensuring compliance with the federal cost principles for federally sponsored agreements administered by the component.

7.4 Unallowable costs must be separately identified in the accounting system by charging 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. Additionally, directly associated costs of unallowable activities, as defined in Cost Accounting Standard 505 (CAS 505), will also be excluded from charges to federally sponsored agreements. Directly associated costs of unallowable activities means any cost that is generated as a result of the incurrence of another cost and which would not have been incurred had the other cost not been incurred. For example, an employee takes a business associate on what is clearly a business entertainment trip. The entertainment costs of the trip are unallowable because entertainment expenses are considered unallowable under OMB Circular A-21. In this case, the employee's travel and subsistence expenses would be "directly associated" with the unallowable entertainment expense.

The following is a list of costs considered unallowable by OMB Circular A-21. (See OMB Circular A-21, Section J, General Provisions for Selected Items of Cost, for an exhaustive list and specific details.)

- Advertising and public relations costs to promote the institution
- Alcoholic beverages
- Alumni activities
- Bad debts
- Commencement and convocation costs
- Contingency provisions
- Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringements

- Donations and contributions
- Entertainment costs
- Executive lobbying costs
- Fines and penalties
- Goods and services for personal use
- Housing and personal living expenses of an institution's officers
- Insurance against defects
- Interest, fundraising, and investment management costs (except interest related to the acquisition of equipment and capital assets)
- Lobbying
- Losses on other sponsored agreements or contracts
- Membership costs in any civic, community, or country club
- Preagreement cost *
- Profits and losses on disposition of plant equipment or other capital assets
- Selling and marketing costs of products or services
- Severance costs in excess of normal severance pay policies
- Student activity costs
- Travel and subsistence costs for the Board of Regents

* Preagreement costs up to 90 days are permitted by some federal programs under expanded authorities. Some non-federal programs also permit preagreement costs.

7.5 Each System component shall have written procedures for determining the allowability of costs of federally sponsored agreements and monitor those procedures according to OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*. 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, as well as OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*~~*Audits of Institutions of Higher Education and Other Nonprofit Institutions*~~. For additional information on System auditing practices, refer to System Regulations 21.02.01 and 21.03.01. Auditing requirements on sponsored agreements administered by the Research Foundation will be performed by independent Certified Public Accountants retained by the Research Foundation.

7.6 All costs charged to sponsored agreements must be adequately documented. Charges for salaries and wages must be documented by after-the-fact certifications (or individual time sheets for hourly staff and some student employees) of time or effort devoted to each sponsored agreement by each employee. The documentation of other costs, such as supplies and travel should be appropriate to the specific type of expense involved (e.g., invoices, airline and hotel receipts, etc.).

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

8.1 Definitions

- 8.1.1 Direct Costs: Those costs that can be identified specifically with a particular sponsored project, an instructional activity, or any other institutional activity 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.
- 8.1.2 F&A Costs: Those costs that 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, which were formerly referred to as indirect costs, are general administrative expenses, departmental administration, sponsored projects administration, equipment and building use allowances, and physical plant operation and maintenance. These costs represent a real expense to the institution in the performance of sponsored agreements.

8.2 Consistent Treatment of Costs

- 8.2.1 Federal regulations require that the same types of costs be treated consistently as either direct costs or F&A costs. OMB Circular A-21, *Cost Principles for Educational Institutions*, requires 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 502 (CAS 502), one of the standards that educational institutions are required to follow.
- 8.2.2 Certain types of costs, such as the salaries of administrative and clerical staff, office supplies, and postage are normally considered F&A costs. The same types of costs should not be charged directly to sponsored agreements. 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. (See Paragraph 8.4 for additional requirements.)

8.3 Costs Normally Charged as Direct Costs

The following are common types of costs that should be directly charged to sponsored agreements when they can be specifically identified to the work performed under the agreements. These listings are not exhaustive.

- (1) Salaries, Wages, Fringe Benefits:
 - (a) faculty
 - (b) extension faculty equivalents
 - (c) graduate research assistants
 - (d) post doctoral research associates
 - (e) research scientists
 - (f) research engineers
 - (g) research associates
 - (h) research support staff (e.g., machinists, scientific instrument makers, farm equipment operators)
 - (i) technicians
 - (j) undergraduate student workers

- (2) Materials and Supplies:
 - (a) research supplies (e.g., beakers and flasks, batteries, gaskets)
 - (b) non-capitalized medical, scientific, and laboratory equipment
 - (c) chemicals and gases
 - (d) parts for machinery and equipment
 - (e) farm, ranch, and nursery supplies
 - (f) computer parts and supplies
 - (g) computer software

- (3) Other Direct Costs:
 - (a) contractual services (e.g., soil analysis, cyclotron services, photographers, video taping services)
 - (b) travel
 - (c) rent and other facility costs of off-campus facilities
 - (d) other professional services (e.g., architectural and engineering services)
 - (e) reproduction services
 - (f) long-distance telephone expenses
 - (g) service charges for the proving grounds

8.4 Normal F&A Costs - Administrative and Clerical Salaries and Fringe Benefits

8.4.1 Section F.6.b(2) of OMB Circular A-21 states: “The salaries of administrative and clerical staff should normally be treated as F&A costs. Direct charging of these costs may be appropriate where a major project or activity explicitly budgets for administrative or clerical services and individuals involved can be specifically identified with the project or activity.” In July 1994, OMB issued interpretation of this statement as follows:

This provision is intended to establish the principle that the salaries of administrative and clerical staff should usually be treated as indirect costs, but that direct charging of these costs may be appropriate where the nature of the work performed under a particular project requires an extensive amount of administrative or clerical support which is significantly greater than the routine level of such services provided by academic departments. The costs would need to meet the general criteria for direct charging in OMB Circular A-21, Section D.1. - i.e., ‘be identified specifically with a particular sponsored project...relatively easily with a high degree of accuracy,’ and the special circumstances requiring direct charging of the services would need to be justified to the satisfaction of the awarding agency in the grant application or contract proposal.

The following examples are illustrative of the circumstances where direct charging the salaries of administrative or clerical staff may be appropriate.

- *Large, complex programs, such as general clinical research centers, primate centers, program projects, environmental research centers, engineering research centers, and other grants and contracts that entail assembling and managing teams of investigators from a number of institutions.*
- *Projects which involve extensive data accumulation, analysis and entry, surveying, tabulation, cataloging, searching literature, and reporting, such as epidemiological studies, clinical trials, and retrospective clinical records studies.*
- *Projects that require making travel and meeting arrangements for large numbers of participants, such as conferences and seminars.*
- *Projects whose principal focus is the preparation and production of manuals and large reports, books and monographs (excluding routine progress and technical reports).*

- *Projects that are geographically inaccessible to normal departmental administrative services, such as seagoing research vessels, radio astronomy projects, and other research field sites that are remote from the campus.*
- *Individual projects requiring project-specific database management; individualized graphics or manuscript preparation; human or animal protocol, IRB preparations and/or other project-specific regulatory protocols; and multiple project-related investigator coordination and communications.*

These examples are not exhaustive nor are they intended to imply that direct charging of administrative or clerical salaries would always be appropriate for the situations illustrated in the examples. Where direct charges for administrative and clerical salaries are made, care must be exercised to assure that costs incurred for the same purpose in like circumstances are consistently treated as direct costs for all activities.

8.4.2 Administrative and clerical salaries may be charged directly only if they meet all of the following conditions:

- (1) they fall within the special circumstances described in the OMB interpretation (which is the same as the major project examples listed in Exhibit C of OMB Circular A-21)~~the OMB interpretation~~;
- (2) the individuals have responsibilities specifically related to the work of the project and the effort devoted to the project is documented;
- (3) the title(s), percent of effort, and salary amount(s) for the clerical/administrative position(s) are included in the proposed budget of the sponsored agreement, and the special circumstances requiring direct charging of the services are justified in the proposal; and
- (4) the sponsoring agency accepts the cost as part of the project's direct cost budget (i.e., does not specifically disapprove or disallow the cost in the award or other notification to the System component).

8.4.3 If an administrative or clerical salary meets the conditions in 8.4.2.(1) and (2) above, but was not included in the approved budget of the sponsored agreement, the salary may be charged directly to the agreement only where the System component has rebudgeting authority under federal regulations or the terms of the sponsored agreement, and the charge is justified and approved by the System component CFO, or designee. The justification must be in writing and provide the same information that would have been provided to the sponsoring agency in the proposed project budget, and must explain why the

salary was not in the original budget. Approval of these requests will be given where the component CFO, or designee, is satisfied that the sponsoring agency would have approved the cost had it been in the original budget.

8.5 Other Normal F&A Costs

8.5.1 The following costs are normally considered F&A. They may be charged directly only under special circumstances.

- (1) office supplies
- (2) postage
- (3) local telephone costs
- (4) memberships

Examples of special circumstances may include postage for a mass mailing required by a sponsored agreement or the local telephone costs associated with a hot-line required by a sponsored agreement.

8.5.2 Costs normally considered F&A costs may be directly charged only if they meet all of the following requirements:

- (1) the project has a special need for the item or service that is beyond the level of services normally provided;
- (2) the costs can be specifically identified to the work conducted under the project and are appropriately documented;
- (3) costs are specified in the proposed budget of the sponsored agreement, and the special circumstances requiring direct charging are justified in the proposal; and
- (4) sponsoring agency accepts the cost as part of the project's direct cost budget (i.e., does not specifically disapprove the cost in the award or other notification to the System component).

8.5.3 If the cost meets the conditions in 8.5.2(1) and (2) above, but was not included in the approved budget of the sponsored agreement, it may be charged directly to the agreement where the System component has rebudgeting authority under federal regulations or the terms of the sponsored agreement, and the charge is justified and approved by the System component CFO, or designee. The justification must be in writing and provide the same information that would have been provided to the sponsoring agency in the proposed budget, and must explain why the cost was not in the original budget. Approval of these requests will be given where the component CFO, or designee, is satisfied that the sponsoring agency would have approved the cost had it been in the original budget.

- 8.6 Costs that are normally treated as F&A, such as administrative and clerical salaries, may be charged directly to non-federal sponsored agreements if permitted by the sponsor's policies or otherwise agreed to by the sponsor.

9. FACILITIES AND ADMINISTRATIVE COST RATES AND RECOVERIES

9.1 The ~~Assistant Vice Chancellor for~~System Office of Budgets and Accounting is responsible for preparation of F&A cost rate proposals for federally sponsored agreements and for conducting negotiations to establish the rate with the Department of Health and Human Services (DHHS), the cognizant agency for the System. This responsibility applies to F&A cost proposals of all System components. Each System component will provide, when requested, assistance in proposal preparation.

9.1.1 The F&A cost calculation is prepared by the ~~System Office of Assistant Vice Chancellor for~~ Budgets and Accounting for eight of the System components. The eight System components included in this rate are: System Administrative and General Offices, Texas A&M University, Texas A&M University at Galveston, Texas Agricultural Experiment Station, Texas Agricultural Extension Service, Texas Engineering Experiment Station, Texas Engineering Extension Service, and Texas Transportation Institute. All other System components are responsible for preparing their own calculations and submitting them to the ~~System Office of Assistant Vice Chancellor for~~ Budgets and Accounting when requested. In all cases, the ~~System Office of Assistant Vice Chancellor for~~ Budgets and Accounting will negotiate F&A cost rates with the DHHS.

9.1.2 The negotiated F&A cost rates of all System components can be found at <http://sago.tamu.edu/soba/IDCtable.html>. These rates are applicable to sponsored agreements with federal, state, local and private sponsors. The estimated fringe benefit rate can be found at <http://sago.tamu.edu/soba/fringe-benefits.htm>. The estimated fringe benefit and negotiated F&A cost rates applicable to sponsored agreements with federal, state, local and private sponsors currently in effect are available in Appendix 1 and Appendix 2 of this regulation Fringe benefit rates are used only for budget/proposal preparation. Actual fringe benefits are charged as direct costs on sponsored agreements.

9.2 It is the intent of the Legislature, ~~as stated in Article IX, Section 22(b), H.B. 1, 75th Legislature, Regular Session, 1997~~, that all state agencies and institutions establish procedures to recover all F&A costs based on the rates negotiated with the DHHS. Any exceptions to the use of the negotiated rate will require a statement of explanation to be included in the internal component routing documentation indicating the benefits to the System and the State of Texas that justify cost sharing a portion of the F&A costs of a particular program by the System component, and must have CEO or designee approval. In other words, only the CEO or designee has authority to deviate from the negotiated F&A cost rate when it is in the best interest of the System component and the State of Texas.

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

- (1) Agreements with federal agencies will provide for F&A cost recovery at the rates negotiated by the System with the DHHS, 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.
- (2) Agreements with Texas state agencies and political subdivisions, at the option of the System component, except where the agreement is funded with federal flow-through funds, may provide for cost sharing of F&A costs with full justification in the sponsored agreement for such cost sharing.
- (3) Agreements with private business organizations will provide for F&A cost recovery at the rates negotiated by the System with the DHHS unless there is suitable compensation made for the difference between the F&A recovery and the negotiated F&A rate.
- (4) Agreements with private foundations will provide for F&A cost recovery at the rates negotiated by the System with the DHHS, except where precluded by regulations of the foundation.

10. COST SHARING

10.1 Cost sharing is the portion of the total project costs of any sponsored agreement that is not provided by the sponsor, i.e., not charged to the sponsored agreement account(s). Cost sharing occurs whenever a System component is required or has volunteered to participate in either direct or F&A costs of a sponsored agreement. Cost sharing should be engaged in only when:

- mandated by the sponsor;
- needed to accurately reflect the level of effort required to conduct the project;
- or
- necessary due to the competitive nature of the award.

10.2 Mandatory versus Voluntary Cost Sharing:

- (1) **Mandatory Cost Sharing:** A cost contribution explicitly required by the sponsor's policies.
- (2) **Voluntary Cost Sharing:** A cost contribution not required by the sponsor but voluntarily offered in the proposal. Cost sharing not quantified in the original proposal may subsequently be voluntarily contributed by a System component because sponsor funds are not sufficient to perform the agreed upon scope of the work. Examples of post-award cost sharing obligations include:

- the sponsor does not fund the project at the level of work requested in the proposal and the full amount is needed to accomplish the scope of the work. If System resources are committed to the project, then cost sharing has occurred.
- an overrun occurs on a sponsored agreement account. If the overrun is covered by System sources, it must be identified as cost sharing.

10.3 Criteria for Cost Sharing

To qualify as cost sharing, costs must be all of the following:

- (1) allowable and allocable under OMB Circular A-21 and the terms of the sponsored agreement;
- (2) verifiable through effort reports or other appropriate documentation;
- (3) necessary and directly related to the project objectives;
- (4) in compliance with the provisions set forth in OMB Circular A-110 or in the terms of the sponsored agreement

The costs must not be:

- (1) included as cost sharing for any other project or
- (2) paid by the sponsor under another award (federal funds must not be used as cost sharing on another federal project without prior approval).

10.4 Allowable Forms of Cost Sharing Expenses

Costs treated as direct costs on sponsored agreements may be used to meet a cost sharing obligation. Costs included in F&A costs may not. (Refer to paragraph 10.4 (2) for cost sharing through reductions in F&A rates.) The following is a partial list of allowable forms of cost sharing:

- (1) Direct expenses
 - (a) effort of the PI and/or employees committed to sponsored agreements, including their associated benefits costs
 - (b) tuition, fees, and stipends related to work performed by graduate students on sponsored agreements
 - (c) cost of equipment purchases when the purchase of equipment is necessary for, and dedicated to, the successful completion of the project

~~Existing equipment made available for, but not dedicated to, the performance of sponsored agreements is not considered cost sharing-~~

- (d) laboratory supplies
- (e) travel
- (2) F&A cost rate
 - (a) Waived or reduced F&A costs. This is the difference between the applicable negotiated F&A cost rate and the amount of F&A costs awarded by the sponsor. This amount may be used as cost sharing if approved by the sponsor. (Also see paragraph 9.2 of this Regulation.)
 - (b) When the direct expenses are cost shared, the associated F&A rate is automatically cost shared.
- (3) Examples of expenditures which may not be used as cost sharing
 - (a) Expenditures normally treated as F&A, such as administrative salaries and office supplies
 - (b) Unallowable costs, such as alcoholic beverages, entertainment, etc.
- (4) If cost sharing is required or intended, it should be identified in the proposed budget.

10.5 Documentation

10.5.1 All types of cost sharing must be documented and identifiable in the component's accounting system. If cost sharing is accepted by the sponsor as a condition of the award, accurate records must be maintained to verify that these funds have been provided through the use of System resources. Cost sharing, whether voluntary or mandatory, will be accounted for by separate accounts. The costs charged to those accounts will be documented in the same way as costs charged to sponsored agreements. For example, if the cost sharing is in the form of a salary contribution, the contribution will be documented by the time and effort certification system. If the contribution is in the form of travel costs, the costs will be documented in the same form as costs to travel (i.e., airline and hotel receipts). Alternative procedures may be used if they adequately document the costs, subject to approval by the System Office of Budgets and Accounting.

10.5.2 Cost sharing records are also used in calculating F&A cost rates. Excessive or unnecessary cost sharing can have the effect of reducing the F&A cost rate.

10.6 Responsibilities of Components for Cost Sharing

It is the responsibility of the CEO or designee to keep voluntary cost sharing to a minimum; to ensure that cost sharing is documented and readily identifiable in the accounting system; to set procedures for when prior approval must be given for cost sharing; and to set procedures for determining when a cost sharing obligation has occurred so that it will be properly documented.

11. OWNERSHIP OF PROGRAM RESULTS AND DATA

11.1 In general, the results of programs conducted by or under the direction of faculty or staff of the System during the course of their regularly assigned duties will become the property of the System component and will be used and controlled to produce the greatest benefit to the public and the System. When the interests of the public and the System can best be served by sharing ownership in the program results with a sponsor, negotiated provisions for the disposition of rights in intellectual property may be included in the written agreement, at the discretion of the System component CEO or designee.

11.2. Regulations governing administration of patents, including payment of royalties to System employees are prescribed in System Regulation 17.02.01.

11.3 Data collected during the sponsored agreement will become the property of the System component unless otherwise agreed to, in writing, by both the sponsor and the System component.

12. EQUIPMENT

Management of equipment funded or furnished by sponsors is subject to the rules and regulations 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 by the Research Foundation, will be managed in accordance with [System Regulation 21.99.05, *Equipment Management*](#) ~~the *System Equipment Management Manual*~~. Equipment acquired by the Research Foundation will be managed according to the Research Foundation's internal policies.

13. STATE REVIEW OF FEDERAL GRANT AND LOAN ASSISTANCE APPLICATIONS

State and federal requirements for processing of certain federal grant and loan assistance applications are presented in System Regulation 15.99.04.

CONTACT OFFICE: [System Office of Assistant Vice Chancellor for Budgets and Accounting](#)

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