



August 10, 2023

National Institute of Standards and Technology (NIST)  
100 Bureau Drive, Stop 4701  
Gaithersburg, MD 20899-4701

Dear NIST,

As the professional home of over 150,000 US members of IEEE, the world's largest technical professional organization dedicated to advancing technology for the benefit of humanity, IEEE-USA appreciates the opportunity to respond to the NIST Plan for Providing Public Access to Results of Federally Funded Research Draft for Public Comment. IEEE's not-for-profit scholarly publishing plays a crucial role in advancing engineering and technology.

In 2013, OSTP guidance directed federal public access efforts with a 12-month embargo period. However, the August 2022 OSTP guidance changes this federal policy to require immediate public access to technical articles reporting results from federally funded research, without any embargo period. Unfortunately, this shift in federal policy disproportionately affects not-for-profit scholarly publishing and may render several IEEE activities that advance the scientific and engineering enterprise unsustainable (e.g., K-12 STEM efforts, development of communities for underrepresented populations, and the launch of new journals and professional conferences in burgeoning and emerging technologies).

IEEE-USA strongly believes in protecting the copyright and intellectual property rights of authors and publishers. While we have concerns regarding the August 2022 OSTP guidance on public access, we appreciate that the updated NIST public access plan seems to acknowledge that aspects of the OSTP guidance potentially conflict with Federal regulations on intangible property (2 CFR §200.315 Intangible Property). The updated NIST plan requires that the final peer-reviewed and accepted manuscript be freely available...*"if law allows and no later than 12 months following publication if publisher policies permit."*

NIST can improve access to research results and greater ensure equity and accessibility, by working with not-for-profit publishers and those supporting scholarly and professional organizations. IEEE supports open science and currently offers more than 30 technically focused fully open access journals across a wide range of fields. Additionally, IEEE has pledged to transition its full portfolio of more than 160 hybrid journals to eventually become fully open access. IEEE-USA hopes that NIST and other government agencies recognize the vital role of non-profits in disseminating research results and advancing knowledge. Society benefits from the ability of IEEE and other not-for-profit scholarly publishers to develop and launch technical publications that ensure the quality and integrity of the scientific record and maintain their archival preservation. Collaborative efforts can lead to more effective and sustainable solutions that balance public access and the protection of intellectual property rights, while enriching US research.

Sincerely,

A handwritten signature in blue ink that reads "Eduardo F. Palacio".

Eduardo F. Palacio  
2023 President, IEEE-USA