



ASSOCIATION OF SOUTHEASTERN RESEARCH LIBRARIES

October 21, 2011

Ms. Robin Haun-Mohamed
Director, Collection Management and Preservation
Library Services and Content Management
Office of the Superintendent of Documents
U.S. Government Printing Office
732 North Capitol Street
Washington DC 20401

Dear Robin:

This is in response to your letters of August 25, 2011 to John Burger and September 23, 2011 to Judy Russell regarding the "Southeast Region Guidelines for Management and Disposition of Federal Depository Library Collections" as promulgated by ASERL. We have significant concerns with the demands included in those letters and seek a meeting to discuss these concerns and hopefully come to mutually-satisfactory resolutions. In addition to meeting with you and the Superintendent of Documents, we would like the GPO General Counsel to be present since there seem to be significant issues of legal interpretation. We would also welcome the participation of the Public Printer.

In the August 25 letter, you stated: "...regional libraries in each state have the responsibility to ensure that materials are retained to provide a comprehensive collection in the state or area they are responsible for serving." All twelve regional depository libraries in the southeast will continue to "retain" government publications received through the FDLP as required by *44 USC 1912* as well as to enhance their collections. They will also collaborate with other depository libraries to provide two fully-cataloged, distributed comprehensive collections "in the areas served by them," i.e. the Southeast Region.

We disagree with the point you raise regarding the disposition process, indicating that items being discarded by selectives must first be offered only to libraries within their state. As you know, a key component of the ASERL Guidelines is to build collections by agency or topic held by FDLP libraries across the Southeast region. It is for this reason the ASERL Guidelines give first priority to Center of Excellence (COE) libraries to select items germane to their COE collection(s). Regionals have the ability to see items offered by selectives within their state at the same time as COE libraries. This enables the regionals to make arrangements to create print or digital surrogates of any items desired by both the COE and the regional. However, the purpose of creating Centers of Excellence is to create comprehensive-as-possible original print collections at the COE; therefore we feel it is critical that COEs have first opportunity to acquire needed items and fill gaps in their COE collection.

The September 23 letter raised the following issues and questions which are restated below. Each restatement is followed by our response.

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GPO Issue 1: Implementation of the ASERL FDLP Management and Disposition Plan

- “GPO is not able to ensure compliance with FDLP legal and program requirements without a review of how the larger ASERL plan will be implemented. Details need to be provided relating to any agreements and documentation that has been developed, e.g. how will libraries administer the two libraries of record copies? What tools will be used in the management of them? Most documentation that GPO has reviewed relates only to a small part of the plan, the Disposition tool.”

There is significant documentation on ASERL's website (<http://www.aserl.org/programs/gov-doc/>) to answer the above questions, including:

- the full text of the ASERL Guidelines;
- a draft “Best Practices” document that is being developed as part of the IMLS grant;
- a sample Memorandum of Understanding (MOU) that outlines the roles and responsibilities for Center of Excellence libraries;
- links to LibGuides that describe in detail the initial pilot COE collections at the University of Kentucky, University of South Carolina, and the University of Florida;
- minutes from CFDP steering committee meetings;
- a current listing of all COE commitments; and
- links to documentation regarding the disposition tool mentioned above.

ASERL has also developed, and is enhancing, a database for libraries to load brief cataloging records to compare holdings and conduct "gap analysis" as required by the IMLS grant.

It should further be noted that an important part of the commitment to serve as a Center of Excellence is the agreement to fully catalog COE collections and provide holdings to OCLC, thus assuring that the public and other depository libraries can easily identify and locate the materials.

As noted by many of the regional documents coordinators in a recent letter to GPO, Centers of Excellence enhance access to government information beyond the mandates of *44 USC 1912*, and the implementation of the ASERL Guidelines in no way abrogates requirements of the current statute.

GPO Issue 2: Comprehensive Collections within the State

- “Regionals are required to ensure the comprehensiveness and integrity of a comprehensive collection. To that end, regionals must retain or selectively house one tangible copy of all FDLP material issued before and after regional designation in their state. The ASERL implementation plan will need to remove the incorrect statement that "regional depository libraries are not required by law to build retrospective collections or to replace items that are lost"
- ASERL should affirm that regionals must continue to review withdrawal lists, with the goal of building a comprehensive collection that suits the state.”

We strongly support the statement in the ASERL Guidelines that "regional depository libraries are not required by law to build retrospective collections or to replace items that are lost" and firmly believe it is accurate. We find no language in *44 USC Chapter 19* that addresses the

requirements you assert above. As noted above, the language in *44 USC 1912* states that regionals must “retain” materials, which indicates an obligation only to keep items provided to the library by the FDLP. We do not agree that the statute requires regionals to acquire tangible copies of all FDLP material issued before and after their designation as a regional. Further, the “Legal Requirements & Program Regulations of the Federal Depository Library Program” issued by GPO in June 2011 does not contain such a requirement.

GPO Issue 3: The Regional Authority is Responsible for Collection Development and Housing

- “At least one tangible copy of material that predates a regional’s designation needs to be kept in the state if it becomes available.
- All policies and procedures should affirm that Centers of Excellence do not trump regionals and selectives in comprehensive collection development. As such, changes need to be made to the disposition tool to acknowledge the primacy of the regional role in the withdrawal process.”

The statements in these bullets are not supported by *44 USC 1912*. As noted above, nothing in the statute related to regional responsibilities addresses retrospective collections, comprehensive collections, or replacement of items never obtained from GPO or those lost or damaged subsequent to receipt. These statements are also not included in the recent “Legal Requirements & Program Regulations of the Federal Depository Library Program,” which acknowledges regional responsibilities – not just to a state, but to the areas and region served. For the ASERL Guidelines, that “region served” is the 10 southeastern states, plus Puerto Rico and the US Virgin Islands by virtue of their affiliation with the University of Florida as the regional depository library.

GPO Issue 4: No Benefit From the Sale of Depository Material

- “ASERL must state that libraries may not benefit from the sale of depository material. Material may not be bartered with or sold for services.”

This is outside the scope of the ASERL Guidelines.

GPO Issue 5: Public Access

- “Timely public access to FDLP materials must be guaranteed regardless of the user’s affiliation. This is a core tenant of the Program which must be clearly stated.
- ASERL’s plan must acknowledge that tangible copies of materials must be retained in the state to make available to users. Regional depositories may not substitute a tangible copy for an electronic copy. If tangible material not held by the regional should come available in the state, the regional must find a suitable home for it.
- Given that much of the ASERL plan may influence the retention of depository material and services offered among community members, GPO needs details about how ASERL plans to implement the two “Library of Record” copies to determine if this plan is in compliance with the law. Safeguards to ensure the continued operation of the FDLP collections and services should be outlined and documented, e.g. what will ASERL do if a library were to drop FDLP status? How will the FDLP collection be dealt with?
- GPO is concerned that the implementation plan seems to confuse digital collections and tangible collections. Regional libraries must ensure the maintenance of a comprehensive tangible collection in

their state and digital substitution or a preference for a digital format should not be confused with the required responsibilities of a regional library.”

The ASERL Guidelines are not intended to restate each and every requirement of the FDLP. The purpose of the Guidelines is to improve public access and the commitment to public access is implicit and explicit throughout the document. As explained above, ASERL does not agree that there is a legal basis for retaining tangible copies of every document in every state. The insistence that each regional depository library has an obligation to build a comprehensive retrospective collection is a significant unfunded mandate.

The Memorandum of Understanding (MOU) signed by each COE library (<http://www.aserl.org/wp-content/uploads/2011/10/Sample-MOU.pdf>) and other documentation provides much of the information requested above. The MOU requires 24 months' notice if a library must discontinue its COE status so there is an opportunity to place the portion of the comprehensive retrospective collection for which the library is responsible. This provision of the MOU exceeds the notice requirements to leave the FDLP.

The Guidelines do not advocate regional libraries substituting digital copies for tangible copies already in their possession. Recognizing that tangible copies of rare historical items will be difficult to obtain, Section II.2.A states that when an original print copy is not available, it is appropriate to include links to a "stable, public domain, digital reproduction" to ensure access. Perhaps the use of the word "substitute" in this section is being misinterpreted to mean that use of the digital copy is preferred as a means of improving public access to FDLP content.

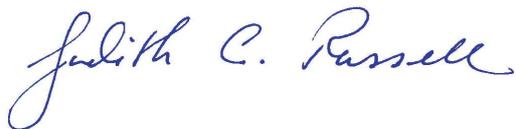
The ASERL Guidelines are focused on the management of the print collections held by depository libraries in the region. We recognize that the best means of providing public access to FDLP content is through online access to digital and digitized copies. Therefore, management of the tangible collections will include efforts to support or participate in initiatives to create a comprehensive, authentic digital collection in the public domain. HathiTrust seems to be the initiative that is farthest along and has the greatest promise, and ASERL members expect to help build this digital collection.

In conclusion, public access to government information is an important national priority and the depository libraries in the southeast are proud to play a significant role in providing this access. However, for the FDLP to survive and thrive it must address the way people seek and use information today and that, for the most part, is through 24-7 digital access. GPO must acknowledge the economic realities that face libraries of all sizes and types and reduce to the maximum extent possible the burdens of providing this service to the public. FDLP libraries need as much flexibility as possible so we can accomplish our common mission.

ASERL would welcome an acknowledgement from GPO that the ASERL Guidelines are an affirmative step in planning for the future of the FDLP and an agreement that the ASERL Guidelines are in compliance with both the mission of the FDLP and its governing statute. Ideally, GPO would actively encourage this and other new models and work with ASERL to assess the effectiveness of the Guidelines as they are implemented.

We look forward to meeting with you in the near future to see how we can accomplish these objectives.

With our thanks for your careful consideration of these important matters,



Judith Russell
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Committee
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cc: Mary Alice Baish, Superintendent of Documents
Hon. William Boarman, US Public Printer
Reynold Schweickhardt, Dominic Storelli, JCP Staff Liaisons