

The Federal Purpose License

What Campuses Need to Know



HELIOS OPEN

Key Takeaways

→ The Federal purpose license makes it easier for researchers to comply with emerging public access policies.

→ The Federal purpose license is not new, and is not an expansion of the government's existing legal authority. The authority granted to federal agencies to invoke the government use or Federal purpose license has existed since at least 1976.

→ The Federal purpose license provides agencies with nonexclusive rights to articles resulting from federally funded research. It provides a limited license to the granting agency to make certain uses of the work, as part of a fair exchange for funding, but authors reserve all other rights.

Definition

The Federal purpose license (sometimes called the “government use license”) is a nonexclusive, irrevocable, royalty-free license that allows the government to reproduce, publish, or use work funded by government grants “for federal purposes.” It also gives the agency the authority to authorize others to use the work.

Summary

By 2026, most federal agencies funding extramural research will require authors and institutions to make articles reporting on federally funded research immediately available in agency-designated repositories. The Federal purpose license is an existing tool agencies can use to simplify compliance with agency public access policies for authors and institutions. The “prior license” that is reserved under the Federal purpose license: 1) ensures institutions can comply with federal policies regardless of what an author agrees to in subsequent licensing agreements; and 2) spares authors from having to negotiate with publishers to retain the rights needed to comply with federal policies.

Acknowledgements

Special thanks to Dave Hansen and Eric Harbeson, Authors Alliance, and Günter Waibel, California Digital Library, for their expert contributions.

WILL THE FEDERAL PURPOSE LICENSE LIMIT AN AUTHOR'S RIGHTS TO THEIR RESEARCH?

No. The Federal purpose license is a **nonexclusive license**, meaning authors still retain rights to their research products. Authors sometimes sign over **exclusive rights** to publishers, which limits the author's rights to reuse, access, and build on their own work. The Federal purpose license acts as a "prior license" that the author grants the moment the article is created (in exchange for funding) which cannot be overridden by agreements signed later in the research process. This includes publishers who may ask for exclusive rights to an author's research.

Federal copyright law provides that written nonexclusive licenses remain in place even after exclusive rights have been signed away. The power of the Federal purpose license lies in the fact that it takes effect immediately upon signing the grant agreement. The agency retains its license even if an author later signs exclusive rights to a publisher, and even if the publisher does not give permission to do so.

WILL AN AGENCY'S USE OF THE FEDERAL PURPOSE LICENSE MAKE IT HARDER FOR CAMPUSES TO HELP RESEARCHERS COMPLY WITH AGENCY PUBLIC ACCESS POLICIES?

No. Invoking the Federal purpose license in agency public access policies simplifies compliance for authors and institutions because it clarifies what has been the case for many years—namely, that the rights needed to comply with the policies are secured the moment an article is created, regardless of whether authors retain rights later on.

According to the University of California (UC) and Authors Alliance's **Right to Deposit initiative**, "the Federal purpose license provides clear language that supports deposit and re-use of research outputs, offers a pre-existing mechanism to achieve uniformity across federal agencies, reduces the risk of any non-compliance issues for grant recipients, and maximizes the return-on-investment for taxpayers and the public-at-large."

IS THIS A NEW LICENSE? HAS IT EVER BEEN USED?

No—it is not new, and yes, agencies have previously relied on the license. The government's authority under the Federal purpose license has existed since at least **1976**.

The National Institutes of Health (NIH) draft **public access policy** (released June 2024) references the government use license stating, "Federal agencies have, by law, certain rights to products resulting from federal funding. For works (e.g., manuscripts) under the Government Use License (45 CFR 75.322(b)), or its successor regulation, NIH "reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so."

The Department of Energy (DOE) has been relying on the Federal purpose license in its **public access policy** for years. Importantly, DOE's **FAQ** for authors states that "the wording on the [Copyright Transfer Agreement] forms may vary from publisher to publisher, but basic wording includes transfer of copyright to the publisher. However, a key point to note is that, regardless of the specific wording, the Government retains rights to the article." The Right to Deposit initiative points out that **statements** like "DOE-funded authors will not be in violation of any copyright by submitting such accepted manuscripts and metadata to OSTI" tremendously reduce author confusion about process and risk.