



**UCCS CAMPUS POLICY**

**Policy Title:** Fee-for-Service Contracts

**Policy Number:** 900-004

**Policy Functional Area:** Academic

**Effective:** June 9, 2021

**Approved by:** Venkat Reddy, Chancellor

**Responsible Vice Chancellor:** Executive Vice Chancellor for Academic Affairs (EVCAA)

**Office of Primary Responsibility:** Office of Sponsored Programs and Research Integrity (OSPRI)

**Policy Primary Contact:** Jessi Smith, AVC Research

**Supersedes:** Fee-for-Service Contracts in Academic Affairs (900-004)

**Last Reviewed/Updated:** August 24, 2018

**Applies to:** Faculty, Staff & Administration

**Reason for Policy:** To define policies and procedures for entering into a fee-for-service contract.

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## **I. INTRODUCTION**

The university has two types of contractual instruments available when a unit enters into an agreement to provide services to an external agency/customer. These two instruments are referred to as 1) an externally-funded sponsored project agreement (grant or contract), or 2) a fee-for-service contract.

The purpose of this policy is to define procedures applicable to units, other than auxiliary enterprises, for entering into a fee-for-service contract. However, auxiliary enterprises conducting an activity not consistent with the role and mission that was the basis for their original enterprise designation may fall under this policy.

## **II. POLICY STATEMENT**

Campus procedures for reviewing proposals and entering into an agreement for an externally-funded program (grant or contract) are well established. Further, these procedures are a critical part of the campus's management system established to assure compliance with sponsor requirements.

Procedures for entering into a fee-for-service contract must be consistent with other externally funded sponsored program procedures and policies. The need for this policy is driven by the requirement that the campus be able to demonstrate (e.g., to federal, state, or system auditors) that appropriate procedures are in place to assure compliance with federal, state, and Regent rules and

laws. If contracts may be executed by the campus without appropriate reviews, the above demonstration requirement is impossible to meet.

As specified in APS 1012 and UCCS policies 900-001 and 100-011, the Office of Sponsored Programs and Research Integrity (OSPRI) manages sponsored project agreements, fee-for-service agreements, and related contracts. This document outlines the policy, procedures, and definitions for managing fee-for-service contracts.

#### A. Characteristics of Fee-for-Service Contracts

Fee-for-service contracts are fixed price contracts with an external organization for providing routine services where there is no development of intellectual property (examples of such services may include, but are not limited to, lab assays, professional development workshops using existing curriculum/content; equipment usage, materials or chemical testing).

The following attributes determine whether a (proposed) service provided by a campus unit, other than an auxiliary enterprise, will be classified as a fee-for-service contract. Typically, if one or more attributes are **not** present, the activity would be classified as an externally sponsored program, rather than a fee-for-service activity. These attributes will be assessed for each (proposed) service.

1. No federal funding may be involved (direct or under subcontract).
2. Contract must be fixed price (e.g., no detailed budget or invoicing beyond the fixed rate; no financial reporting required by customer).
3. Unexpended funds must not need to be returned to customer, and no auditing of expenditures by or on behalf of customer.
4. Project must not involve:
  - human subjects,
  - animals,
  - recombinant DNA,
  - radioisotopes,
  - export controlled items.
5. Project must not involve development of intellectual property or discovery (e.g., research findings, curriculum, or technology).
6. Project must provide a routine service at a fixed rate, available to any customer in the general public.
7. No matching or cost sharing may be involved.

The final determination for classifying as fee-for-service or as sponsored project will be made, after a thorough assessment, by the Office of Sponsored Programs and Research Integrity.

#### B. Approval Process for Fee-for-Service Contracts

1. Fee-for-service contracts originate in a department/center/program and shall first be approved by Dean (or relevant supervising unit head).
2. Fee-for-service contracts are then submitted to Office of Sponsored Programs and Research Integrity (OSPRI) for approval consideration.
  - a. Because of the analysis OSPRI must conduct, fee-for-service contracts must be submitted to OSPRI at least 10 days in advance of deadline for submission or in advance of providing contract services.
  - b. Only OSPRI has UCCS signature authority for fee-for-service contracts, other than auxiliary service units' fee-for-service contracts.
3. Once approved by OSPRI, OSPRI will submit fee-for-service contracts for campus approval and execution, which may include additional legal review.

#### C. Rate Fee Determination

Units shall contact the UCCS Controller's Office to determine the rate structure for fee-for-service contracts, and only approved rates shall be used. The fixed rate(s) shall include the General Administrative Recharge (GAR) and any direct costs for departmental administrative costs.

Fee-for-service activity may be subject to the unrelated business income tax. A review will be done at the time of the rate determination by the UCCS Controller's Office.

#### D. Fee-for-Service Activity Not Requiring a Contract

Simplified provisions may be available for any individual fee-for-service activity for routine services. Contact OSPRI to determine appropriateness.

### III. KEY WORDS

- A. *Sponsored project* is a general term used to cover sources of external funding that come to UCCS with a specified purpose for the funds (i.e., is a contractual agreement). The use of the funds is restricted and there are conditions stipulated with which the university must comply. The rules for defining a sponsored program are guided by CU APS 2005 and are set by the [CU controller office](#) (with a [decision tree for guiding choices](#)).
- B. *Contract* is an agreement that has legally binding terms and conditions.
- C. *Grant* is a sponsored project similar to a contract; however, the terms may allow more latitude for the principal investigator for carrying out the responsibilities.
- D. *Fee-for-Service Contract* is a formal agreement with an external agency to provide routine services.

- E. *General Administrative Recharge (GAR)* is overhead paid on expenditures to compensate for campus-provided services.
- F. *Intellectual Property* refers to creations of the mind and may include, but are not limited to, inventions, literary and artistic works, manuscripts, designs, software, or curriculum.
- G. *Auxiliary Enterprise* is an entity that exists to furnish goods or services primarily to students, faculty, or staff, and that charges a fee directly related to, although not necessarily equal to, the cost of goods or services. The distinguishing characteristic of auxiliary enterprises is that they are managed as essentially self-supporting activities.
- H. *Routine Services* are services provided that can be used for tasks that are common among users and do not need to be customized or newly created.
- I. *Fixed Price Contract* is a type of contract where the payment amount does not depend on resources or time expended. A set price is given and the service needs to be provided within that price.
- J. *Unrelated Business Income* is income from a trade or business, regularly carried on, that is not substantially related to the charitable, educational, or other purpose that is the basis of the organization's exemption. The University may be liable for tax on its unrelated business income.

#### **IV. RELATED POLICIES, PROCEDURES, FORMS, GUIDELINES, AND OTHER RESOURCES**

- A. Administrative Policy Statements (APS) and Other Policies
  - 1. CU APS 1005 Sponsored Project Revenues
  - 2. CU APS 1012 Sponsored Research Policies
  - 3. CU APS 2005 Contracting Authority
  - 4. UCCS Policy 100-011 Managing and Executing University Contracts
  - 5. UCCS Policy 900-001 Roles and Responsibilities for Sponsored Programs Administration
- B. Procedures
  - 1. Contact Office of Sponsored Programs and Research Integrity to arrange fee-for service contracts.
  - 2. Contact Controller's Office to determined rates.
- C. Forms
- D. Guidelines
  - 1. UCCS Biosafety Procedures
  - 2. UCCS Controller's Office Internal Sales Rates
  - 3. UCCS Research with Human Participants
  - 4. UCCS Research Involving Animals
  - 5. UCCS Research involving export controls
- E. Other Resources (i.e. training, secondary contact information)
- F. Frequently Asked Questions (FAQs)

## V. HISTORY

Initial policy approval	May 15, 2005
First Revision	April 6, 2006