

PROPOSED REVISIONS

to

TITLE 44

Discussion Draft

May 29, 1997

Sections Amended

Section	Page
44 U.S.C. § 103	1
44 U.S.C. § 301	2
44 U.S.C. § 302	2
44 U.S.C. § 304	2
44 U.S.C. § 305	4
44 U.S.C. § 306	4
44 U.S.C. § 309	5
44 U.S.C. § 311	7
44 U.S.C. § 312	9
44 U.S.C. § 313	10
44 U.S.C. § 501	11
44 U.S.C. § 502	12
44 U.S.C. § 504	12
44 U.S.C. § 505	13
44 U.S.C. § 508	13
44 U.S.C. § 509	13
44 U.S.C. § 510	13
44 U.S.C. § 511	14
44 U.S.C. § 512	14
44 U.S.C. § 513	14
44 U.S.C. § 514	14
44 U.S.C. § 515	14
44 U.S.C. § 516	15
44 U.S.C. § 517	15
44 U.S.C. § 902	16
44 U.S.C. § 1108	17
44 U.S.C. § 1112	17
44 U.S.C. § 1121	17
44 U.S.C. § 1301	19
44 U.S.C. § 1320A	19
44 U.S.C. § 1338	19
44 U.S.C. § 1705	21
44 U.S.C. § 1708	21
44 U.S.C. § 1710	22
44 U.S.C. § 1711	22
44 U.S.C. § 1901	23
44 U.S.C. § 1902	25
44 U.S.C. § 1903	27
44 U.S.C. § 1904	30
44 U.S.C. § 1905	31
44 U.S.C. § 1906	32
44 U.S.C. § 1907	32
44 U.S.C. § 1908	33
44 U.S.C. § 1915	33
44 U.S.C. § 1916	34
44 U.S.C. § 1909	34

44 U.S.C. § 1910.....	35
44 U.S.C. § 1911.....	36
44 U.S.C. § 1912.....	36
44 U.S.C. § 1913.....	39
44 U.S.C. § 1914.....	39
44 U.S.C. § 1917.....	39
44 U.S.C. § 2901.....	41
16 U.S.C. § 825k.....	44
20 U.S.C. § 954.....	44
20 U.S.C. § 956.....	45
28 U.S.C. § 411.....	46
40 U.S.C. § 474.....	46

Proposed Revision of Title 44, Chapter 1

44 U.S.C. § 103. Joint Committee on Printing: remedial powers

The Joint Committee on Printing may use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of ~~Government~~ *Congressional* publications.

Analysis

The amendments to this section are intended to restrict the power of the Joint Committee on Printing to the oversight of Congressional publications and to resolve any possible constitutional separation of powers challenge to the operation of the Committee or the Government Printing Office.

Proposed Revision of Title 44, Chapter 3

44 U.S.C. § 301. *Government Printing Office; Public Printer: appointment*

(a) *The Government Printing Office is an instrumentality of the United States Government independent of the executive departments.*

(b) *The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to take charge of and manage the Government Printing Office. His ~~This officer's~~ title shall be Public Printer. ~~The Public Printer is authorized to issue regulations, consistent with this title, the Public Printer considers necessary to carry out the duties and powers of the Public Printer and to remedy neglect, delay, duplication, or waste in the public printing and the distribution of Government publications.~~*

44 U.S.C. § 302. Deputy Public Printer: appointment; duties

~~The Public Printer shall appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to be the Deputy Public Printer. *The Deputy Public Printer carries out duties and powers prescribed by the Public Printer and acts for the Public Printer when the Public Printer is absent or unable to serve or when the office of Public Printer is vacant.* He shall perform the duties formerly required of the chief clerk, supervise the buildings occupied by the Government Printing Office, and perform any other duties required of him by the Public Printer.~~

44 U.S.C. § 304. ~~Public Printer: vacancy in office~~

~~In case of the death, resignation, absence, or sickness of the Public Printer, the Deputy Public Printer shall perform the duties of the Public Printer until a successor is appointed or his absence or sickness ceases; but the President may direct any other officer of the Government, whose appointment is vested in the President by and with the advice and consent of the Senate, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the Public Printer ceases. A vacancy occasioned by death or resignation may not be filled temporarily under this section for longer than ten days, and a temporary appointment, designation, or assignment of another officer may not be made except to fill a vacancy happening during a recess of the Senate.~~

Analysis

Section 301 is amended to clarify the Government Printing Office's mission to serve all of the Federal Government, as specified by 44 U.S.C. §

501, independent of executive branch control. The language in 301(a) mirrors that contained in the Budget and Accounting Act of 1921, June 10, 1921, ch. 18, § 301, 42 Stat. 23 [as codified at 31 U.S.C. § 702(a)] which established the General Accounting Office.

As presently worded, sections 301 and 302 of Title 44 require that the Public Printer and the Deputy Public Printer be "practical printer[s] and versed in the art of bookbinding". This arcane language is unduly restrictive in that it excludes competent and qualified managers simply because they lack printing experience. A change in the language of sections 301 and 302 will provide the President with greater flexibility to appoint a Public Printer who possesses broadly applicable management skills.

Section 302 is rewritten to delete obsolete provisions regarding the duties of the Deputy Public Printer, and to provide that the Deputy Public Printer performs the duties of Public Printer in that official's absence. Consequently, section 304 is repealed in its entirety as surplus, given the amendment to Section 302.

44 U.S.C. § 304. Transfer of Surplus Property

The Public Printer is authorized to transfer or donate surplus Government publications and condemned Government Printing Office machinery, material, equipment, and supplies, to:

- (1) other federal entities;*
- (2) educational or non-profit organizations as defined by Section 501 of Title 26, United States Code; or*
- (3) state or local governments.*

Analysis

GPO lacks the legal authority to transfer or donate surplus property, an authority possessed by the Administrator of General Services Administration. See, 40 U.S.C. § 484. When any property is declared surplus it must be sold to the highest competitive bidder, which often results in a price which is extremely low when compared to the actual value of the item when in use. This proposed section grants to the Public Printer the discretionary authority to transfer or donate surplus GPO property to various governmental and non-profit entities. It would allow

the GPO to participate in initiatives such Executive Order 12999, Educational Technology: Ensuring Opportunity for all Children in the Next Century, 61 Fed. Reg. 17227, April 19, 1996, which authorized most other Federal agencies to transfer surplus computer equipment to schools and nonprofit organizations. In addition, it would allow the Public Printer to donate surplus publications rather than selling them as scrap paper.

44 U.S.C. § 305. Public Printer: employees; pay

(a) ~~The Public Printer may employ journeymen, apprentices, laborers, and other persons necessary for the work of the Government Printing Office at rates of wages and salaries, including compensation for night and overtime work, he *the Public Printer* considers for the interest of the Government and just to the persons employed, except as otherwise provided by this section. He may not employ more persons than the necessities of the public work require nor more than four hundred apprentices at one time. The minimum pay of journeymen printers, pressmen, and bookbinders employed in the Government Printing Office shall be at the rate of 90 cents an hour for the time actually employed. Except as provided by the preceding part of this section t~~ *The rate of wages, including compensation for night and overtime work, for more than ten employees of the same occupation shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing. When the Public Printer and the committee representing the trade fail to agree as to wages, salaries, and compensation, the dispute shall be referred to a panel of three arbitrators, composed of one selected by the Public Printer, one selected by the committee, and a third selected by the first two arbitrators. The Panel may resolve the dispute in the manner they deem most appropriate. The decision of the Panel shall be based on such factors as are normally and traditionally considered in the resolution of such disputes. A decision by the majority of the members of the Panel shall be final and binding on all parties. The expenses and fees of the Panel shall be equally shared by all parties to the dispute. either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final. The wages, salaries, and compensation so determined are not subject to change oftener than once a year.*

(b) The Public Printer may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.

44 U.S.C. § 306. Public Printer: employment of skilled workmen; trial of skill

~~The Public Printer shall employ workmen who are thoroughly skilled in their respective branches of industry, as shown by trial of their skill under his direction.~~

Analysis

Section 305 is amended to remove obsolete language and to relieve the Joint Committee on Printing from having to resolve disputes regarding the setting of pay rates for employees of the GPO. Section 306 is repealed as superfluous given the authority of the Public Printer contained in § 305.

44 U.S.C. § 309. Revolving fund for operation and maintenance of Government Printing Office: ~~capitalization; reimbursements and credits; accounting and budgeting; reports~~

(a) The revolving fund of ~~\$1,000,000~~ established July 1, 1953, is available without fiscal year limitation for the operation and maintenance of the Government Printing Office (~~except for those programs of the Superintendent of Documents which are funded by specific appropriations~~), including rental of buildings; attendance at meetings; maintenance and operation of the emergency room; uniforms or uniform allowances; boots, coats, and gloves; repairs and minor alterations to buildings.; and ~~expenses authorized in writing by the Joint Committee on Printing for inspection of Government printing activities.~~

~~In addition, the Public Printer shall provide capital for the fund by capitalizing, at fair and reasonable values as jointly determined by him and the Comptroller General, the current inventories, plant, and building appurtenances, except building structures and land, equipment, and other assets of the Government Printing Office.~~

(b) The fund shall be -

(1) reimbursed for the cost of all services and supplies furnished, including those furnished other appropriations of the Government Printing Office, at rates which include ~~charges for overhead and related expenses, depreciation of plant and building appurtenances, except building structures and land, and equipment, and accrued leave; and~~

(2) credited with all receipts including sales of Government publications, waste, condemned, and surplus property and with payments received for losses or damage to property.

(b) There are authorized to be appropriated to the Public Printer such funds as may be necessary for the administrative and overhead costs of the Government Printing Office, including the cost of facilities and the administrative costs of printing procurement.

(c) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of the accounts. The Public Printer shall prepare and submit an annual business-type budget ~~program~~

for the operations under this fund. This budget program shall be considered and enacted as prescribed by section 9104 of title 31.

~~(d) The Inspector General of the Government Printing Office shall audit the financial and operational activities of the Government Printing Office each year. The audits shall be conducted under the direction of the Joint Committee on Printing. For purposes of the audits, the Inspector General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as the Inspector General considers appropriate. The Inspector General shall furnish reports of the audits to the Congress and the Public Printer.~~

(e) The Public Printer shall prepare an annual financial statements meeting the requirements of section 3515(b) of title 31, United States Code. Each *The* financial statements shall be audited *each year* in accordance with applicable generally accepted Government auditing standards--

(1) by an independent external auditor selected by the Public Printer;

or

~~(2) with the concurrence of the Inspector General of the Government Printing Office, or at the request of the Joint Committee on Printing,~~ by the Inspector General of the Government Printing Office. For purposes of the audits, the Inspector General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as the Inspector General considers appropriate. The Inspector General shall furnish reports of the audits to the Congress and the Public Printer.

~~(f) The Comptroller General of the United States may audit the financial statements prepared under subsection (e) at his or her discretion or at the request of the Joint Committee on Printing Congress. An audit by the Comptroller General shall be in lieu of the audit otherwise required in 309(d) by that subsection.~~

Analysis

The present language is being changed to delete antiquated provisions about the initial establishment of the revolving fund and complex rate-making requirements. A proposed section provides authority for GPO to receive a salaries and expenses appropriation for administrative and overhead expenses, which would allow GPO to reduce rates and provide financial incentives for Government agencies to more fully utilize GPO's printing and distribution services.

Also, the requirement for GPO's Inspector General to audit the financial and operational activities of the Government Printing Office each year under the direction of the Joint Committee on Printing is changed to require annual financial audits by either the Inspector General

or by an external auditor selected by the Public Printer with concurrence of the Inspector General.

44 U.S.C. § 311 ~~Procurement Authority Purchases exempt from the Federal Property and Administrative Services Act; contract negotiation authority~~

(a) **Authority.** ~~Purchases may be made from appropriations under the "Government Printing Office" by the Public Printer without reference to the Federal Property and Administrative Services Act, approved June 30, 1949, as amended, concerning purchases for the Federal Government.~~

~~(b) In addition to the authority to negotiate otherwise provided by law, the Public Printer may negotiate purchases and contracts for supplies or services for which the Public Printer determines that it is impracticable to secure competition by advertising. The Public Printer may not award a contract under this subsection unless he justifies the use of negotiation in writing and certifies the accuracy and completeness of the justification. The justification shall set out facts and circumstances that clearly and convincingly establish that advertising would not be practicable for such contract. Such a justification is final and a copy thereof shall be maintained in the Government Printing Office for at least 6 years after the date of the determination. The Public Printer may designate one or more employees of the Government Printing Office to carry out this subsection.~~

~~(b) **Regulations.** The Public Printer may prescribe such regulations, policies and directives, not inconsistent with the provisions of this section, as he shall deem necessary to effectuate the provisions of said section, which regulations, policies and directives shall govern the Public Printer in carrying out the agency's functions hereunder.~~

~~(c) **Delegation and redelegation of authority by the Public Printer.** The Public Printer is authorized to delegate and to authorize successive redelegation of any procurement authority or function vested in him to any official in the Government Printing Office.~~

~~(d) **Competitive Procedures.** (1) Except as provided in subsections (e), and (f) of this section and except in the case of procurement procedures otherwise expressly authorized by statute, the Public Printer in conducting a procurement for property or services -~~

~~(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this section; and~~

~~(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.~~

~~(2) In determining the competitive procedures appropriate under the circumstance, the Public Printer -~~

(A) shall solicit sealed bids if -

(i) time permits the solicitation, submission, and evaluation of sealed bids;

(ii) the award will be made on the basis of price and other price-related factors;

(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

(iv) there is a reasonable expectation of receiving more than one sealed bid; and

(B) shall request competitive proposals if sealed bids are not appropriate under subsection (A).

(e) **Noncompetitive procedures.** In addition to the authority otherwise provided by law, the Public printer may use procedures other than competitive procedures only when -

(1) the property or services needed by the Government are available from only one responsible source and no other type of property or services will satisfy the needs of the Government;

(2) the government's need for the property or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the Public Printer is permitted to limit the number of sources from which it solicits bids or proposals;

(3) a statute expressly authorizes or requires that the procurement be made through an executive agency or from a specified source,

(4) the Public Printer determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned.

(f) **Simplified procedures for small purchases**

(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for the Government and contractors, the regulations issued, in accordance with this section, shall provide for special simplified procedures for small purchases of property and services.

(2) For the purposes of this section, a small purchase is a purchase or contract for an amount which does not exceed the small purchase threshold.

(3) A proposed purchase or contract for an amount above the small purchase threshold may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

(4) In using small purchase procedures, the Public Printer shall promote competition to the maximum extent practicable.

(5) In this subsection, the term "small purchase threshold" has the meaning given such term by regulations issued by the Public Printer pursuant to subsection (b).

Analysis

Section 311 is amended to provide the Public Printer, in conducting procurements, the same degree of flexibility as is currently held by contracting officers in the executive branch, and establishes as a legislative standard that the Public Printer must obtain full and open competition through the use of competitive procedures. Unlike the Executive branch, GPO contracting officers are constrained by the historical preference for using sealed bid procurements found in Revised Statutes § 3709 (41 U.S.C. § 5). This preference was eliminated for the executive branch in 1984. See, 41 U.S.C. § 253. While the rest of the Government can choose to conduct acquisitions either by negotiated procedures or by sealed bid, as appropriate under the circumstances, GPO can only do so under certain restrictions found in 41 U.S.C. § 5 or, under very limited circumstances by invoking the approval and justification procedures contained in the present 44 U.S.C. § 311(b). Amended Section 311 will allow the Public printer to use sealed bids (formal advertising) or request competitive proposals (competitive negotiation) whichever is more conducive to the conditions of the contract.

44 U.S.C. § 312. Machinery, material, equipment, or supplies from other Government agencies

An officer of the Government having machinery, material, equipment, or supplies for printing, binding, and blank-book work, including lithography, photolithography, and other processes of reproduction, no longer required or authorized for his service, shall submit a detailed report of them to the Public Printer. The Public Printer, ~~with the approval of the Joint Committee on Printing,~~ may requisition such articles as are serviceable in the Government Printing Office, and they shall be promptly delivered to that office.

Analysis

Section 312 is amended to relieve the Joint Committee on Printing from the necessity of approving the routine requisition of surplus equipment.

44 U.S.C. § 313. Examining boards: paper; bindery materials; machinery

~~The Deputy Public Printer, the superintendent of printing, and a person designated by the Joint Committee on Printing, shall constitute a board to examine and report in writing on paper delivered under contract, or by purchase or otherwise, at the Government Printing Office.~~

~~The Deputy Public Printer, the superintendent of binding, and a person designated by the Joint Committee on Printing shall constitute a board to examine and report in writing on material, except paper, for the use of the bindery.~~

~~The Deputy Public Printer, the superintendent of printing, and a person designated by the Joint Committee on Printing shall constitute a board of condemnation, who, upon the call of the Public Printer, shall determine the condition of presses and other machinery and material used in the Government Printing Office, with a view to condemnation.~~

Analysis

Section 313 is repealed as superseded by revised section 304.

Proposed Revision of Title 44, Chapter 5

44 U.S.C. § 501. Government printing, binding, and blank-book work to be done at Government Printing Office

(a) All printing, ~~binding, and blank-book work~~ for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except -

~~(1) classes of work the Joint Committee on Printing considers to be urgent or necessary to have done elsewhere; and~~

(1) individual printing orders costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, cannot be provided more economically through the Government Printing Office,

(2) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the ~~Joint Committee on Printing~~ Public Printer.

(3) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or printing from other sources that is specifically authorized by law, or

(4) printing which the Public Printer determines the Government Printing Office is not able to execute or which the Public Printer determines may more economically or in the better interest of the Government be executed elsewhere.

(b) Except as provided in section (a), no appropriated or nonappropriated funds may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office.

(c) Any Federal officer who produces or contracts for printing pursuant to sections (a)(1) through (a)(4) shall deliver a sufficient number of any document printed to the Superintendent of Documents for inclusion in the Federal Information Dissemination and Access Program under chapter 19 of this title.

(d) As used in this title, the term 'printing' means the process of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes.

(e) ~~Printing or binding~~ may be done at the Government Printing Office only when authorized by law.

Analysis

This section is rewritten to combine the language of the former § 501 with Pub.L. 102-393, Title II, § 207(a), Oct. 6, 1992, 106 Stat. 1719, as amended Pub.L. 103-283, Title II, § 207, July 22, 1994, 108 Stat. 1440; Pub.L. 104-201, Div. A, Title XI, § 1112(e)(1), Sept. 23, 1996, 110 Stat. 2683, which prohibited the expenditure of appropriated funds for the procurement of printing, unless accomplished by the Government Printing Office.

This section, as rewritten, also contains a prohibition on the expenditure of nonappropriated Federal funds. This addition is intended to curb a growing practice of agencies using Federal Government funds from nonappropriated sources (*i.e.* revolving funds, working capital funds, gift funds, etc.) to avoid the requirements of former § 501.

44 U.S.C. § 502. Procurement of printing, binding, and blank-book work by Public Printer

~~Printing, binding, and blank-book work~~ authorized by law, which the Public Printer is not able or equipped to do at the Government Printing Office, may be produced elsewhere under contracts made by him *pursuant to section 311 of this title.* ~~with the approval of the Joint Committee on Printing.~~

Analysis

Section 502 is amended to make clear that the Public Printer's contracting authority is not dependent on approval from the Joint Committee on Printing.

44 U.S.C. § 504. Direct purchase of printing, binding, and blank-book work by Government agencies

~~The Joint Committee on Printing may permit the Public Printer to authorize an executive department, independent office, or establishment of the Government to purchase direct for its use such printing, binding, and blank-book work, otherwise authorized by law, as the Government Printing Office is not able or suitably equipped to execute or as may be more economically or in the better interest of the Government executed elsewhere.~~

Analysis

This section is repealed as superseded by § 501.

44 U.S.C. § 505 Sale of duplicate plates *reproducibles*

~~The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates *printing reproducibles* from which a Government publication is printed, at a price not to exceed the cost to the Government, as determined by the Public Printer. of composition, the metal, and making to the Government, plus 10 per centum and the full amount of the price shall be paid when the order is filed.~~

Analysis

This section is rewritten to delete obsolete language.

44 U.S.C. § 508. Annual estimates of quantity of paper required for public printing and binding

~~At the beginning of each session of Congress, the Public Printer shall submit to the Joint Committee on Printing estimates of the quantity of paper of all descriptions required for the public printing and binding during the ensuing year.~~

44 U.S.C. § 509. Standards of paper; advertisements for proposals; samples

~~The Joint Committee on Printing *Public Printer* shall fix upon standards of paper for the different descriptions of public printing and binding *and may procure said paper under procedures established pursuant to section 311 of this title.*, and the Public Printer, under their direction, shall advertise in six newspapers or trade journals, published in different cities, for sealed proposals to furnish the Government with paper, as specified in the schedule to be furnished applicants by the Public Printer, setting forth in detail the quality and quantities required for the public printing. The Public Printer shall furnish samples of the standard of papers fixed upon to applicants who desire to bid.~~

44 U.S.C. § 510. Specifications in advertisements for paper

~~The advertisements for proposals shall specify the minimum portion of each quality of paper required for either three months, six months, or one year, as the Joint Committee on Printing determines; but when the minimum portion so specified exceeds, in any case, one thousand reams, it shall state that proposals will be received for one thousand reams or more.~~

44 U.S.C. § 511. Opening bids; bonds

The sealed proposals to furnish paper and envelopes shall be opened in the presence of the Joint Committee on Printing who shall award the contracts to the lowest and best bidder for the interest of the Government. The committee may not consider a proposal that is not accompanied by a bond with security or certified check in the amount of \$5,000, guaranteeing that the bidder if his proposal is accepted, will enter into a formal contract with the United States to furnish the paper or envelopes specified. The Committee may not consider a proposal from a person unknown to it unless accompanied by satisfactory evidence that he is a manufacturer of or dealer in the description of paper or envelopes proposed to be furnished.

44 U.S.C. § 512. Approval of paper contracts; time for performance; bonds

A contract for furnishing paper is not valid until approved by the Joint Committee on Printing. The award of a contract for furnishing paper shall designate a reasonable time for its performance. The contractor shall give bond in an amount fixed and approved by the Committee.

44 U.S.C. § 513. Comparison of paper and envelopes with standard quality

The Public Printer shall compare every lot of paper and envelopes delivered by a contractor with the standard of quality fixed upon by the Joint Committee on Printing, and may not accept paper or envelopes which do not conform to it in every particular. A lot of delivered paper or envelopes which does not conform to the standard of quality may be accepted by the Committee at a discount that in its opinion is sufficient to protect the interests of the Government.

44 U.S.C. § 514. Determination of quality of paper

The Joint Committee on Printing shall determine differences of opinion between the Public Printer and a contractor for paper respecting the paper's quality; and the decision of the Committee is final as to the United States.

44 U.S.C. § 515. Default of contractor; new contracts and purchase in open market

If a contractor fails to comply with his contract, the Public Printer shall report the default to the Joint Committee on Printing, and under its direction, enter into a new contract with the lowest, best, and most responsible bidder for the interest of the Government among those whose proposals were rejected at the last opening of bids, or he shall advertise for new proposals, under the regulations provided by sections 509-517 of this title. During the interval that may thus occur he may, under the direction of the Joint Committee on Printing, purchase in open market, at the lowest market price, paper necessary for the public printing.

44 U.S.C. § 516. Liability of defaulting contractor

~~Upon failure to furnish paper, a contractor and his sureties shall be responsible for any increase of cost to the Government in procuring a supply of the paper consequent upon his default. The Public Printer shall report every default, with a full statement of all the facts in the case, to the General Counsel for the Department of the Treasury, who shall prosecute the defaulting contractor and his sureties upon their bond in the district court of the United States in the district in which the defaulting contractor resides.~~

44 U.S.C. § 517. Purchase of paper in open market

~~The Joint Committee on Printing may authorize the Public Printer to purchase paper in open market when they consider the quantity required so small or the want so immediate as not to justify advertisement for proposals.~~

Analysis

Section 509 is amended to relieve the Joint Committee on Printing from the responsibility for setting paper standards. Sections 510 through 517 are repealed as unnecessary in light of revised § 311.

Proposed Revision of Title 44, Chapter 9

44 U.S.C. § 902. Congressional Record: indexes

~~The Joint Committee on Printing shall designate to the Public Printer *shall* competent persons to prepare the semimonthly and the session index to the Congressional Record. and *The Joint Committee on Printing* shall ~~fix the compensation to be paid by the Public Printer for that work,~~ and direct the form and manner of its publication and distribution. *Those persons employed in the Congressional Record Index Office on the date of amendment of this section shall be deemed to be employees of the Government Printing Office subject to the provisions of this title governing selections, appointments, and employment in the Government Printing Office (and any regulations thereunder).*~~

Analysis

This section is amended to provide for the continued employment in the Government Printing Office of those employees appointed pursuant to the former provisions of § 902.

Proposed Revision of Title 44, Chapter 11

44 U.S.C. § 1108 Presidential approval required for printing of periodicals; number printed; sale to public

The head of an executive department, independent agency or establishment of the Government, with the approval of the President, may use from the appropriations available for printing and binding such sums as are necessary for the printing of journals, magazines, periodicals, and similar publications he certifies in writing to be necessary in the transaction of the public business required by law of the department, office, or establishment. There may be printed, in addition to those necessary for the public business, not to exceed two thousand copies for free distribution by the issuing department, office, or establishment. The Public Printer, ~~subject to regulation by the Joint Committee on Printing,~~ shall print additional copies required for sale to the public by the Superintendent of Documents; but the printing of these additional copies may not interfere with the prompt execution of printing for the Government.

Analysis

This section is amended to delete the requirement that the Joint Committee on Printing issue regulations concerning the printing of additional copies of publications for sale by the Superintendent of Documents.

~~44 U.S.C. § 1112 Annual reports: type for reports of executive officers~~

~~The annual reports of executive officers shall be printed in the same type and form as the report of the head of the department which it accompanies, unless otherwise ordered by the Joint Committee on Printing.~~

Analysis

This section is deleted as obsolete.

44 U.S.C. § 1121 Paper and envelopes for Government agencies in the National Capital region District of Columbia

The Public Printer may procure, ~~under direction of the Joint Committee on Printing,~~ as provided by sections 509-516 of this title, and furnish on requisition,

Discussion Draft - May 29, 1997

paper and envelopes (not including envelopes printed in the course of manufacture) in common use by two or more departments, establishments, or services of the Government in the *National Capital region*, as that area is defined in 40 U.S.C. 71, District of Columbia, and reimbursement shall be made to the Public Printer from appropriations or funds available for the purpose. Paper and envelopes so furnished by the Public Printer may not be procured in any other manner.

Analysis

This section is amended to reflect the fact that the U.S. Government is no longer headquartered exclusively in the District of Columbia. In 40 U.S.C. § 71 the term "National Capital region" is defined to include "the District of Columbia; Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties."

Proposed Revision of Title 44, Chapter 13

44 U.S.C. § 1301. Agriculture, Department of: report of Secretary

The annual report of the Secretary of Agriculture shall be submitted and printed in two parts, as follows:

part 1, containing purely business and executive matter necessary for the Secretary to submit to the President and Congress;

part 2, reports from the different bureaus and divisions, and papers prepared by their special agents, accompanied by suitable illustrations as are, in the opinion of the Secretary, specially suited to interest and instruct the farmers of the country, and to include a general report of the operations of the department for their information.

In addition to the usual number, there shall be printed of part 1, one thousand copies for the Senate, two thousand copies for the House of Representatives, and three thousand copies for the Department of Agriculture; and of part 2, one hundred and ten thousand copies for the use of the Senate, three hundred and sixty thousand copies for the use of the House of Representatives, and thirty thousand copies for the use of the Department of Agriculture, the illustrations for part 2 to be subject to the approval of the Secretary of Agriculture, and executed under the supervision of the Public Printer, ~~in accordance with directions of the Joint Committee on Printing,~~ and the title of each of the parts shall show that each part is complete in itself.

44 U.S.C. § 1320A. Historical societies' publications

Notwithstanding any other provision of law, and ~~with the approval of the Joint Committee on Printing,~~ the Public Printer shall provide for such printing services and distribution with respect to publications of the United States Capitol Historical Society, the Supreme Court Historical Society, or the White House Historical Association as such Society or Association may request: Provided, That such Society or Association reimburses the Public Printer for the actual expenses incurred by him in providing for such services and distribution.

Analysis

Sections 1301 and 1320A are amended to remove references to the Joint Committee on Printing.

~~44 U.S.C. § 1338. Patent Office: limitations and conditions concerning printing and lithographing~~

~~Printing for the Patent Office making use of lithography or photolithography, together with the plates, shall be contracted for and performed under the direction of the Commissioner of Patents, under limitations and conditions~~

Discussion Draft - May 29, 1997

~~prescribed by the Joint Committee on Printing, and other printing for the Patent Office shall be done by the Public Printer under limitations and conditions prescribed by the Joint Committee on Printing. The entire work may be done at the Government Printing Office when in the judgment of the Joint Committee on Printing it is to the interest of the Government.~~

Analysis

Section 1338 is repealed as obsolete.

Proposed Revision of Title 44, Chapter 17

44 U.S.C. § 1705. Printing additional copies for sale to public; regulations

The Public Printer shall print additional copies of a Government publication, not confidential in character, required for sale to the public by the Superintendent of Documents, ~~subject to regulation by the Joint Committee on Printing~~ and without interference with the prompt execution of printing for the Government.

Analysis

Section 1705 is amended to remove a reference to the Joint Committee on Printing.

44 U.S.C. § 1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents

~~The price at which additional copies of Government publications are offered for sale to the public by the Superintendent of Documents shall be based on the cost as determined by the Public Printer plus 50 percent. A discount of not to exceed 25 percent may be allowed to book dealers and quantity purchasers, but the printing may not interfere with prompt execution of work for the Government.~~

(a) The Superintendent of Documents Sales Program will operate, to the fullest extent feasible, on a self-sustaining basis. Sales prices for Government information products will be established by the Public Printer to cover the costs of production, dissemination and other appropriate costs associated with this service, including the offering of sales discounts and any costs associated with the Sales Program.

(b) The Superintendent of Documents may prescribe terms and conditions under which he authorizes the resale of Government publications by book dealers, and he may designate any Government officer his agent for the sale of Government publications under regulations agreed upon by the Superintendent of Documents and the head of the respective department or establishment of the Government.

Analysis

The language describing the costs to be recovered by the Sales Program eliminates the arbitrary "cost...plus 50 percent" found in the current statute in favor of a more flexible structure that would cover additional costs incurred in product development and in alliances and joint

ventures. The general reference to "sales discounts" replaces the maximum 25% percent discount found in the current statute, which is far below the standard for the publishing industry, and permits the Superintendent of Documents to establish various discount levels.

44 U.S.C. § 1710. Index of documents: number and distribution

~~The Superintendent of Documents, at the close of each regular session of Congress, shall prepare and publish a comprehensive index of public documents, upon a plan approved by the Joint Committee on Printing. The Public Printer shall, immediately upon its publication, deliver to him a copy of every document printed by the Government Printing Office. The head of each executive department, independent agency and establishment of the Government shall deliver to him a copy of every document issued or published by the department, bureau, or office not confidential in character. He shall also prepare and print in one volume a consolidated index of Congressional documents, and shall index single volumes of documents as the Joint Committee on Printing directs. Two thousand copies each of the comprehensive index and of the consolidated index shall be printed and bound in addition to the usual number, two hundred for the Senate, eight hundred for the House of Representatives and one thousand for distribution by the Superintendent of Documents.~~

44 U.S.C. § 1711 Catalog of Government publications

~~On the first day of each month the Superintendent of Documents shall prepare a catalog of Government publications which shall show the documents printed during the preceding month, where obtainable, and the price. Two thousand copies of the catalog shall be printed in pamphlet form for distribution.~~

Analysis

Sections 1710 and 1711 are replaced by proposed new section 1917.

Proposed Revision of Title 44, Chapter 19

CHAPTER 19-- ~~DEPOSITORY LIBRARY PROGRAM~~ PUBLIC ACCESS TO FEDERAL GOVERNMENT INFORMATION THROUGH LIBRARIES: THE FEDERAL INFORMATION DISSEMINATION AND ACCESS PROGRAM

Analysis

The program should be redescribed to reflect the electronic information environment and the key goal of public access. "Depository" is strongly linked to the old paradigm of shipping physical products, and does not adequately express the goal of public access to Government information. To more fully express this aspect of the program, and to emphasize the affirmative role of all agencies to make their information available, the title of chapter 19 and the program should be changed.

This change would be supported by new definitions of the "Federal Information Dissemination and Access Program" and "program library" in the proposed revisions to section 1901.

44 U.S.C. § 1901. Definitions of Government publication

The "Federal Information Dissemination and Access Program" is a nationwide geographically- dispersed system, administered by the Superintendent of Documents, consisting of program libraries acting in partnership with the United States Government, established within this chapter for the purpose of enabling the general public to have local capability for timely, current public access and permanent, future public access to Federal Government information at no cost.

"Government publication information," as used in this chapter, means informational matter, which is published as an individual document a work of the United States Government, regardless of form or format, which is created or compiled by an officer or employee of the United States Government as part of that person's official duties, or at Government expense, or as required by law, except that which is required for official use only, is for strictly administrative or operational purposes having no public interest or educational value, or is classified for reasons of national security.

"Component of the Government; Component" as used in this chapter, means any Federal Government department, military department, independent regulatory agency, Government corporation, Government controlled corporation, or other establishment in the executive, legislative, or judicial branch.

Discussion Draft - May 29, 1997

“Government information product,” as used in this chapter, means a Government publication or other work of the United States Government, either conveyed in a tangible physical format including electronic media and any accompanying search component, or disseminated via a Government electronic information service.

“Tangible Government information product,” as used in this chapter, means any Government information product that can be distributed to program libraries in a physical format.

“Government electronic information service,” as used in this chapter, means the system or method by which a component of the Government or its authorized agent disseminates Government information products to the public via a telecommunications network.

“Dissemination,” as used in this chapter, means the act of distributing tangible Government information products to program libraries, or the act of making Government information products accessible to program libraries and the general public via a Government electronic information service.

“Access,” as used in this chapter, means either the use of tangible Government information products which have been disseminated to program libraries, or utilizing a Government information product disseminated via a Government electronic information service.

“Program library,” as used in this chapter, means a library designated under the provisions of this chapter which maintains tangible Government information products for use by the general public, offers professional assistance in locating and using Government information, and provides local capability for the general public to access Government electronic information services. These libraries shall be known as “Federal Information Access Libraries.”

“Service area,” as used in this chapter, means either the geographical area of the several program libraries served by a given regional program library, or the geographical area of the user community of a given program library.

“Permanent public access,” as used in this chapter, means that Government information products within the scope of the program remain available for current and future, no fee public access through the program.

Analysis

Electronic Federal Government information must be included in the program, in order to provide the broadest possible public access. New definitions are proposed to clarify that the scope of the chapter includes information in electronic formats, and to recognize that such formats may now include: (1) tangible electronic products, such as CD-ROM's, and any

accompanying search component, and; (2) products made available on a Government electronic information service, such as a World Wide Web site, via a publicly accessible telecommunications network or successor technology.

We have intentionally avoided the term "public information" used in section 3502 of Pub.L. 104-13, the Paperwork Reduction Act of 1995, which is defined as "any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public." This term can be interpreted as restrictive, excluding many Government information products which are developed for internal use or a very narrow target audience but have significant public interest and educational value. Instead, we have used the term "Government information," establishing that products included in the program should be reflective of the public's broader interest as expressed in section 1902 rather than being limited to just those products developed specifically for dissemination to the public.

The definition of "Government information" includes the language "created or compiled by an officer or employee of the United States Government as part of that person's official duties," to ensure that such information is in the public domain and is not excluded from the program.

The term "Government information product" covers all "works of the United States Government" in any form or format, whereas the term "publication" is associated primarily with print products.

The language "at Government expense" is included in the definition of "Government information" since many Government information products, particularly those of a scientific and technical nature, are developed at Government expense by private contractors or grantees. This language ensures that such products are included in the program.

The term "electronic information service" is necessary to describe the many electronic sites, such as Web sites and bulletin boards, now being operated by components of the Government. These "services" provide the platform to enable the use of the information products which reside on them.

~~44 U.S.C. § 1902. Availability of Government publications information products to be made available through Superintendent of Documents; lists of publications not ordered from Government Printing Office~~

responsibility of components of the Government to notify the Superintendent of Documents; responsibility of components to provide electronic data

(a) Notwithstanding other provisions of the law, Government publications information products, except those determined by their issuing components to be required for official use only or for strictly administrative or operational purposes which have no public interest or educational value and publications information classified for reasons of national security, shall be made available to depository program libraries at no cost through the facilities of the Superintendent of Documents for public information. The Superintendent of Documents shall make tangible products available through distribution to program libraries and shall ensure program libraries and general public access to Government information products available via Government electronic information services. Each component of the Government shall furnish the Superintendent of Documents a list of such publications it issued during the previous month, that were obtained from sources other than the Government Printing Office.

(b) Components of the Government shall notify the Superintendent of Documents in advance of their intent to initiate; substantially modify; change media, means of access, or physical format; or terminate a Government information product.

(c) Upon request of the Superintendent of Documents, components of the Government shall provide the Superintendent of Documents with electronic source data files of any Government information products falling within the scope of this section.

Analysis

The "notwithstanding other provisions of law" language was added to clarify that other statutes which may require public dissemination or cost-recovery do not relieve an agency of its obligations under chapter 19.

The decentralized characteristics of the electronic information environment make it impractical for any single organization to obtain all electronic information for access and preservation, nor is such an approach cost-effective. In an electronic environment, the Superintendent of Documents can make information available to program libraries and the public in various ways. The centralized acquisition and distribution of tangible products would continue, as this activity is cost effective and has significant value to the libraries and the public which they serve. Access to remotely accessible electronic Government information products, however, will be provided from a variety of Government electronic information services, including the *GPO Access* services, services operated by the originating components or other entities acting as their agents, or by secondary disseminators. We believe the concept of directing users and providing access to electronic information products at

non-GPO sites ("pointing") is consistent with the requirement in Pub.L. 103-40 to maintain an electronic directory of Federal electronic information.

We propose eliminating the requirement on components of the Government to "furnish ... a list of such publications it issued during the previous month." Even if this requirement were adhered to, the notification would be too late for the Superintendent of Documents to take timely action to acquire the products for the program.

In order for the program to function effectively in a decentralized electronic environment, advance notice that a product is to be initiated is required so that Superintendent of Documents' personnel can determine if the product will be sold and determine the format for depository access. A requirement is also needed that publishing components notify the Superintendent of Documents in advance of their intent to substantially modify, or terminate Government information products. For solely on-line products, information provided in the context of the notification process should enable Superintendent of Documents' personnel to access the product and provide cataloging and locator services. (See proposed new section 1917.) Tangible products will be cataloged upon receipt.

As nearly all Government information products exist in electronic form at some point in their life cycle, we believe that a cost-effective method of incorporating additional electronic information products into the program and ensuring permanent access is to obtain that source data from the originating component of the Government. The products would then be made available via GPO Access.

44 U.S.C. § 1903. Distribution of *tangible products to program libraries* publications to depositories; notice to Government components; cost of ~~printing and binding~~ replication of *tangible products*; access to *information products via electronic information services*; availability of *products from components of Government*

(a) Upon request of the Superintendent of Documents, components of the Government ordering the ~~printing of publications~~ *replication of tangible products* shall either increase or decrease the number of copies of ~~publications~~ furnished for distribution to designated ~~depository~~ *program* libraries and ~~State~~ libraries so that the number of copies delivered to the Superintendent of Documents is equal to the ~~number of libraries on the list~~ *sufficient to provide copies to those program libraries which select the product*. ~~The number thus delivered may not be restricted by any statutory limitation in force on August 9, 1962.~~ Copies of publications furnished the

~~Superintendent of Documents for distribution to designated depository libraries shall include--~~

~~the journals of the Senate and House of Representatives;
all publications, not confidential in character, printed upon the requisition of a congressional committee;
Senate and House public bills and resolutions; and
reports on private bills, concurrent or simple resolutions.~~

~~; but not so-called cooperative publications which must necessarily be sold in order to be self-sustaining.~~

(b) ~~The Superintendent of Documents shall currently inform the components of the Government ordering printing of publications as to the number of copies of their publications required for distribution to depository libraries as to the requirements of the program for copies of their tangible Government information products. The cost of printing and binding those publications distributed replicating paper and microform publications, or tangible electronic products, made available to depository program libraries obtained elsewhere than from the Government Printing Office shall be borne by components of the Government responsible for their issuance; those requisitioned from the Government Printing Office shall be charged to appropriations provided the Superintendent of Documents for that purpose.~~

(c) *Access to Government information products available via Government electronic information services will be available at no cost to program libraries. The cost of providing program libraries with access to Government electronic information services offered by components of the Government other than the Government Printing Office shall be borne by the component of the Government responsible for issuance of the Government information products available on the service or by the component of Government responsible for operation of the service.*

(d) *Components of the Government which are required by statute to charge for Government information shall provide the Superintendent of Documents with an adequate number of copies of products for program libraries in tangible format or shall provide program libraries access to the full content via an electronic information service at no cost.*

(e) *No component of the Government may delegate or contract exclusively for the storage, reproduction, or dissemination of Government information without providing in advance for public and program library access at no cost through the Superintendent of Documents. Components which establish agreements with non-Federal Government entities through which copyright or copyright-like restrictions are imposed on Government information, shall provide program libraries with access to the full content of that information at no cost.*

Analysis

Both paragraphs (a) and (b) pertain solely to tangible Government information products. The language in both paragraphs has been updated to change the emphasis from "printing of publications" to include the replication of any type of product, i.e. CD-ROMs.

The exclusion from the program of "so-called cooperative publications" has, at times, resulted in substantial information of "public interest or educational value" being kept out of the program, in spite of significant investment of public funds in preparation of the product. Eliminating this exclusion will reduce the number of "fugitive" titles.

It is the intent of paragraph (c) that the general public, through the program, should have no-fee access to all Government information meeting program requirements. This paragraph establishes organizational responsibility for the costs of program library access to Government electronic information services. We believe that the agency which originates the product content should bear the costs of public access through the program; however, the language permits some flexibility for delegating this responsibility to a service provider, either administratively or through a contractual arrangement, but the responsibility rests with the issuing component.

There are a number of components that are required by statute to be self-sustaining and therefore must charge for their products or for access to products on their electronic information services. Two examples are the National Library of Medicine with its "Medline" and the Department of Commerce with "StatUSA." There is also the condition where a component such as the National Technical Information Service (NTIS) mounts another component's products on its electronic service and charges for access.

Paragraph (d) establishes that self-sustaining components of the Government are obligated to exempt program libraries from charges and must provide program libraries with access to all products falling under the scope of the program at no cost.

Paragraph (e) is intended to reach situations where a Government component, either on its own, or through a partner or intermediary makes available Government information as part of an agreement for creation of a tangible product or makes a product available via an electronic information service. That Government information, in its entirety, must

be made available through the Superintendent of Documents for public and program library access. The requirement applies to information held or disseminated within a Government component as well as to information made available outside the component.

Paragraph (e) also provides that components which establish agreements, such as a Cooperative Research and Development Agreement (CRADA), joint venture, or partnership agreement, where copyright or copyright-like restrictions are imposed on information, must furnish access to program libraries to that information at no cost. This is of particular importance when the component continues to characterize the information as part of its mission of informing the public.

Exceptions to this section, if determined necessary in order to avoid fugitive information products and ensure complete coverage for the program, can be addressed under the plenary authority of Sec. 1914 of this chapter. An exception might be in the case where a publishing component or its authorized agent could demonstrate that no cost access to its electronic information service by program libraries would seriously affect the ability of the organization to fulfill its statutory mandate to be self-sustaining, and appropriations or other resources are not adequate to permit the organization to meet its program obligations. In such cases, the Superintendent of Documents could reimburse the component of Government at the incremental cost of dissemination.

44 U.S.C. § 1904. Classified List of Government publications information products for selection by depositories available to program libraries

The Superintendent of Documents shall ~~currently~~ issue a *current*, classified list of *categories of Government publications information products, including* ~~in suitable form, containing~~ annotations of contents and listed by item identification numbers, to facilitate the selection of *or access to only* those *publications products* needed by *depository program* libraries. The ~~selected publications products~~ shall be *distributed available to depository program* libraries in accordance with regulations of the Superintendent of Documents, as long as ~~they~~ *the program libraries* fulfill the conditions provided by law.

Analysis

The intent of this section is to require the continuance of a data base which describes, using suitable data elements, the types of Government information products available through the program. Where

needed, language was changed to conform with new language defined in Sec. 1901.

44 U.S.C. § 1905. ~~Distribution to depositories; Designation of additional program libraries; justification; authorization for certain designations~~

(a) ~~The Government publications selected from lists prepared by the Superintendent of Documents, and when requested from him, shall be distributed~~ *Government information products made available by the Superintendent of Documents may be selected or accessed by* ~~to depository program libraries specifically designated by law and to libraries designated by Senators, Representatives, and the Resident Commissioner from Puerto Rico, by the Commissioner Mayor of the District of Columbia, and by the Governors of Guam, American Samoa, the Commonwealth of the Northern Marianas, and the Virgin Islands, respectively. Additional libraries within areas served by Representatives or the Resident Commissioner from Puerto Rico may be designated by them to receive Government publications information to the extent that the total number of libraries designated by them does not exceed two within each area. Not more than two additional libraries within a State may be designated by each Senator from the State. Before an additional library within a State, congressional district or the Commonwealth of Puerto Rico is designated as a depository for Government publications program library, the head of that library shall furnish his or her Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be, with justification of the necessity for the additional designation. The justification, which shall also include a certification as to the need for the additional depository program library designation, shall be signed by the head of every existing depository program library within the congressional district or the Commonwealth of Puerto Rico or by the head of the library authority of the State or the Commonwealth of Puerto Rico, within which the additional depository program library is to be located. The justification for additional depository program library designations shall be transmitted to the Superintendent of Documents by the Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be. The Commissioner Mayor of the District of Columbia may designate two depository program libraries in the District of Columbia, the Governor of Guam, the Governor of the Commonwealth of the Northern Marianas, and the Governor of American Samoa may each designate one depository program library in Guam, the Commonwealth of the Northern Marianas, and American Samoa, respectively, and the Governor of the Virgin Islands may designate one depository program library on the island of Saint Thomas and one on the island of Saint Croix.~~

Analysis

The revised section (a) brings together all of the different means by which a library can become a program library, except for the designation of regional status, which appears in section 1912.

In the first sentence the language is updated, while still maintaining the ability of program libraries to select the information products which meet the needs of their local constituencies.

Public Law 101-219, title II, Sec. 202, Dec. 12, 1989, 103 Stat. 1874, provided that: "The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories." In this and following sections, new language has been inserted relative to the Commonwealth of the Northern Marianas. The previous specific language designating the Northern Marianas College is unnecessary now that the Governor of the Commonwealth of the Northern Marianas can designate a program library.

In this and following sections, the term "Commissioner" of the District of Columbia has been replaced by "Mayor" as established by law.

(b) ~~44 U.S.C. § 1906. Land-grant colleges and State libraries constituted depositories designated program libraries~~

Land-grant colleges *and State libraries* are *designated constituted depositories program libraries* to receive Government *publications information* subject to the *depository program* laws.

Analysis of paragraph (b)

This section specifies the designation of State libraries as program libraries. This was formerly included in section 1903.

(c) ~~44 U.S.C. § 1907. Libraries of executive departments, service academies, and independent agencies constituted depositories designated program libraries; certifications of need; disposal of unwanted publications~~

The libraries of the executive departments, of the United States Military Academy, of the United States Naval Academy, of the United States Air Force Academy, of the United States Coast Guard Academy, and of the United States Merchant Marine Academy are designated ~~depositories of Government publications~~ *as program libraries*. A ~~depository program~~ library within each independent agency may be designated upon certification of need by the head of the independent agency to the Superintendent of Documents. Additional ~~depository program~~ libraries within executive departments and independent agencies may be designated to receive Government ~~publications information products~~ to the extent that the

number so designated does not exceed the number of major bureaus or divisions of the departments and independent agencies. These designations may be made only after certification by the head of each executive department or independent agency to the Superintendent of Documents as to the justifiable need for additional depository *program* libraries. ~~Depository libraries within executive departments and independent agencies may dispose of unwanted Government publications after first offering them to the Library of Congress and the Archivist of the United States.~~

Analysis of paragraph (c)

The disposal language was removed from this section so that all program libraries would be bound by the general disposal requirements expressed in sections 1911 and 1912.

Other language was changed to conform with new language defined in section 1901.

(d) 44 U.S.C. § 1908. American Antiquarian Society to receive certain publications Government information products

One copy of the public journals of the Senate and of the House of Representatives, and of the documents published under the orders of the Senate and House of Representatives, respectively, shall be transmitted to the Executive of the Commonwealth of Massachusetts for the use and benefit of the American Antiquarian Society of the Commonwealth.

Analysis of paragraph (d)

Changed to conform with new language defined in section 1901.

(e) 44 U.S.C. § 1915. Highest State appellate court libraries as depository program libraries

Upon the request of the highest appellate court of a State, the Public Printer is authorized to designate the library of that court as a depository *program* library. ~~The provisions of section 1911 of this title shall not apply to any library so designated.~~

Analysis of paragraph (e)

Changed to conform with new language defined in section 1901.

(f) 44 U.S.C. § 1916. Designation of libraries of accredited law schools as depository program libraries

(a) Upon the request of any accredited law school, the Public Printer shall designate the library of such law school as a depository *program* library. The Public Printer may not make such designation unless ~~he~~ *the Superintendent of Documents* determines that the library involved meets the requirements of this chapter, other than those requirements of the first undesignated paragraph of section 1909 of this title which relate to the location of such library.

(b) For purposes of this section, the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association ~~approved by the Commissioner of Education for such purpose or~~ accredited by the highest appellate court of the State in which the law school is located.

Analysis of paragraph (f)

Changed to conform with new language defined in section 1901. The reference to Commissioner of Education is deleted as the position no longer exists.

44 U.S.C. § 1906. [Reserved] Now Sec. 1905 (b)

44 U.S.C. § 1907. [Reserved] Now Sec. 1905 (c)

44 U.S.C. § 1908. [Reserved] Now Sec. 1905 (d)

44 U.S.C. § 1909. Requirements of depository *program* libraries; reports on conditions; investigations; termination; replacement

Only a library able to ~~provide custody and service for depository materials properly maintain and provide public access to Government information~~ and located in an area where it can best serve the public need, and within an area not already adequately served by existing depository *program* libraries may be designated by Senators, Representatives, the Resident Commissioner from Puerto Rico, the ~~Commissioner~~ *Mayor* of the District of Columbia, or the Governors of Guam, American Samoa, *the Commonwealth of the Northern Marianas*, or the Virgin Islands as a depository ~~of Government publications~~ *program library*. The designated depository *program* libraries shall report to the Superintendent of Documents at least every two years concerning their condition.

The Superintendent of Documents shall make firsthand investigation of conditions *in program libraries* for which need is indicated and include the results of investigations in his *or her* annual report. When ~~he~~ *the Superintendent of*

Documents ascertains that the number of books in a depository library is below ten thousand, other than Government publications, or it has ceased to be maintained so as to be *Government information products* are not accessible to the public, or that the Government publications products which have been furnished the library have not been properly maintained, he *the Superintendent of Documents* shall delete the library from the list of *depository program* libraries if the library fails to correct the unsatisfactory conditions within six months. The Representative or the Resident Commissioner from Puerto Rico in whose area the library is located or the Senator who made the designation, or a successor of the Senator, and, in the case of a library in the District of Columbia, the *Commissioner Mayor* of the District of Columbia, and, in the case of a library in Guam, American Samoa, *the Commonwealth of the Northern Marianas*, or the Virgin Islands, the Governor, shall be notified and shall then be authorized to designate another library within the area served by him or her, which shall meet the conditions herein required, but which may not be in excess of the number of *depository program* libraries authorized by laws within the State, district, territory, or the Commonwealth of Puerto Rico, as the case may be.

Analysis

The commitment to provide public service should be emphasized as a responsibility of any program library. Program libraries are expected to provide no-fee public access to program information. For tangible products, all but the regional program libraries may select what products they wish to receive and add to their collections, based on their assessment of local needs. For purely electronic Government information, program libraries are expected to be able to provide no-fee public access to such information as they decide to support based upon their local collection development plans and the needs of the local constituencies. Program electronic information may be accessible from GPO Access, or the Superintendent of Documents locator may direct and link users to another component of the Government's electronic information service.

44 U.S.C. § 1910. Designations of replacement depositories program libraries; limitations on numbers; conditions

The designation of a library to replace a *depository program* library, other than a *depository program* library specifically designated by law, may be made only within the limitations on total numbers specified by section 1905 of this title, and only when the library to be replaced ceases to exist, or when the library voluntarily relinquishes its *depository program library* status, or when the Superintendent of Documents determines that it no longer fulfills the conditions provided by law for *depository program* libraries.

Analysis

Changed to conform with new language defined in section 1901.

44 U.S.C. § 1911 *Provision of Government information products to program libraries; free use of Government publications in depositories information in program libraries; disposal of unwanted publications Government information products*

The Superintendent of Documents shall disseminate tangible Government information products to program libraries at no cost to the libraries and shall ensure that program libraries have access to Government information products available via Government electronic information services at no cost.

Depository Program libraries shall make Government publications information products received or accessed through the program available for the free use of the general public. ~~and may dispose of them after retention for five years under section 1912 of this title, if the depository library is served by a regional depository library. Depository libraries not served by a regional depository library, or that are regional depository libraries themselves, shall retain Government publications permanently, in either printed form or in microfacsimile form, except superseded publications or those issued later in bound form which may be discarded~~ *All tangible Government information products received by program libraries through the program remain the property of the United States Government. Program libraries may dispose of Government information products only as authorized by the Superintendent of Documents.*

Analysis

The retention requirements on both regional and selective program libraries need to be clarified and updated. For selective program libraries, this should be accomplished by removing the specific five-year retention requirement from the statute, and allowing libraries to dispose of Government information as authorized under guidelines to be issued by the Superintendent of Documents.

44 U.S.C. § 1912. *Regional depositories program libraries; designation; functions; disposal of publications; permanent public access to Government information*

(a) ~~Not more than two depository~~ *four program* libraries in each State and ~~two program libraries in~~ the Commonwealth of Puerto Rico may be designated as regional depositories *program libraries*, and shall receive from the Superintendent of Documents copies of ~~or access to~~ all new and revised Government publications information products authorized for ~~distribution to depository dissemination to~~

program libraries. Designation of regional depository *program* libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them, after ~~approval by~~ *consultation with* the head of the library authority of the State or the Commonwealth of Puerto Rico, as the case may be, who shall first ascertain from the head of the library to be so designated that the library will, in addition to fulfilling the requirements for depository libraries, retain at least ~~one copy of all Government publications either in printed or microfacsimile form (except those authorized to be discarded by the Superintendent of Documents); and fulfill the requirements of a regional program library.~~ Within the region served, a *regional program library* will provide *or coordinate the provision of all program-related activities in the service area, including* interlibrary loan, reference service, and assistance for depository *program* libraries in the disposal of unwanted Government publications *as authorized by the Superintendent of Documents*. The agreement to function as a regional depository *program* library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

~~The libraries designated as regional depositories may permit depository libraries, within the areas served by them, to dispose of Government publications which they have retained for five years after first offering them to other depository libraries within their area, then to other libraries.~~

(b) The Superintendent of Documents, in consultation with the State library authority, and the affected program libraries in the service area, may temporarily confer regional program library status upon an existing program library or group of program libraries, in order to ensure the continued availability of regional program library services within a defined service area, or to enhance regional program library services in a service area determined by the Superintendent of Documents to be not fully served. A temporary conferral of regional status may continue in effect pending designation as a regional program library in accordance with requirements of paragraph (a) of this section.

(c) The Superintendent of Documents shall ensure that Regional program libraries permanently maintain for public use at least one copy of all Government information products originally distributed either in printed, microform, or tangible electronic form, except those authorized to be discarded by the Superintendent of Documents. The Superintendent of Documents shall ensure that Government information products disseminated via Government electronic information services are maintained permanently for program library and general public access through the operation of electronic storage facilities or through coordination with components of the Government, program libraries, or other institutions.

Analysis

In paragraph (a), the maximum number of regional program libraries has been raised to four per State. The designation process has been changed to only require consultation of the State library authority, rather

than approval. The basic responsibilities of regional program libraries are described.

In paragraph (b), the Superintendent of Documents is authorized to confer regional status (not to "designate"), in order to provide regional services to an area which is not fully served. This action may only be taken when consultation with the State library authority and the program libraries in the area to be served determines that a need exists. The temporary conferral would continue in a pending status, until such time as the library or group of libraries is designated as a regional program library as authorized in paragraph (a).

Paragraph (c) is included to ensure Government oversight and coordination of permanent public access both to tangible Government information products distributed through the program and to Government information products made available via Government electronic information services.

Permanent public access to tangible Government information products is ensured through the regional program libraries, which are required to retain permanently copies of books, maps, CD-ROM's, microforms, etc.

Permanent public access to Government information products disseminated through Government electronic information services, which is vital to the success of an electronic program, is also ensured by this paragraph. Historically, the program, through the mechanism of the regional libraries, has guaranteed permanent preservation of and access to tangible Government information products. With respect to purely electronic Government information, there is no parallel mechanism to ensure that this information is maintained for permanent public access. Most depository librarians and other program stakeholders are concerned about preserving electronic Government information for permanent public access. This language would require the Superintendent of Documents to coordinate the development of a distributed system of permanent access, utilizing the electronic storage capabilities required under Chapter 41 of this Title, and resources of the publishing components, the National Archives and Records Administration (NARA), the National Technical Information Service (NTIS), and program libraries or other institutions which elect to participate for such purposes.

44 U.S.C. § 1913. [~~Reserved~~] ~~Appropriations for supplying depository libraries; restriction~~

~~Appropriations available for the Office of Superintendent of Documents may not be used to supply depository libraries documents, books, or other printed matter not requested by them, and their requests shall be subject to approval by the Superintendent of Documents.~~

Analysis

This section is no longer relevant to the administration of the program.

44 U.S.C. § 1914. ~~Implementation of depository library program~~ *Federal Information Dissemination and Access Program by Public Printer*

~~The Public Printer, with the approval of the Joint Committee on Printing, as provided by section 103 of this title, may use any measures he or she considers necessary for the economical and practical implementation of this chapter.~~

Analysis

Changed to conform with new language defined in section 1901.

44 U.S.C. § 1915. [~~Reserved~~] Now Sec. 1905 (e)

44 U.S.C. § 1916. [~~Reserved~~] Now Sec. 1905 (f)

[Proposed New] 44 U.S.C. § 1917. *Cataloging and locator services*

The Superintendent of Documents shall provide cataloging and locator services which will direct program libraries and the general public to Government information products in tangible formats and those available via Government electronic information services.

This will include creation of a comprehensive and timely catalog of Government information products which will be accessible to program libraries and the general public. The Public Printer, and the head of each component of the Government shall immediately deliver to the Superintendent of Documents two copies of every tangible Government information product falling within the scope of this chapter. When a component of the Government makes an information product available only via a Government electronic information service, the component shall immediately furnish information about the products to the Superintendent of

Discussion Draft - May 29, 1997

Documents to enable the Superintendent to catalog the product and provide locator services. The Superintendent of Documents shall also prepare a consolidated index of Congressional documents.

Analysis

Incorporating electronic information into the program poses new challenges to users trying to find what they want. We need to coordinate the traditional Superintendent of Documents cataloging activity, covering tangible products, with locator services directing users to information available from Government electronic information services.

The proposed new section would replace the existing sections 1710 and 1711, thereby eliminating the archaic specification for the number of printed catalogs.

Proposed Revision of Title 44, Chapter 29

44 U.S.C. § 2901. Definitions

As used in this chapter, and chapters 21, 25, 31, and 33 of this title -

(1) the term “records” has the meaning given it by section 3301 of this title;

(2) the term “records management” means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations;

(3) the term “records creation” means the production or reproduction of any record;

(4) the term “records maintenance and use” means any activity involving -

(A) location of records of a Federal agency;

(B) storage, retrieval, and handling of records kept at office file locations by or for a Federal agency;

(C) processing of mail by a Federal agency; or

(D) selection and utilization of equipment and supplies associated with records and copying;

(5) the term “records disposition” means any activity with respect to -

(A) disposal of temporary records no longer necessary for the conduct of business by destruction or donation;

(B) transfer of records to Federal agency storage facilities or records centers;

(C) transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(D) transfer of records from one Federal agency to any other Federal agency;

Discussion Draft - May 29, 1997

(6) the term "records center" means an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space;

(7) the term "records management study" means an investigation and analysis of any Federal agency records, or records management practices or programs (whether manual or automated), with a view toward rendering findings and recommendations with respect thereto;

(8) the term "inspection" means reviewing any Federal agency's records or records management practices or programs with respect to effectiveness and compliance with records management laws and making necessary recommendations for correction or improvement of records management;

(9) the term "servicing" means making available for use information in records and other materials in the custody of the Archivist, or in a records center -

(A) by furnishing the records or other materials, or information from them, or copies or reproductions thereof, to any Federal agency for official use, or to the public; or

(B) by making and furnishing authenticated or unauthenticated copies or reproductions of the records or other materials;

(10) the term "unauthenticated copies" means exact copies or reproductions of records or other materials that are not certified as such under seal and that need not be legally accepted as evidence;

(11) the term "National Archives of the United States" means those official records which have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government, and which have been accepted by the Archivist for deposit in his custody;

(12) the term "Archivist" means the Archivist of the United States;

(13) the term "executive agency" shall have the meaning given such term by section 3(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(a));

(14) the term "Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol); and

(15) the term "Administrator" means the Administrator of General Services.

Note

FEDERAL RECORDS MANAGEMENT PROVISIONS WITHOUT EFFECT ON
AUTHORITIES AND RESPONSIBILITIES OF ADMINISTRATOR OF GENERAL
SERVICES, JOINT COMMITTEE, OR GOVERNMENT PRINTING OFFICE

Section 5 of Pub. L. 94-575 provided that:

(a) The provisions of this Act (see Short Title of 1976 Amendment note set out under section 101 of this title) relating to the authority of the Administrator of General Services do not limit or repeal additional authorities provided by statute or otherwise recognized by law.

(b) The provisions of this Act do not limit or repeal the authority or responsibilities of ~~the Joint Committee on Printing~~ or the Government Printing Office under chapters 1 through 19 of title 44, United States Code.

Analysis

These section is amended to delete a reference to the Joint Committee on Printing.

Proposed Revision of Miscellaneous Provisions

16 U.S.C. § 825k. Publication and sale of reports

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services. The amounts collected under this section shall be deposited in the Treasury to the credit of miscellaneous receipts. All printing for the Federal Power Commission making use of engraving, lithography, and photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commission, under such limitations and conditions as the ~~Joint Committee on Printing~~ *Public Printer* may from time to time prescribe, and all other printing for the Commission shall be done by the ~~Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe.~~ The entire work may be done at, or ordered through, the Government Printing Office whenever, in the judgment of the ~~Joint Committee on Printing~~ *Public Printer*, the same would be to the interest of the Government: Provided, That when the exigencies of the public service so require, the ~~Joint Committee on Printing~~ *Public Printer* may authorize the Commission to make immediate contracts for engraving, lithographing, and photolithographing, without advertisement for proposals: Provided further, That nothing contained in this chapter or any other Act shall prevent the Federal Power Commission from placing orders with other departments or establishments for engraving, lithographing, and photolithographing, in accordance with the provisions of sections 1535 and 1536 of title 31, providing for interdepartmental work.

20 U.S.C. § 954. National Endowment for the Arts

(a) Establishment

There is established within the Foundation a National Endowment for the Arts.

(b) Chairperson of the Endowment; term of office; vacancies

(1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment. The provisions of this subsection

shall apply to any person appointed to fill a vacancy in the office of Chairperson. Upon expiration of the chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Program of contracts, grants-in-aid, or loans to groups and individuals for projects and productions; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support -

* * *

(8) projects that enhance managerial and organizational skills and capabilities;

* * *

In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the ~~Joint Committee on Printing of the Congress~~ *Public Printer* and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

* * *

20 U.S.C. § 956. National Endowment for the Humanities

(a) Establishment

There is established within the Foundation the National Endowment for the Humanities.

(b) Chairperson of the Endowment; appointment, term, reappointment; vacancy; expiration of term

(1) The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson.

Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Functions of the Endowment; publications; traditionally underrepresented recipients of financial assistance The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to -

* * *

(8) support the publication of scholarly works in the humanities;

* * *

In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the ~~Joint Committee on Printing of the Congress~~ *Public Printer* and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.

* * *

28 U.S.C. § 411. Supreme Court reports; printing, binding, and distribution

(a) The decisions of the Supreme Court of the United States shall be printed, bound, and distributed in the preliminary prints and bound volumes of the United States Reports as soon as practicable after rendition, to be charged to the proper appropriation for the judiciary. The number and distribution of the copies shall be under the control of the ~~Joint Committee on Printing~~ *Public Printer*.

(b) Reports printed prior to June 12, 1926, shall not be furnished the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force.

(c) The Public Printer, or other printer designated by the Supreme Court of the United States, upon request, shall furnish to the Superintendent of Documents the reports required to be distributed under the provisions of this section.

40 U.S.C. § 474. Congress, departments, agencies, corporations, and persons exempted from provisions

The authority conferred by this Act shall be in addition and paramount to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith, except as otherwise provided by the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), and except that sections 486(b) and 487(c) of this title shall not be applicable to any Government corporation or agency which is subject to chapter 91 of title 31. Nothing in this Act shall impair or affect any authority of -

* * *

Discussion Draft - May 29, 1997

(18) the ~~Joint Committee on Printing~~ *Public Printer*, under title 44 or any other Act;

* * *

Analysis

These miscellaneous sections of the U.S. Code are amended to delete references to the Joint Committee on Printing.