

Overheads Policy for Third-Party-Funded Projects at the University of Vienna effective from 1 April 2022¹

Content

1.	Starting point of the new Policy	1
2.	Corner stones of the new Policy	1
3.	General regulations on the use of overheads	2
3.1.	Overhead proportion of the unit	2
3.2.	Overhead proportion of the entire University	2
4.	Exemptions from the Overheads Policy	3
4.1.	Deviating overhead rates	3
4.2.	Overheads in small and micro projects	3

1. Starting point of the new Policy

The University of Vienna considers the acquisition of third-party funding as an expression of its competitiveness and as a major measure to promote research and early stage researchers. Excellence and relevance of research are the major principles of the aspired volume and structure of external funds to be acquired. However, third-party funded projects do not only create direct costs that are often funded by funding bodies or clients according to the relevant funding rates but also considerable indirect costs (overhead costs) by using a variety of resources required for implementing a project.

The strategic basis for the Overheads Policy of the University of Vienna is the Development Plan of the University of Vienna (p. 34). The legal framework is the Universities Act (UG), section 26, para. 3 and section 27, para. 3, and the EU law on state aids, prohibition of state aids according to European law, Article 107, para. 1 of the TFEU.

The objective of the amendment to the 2013 Overheads Policy is to adapt it to the current framework conditions and to achieve harmonisation and, thus, simplification. Its purpose is also to increase true-cost pricing in the area of third-party funding and to guarantee adherence to the law on state aid in a transparent way.

This Policy regulates the adapted modalities for the specification of overheads and also the use of revenues that are thus generated.

2. Corner stones of the new Policy

The aim of the Overheads Policy of the University of Vienna is to make contributions to funding indirect costs without decreasing the project budget to cover the direct costs. Therefore, overheads must be internally disclosed in project budgets as supplement to the direct project costs and must be priced in towards external clients. Accordingly, overheads can generally not be used to cover direct, especially, project costs affecting expenses.

Based on this, all externally funded projects at the University of Vienna are subject to two different overhead rates for economic and non-economic activities:

¹ This English translation is for reference purposes only.

- A) For **non-economic activities**: an overhead rate of **25%** applies to all direct project costs if the funding body permits it. Otherwise, the maximum amount of overheads must be applied for with the funding body. In case of third-party funded projects that are funded by a national or intentional funding body (such as, Austrian Science Fund (FWF), Austrian Research Promotion Agency (FFG), EU), the overheads are derived from the relevant funding guidelines. Only if the guidelines or terms of funding explicitly exclude overheads, the University accepts that no overheads are calculated.
- B) For **economic activities, full costs are calculated on the basis of cost accounting**. According to section 26, para. 3 and section 27, para. 3 of the 2002 Universities Act, the University is fully reimbursed for the costs arising from the use of personnel and material resources for commissioned work by third parties. The calculation basis for the full costs are published on the intranet by the Accounting and Finance service unit every year on the basis of cost accounting. Moreover, the Research Services and Career Development service unit is going to provide an annually updated template for calculating project costs.

The overhead quota that have been calculated according to the rules specified under A and B are documented as planning value in u:cris when recording the project. The overheads are settled according to this planning value via the respective internal order.

Whether a third-party funded project is to be considered as a non-economic or an economic activity is determined for each case individually.

3. General regulations on the use of overheads

If overheads are earned, regardless of the amount, these are **split 50:50** between (1) the organisational units proportionally working on the project or the units according to the Organisation Plan, section 3, para. 9 (in the following referred to as 'unit(s)') and (2) the Rectorate.

All **direct project costs remain with the project**. This also especially refers to costs for personnel that are funded from the global budget, work on the project and are settled via the project. Every project leader receives their own, permanently available collective account, to which the project accounting balance is booked and which can be used flexibly in terms of a **permanently available reserve** in the form of an individual research account (project leader collective account). The regulations on the power of representation in the area of third-party funds apply. If a project leader resigns, the resources then belong to the organisational unit of the project leader.

3.1. Overhead proportion of the unit

Half of the overhead earnings go to the unit or units where the project is implemented. These overhead earnings are intended for the purpose of research. The unit must ensure that the infrastructure required for the implementation of the project, i.e., among others, adequately equipped working spaces, is available to employees. Moreover, the units' overheads also have the purpose of covering risks emerging from third-party funded projects, as well as of funding purchases of up to € 20,000 that are available to the academics of the units after the project has ended.

For units according to section 3, para. 9 of the Organisation Plan (research platforms, research networks), the splitting of any overhead earnings between the participating institutions is determined during their establishment.

Units may use the remaining resources freely for the purposes of research. The units' overhead proportions are calculated retrospectively semi-annually and are booked to the units.

During the target agreement, the Rectorate and the unit agree on regulations regarding the use of a unit's overheads. Reserves can be built up to an appropriate extent.

3.2. Overhead proportion of the entire University

The Rectorate decides on the overhead proportion of the entire University, which is used for covering the overhead expenses in particular. Moreover, central overhead earnings are also used for the reciprocal financing

of reductions in teaching as part of special funding schemes (such as ERC or for spokespersons of special research programmes). They are also used for non-recognised project costs, if this cannot be ascribed to the personal negligence of persons involved from the University (e.g. non-recognition of costs due to additional interpretation of rules as part of the second-level auditing). In exceptional cases, the central overhead proportion is also used to cover any funding gaps resulting from the differences between non-negotiable funding and obligations arising from the collective bargaining agreement (e.g. EU MSCA funding) or from a funding quota below 100 % (e.g. in case of self-funding in FFG projects, including funding quota of 85 %). In case of ERC self-funding², up to 20 % of the project leader's personnel costs are covered to allow them to integrate these in teaching and in other third-party funded projects. The requirement for the coverage of any funding gaps is that this gap or coverage of costs is known ex ante and that they cannot be covered from other sources.

In general, non-fundable costs are primarily borne by the project or the project leader collective account, and secondly, by the subunit (department collective account) or the unit. Only after these options have been exhausted can a request be made for costs to be covered by the central overhead proportion.

4. Exemptions from the Overheads Policy

4.1. Deviating overhead rates

Deviations from calculating an overhead contribution are only possible with those funding bodies whose funding regulations explicitly state no contribution to overheads or a smaller amount. The maximum amount possible with the relevant funding body must be applied for.

For funding bodies or funding schemes that are of particular university-wide interest, the Rectorate can decide on special regulations for the calculation and use of overheads.

The settlement of conferences and symposia is exempt from the general Overheads Policy. For these activities the full costs are charged.

4.2. Overheads in small and micro projects

The Overheads Policy also applies respectively to small projects (< EUR 5,000) that are settled collectively via a cost centre (internal order/ small project collective order).

For micro projects that do not have their own cost centre (internal order) but a third-party funding order of the relevant subunit (third-party funding collective order), no overheads are charged.

■ End of the Policy

² ERC self-funding applicants refer to ERC project leaders who do not have a permanent or tenure-track position at the University of Vienna. These must always consider 80% of their salary as direct costs in the project. The remaining 20 % are funded from the Rectorate's overheads. Thus, principle investigators also receive a 100 % (40-hours) contract that includes relevant teaching assignments.

Explication for the difference between economic and non-economic activities with regard to third-party funded projects

With regard to third-party funded projects between the University of Vienna and partners from the business world and society it is important that the calculation of the project costs considers two legal areas. On the one hand, this concerns the 2002 Universities Act, section 26, para. 3 and section 27, para. 3, which state that the University is entitled to procure and undertake research that is financed by third-party research contracts, research promotion or other allocations by third parties if they serve the purpose of academic research and if the University is reimbursed for the costs of the use of personnel and material resources in full. On the other hand, the EU framework for state aid for research and development and innovation (2014/C 198/01)², hereinafter referred to as 'EU framework', must be considered. While the Universities Act does not concretely specify research, investigations or reports commissioned by third parties, the EU framework differentiates distinctively between economic and non-economic activities.

The University of Vienna carries out activities of both economic and non-economic nature. Public funding of non-economic activities must not violate Article 107, para. 1 of the TFEU³ (prohibition of favouritism). This can only be guaranteed if the two kinds of activities and their costs, funding and revenues can be clearly separated so that cross-subsidisation of the economic activity is effectively avoided. Therefore, a transparent classification of each and every third-party funded project is necessary. Evidence of due allocation of costs, funding and revenues can be included in annual financial statements of the relevant entity (EU framework, regulation 18). To ensure that the Overheads Policy is in accordance with both legal areas, the Universities Act and the EU framework, the first step is to always consider research commissioned by third parties in accordance with the 2002 Universities Act, section 26, para. 3 and section 27, para. 3 as an economic activity.

The EU framework (regulation 19) specifies that the following activities are generally of a **non-economic** character:

- a) primary activities of the University of Vienna, in particular:
 - education for more and better skilled human resources; this refers to public education organised within the national educational system, predominantly or entirely funded by the State and supervised by the State.
 - independent research and development (R&D) for more knowledge and better understanding, and especially research projects funded by public national or international funding bodies (e.g. Austrian Science Fund, ministries, EU);
 - collaborative R&D where the University of Vienna engages in effective collaboration. *"Effective collaboration" means collaboration between at least two independent parties to exchange knowledge or technology, or to achieve a common objective based on the division of labour where the parties jointly define the scope of the collaborative project, contribute to its implementation and share its risks, as well as its results. One or several parties may bear the full costs of the project and thus relieve other parties of its financial risks. Contract research and provision of research services are not considered forms of collaboration.*" (EU framework, regulation 15 h)

² [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0627\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0627(01)&from=EN)

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12016E107>

- wide dissemination of research results on a non-exclusive and non-discriminatory basis, for example through teaching, open-access databases, open publications or open software;
- b) knowledge transfer activities, where they are conducted either by the University of Vienna or jointly with or on behalf of other research organisations or research infrastructures, and where all profits from those activities are reinvested in the primary activities (see above) of the University of Vienna. The non-economic nature of those activities is not prejudiced by contracting the provision of corresponding services to third parties by way of open tenders. (EU framework, regulation 19)

These non-economic activities are therefore unproblematic according to state aid law.

In contrast to this, it must be ensured that **economic activities** are realised in accordance with state aid law. The EU framework, regulation 25 states: Where a research organisation or research infrastructure is used to perform contract research or provide a research service to an undertaking, which typically specifies the terms and conditions of the contract, owns the results of the research activities and carries the risk of failure, no state aid will usually be passed to the undertaking if the research organisation or research infrastructure receive payment of an **adequate remuneration for its services**, particularly where one of the following conditions is fulfilled:

- a) the research organisation or research infrastructure provides its research service or contract research at market price.
- b) where there is no market price, the research organisation or research infrastructure provides its research service or contract research at a price which:
- reflects the full costs of the service and generally includes a margin established by reference to those commonly applied by undertakings active in the sector of the service concerned, or
 - is the result of arm's length negotiations where the research organisation or research infrastructure, in its capacity as service provider, negotiates in order to obtain the maximum economic benefit at the moment when the contract is concluded and covers at least its marginal costs.

In addition, regulation 26 specifies: Where the ownership of, or access rights to intellectual property rights ('IPR') remain with the research organisation or research infrastructure, their market value may be deducted from the price payable for the services concerned.

When the University of Vienna, according to section 2 B of its Overheads Policy calculates full costs on the basis of cost accounting and results accounts in case of economic activities, it ensures that it acts in accordance with both the state aid law and the 2002 Universities Act, section 26, para. 3 and section 27, para. 3.