Background Information
While the majority of sponsored projects received by RIT are cost reimbursement, sponsors sometimes utilize fixed price contracts to sponsor research. While offering some advantages to the principal investigator (PI), fixed price contracts may involve significant financial risk to the University because the PI has agreed to perform the work regardless of the actual cost of conducting the project. Therefore, great care must be taken during the budget development and project negotiation stage to ensure the amount requested from the sponsor includes all anticipated allowable direct costs and indirect costs based on use of the appropriate full federal or non-federal F&A rate. In the event that the project was under priced and there is a deficit, the PI and/or Department, Enterprise/Research Center, or College are responsible for funding the difference. However, after verification by Sponsored Programs Accounting (SPA) that all costs were accurately charged to the contract and all deliverables were accepted by the sponsor, any residual balance may be retained by the PI in accordance with this process.

Budget Preparation and Negotiation
Unlike cost reimbursement projects, where the sponsor may ask for a commitment of some of the University’s financial resources (most commonly academic year faculty effort) to the project, fixed price contract budgets should always include all anticipated allowable direct costs required to provide the contract deliverable(s). In particular, all budgets must include a percentage of effort and related salaries, wages, and/or stipends to be charged to the project for the PI, other key personnel, graduate research assistants, and any other professional, technical, or student employees. Finally, the full federal or non-federal F&A rate will be applied to the anticipated allowable direct costs to arrive at total project costs.

It is important to note that Federal laws and regulations such as the Truth in Negotiations Act (TINA), the False Claims Act (FCA), and the Federal Acquisition Regulations (FAR) specifically govern the pricing of Federal fixed price contracts.

- TINA generally applies to contracts valued greater than $650,000. Under TINA, the government can recover for defective pricing resulting when contractors and/or subcontractors do not provide accurate, complete, and current pricing data during contract negotiations.

- The FCA protects the government against contractors knowingly submitting defective pricing claims and/or pricing with the proposal. The FCA is broader in its application and covers the entire life cycle of a contract, including pass-through awards.

Since large surpluses could open the University up to accusations of defective pricing, a careful, fully documented, and thoughtful process should be used when developing and negotiating fixed price contract budgets with external sponsors.
Post Award Budget Management and Expensing

In the event that the project was under priced and there is a deficit, the PI and/or Department, Enterprise/Research Center, or College are responsible for funding the difference. Furthermore, given the nature of the activities funded under fixed-price agreements, it is critically important that University resources not be used to subsidize this activity. Therefore, the PI must commit to and establish regular and effective charging and financial monitoring practices to ensure that all appropriate project-specific expenses are charged to the fixed price award in a timely fashion, including any salary recovery for senior personnel.

Project Closeout and Disposition of Residual Balances

Monthly, SPA will identify fixed price projects that have reached their end date and contact the PI to determine if deliverables have been completed and accepted by the sponsor or if an extension is needed. If activities for the project remain, the PI will be directed to Sponsored Research Services (SRS) to request a formal contract extension from the sponsor. If the project is complete, SPA will determine whether a final deficit or residual balance exists on the project.

For deficit balances, SPA will work with the PI and/or department head, Enterprise/Research Center director, or dean to identify an account to transfer the over expenditures.

For residual balances, SPA will take the following actions:¹

1. SPA will review the proposed (budgeted) versus actual personnel and non-personnel expenses; including a comparison of the level of effort committed to the sponsor with the actual salary expenses charged to the award. Other originally proposed line items will be reviewed and compared to actual expenses to ensure the integrity of the closeout process. The full F&A amount budgeted, regardless of the actual F&A assessed based on modified total direct costs, will be charged to the project. Once these steps are completed, the disposition of residual balances will be completed as described below.

   a. If the final project balance is less than $5,000 or 10% of the contract amount, whichever is greater. SPA will transfer the residual balance to the account designated by the PI.

   b. If the final project balance is $5,000 or more and greater than 10% of the contract amount. Residual amounts that exceed this threshold are considered to be a “significant balance”, SPA will proceed as follows:

      1. If activities above and beyond, and in augmentation to, the original scope of work as outlined in the contract will be conducted past the end date, the

¹ If the project has received a reduction or waiver from the published F&A rate, SPA will charge the full F&A costs to the project before any final residual balance is determined.
PI can request an “internal” extension. SPA will extend the end date for 120 days to allow for those expenses to be charged to the project account.

2. At the end of the internal extension period, the close-out process described herein will commence again.

Alternatively:

1. SPA will prepare the top portion of the *Fixed Price Agreement Closeout Form* and request that the PI complete the remainder of the form.
2. The PI must: 1) confirm that the project is complete, all deliverables have been provided, and all appropriate expenses have been charged to the project; 2) include an explanation for why the actual expenses were substantially less than the payments received and how the work was able to be successfully completed at the substantially reduced cost; 3) obtain Department Head and Dean approval; and, 4) forward the completed form to SPA.
3. SPA will review the information for completeness and then forward the form to the Vice President for Research (VPR).
4. Once the review is complete, and based on satisfactory evidence that deliverables have been met, all appropriate expenses have been charged to the project, and due to unforeseen circumstances a substantial surplus exists, the VPR will approve the surplus return to an account designated by the PI.
5. SPA will then transfer the balance to the account designated by the PI.

*During the review of “significant” residual balances, the VPR will assess the fixed price awards held by a PI to verify proper costing, pricing and charging of applicable expenses. Additional clarifying information may be sought, or corrective actions identified if there appears to be a pattern of large unexpended balances or large overdrafts. Future participation in fixed price contract work will be contingent on reasonable and successful management of prior projects.*

**Exceptions to this Procedure**

Exceptions to the account closure and disbursement procedures may be made on a case-by-case basis. Requests for exceptions should be addressed to the VPR for review and approval.

**Definitions**

✓ *Fixed Price Contract*

In a "fixed price" award, the PI agrees to accomplish project objectives within a specific timeframe for a set dollar amount. If the deliverables are not completed within the award period, the contract must be extended. The award amount also remains constant, even if actual costs for the project are above or below it. Any expenditures over budget are the responsibility of the PI and/or department.
✓ **Residual Balance**
Funds that remain in the account after deliverables have been completed and accepted by the sponsor, after all costs needed to fulfill the requirements of the award have been charged to the account, after any final adjustments to recoup under recovered F&A costs have been made, and after all payments from the sponsor have been received.

✓ **Sponsored Project**
An externally funded activity governed by specific terms and conditions. Sponsored projects must be separately budgeted and accounted for subject to terms and conditions of the sponsoring organization. Sponsored projects may include grants, contracts (including fixed price contracts), and cooperative agreements for research, training, and other public service activities.