

# NIH Public Access Policy

**Notice Number:** NOT-OD-08-033 - (See Notice [NOT-OD-08-057](#))

Effective Date: April 7, 2008

In accordance with Division G, Title II, Section 218 of PL 110-161 (Consolidated Appropriations Act, 2008), the NIH voluntary Public Access Policy ([NOT-OD-05-022](#)) is now mandatory. The law states:

*The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them 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: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.*

## Specifics

1. The NIH Public Access Policy applies to all peer-reviewed articles that arise, in whole or in part, from direct costs funded by NIH (costs that can be specifically identified with a particular project or activity) that are accepted for publication on or after **April 7, 2008**.
2. Institutions and investigators are responsible for ensuring that any publishing or copyright agreements concerning submitted articles fully comply with this Policy.
3. PubMed Central is the NIH digital archive of full-text, peer-reviewed journal articles. Its content is publicly accessible and integrated with other databases (see: <http://www.pubmedcentral.nih.gov/>).
4. The final, peer-reviewed manuscript includes all graphics and supplemental materials that are associated with the article.
5. Beginning **May 25, 2008**, anyone submitting an application, proposal or progress report to the NIH must include the PMC or NIH Manuscript Submission reference number when citing applicable articles that arise from their NIH funded research. This policy includes applications submitted to the NIH for the May 25, 2008 due date and subsequent due dates.

## Compliance

Compliance with this Policy is a statutory requirement and a term and condition of the grant award and cooperative agreement, in accordance with the *NIH Grants Policy Statement*. For contracts, NIH includes this requirement in all R&D solicitations and awards under Section H, Special Contract Requirements, in accordance with the Uniform Contract Format.

## How to Comply

### **1. Address Copyright**

Make sure that any copyright transfer or other publication agreements allow the article to be submitted to NIH in accordance with the Policy.

### **2. Submit Article**

Authors may submit an article to the journal of their choice for publication.

- If you choose to publish your article in certain journals, you need do nothing further to comply with the submission requirement of the Policy. See [http://publicaccess.nih.gov/submit\\_process\\_journals.htm](http://publicaccess.nih.gov/submit_process_journals.htm) for a list of these journals.

- For any journal other than one of those in this list, the author must:
  - a. Inform the journal that the article is subject to the Public Access Policy when submitting it for publication.
  - b. Make sure that any copyright transfer or other publication agreement allows the article to be submitted to NIH in accordance with the Policy. For more information, see the FAQ [Whose approval do I need to submit my article to PubMed Central?](#) and consult with your Institution.
  - c. Submit the article to NIH, upon acceptance for publication. See the [Submission Process](#) for more information.

### 3. Cite Article

When citing their NIH-funded articles in NIH applications, proposals or progress reports, authors **must** include the PubMed Central reference number for each article.

## Submission Process

To facilitate submission of articles to PubMed Central (PMC), NIH developed the NIH Manuscript Submission (NIHMS) system (<http://www.nihms.nih.gov/>). There are detailed online instructions for the NIHMS at <http://www.nihms.nih.gov/web-help/index.html>. As an overview, here is how the NIHMS is used to collect articles for PubMed Central:

- Authors or someone in their organization (e.g., an assistant or a librarian) can log on to the NIHMS to submit a copy of the accepted peer-reviewed manuscript and associated files (e.g., Microsoft Word document and figures).
- The submitter designates the NIH funding that supported the manuscript.
- The Principal Investigator (PI) of the designated funding approves the submission, and affirms that copyright allows deposit to PMC.
- The NIHMS will convert the deposited files into a standard PMC format, and will email the PI to review the PMC-formatted manuscript to make any necessary corrections and approve its release.
- The NIHMS will automatically send the article to PubMed Central for public posting after the delay period specified during submission.

Some journals will deposit peer-reviewed manuscript files on behalf of their authors through the NIHMS. When this happens, authors still have to provide the associated award information, and review and approve the article. The NIHMS will contact them by email to do so.

## Areas of Concern

FAQ (<http://publicaccess.nih.gov/FAQ.htm>)

### **Will compliance with the NIH Public Access Policy affect the outcome of the application review?**

Compliance with the Public Access Policy is not a factor in the evaluation of grant applications. Non-compliance will be addressed administratively, and may delay or prevent awarding of funds.

\*\*\*\*\*

### **FAQ**

**A publisher says that an NIH-funded article cannot be deposited under the NIH Public Access Policy. What should I do?**

Publishers may ask authors to transfer copyrights for a manuscript when it is first submitted to a journal for review, and/or at the time it is accepted for publication. Authors should work with the publisher before any rights are transferred, to ensure that all conditions of the NIH Public Access Policy can be met. You should check with your institutional official, who may wish to consult with your institution's legal counsel, to determine how the copyright transfer agreement that the publisher proposes you sign impacts your ability to comply with the Policy.

\*\*\*\*\*

**FAQ**

**Can authors and publishers continue to assert copyright in scientific publications resulting from NIH funding?**

**Yes.** The NIH Public Access Policy does not affect the ability of the author, the author's institution, or the publisher to assert ownership in the work's copyright. Authors, consistent with their employment arrangements, may assign these rights to journals (as is the current practice), subject to the limited right that must be retained by the funding recipient to post the works in accordance with the Policy, or the provision that the journal submits the works in accordance with the Policy on the author's behalf.

\*\*\*\*\*

**FAQ**

**Can NIH provide language that could be used in a copyright agreement between an author or institution and a publisher?**

NIH can provide an example. Individual copyright arrangements can take many forms, and authors and their institutions should continue to manage such arrangements as they have in the past. However, in order to comply with the NIH Public Access Policy, the PI must make sure that the agreement allows the accepted peer-reviewed manuscript to be deposited with the NIH upon acceptance of publication and made available for public posting on PubMed Central no later than 12 months after journal publication.

Institutions and investigators may wish to develop particular copyright agreement terms in consultation with their own legal counsel or other applicable official at their institution, as appropriate. As an example, the kind of language that an author or institution might add to a copyright agreement includes the following:

*"Journal acknowledges that Author retains the right to provide a copy of the final manuscript to the NIH upon acceptance for Journal publication, for public archiving in PubMed Central as soon as possible but no later than 12 months after publication by Journal."*

Your Institution or professional society may have developed specific model language for this purpose, as well.

CSU is currently developing additional language for use with copyright agreements. This information will be distributed to faculty when completed. Meanwhile, for additional information, please contact your senior research administrator.