

14.6 CLOSE-OUT OF FIXED PRICE CONTRACTS

Auditors recently have identified three problems with our practices regarding close-out of fixed-price contracts when 10% or more of the budget remains in the account:

1. In some cases, government auditors are requiring the institution to prove that the original budget was not inflated and therefore fraudulent.
2. In other cases, auditors question whether institutional resources were used in lieu of expenditures from the account, which would be a violation of State law.
3. Unless the institution can prove that the surplus was used to support the research in accordance with the original budget, the Internal Revenue Service has begun ruling that the surplus is unrelated business activity and therefore subject to income tax (UBIT). In extreme cases, such findings can affect the tax-exempt status of the institution.

The best way to avoid these problems is for individual Principal Investigators to ensure that no more than 5% of the budget remains in a fixed-price contract at the end of the project. In those rare cases where the surplus is significantly more than 5%, the following procedure will be used:

4. The PI or Center Director will submit a memo to the VPRTT, endorsed by the Department Head or Division Director, explaining the reasons for the surplus and recommending how it could be spent in support of the original project and in line with the original budget.
5. After reviewing the memo and the ORA file on the account, the VPRTT will decide how the surplus is to be distributed.
6. Unless there are extenuating circumstances, the distribution normally will be as follows:
 - a. Any remaining faculty salary and benefits will be allocated to academic-year charge-out in the semester immediately following close-out, and the faculty member will use that time to continue work related to the project.
 - b. Any remaining student support will be transferred to the institutional Graduate-Assistant account under the control of the Graduate Dean to support graduate students doing work related to the project.
 - c. Other remaining funds (supplies, materials, travel, etc.) will be transferred to the Department Head or Division Director to support continued work related to the project.

If the end of a fixed-price project is approaching and it appears that the surplus might be significantly more than 5%, the Lead PI or Center Director should consult with the Director of Research Administration immediately to determine the best course of action to avoid problems.