



Smithsonian Institution

PLAN FOR
INCREASED PUBLIC ACCESS
TO RESULTS OF
FEDERALLY FUNDED RESEARCH

18 AUGUST 2015

1. PURPOSE

This document outlines the Smithsonian Institution's plan to provide increased public access to certain peer-reviewed scholarly publications and supporting digital research data¹ that arise from research funded, in whole or in part, by a federal funding source (hereinafter "Federally Funded Research Materials" or "FFRM"), consistent with the principles of access under the Office of Science and Technology Policy Memorandum dated February 22, 2013.² This plan is effective as of October 1, 2015; only FFRM submitted for publication on or after the effective date shall be covered.

2. PLAN

The Smithsonian intends to make publicly available peer-reviewed scholarly publications and supporting digital research data as well as related metadata³ that arise from research funded, in whole or in part, by federal funding sources after the official release or publication date and a subsequent embargo period. The Smithsonian will use a twelve-month post-publication embargo period as a guideline and will determine alternate embargo periods based on discipline, negotiated publisher agreements, and/or demonstrated special circumstances. Demonstrated special circumstances that prevent materials from being made publicly available after publication date and embargo may include, for example, restrictions arising from copyright, privacy, contract, or other "allowable restriction categories" contained in Smithsonian Directive 609 – Digital Asset Access and Use.

This plan is intended to cover the FFRM in all fields in which the Smithsonian conducts research, including but not limited to the fields of science, history, art, and culture. This plan provides a framework for the sharing of FFRM and promotes the following objectives:

- Reaffirm the Smithsonian's commitment to increasing public access to FFRM to enable the public to read, analyze, and download such FFRM.
 - Support the governance of and best practices for managing FFRM across the Smithsonian.
 - Ensure effective access to and reliable preservation of FFRM for research, development, and education.
 - Preserve and increase the use of FFRM to enhance discoveries.
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3. DEFINITIONS

Covered publication is a scholarly publication that is subject to this plan.

End-user license is defined as the minimum terms under which any member of the public may, through machine or otherwise: (1) read the covered publication and supporting digital research data; (2) analyze one or more covered publications and supporting digital research data with no restriction other than author attribution; and (3) download the covered publication and supporting digital research data for any lawful purpose; however the end user may not sell, republish or redistribute copies of the covered

¹ Implementation of this policy with respect to "supporting digital research data" will proceed in phases, as described in Section 8, Implementation for Supporting Digital Research Data.

² Policy mandates issued by OSTP on behalf of the Executive Branch do not legally apply to the Smithsonian, but the Smithsonian has elected to voluntarily comply with the OSTP Memorandum to the extent it is consistent with the Smithsonian's mission and digital asset strategy.

³ For the purposes of this plan, FFRM does not include metadata. The Smithsonian Institution considers metadata to be in the public domain.

publication and supporting digital research data (e.g., paper or electronic copies, reformats, revised editions, translations) except as permitted under Fair Use. The terms of the end-user license are not transferable and not intended to limit rights that the end user may already have under law or contract. The end-user license does not apply to metadata related to a covered publication, because the Smithsonian considers such information to be in the public domain.

Fair Use is a legal concept under United States copyright law that allows the reproduction and use of copyrighted material for certain educational and generally non-commercial purposes such as news, commentary, and teaching, without obtaining permission from the copyright owner. The test to determine whether a use qualifies as a fair use consists of four parts, which takes into consideration the purpose and character of the use (e.g., educational v. commercial), the nature of the copied work, the amount and substantiality (quantitatively and qualitatively) of the work used in relation to the whole, and the effect of the use on the market for the original work. Generally, to satisfy the fair use test, the original work must be used in a way that is transformative; the new use must use the original in a way that adds to or enhances its value rather than as a mere copy, substitution, or derivative.

Federally funded research materials (FFRM) describes certain peer-reviewed scholarly publications and supporting digital research data that are subject to this plan.

Federal research funding source is defined as a federal cost that can be specifically identified with a particular project or activity. The funding source may be direct (e.g., through an appropriation, grant, or interagency transfer) or indirect (e.g., through a subgrant, subaward, or subcontract). This excludes instances where the only federal support arises from the insubstantial use of federally supported facilities or federally purchased equipment or other incidental federal support expenses, but does not exclude instances where a substantial amount of research is conducted in a specialized lab or research facility constructed and operated primarily with federal funds.

Final accepted manuscript is defined as an author's final manuscript accepted for publication in a periodical, serial, or book, including all modifications from the peer-review process.

Final publication is defined as a publisher's authoritative copy of the published work, including all modifications from the publishing peer-review process, copyediting, and formatting. For purposes of this plan, the version of record shall be deemed the final publication.

Government-use license is defined as the rights reserved by the U.S. government, including the Smithsonian, from any author of a covered publication and supporting digital research data when the author or author's employer (in the case of a work-made-for-hire) enters into a third-party agreement to publish and/or distribute FFRM covered by this plan. The government-use license grants to the government a royalty-free, nonexclusive and irrevocable right to distribute, reproduce, publish, analyze, display, and create derivative works from the FFRM, and to authorize others to do so.

Official publication or release date is defined as the date a publisher officially releases a new publication, which may appear on a cover, spine, and/or copyright page of a periodical, serial, or book's version of record. The official publication or release date may also be time-stamped on the electronic version of a publication.

Supporting digital research data are defined as the factual materials recorded in digital format that are commonly accepted in the scientific and scholarly community as necessary to validate research findings contained in a scholarly publication.⁴ These data may vary by discipline.

4. SCOPE

The Smithsonian Institution considers metadata to be in the public domain, therefore metadata related to FFRM will be made available in a Smithsonian-managed and/or Smithsonian-approved repository as soon as possible after FFRM is deposited or published, regardless of publisher or embargo period, and absent a demonstrated special circumstance.

A. Coverage. This plan applies to the following FFRM:

1. Covered publications that are:

- Peer-reviewed; and
- Results of any research funded, in whole or in part, by a federal funding source on or after the effective date of this plan; and
- Submitted for publication in a periodical, serial, or book⁵ on or after the effective date of this plan; and
- Authored or co-authored by a Smithsonian:
 - Federal employee; or
 - Academic appointee, to include emeritus, research associate, fellow or intern, whose publication is based on research arising from a federal research funding source and conducted as part of his/her appointment; or
 - Trust employee, where the manuscript at issue arose, in whole or in part, from a federal research funding source.

2. Supporting digital research data associated with covered publications.

B. Excluded Materials. This plan does not apply to the following types of works (“Excluded Materials”):

1. Publications that are:

- Not peer-reviewed;
- Not the result of work funded, in whole or in part, by a federal research funding source;
- Prepared, marketed, and sold by Smithsonian Enterprises, its contractors, licensees, and other authorized third parties;
- To be published as exhibition catalogues, collections surveys, or similar publications;

⁴ OMB Circular A-110 (Subpart C.36(d)(2)(i)) provides a definition of research data that may be consulted in lieu of, or in addition to, discipline-specific standards for identifying supporting digital research data.

⁵ Books or chapters contributed to books that are not “Excluded Materials” or excepted due to demonstrated special circumstances and are authored entirely by one or more Smithsonian employees are subject to this plan.

- To be published as scholarly books by the Smithsonian Institution Scholarly Press;
- Authored by multiple authors and the contribution of federal employees or authors whose research arises from a federal research funding source comprises an insubstantial amount of the publication;
- Produced solely by resident employees of affiliated agencies, whose scholarly research and publications are governed by the policies of their respective agencies (e.g., USDA, USGS);
- Subject to a demonstrated special circumstance in accordance with an allowable restriction category included in Smithsonian Directive 609.

2. Supporting digital research data that are:

- Not a result of work funded, in whole or in part, by a federal research funding source;
- Authored by multiple authors and the contribution of federal employees or authors whose research arises from a federal research funding source comprises an insubstantial amount of the supporting digital research data;
- Produced by resident employees of affiliated agencies, whose data related to scholarly research and publications are governed by the policies of their respective agencies (e.g., USDA, USGS);
- Subject to a demonstrated special circumstance in accordance with an allowable restriction category included in Smithsonian Directive 609.

C. Voluntary Compliance. Nothing in this plan shall prohibit Smithsonian units and offices responsible for Excluded Materials from voluntarily granting public access consistent with the terms of this plan and other applicable policies.

D. Implementation. Implementation of this plan will be prospective and will not apply to any FFRM submitted to a publisher before this plan has taken effect. The Smithsonian shall implement this plan in a manner consistent with copyright and intellectual property laws, other applicable laws and policies pertaining to privacy and confidentiality, and contractual obligations.

5. REQUIREMENTS

This plan requires that an electronic copy or a link to a copy of the final accepted manuscript or the final publication (i.e., version of record) of each covered publication that meets the scope criteria above, as well as its supporting digital research data, shall be submitted to one or more Smithsonian-managed or Smithsonian-approved repositories either twelve months or another negotiated embargo period following official publication date unless a demonstrated special circumstance prevents the covered publication or supporting digital research data from being made publicly available. FFRM must be made available to the public to read, analyze, and download consistent with the end-user license. All

appropriate rights will be negotiated directly with publishers of covered publications by an authorized contracting officer of the Smithsonian as part of the contract negotiation process.

At minimum, the Smithsonian-managed or Smithsonian-approved repository will capture or link to the full text of each final accepted manuscript subject to this plan and make it publicly available online at the end of its embargo period, consistent with this plan and the terms of the end-user license. Where possible or when required, the Smithsonian-managed and/or Smithsonian-approved repository will provide a link to the final accepted manuscript and/or the final publication on the publisher's website. In addition to or in lieu of the final accepted manuscript, a copy of the final publication may be submitted to the Smithsonian-managed repository, provided the necessary rights have been obtained from the publisher. The FFRM maintained in any repository shall contain all associated graphics whenever possible.

Publication of FFRM in an established open access journal or periodical that makes the final publication available immediately, without embargo, is considered compliant under this plan.

The Smithsonian-managed and Smithsonian-approved repositories should:

- Archive, organize, and manage the FFRM collected or submitted under this plan.
- Accept additional files of figures, tables, or supplementary information included with the FFRM.
- Maintain attribution to authors and original publishers.
- Use an open architecture and follow industry standards to facilitate increased public access, enable integration, and promote interoperability.
- Have the capacity to integrate scholarly publications with appropriate scientific databases, platforms, and other archives across federal, academic, and other applicable communities.
- Integrate into other Smithsonian websites and/or platforms.
- Include the terms of the end-user license.
- Enable the public to read, analyze, and download the FFRM without charge following official publication date and twelve months or another negotiated embargo period, absent a demonstrated special circumstance.
- Include sound, non-proprietary preservation standards and archival formats for FFRM.
- Include practical backup, migration, and technology refreshing strategies.
- Have the capability to partner with other appropriate scholarly publication archives across the federal, academic, and business communities.
- Be properly maintained and expanded, as needed, to ensure compliance with this plan.
- Provide access for persons with disabilities consistent with Section 508 of the Rehabilitation Act of 1973.
- Enable Smithsonian management to monitor compliance with this plan.

6. ROLES AND RESPONSIBILITIES

Deputy Under Secretary for Collections and Interdisciplinary Support

- Responsible for establishing, managing, and implementing public access to FFRM.

- Assumes Smithsonian-wide authority, control, and management of this plan.
- Coordinates implementation of this plan.
- Coordinates the collaboration and cooperation of public access plans and policies with other federal agencies.
- Ensures compliance with this plan.

Under and Assistant Secretaries

- Ensures that all authors of FFRM subject to this plan are aware of the plan and all related requirements.
- Ensures that all authors of FFRM subject to this plan submit publishing contracts and FFRM as required.

Smithsonian Institution Scholarly Press

- Implements and administers this plan on behalf of the Deputy Under Secretary for Collections and Interdisciplinary Support.
- Reviews and executes all publisher agreements for covered publications.
- Monitors and tracks all FFRM materials collected.
- Submits AMs and supporting digital research data to Smithsonian Libraries for deposit in SRO.
- Tracks and reports Smithsonian-wide compliance.

Smithsonian Libraries

- Maintains SRO, or another Smithsonian-managed repository, for deposit of and public access to FFRM subject to this plan.
- Coordinates technical requirements necessary to collect FFRM for deposit in SRO, or another Smithsonian-managed repository, and to capture metadata.
- Provides public access to full text versions of or actionable links to AMs and/or VORs, subject to system requirements, publisher agreements, and other contractual obligations.

Other Roles and Responsibilities

- Numerous Smithsonian units and offices must ensure the requirements of this plan are reflected in agreements with fellows, researchers, grant recipients, external publishers, and others when FFRM is covered by this plan.

7. IMPLEMENTATION

To fulfill the requirements of this plan, Smithsonian will utilize two principal public access systems, one internal and one external: Smithsonian Research Online (SRO; <http://research.si.edu>) and Clearinghouse for Open Research of the United States (CHORUS; www.chorusaccess.org). Together, SRO and CHORUS

will allow the Institution to achieve a comprehensive approach to increased public access and ensure the use of systems that align with the current publication practices of its researchers. Use of SRO and CHORUS to fulfill the requirements of this plan shall not affect Smithsonian's continued use and/or management of various systems that may provide access to metadata of covered publications or additional links to publishers' sites.

Smithsonian Research Online (SRO) is the Institution's primary repository for FFRM and is managed by Smithsonian Libraries. SRO will permanently archive all final accepted manuscripts and supporting digital research data submitted under this plan. After embargo, SRO will link to publisher websites for FFRM published by CHORUS Publisher Members. All FFRM deposited in SRO that is not made available to read, analyze, and download via CHORUS Publisher Members will be available at SRO for the public to read, analyze, and download.

Smithsonian has entered into an agreement with CHORUS to assist with compliance with this plan for FFRM that is published by CHORUS Publisher Members.⁶ The evolution of CHORUS as a service, including integration of CrossRef, including FundRef, for data capture, specifically for intramural research, has progressed in a way that complements the Smithsonian's existing research publication practices and its public access goals. CHORUS Publisher Members publish a significant percentage of Smithsonian research annually, and use of CHORUS for that portion of covered publications will result in higher compliance levels as well as serve to mitigate the potential impact of implementation of this plan on the Institution's research community and responsibilities.

8. IMPLEMENTATION FOR SUPPORTING DIGITAL RESEARCH DATA

Phase 1

During Phase 1 and as of the effective date of this plan, for covered publications that are submitted to publishers that require the author(s) to submit supporting digital research data with the manuscript, that supporting digital research data will be collected and be made available in SRO or in an approved external, community-supported (e.g., Dryad Digital Repository) or discipline-specific (e.g., GenBank) repository, or via CHORUS if published by a CHORUS Publisher Member. For supporting digital research data submitted to an approved external repository, SRO will include a link to that external repository when possible.

Data management plans required for digital projects in accordance with Smithsonian Directive 610 – Digitization and Digital Asset Management Policy shall acknowledge the requirement to make supporting digital research data available consistent with this plan.

Phase 2

As the Smithsonian, United States government, disciplinary communities, and publishing community develop improved tools to archive and curate digital research data, and render such data accessible, interoperable, and discoverable, the Smithsonian will make good faith efforts to migrate to those improved platforms as appropriate and subject to available resources.

⁶ The SI-CHORUS agreement applies to FFRM articles submitted for publication in periodicals published by its Publisher Members.

9. ADDITIONAL MATERIALS

OSTP Memorandum, *Increasing Access to the Results of Federally Funded Scientific Research* (February 22, 2013), available at

http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (as amended September 30, 1999), available at http://www.whitehouse.gov/omb/circulars_a110.

Smithsonian Directive 609 – Digital Asset Access and use, available at <http://www.si.edu/about/policies/>.

Smithsonian Directive 610 – Digitization and Digital Asset Management Policy, available at <http://www.si.edu/about/policies/>.