

Transforming GPO for the 21st Century and Beyond:

Part 3 - Federal Depository Library Program

Statement for the Hearing Record

To the House Committee on House Administration

September 26, 2017

Chairman Harper, Ranking Member Brady, and Members of the Committee:

On behalf of the American Association of Law Libraries (AALL) and the Medical Library Association (MLA), we are pleased to submit to the Committee our recommendations on updating Title 44 of the U.S. Code, focused primarily on Chapter 19 on the Federal Depository Library Program (FDLP). AALL and MLA members have an important stake in Title 44 and the future of the FDLP and we are honored to have the opportunity to share our Associations' views with you. We request this statement be included in the hearing record for the September 26, 2017 hearing, "Transforming GPO for the 21st Century and Beyond: Part 3 - Federal Depository Library Program".

This document builds on AALL's recommendations to the Depository Library Council (DLC), sent to DLC and your committee on August 31, 2017. We expand upon those recommendations here to provide the Committee with further background and reasoning for our recommendations. We look forward to continuing to work with the Committee as you consider modernizing Title 44.

AALL's and MLA's Commitment to a Thriving FDLP

AALL and MLA believe that members of the public have a right of access to comprehensive government information, including access to the basic official, authentic materials necessary for legal, health, and biosciences research. We believe that the FDLP should ensure a system of equitable, effective, no-fee, efficient, and dependable dissemination of and permanent public access to government information.

Participation in the FDLP is an important commitment for the approximately 150 academic law libraries and nearly 50 state, court, county, and government law libraries in the program. Most of these libraries participate by virtue of the special eligibility provisions in Title 44 of the U.S. Code. Law library depositories are committed to providing members of the public with timely and equitable permanent public access to preserved legal and government information.

Law librarians are legal information experts who assist the public in navigating this specialized and technical area of government information and serve as a resource for other depository librarians. For that reason, depository librarians in regional depository libraries and in non-law selectives often consult with law librarians and refer patrons

seeking help with legal materials to their colleagues in law libraries for the expert assistance they can provide.

Health sciences libraries and librarians within and outside of the FDLP support regional and selective depositories by providing access to health and biosciences publications and information. For example, the Eccles Health Sciences Library, University of Utah has been a member of the FDLP since 1970, selecting and providing links to online federal government publications in the medical and health sciences. The National Library of Medicine (NLM) entered into a content partnership with the FDLP in 2000 to provide permanent public access, without restrictions, to online U.S. government information resources. The world's largest medical library, NLM maintains and makes available a vast print collection and produces information resources on a wide range of topics that are searched billions of times each year by millions of people around the globe.

AALL and MLA believe that the FDLP has both a commendable past and a bright future in which it can continue to meet its vision to “provide Government information when and where it is needed in order to create an informed citizenry and an improved quality of life.” We believe that modest changes to Title 44, with agreement from the library community, will allow regional and selective libraries to continue to find value in the program while keeping true to the FDLP's mission “to provide free, ready, and permanent public access to Federal Government information, now and for future generations.”

Principles for Federal Government Information

AALL and MLA believe that any changes to Title 44 must embrace fundamental principles of public access. The following principles were explicitly expressed in the Congressionally-directed *Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program As Required by Legislative Branch Appropriations Act, 1996 Public Law 104-531*. The Principles were developed by the Government Publishing Office (GPO) with participation from the major library associations and other stakeholders. They have been widely endorsed by the library community and expressed in many different ways over the years.

- Principle 1: The Public Has the Right of Access to Government Information
- Principle 2: The Government Has an Obligation to Disseminate and Provide Broad Public Access to Its Information
- Principle 3: The Government Has an Obligation to Guarantee the Authenticity and Integrity of Its Information
- Principle 4: The Government Has an Obligation to Preserve Its Information
- Principle 5: Government Information Created or Compiled by Government Employees or at Government Expense Should Remain in the Public Domain

Recommended Changes to Title 44

AALL and MLA are supportive of the existing structure of regional and selective depository libraries. However, we acknowledge that Title 44 could be updated to reflect the digital age. We are pleased to offer the following recommendations for changes to Title 44.

Recommendation 1. Explicitly expand the scope of the FDLP to include publications in all formats, including digital. § 1901

AALL and MLA recommend that Congress update “government publication,” as defined in § 1901, to reflect the ways in which information is produced, disseminated, and accessed in the modern age. We suggest the Committee look to OMB Circular A-130, revised in 2016, for the updated definition. Circular A-130 promotes public access to government information, acknowledging that born-digital government information of many types is well within the scope of the FDLP.

AALL and MLA recommend that the Committee adapt the definition of “Information Dissemination Product”, as defined in Circular A-130, or some variation that will consider access to public government information *regardless of physical form or characteristics*. As defined in the Circular, “‘information dissemination product’ means any recorded information, regardless of physical form or characteristics, disseminated by an agency, or contractor thereof, to the public.” The term ‘dissemination’ means the government-initiated distribution of information to a nongovernment entity, including the public. The term ‘dissemination,’ as used within the Circular, does not include distribution limited to Federal Government employees, intra- or interagency use or sharing of Federal information, and responses to requests for agency records under the Freedom of Information Act (5 U.S.C. § 552) or the Privacy Act (5 U.S.C. § 552a).

Electronic information can be a substitute for tangible materials under guidance from the Superintendent of Documents, provided that the electronic information is certified as official and authentic. We commend GPO for its leadership in authenticating materials through FDsys/govinfo and we urge Congress to continue to support these efforts. Authentication is necessary to ensure that electronic materials are trustworthy and reliable. We note, however, that access to electronic information does not eliminate the need for geographically distributed tangible collections; both tangible and electronic information must continue to be available to the public. See Recommendation 3 for more information.

Recommendation 2. Repeal the requirement that a depository library have a minimum of 10,000 books. § 1909

Volume count is an outdated metric and not a useful method for judging the status of a library. We believe the statute should be revised to allow the Superintendent of Documents to develop guidance on the minimum requirements for FDLP status.

Recommendation 3. Allow for local flexibility in the number of regional libraries. § 1912

AALL and MLA acknowledge the pressures facing regional libraries and believe that Title 44 could be updated to allow for local flexibility in the number of regionals, as long as there are clearly defined limitations in the statute to assure public access. Minor changes to the statute should satisfy the concerns of regionals, while maintaining the expectation that regional libraries must continue to be geographically dispersed and easily accessible.

Changes in regional status—for example, to allow shared regionals across state lines—should be made only when the affected regionals and selective depositories are in agreement; with the advice and consent of the Joint Committee on Printing and the Superintendent of Documents; and with the approval of the state’s (or states’) Senators. GPO and the libraries must develop and sign a formal written agreement that demonstrates how the changes will improve, or at least maintain, public access.

In addition, the Superintendent of Documents should be directed in the statute to develop guidelines on the requirements for shared regionals that demonstrate how the changes will further improve, or at least maintain, public access. These guidelines should consider the geographic distribution of all regionals and the abilities of the regional(s) to service and share collections with other impacted regionals and selectives as well as to provide public access within the state and across state lines.

AALL and MLA continue to be concerned about the geographic distribution of tangible materials. Because most historical documents are centralized in regional libraries and kept piecemeal in selective libraries as their collection interests otherwise warrant, it is important for permanent public access that multiple regionals with complete collections of tangible materials are maintained. We believe that the Joint Committee on Printing’s (JCP) requirement for only four copies of core materials as part of the Regional Discard Policy did not fully appreciate the needs of the public to access print materials, and the need to safeguard the documents of our democracy. We urge JCP to direct GPO to work with the depository library community to define the minimum number tangible copies and the minimum of regionals.

We also note that public access to materials is not possible without fully-cataloged library collections. The least cataloged library collections are those of the pre-1976 materials, which often reside in regional libraries, making these documents the most difficult for the public to discover. It appears GPO is no longer pursuing the goal of having a fully-cataloged regional collection, as the agency had initially stated was necessary for the implementation of the Regional Discard Policy. We believe JCP should direct GPO to move forward with cataloging library collections as a priority.

Recommendation 4. Give grant-making authority to GPO so that it may support preservation and cataloging projects and other initiatives that expand permanent public access to federal government information.

We support the recommendation offered by GPO Director Davita Vance-Cooks at the July 18 Committee on House Administration hearing, “Transforming GPO for the 21st

Century and Beyond: Part 2” to update Title 44 to allow GPO to provide grants to Federal Depository Libraries (FDLs). The benefits of exploring and supporting many different preservation and cataloging projects increases the number of ideas and potential solutions to assure permanent public access to government information. Grants might also be used to help bridge the “digital divide” through financial support of digital information literacy programming at FDLs.

We recommend that any grants program be overseen by GPO to ensure strategic goals are developed and met. We also recommend that GPO work with the library community to identify priorities for preservation and cataloging projects, and engage in a competitive process for the distribution of grants to ensure projects chosen are the most needed and most effective.

Recommendation 5. Allow libraries the option for digital deposit.

Digital publications are fragile. Files are vulnerable to corruption or deletion, and technologies can rapidly become outmoded or obsolete. Explicitly allowing the distribution of digital files, also known as “digital deposit,” would assure greater access to and preservation of electronic government information.

Digital deposit is already occurring on a small scale through GPO’s partnership with the LOCKSS-USDOCS program, which allows geographically-distributed libraries to harvest and preserve all collections hosted on FDsys. Title 44 should explicitly allow for GPO to partner with depository libraries that are willing to receive and host digital government information for permanent public access and preservation.

Recommendation 6. Prohibit fees for govinfo.gov or any future system. § 4102

In 2013, GPO rejected a call from the National Academy of Public Administration to explore charging fees for access to FDsys, with GPO Director Davita Vance-Cooks stating that GPO has “no intention of charging public users a fee to access content available through FDsys. GPO remains committed to no-fee access to FDsys for the public as part of our mission of Keeping America Informed.” AALL and MLA recommend that the Committee update the text of § 4102 to remove the language allowing the Superintendent of Documents to charge fees for public access to federal electronic information, and replace with language assuring no-fee public access.

Other Considerations

We believe it is important that Title 44 maintain the provisions, including § 1916, that encourage law library participation in the program. As Congress stated when enacting the 1978 law providing depository designation for law school libraries, “...librarians who are specialists in legal research enhance both the use of Government documents and the interpretation of their contents...with their...supporting materials and personnel, (law libraries)...make Government documents available to the public (and to) the lay researcher...” (See H.R. Rpt. 95-650, part of legislative history of Pub. L. No. 95-261).

We also believe that there may be opportunities to expand the FDLP so that libraries

currently precluded from participation in the FDLP, such as school libraries, may participate through alternative designations. Any changes along these lines should not, however, weaken the benefits that regional and selective libraries receive under the current statute.

Conclusion

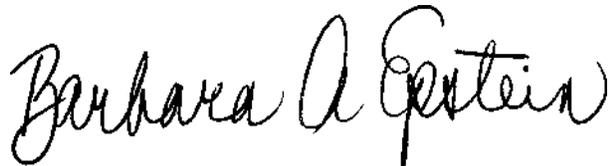
AALL and MLA welcome the opportunity to contribute ideas to the modernization of Title 44. We believe that with a concerted effort to find agreement within the FDLP community, Chapter 19 of Title 44 can be updated to benefit all types of libraries within the program, including law and medical libraries. We urge the Committee to continue to include the library associations, GPO, and the Depository Library Council in conversations about Title 44.

Ultimately, a strong Title 44 will benefit the American people, who rely on the FDLP and GPO for permanent, no-fee public access to trustworthy government information. We look forward to continuing to work with you and your staff as the Committee considers changes to Title 44.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Lambert". The signature is stylized with a large initial "G" and "L".

Greg Lambert
President
American Association of Law Libraries

A handwritten signature in black ink, appearing to read "Barbara A. Epstein". The signature is written in a cursive style.

Barbara A. Epstein, AHIP, FMLA
President
Medical Library Association