



Comments on Public Access to Federally Supported Research

The Electronic Frontier Foundation (EFF) welcomes this opportunity to provide public comment to the National Research Council (NRC) Division on Behavioral and Social Sciences and Education (DBASSE) about the Office of Science and Technology Policy (OSTP) memorandum on public access to federally funded research.

EFF (<https://eff.org>) is a nonprofit civil liberties organization that has worked for more than 20 years to protect consumer interests, innovation, and free expression in the digital world. EFF and its more than 20,000 dues-paying members have a strong interest in helping policy-makers craft practices that promote innovation and government transparency, while also striking an appropriate balance between intellectual property and the public interest.

EFF supports the major objective of the OSTP memorandum: securing public access to federally funded research. The benefits of an open access arise when the largest number of people can access and act upon knowledge with the least number of restrictions. To facilitate that, agency policies should adhere as closely as possible to at least three principles:

- **Timely collection:** Ideally, agencies should require researchers to submit final manuscripts to a repository immediately upon acceptance for publication in a peer-reviewed journal;
- **Timely dissemination:** Agencies should make these manuscripts available immediately under an open license that allows for full access and reuse; and
- **Standardization:** Agencies should make manuscripts and associated data available in a standard format for easy, bulk download and interaction.

Reuse and Interoperability

Open access policy has always had twin goals: to provide public access to scholarly research, which is often hindered by price and logistical barriers; and also to allow for reuse of such material (i.e., for downstream research or innovation), which is often barred by legal barriers. The OSTP memorandum helps fulfill one of these goals by mandating public access to both research and data.

However, the policy is mum on facilitating reuse.

We urge agencies to adopt a licensing policy that incentivizes reuse. Such a policy would allow for downstream researchers to incorporate text mining or meta-analyses into their own works, or for startups to tap into vast repositories of knowledge in order to rapidly progress new innovations. It is important for no single entity to have exclusive rights over the work of research. We encourage agencies affected by the OSTP memorandum to include provisions that would not only make research works available, but also include language in funding provisions that includes a strong reuse policy.

Simple accessibility should not be the only goal of a public access policy. Research works should be made intrinsically useful through not only open reuse policies, but also through following standards that allow interoperability across agencies. Federally funded research should not be confined to silos, but rather be made available so as to facilitate comparisons, cross-references, and, where appropriate, consolidation. That, in turn, should facilitate new insights and potentially fruitful research paths.

Articles should, at the least, be available online in a standard format. Current technology exists to scan basic PDFs and populate databases with relevant metadata; agencies should not have to reinvent the wheel. We encourage agreeing on certain technical standards and protocols across agencies, so the ability to act and innovate upon research material and data from a variety of funding sources is manageable—and adaptable to future technologies. The NIH's PubMed Central (PMC) repository does a great job of collecting proper text, metadata, and supplementary data; we encourage agencies to use PMC as a model.

Ideally, the full text, metadata, citations, and data would be available in a machine-readable format through a standardized API or protocol.

Reader Privacy

Just as readers may anonymously browse books in a library or bookstore, readers should be able to search, browse, and preview content without being forced to identify themselves. Thus, agencies should ensure that searching and previewing content does not require user registration or the affirmative disclosure of any personal information; commit that they will not connect any information it collects from an individual with the same individual's use of other services without her or his specific, informed consent; purge all logging or other information related to individual uses no later than 30 days after the use to ensure that this information cannot be used to connect particular articles viewed to particular computers or users; and allow users of anonymity providers, such as Tor, proxy servers, and anonymous VPN providers, to access the databases.

In the interest of transparency and enforceability in the protection of reader privacy, at a minimum, agencies should also provide a robust, easy-to-read, and easy-to-access notice of their privacy provisions; ensure that any commitment it makes to protecting privacy is legally enforceable and that all data it collects about its users is stored such that it is subject to U.S. legal protections; and annually publish online, in a conspicuous and easily accessible area of its website, the type and number of requests it receives for information about its users, if any.

Summary

EFF supports the White House's efforts to bring public access to federally funded research. We hope that agencies adopt policies that not only bring availability to research as quickly as possible, but also allow for the broadest forms of reuse in order to boost the progress of science and foster the growth of downstream innovations. We urge agencies to adopt an open licensing scheme, and we also encourage government entities to operate in a way that respects user privacy.

Respectfully submitted,

/s/

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