



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

## CLOSEOUT MEMORANDUM

Case Number: I03120069

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A proactive review of various Conference Grants identified several issues requiring additional review regarding an NSF Award.<sup>1</sup> The company<sup>2</sup> that received the award was contacted and asked to provide some additional information regarding the use of the award funds. The initial response from the company indicated that the award funds had been used to supplement the cost of preparing and producing the conference proceedings as originally stated in its proposal. However this response did not identify any specific costs charged to the grant nor did it supply any financial documentation to support the company's response. Additionally, the initial review identified that the proceedings were published on CD ROM and these CD ROMs were offered for sale, raising questions about income generated by the sale of the CD ROMs and if the income should be treated as Program Income.

We requested additional clarification and documentation from the company to support the expenses funded by the award. We received the response from the company including financial documentation identifying the total cost of preparing the CD ROMs.

Additional research was conducted to determine if the income generated by the sale of the CD ROMs, since meeting the definition of program income, falls under the requirements of the award. A review of the General Grant Conditions (GC-1), dated 04/01, Section 18 (b)(1), found that, "*unless otherwise specified, the awardee shall have no obligation to NSF with respect to: (1) license fees and royalties for copyrighted material...*" This statement was also found in OMB Circular A-110, Section 24 (h). We concluded that though profits from the sale of CD ROMs constitute program income, the exemption discussed above applies, and the profit need not be used in accordance with the terms of the award.

Based on the supporting documentation submitted by the company, we were satisfied that the grant funds were used in accordance with the terms of the award, and further, that the grantee had no obligation to NSF with regard to profit received from the sale of the CD ROMs produced. Thus, it is our conclusion that the company met the conditions of the award and that no further investigation is warranted.

Accordingly, this case is closed.

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<sup>1</sup> Redacted

<sup>2</sup> Redacted



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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		