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COGR Response to OSTP Peer Reviewed Scholarly Publications

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January 12, 2012

Task Force on Public Access to Scholarly Publications
National Science and Technology Council
Office of Science and Technology Policy

SUBJECT: Request for Information: Public Access to Peer-Reviewed Scholarly Publications Resulting from Federally Funded Research

The Council on Governmental Relations (COGR) is an association of 188 research universities and their affiliated academic medical centers and research institutes. COGR concerns itself with the influence of federal regulations, policies and practices on the performance of research conducted by its member institutions. Our goal is to ensure that federal policy goals can be met in an effective and efficient manner without creating administrative structures that may hinder compliance.

COGR offered written and testimonial comment to the National Institutes of Health (NIH) as it developed its policy to enable public access to NIH-funded research. As we noted in our January 2010 response to the Office of Science and Technology Policy's (OSTP) request for information concerning Federal government-wide public access policies, we support the goal of providing timely, easier and less costly access to publications that result from federally funded research and observed that the public does have such access through various material depositories including traditional libraries and, increasingly, through electronic sources.

This new request for information raises a series of specific questions and we offer the following responses to some of those questions.

Comment 1: Growing markets related to access and analysis and using those markets to grow the economy and improve productivity of the scientific enterprise.

> Publications resulting from Federally supported research are available to the public. A publication is a synthesis of the activities and findings of research and is generally of greatest use to other scientists working on similar or related problems. Thus, the relationship between access to a publication and scientific productivity is a key component in advancing the scientific enterprise.
>
> However, no single publication is going to spur economic development and it is dangerous to tie an individual publication

directly to economic growth. Like access to research data, access to research publications will not provide a direct link to a new business or activity and to set that as an expectation is unreasonable and unattainable. In addition to this tenuous relationship, some would argue that the discussions concerning immediate public access and the ability of publishers – non-profit as well as private publishing houses – to maintain viable business models undermines the stability and growth of the existing publishing market. It would be important to avoid creating policies or regulations that undermine the markets for those businesses and organizations that provide access including both private and non-profit publishers.

Comment 2: Protection of Intellectual Property

The assignment of the ownership of the intellectual property as reflected in a publication, itself, as opposed to the intellectual property reflected in an invention and/or the associated research data is the responsibility of the author; in this case the investigators, scientists, etc. Institutions remind investigators to maintain their rights individually to use the information included in a publication for educational and research purposes. We can provide them with proposed language to insert in copyright agreements to enable access but, ultimately, the responsibility falls to the investigators/authors of the publication.

Without the appropriate protections to the assigned copyright, publishers may be reluctant to include the work of Federally sponsored investigators in their publications. Absent these protections and this outlet, public access will be profoundly undermined.

Comment 3: Central versus Decentralized Management of Access

As the most obvious "central" repository, we wonder that the Federal government wants to assume the responsibility of publishing or providing publication oversight to all the published results of Federally sponsored research. It would not be an effective or reasonable use of Federal resources and does not necessarily provide for better stewardship of the scientific resources than the current system. Setting standards for interoperability, search functions, etc., given the global diversity of publishers, disciplines, formats, platforms, etc., is not likely to be productive. Long-term access to publications of enduring value derives from the "scientific marketplace" itself. By that we mean, those publications that provide a foundation for continuing scientific inquiry remain viable and available through reprints, incorporation of the publication itself and/or its salient features into compilations or compendium, etc. Creating requirements for long-term archiving may only create a warehouse of dated information, duplicative of archives maintained by publishers, which do not enhance access.

Comment 6: Maximizing Benefit while Minimizing Cost and Burden

For grantee institution, this dilemma is the crux of the challenge. Our concern remains grounded in the nature of the institution's relationship – or lack thereof – to the process of publication. Institutions do not join in the relationship between authors and journals. However, as the recipient of federal awards, a research institution is obligated to meet the terms and conditions of all its agreements. As such, institutions must act to ensure compliance with any government-wide requirement directed at achieving public access. We can remind our investigators to maintain their rights individually to provide public access and ensure that the published version is available in the appropriate format for search and analysis. We can provide them with model language to insert in copyright agreements to enable access.

Nonetheless, the responsibility falls to the investigators/authors of the publication. It is very difficult for institutions to effectively track compliance with these obligations. Publications that result in whole or in part from a federally sponsored award may appear several years after the completion of the funded research. The investigator/author may have moved to a new institution in the intervening period. Tracking publications from collaborative research with investigators/authors from more than one institution is a monumental task. Over time, one could anticipate that compliance with a government-wide policy will become a usual and customary practice in the research community and, as a result, investigators/authors will meet this obligation as a regular part of the publication process. But in the intervening period, the burden associated with a government-wide mandated process will be significant.

The costs to the institution and/or investigator are real. As NIH has moved forward with its policy on public access, investigators have discovered a shifting of publication costs to the author. There are direct charges for the submission of articles – "article processing charges." Journal charges to authors for public access for a single article have reached, in some cases, $3,000. NIH has reminded the community that publication charges are an allowable expense against a grant. However, in many cases publications will be accepted after a grant has closed. As a result, research institutions will be expected to assist investigators in meeting these unexpected costs, putting greater strain on institutions that already provide more than 20 percent of the funds to conduct research in the US. Charging these publication costs to a grant, if possible, will result in a real reduction in funds available to conduct the research itself. Absent a government-wide investment to support the costs of publication, a government-wide policy requiring public access to publications becomes an additional unfunded mandate for the research community.

Comment 7: Broaden Coverage to all written publications

Expanding the current public access model from journal articles to book chapters, conference proceedings, etc., will only exacerbate the costs and burden. Books are available in libraries; conference proceedings are often works in progress that may, eventually, be presented in print either in a journal or book. Pursing these research products will not enhance access to the ideas and data.

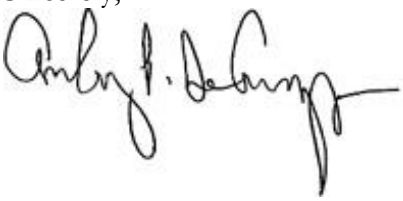
Comment 8: Publishing Community Response

The publishers are, in general, the holders of the copyrights to the published article and, as such, are the party responsible for providing public access. We are unaware of any evidence that the customary embargo of twelve months has prevented access to publications, hindered the growth of existing and new markets or undermined the productivity of the American scientific enterprise.

Thank you for this opportunity to comment on OSTP's continuing consideration of the value of public access to peer-reviewed publications. We would note that the America COMPETES Reauthorization Act of 2010 (PL 111-358) Sec. 103 does not assume that a single, government-wide policy is appropriate and charges the Interagency Public Access Committee with coordinating agency activities concerning access to publications and data.

COGR has long supported harmonization and coordination among the Federal agencies in order to streamline the compliance with Federal mandates and regulations. In the case of access to publications, we would suggest that the challenge to access is not the result of the activities or policies of the research performers. Changes in policies or regulations directed at the performers, as opposed to the providers, that limit publishing the results of Federally funded research is not an outcome that supports access.

Sincerely,



Anthony P. DeCrappeo
President