The access restrictions embedded in Executive Order 13223, “Further Implementation of the Presidential Records Act,” promulgated by President George W. Bush are consistent with a presidential administration preoccupied with secrecy and regulating the control of information flowing outward from the government into the citizenry. Labeling it ill conceived, hostile, egregious, and blatantly unconstitutional, Professor Jonathan R. Turley of George Washington University Law School condemned the order noting that “is fatally flawed as a matter of law and extremely misguided as a matter of public policy.”

Signed into law on November 1, 2001, Executive Order 13223 places new restrictions on public access to presidential records beginning with those produced during Ronald Reagan’s administration, and in doing so it imposes from a scholarly perspective unrealistic, unwarranted, and perhaps insurmountable restrictions on historical documents, effectively embargoing them from study and research for decades. The deleterious effects on future research and scholarship caused by this law will be profound unless it is overturned.

Possibly more damaging to the country and its collective psyche though, is the executive branch’s cynical approach toward the public’s right to know how its government functions. The Bush White House’s penchant for non-disclosure and its attendant antipathy toward the free press that is crucial to the maintenance of an informed electorate fly in the face of “government by the people and for the people.” Furthermore, laws such as Executive
Order 13223 make it increasingly difficult for Americans to take seriously and maintain confidence in an administration that envelopes itself in patriotic fervor, claiming to love America but clearly disdainful and distrustful of loyal Americans wishing to exercise their constitutional rights to obtain and disseminate information about their government.

Members of Congress, representatives of the archival community, legal scholars, and distinguished historians moved swiftly to challenge this executive order, signed into law on November 1, 2001 by holding hearings conducted by the House Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. Testimony was heard from distinguished historians Robert Dallek, Richard Reeves, Stanley Kutler and Joan Hoff, all having worked extensively with presidential papers. Legal scholars Morton Rosenberg of the Congressional Research Service, Mark J. Rozell of The Catholic University of America, and Todd Gaziano of The Heritage Foundation joined Professor Turley in offering testimony supporting the law’s unconstitutionality. Letters of support were received from Arthur Schlesinger Jr. and John Morton Blum. Steven L. Hensen, President of The Society of American Archivists, was a forceful public presence in the midst of the controversy, providing articulate, intelligent reason in numerous interviews and editorials on behalf of historians, archivists, manuscript curators, and the citizens of the United States who have always treasured their constitutional right to know.

The library community, while acknowledging the severity of the consequences caused by the new access restrictions to the papers of the Reagan, Bush, Clinton, and Bush presidencies has not responded thus far with similar velocity. It is not too late to lend our support to the protest. For that reason we have decided to publish the set of papers presented at a symposium sponsored by New York University and the Archivists Round Table of Metropolitan New York earlier this year. The issues concerning executive privilege, national security, privacy rights,
and public access to government records raised by the implementation of Executive Order 13223 must be heard and considered by the library community and its constituency. We wish to acknowledge with thanks the willingness of Nancy Cricco, Peter Wosh, John Brademas, and Bruce Craig to have their remarks published in this issue of RBM.

The final essay in this issue, contributed by the RBM’s ad hoc Committee on Electronic Licensing, enumerates and sheds light on the complex issues involved in protecting the intellectual property rights of creators while providing the broadest possible access to intellectual property under the law in the electronic environment. Electronic licensing is only the latest wrinkle in the balancing act we, as information professionals, have always been performing. The very essence of our jobs is to guarantee the public’s right to obtain information regardless of reason or purpose while simultaneously guarding the privacy and ownership rights of those who have created the information. What could be more patriotic than that?