



# University of Colorado Denver

---

## Campus Guidelines

<b>Title:</b>	<b>Program Income, 4-11</b>
<b>Source:</b>	<b>Office of Grants and Contracts</b>
<b>Prepared by:</b>	<b>Director of the Office of Grants and Contracts</b>
<b>Approved by:</b>	<b>Vice Chancellor for Research</b>
<b>Effective Date:</b>	<b>February 1, 2011</b>
<b>Replaces:</b>	<b>Fiscal Policy for Program Income, 4-11, May 1, 2009</b>
<b>Applies:</b>	<b>All Campuses</b>

---

### A. Introduction

The purpose of this policy is to establish guidelines and procedures for the identification and reporting of grant and contract program income. Each University of Colorado Denver (UCD) administrative unit is responsible for complying with and enforcing the policies and procedures outlined herein. Any penalties, disallowances or losses of funding caused by non-compliance with this policy will be assessed against the department. This policy applies to all program income earned by UCD that is directly generated by or earned as a result of a grant or contract sponsored program activity.

### B. Table of Contents

- A. Introduction
- B. Table of Contents
- C. References
- D. Definitions
- E. Policy Statement

### C. References

1. 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*, Subpart C – Post-Award Requirements, Financial and Program Management

2. National Institutes of Health Grants Policy Statement on Program Income, October 1, 2010
3. National Science Foundation Grant General Conditions, June 15, 2005
4. Department of Health and Human Services CFR Title 45, Part 74, Uniform Administration Requirements, Subpart C.
5. Bayh-Dole Act, 37 C.F.R Part 401.14 (h)

#### **D. Definitions**

1. Federally Sponsored Agreement means any grant, contract, or other agreement between the University and the Federal Government, or any subgrant, subcontract, or other agreement received by the University with the prime source of funding from the Federal government.
2. Program Income means gross income earned by the grantee, consortium participant, or a contractor under a grant, that is directly generated by grant supported activity or earned as a result of sponsored program award. Program income includes but is not limited to:
  - a. income from fees for services performed (e.g., as laboratory tests);
  - b. charges for the use or rental of real property, equipment, or supplies acquired under a grant;
  - c. the sale of commodities or items fabricated under an award;
  - d. charges for research resources;
  - e. registration fees for grant-supported conferences;
  - f. license fees and royalties on patents and copyrights.

Program income from license fees and royalties from copyrighted material, patents, and inventions is exempt from reporting requirements unless otherwise specified in the terms and conditions of award.

3. Sponsored Projects are research, instructional, or public service activities that are related to the mission of the UCD and sponsored by external agencies or entities. If an award meets at least one of the following criteria, it is likely a Sponsored Project. However, the existence of any one of the criteria may not be determinative.

- a. The award is a grant or contract from a governmental entity, unless exempted under OMB Circular A-21.
- b. The proposal responds to a Request for Application (RFA), Request for Proposal (RFP), or other formal solicitation, and the project is initiated by notice of award. Certain RFPs issued by private charitable foundations may not qualify as a Sponsored Project.

- c. The award includes terms that bind the university to a list of scholarly or scientific inquiry.
- d. The Statement of Work specifies programmatic objectives mutually agreed upon by the university and the sponsor, which are to be accomplished within a specific period of time or within a detailed budget framework.
- e. The sponsor is entitled to receive the following types of deliverables: a detailed technical report of research results, milestone reports, or a required report of allowable expenditures. Certain reporting requirements of private charitable foundations that are stewardship- or accountability-oriented may not qualify as Sponsored Projects.
- f. The award requires separate accounting procedures and detailed financial reports.
- g. The sponsor requires the return of unexpended funds or only reimburses for incurred costs (expenditure-driven).
- h. The award provides for compliance audits by or on behalf of the sponsor, which may or may not include a financial audit.
- i. The award is for a project requiring compliance oversight including, but not limited to: human subjects, animal use, biohazards, or bio-safety.
- j. The award terms include publication or data restrictions or monitoring.
- k. The sponsor requests intellectual property rights or controls the disposition of capital equipment.
- l. The award is by a sponsor who has licensing rights to inventions from the same lab/researcher benefiting from the award.
- m. The sponsor designates a sponsor employee (agent) as project technical monitor (as opposed to designating a contact person to improve communications).
- n. The award is for a sub-award project under a federal award.
- o. The award requires a matching or cost sharing commitment on the part of the university.
- p. The award generates program income to a federal award.
- q. The award from the sponsor is for membership fees to centers and affiliate programs. The university may receive membership fees for its centers and affiliate programs, as characterized by any one of the following examples:

- i. The member agreement imparts “Center Member” status to the sponsor.
- ii. The member receives the right to exert any type of control over the operation of the institute, center or program.
- iii. The member receives special or discounted access to laboratories or other university facilities for its use.
- iv. The member receives patent, licensing rights, or other intellectual property rights provisions benefiting the sponsor.

## **E. Policy Statement**

### **1. General**

OMB Circular A-110 requires recipient organizations to account for program income related to projects financed in whole or in part with Federal funds and specifies three different methods for use of program income generated during the grant award period.

### **2. Responsibilities Related to Program Income**

#### **a. Principal Investigator/Department**

During the proposal development process, the Principal Investigator (PI) is responsible for identifying actual and/or potential program income from the sponsored program. If it is determined that program income could result from an award, the PI or designee should contact the funding agency to determine whether program income is permissible. The Office of Grants and Contracts (OGC) PreAward section should also be consulted.

In accordance with guidelines from the awarding agency, the proposal should disclose anticipated program income. At the time of routing, the PI should clearly identify in the proposal that the award may result in program income and should include an estimate of the amount of program income expected to be generated during the time period of the award.

If program income was not anticipated but results from program activities, the PI should contact OGC PostAward to ensure appropriate tracking and accounting of program income.

The PI is responsible for any program income generated by subrecipients to the prime award.

#### **b. Grants and Contracts**

If it is known at the time of the award that program income will be generated, OGC will establish the appropriate program/project budget and/or accounting entries in the accounting system so that program income can be appropriately tracked and accounted for.

The awarding agency will be contacted as necessary to discuss management and reporting of the program income in accordance with all applicable

regulations. In all cases, program income shall be deposited into the University's accounting system. Incoming monies will be deposited promptly in accordance with University fiscal policies and procedures for effective cash management.

### 3. Use of Program Income

Program income shall be used in accordance with the awarding agency's rules and regulations and the terms and conditions of the award. Program income earned during the project period shall be retained by the recipient and used in one or more of the following ways:

a. Additive Alternative: Added to funds committed to the project or program and used to further eligible project or program objectives.

b. Deductive Alternative: Deducted from the total project or program allowable costs in determining the net allowable costs on which the Federal share of costs is based.

c. Combination Alternative: Uses all program income up to (and including) \$25,000 as specified under the additive alternative and any amount of program income exceeding \$25,000 under the deductive alternative.

d. Matching Alternative: Used to satisfy all or part of the non-Federal share of a project or program.

The additive alternative will normally apply to program income resulting from research awards unless there is a concern with the recipient or activity or the program requires a different alternative. Program income must be spent according to the sponsor's costing policies, including OMB Circular A-21 for federal awards. The awarding agency may have separate rules and regulations that specify the time frame during which the program income must be used, e.g., during the effective period of the award or after the award has ended and requirements for maintaining the residual balance at the end of the award. Consult the terms and conditions of the award or the Federal awarding agency regulations for guidance.

### 4. Reporting of Program Income

#### a. Generally

OGC will report program income as required by the awarding agency. When appropriate, OGC will initiate refunds to those agencies that require reductions in the monies provided by the agency (generally in those instances where program income is to be used to offset awarding agency funding) if full funding has already been received by UCD. Unless the regulations of a Federal awarding agency state otherwise, UCD shall have no obligation to the Federal government for program income earned after the project period.

b. License Fees and Royalties

Generally, grantees are not required to report program income resulting from royalties or licensing fees from the sale of copyrighted material unless specific terms and conditions of the award provide otherwise. The Notice of Award may include special terms and conditions if commercialization of an invention is an anticipated outcome of a research project.

Notwithstanding the foregoing, UCD must comply with the Bayh-Dole Act which requires reporting of income resulting from by NIH-funded inventions and patents. As part of the annual invention utilization report, UCD is required to report income generated by all subject inventions to which title has been elected and by inventions such as research tools that have been licensed but not patented. The University of Colorado Technology Transfer Office should be consulted for guidance on this requirement.

<b>PROGRAM INCOME PROCESS</b>	
<b>Performed By:</b>	<b>Action:</b>
Requestor/Department	<ol style="list-style-type: none"> <li>1. Prepare proposal budget. <ul style="list-style-type: none"> <li>• If the proposal budget includes program income which could result if an award is made, contact both the funding agency and OGC to determine allowability of program income. Complete proposal following agency guidelines.</li> </ul> </li> <li>2. Document the potential for program income in the proposal. Provide estimate of anticipated program income.</li> <li>3. Submit this form as part of the proposal approval process to OGC.</li> </ol>
Grants and Contracts	<ol style="list-style-type: none"> <li>4. Upon award receipt, coordinate with the department regarding establishment of program income program/project. <ul style="list-style-type: none"> <li>• Assist the department as appropriate in completing necessary forms and/or answering questions regarding policy and procedure.</li> </ul> </li> </ol>
Requestor/Department	<ol style="list-style-type: none"> <li>5. Follow established procedures for the deposit of program income. See Fiscal Policy 2.2, Cash Receipts and Deposits. <ul style="list-style-type: none"> <li>• If program income was not anticipated but the award is generating income, contact the Grants and Contracts PostAward administrator to establish appropriate tracking and handling procedures.</li> </ul> </li> </ol>
Grants and Contracts	<ol style="list-style-type: none"> <li>6. Review agency award document and/or agency communication concerning use of program income, and communicate with department/agency. <ul style="list-style-type: none"> <li>• The sponsor determines program income use.</li> <li>• Agency may restrict the time frame when the money is available for use and for maintaining residuals at the end of the award. Refer to Federal awarding agency regulations or the terms and conditions of the award for guidance.</li> </ul> </li> </ol>
Requestor/Department	<ol style="list-style-type: none"> <li>7. For program income monies available for expenditure, process expenditure documents, monitor program income program/project budget status and ensure compliance with appropriate costing policies. If subrecipient generates program income, monitor income to ensure compliance with award requirements and reporting.</li> </ol>
Grants and Contracts	<ol style="list-style-type: none"> <li>8. Report program income as required. <ul style="list-style-type: none"> <li>• Initiate refunds to agencies requiring reduction in monies provided by the agency when program income is used to offset funding from the awarding agency and full funding has been received by UCD.</li> <li>• Take other action as appropriate.</li> </ul> </li> </ol>