STM | Advancing trusted research

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Ted Horan
Management Analyst
Office of Research, Evaluation and Statistics
Social Security Administration

Submitted via email to regulations@ssa.gov

STM Comments Regarding Implementation of the Social Security Administration *Plan for Increasing Public Access to the Results of Federally Funded Scientific Research* (Docket Number: SSA-2023-0039).

To Mr. Horan:

STM welcomes the opportunity to provide written comments on i**mplementation of the Social Security Administration (SSA)** *Plan for Increasing Public Access to the Results of Federally Funded Scientific Research* **("public access plan")**. STM stands for advancing open and trusted research, where researchers and the rest of society can rely on information that is credible, accessible, linked, and searchable in perpetuity.[1]

We admire SSA's commitment to sharing information about your research activities with the public and share the goals of SSA and OSTP to promote open science and enable effective access. In fact, our more than 150 members have enabled open science and broad access to the scholarly record, investing heavily in open science over the past 25 years, broadening and expanding the public's ability to access and understand the work of scientists and scholars. STM's members include scholarly societies, commercial publishers, and university presses, united by a devotion to advance trusted research worldwide. STM is committed to building a future where researchers, practitioners, and the public have access to information that is open, trusted, and trustworthy. Many of the products and services necessary for open science were created and maintained by publishers, including online infrastructure, preprinting, archiving, linking, and data management. We continue to support and grow those efforts today. STM members have also invested in new approaches to providing access, including experimentation with a variety of business models without compromising on quality and integrity, and supporting sustainability and equity.

As a participant in the Federal Government's Year of Open Science, STM respectfully offers the following comments in support of improving the Plan and working with SSA on an effective implementation that ensures broad access while preserving the ability of publishers to provide for quality and integrity of the scholarly record, where information is credible, accessible, linked, searchable, and preserved for long-term access.

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[1] See, for example, STM's statement of support for open access https://www.stm-assoc.org/stm-oa-position/, and our research data program https://www.stm-assoc.org/research-data-program/.

Before we respond to the specific questions in the RFI, where STM can offer our expertise and potential collaboration on implementation of SSA's plan, STM would like to highlight one concern about the plan itself related to intellectual property that appears fundamental to the proposed requirements and where there is a significant potential for misunderstanding amongst funded researchers, institutions, publishers, other observers, and even SSA staff.

- **Intellectual property in articles reporting on federally funded research**. It is a key principle of US law that any work produced by an individual is the intellectual property of that individual, absent a "work for hire" or other contractual arrangement. Therefore, STM is concerned about the assertion on p. 13 of the public access plan that "all scientific research publications…resulting from our federally funded research will be [SSA's] property." Assuming that grants will not require the production of any specific research publications, this appears contrary to Copyright Law in Title 17 and OMB's Uniform Guidance in 200 CFR 315(b), which says that grant recipients "may copyright any work that is subject to copyright and which was developed…under a Federal award." While we note that the latter part of 200.315(b) reserves a *license* for the awarding agency in such works, this is very different from claiming ownership as SSA does in the public access plan. STM urges SSA to revise the plan in a manner that respects fundamental author rights. In particular, SSA should limit its claims to uses that are needed to implement the public access plan's goal of making a manuscript of the publication available in an SSA-designated repository, consistent with the approach of other agencies.

With that said, STM supports the overall requirements of the plan for sharing publications and research data and offer the following additional advice on the prompts in the RFI.

1. *Scope and Applicability*

- **Access: Promote and encourage gold OA to enable access to the Version of Record**. The experience of institutions, funders, and publishers around the world has demonstrated that there is no one best route to providing access, and a mixed ecosystem is likely to persist for some time. Therefore, flexibility in policy and implementation has been shown to be key. That said, surveys and experience have shown that knowledge-creation, discovery, and sharing is best enabled when the final articles resulting from all stages of the peer-review and publication process are immediately openly available to all. The Version of Record (VoR) is the most thoroughly vetted version of the research publication, having been through all stages of the peer-review and publication process including being copyedited, typeset, having had metadata applied, and having been allocated a DOI (Digital Object Identifier). STM therefore recommends that SSA not only allow for gold open access publication and for budgets to include publication costs, but that SSA actively encourage researchers to select gold open access options when offered.[2]

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[2] According to the STM Open Access Dashboard, a significant percentage of authors have the opportunity to publish open access but do not select that option, although an increasing percentage of authors do select it when offered the chance (and provided funding to do so). https://www.stm-assoc.org/oa-dashboard/uptake-of-open-access/

- **Accessibility**: Supporting gold OA is also an efficient mechanism for providing public access to a version with accessibility functionality. Versions of Record supplied by publishers, in contrast to manuscripts provided by researchers, can support Section 508 compliance and other accessibility features. STM encourages our member publishers to render Versions of Record as accessible as possible to persons with visual and other impairments, in accordance with U.S. copyright law and disability law. Regardless of the route to public access, our members are best positioned to support SSA's accessibility goals for these works. While the Copyright Act provides mechanisms to create "specialized formats" for use by persons with disabilities, these mechanisms are enunciated in copyright law, as updated by the Marrakesh Treaty, to trusted organizations, including the National Library Service for the Blind and Physically Handicapped at the Library of Congress, under a set of balancing tests governing agreements between private actors.[3]

- **Protect author rights**: Research publications, whether reporting on federal funded research or not, are the intellectual property of the author, who publishes the work to make it as widely accessible as possible and contribute to the advancement of science and scholarship. However, that same author may want to reserve the right to determine further downstream uses of the unique expression in the work, including commercial uses of the text, translations, and other derivative works.[4] Respecting this ability is key to academic freedom and the proper operation of copyright law. STM therefore urges SSA to be flexible in license requirements, focusing on those needed to advance the federal purpose of making the research publication available in an SSA-designated repository.

- **Make data FAIR**: Publishers are partners with researchers in making reports and data related to their research available and findable, accessible, interoperable, and reusable (FAIR). Flexibility will be needed to allow for different community practices and community-based standards for data sharing should be used where possible. In addition, digital object identifiers (DOI) should be required to enable linking, discoverability, and permanence. STM would welcome the opportunity to work with SSA and its researchers to enable data sharing consistent with SSA's public access plan, applying the learnings from STM's Research Data Program[5] to support the use of clear, transparent data availability statements, and hope that STM can collaborate with funders to enhance research data sharing practices.[6]

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[3] "WIPO Treaty Adopted to Facilitate Access for the Blind, Visually Impaired, and Print Disabled," (U.S. Copyright Office NewsNet Issue No. 510 - June 28, 2013) https://www.copyright.gov/newsnet/2013/510.html

[4] See also STM's publication, "Authors Rights in Scholarly Publishing" https://www.stm-assoc.org/wp-content/uploads/Authors-Rights-in-Scholarly-Publishing-Narrative-May29_2024.pdf

[5] More on the STM Research Data Program is available at https://www.stm-assoc.org/research-data-program/.

[6] See https://www.stm-researchdata.org/data-availability-statements-tips/#DASsamples for our template statements, which are based on the Belmont Forum's DAS template. It was designed by a combined group of funder and publisher representatives, ratified in October 2018 and is available through a CC-BY 4.0 license.

2. *Digital Repositories*

- **Interoperatibility**: Where possible, objects in SSA-designated repositories should be linked to related objects where the community maintains and curates them (if these are not the same locations). In particular, any version of a research publication should be linked to the permanent and authoritative Version of Record (VoR). The VoR is more cited, used, and garners more attention than other versions of an article. This version can interlink with research objects like data and code, has the latest updates and corrections, and sits on the publisher's platform where it can be integrated with other relevant content, allowing readers to better put information into context.

- **Desirable characteristics**: With respect to data repositories, STM has been supportive of OSTP's guidance on Desirable Characteristics of Data Repositories for Federally Funded Research, including its recognition that different research communities have different needs for repositories. Subject-based repositories may be a better fit for some areas of research, where specific metadata and structural elements may support the utility of the datasets that are shared. Generalist repositories have also been developed and deployed widely to great effect. A key consideration for the choice of repository should be its commitment to the FAIR Data principles, including the ability to interlink with other research objects, and plans for preservation and perpetual access. Any implementation policy from SSA should be consistent with research community practices, and SSA should support researchers in selecting appropriate and trusted locations for data.[7]

- **Broad choice to minimize burdens**: Rather than referring to a single SSA-designated repository, STM encourages SSA to consider a menu of options and approaches for public access. Many agencies and other institutions have successfully implemented sharing practices in collaboration with the publishing community, through shared infrastructure and cooperative agreements with various infrastructure providers, coalitions, and individual publishing organizations. One example of such a success is CHORUS (www.chorusaccess.org), which has partnered with Federal agencies to help with public access implementation and reduce the burdens on researchers for compliance. Some of our member organizations have worked with institutions and agencies to provide repositories for data and metadata as well. STM recommends that these possibilities, as well as other public-private partnerships, be considered for implementation.

3. *Costs*

- **Take a holistic view of costs**: Costs for publication should be included in grants, based on the researcher's and institution's experience of publication costs. These should include both specific payments for publication (e.g., APCs) and shared payments (e.g., transformative agreements or

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[7] Several initiatives offer certification for or recommendations of trusted data repositories, including Repository Finder (https://repositoryfinder.datacite.org/) and CoreTrustSeal (https://www.coretrustseal.org/), which could be helpful to developing guidance.

membership or collaborative funding), as well as innovative funding models. Costs for data sharing should include compliance costs for tagging, metadata enhancement, and other preparation, curation, and review. In addition, the significant costs associated with storage, distribution bandwidth and third-party management and curation will need to be addressed.

- **Enable payment of publication and data management costs after grant end**: Often a publication does not occur until after the close of a grant, and data management needs endure for a long time. Implementation should consider how to address these costs.

- **Provide appropriate and enduring support**: Researchers need to be supported and encouraged to plan and budget for all sharing envisioned in the public access plan. One way to do this would be to follow the example set by NIH for data management and sharing by requiring budgets to include, and review panels and program administrators to evaluate budgets for, appropriate and full support for the costs of all open science practices.[8]

- **Promote equity and author choice**: Appropriate and enduring funding needs to be provided on an equal basis to all researchers, so that researchers who choose to publish in journals that are supported by APCs and include this funding in their budgets are not disadvantaged in the resources available for their research, student support, and other critical needs. Equity demands that all researchers have options to meet their funder obligations, regardless of the journal they choose or the agreements their institution has with individual journals.

4. *SSA Research Information and Training*

- **Education of researchers is critical**. As new requirements are put in place, alongside budgetary support they also need education on the new requirements. Many of STM's member publishers work to educate their authors about open science practices and STM collaboratively promotes best practices for sharing amongst our members. STM has also been a supporter of the TOPS initiative for open science education,[9] which we recommend as a model for SSA.

- **Promote persistent identifiers**. A necessary precondition for the utility of shared articles and research data is for them to be permanently available, findable, and interlinked with related objects, which is enabled by persistent identifiers (PIDs). Specifically, STM recommends that SSA support the use of community-adopted PIDs through the grant application process (e.g., ORCIDs for researchers, organization IDs for the institutions(s) affiliated with each researcher, and Funder IDs for the distinct funders of the grant). While organization IDs are not as well-established or robust as researcher IDs (with ORCID), there are several emerging options for

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[8] NIH application instructions include a requirement that costs for open science, specifically to support a data management and sharing plan, must be explicitly noted on the budget form (see https://grants.nih.gov/grants/guide/notice-files/NOT-OD-23-161.html). We encourage SSA and other agencies to do the same for all public access and open science activities.

[9] STM has been a regular participant in TOPS events. STM would welcome additional opportunities to collaborate on and enhance education efforts on public access.

organizations, and SSA should consider recommending one of the following PIDs to ensure harmonization and avoid unnecessary duplication in the scholarly record: Ringgold (a global organization identifier system); ISNI (ISO standard name identifier system); ROR (the Research Organization Registry); and Crossref's Funder Registry; along with ORCID. SSA should also ensure there are metadata fields for all of these.

5. *Equitable Research*

- **Protect equity in research opportunity**: Changing access requirements within the scientific ecosystem are likely to solve some inequities from a reader perspective but can also introduce new ones. Concerted and collaborative action will be necessary to ensure sustainability and equity more broadly. Publishers already invest significantly in initiatives to enable researchers to participate in the scholarly dialogue, including educational efforts and funding programs that expand participation of underrepresented groups and ensure quality and integrity.[10] SSA can minimize the risk of creating new inequities in author opportunity to publish, especially for scientists from traditionally marginalized communities and early career researchers, by ensuring that all authors have the funding, support, and encouragement necessary for their research to flourish and to choose the publishing option that best suits their needs and goals.

- **Provide additional funding**. SSA should consider additional funding sources and programs to assist both funded and unfunded researchers, including those in historically under resourced institutions or communities (including, but not limited to, Historically Black Colleges and Universities (HBCUs) and early career researchers). Publishers offer various funding programs to support the participation of less-well-resourced researchers, including discounts and waivers, that could be leveraged in partnership with SSA, and are continuing to innovate with new options and business models that address equity.

- **Promote equity and diversity in the research enterprise**. SSA should consider how funding decisions and aspects of the public access plans' implementation can promote equity and diversity, drawing from existing consensus-based standards and best practices. Publisher's industry-wide initiatives, such as the Joint Commitment on Diversity and Inclusion[11] and

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[10] For example, Research4Life, a UN-publisher partnership, supports researcher skill development, provides Research Lifecycle Training Webinars, and enhances the ability of LMIC researchers to publish with participating publishers. Many publishers support and partner with AuthorAID, a global network that provides free resources and training, including in article writing, for researchers in low- and middle-income countries. Publishers also work with other stakeholders to provide resources to support authors with identifying trusted outlets to present their work (e.g., Think. Check. Submit. (www.thinkchecksubmit.org) a cross-industry initiative) and promote integrity in scholarly research and its publication through the Committee on Publication Ethics (COPE, www.publicationethics.org) and other efforts.

[11] The Joint commitment for action on inclusion and diversity in publishing, launched in June 2020, is a coalition of publishers who have agreed to take action reduce bias in publishing activities: https://www.rsc.org/new-perspectives/talent/joint-commitment-for-action-inclusion-and-diversity-in-publishing/.

C4DISC,[12] can provide models and serve as a basis for collaboration to these ends. Some examples from these initiatives include guidelines around the peer review of articles and data and policies to support authors with deadnames to promote inclusion.

- **Support bibliodiversity and impartiality in the scholarly record**. Publishers encourage equity and diversity in the research enterprise by providing an objective space in which work can be assessed by peers (though our impartial oversight of an independent editorial and peer review process). Supporting the publishing enterprise and ensuring SSA's implementation of its public access plan that enables a robust publishing ecosystem therefore also promotes equity.

In conclusion, we note that providing support for publishing, data sharing, and curation is the most important action that SSA can take to promote equitable research, as well as to ensure transparency, quality and integrity in scholarly communication. The diverse systems and services that currently provide these benefits are critical for the research enterprise. In addition to providing adequate and sustained funding, care should be taken to preserve the market incentives that encourage the development of high-quality publication outlets for scholarly communication such as those produced by STM's members. Flexibility in implementation and collaboration with key stakeholders, including publishers, can support these values.

Thank you again for the opportunity to comment and please reach out to me (caroline@stm-assoc.org) or to David Weinreich, STM's Director of Policy and Government Relations (weinreich@stm-assoc.org), if we can support SSA's implementation further.

Sincerely,

Caroline Sutton
CEO
STM

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[12] The Coalition for Diversity and Inclusion in Scholarly Communications (C4DISC) was formed by 10 trade and professional associations that represent organizations and individuals working in scholarly communications to discuss and address issues of diversity and inclusion within the publishing industry (https://c4disc.org/).