The University of Texas Rio Grande Valley

Fixed Costs Contracts Audit

Report No. 20CF-AEN-03

November 8, 2021

Office of Audits & Consulting Services

Executive Summary

Overall Assessment:
We concluded that internal controls over the management of Fixed Cost Contracts can be strengthened through development of new processes.

Risk Levels
Appendix I

Priority
High
Medium
Low

Background: The University enters contracts related to research, education, or public service mission of the University. The administration and review process over contracts are guided by UTS-145 Processing of Contracts. Several policies and board rules help institutions determine when additional review by the Office of General Counsel is required and when UT institutions may execute contracts without additional oversight. The Presidents of each Institution have authority to establish internal review and approval procedures for all contracts and may delegate contract signing authority to other employees. Further guidance has also been provided to help determine when contracts are considered a Special Procedure Contract such as revenue generating, revenue sharing, and cost avoidance contracts that may cause UT institutions to incur unrelated business income tax that mandate review by the Office of General Counsel.

Contracts at UTRGV are maintained by three departments, with each department responsible for maintaining different types of agreements. Real Estate Office is responsible for lease agreements. Office of Sponsored Programs is responsible for contracts with sponsors that award grants, including those for federally funded research. Procurement Management is responsible for contracts with outside vendors that provide goods and services to UTRGV. Additionally, Procurement Management is responsible for formation of revenue generating, revenue sharing, and cost avoidance contracts. Departments are responsible for contract administration including cost recovery, fund collection, monitoring performance and contract close-out.

Funds can be received in different payment methods. The three main types of contracts are:

Cost reimbursable- payment is received as invoices are submitted for expenses incurred,
Fixed- payment received after milestones are met, or deliverables accepted, and
Prepaid- payment received upfront.

Executive Summary Continued

Fixed price contracts revenue is entered into with a third party who pays a set price for agreed-upon work, regardless of the ultimate cost to complete the work. Fixed price contracts revenue has a degree of risk as deliverables must be met even if costs incurred exceed the funded amount.

Objective: To provide assurance that adequate controls exist over the administrative requirements for formulating, monitoring, and closing-out fixed-cost agreements.

Scope/Period: The audit covered the period of September 01, 2018 to June 30, 2020.

Key Observations:

Medium 1. No formal UTRGV policies and procedures to provide uniform guidance for formulating, monitoring, and closing-out non-sponsored revenue contracts.

Medium 2. 29 different revenue contracts were deposited into one cost center.

Medium 3. Found no evidence that residual balance accounts from negotiated contracts is monitored or evaluated for the potential use of other institutional funds.

Medium 4. No oversight of operating funds or fund balances.

Medium 5. A HOP policy related to residual balances from negotiated contracts has not been adopted.

Medium 6. 2 out of the 6 Executive Vice President's unrestricted designated fund accounts had not been created.

Medium 7. No central repository for executed agreements at UTRGV.

Executive Summary Continued

Root Causes:

1. No defined methodologies to maintain active agreements and no formal reporting requirements observed.
2. Commingling of funds into one account.
3. No mitigating controls due to:
   - No formal uniform guidance for formulating, monitoring, and closing-out fixed cost contracts.
   - No define methodologies to maintain active agreements and
   - No formal reporting requirements.
4. No formal UTRGV policies and procedures to provide uniform guidance for formulating, monitoring, and closing-out non-sponsored fixed price contracts.
5. Residual balance from negotiated contracts document is not operationalized.
6. No review/monitoring of residual balance transfer to executive accounts.
7. Contract management is a decentralized process.

Executive Summary Continued

Management Responses/Action Plans:

1-4) The Senior Vice President for Finance and Planning agrees to lead the development to align UTRGV's formal policies and procedures that provide guidance and accountability for adherence to formulating, monitoring, and closing-out non-sponsored revenue contracts.

5-6) The Executive VP of Research, Graduate Students and New Program Development and Associate VP for Planning & Analysis will meet to initiate conversations on revising existing residual balance document. In addition, Research will follow up with each EVP's office and ensure cost centers are created to deposit residual balances.

Once residual balance document is finalized and approved by both divisions, a draft HOP policy for residual balance will be submitted for review and approval.

7) The Procurement Office will:

- Recommend that Contract+ be utilized for all contracts, agreements, and campus leases following the UTRGV Delegation of Authority Chart.
- Implement Contracts+ as a campus wide repository of contracts and train the campus users.
- Update the following Contracts related trainings for users:
  - 1. Contract Requestor
  - 2. Contract Approver.
- Update instructions for the Contract Request process submittal in iShop to include a list and link to Special contracts as per UTS 145.
- Work on updates to the Contracts Administrator role.

<table>
<tr><th>Detailed Observations</th><th>Recommendations</th><th>Management Action Plans</th></tr>
<tr><td colspan="3">Policies and Procedures</td></tr>
<tr><td>University Guidance
There are no formal UTRGV policies and procedures to provide uniform guidance for formulating, monitoring, and closing-out non-sponsored fixed price contracts. Additionally, there were no defined methodologies to maintain active agreements and no formal reporting requirements observed.

The absence of clear formal, policies, procedures and processes create inefficiencies in operations and increases the risk of financial exposure to the University.</td><td>1) The Senior Vice President for Finance and Planning should spearhead/lead a work group composed of Planning & Analysis, Financial Services/Comptroller, Procurement, and Research Administration. The work group should develop and align UTRGV formal policies and procedures to provide guidance and accountability for adherence to formulating, monitoring, and closing-out non-sponsored revenue contracts. The following should be considered when developing guidance:

• Planning stages of contract development and negotiation should ensure that all cost estimates are considered and sufficient to fund the deliverables. Charges to fixed price accounts must reflect all actual effort and related costs incurred.
• Careful planning and timing of receipt of funds.
• The scope of work and schedule of deliverables should be documented internally.
• An itemized budget should be required for internal monitoring.
• A final report of deliverables should be documented.</td><td>1) Management Response: The Senior Vice President for Finance and Planning agrees to lead the development to align UTRGV’s formal policies and procedures that provide guidance and accountability for adherence to formulating, monitoring, and closing-out non-sponsored revenue contracts. To that end, the ownership of that process should fall to those areas overseeing these procedures, and therefore the appropriate departmental mangers should be recognized as key stakeholders (i.e., owners) of the process.

Action Plan Owner:
Senior Vice President for Finance and Planning

Implementation Date:
August 31, 2022</td></tr>
</table>

Detailed Observations	Recommendations	Management Action Plans
Commingled Funds We observed the following. Although the population of contracts received from the School of Medicine (SOM) may have included fixed cost contracts, audit procedures could not be performed. We found that revenue from different types of contracts is commingled as follows:	2) **See Recommendation #1**	2) **See Management Response #1**

Cost Center	Name	Contract Type
31000446	Lease Facs Management SOM	to 3 Different Lease Agreements
36000489	MSRDP UTH RGV Lab	to 4 Different Lab Service Agreements
37000401	H&C F&A SOM	used for 29 different contracts
	H&C F&A SOM	4 are coverage agreements
	H&C F&A SOM	7 are call agreements
	H&C F&A SOM	1 Hospitalist Agreement
	H&C F&A SOM	2 Medical Director Agreement
	H&C F&A SOM	3 Operating Agreement- DHR Annual Operating Agreement
	H&C F&A SOM	10 PFA
	H&C F&A SOM	1 Physician Services Agreement
	H&C F&A SOM	1 TSA-DHR Transition & Settlement Agreement

<table>
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<tr><td>Monitoring the Fixed-Cost Contract Agreement

Once the University agrees to a fixed-cost agreement, it must produce a set of deliverables within a required time regardless of the actual cost. Given this expectation, the university must have the ability to track budgets and related expenses by each deliverable, milestone, or task. This level of tracking allows the University to analyze budgets and expenses related to specific deliverables when significant residual balances occur.

We reviewed three program accounts and found no evidence that residual balance accounts from negotiated contracts is monitored or evaluated for the risk of other institutional resources used for operations.</td><td>3) See Recommendation #1</td><td>3) See Management Response #1</td></tr>
<tr><td>Monitoring the Fixed-Cost Contract Agreement

Additionally, the three program accounts selected had the following operating fund balances with no oversight.

<table>
<tr><th colspan="3">Fund Balance</th></tr>
<tr><th></th><th>FY 2019</th><th>FY 2020</th></tr>
<tr><th>Program</th><th>Operating</th><th>Operating</th></tr>
<tr><td>Mother Daughter Program</td><td>$15,774.88</td><td>$34,021.65</td></tr>
<tr><td>Texas Pre Freshman Engineering Program (TexPrep)</td><td>$33,417.42</td><td>$87,662.31</td></tr>
<tr><td>Father Son Program</td><td>$ 2,884.85</td><td>$18,432.25</td></tr>
</table>

Significant residual balances call into question the integrity of the University’s costing practices, or its accounting for costs related to deliverables and therefore should be mitigated.</td><td>4) See Recommendation #1</td><td>4) See Management Response #1</td></tr>
</table>

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<tr><th>Detailed Observations</th><th>Recommendations</th><th>Management Action Plans</th></tr>
<tr><td>Residual Balances from Negotiated Contracts

Residual balances from negotiated contracts is addressed in a document in the Division of Finance and Administration. It documents definitions, provisions, distribution, and transfer process of residual balances as it relates to projects routed and processed by Office of Sponsored Programs and the Office of Grants and Contracts. We observed the following:
Although the document refers that it is policy, process and procedures have not been adopted in UTRGV's Handbook of Operating Procedures.
Guidance is only provided for projects routed and processed by Office of Sponsored Programs and the Office of Grants and contracts. Guidance does not address contracts that are processed outside of these two areas (departments).
Document does not address code of Federal Regulations.
CFR-Title 2 Vol 1-Sec 200-45
CFR- Title 2 Vol 1-Sec 200-201
Although not required, its good business practice to reference applicable policies and procedures.</td><td>5) The Associate Vice President for Planning & Analysis and the Executive Vice President of Research Graduate Studies and New Program Development should coordinate and reevaluate the residual balances from negotiated contracts document. The final agreed upon document should follow the process towards developing a HOP policy.</td><td>5) Management Response: The Executive VP of Research, Graduate Students and New Program Development and Associate VP for Planning & Analysis will meet to initiate conversations on revising existing residual balance document. In addition, Research will follow up with each EVP’s office and ensure cost centers are created to deposit residual balances.

Once residual balance document is finalized and approved by both divisions, a draft HOP policy for residual balance will be submitted for review and approval.

Action Plan Owner:
Executive Vice President of Research Graduate Studies and New Program Development</td></tr>
</table>

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<tr><th>Detailed Observations</th><th>Recommendations</th><th>Management Action Plans</th></tr>
<tr><td></td><td></td><td>Implementation Date:
Completion of revised residual balance procedure document – Oct. 2021

Submission of draft HOP policy for Residual Balance – Nov. 2021</td></tr>
<tr><td>Residual Balance Distribution

After verification that all costs are accurately charged to fixed cost contract and all deliverables are accepted, a residual balance is transferred to an unrestricted designated fund account based on the following:

<table><tr><th>Residual Balance</th><th>Action</th></tr><tr><td>Less than $250</td><td>Transfer to the university's general account</td></tr><tr><td>From $250 to $10,000</td><td>Transfer 10% of the originally budgeted direct costs to the project manager's account up to maximum of $10,000. Remaining balances > 10% or $10,000 will be allocated to each respective Executive Vice President's unrestricted designated fund account.</td></tr></table>
We found that 2 out of the 6 Executive Vice President's unrestricted designated fund accounts had not been created.</td><td>6) See Recommendation #5</td><td>6) See Management Response #5</td></tr>
</table>

Detailed Observations	Recommendations	Management Action Plans

Central Repository
Contracts at UTRGV are maintained by three departments, with each department responsible for maintaining different types of agreements. There is no central repository for executed agreements at UTRGV. Currently, the new Contract + is not a mandatory process.
	7) Procurement Officer should develop a formal management plan to implement Contract + as the University's official central repository system for executed agreements. At a minimum, the management plan should address the following:
	• Training and overview to the University community regarding Special Procedures contracts per UTS 145
	• Delegations of Authority for The University of Texas Rio Grande Valley
	• The different payment methods funds are received.
	
	Maintaining active agreements in a central location ensures that:
	• The proper delegated authority executes contracts.
	• Original contracts are easily accessible.
	• All related documents such as amendments are maintained with master agreements/contracts and appropriately tracked.
	• Cost schedules or budgets are readily accessible.
	• High Risk Contracts are easily identified and classified.
	• Timely notification to the Office of Audits and Consulting Services of required audits.
		7) **Management Response:** The Procurement Office will:
		
		• Recommend that Contract+ be utilized for all contracts, agreements, and campus leases following the UTRGV Delegation of Authority Chart.
		• Implement Contracts+ as a campus wide repository of contracts and train the campus users.
		• Update the following Contracts related trainings for users:
		  ○ 1. Contract Requestor
		  ○ 2. Contract Approver.
		• Update instructions for the Contract Request process submittal in iShop to include a list and link to Special contracts as per UTS 145.

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<tr><td></td><td></td><td>Work on updates to the Contracts Administrator role.
The Procurement Office is not responsible for funding sources selected for the contract including receiving of payments, tracking, and managing balances.

Action Plan Owner: Chief Procurement Officer

Implementation Date: Training updates to be handled during the next Procurement cycle trainings. Instructions for contract submittal will also be done at the same time. Changes will be rolled out to Departmental Buyers and Contract Requestors from October – December 2021.</td></tr>
</table>

APPENDIX I

Risk Classifications and Definitions

Priority	High probability of occurrence that would significantly impact UT System and/or UT Rio Grande Valley. Reported to UT System Audit, Compliance, and Risk Management Committee (ACMRC). Priority findings reported to the ACMRC are defined as "*an issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.*"
High	Risks are considered substantially undesirable and pose a significant level of exposure to UT Rio Grande Valley operations. Without appropriate controls, the risk will happen on a consistent basis. Immediate action is required by management to address the noted concern and reduce exposure to the organization.
Medium	Risks are considered undesirable and could moderately expose UT Rio Grande Valley. Without appropriate controls, the risk will occur some of the time. Action is needed by management to address the noted concern and reduce the risk exposure to a more desirable level.
Low	Low probability of various risk factors occurring. Even with no controls, the exposure to UT Rio Grande Valley will be minimal. Action should be taken by management to address the noted concern and reduce risk exposure to the organization.