



**BIGELOW LABORATORY FOR OCEAN SCIENCES
(THE "LABORATORY")**

POLICY ON OPENNESS IN RESEARCH

1. The principle of openness in research - the principle of freedom of access by all interested persons to the underlying data, to the processes and to the final results of research - is one of overriding importance to the Laboratory. Accordingly, it is the decision of the Laboratory's Senior Research Scientists ("SRSs") that that principle is to be implemented to the fullest extent practicable and that no program of research that requires secrecy (as hereafter defined) be conducted at the Laboratory, *subject to the exceptions set forth in Sections 4, 7, 8 and 9 below.*
2. A research program shall be regarded as "requiring secrecy" if:
 - (i) any part of the sponsoring or granting documents that establish the project is not freely publishable, or
 - (ii) there is a reasonable basis for expectation that any documents to be generated in the course of the research project will be subjected by an outside sponsor to restrictions on publication for a period in excess of that reasonably required (i.e., more than ninety days) for the sponsor to ascertain whether information they are entitled to have treated as confidential would be disclosed by publication, or
 - (iii) access will be required in the course of the project to confidential data so centrally related to the research that a member of the research group who was not privy to the confidential data would be unable to participate fully in all of the intellectually significant portions of the project.
3. No post-doctoral research should be undertaken if, at the time the research topic is set, there is any possibility that it will lead to research requiring secrecy.
4. No secret post-doctoral research should be allowed unless, in the judgment of the relevant SRS, the imposition of secrecy could not reasonably have been foreseen until the research was so far advanced that modification of the research would result in substantial inequity to the post-doctoral research scientist.
5. Scholarly activities not accessible for scrutiny by all SRSs should not be considered in connection with appointments or reappointments of SRSs.
6. Research Beholden to Government-mandated Secrecy Requirements - The Laboratory should enter no contract and accept no grant to carry out research if the grant or contract restrains the freedom of the Laboratory to disclose the:
 - (i) existence of the contract or grant; or

- (ii) general nature of the inquiry to be conducted; or
- (iii) identity of the outside contracting or granting entity, or
- (iv) research results; *provided* that clause (iii) shall not apply to anonymous gifts or grants that do not call for the performance of specified lines of inquiry.

7. That a program of research, appropriate to the Laboratory on other grounds, shall not be regarded as unacceptable by reason of secrecy merely because the following circumstances exist:

In a program of research, the purposes of which would be significantly advanced by access to information generated elsewhere which had been subjected to security classification, provision may be made for security clearance and for access to that information on the part of one of several of the participating investigators *provided that* the classified information is peripheral to the research program in the following sense: the relationship between the classified data and the overall research endeavor must be sufficiently remote so that:

- (i) a member of the research group who did not hold a security clearance would nevertheless be able to participate fully in all of the intellectually significant portions of the project; and

- (ii) there is no substantial basis for an expectation that any part of the final results of the research, or any but a trivial part of the research processes, will be subject to restriction on publication more enduring than those described in Section 2 above.

8. Industry-Sponsored Research - In a program of industry-sponsored research, provision may be made in the contractual agreement between the Laboratory and the sponsor for a delay in the publication of research results, in the following circumstances:

- (i) For a short delay (the period of delay not to exceed ninety days), for patenting purposes or for sponsor review of and comment on manuscripts, providing that no basis exists at the beginning of the project to expect that the sponsor would attempt either to suppress publication or to impose substantive changes in the manuscripts.

- (ii) For a longer delay in the case of multi-site research (the period of delay not to exceed twenty-four months from the completion of research at all sites), where a publication committee receives data from participating sites and makes decisions about joint publications. Such delays are permitted only if the affected SRS is assured the ability to publish without restrictions after the specified delay.

- (iii) When it is in the best interests of the research, the Laboratory's Executive Director may approve contractual arrangements that could lead to longer publication delays. Requests for the Laboratory's Executive Director to approve such contractual arrangements should include:

- (x) the rationale for the request;
- (y) a description of who will have authority over publication decisions, and
- (z) a statement of the provisions that will allow the Laboratory researcher to publish within a defined period of time, regardless of other considerations.

(iv) Under no circumstances should an SRS engage a post-doctoral research scientist in a project governed by an extended publication delay agreement or contractual arrangement that could present a barrier to the timely publication of the post-doctoral research scientist's work.

9. Protection of Third-Party Confidential Information - If, in a program of research, an outside person or entity has made available to an SRS confidential information, then provision may be made to preserve confidentiality and/or a short delay in the publication of research results during which time the information source may examine the proposed publication to assure that the SRS has not disclosed, intentionally or unintentionally, any portion of the confidential information supplied; *provided, however*, that any such provision for delay must contain assurance from the information source that they will:

- (i) conduct their review as expeditiously as possible;
- (ii) not attempt to thwart publication for any reason except to protect confidential information previously supplied; and
- (iii) indicate with specificity the sentence or sentences which they contend constitute such a disclosure.

10. Compliance with this Policy shall be reviewed/evaluated during an SRS's Annual Performance Review.

11. Freedom of Information Act (FOIA) Requests - From time-to-time, the Laboratory may receive FOIA requests from the general public. For a more detailed discussion of this subject, please refer to the Laboratory document entitled "Guidelines for Submitting a Freedom of Information Act (FOIA) Request and Guidelines for Replying to a Freedom of Information Act (FOIA) Request."