



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

## CLOSEOUT MEMORANDUM

Case Number: A03110066

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In P03060131, we wrote the grantee to ask about program income generated under one of our awards, which was used to publish conference proceedings.<sup>1</sup> The grantee responded<sup>2</sup> it had generated no program income under this award and provided supporting documentation. However, it did not specifically address whether it sold any of the conference proceedings<sup>3</sup> prior to the expiration of the award. Thus, in November 2003, the P-file was converted to this case to ask the grantee if it sold books before the award closed, thus generating program income.

Our legal analysis of the relevant section of the GC-1<sup>4</sup> concluded program income derived from fees or royalties for copyrighted material is exempt from being added to the grant funds and expended toward the project. Therefore, even if the grantee sold some of the conference proceedings prior to the expiration of the award, the program income earned was not required to be spent in accordance with Federal grant conditions. As the statements and documentation the grantee provided raise no other issues, this case is closed.

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<sup>1</sup> (footnote redacted).

<sup>2</sup> Through [redacted], Office of Sponsored Research.

<sup>3</sup> (footnote redacted).

<sup>4</sup> The relevant part of GC-1, section 19.b. Standard Treatment. Unless otherwise specified in the award, program income (except as noted in (1) below) received or accrued to the awardee during the period of this award shall be retained and added to the funds committed to the project by NSF and used to further project objectives. Also, unless otherwise specified, the awardee shall have no obligation to NSF with respect to: (1) license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions received or accrued at any time; or (2) program income received beyond the period of this award.



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The relevant part of GC-1 states:

19.b. Standard Treatment. Unless otherwise specified in the award, program income (except as noted in (1) below) received or accrued to the awardee during the period of this award shall be retained and added to the funds committed to the project by NSF and used to further project objectives. Also, unless otherwise specified, the awardee shall have no obligation to NSF with respect to: (1) license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions received or accrued at any time; or (2) program income received beyond the period of this award. [Emphasis added.]

At the time of this closeout, we interpreted "royalties" to include any income received for the sale of copyrighted items, regardless of who actually sold the items or how the grantee received the income.

Since then, in consultation with NSF's OGC, we have concluded that the exclusion is limited to circumstances in which the grantee receives a royalty payment from a publisher who sells the items, and does not include circumstances (such as in this case) in which the grantee pays the costs of publication and receives all of the proceeds of sales of the items.

	Agent	Date
Sign / date		