

The Federal Depository Library Program: Current and Future Challenges of the Electronic Transition

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American Association of Law Libraries

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Before I begin my remarks, I want to make a brief announcement to you. On April 5, 2003, the American Association of Law Libraries (AALL) Executive Board approved a resolution requesting that the Government Printing Office (GPO) reinstate the option for depository libraries to select the U.S. Supreme Court Slip Opinions in print "because the electronic version is neither authoritative nor official," and because the Slip Opinions are "of significant reference value." This resolution was transmitted to the AALL Washington Office and to the Depository Library Council. Mary Alice Baish delivered a copy of the resolution to me and, after reviewing it with others at GPO, I have decided to comply with the request, although not exactly as it was stated in the resolution.

The FDLP Basic Collection (http://www.access.gpo.gov/su_docs/fdlp/coll-dev/basic-01.html), or "core list" as it is more commonly called, includes approximately 30 titles, of which 21 are to remain in paper as long as it is feasible to do so. The list was negotiated with great difficulty over a considerable period of time. As usually occurs with this type of negotiation, it is not entirely pleasing to anybody, but is the best we can do as a community if we can have only one core list. I believe that the answer is to expand the core list so that libraries of various sizes and types can identify a few paper titles that should remain available to their libraries, whether or not they are core titles for the entire community.

Many of you have heard me say, or have read remarks in which I have said, that I don't believe the core list for a small public library is (or should be) the same as that for an academic law library or a large research library. If the FDLP is to attract and retain libraries in the future, GPO must break out of the "one size fits all" mode of operation and customize its services to the unique needs of its partner libraries.

The Slip Opinions of the Supreme Court are the test case for this new way of doing business. They will be added to the core list for selection ONLY by law libraries and regional libraries. This option will NOT be extended to other depository libraries, even to law libraries that receive slip opinions under selective housing agreements, and no law library or regional library will be forced to accept the opinions in paper. GPO will survey to determine which eligible depository libraries want to select the Slip Opinions in paper effective with the new term that begins in October 2003.

GPO will also examine the methods and the costs for retroactively providing the opinions that have not been distributed since the print version was suspended in June 2002. If GPO can provide the retrospective opinions, we will also survey to determine which eligible libraries want to receive them.

GPO will ask that every eligible library respond to the survey, whether to accept or to decline the option of receiving paper slip opinions. We do not want to be left speculating about whether a specific library did or did not hear about the option and does or does not want the paper opinions. So please be sure to respond to the survey when you receive it and to tell all of your eligible colleagues to respond as well.

As I said, this is a test case. I am very conscious of the slippery slope. I will NOT re-open the issue of paper distribution of the Serial Set or the bound Congressional Record because it takes disproportionately large amounts of resources to provide these titles in paper beyond the distribution that has already been determined. GPO has to administer the program for the benefit of all participants and use the resources for the optimum mix of products and services.

Based on this decision on the slip opinions, I will offer a similar opportunity to other depository communities (such as small public libraries, research libraries, etc.) to discuss the core list among themselves and recommend one or more titles that they as a community would like to add, specifically to address the needs of their constituents. I am sure there are titles, which are valuable to a significant subset of depository libraries that were dropped from the core list in the negotiations because there was not sufficient support from the full range of depository libraries.

This also paves the way for truly customized selection, which we hope to offer in the future, so that each depository library can eventually have its own core list and utilize print on demand, among other options, to obtain in print titles that are essential to its own tangible collection. (More on that later in my remarks.)

Please watch for further communications from GPO to implement the change in the distribution of the slip opinions and to announce the opportunity for other communities to supplement to core list with one or more titles to address the needs of their constituents.

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Now, let me begin my formal remarks. First, I want to thank Mary Alice Baish for all of her support and assistance since I came back to GPO in January, and particularly for arranging, not just this opportunity, but a variety of opportunities for me to interact with the law library community before and during this conference. It is a tremendous pleasure to be here in Seattle with you and I look forward to working closely with you in the coming months as we address the current and future challenges facing the FDLP during this rapid electronic transition.

All year we have been talking about the fact that this is the year that the Federal Depository Library Program crosses the Rubicon. Since early this year we have projected that more than half of the documents added to the program this year would be electronic online titles, available through *GPO Access* or by links to electronic publications on agency or other websites. At the Depository Library Council meeting in Reno in April, we forecast that 60% of the new titles added this year would be online electronic titles.

In fact, the transition is moving more quickly that we projected. So far this year, 65% of the new titles added to the FDLP are electronic online titles, even more than we projected. From October 1, 2002 (the beginning of the fiscal year) through June 30, 2003, GPO has added 29,815 titles to the FDLP collection. 11,791 of those titles are available online through GPO and an additional 7,660 are links to publications on agency websites, for a total of 19,451 new online electronic titles. During the same period, GPO distributed only 10,364 tangible titles: 5,279 paper titles, 3,542 microfiche titles, 288 CD-ROM/DVD titles and 1,255 USGS maps.

These additions bring the total number of titles on *GPO Access* to 150,951 and the total number of titles linked from *GPO Access* to 99,146 for a grand total of 250,097 titles available through *GPO Access* as of June 2003. The trend is clear and the speed of our transformation is accelerating.

What does this mean for the Federal Depository Library Program? We are rapidly approaching a critical time. The FDLP has always been a delicate balance between the self-interest of the library in obtaining publications without cost and the public interest in access to the information. As the electronic transition accelerates, the balance on the scales is tipping dangerously. Within two or three years, there will be very few tangible products distributed to depository libraries, other than those that we collectively decide to preserve in paper or other tangible format – our core lists.

Practically from the moment GPO shipped the first CD-ROM to a depository library, the community has discussed and debated the future of the program and how we would meet the challenges of a more electronic FDLP. Now it is time to act. Together we must re-examine the services that GPO provides to the public directly and through the depository libraries. Together we must define the services that are required, now and in the future, to support the mission that we share – permanent public access to government information. Together we must address the fundamental question that we have been asking each other since 1995: Why be a depository library when you can obtain "everything" (or virtually everything) free on the Internet without being part of the program?

Sales Program

At the same time, we must face the reality of a GPO Sales Program with rapidly declining sales volume and revenue. In part as a result of increased access through the Internet, the overall volume of sales has dropped dramatically, from 24.3 million copies sold in FY 1993 to 4.4 million copies sold in FY 2002. Ten years ago we sold 35,000 subscriptions to the Federal Register; today we sell 2,500. At the same time, we are now downloading over 4 million Federal Register documents each month from *GPO Access*. Revenue has plummeted as a result of these changes, while costs have dropped less rapidly, resulting in losses that must be stopped.

This spring we made the painful decision to close all of the GPO bookstores, other than the main bookstore in Washington. By September they will all be closed. It was not an easy decision, but it was the right decision. The walk-in traffic in the bookstores has dwindled to a trickle. The public has already embraced online ordering of publications, as shown by the enormous popularity of Amazon.com. We project that 85% of our sales orders will come through the online bookstore by 2005. We will continue to offer Federal Express and other means to deliver urgently needed publications to remote customers overnight, but we will no longer rely on bricks and mortar bookstores to provide service to our sales customers.

Publications on Demand

Even as we are closing the bookstores, we are seeking to restructure the Sales Program so that the costs are in line with the achievable revenues. We continue to make every effort to stabilize the sales program at a sustainable level and to expand the range of titles and services that are available for sale to the public.

We know that we need to create less inventory and we have begun an experiment with print-on-demand services. We see two ways to use this technology.

- One way is to buy far fewer copies in the initial press run – just enough to meet the initial short term demand – and then print a small number of copies, perhaps 25 at a time, to keep a small inventory. If sales dry up, we have very little wasted inventory and we can reduce our warehouse space substantially. As sales volume diminishes, we can allow the title to go out of stock, but not out of print, and print copies only when there is a sale.
- Secondly, we can take many, perhaps even most, of the titles that are selected for the Federal Depository Library Program that historically would not have been included in the sales program and make them available strictly as print on demand titles. With minimal costs to add these titles to the database of items for sale, and no actual expense to produce the publication until someone orders a copy, we can significantly expand the titles we offer – and these titles will never go out of print.

We believe we can guarantee shipment of print on demand titles within 48 hours or less and that we can do some print on demand at the main bookstore within an hour after an order is received.

This print on demand capability offers advantages to publishing agencies and to depository libraries as well sales program customers. Agencies will be able to keep their titles “in print” indefinitely without the usual guesswork about how many copies will be needed over the life of the publication. Depositories will be able to order paperback or hard bound versions of titles that are included in the FDLP only as electronic files if they need a tangible copy and don’t wish to print one locally. This should be particularly helpful for lengthy reports and publications that are less than ideal for local printing at the desktop.

One future benefit that we are considering for the FDLP is the ability to allow each library to define specific titles they wish to receive in paper, so each library may be allocated a certain number of pages or titles that can be received free through print on demand and then purchase additional titles once the allocation of free services has been used up.

OMB/GPO Agreement

GPO is working on a number of pilot projects to test various services that we may offer in the future. Perhaps the most exciting one, and certainly the one that has received the most press, is the agreement between the Office of Management and Budget (OMB) and GPO.

Before I address the specifics of the OMB/GPO agreement, I want to thank you. Many law libraries wrote strong letters to OMB in opposition to the proposed FAR regulations that would eliminate the requirement for Executive Branch agencies to procure printing through GPO. Your letters defended public access to government information and brought that issue to Mitch Daniels desktop for the first time. Bruce recognizes your contribution and frequently tells GPO employees that libraries are not just GPO’s partners; they are GPO’s strongest advocates and most important allies.

The OMB/GPO agreement is truly a win for all concerned. It is an innovative approach to contracting for Executive Branch printing that is completely within GPO’s statutory responsibility under Title 44 of the US Code. Under the agreement an agency may choose its own commercial printers using standard contracts issued by GPO. The publishing agency will pay GPO, and GPO will pay the printer, less a modest 3% fee to cover GPO’s contracting and administrative costs. However, the printer will not be paid until my office has received two print copies and one electronic copy (in a format that I specify).

This will give GPO an electronic copy of each publication for dissemination to the public, directly and through the FDLP. It will also give us two copies of last resort so GPO can, if necessary, create a new digital copy in the future if the electronic copy can no longer be used due to changes in technology or other problems.

The agreement also preserves the right of the Superintendent of Documents to purchase from the printer, at its own expense, additional copies for sale or depository distribution. And, as if that wasn't enough, OMB will limit agency use of in-house and other Executive Branch printing capability and seek to have all appropriate publications from such facilities provided to the Superintendent of Documents as required by Title 44.

This agreement will be tested with a single agency during FY 2004, which begins on October 1, 2003, and if it is successful, it will be extended to other agencies in FY 2005. The agency has not yet been designated, but we expect to know within the next few weeks what agency OMB has chosen for the pilot project.

The agreement should go along way toward eliminating the fugitive document problem and bring many more titles into the FDLP. The Public Printer, Bruce James, deserves enormous credit for listening to the concerns of OMB and the Executive Branch agencies and making them an offer that addresses their concerns, stays within the legal requirements of Title 44, and improves public access to government information.

This is an example of the kind of innovation you will continue to see from GPO, and this agreement should give you every reason to be encouraged about our ability to work together to define a bright future for the Federal Depository Library Program and other services of the Government Printing Office.

NARA MOU

GPO is negotiating another important Memorandum of Understanding (MOU). This one is with the National Archives and Records Administration (NARA). This contract will make GPO an official "archival affiliate" and all of the *GPO Access* databases will be considered the official archival copies of the publications they contain. The records will be in the legal custody of NARA, but GPO will continue to maintain both the access and preservation copies. Through this agreement, GPO and NARA, acting together, will ensure permanent public access to a wide range of important government information.

There are several key provisions that should be of interest to the legal community. Under the agreement, NARA provides a safety net. If in the future GPO is unable to continue to offer public access to and preservation of the records, the records will be transferred to NARA and NARA agrees to accept the responsibility for both permanent public access and preservation. (Much like GPO's current agreements with the cybercemetery at UNT and the Department of State website at UIC.)

In addition, if individual titles are withdrawn from the program for reasons of security, GPO will immediately transfer a preservation copy to NARA, which will preserve the content until such time as public access is again allowed, when it will be returned to GPO.

This agreement also has the potential to reduce fugitive documents. In the future, the agreement may be expanded to make *GPO Access* databases the official archival copy, not just as a record of GPO's actions, but also as the official record of the publishing agency's actions in producing the

information. If that occurs, then an agency could deposit an electronic copy with GPO once and meet not just its responsibilities to the Federal Depository Library Program, but also the requirements of the Federal Records Act and the Electronic Records Act. I mentioned this future possibility at a recent meeting of Federal publishers, and one of them asked for the FTP site so he could begin uploading his documents that day! This would be a powerful incentive for agencies to provide electronic content to GPO for public access and preservation.

As part of its effort to ensure permanent public access to and preservation of its *GPO Access* databases, GPO is preparing for a hot mirror site in Pueblo, Colorado, to share the load and ensure the *GPO Access* will remain functional even if there is a problem in Washington, DC, that interferes with the primary site. We are also establishing a cold site, co-located with the alternative legislative site, both to support Congressional information requirements in case of a catastrophic event and to make it possible to restore *GPO Access* if both the DC and Pueblo sites become inaccessible at the same time. This “three-legged stool” is part of our strategy for ensuring reliable and stable service.

Authentication of Government Information

At the same time that we are negotiating the NARA MOU, GPO is preparing to implement digital signatures for Congressional bills and other Congressional publications, Federal Register documents and eventually on all *GPO Access* files. These digital signatures will allow future users of downloaded files to determine that the files are unchanged since they were “authenticated” by GPO. This is a necessity if the public, and particularly the courts, are going to rely on electronic copies from *GPO Access* as the primary official copies.

Planning for the Future of the FDLP

I could spend hours talking with you about all of the initiatives that we are pursuing as we re-examine the mission of the Federal Depository Library Program and seek to ensure that there is a viable program for the next hundred years that acknowledges and utilizes new technologies to support democracy and inform our users. It is a lofty and ambitious, but achievable, goal and one that is well worth the effort that will be required from each of us to shape it.

Law libraries are an essential part of the depository program. Many of the titles included in the FDLP are legal and regulatory information. The expertise of law librarians is vital to assist other depository librarians and our users in the effective use of these important resources.

Each of your institutions has an important role to play in the process, even those that are not depository libraries. We are very proud that *GPO Access* is a worldwide resource, delivering an average 37 million government documents per month to its users. We welcome input from all of our users as we re-examine our services and plan for the future.

We are not going to redesign the Federal Depository Library Program in Washington and impose a new structure on the depository library community. GPO administers the program on behalf of the participating libraries and the public we jointly serve. That community – with help from each of you – must drive the decisions about what the program should be in the future. We cannot do it without you – and, even if we could, we do not want to, or intend to, do it without you.

To do this well, we must be like the two-headed Roman god Janus. We must look both forward and backwards. We must “get out of the box” and take a fresh look at the mission we share and determine the best means to accomplish it. We should not limit ourselves to incremental changes

to the current system, but seek a new vision, which respects the foundation of the current program, but is not constrained by it, and that takes optimum advantage of the enormous volume electronic resources that are, and will be, available.

At the same time, we must find creative ways to reduce the burdens of the large historical collections on our regional depository libraries and other large selectives, without losing the value of having a distributed system that protects these assets and ensures permanent public access. One of the strengths of the current system is that no single natural or man-made disaster can wipe out the collective record of our democracy because it is housed in hundreds of libraries throughout the nation. GPO will work with the library community to explore setting up shared facilities into which collections can be de-duplicated. GPO will also work with you on expanded digitization, preservation, cataloging, and other services to better manage the retrospective materials and make them more accessible to users in and outside of your libraries.

The Planning Process

Our new Public Printer, Bruce James, has challenged us to look at ourselves critically and evaluate the changes that we must make to prepare for the future. To do that, he has embarked on what he characterizes as a "fact gathering" effort to determine where GPO is now and to identify our assets and liabilities. Even more importantly, he has asked us to talk with our partners in the publishing agencies and the library community to see where they expect to be in the future and what services they will require from GPO. Once we all agree on the facts, we will work together to develop a plan for the future, including any necessary revisions to Title 44, and I am sure that some revisions will be required.

In addition to librarians and publishing agencies, GPO must involve its employees, the 23 unions that represent them, the printing and information industries, and others with an interest in and concern for permanent public access to government information. There are a lot of people to be consulted.

Bruce has set an aggressive timetable for us. He has asked that we conclude our "fact gathering" not later than December and then begin to utilize those facts to build a plan for the future, one that we can together take to the Congress to seek the necessary legislative changes and funding to ensure the longevity of the Federal Depository Library Program.

Bruce often marvels at the wisdom of the Founding Fathers, who in 1813 created the initial law requiring the deposit of Federal government information throughout the country. To guard against the potential for a tyrannical central government, they insured that all citizens could exercise their rights to know about the actions of their government and at the same time benefit from the information compiled and created by their government. Their vision created a system that has lasted almost 200 years and has served us very well.

Fall Depository Library Conference

A record number of law librarians came to the spring Depository Library Council meeting in Reno in April to join with Bruce as he began to address the future of the FDLP. It was wonderful to have such strong participation representing your community. We hope that even more of you will come to the fall Depository Library Conference in Washington, October 19-22. We will once again have break out groups by library type, as we did in Reno. That will be another opportunity for law libraries to discuss with one another and with GPO staff the specific issues that are of

greatest concern to you and the users that you serve on behalf of the FDLP. We value your expertise and we need your input.

I want to encourage each of you to work with one another and GPO to determine the mix of services that GPO must offer in the future to make it worthwhile for law libraries and other libraries to participate in the FDLP. The fall meeting is one place to do that, but you have many opportunities to work through your local meetings and online communities to discuss these issues and share ideas. We need your participation. We need the your best ideas. We need your constructive criticism of the current program.

It is particularly important to identify new services that can be offered **exclusively** to depository libraries, so there are some substantial, tangible benefits to participation when all or virtually all of the material can be obtained free from the Internet without the obligations of being a depository library.

Library directors are challenged daily to accomplish more with fewer resources. We must get the scales back in balance. We must make sure that the value of the FDLP is worth its cost and that it provides services that are of substantial value to library directors, as well as to depository staff and patrons.

Conclusion

Bruce frequently says that he did not come to Washington to run a printing plant. He came to address the challenges of public access to government information. He sees GPO's primary mission as information management and dissemination, with printing as one way to accomplish that mission, but by no means the only way. I am truly delighted to be back at GPO, working with him and the management team that he has assembled – and with you – on these important issues.

Together we can redefine that FDLP and strengthen it so that it continues to serve the American people for the next 100 years. I look forward to working with you to accomplish that.

I would be happy to take your questions.