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July 10th, 2026

Re: Comments on the Proposed regulation for Federal Financial Assistance - Treatment of Publication Costs and Public Access (§ 200.461(b) and§ 200.454(b)) (Docket No. OMB–2026–0034)

Submitted Electronically via regulations.gov

SPARC, a non-profit organization of more than 190 libraries and academic organizations across the United States that supports research and education systems that enable everyone, everywhere to access, contribute to, and benefit from shared knowledge, appreciates the opportunity to submit these comments on the Office of Management and Budget's proposed revisions to the Regulation for Federal Financial Assistance (Docket No. OMB–2026–0034).

While we support OMB's goals of improving transparency and fiscal accountability in the federal grantmaking process, we are concerned that the proposed changes include provisions that prioritize political appointee opinions over scientific expertise, grant agencies unchecked discretion to suspend or terminate awards at any time, and undercut internal collaborations that currently fuel scientific discovery. These provisions threaten the integrity, independence, and stability of the research enterprise, and will undermine the U.S. leadership in scientific innovation.

For the purpose of this submission, we will confine our comments to the issues of primary concern to SPARC's members: the rulemaking's treatment of publication costs and its consequences for public access to federally funded research.

SPARC supports the core principle reflected in proposed §200.461(b): that a general requirement to make research results publicly available does not authorize charging Article Processing Charges (APCs) to a Federal award. Contrary to a misconception actively promoted by some publishers, paying an APC is not the only means of complying with U.S. public access policies, nor is it required. Authors can fully comply at no cost by depositing their final accepted manuscripts in agency-designated repositories, a right guaranteed by the Federal Purpose License (2 CFR 200.315(b)), which grants the government a royalty-free license to reproduce and use works produced under Federal awards regardless of any subsequent agreement an author signs with a publisher. Publishers should not be permitted to charge for compliance with a Federal mandate when this zero-cost, legally protected pathway already exists.

The comment also raises a related but narrower concern about the scope of proposed § 200.454(b), which makes periodical subscriptions categorically unallowable under Federal awards. As drafted, the text does not distinguish individual subscriptions charged directly to an award from institutional library subscriptions recovered as indirect costs. Read broadly, the

prohibition could reach library collections budgets—an outcome we do not believe OMB intends, but one the current text leaves open.

To that end, SPARC recommends that OMB:

- **Add an affirmative compliance statement** to § 200.461(b) confirming that repository deposit constitutes full compliance with public access requirements at no cost to the award or author, as permitted by the federal purpose license.
- **Direct agencies to issue implementing guidance** identifying the specific no-cost deposit pathways that satisfy their public access requirements.
- **Clarify the scope of § 200.454(b),** confirming in the final rule or preamble the subscription cost prohibition is limited to individual subscriptions charged directly to a Federal award, and that institutional subscriptions remain allowable indirect costs.

Recommendation 1: Add an affirmative compliance statement

Federally funded research is subject to public access requirements that make results freely available to the public. The rationale is well supported: science advances through the exchange of findings, and a result that is not communicated cannot be built upon, replicated, or applied. Federal investment in research is premised on precisely this dynamic.

A May 2026 Government Accountability Office report[1] found that publicly accessible publications funded by selected Federal agencies were consistently cited and viewed more than paywalled publications. Those funded by NIH were cited 37 percent more often on a field-weighted basis. Open access publications were 38 percent more prevalent in patent citations across all fields, and 73 percent more prevalent in patent citations related to biology. Public access is how Federal research investment delivers returns to the public that funded it.

Agencies implement these requirements primarily through no-fee, deposit-based repositories—PubMed Central for NIH, DOE PAGES for the Department of Energy, and NSF-PAR for the National Science Foundation. Under the Federal Purpose License, which automatically grants the government a license to reproduce and publicly distribute the results of Federally funded research, depositing into an approved repository satisfies any agency public access requirement without any payment to a publisher.[2]

Publishers have nonetheless moved to displace this zero-cost pathway. By restructuring their business models to make APC payment the practical precondition for publication in a peer-reviewed journal, they have positioned their fees as the default path to compliance. These costs are neither legally required nor scientifically necessary; they persist because the assumption that APCs are required for compliance has never been formally corrected by OMB or the funding agencies. That is the gap this rulemaking can close.

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[1] U.S. Government Accountability Office, *Federal Research: Agencies Should Better Manage Anticipated Publishing Cost Increases Amid Shift to Public Access*, GAO-26-107738 (Washington, D.C.: May 21, 2026), https://www.gao.gov/products/gao-26-107738

[2] Harbeson, Eric, The Legal Basis For U.S. Federal Public Access Mandates (March 18, 2025). Available at SSRN: https://ssrn.com/abstract=5184576 or http://dx.doi.org/10.2139/ssrn.5184576

The misconception APCs are a requirement of complying with public access requirements drove an estimated $295 million in Federal publication charges in 2024 alone, and is projected to reach $3 billion to $4.5 billion between 2026 and 2030 if current trends continue.[3] SPARC supports the core principle that publishers should not be permitted to charge for compliance with a Federal mandate when this zero-cost, legally protected pathway already exists.

However, the proposed §200.461(b) addresses only part of the problem. By barring APCs from Federal awards, it removes the funding, but it leaves the publisher-promoted premise that compliance requires APC payments intact. To date, that claim has gone largely uncorrected because agencies have not offered sufficient guidance affirming the rights secured by the Federal Purpose License. What is needed is an affirmative statement from OMB and the agencies that deposit of an accepted manuscript into a designated repository fully satisfies any public access requirement at no charge to the award or to the author. The Federal Purpose License has always made this true; what has been missing is an authoritative voice saying so. Without this statement, researchers who believe they have no other compliance option will predictably turn to the case-by-case approval exception, and the resulting flow of APC charges will recreate the very expenditure the rule was meant to eliminate.

Recommendation 2: Direct agencies to issue implementing guidance

Proposed § 200.461(b) states that "a general requirement to make results publicly available must not be construed as authorizing publication costs." This is consistent with the Federal Purpose License, and SPARC supports it as a necessary correction to a practice that has diverted substantial Federal research funds to commercial publishers without legal basis.

But the rule stops at removal. It does not take the next step: affirmatively stating that deposit of the final accepted manuscript in a designated repository is a sufficient compliance mechanism under existing public access requirements. That is the difference between a rule that helps researchers comply and one that leaves them without a clear way to do so.

Most researchers have no reason to know that the Federal Purpose License authorizes a zero-cost deposit pathway, because they have never been told. A rule change that removes one pathway without identifying the alternative leaves researchers uncertain at the moment they most need guidance and will predictably drive them toward the case-by-case approval exception. Rather than *eliminating* APC expenditures, this risks *recreating* it through a more burdensome process likely to be inconsistent across agencies, opaque to researchers, and susceptible to pressure from publishers with institutional relationships that individual investigators lack.

SPARC urges OMB to accompany this rule with clear guidance affirming that deposit of the accepted manuscript in a designated repository constitutes full compliance with any Federal public access requirement, at no cost to the award.

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[3]U.S. Government Accountability Office, *Federal Research: Agencies Should Better Manage Anticipated Publishing Cost Increases Amid Shift to Public Access*, GAO-26-107738 (Washington, D.C.: May 21, 2026), https://www.gao.gov/products/gao-26-107738.

The Federal Purpose License provides the legal foundation for a zero-cost compliance system, but that system requires functioning infrastructure. In addition to providing clear legal guidance, SPARC urges OMB to direct funding agencies to make commensurate, cost-effective investments in repository infrastructure as part of implementing this rule, including:

- Robust Federal and institutional repository systems with strong discovery and preservation capabilities;
- Support for diamond open access and scholar-led publishing platforms, which charge no fees to authors or readers; and
- Researcher education and guidance on available no-cost compliance pathways.

Recommendation 3: Clarification on the Scope of § 200.454(b)

Proposed § 200.454(b) makes subscriptions to business, professional, academic, and technical periodicals categorically unallowable under Federal awards, but does not distinguish individual subscriptions charged directly to an award from institutional library subscriptions or other agreements charged as indirect costs that provide broad researcher access to the scholarly literature. These are different instruments, and the two readings would have materially different consequences for grantees.

SPARC requests that OMB clarify, in the final rule or accompanying preamble, § 200.454(b) is limited to individual subscriptions charged directly to a Federal award, and that institutional subscriptions remain allowable indirect costs.

Conclusion

SPARC supports OMB's determination that Federal award funds should not routinely subsidize publisher article processing charges. The proposed revision to § 200.461 advances that goal but leaves a critical gap: it removes a cost pathway without establishing the no-cost alternative that makes the removal workable. The Federal Purpose License makes deposit of the final accepted manuscript a legally sufficient, zero-cost mechanism, and the repositories that make it operational have functioned at scale for decades. What has been missing is the regulatory direction that makes deposit the clear, default pathway for all Federally funded researchers.

Agencies do not need to pay publishers to comply with public access mandates; they need direction to exercise the authority they already hold. SPARC urges OMB to finalize § 200.461 with the additions recommended above and to direct agencies to invest in the open infrastructure that will make no-cost public access the default for all Federal grantees.

Respectfully submitted,

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