

FLORIDA STATE UNIVERSITY

POLICY 7A-20

PROGRAM INCOME POLICY

Responsible Executive: Gary K. Ostrander, Vice President for Research

Approving Official: Gary K. Ostrander, Vice President for Research

Effective Date: February 4, 2016 (Administrative change to update Federal regulation references only)

Revision History: New: May 15, 2016  
Re-adopted: August 1, 2014

## I. Introduction

This document establishes a policy for managing program income according to statutory requirements and sound management practices.

## II. Policy

Sponsors provide funding to cover costs of conducting research, training, and public service-related activities. Program income may be generated as a result of these activities and in some cases must be reported to the sponsor. Federal sponsors have documented in *OMB Circular A-110*, 2 CFR 200—*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the applicable *Code of Federal Regulations (CFR)* explicit processes to be used in the identification, recording, reporting, and monitoring requirements for income that is generated during the project period.

Florida State University is required to identify and document program income related to projects sponsored by Federal agencies. If required by the terms of the award or if specifically identified in the proposal, the same type of documentation must be made for program income on projects sponsored by non-Federal entities even if administered through the FSU Research Foundation (FSURF). The nature of this income must be appropriately documented and the resulting revenue properly recorded. Contact Sponsored Research Administration (SRA) or FSURF as appropriate, for assistance in determining the best method of handling income generated under a non-Federal award.

### **Applicability**

This policy applies to externally-sponsored projects, and is applicable from proposal preparation to award closeout.

This policy does not apply to revenue generated through programs funded by sources other than sponsored projects; for example, performing arts programs funded by private gifts.

## **Definitions**

### 2 CFR 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section §200.80 Program income.

*Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in §200.307 paragraph (f). (See §200.77 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also §200.407 Prior written approval (prior approval). See also 35 U.S.C. 200-212 “Disposition of Rights in Educational Awards” applies to inventions made under Federal awards.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75880, Dec. 19, 2014]

OMB Circular A-21 - Office of Management and Budget Circular A-21, Cost Principles for Educational Institutions. This Circular establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions. These principles are used in determining the allowable costs of work performed by colleges and universities under sponsored agreements. The principles are also used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also are used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price.

OMB Circular A-110 - Office of Management and Budget Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. This document establishes uniform regulations for each Federal agency to follow regarding the administration of projects sponsored by the Federal government. In addition, each Federal agency has its own regulations that are listed in the Code of Federal Regulations (CFR) and explained in its policy handbook (if it has one).

OMB Circular A-133 – Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. This document sets forth standards for obtaining consistency and uniformity among Federal agencies for the audits of State, local Governments, and non-profit organizations (including institutions of higher education) expending Federal awards.

Program Income - Gross income earned by the University that is directly generated by a supported activity or earned as a result of a sponsored project. Examples of program income include, but are not limited to:

- Income from fees paid by, or on behalf of, participants at workshops, conferences, or symposia.
- Income from fees for services performed, such as laboratory tests.
- Income from the use or rental of equipment or real property purchased with project funds.
- Income from the sale of commodities or items fabricated with project funds.
- Income from the sale of software, tapes, or publications.
- Income from the sale of research materials such as tissue cultures, cell lines or research animals.
- Income from the sales of products with an accompanying material transfer agreement.
- License fees and royalties on patents and copyrights.
- Interest on loans made with grant funds.

Program income does not include:

- Interest earned on advances of Federal funds,
- Receipt of principal on loans, rebates, credits, discounts, etc. or interest earned on them, unless otherwise specified in the award terms and conditions, or sponsor regulations.

Property – Property means, unless otherwise stated in the award, real property, equipment, intangible property and debt instruments.

Sponsored Project - An externally funded activity that is governed by specific terms and conditions. Sponsored projects must be separately budgeted and accounted for subject to terms of the award. Sponsored projects may include grants, contracts, cooperative agreements, purchase orders, delivery/task orders, or other types of agreements, for research, training, and other public service activities.

### **Inclusion of Indirect Costs in Registration Fees or Price of Materials, Publications, etc.**

**Indirect costs will be charged to program income accounts at the same rate applied to the sponsored agreement which generates the income. Indirect costs should be included when determining the registration fee, price of materials, etc.**

### **Treatment of Program Income**

Reportable program income can be handled in one of four ways, depending on the sponsor's policies or the terms and conditions of the award. The four methods are listed below and examples are provided in Attachment A.

1. Addition: Program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.
2. Deduction: Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project.
3. Cost Sharing or Matching: Program income may be used to meet the cost sharing or matching requirements of the Federal award. The amount of the Federal award remains the same. (Cost sharing or matching means the portion of project costs not paid by Federal funds.)
4. Combination Alternative: Income received up to a maximum amount specified by the sponsor is added to the funds obligated by the sponsor and used to further eligible project activities or objectives. After the maximum amount is reached, the income is deducted from the amount of project costs to be reimbursed by the sponsor.

SRA, or FSURF as appropriate, will determine the appropriate method to be used, and will enter the appropriate Award Attribute on the OMNI Award Profile.

### **Use of Program Income**

In general, program income revenue should be used before expenses are reimbursed by the sponsor. Program income must be spent in accordance with the terms and conditions of the award. Expenses charged to the program income account must be allowable, allocable, and reasonable in relation to the activity supported by the sponsor, in accordance with OMB Circular A-21 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Expenses that are unallowable on the sponsored project may also be unallowable on the program income account. Exceptions may be costs incurred that are incidental to the generation of program income.

### **Reporting Program Income**

The SRA, or FSURF as appropriate, will determine whether the program income associated with an award must be reported to the sponsor. If required, program income information will be included in official financial reports and/or invoices submitted to the sponsor.

The following is not reportable as program income, unless otherwise specified by the awarding agency:

- Royalty income resulting from copyrights, patents and license fees. (Note: royalties or license fees resulting from patented inventions are not reportable as program income. However, this income is reported following Federal requirements for reporting inventions.)

- Royalties or license fees for unpatented, but potentially patentable discoveries that are disclosed to the Office of Commercialization.
- Income received on non-Federal awards that are silent on program income, or non-Federal awards that contain no accounting or reporting requirements for program income.

If authorized by Federal awarding agency regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these incidental costs have not been charged to the award.

## **Responsibilities**

### *Principal Investigator*

- Understand and abide by the University's program income policy.
- Identify sources of actual and potential program income (whether at the proposal stage or during the life of the award) and notify SRA, or FSURF as appropriate.
- Understand the definition of program income and appropriate uses of such income.
- Develop a plan for using program income.
- Complete required program income sections in grant application.
- Discuss anticipated program income with SRA, or FSURF as appropriate.
- Provide information to SRA, or FSURF as appropriate, to facilitate establishment of a program income project (account).
- Follow appropriate University procedures for handling program income revenue.
- Maintain documentation related to the use of facilities or attendance of workshops, conferences, etc. Documentation may include sign in sheets by attendees, or usage log (including name of user, amount of time facility was used, etc.) for facility use.
- Invoice for fee, product or service.
- Initiate collection actions for unpaid invoices.
- Deposit income through SRA or FSURF as appropriate.
- Verify program income on internal financial reports or department ledgers.
- Monitor account expenditure levels to ensure that program income is spent first as appropriate.
- Ensure that costs charged to the program income account are allowable, allocable and reasonable, in accordance with OMB Circular A-21 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Verify program income on financial reports prepared by SRA or FSURF for submission to the sponsor.
- Notify SRA, or FSURF as appropriate, of delinquent payments and collection efforts.
- Confer with SRA, or FSURF as appropriate, at project closeout to determine the amount of expenses charged to the program income account that were incidental to the generation of program income.

### Chair/Director and Dean

- Ensure that any activity that could generate program income is disclosed to SRA or FSURF as appropriate.
- Review and approve PI's planned use of the income.

### Sponsored Research Administration or FSU Research Foundation

- Advise investigators and University staff on the proper handling of program income.
- Review the proposal for anticipated program income and ensure sponsor applications forms are completed accurately.
- Review and approve PI's planned use of the income.
- Negotiate appropriate terms with respect to program income.
- Determine appropriate method of treating program income.
- Facilitate the setup of a program income account.
- Facilitate increases to account budget when additional revenue is received.
- If program income from an activity will continue to be received beyond end date of the sponsored project, advise the PI on the appropriate accounting method (which may mean the creation of a new unrestricted account).

### Sponsored Research Administration or FSU Research Foundation

- Facilitate the setup of a program income account.
- Determine the program income reporting requirements.
- Deposit program income and increase budget appropriately.
- Monitor account expenditure levels to ensure that program income is spent first as appropriate.
- Ensure that costs charged to the program income account are allowable, allocable and reasonable, in accordance with OMB Circular A-21 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- Report program income as required by sponsor.
- At project closeout, address program income account balance according to the terms of the award.

### Office of Commercialization

- Work with PI's to obtain licensing agreements and assist in marketing inventions or copyrighted material.

## **Closing out the Program Income Account**

Disposition of residual program income funds will be handled in accordance with FSU's Program Income Procedures.

## **Program Income Generated after Sponsored Project is Closed**

As specified in OMB Circular A-110 for Federal awards (Subpart C, Section 25) and 2 CFR 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (200-307, Section 3-g). : “Unless Federal awarding agency regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.” Therefore, SRA, or FSURF as appropriate, will advise the PI on the appropriate method of accounting for program income earned after the award has expired.

Income generated after a non-Federal sponsored award expires will be treated the same, unless the terms and conditions of the award specify otherwise.

## **Retention of Records**

Retention of program income records is identical to the retention requirements of award records which are specified in the terms and conditions of the award. Documentation related to program income must be retained in the Department for a period of three (3) years following final payment by the sponsor, unless the award indicates a longer retention period or there is audit/litigation still in progress. Examples of program income documentation include, but are not limited to:

- Documentation related to how the registration fee, equipment usage fee, etc., was determined.
- Documentation related to how the price of materials, publications, etc., was determined.
- Sign in sheets for attendees of workshops, conferences, etc., whether the individual paid the registration fee or the fee was paid by another party on behalf of the attendee.
- Evidence that all attendees were charged the same fee.

## **Special Situations**

*Sales Tax* – If program income is to be generated from the sale of goods or services, confer with SRA, or FSURF as appropriate, to ensure a determination has been made as to whether sales tax should be applicable to the goods or services to be sold. The University Controller's Memorandum #01 FY (2002-2003) states: “Failure to collect the proper tax amount from customers does not abrogate our responsibility to pay the proper amount to the State.”

*Sale of Real Property, Equipment or Unused Supplies* – Unless otherwise specified in the award, proceeds from the sale of property shall be handled in accordance with OMB Circular A-110, Sections 30-37 and 2 CFR 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section 200.313 – 200.315.

*Unique Facilities* – Unique facilities, such as the National High Magnetic Field Laboratory, should develop their own written procedures to address the use of the Lab by outside users, both private and public. Such procedures should include requirements for a usage log. Program income from the use of unique facilities supported by a sponsored award will be managed in accordance with this Policy.

---

---

### **Excerpt from Federal Demonstration Partnership Terms and Conditions**

The Federal Partnership Terms and Conditions states: “The use and disposition of program income is governed by Section 24 of OMB Circular A-110, unless the agency-specific requirements of the award specify otherwise.”

As of the date of this policy, all agency-specific terms and conditions specify use of the additive method for income generated during the life of the award. Income generated after the award is not accountable to the agency.

### **Program Income Regulations from Specific Federal Agencies**

Typically, most Federal agencies adhere to the standard treatment of program income as noted in OMB Circular A-110 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. A few exceptions are noted below. The terms and conditions of the award will govern the treatment of program income.

#### **National Science Foundation (NSF)**

NSF typically adheres to the standard treatment of program income as noted in OMB Circular A-110 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. However, in exceptional circumstances, the NSF Grants Officer, in collaboration with Program Officers and other appropriate NSF offices, may approve use of a special grant provision to restrict or eliminate a grantee's control of income earned through NSF-supported activities if it determines that this would best serve the purposes of a particular program or grant. The special provisions may require the federal share of program income be kept in a separate account, reported on and/or remitted for such periods as may be reasonable under the circumstances.

#### **National Institutes of Health (NIH)**

NIH requirements for program income vary depending on the type of award and must be reported. Program income, other than income earned as a result of copyrights, patents, or inventions or as a result of the sale of real property, equipment, or supplies, earned during the period of the grant support, may be retained by the grantee and may be used in one or a combination of alternatives as prescribed by OMB Circular A-110 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. NIH adds an additional alternative (combination alternative) that stipulates that grantees may use

income up to (and including) \$25,000 as specified for the additive alternative and any amount of program income exceeding \$25,000 under the deductive alternative.

- The additive alternative will normally apply to program income earned under NIH awards subject to expanded authorities and to Phase I awards under the SBIR/STTR programs unless the terms and conditions of the award specify the use of another alternative.
- For all other awards, the combination alternative will apply unless the terms and conditions of the award indicate otherwise.
- The circumstances under which NIH may require use of a different alternative include when the grantee has deficient systems or where the PI has a history of frequent, large annual unobligated balances on previous grants or has requested multiple extensions of the budget/project period.

### **Department of Defense (DOD)**

Treatment of program income by DOD agencies varies. A few specific DOD agencies are listed below:

#### **Army (Army Research Office)**

All program income earned during the project period (except proceeds from the sale of real and personal property and license fees and royalties received as a result of copyrights or patents produced under the grant) shall be *deducted* from the total project's allowable costs in determining the net allowable costs on which the Federal share of costs will be based.

#### **Navy (Office of Naval Research) and Air Force (Air Force Office of Scientific Research)**

ONR and AFOSR typically adheres to the standard treatment of program income as noted in OMB Circular A-110 and 2 CFR PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards .

#### **National Endowment for the Humanities (NEH)**

- The federal share of program income is determined by the percentage of total project costs that are supported by NEH. In general, the federal share of program income earned during the grant period shall be retained by the grantee and, unless the grant award specifies how such income will be used, the grantee must use it in one or more of the alternatives described in OMB Circular A-110 and 2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- When the NEH's funding of a project amounts to \$50,000 or more and the total program income earned after the award period exceeds \$50,000, the NEH reserves the right to make a claim to or restrict the use of the federal share of income earned during the seven years following the award period.

**EXAMPLES OF  
PROGRAM INCOME USE METHODS**

**ADDITION METHOD**

Requested Budget	\$150,000	
Estimated Program Income	15,000	
Award Amount		\$150,000
Total Available for Project Expenses		\$165,000

**DEDUCTION METHOD**

Requested Budget	\$150,000	
Estimated Program Income	15,000	
Award Amount		\$135,000
Total Available for Project Expenses		\$150,000

**COST SHARING OR MATCHING METHOD**

Requested Budget	\$150,000	
Cost Sharing (University)	15,000	
Estimated Program Income (will satisfy Univ c/s)	15,000	
Award Amount		\$150,000
Total Available for Project Expenses		\$165,000

## COMBINATION METHOD

Requested Budget	\$150,000	
Estimated Program Income	35,000	
Agency Dollar Limit of Program Income (Additive)	25,000	
Deductive Amount of Program Income	10,000	
Award Amount		\$140,000
Total Available for Project Expenses		\$175,000

### III. Legal Support, Justification, and Review of this Policy

*OMB Circulars A-21, A-110, A-133 and related Compliance Supplement*

*National Science Foundation (NSF) Grants Policy Manual*

*National Institutes of Health (NIH) Grants Policy Statement*

*U.S. Department of Education, EDGAR Part 74, Administration of Grants and Agreements with IHE's, Hospitals, Non-profits*

*45 CFR 74, DHHS Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations.*

*2 CFR 200— Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*

Applicable Federal agency guidelines

Fla. Stat. 1004.22.

These policies will be reviewed periodically and updated when necessary.

Gary K. Ostrander, Vice President for Research

February 4, 2016