

FIXED PRICE AWARDS

General Considerations

MIT *Policies and Procedures* includes the following statement regarding the basis of payment for sponsored programs: “In research, the sponsor and MIT have a joint and continuing obligation to provide not only the contractual and administrative environment but also the financial basis for a sound program of investigation. In general, MIT’s resources are such that it cannot provide this environment except on a full cost-reimbursement basis, including direct and indirect costs.”

In accordance with this policy MIT, as a not for profit educational institution, conducts sponsored programs on a cost reimbursement basis. However, MIT’s Office of Sponsored Programs will consider a fixed-price relationship only in exceptional cases when there is no alternative. In such cases, deliverables on fixed price awards should be limited to status and/or final technical reports.

Proposals

All cost proposals for fixed price relationships should be estimated on a cost basis consistent with MIT cost accounting policies. A detailed budget should be prepared for MIT review, even if not required by or submitted to the sponsor. Fixed price relationships should never be utilized where there is any uncertainty related to anticipated costs. Expenses should be budgeted and justified based on anticipated reasonable cost. Budgets should not anticipate revenue in excess of expense or funding to recover expenses incurred prior to the beginning of the project.

All proposals, including the statement of work, description of deliverables, delivery due dates and budget, should be routed in accordance with MIT standard procedures. The PI, head of the DLC and the Dean of the School must review and sign the MIT Proposal Summary Form, accepting the risks inherent in a fixed price agreement.

Award Terms

Extensive negotiation of the terms of fixed price awards is normally necessary. All clauses that carry a potential financial penalty must be stripped from the agreement, including, but not limited to, those related to termination for default, inspection and correction or re-performance, warranties and “time is of the essence” delivery. The terms of review and acceptance of report deliverables should be limited to completeness and format, not technical content. For its protection, MIT should request a force majeure clause. The agreement should provide for advanced or scheduled payments.

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Post Award Financial Management

After award, cost allocable to the project should be charged to the project account(s) as the project progresses in accordance with the standard MIT cost accounting practices. Any cost overruns are the responsibility of the principal investigator/department/laboratory/center. Cost underruns shall be handled as described below.

Closeout of Fixed Price Awards

Fixed price awards have beginning dates and ending dates, like other projects established in sponsored projects accounts. When a fixed price award terminates and all the terms and conditions of the award have been satisfied, any positive balance remaining in the account becomes the property of the Institute. *Note that these balances should not be significant, as this might indicate weakness in the estimating process.* The distribution of any unexpended funds will be handled as described below.

Step 1. VPF Sponsored Accounting will determine that all funds have been received from sponsor. The Office of Sponsored Programs will determine that all contractual requirements have been met.

Step 2. OSP will review the funds remaining in the award account and will ascertain from the appropriate dean/department chair/principal investigator that all funds expended for the project are reflected in the account. (For example, if work was performed by a research assistant during the academic year, appropriate salary expenditures should have been transferred to the sponsored project account).

Step 3. Once the final balance is determined, VPF will calculate the F&A (indirect) costs component on the remaining balance and charge that amount against the project.

For reference purposes, the F&A on a remaining balance can be calculated as follows:

$$\text{Remaining balance} = \frac{\text{remaining Direct Costs}}{1.\text{nnn}} \quad (\text{where "nnn"} = \text{the current F\&A rate})$$

The Remaining Balance – the remaining Direct Costs calculated above = the remaining F&A (indirect) balance

$$\text{Test - } \$250,000 \text{ (rem. Bal.)} = \$160,256 \text{ (remaining direct cost)} \\ 1.56 \text{ (current F\&A)}$$

$$\$250,000 - \$160,256 = \$ 89,744 \text{ remaining F\&A (indirect) balance}$$

$$\text{Check - } \$160,256 \times .56 = \$89,743.++$$

\$89,744 would be charged against the project.
\$160,256 would be subject to Step 5 below.

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Step 4. If there are any over expenditures in any other sponsored projects accounts under the control of the principal investigator, the amount of the overcharges then will be charges against the balance in the fixed price project account after Step 3 is taken.

Step 5. If the resulting balance is **\$100,000** or less the direct costs funds remaining in the fixed price project account after Steps 3 and 4 are taken will be transferred to a discretionary account under the direction of the principal investigator for use in research and educational service activities. Balances over **\$100,000** may be maintained in the responsible department for activities which support and enhance the original research and educational program. If not needed for those purposes, funds will be distributed on a case by case basis with approval of the VPR.

Cost reimbursement awards which specifically permit MIT to retain the unexpended balance will follow the same steps with regard to distribution of any unexpended funds.

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Special Considerations for Consortium Relationships

Most MIT consortia relationships are established on the basis of fixed price annual membership fees. The PI sets the required fee payment based on his evaluation of the anticipated program budget and number of members. Some consortia have fee schedules varying based on level of membership benefits. Fee schedules should be disclosed to all members and incorporated in the Agreement document or appended descriptive materials.

If MIT terminates the consortium prior to the expiration date of current memberships, most consortia agreements require that remaining funds be returned to active members on a pro rata basis. However, if the consortium continues to operate through the expiration date of current member agreements, but memberships are not extended, the consortium is considered to have expired. The terms of most agreements permit MIT to extend the consortium account(s) for expenditure of any remaining funds for similar purposes. (If awards are made for a combination of research and non-research purposes, unexpended funds should be expended for those purposes in the same proportion as they were awarded.)

Julie Norris 2/26/07

Additional formula added by Bill Barrett 11/04/2014