

July 31, 2006

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(Superintendent of Documents)
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Dear Ms. Russell:

On behalf of the American Association of Law Libraries (AALL), we thank you for the opportunity to comment on the May 2006 document, "Proposed Revision of the Essential Titles List." AALL members first learned of this proposal during your remarks at the Seattle meeting of the Depository Library Council (DLC) in April. It was clear from the discussion at the subsequent DLC breakout session for law libraries that it raised serious concerns within our community. In addition, members of our Government Relations Committee (GRC) and Government Documents Special Interest Section (GD-SIS) raised additional concerns with you and your staff during a conference call on June 8th. We are pleased that you are seeking comments from the entire depository library community because this proposal needs to be considered very carefully.

AALL's Washington Office, GRC and GD-SIS have reviewed the current proposal. As you are well aware, AALL has long embraced the benefits of technology to improve public access to government information and we support the distribution of the "majority" of government information in electronic formats. However, over the past two years we have participated in previous unsuccessful efforts by the Government Printing Office (GPO) to determine exactly which titles are "essential" to depository libraries. Among the lessons learned from these efforts is that even within the narrow circle of depository law libraries, item selection is determined by a variety of factors and varies widely among participating libraries. There is really no consensus on what is "essential," even among this group.

Furthermore, during the same time frame, we have witnessed the elimination of important titles from the print distribution program in favor of electronic-only distribution. This seems to be a problem not just for selective depository libraries and libraries with selective housing agreements but also for the regionals. We continue to be concerned that even regional libraries are not receiving core titles that many would consider "essential" for print distribution.

The strength of the Federal Depository Library Program (FDLP) has always been that libraries—both selectives and regionals—work cooperatively in building and sharing their collections and expertise to serve local needs. The current proposal moves away from this highly-successful, coordinated and cooperative model towards a future where libraries could conceivably build duplicative and redundant collections of "essential titles." For these and the following reasons, we find this proposal unacceptable because it fails to take into account the need that all depository libraries have to build unique tangible collections to best serve their user communities, both today and in the future.

Our specific concerns about the "Proposed Revision of the Essential Titles List" are the following:

First, from the beginning sentence, “As directed by Congress...,” the proposal misinterprets the direction given GPO in 1996 in the *Legislative Branch Appropriations Act of 1996* (P.L. 104-53) to transition to a “*more* electronic FDLP” (emphasis added). There is no mandate from Congress to eliminate almost all print in favor of electronic-only distribution, despite the fact that GPO is clearly moving in that direction. In fact, the Joint Committee on Printing has been very supportive of the depository library community’s concerns that the FDLP must continue to be flexible to allow participating libraries to determine what titles they need for their users, and in what format. The current proposal would undermine local decision-making by knowledgeable depository librarians who are the experts in understanding the information needs of their users.

Second, the 85% “preponderance” threshold would lead towards a “one-size fits all” FDLP system. One of the strengths of the FDLP has been that depository libraries build unique collections and share resources and skills with other participating libraries. All depository libraries have taken advantage of adding digital titles into their collections and will, in fact, choose digital for much of their collections. However, libraries must continue to have the option of selecting titles in print if they believe that is the most appropriate format. In addition, we are concerned that there seems to be no rationale for the 85% threshold and that many titles most important to depository law libraries fall below that threshold and thus would not be considered “essential.” As noted earlier, this seems to be an artificial method with a very high threshold to determine format decisions based not on local need but on the “popularity” of a particular title.

Nor does the proposed creation of essential titles by type of library provide the necessary flexibility to make format decisions based on local needs. Although depository law libraries contribute to the FDLP in unique ways (e.g., by retaining all years of the *Code of Federal Regulations* as part of their permanent collections because of the nature of legal research), government-issued legal information is selected by many different types of depository libraries that serve many different constituencies. The proposal that “Titles deemed essential and available in tangible format to one type of library, may not be available in tangible format to other types of libraries” (p. 3) is ill-advised. Many non-law depository libraries select legal materials because they serve diverse user populations who need legal information, a fact that was recognized in your analysis of the earlier Essential Titles List survey.

Third, the proposal makes a clear distinction between the Essential Titles List and criteria outlined in SOD 301, *Dissemination/Distribution Policy for the Federal Depository Library Program*. This recently revised policy document outlines the criteria used by GPO to determine formats. Although they reflect GPO’s current practice of making more and more titles available only via the Internet, we are concerned that one of the criteria for tangible distribution is that “The title is of significant reference value *to most types of libraries* in the FDLP” (emphasis added). This seems to once again base GPO’s format decisions more on popularity than on a title’s reference value or importance.

We believe that if an agency chooses to produce a particular title in a tangible format, then that is the preferred format for the user community of that agency. Unfortunately, we have seen numerous examples of GPO making the decision not to distribute a title in print even though the agency has published it in print and it is available through the GPO Sales Program. This is wrong and fails to serve either depository libraries or the public. Although we agree that agencies are choosing to publish some titles exclusively in an electronic format, it is clear that GPO has made substantive cuts to print runs of important titles that are still produced in print. And when agencies make the decision to no longer print a title that has significant reference value, we strongly encourage you, as Superintendent of Documents, to work closely with them to get an optimized version from which a tangible format can be produced for distribution to depository libraries.

Each year, GPO receives approximately \$9 million through the Salaries & Expenses Appropriations for print distribution. At the same time, depository law libraries report to us that they are receiving fewer shipments of tangible materials. This illustrates the larger problem that the current practice under SOD 301 criteria favors electronic-only distribution even when agencies are choosing to publish titles in print. To further illustrate this point, the “Special Notice” accompanying the annual item selection update for depository libraries is of concern to us because it seems to indicate that further cuts are being planned for the print distribution program:

Libraries are reminded that the process of changing to a more electronic Federal Depository Library Program (FDLP) is continuing. The dissemination format for some Government publications will change from the physical distribution of tangible products (paper, microfiche, or CD-ROM) to online access only. In the coming months these changes will affect FDLP products currently available in multiple formats, particularly those available in both paper and online versions. In some cases the discontinuation of physical distribution will affect titles that you may wish to add during this update cycle, or even titles that you currently select. Changes in distribution format will be announced in [WEBTech Notes](#) as they occur. (See: http://www.access.gpo.gov/su_docs/fdlp/tools/amendment.html)

Fourth, we are well aware of budgetary issues and the difficulty of maintaining a print distribution program while at the same time building new electronic systems that are needed to move GPO into the 21st Century. AALL has always fully supported the annual S&E appropriations request because we know it is vital to the FDLP. We also have been fully supportive of the development of the Future Digital System (FDsys) and view it as crucial to the future of GPO and the FDLP. However, until FDsys is built and established as a reliable system that will ensure version control, authenticity, adequate distribution, permanent public access and preservation of electronic information, the print distribution program through the FDLP must be preserved. This is especially necessary for legal titles that are required to be in an authentic format.

One important component of the FDsys will be to deliver content in the format suited for customers’ needs. This may include an opportunity for GPO to offer a “print-on-demand” (POD) service to help meet the specific local needs of depository libraries to obtain tangible copies of publications that are not available through the FDLP. We believe that any future POD service must ensure a high quality tangible product that can be archived. Depository libraries should not have to bear the cost when a print format is deemed necessary to meet their users’ needs. Advance planning, user surveys and adequate study and analysis are crucial before a POD program can be implemented to ensure that Congress appropriates adequate funding to cover the costs. For the moment, we view POD less as an alternative for print distribution to depository libraries than as a system that will allow libraries to acquire items they may not select but want to add to their collections in a tangible format, or to order a second copy.

It must also be recognized that today the GPO Access system is difficult to use and search functionality is poor. PDFs of large documents that are heavily used in depository libraries, such as congressional hearings and committee reports, take too long to download and sometimes will not download at all. In addition, GPO Access, the FDLP Desktop and the U.S. Government Bookstore recently have experienced outages either for server maintenance or because of technical difficulties. Not only should GPO’s online system ensure that electronic titles are authentic, official, and permanent—these documents should always be accessible. At this point we have concerns about the

reliable availability of GPO's electronic databases. GPO has been working with Akami on a back-up system that is not yet comprehensive or available to the public. LOCKSS, or some other system of local digital deposit analogous to the existing print deposit system, would ensure that information users would not lose access to online documents simply because one system goes offline.

It is important to the depository community and to the information needs of the American public for GPO to focus anew on the community's strong desire to partner with GPO in serving those information needs. At this point in time, we believe those needs are best served by allowing the depository community to determine the formats their users need, based on their expert analysis of their local community.

We urge you not to move forward on this proposal. Rather, we would like to work with GPO staff and others in the depository library community to develop more balanced criteria for determining formats for dissemination to depository libraries. It is vital that the FDLP meet the needs of participating libraries and the members of the public whom we all serve.

Sincerely,

A handwritten signature in blue ink that reads "Sarah (Sally) Holterhoff".

Sarah Holterhoff
President
American Association of Law Libraries

cc: Ms. Susan Wells, Staff Director, Joint Committee on Printing
Ms. Kennie Gill, Democratic Staff Director & Chief Counsel, Senate
Committee on Rules and Administration
Mr. Matt McGowan, Professional Staff Member, Senate Committee on
Rules and Administration