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The Emerging Open Access Policy Framework in the United States

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Drivers

Annual Federal Government investment of ~US$60 billion on basic and applied scientific research.

Expectation that new ideas will be generated, new discoveries will be uncovered, and our collective understanding of the world and our interactions with it will be enhanced.

This can only happen if we can **access** and **use** the results of this research.

Working theory is that policies that encourage **open access** to the results of this research will **accelerate** and significantly **improve** **expected** **outcomes**.

- Stimulate new ideas
- Accelerate scientific discovery
- Improve educational outcomes
- Fuel innovation
- Grow the economy/create jobs
- Improve the welfare of the public

The U.S. increasingly recognizes the need to create a policy framework that supports all stakeholders in a transition to a *more open system* of sharing research results.

Precedent

Sources of U.S. Information Policy

- Copyright Act (17 U.S.C. 105)
- Freedom of Information Act
- Paperwork Reduction Act
- Electronic FOIA Amendments, 1996
- Gov’t Paperwork Elimination Act
- Office of Management and Budget (OMB) Circular No. A-130

"…Government information is a valuable national resource, and… the economic benefits to society are maximized when government information is available in a timely and equitable manner to all."

-OMB Circular A-130

"Open and unrestricted access to public information at no more than the cost of dissemination.."

- OMB Circular A-130

"Governments would boost innovation and get a better return on their investment in publicly funded research ***by making research findings more widely available….*** And by doing so, they would maximize social returns on public investments."

-- International Organization for Economic Cooperation and Development, 2005

Policy Focus & Key Milestones

Public is entitled to access and use the results of research their tax dollars pay for.

Results = Articles & Data

Taken about a decade for policies supporting this statement to be developed, adopted and implemented.

Started with one U.S. Agency.

The U.S. National Institutes of Health funds ~US$30 billion in basic and applied biomedical research each year – roughly half of the total U.S. annual research investment.

July 2004

“The Committee is very concerned that there is insufficient public access to reports and data resulting from NIH-funded research. This situation, which has been exacerbated by the dramatic rise in scientific journal subscription prices, is contrary to the best interests of the U.S. taxpayers who paid for this research…”

-U.S. House Appropriations Committee, 2004

“The Committee is aware of a proposal to make articles generated by NIH-funded research available on PubMed Central (PMC). The Committee supports this proposal and recommends that NIH develop a policy requiring that an electronic copy of manuscripts reporting work supported by NIH be provided to PMC.”

NIH subsequently piloted a voluntary Open Access policy for 3 years (2004-2007)

"The NIH shall *request* that all investigators funded by the NIH submit to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available *no later than 12 months* after the official date of publication."

Key Policy Components:

- “Green” Policy – silent on “Gold”
- Covers Authors final manuscripts
- Deposit upon acceptance in journal
- Embargo period of author’s choice (0-12 months)
- Largely silent on reuse right

Less than 5% of eligible researchers complied with “request.”..”

January 2008

"The NIH shall *require* that all investigators funded by the NIH submit to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available *no later than 12 months* after the official date of publication."

-Consolidated Appropriations Act, 2008

2008-2013

- Over 2.9 million full text articles
- Accessed by over 1 million unique users each day
- ~ 2/3rds of users come from outside of academe.
- Compliance rate is over 80%
- Costs 1/100th of 1% of NIH's overall operating budget to implement.

5 Years of Data from NIH Informed consideration of additional Open Access Policies in the U.S….

…But not without extensive debate/discussion.

- Extensive public comment sessions
- Congressional “Roundtable” convened
- Interagency Working Group convened
- Briefings, hearings, stakeholder meetings held

- Attempts to overturn/prohibit expansion of NIH Policy
  - Fair Copyright in Research Works Act (2006, 2008)
  - Research Works Act (2011)
- Attempts to extend NIH Policy
  - Federal Research Public Access Act (2006, 2010)
  - Fair Access to Science and Technology Research Act (2013)

Current Landscape

In February 2013, The Obama Administration issued an Executive Directive supporting expansion of NIH-like policies to all other U.S. federal science agencies.

"The Obama Administration is committed to the proposition that citizens deserve access to the results of scientific research their tax dollars have paid for… "

- *Dr. John Holdren, U.S. Presidential Science Advisor*

"Public access policies will accelerate scientific breakthroughs and innovation, promote entrepreneurship and enhance economic growth and job creation…"

-Dr. John Holdren, U.S. Presidential Science Advisor

Directive applies to ~20 U.S. Federal Agencies and Departments

Directive applies to both articles and data.

Articles

- “Green” policy – silent on “Gold”
- Repository can be maintained or approved by agency
- Covers final manuscripts *or* published articles
- Requires enabling articles to be read, downloaded and analyzed in digital form.

- Uses 12 month embargo as “guideline”
- Provides mechanism for stakeholders to change embargo
- Requires metadata standards to ensure interoperability
- Requests supplemental data/link
- Requires long term preservation strategy

Data

- Maximize access
- Protect privacy/confidentiality and proprietary interests
- Balance costs/benefits of long term preservation
- Require researcher-driven data management plans

Agency draft plans submitted to WH in August, and three primary compliance options have emerged:

- NIH-like model ("PubFed")
- Publisher-maintained solution (CHORUS)
- University/Library partnership (SHARE)

Lots of room for interpretation.

Additionally, directive is a regulation, not legislation.

Much of the activity in U.S. now (and for the forseeable future) is centered around *interpretation, implementation* and *codification* of the White House Directive.

New Federal Legislation Proposed

- FASTR (codify directive, shorten embargo to 6 months, add explicit guidance on licensing
- PAPS (codify directive essentially as stands)
- FIRST (codify directive, extend embargo 2-3 years, remove deposit requirement)

New State Legislation Proposed

- Illinois (Signed into law, 8/2013)
- California (Passed Assembly, vote due in Senate, 1/2014)
- New York (Pending first vote)

All three proposed State bills are built on the framework employed by NIH Policy and FASTR, and are complimentary with the WH Directive.

First time that the U.S. has had active, coordinated Open Access policy proposals in play at Executive Branch level, in Congress, and on States Level...

…All based on one consistent, focused framework.