


January 12, 2024

MEMORANDUM

TO: UMB Research Deans, Investigators and Departmental Administrators

FROM: Jill A. Frankenfield, Associate Vice President
Sponsored Programs Administration 

RE: Blanket Intellectual Property Policy Waiver for Public Access/Open Source

The White House Office of Science and Technology Policy released a memo titled "[Ensuring Free, Immediate, and Equitable Access to Federally Funded Research](#)" on August 25, 2022. This memo provided policy guidance to US federal agencies to update their public access policies no later than December 31st, 2025, to make publications and their supporting data resulting from federally funded research publicly accessible.

As a result of this memo, Federal sponsors have begun enacting requirements to make data and software developed under sponsored awards available to the public via open access repositories or open source licenses. NIH, NASA, NOAA, and U.S. DOT are just a few of the federal sponsoring agencies that are now including such requirements in solicitations for proposals and resultant award terms and conditions. Several foundations, including the Bill & Melinda Gates Foundation, also have public access requirements.

Under the [UMB Policy on Intellectual Property, IV-3.20\(A\)](#), approved July 1, 2002, and the [UMB Policy Regarding Ownership, Management, and Sharing of Research Data IV-99.01\(A\)](#), approved May 4, 2017, UMB owns Intellectual Property and Research Data created under sponsored research agreements. Any other requirements for ownership of data are handled via an Intellectual Property Policy waiver.

To comply with sponsor terms and conditions, and to streamline internal processes and procedures, the Office of Research and Development has approved a blanket waiver for these public access/open source requirements for Federal and Non-Profit sponsors. Industry/Corporate funded projects are not covered under this blanket waiver. This memorandum confirms that Principal Investigators (PIs) may release data and software under open access and open source licenses, for those sponsors that require it at the proposal submission, in accordance with the following process:

- The PI is responsible for providing a certification via Quali Research as follows: "This proposal is being submitted to a sponsor, either directly or as a subawardee to a Prime Sponsor, that has public access or open-source requirements for data or software or specific data management/sharing requirements that would normally require a waiver of

the University of Maryland IP policy. I agree to these requirements and agree to notify every person hired to work on the project, if awarded, of these requirements and to submit any necessary additional information to ORA/SPA/UM Ventures, if requested.”

- The PI is responsible for acknowledging and agreeing to abide by the terms and conditions of funding awards.
- The PI is responsible for educating students, post-docs, and others working under their awards or under their supervision about the IP terms of each award, including any open source requirements.
- The PI is responsible for disclosing software and other Intellectual Property to UM Ventures, and for contacting UM Ventures with questions about appropriate open source license(s) to use.
- The PI is responsible for forwarding any release or data sharing agreement that needs a UMB signatory to the appropriate office (SPA, OTT, CCT).

The Office of Research and Development is authorized to revoke this blanket waiver entirely or to issue exceptions to this blanket waiver when necessary to protect UMB’s interests or fulfill UMD’s legal or contractual obligations to another party. This blanket waiver does not apply to Industry/Corporate funded projects.

Additional questions about a specific sponsor’s requirements can be directed to [Sponsored Programs Administration \(SPA\)](#). Open source or other IP related questions can be addressed to the [Office of Technology Transfer – UM Ventures](#).

We appreciate your attention to this important matter.