

Depository Library Council

Advisory body to the Director of the U.S. Government Publishing Office

January 14, 2021

Laurie B. Hall, Superintendent of Documents
U.S. Government Publishing Office
732 North Capitol Street, NW
Washington, DC 20401

Dear Superintendent of Documents Hall,

The Depository Library Council is pleased to submit the following comments and feedback of the proposed legislative changes to Title 44 *U.S. Code* Chapter 19, the governing statute of the Federal Depository Library Program (FDLP). Holistically, these proposed changes show a promising direction towards more flexibility for depository libraries, a modernized understanding of publishing practices and dissemination issues, and a wider but more intentional scope for the Government Publishing Office (GPO) and the programs falling under the Office of the Superintendent of Documents.

For each section of the proposed legislative changes, we have provided our comments below. We hope that this feedback will be helpful as you work with the Committee on House Administration and Senate Rules Committee on crafting and putting forth these amendments to Title 44 *U.S. Code* Chapter 19:

- **§ 1900:** Council supports the new § 1900 as Council believes the language effectively defines the intent of the Public Information Program of the Superintendent of Documents. In particular, Council appreciates the language under (a) (2) specifically the purpose of the Public Information Programs to “provide no-fee permanent public access to the corpus of Federal public information for future generations.” In addition, Council appreciates the list of specific programs (a)(2)(A)–(E) which make up the Public Information Programs. Council strongly believes § 1900 is a great addition to Chapter 19 of title 44 U.S.C.
- **§ 1901:** Council appreciates the emphasis on access throughout the chapter, particularly the inclusion of “permanent public access” in this section.

Council recommends changing the term “fugitive public information,” also known colloquially in the profession as “fugitive documents.” A possible substitution proposed by Council is “uncatalogued public information.” This concern was initially raised at the 2020 Fall Depository Library Conference, at which time attendees also suggested “renegade,” “unprocessed,” and “unharvested” as alternatives.

In the line “(4) the term ‘information lifecycle management’ means the planning, budgeting, administering, processing and controlling information throughout the stages through which tangible or digital information assets pass including...” Council suggests inserting the word “of” between the words “controlling” and “information.”

Council suggests further clarification when distinguishing between “Public Information” (mentioned, 1) (defined, 7), “Government Publication” (2), and “Information” (3). The

relationship between these terms may be better understood if the definitions are listed in hierarchical order, rather than alphabetically (although alphabetical may be the typical formatting of this section). “Public Information” is defined in (7) as broadly containing both “Government Publications” and “Information” in all formats, and appears to be the largest umbrella term; for this reason, it may be useful to list it first. As currently organized, “public information” is referenced in (1), (3), (4), (5), (6) but not defined until (7). It would also be useful if a more explicit distinction could be made between “government documents,” “government publication,” and “public information.” One recommendation is to define “government publication” as material in any format issued by a government agency or body for public distribution, while “government information” is any material produced by a government agency or body. Another option would be to distinguish between “government documents” (official documents issued by a government institution for internal use), “government publications” (content issued by a government institution for external use), and “government information” (all content issued by government institutions in any format). Council believes clarification on these distinctions is necessary to better understand and appreciate the function and impact of the chapter revisions.

- **§ 1902:** The new language in §1902 reflects the wider scope of the FDLP in ensuring that the Superintendent of Documents is duly notified of digital content as well as all tangible content it has issued, regardless of a publishing connection to GPO. The focus on digital specifically is also helpful in making it very clear that digital content covers a wide scope as emphasized in the definition for “public information” in §1901. In addition, the deletion of language about agencies determining if material is of public interest or educational value to be passed on to the Superintendent of Documents is a welcome change as agencies often do not have a good sense of what the public would be interested in now and in the future.
- **§ 1905/1909:** The inclusion of the Superintendent of Documents in the decision of whether a library is prepared to become a depository is important in ensuring that the library has proper support and understanding of what it means to be a depository library. However, Council feels the phrase, “housing a depository collection,” included in both §1905 and §1909 has connotations too focused on tangible depository materials when there are all-digital or mostly digital depositories in the FDLP, and recommends that GPO change the language to make it more inclusive of all types of depository formats. We suggest using the idea of stewardship of a collection rather than housing: “...the Superintendent of Documents shall assess the potential depository library to determine its sustainability for stewarding a depository collection and for providing access services.”
- **§ 1907:** Council appreciates the change in language from “publications” to “public information” as it better reflects the variety of formats disseminated by GPO. Council recommends changing “publications” to “public information” in the following sentence: “Additional depository libraries...may be designated to receive Government publications.” Council supports the inclusion of the Superintendent of Documents in the disposal process for executive departments and independent agencies.
- **§ 1911:** Council approves of the proposed changes to § 1911, particularly the change from “publications” to “public information.” and the inclusion of the specific phrase “this Government property.” Council supports the elimination of the language specifying the retention of print and microfacsimile publications that have not been superseded. Finally, in

addressing the requirements for the disposal of public information, Council appreciates the specific mention of Superintendent of Documents policy and guidance.

- **§ 1912:** Council seeks clarification of two phrases in subsection (d):

“Libraries designated as regional depositories will coordinate with the Superintendent of Documents on the disposition of Government Publications from depository libraries...” If regional depositories are required to work with GPO for *all* selective depositories’ routine collection maintenance, this would be a significant change from current practices. In general, regional depositories solely manage this process, with the exception of working closely with GPO when a selective depository withdraws from the program. Council recommends keeping the previous wording related to this subsection and instead relying on guidance and policy documentation to shape collaboration between regional depositories and GPO.

“After first offering the publications to the regional depository and to other depository libraries within their area, the Superintendent of Documents will ensure depository libraries nationwide have an opportunity to obtain them...” Council is concerned that this language creates a requirement that all documents in the disposition process are offered nationally to all depository libraries. Currently regionals require some combination of offering to regional depositories and to other depositories in a state or region, but offering national is optional for most states, with some exceptions for historic material. Council is concerned that additional requirements related to disposition will create unnecessary burdens for selective depositories. Alternatively, strengthened communication between regional depositories and GPO would facilitate the transfer of materials to Preservation Stewards and other libraries actively working on preservation efforts.

- **§ 1917:** Council appreciates GPO’s continued efforts to provide freely available catalog records and access points to the public. While it is implied that GPO will not charge for the services listed in (b)(3), Council requests that language indicating that these services will be offered free of charge be added for additional clarity.
- **§ 1918:** As mentioned in reference to earlier uses of the phrase “National Collection”, Council recommends that in order to avoid confusion about the scope, nature and extent of the “National Collection” a clear definition of this phrase be given in the earliest sections of the legislation. Council sought clarification about the meaning of “system of access”. GPO provided a reminder that this phrase allows for the evolution of system names and particulars, but consistently refers to an online system of access to government information. Council is supportive of broad statutory language, with details and specific procedures left to guidance documents provided by GPO. Most notably, Council is in wide agreement that the creation of a defined National Collection is exciting, significant, and has the potential to lead to great improvements in the collection, cataloging, dissemination, and access of government information sources.

The FDLP continues to be an essential part of the information framework of the federal government and in keeping American informed. Council is dedicated to working closely with GPO to find ways forward in updating Title 44 Chapter 19 to better serve the depository community and position GPO to more easily and effectively facilitate the programs of the Superintendent of Documents. We thank GPO for all their work on these proposed legislative changes and this opportunity for Council to provide feedback.

Sincerely,

Alicia Kubas

ALICIA KUBAS
Chair, Depository Library Council

Cc: Cynthia Etkin, Sr. Program Planning Specialist
Cc: Will Stringfellow, incoming Chair of the Depository Library Council