

Inter-Association Working Group on Government Information Policy

American Association of Law Libraries á American Library Association á Association of
Research Libraries á Chief Officers of State Library Agencies á Medical Library
Association á Special Libraries Association á Urban Libraries Council

June 9, 1997

The Honorable John W. Warner
Chairman, Committee on Rules and Administration
United States Senate
Washington, D.C. 20510

Dear Senator Warner:

On behalf of the seven member organizations of the Inter-Association Working Group on Government Information Policy, we are pleased to transmit to you the library community's draft bill to amend chapter 19 of U.S.C. title 44. In addition, we offer several recommendations outside of chapter 19 that we believe should be considered in conjunction with any revision of title 44, based on the Joint Committee on Printing's draft bill that was the subject of recent hearings.

Our national associations represent more than 80,000 librarians, information specialists, library trustees, friends of libraries, and their institutions, all dedicated to public access to government information. We commend the Committee's efforts to revise title 44 on a bicameral, bipartisan consensus basis to enhance public access and to strengthen the Federal Depository Library Program. We are pleased to participate and assist in this important endeavor.

We fully support your resolve to introduce legislation that will address the constitutional problems that contribute to increased agency non-compliance with the provisions of title 44. In addition, the library community long has been concerned about government-wide trends to decentralize, privatize, commercialize and copyright government information. These practices have led to a crisis. Growing quantities of government information are eluding the depository library program, thereby becoming less available to the public. Increased fugitive information and reduced public access create obstacles to our nation's citizens having access to government information produced through their tax dollars. These worrisome practices--of great concern to members of Congress, other government officials, the library community, users, and all who believe in the fundamental principles of public access to government information--include:

- **Decentralization.** When agencies procure the publication or creation of a paper, tangible electronic, or online product outside of the Government Printing Office, that product often does not reach the American public through the depository library program.
- **Privatization.** When the work of federal agencies and employees is transferred to private sector firms for the production of information products and services, these often do not reach the American public through the depository library program.
- **Commercialization.** When agencies sell information products and services to recover costs or to generate revenues, these often do not reach the American public through the depository library program.
- **Copyright and copyright-like restrictions.** When the use and dissemination of government information in any format is restricted by the agency or the private sector firm to which the

government information has been given, the ability of the public to use the information fully is impaired. These restrictions occur increasingly with electronic products and services, such as when proprietary software is used with public domain information in electronic formats like CD-ROM.

A key goal in this revision of title 44 must be to find the right solutions to curb these practices that impinge upon the public's right to know. In addition to barriers to public access that result from the above mentioned practices, the utilization of new electronic technologies presents many new challenges and opportunities for agencies in all three branches of government, libraries, and users of government information.

In 1995, Congress directed the Public Printer to conduct a *Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program* (June 1996). Congress specified that the goal of this cooperative study was to determine how best to develop and use new technologies to **enhance** public access. Representatives from many of our associations served as advisors to the study, and we provided formal comments on issues of concern to the library community during the year long process.

We were pleased to express the library community's concerns at that time and to have the opportunity to testify again during the recent hearings on the draft "Government Printing Office Act of 1997." The revision of title 44 is critically important to the public's access to government information and the Federal Depository Library Program. We must continue to work together to revise this law to achieve the principles of public access that are vital to our democracy and our nation's economic well-being.

Our associations share Congress' commitment to revising title 44 to improve the public's ability to access and use information already paid for by their tax dollars. To achieve that end, we have developed a set of Goals for Revising U.S.C. Title 44 to Enhance Public Access to Federal Government Information (Attachment 1). It is against these goals that we measured the draft bill developed this spring by the Joint Committee on Printing. Today we are submitting to you a draft bill that incorporates these goals, the "Federal Information Access Program Act of 1997," which proposes a comprehensive rewrite of chapter 19 (Attachment 2).

GOAL 1: The law must broaden, strengthen, and enhance public access to all forms of government information.

The attached draft language for chapter 19 includes important provisions necessary to ensure that the Federal Depository Library Program will function efficiently and effectively in the electronic age. New definitions are required to clarify once and for all that the scope of this chapter includes government information in all current or future media formats. There must be no question that the public has the right of access to the electronic government information created by agencies in all three branches of government, even those government information products that are fee-based or produced outside of an agency.

In addition to the chapter 19 revision, we will submit to you shortly a brief companion proposal to address copyright restrictions on government information. This legislative language will prohibit the imposition of copyright and copyright-like restrictions on information created under government contract. Public access to government information should not be denied or impeded by exclusive contracts that apply copyright-like restrictions on the use or dissemination of that information.

GOAL 2: The law must strengthen the role of the Superintendent of Documents and the Federal Depository Library Program in providing public access to government information.

The nature of the functions of the Government Printing Office is changing dramatically. We believe that GPO's public access and dissemination functions, that is, the role of the Superintendent of Documents, should become more visible not only within government but also to the broad user community.

Therefore, we propose elevating the office of the Superintendent of Documents to a presidential appointee.

This individual should be qualified to serve as the chief information officer for public access and dissemination, should be appointed for a 5-year term that is renewable, and should be vested with authority to develop regulations and to coordinate the adoption of standards and guidelines. This proposal recognizes that federal agencies may procure printing outside of the Government Printing Office but does not diminish GPO's important procurement and printing functions, nor the requirements that all government information products should be provided for no-fee public access through depository libraries.

To reinforce the expanded role of the program in this new information age, we recommend changing the name of the program to the Federal Information Access Program, and to participants as federal information access libraries.

GOAL 3: The law must establish the affirmative responsibility of the federal government to preserve and provide permanent public access to its information, and to develop regulations and guidelines to ensure the authenticity of government information.

The attached draft language for chapter 19 confers on the Superintendent of Documents a new responsibility for coordinating continuous and permanent public access to electronic government information products. This extends the role traditionally performed by the regional depository libraries into the electronic age. This responsibility is central to ensuring current and future access to electronic government information. An enhanced Superintendent of Documents office will be better positioned to coordinate this important function government-wide, as well as to develop regulations and guidelines to ensure the authenticity of electronic government information products and services. Lastly, we offer the following recommendations that we believe must be included in other chapters of the revised Title 44 in order to best serve the interests of the American public:

1. That there continue to be strong congressional oversight of government information policies and practices, including an annual hearing on agency compliance with the provisions of title 44. We recommend the continued level of bipartisan, bicameral support that the Federal Depository Library Program has enjoyed from dedicated members of the Joint Committee on Printing.
2. That there be mechanisms created to enforce compliance with the provisions of the law in each branch of government, and that a uniform, coordinated set of regulations and guidelines be developed to govern printing, dissemination and public access.
3. That there be government-wide standards, policies, and guidelines developed to assist agencies in all three branches of government to recognize their responsibilities for the life cycle of electronic government information.
4. That any revision to title 44 must assume a central appropriation through the Superintendent of Documents that is sufficient to maintain the program at the level necessary to comply with the statutory requirements of this law and the new costs brought about by electronic technologies.

We appreciate this opportunity to convey the library community's proposals for the revision of title 44. In addition to the attached documents, we will transmit shortly a more descriptive analysis of provisions of our chapter 19 proposal and a legislative proposal to address the copyright problem. We look forward to your comments and to our continued collaboration with you in this important and timely endeavor. Thank you very much.

Sincerely,

Francis J. Buckley, Jr.

American Library Association and
Chair, Inter-Association Working Group on Government Information Policy

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Attachments:

1. *Goals for Revising U.S.C. Title 44 to Enhance Public Access to Federal Government Information* [[HTML](#) or [PDF](#)],
Developed by the Inter-Association Working Group on Government Information Policy, May 1997.
2. *Federal Information Access Program Act of 1997*, [PDF file]
Developed by the Inter-Association Working Group on Government Information Policy, June 1997.
3. [Organizational Biographies](#).

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