

§ 75.307 Program income.

(a) *General.* Non-Federal entities are encouraged to earn income to defray program costs where appropriate.

(b) *Cost of generating program income.* If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

(c) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in the Federal award or HHS awarding agency regulations as program income.

(1) The Patent and Trademark Laws Amendments, 34 U.S.C. 200-212, apply to inventions made under an award for performance of experimental, developmental, or research work.

(2) Unless the terms and conditions for the Federal award provide otherwise, recipients shall have no obligation to HHS with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under a Federal award. However, no scholarship, fellowship, training grant, or other funding agreement made primarily to a recipient for educational purposes will contain any provision giving the HHS awarding agency rights to inventions made by the recipient.

(d) *Property.* Proceeds from the sale of real property, equipment, or supplies, are not program income; such proceeds will be handled in accordance with the requirements of subpart D of this part, §§ 75.318, 75.320, and 75.321, or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.

(e) *Use of program income.* If the HHS awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the HHS awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply unless the recipient is subject to conditions under § 75.207 or § 75.216. In specifying alternatives to paragraphs (e)(1) and (2) of this section, the HHS awarding agency may distinguish between income earned by the recipient and income earned by subrecipients and between the sources, kinds, or amounts of income. When the HHS awarding agency authorizes the approaches in paragraphs (e)(2) and (3) of this section, program income in excess of any amounts specified must also be deducted from expenditures.

(1) *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 HHS 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.

(2) *Addition.* With prior approval of the HHS awarding agency (except for IHEs and nonprofit research institutions, as described in paragraph (e) of this section), 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.

(3) *Cost sharing or matching.* With prior approval of the HHS awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

(f) *Income after the period of performance.* There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award, unless the HHS awarding agency regulations or the terms and conditions of the award provide otherwise. The HHS awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process. See also § 75.381.

(g) Unless the Federal statute, regulations, or terms and conditions for the Federal award provide otherwise, the non-Federal entity has no obligation to the HHS awarding agency with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under a Federal award to which 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts and Cooperative Agreements” is applicable.

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