

January 12, 2012

Ted Wackler,
Deputy Chief of Staff.
Office of Science and Technology Policy
Submitted via email: publicaccess@ostp.gov

**RE: SIIA Comments to FR Doc No: 2011-28623, Public Access to Peer-
Reviewed Scholarly Publications Resulting From Federally Funded
Research**

Dear Mr. Wackler,

On behalf of the Software & Information Industry Association (SIIA), thank you for the opportunity to comment on the Office of Science and Technology Policy (OSTP) Request for Information (RFI) issued November 3, 2011 regarding “Public Access to Peer-Reviewed Scholarly Publications Resulting from Federally Funded Research.”¹

SIIA is the principal trade association of the software and digital information industries, representing more than 500 leading companies that develop and market software and electronic content. Our members include leading technology companies that provide the backbone of the Internet, as well as electronic publishers whose investments provide the public with a wide variety of information products and services covering nearly every subject matter imaginable, including publishers of peer-reviewed scientific literature, books that incorporate findings from government research, as well as databases and graphics that assist researchers in better analyzing, understanding and using research information. These industries have long produced significant knowledge-based, value-added jobs to our economy and our Nation’s innovation base and are committed to continue doing so without interference with their rights as publishers.

SIIA has a long history of supporting open e-government, dating back to the turn of the century when we worked closely with Congress and the Administration in support of the E-Government Act of 2001. From the affirmation that the Government’s information is a national asset, to the objective to harness new technologies to rapidly disclose information and engage citizens, SIIA strongly supports the President’s commitment to openness, transparency and collaboration established in his memo to executive agencies on his very

¹ [76 FR 214, November 4, 2011.](#)

first day in office,² and the ensuing Open Government Directive that has defined this Administration.³ In response to the questions posed in the RFI, I submit the following recommendations on behalf of SIIA.

1. Federal public access policies should be limited to the direct results of publicly-funded research, not expanded to include value-added works provided by the private sector.

SIIA strongly supports government policies and initiatives aimed at ensuring broad public access to the results of publicly-funded research. However, it is essential that these policies and initiatives be limited to the *direct* results of publicly-funded research and not extend to value-added information products that result from private sector investments and publishing. The peer reviewed journals and other value added products and services that private-sector publishers, including commercial publishers, professional societies, and university presses publish are not merely the result of the publicly-funded research. Rather, these works add further value by incorporating comments, interpretations and additional expert insights to enhance their customers' understanding of the research activities.

This is a very clear, significant distinction that cannot be over-emphasized. As OSTP seeks to maximize return on Federal investments made in R&D, and to leverage those investments to stimulate scientific and technological innovation and competitiveness, we hope that you will recognize this considerable distinction between Government—public—information and the value-added works that result from the substantial investment and contribution made by the private sector.

Unfortunately, the recent RFI proposes to extend “broad public access to the peer-reviewed scholarly publications that result from federally funded scientific research.”⁴ The principle of public access should apply to the direct results of government funding, such as government reports, not to value-added products such as copyrighted, peer-reviewed publications.

2. Federal public access policies should recognize and seek to preserve the valuable role that scientific publishers play in the peer review process and their contribution to the economy.

Additionally, as OSTP conducts its review on public access to the results from federally funded scientific research, it should pay close attention to the impact of its

² [Memorandum](#) for the Heads of Executive Departments and Agencies on Transparency and Open Government (January 21, 2009).

³ [Memorandum](#) for the Heads of Executive Departments and Agencies on the Open Government Directive (December 8, 2009).

⁴ 76 FR 214, November 4, 2011

recommendation on scientific publishers. Section 103(9) of the America COMPETES Act enacted in early 2011 requires OSTP to “take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added value that they make.”⁵

The private sector publishing industry—including both for-profit and not-for-profit publishers—has set the high-quality standard for scientific, technical and medical (STM) information that exists today.

STM publishers and their employees contribute positively to our nation’s economy—a fact that should also be weighed against the purported public benefit of forcing journal publishers to share their works freely without compensation or further control on how their copyrighted works are distributed and used. Non-profit and commercial publishers invest hundreds of millions of dollars every year in the peer review, editing, publishing, disseminating and archiving of scholarly journal articles. There are over 1,000 STM publishers that employ some 30,000 people and indirectly support an additional 20,000 workers in the United States. These U.S.-based employers publish approximately 45 percent of all peer-reviewed research papers worldwide. For many U.S. publishers, over 50 percent of their revenue comes from foreign subscriptions—billions of dollars per year—making this a very strong U.S. export industry.

Subscriptions to STM journals continue to evolve from a basic subscription to a hardcopy journal, to electronic access to a database of current and archived articles published by not-for-profit and for-profit publishers. So while in many cases subscription fees have transitioned to fees for online access to peer reviewed works, these services are still critical to pay the cost of the peer review, editing, publishing, distribution, archiving, and quality control process. Moreover, many publishers have already instituted additional services that allow their readers and users to better analyze, evaluate and incorporate information to enhance their own knowledge and further research activities. Public access policies that require this information to be freely available around the world within a certain period of time would undermine the critical business model that promises to sustain the high-quality standard for STM scholarly published works.

A broad policy mandating free public access to final published, copyrighted journal articles arising from research funded by agencies of the U.S. Government would severely compromise the ability of STM publishers—particularly the smaller not-for-profit publishers—to retain subscribers or charge access fees to recoup their peer-review and quality control costs for producing first-rate STM scholarly works. Such a policy would also

⁵ America COMPETES Act (PL 111-358)

threaten the ability and willingness of these publishers to continue providing innovative products and services going forward.

A policy that eliminates journal publishers' ability to recoup their investment would likely force publishers to begin levying substantial author fees to recover the cost of publication, or to simply stop publishing entirely. Either of these alternatives threatens to undermine the critical STM peer review and publishing model that is so effective today, and the industry as a whole. Under the former scenario, a shift to a predominantly author-fee based system, the objectivity of journal publishers would be compromised by a significant reliance on author fees. Under the latter scenario, a decline of small publishers, authors and researches could lead to an overall deterioration in the high-quality publication process provided by a the competitive publishing industry that exists today.

3. Federal public access policies should support public-private collaboration to improve interoperability and achieve the widest possible dissemination and discoverability of publications that analyze and interpret research.

SIIA has long been a proponent of the use of open standards and open formats developed with input from a broad range of stakeholders to maximize interoperability. Additionally, we agree that improved scholarship and access can best be achieved by promoting interoperability among various research databases and publication platforms. This approach should also support OSTP's goal of enhancing the effectiveness of search and discoverability across journals and articles. To this end, SIIA endorses the continued efforts of OSTP and relevant agencies to work cooperatively with the research community and private sector publishers in the promotion of open-standard formats that can facilitate greater interoperability, broad access and long term preservation of both data and peer reviewed scholarly publications. However, federally mandated use of particular platforms or formats does not foster interoperability; rather it would stifle the important consensus process under which technical criteria, methods, processes and practices are developed to suit the needs of the broadest number of uses and users to maximize the availability of information, including products and services provided by private sector publishers.

Conclusion

In summary, SIIA fully agrees that taxpayers should have access to the output of taxpayer funded research, and that the Government should ensure access to its direct outputs. However, the output of the federal funding is the research, its conclusions and data resulting from this research, not the peer-reviewed scholarly publications that are produced by publishers as the result of significant private sector investment.

Further, SIIA strongly supports the continued efforts of OSTP to work collaboratively with the research community and private sector publishers in the promotion of open-standard formats developed by a consensus of all stakeholders that can greater facilitate greater interoperability, broad access and long term preservation of both data and peer reviewed scholarly publications—however, interoperability also should not be sought via federal mandates of particular platforms or formats.

Again, thank you for the opportunity to participate in the public consultation on Public Access. We look forward to continuing to work with you and the agencies throughout the process of developing and implementing public access policies that are effective and appropriate. If you have additional questions based on these comments or would like to discuss further, please do not hesitate to contact David LeDuc, SIIA Senior Director for Public Policy, at dleduc@sia.net or 202-789-4443.

Sincerely yours,

A handwritten signature in black ink that reads "Ken Wasch". The signature is written in a cursive, slightly slanted style.

Ken Wasch
President