

Excerpt from: NIH Grants Policy Statement – 2010

8.2 AVAILABILITY OF RESEARCH RESULTS: PUBLICATIONS, INTELLECTUAL PROPERTY RIGHTS, AND SHARING RESEARCH RESOURCES

It is NIH policy that the results and accomplishments of the activities that it funds should be made available to the public. PD/PIs and grantee organizations are expected to make the results and accomplishments of their activities available to the research community and to the public at large. (See also [Availability and Confidentiality of Information—Confidentiality of Information—Access to Research Data](#) in Part I for policies related to providing access to certain research data at public request.) If the outcomes of the research result in inventions, the provisions of the Bayh-Dole Act of 1980, as implemented in 37 CFR part 401, apply.

As long as grantees abide by the provisions of the Bayh-Dole Act, as amended by the Technology Transfer Commercialization Act of 2000 (P.L. 106-404), and 37 CFR part 401, they have the right to retain title to any invention conceived or first actually reduced to practice using NIH grant funds. The principal objectives of these laws and the implementing regulation are to promote commercialization of federally funded inventions, while ensuring that inventions are used in a manner that promotes free competition and enterprise without unduly encumbering future research and discovery.

The regulation requires the grantee to use patent and licensing processes to transfer grant-supported technology to industry for development. Alternatively, unpatented research products or resources—“research tools”—may be made available through licensing to vendors or other investigators. Sharing of copyrightable outcomes of research may be in the form of journal articles or other publications.

The importance of each of these outcomes of funded research is reflected in the specific policies pertaining to rights in data, sharing of research data and unique research resources, and inventions and patents described in the following subsections.

8.2.1 Rights in Data (Publication and Copyrighting)

In general, grantees own the rights in data resulting from a grant-supported project. Special terms and conditions of the award may indicate alternative rights, e.g., under a cooperative agreement or based on specific programmatic considerations as stated in the applicable RFA. Except as otherwise provided in the terms and conditions of the award, any publications, data, or other copyrightable works developed under an NIH grant may be copyrighted without NIH approval. For this purpose, “data” means recorded information, regardless of the form or media on which it may be recorded, and includes writings, films, NIH Grants Policy Statement Part II: Terms and Conditions of NIH Grant Awards - Subpart A IIA- 86 sound recordings, pictorial reproductions, drawings, designs, or other graphic representations, procedural manuals, forms, diagrams, work flow charts, equipment descriptions, data files, data processing or computer programs (software), statistical records, and other research data.

Rights in data also extend to students, fellows, or trainees under awards whose primary purpose is educational, with the authors free to copyright works without NIH approval. In all cases, NIH must be given a royalty-free, nonexclusive, and irrevocable license for the Federal government to reproduce, publish, or otherwise use the material and to authorize others to do so for Federal purposes. Data developed by a consortium participant also is subject to this policy.

As a means of sharing knowledge, NIH encourages grantees to arrange for publication of NIH-supported original research in primary scientific journals. Grantees also should assert copyright in scientific and technical articles based on data produced under the grant where necessary to effect journal publication or inclusion in proceedings associated with professional activities.

Journal or other copyright practices are acceptable unless the copyright policy prevents the grantee from making copies for its own use (as provided in 45 CFR parts 74.36 and 92.34). The disposition of royalties and other income earned from a copyrighted work is addressed in [Administrative Requirements—Management Systems and Procedures—Program Income](#).

For each publication that results from NIH grant-supported research, grantees must include an acknowledgment of NIH grant support and a disclaimer stating the following:

“This publication was made possible by Grant Number _____ from _____” or “The project described was supported by Grant Number _____ from _____” and “Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the [name of awarding office or NIH].”

If the grantee plans to issue a press release concerning the outcome of NIH grant-supported research, it should notify the NIH awarding IC in advance to allow for coordination. See also [Appropriation Mandates—Acknowledgment of Federal Funding](#) for additional guidance when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal money.

Publications resulting from work performed under an NIH grant-supported project must be included as part of the annual or final progress report submitted to the NIH awarding IC (see [Administrative Requirements—Monitoring—Reporting—Non-Competing Continuation Progress Reports](#) and [Administrative Requirements—Closeout—Final Reports—Final Progress Report](#)). When publications are available electronically, the url or the PMCID number must be provided. If not available electronically, one copy of the publication may be provided along with the progress report. See also [NIH Public Access Policy](#) below for additional requirements for publications resulting from NIH funded research.