Managing Public Access to Results of Federally Funded Research Policy

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I. PURPOSE

Pursuant to the Office of Science and Technology Policy (OSTP) Memorandum for the Heads of Executive Departments and Agencies of February 22, 2013, Increasing Access to the Results of Federally Funded Scientific Research\(^1\), Executive Order of May 9, 2013, Making Open and Machine Readable the New Default for Government Information\(^2\), and the Office of Management and Budget (OMB) Memorandum for the Heads of Executive Departments and Agencies of May 9, 2013, Open Data Policy – Managing Information as an Asset\(^3\), this directive establishes a governing policy for managing data and providing public access to results of federally funded research, i.e., scientific research results, including data and NIST’s scholarly and technical publications, in all media.

II. SCOPE

This policy applies to\(^4\):

1. Research data\(^5\) means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (e.g., laboratory samples).

Research data also does not include:

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\(^1\) http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf
\(^4\) This policy applies to all NIST employees, including full- and part-time employees, temporary government employees, and special government employees, and to associates engaged in research activities at or for NIST, to the extent allowed by law and the terms of the Associate’s agreement. A non-NIST organization that publishes scholarly and technical material, including data, through activities funded wholly or in part by NIST through a grant, cooperative agreement, contract, or other agreement, must manage public access to published scholarly and technical material, including data, as specified by NIST in the terms and conditions of the grant, cooperative agreement, contract, or other agreement between NIST and the non-NIST organization.
Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.\(^6\)

2. Published scholarly and technical material, which may include data.

### III. LEGAL AUTHORITIES AND REFERENCES


2. References
   
   
   
   
   
   
   
   
h. *5 CFR Part 1320, Controlling Paperwork Burdens on the Public*
   
i. *15 CFR Part 4, Subpart A, Freedom of Information Act*
   
   
   
   

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\(^6\) To the extent this information is used in research, for example, electronic health records, the policy applies, but such information may only be made publicly available consistent with applicable laws, regulations and policies. NIST employees must consult with the NIST Human Subjects Protections Office and the Office of the Chief Counsel for NIST before making such information public.
IV. POLICY

To the extent feasible and consistent with law, agency mission, resource constraints, and U.S. national, homeland, and economic security, NIST will promote the deposit of scientific data arising from unclassified research and programs, funded wholly or in part by NIST, except for Standard Reference Data, free of charge in publicly accessible databases. Subject to the same conditions and constraints listed above, NIST also intends to make freely available to the public, in publicly accessible repositories, all peer-reviewed scholarly publications arising from unclassified research and programs funded wholly or in part by NIST.

The NIST Associate Director for Laboratory Programs is responsible for ensuring that requirements, processes, and procedures are developed, implemented, and maintained to ensure that NIST makes this information available to the public. The NIST Associate Director for Laboratory Programs may delegate this authority.

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7 NIST has explicit authority to license Standard Reference Data. See 15 U.S.C. §§ 290-290f, Standard Reference Data Act