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August 25, 2011

Mr. John Burger
Executive Director
Association of Southeastern Research Libraries
Box 90182 / 411 Chapel Drive
226A Bostock Library
Durham, NC 27708

Dear Mr. Burger:

Thank you for sending the ASERL response to my letter of July 20, 2011 requesting a point of contact to assist me in clarifying some issues related to the Southeast Region Guidelines for Management and Disposition of Federal Depository Library Collections.

As an initial note, I am unable to provide you the information you requested related to the survey of depository libraries of late May/early June 2011. In my July 20, 2011 letter, I shared the areas of concern that were raised by some respondents in that survey, and I indicated I was unable to provide the specifics as related to responses received as part of the survey. This has not changed, and for the reasons set forth below, I believe this issue is moot.

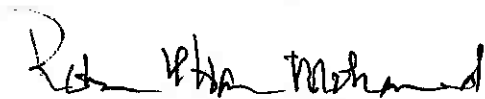
In reviewing your responses to the concerns raised, I find the ASERL Implementation Plan to be in violation of 44 USC 1912. In your letter, you state, “the ASERL plan modifies the traditional state-based discard process for a region-based discard and acquisition process. This change provides libraries that are serving as a Center of Excellence—wherever they may be located in the region—first priority to select items that related to their area of specialization.” The regional discard process is not a tradition, but is standard operating procedure that has been developed to implement the requirements of 44 USC 1912. Section 1912 states, “[t]he 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.” (Emphasis added). Any plan developed by ASERL must work within the confines of Title 44. Furthermore, regional libraries in each state have the responsibility to ensure materials are retained to provide a comprehensive collection in the state or area they are responsible for serving.

Additionally, in your letter you indicate GPO Office of the General Counsel has approved the draft implementation plan. The letter states, “[y]ou will recall that the draft plan (which differed only slightly from the final implementation plan) was reviewed by GPO Counsel and found to be in compliance with 44 U.S.C. Chapter 19, the statute governing the Federal Depository Library Program.” I have uncovered correspondence from the last two years that indicates the plan was discussed, but after checking with the Office of General Counsel, it does not appear that the plan was ever actually approved.

The Office of the General Counsel has now reviewed the plan, and it is GPO’s position that libraries in the Southeastern United States following the Southeast Region Guidelines for Management and Disposition of Federal Depository Library Collections are not in compliance with Title 44. Immediate steps must be taken to bring the Guidelines into compliance with the program requirements for the Federal Depository Library Program. This should be completed by October 31, 2011, and timely notification from you indicating that the change has occurred would be greatly appreciated.

Finally, while the plan is not currently in compliance with Title 44 for the reasons outlined above, it does appear that this plan could be altered to be compliant. GPO appreciates ASERL’s efforts to develop comprehensive collections and I would be glad to discuss with you possible ways to modify this plan so that it comports with Title 44.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Haun Mohamed". The signature is written in a cursive style with some loops and flourishes.

ROBIN HAUN-MOHAMED
Director, Collection Management and Preservation
Library Services and Content Management