**Fee For Service R/PPS No. 03.01.05**

 **Issue No. 1**

 **Effective Date: 05/25/2023**

**Next Review Date: 04/01/2026 (E3Y)**

 **Co-Sr. Reviewers: Director, Post Award Support Services;
Director, Technology Transfer**

**and Contracts**

**POLICY STATEMENT**

Texas State University is committed to properly managing external services that support the university mission.

**01. BACKGROUND INFORMATION**

01.01 Texas State University personnel often receive requests to conduct research-related services for external entities. Providing such services aligns with the research and service missions of the university when:

a. the university is uniquely qualified to offer such special services;

b. those services provide additional research and experience for the university's faculty, staff, and students; and

c. access to those services or specialized equipment is not readily within the entity's means. Those services may include the utilization of specialized expertise of the faculty or specialized instrumentation that may be offered to the company. Quite often, this will include testing of certain materials for external entities (sponsors).

01.02 Fee for service (FFS) is to be used only on those projects involving testing and diagnostics of sponsor-provided material or information. No applied or basic research involved in the project shall be provided by the university. Therefore, it is unlikely that there will be creation of new knowledge or technologies by university personnel. As such, the provisions of an FFS-related agreement, FFS agreements (FSA), vary from sponsored research agreements, and it is imperative that an FSA not be substituted for a sponsored research agreement.

**02. DEFINITIONS**

02.01 Confidentiality – If the services contemplated require the sponsor to provide proprietary information, the terms of confidentiality shall be set forth in a confidentiality agreement executed by both parties as an attachment to the FSA.

02.02 Patent Rights – In conducting an FSA project, the university delivers services involving sponsor-provided information and not in the creation of new knowledge or new technologies. Consequently, the university will make no claims on patent rights in regard to sponsor-owned materials or information provided for the project. Under an FSA, university personnel are providing testing or diagnostic services, not performing basic or applied research. However, the university will retain rights to inventions that are not related to a sponsor's product or processes or that fall outside the scope of the project's statement of work (SOW).

02.03 Services – involve classification, diagnostics, or testing of a sponsor's data, samples, mechanisms, procedures, or products as part of a small, specifically-designed project. These services are performed using university resources, including personnel, equipment, or facilities. These services must be unique in some fashion. The rationale for university involvement in this kind of service or testing is that because university faculty conduct research that is often on the leading edge of scientific investigation, they are uniquely qualified to provide certain kinds of services that are not readily available in the private sector.

**03. EQUIPMENT USE AND MAINTENANCE**

03.01 Rate Calculation and Approval – Approval to use equipment for FFS purposes must be obtained from the appropriate university responsible party. Most equipment used for FFS projects will appear on official university property inventory records with a named responsible party. If the equipment is not listed on official university inventory records, written approval for its use must be obtained from the custodial department. Funding derived from FFS activities shall be used for:

a. consumables relating to the testing process or delivery of service;

b. the maintenance and upkeep of equipment used for FFS purposes;

c. equipment service agreements, as needed;

d. labor relating to the services provided (in the case of personnel paid from university accounts, the university account shall be reimbursed the amount of the applicable salaries and fringe benefits from FFS revenues generated);

e. upgrade and replacement of equipment and facility; and

f. other necessary costs for operations.

**04. RATE REQUEST PROCEDURE**

04.01 FFS Rate Request

a. The department chair or school director will submit an FFS Rate Application form to [Technology Transfer and Contracts](http://www.txstate.edu/ocir/) (TTC).

b. If approved, [TTC](https://www.txstate.edu/ocir/) will notify [Post Award Support Services](http://www.txstate.edu/research/osp/post-award-support.html) in writing of application approval.

c. [Post Award Support Services](https://www.txstate.edu/research/osp/post-award-support.html) will begin the FFS rate calculation process with the project leader.

d. The FFS rate shall be submitted to the vice president for Research approval. The vice president for Research, or designee, shall be responsible for any rate negotiations. Any changes to the rate shall be documented in writing and provided to [Post Award Support Services](http://www.txstate.edu/research/osp/post-award-support.html).

e. The department or school will initiate the account setup process with the [Budget Office/Accounting](http://www.fss.txstate.edu/budget/). [TTC](https://www.txstate.edu/ocir/) will provide guidance.

**05. FEE FOR SERVICE PROCEDURES**

05.01 The processing of all FSAs is handled through [TTC](https://www.txstate.edu/ocir/) and shall include a valid SOW as Attachment A which will follow the guidelines specified in the standard FSA.

05.02 The standard language of the FSA contract template should not be changed. Any proposed changes to the template, or use of a sponsor’s form, require review and approval by the appropriate university offices through TTC and Texas State University System (TSUS) legal counsel. In order to avoid approval delays, these changes must be submitted at least four weeks in advance of the proposed project start date. Texas State’s ability to accept modifications to the template is very limited, and discussions with a potential client should include that information. Each FSA shall be identified by a specific number assigned by [TTC](https://www.txstate.edu/ocir/).

05.03 Work shall not begin until an FSA has been executed by both parties.

05.04 A valid and current FFS rate shall be in place before a FSA can be executed.

05.05 Faculty and appropriate staff should conduct testing pursuant to the terms and conditions set forth in the SOW of the FSA.

05.06 Project leaders will be responsible for ensuring all applicable costs relating to the FSA execution are allocated to the FFS account.

05.07 [TTC](https://www.txstate.edu/ocir/) personnel shall monitor the receivables to ensure payment by the company.

05.08 When paid, [TTC](https://www.txstate.edu/ocir/) personnel shall deposit the funds into the appropriate FFS account.

05.09 When each FFS project is completed, the account manager shall review all transactions to ensure postings are reasonable, allocable, allowable, and complete, and that all revenue has been received.

05.10 Partioning FFS Activities

a. University faculty should not co-mingle FFS projects with any other research activity within their labs.

b. Special attention should be given so as not to employ inventions or new technologies developed or created on federally-sponsored or company-sponsored research projects in such a way as to encumber these inventions by the terms of the FSA.

c. A complete segregation of service activities may be accomplished through the use of activity documentation.

05.11 Forms associated with this policy include the FFS rate request form available through [Post Award Support Services](http://www.txstate.edu/research/osp/post-award-support.html).

**06. REVIEWERS OF THIS PPS**

**06.01 Reviewers of this PPS include the following:**

**Position Date**

**Director, Post Award Support April 1 E3Y**

**Services**

**Director, Technology Transfer and April 1 E3Y**

 **Contracts**

**07. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State Research policy and procedure from the date of this document until superseded.

Director, Post Award Support Services; co-senior reviewer of this PPS

Director, Technology Transfer and Contracts; co-senior reviewer of this PPS

Vice President for Research