

Section 9.4: Other Closeout Requirements

PURPOSE AND POLICY

State grants programs and their accompanying agreements may involve intellectual property of various types. The originating funding source and correlating grant programs may have certain rights with respect to intellectual property that results from work funded by these programs, including those described below.

Copyright. In general, the state reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for state purposes:

1. the copyright in any work developed under a subaward, and
2. any rights of copyright to which a subrecipient purchases ownership with award funds. Manuals, articles, films, graphics, and software are some of the types of materials that may be “works” subject to copyright.

The originating source funding and therefore, the funder, may have similar rights, too. If that is the case, the originating funder will hold precedent over the state.

Patents – In General. With respect to an invention or discovery that is or may be patentable and was conceived or first introduced to practice in the performance of work under an award, the state retains, at a minimum, a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the invention throughout the world (that is, in general terms, the state retains a royalty-free license for use of the invention by or on behalf of the state). Recipients of state subawards are to report promptly any such invention to the appropriate state grantor agency. The originating source funding and therefore, the funder, may have similar rights as well. If that is the case, the originating funder will hold precedent over the state.

Patents – Invention Report Prior to Grant Closeout. Prior to closeout of an award for the performance of experimental, developmental, or research work, the grant program manager may want to seek from the subrecipient an invention report. The invention report should list all inventions or discoveries that are or may be patentable that were conceived or first actually reduced to practice in the performance of work under the subaward. If there were no such inventions, the subrecipient should submit a report that states that there were no such inventions or discoveries. If an invention report lists one or more inventions or discoveries, the grant program manager should consult with the appropriate state agency legal counsel prior to closeout.

Specific state agency questions regarding intellectual property (including copyrights, data rights, and patents) and their grant programs should be directed to their respective agency legal counsel for clarification.

Additional information

In addition to the information included in this chapter, grant program managers should review the State of Arizona Accounting Manual (SAAM) Topic 70, Section 35: [Close-outs and Records Retention When the State is the Grant Recipient](#) for information that may be relevant to their program/grant’s close-out procedures.