

U.S. GOVERNMENT PUBLISHING OFFICE

Comments on Draft Legislation to Amend Title 44, U.S.C.
(February 22, 2018, version)

This draft does not include authorization for contracting out congressional printing, retains GPO's current statutory name, provides leasing authority for GPO, permits the printing of the Statutes at Large for distribution to depository libraries, repeals the divestiture requirements for the Director, and preserves wage contracts for GPO's employees currently in force. These are provisions over which we previously voiced concerns. Some provisions affecting depository libraries have also been revised.

However, the February draft continues to include provisions on which we previously expressed concerns. These include:

Decentralizing agency printing Section 303(a) of the February 22, 2018, version continues to authorize the renamed Public Printer to delegate to agencies the authority to produce or procure their own information products whose value "does not exceed the simplified purchase threshold under the Federal Acquisition Regulations."

As we noted in comments on the previous version of the draft bill, under the Federal Acquisition Regulation (FAR), "simplified acquisition threshold" means \$150,000 (41 USC 134). In FY 2017, GPO awarded nearly \$350 million in print procurement contracts, covering 82,750 print orders. Approximately 99.8% of the orders were valued at \$150,000 or less. In December 2017, the National Defense Authorization Act (NDAA) for FY 2018 increased the simplified acquisition threshold to \$250,000, which would magnify the impact of section 303(a) if the draft bill is enacted.

A similar provision in section 301 of the draft bill would increase the amount from the current \$1,000 to \$3,500 for a delegation of authority by the renamed Public Printer to Federal agencies to perform certain kinds of work. The \$3,500 level was said to be the micropurchase threshold. The NDAA for FY 2018 has increased the micropurchase threshold to \$5,000 for the Department of Defense and \$10,000 for civilian agencies. This provision of the draft bill undercuts efforts to move agency printing into the procurement stream through GPO, as well as GPO's effective contracting mechanism for private sector printers, and will put a significant number of publications at risk of exclusion from the FDLP if it is enacted.

When considering both of the above provisions, the effect of the draft bill will be to decentralize Federal printing Government-wide. This would contravene the recommendation of the 2013 report of the National Academy of Public Administration to Congress that, "To continue to realize government-wide benefits, *GPO should continue to perform executive branch printing*" (emphasis added).

Decentralizing Federal printing contravenes the findings of previous studies by the Office of Technology Assessment, the Government Accountability Office, the Joint Committee on Printing, and GPO's IG, which have shown the production or procurement of printing by Federal agencies risks higher costs ranging from 25% to 50%, attributable to agency in-plant inefficiencies, overlap and duplication of effort, and decreased competition in contracting. These studies were

provided to the Committee for its consideration in response to questions for the record of the May 17, 2017, hearing, including:

- A 1981 General Accounting Office (GAO) study, which found that it is less costly for the Government to procure printing through a centralized procurement system than to produce it in-house in agency plants [GAO, Agency Printing Plants--Choosing the Least Costly Option, PLRD-81-31 (June 19, 1981); p. 3]. The study found that the amount of commercially procurable work being done in-house among agencies at that time "could be as high as 23%" (p. 4).
- A 1988 Office of Technology Assessment (OTA) study of Federal printing and information dissemination, which found that it is less expensive for agencies to procure through the Government Printing Office (GPO) than produce work in their own plants or procure it themselves [OTA, Informing the Nation: Federal Information Dissemination in an Electronic Age, (October 1988); p. 283].
- A 1992 GPO review of Defense Printing Service southern area plants, which disclosed a commercially procurable rate of 38.9% to 75% [JCP, Oversight Hearing on Consolidation of Department of Defense Printing Services, S. Hrg. 102-907 (August 4, 1992); p. 5]. It concluded that savings of 40% to over 50% could be achieved by procuring through GPO (p. 33).
- A 1993 joint GPO/GAO comparison of GPO-procured and Defense Printing Service (DPS) in-house jobs, which found that it is more economical to procure the work in 85 percent of the cases [JCP, Review of the Defense Printing Service, S. Hrg. 103-266 (July 15, 1993); p. 19]. The study found that a savings of 50 percent could be achieved by procuring printing through GPO (p. 18).
- A 1993-94 study performed by the GPO Contractors Coalition (a group of private sector printers who contract with GPO), which concluded that agencies procuring work on their own are likely to pay significantly more for printing than for printing procured through GPO. It found that agency procurement costs would be double the costs recovered by GPO's then-6% surcharge, and that "closed, non-competitive agency procurement from the private sector will yield prices 20-25% higher than the open, very competitive GPO procurement from the same private sector printers" (referenced in <https://www.gpo.gov/pdfs/congressional/testimony/feb94.pdf>, pp 6-7).
- A 1997 study by the Inspector General of the Department of Health and Human Services (HHS), concerning the costs of printing performed by the National Institutes of Health, which disclosed that "the GPO surcharge...was less than NIH's in-house surcharge schedule", that "67% of the order costs compared in the sample favored GPO, but the total net favored the NIH," and that "a significant portion of the publications were not making their way to the Depository Library System" [letter from Neil J. Stillman, Deputy Assistant Secretary for Information Resources Management, HHS, to Ms. Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, August 12, 1997; p. 1].

- A 1997 follow-up study by GPO's IG, which disclosed that the overall cost comparison of the study sample favored GPO, that NIH surcharges ranges from 10 to 18.5 percent, and that NIH had not been following Government policy on paper standards and recycled paper [letter from Thomas J. Muldoon, Acting Inspector General, GPO, to Joseph J. Green, Assistant IG for Public Health Service Audits, HHS, September 24, 1997; pp. 1-2].
- A 1999 final HHS IG Report, "Review of the National Institutes of Health Printing Program," (A-15-98-80001, March 1999), which found that "it would not be feasible to perform a printing cost analysis between NIH and GPO because we could not obtain comparative cost figures for either organization." However, the report also found that "the NIH did not always provide FDLP and C&I copies, or report monthly printing activity, to GPO...46 publications required FDLP copies...however, NIH provided an adequate number of copies to GPO in only 10 instances," yielding a 78% exclusion rate (p. 5).
- The National Academy on Public Administration's January 2013 study, *Rebooting the Government Printing Office: Keeping America Informed in the Digital Age*, which included a substantial discussion of the value of GPO's print procurement program following its finding that "GPO's current role as a centralized source of print services to the executive branch provides important government-wide benefits" (see pp. 57-60, emphasis added), among them (1) customer satisfaction, (2) open competition for government print work, and (3) capture of Federal agency documents for inclusion in the FDLP and FDsys/**govinfo** systems.
- A November 2013 audit report by GPO's IG, Commercial Printing and Dissemination of Government Information at the National Institutes of Health (Audit Report No. 14-0), which found that "NIH paid approximately 40 percent more for commercial printing compared with GPO estimates. 208 of 500 (41) percent of products NIH obtained from sources other than GPO met the criteria for inclusion in the FDLP but were not included. While 173 of the 208 products were available via the Internet, 35 (17 percent) were not made available through either the FDLP or the Internet. GPO did not catalog and index the same 208 products. Six instances of commercial printing that were not reported to the JCP" (emphasis added).

What is noteworthy about these studies is the consistency of their findings not only over time but among a diverse group of reviewers. Based on these studies, Congress historically has consistently rejected decentralizing Federal printing (in 1987, 1994, and 2002) because of the increased costs it will impose on taxpayers and the negative impact it will have on public access to Government information.

In concert with the findings of these studies and congressional action, GPO's IG developed an on-ongoing "management challenge" for GPO, which has been found consistently in his Semiannual Reports to Congress since 2012:

Challenge 5: Improving Print Procurement Programs

Overview: GPO is the principal agent for almost all Government printing. Title 44

requires that GPO accomplish any printing, binding, and blank-book work for Congress, executive branch offices, the Judiciary—other than the Supreme Court of the United States—and every Executive Office, independent office, and establishment of the Government. The only exceptions include: (1) classes of work that the Joint Committee on Printing (JCP) considers urgent or necessary to be completed elsewhere, (2) printing in field printing plants operated by an Executive Office, independent office, or establishment, and (3) procurement of printing by an Executive Office, independent office, or establishment from allotments for contract field printing, if approved by the JCP.

Challenge: GPO's identification of title 44 violations and working with executive branch agencies to prevent a loss of documents for FDLP as well as preventing potential higher printing costs as a result of inefficient printing by Executive Office agencies (emphasis added).

GPO's Progress: GPO continues to address contract specifications and publishing needs.

During hearings before the House Administration Committee in 2017, the Committee called on GPO to reduce the number of management challenges facing the agency as determined by the IG. GPO reduced the number from 5 to 4 challenges during the year. If Federal printing is decentralized, it will not be possible to eliminate this challenge.

Decentralizing agency printing would have a major impact on GPO's longstanding partnership with the American printing industry, through which thousands of private sector companies, the vast majority of whom are small businesses, vie competitively for printing contracts. GPO maintains a registered listing of more than 10,000 companies to do business with, a universe of competition unlikely to be matched by individual agencies.

By keeping printing centralized in GPO, the Government provides a one-stop shop for print contract opportunities to the private sector, which helps lower costs. Without that option, they will be compelled to search for those opportunities among the thousands of departments, agencies, bureaus, offices, commissions, and other entities that do business with GPO, represented by some 4,000 billing address codes, which will increase their costs for work performed.

If agencies don't want to do business with the private sector directly, the language of the draft bill would allow them to produce their work in their own facilities, which can be very expensive compared with GPO's print procurement costs. The printing industry has historically rejected the decentralization of Federal printing due to all of these concerns.

The decentralization proposed by the draft would undermine one of the Government's longest standing partnership with the private sector – GPO's print procurement program – which dates to World War II, and which has saved taxpayers hundreds of millions of dollars over the years.

The other major reason Congress has historically rejected decentralization is that it leads to fugitive documents from the FDLP. Title 44 already requires Government entities that produce

publications elsewhere than GPO to provide copies for inclusion in the FDLP, but this requirement frequently goes unfulfilled, as the previous studies named above have shown. If the purpose of revising Title 44 is to strengthen and improve the FDLP, decentralization of Federal printing would appear to be inconsistent with that objective.

Decentralization of printing also makes it more difficult to enforce Government-wide requirements for the use of environmentally friendly papers and inks.

As we stated previously, decentralizing agency printing would impose additional burdens on Federal agencies to carry out the functions formerly performed by GPO. As these agencies have downsized and reduced the scope of their operations in recent years, GPO's print procurement program has become an increasingly important shared service to them, and GPO has worked hard to ensure its service meets agency needs. The results of GPO's efforts have been validated in periodic surveys of customer satisfaction, where GPO has been receiving high marks for reduced costs and customer service.

Work produced in agency plants As with the previous draft, the new draft bill does not address the longstanding problem of Federal agency plants that produce conventional printing work which could be procured from the private sector by and through GPO.

GPO has long advocated that where Federal agency printing is required, utilizing its partnership with the private sector printing industry is a better way of producing it. As noted above, studies have shown that it is more cost-effective for agencies and the taxpayer to contract out for printing that is deemed to be procurable (i.e., printing not immediately required for agency use or otherwise not sensitive or classified) than it is to produce in agency printing plants.

In 2013, the Government Accountability Office conducted a study at the request of the Joint Committee on Printing that identified approximately 80 Federal non-GPO printing plants in operation Government-wide.

Additional savings for taxpayers could be achieved if the work these plants are producing is transferred instead to GPO's partnership with the private sector printing and information product industry.

Comparing the dollar value of the work procured by GPO annually with the volume of work budgeted Government-wide under object class 24.00, Printing and Reproduction, shows that GPO's procurement program may be seeing as little as 40% of all printing and reproduction work carried out by the executive branch annually.

Increasing the volume of commercially procurable work by or through GPO would reduce the costs of Federal printing overall, potentially support increased employment in the private sector, and reduce the incidence of fugitive documents in the FDLP.

This problem could be addressed through a statutory requirement for the Office of Management and Budget to direct Federal agency plants to develop inventories of the work they produce annually and have those inventories audited by agency Inspectors General, working in collaboration with GPO's IG, for opportunities to contract additional work out to the private

sector by or through GPO.

Economic impact on GPO The potential loss of agency work that this draft bill would authorize would have a serious negative impact on GPO's revenues. In FY 2017, GPO's print procurement program generated a contribution margin of \$7.5 million toward covering GPO's indirect costs of operation. Without this income stream, costs previously covered would have to be recovered against the cost of other GPO products, leading to price hikes for remaining congressional and secure credential work, including passports, as well as other programs that support GPO, including the FDLP. Approximately 100 GPO positions are related to GPO's print procurement program. These GPO jobs would be lost if Federal printing is decentralized, while there could potentially be a much greater increase in such jobs among the thousands of Federal departments, agencies, commissions, bureaus, and offices that GPO deals with.

The authority for Federal agencies to produce or procure work themselves could also result in the loss of agency work performed by GPO's Plant Operations. In FY 2017, billings for agency work produced by GPO in-plant totaled \$60.8 million, including \$50.7 million for work for the Office of the Federal Register, and \$10.1 million for other work (not including for passports and other secure credentials). Loss of this work would impact GPO's Plant Operations workforce including prepress, press, and binding operations.

Regulatory authority Like the previous draft, the February draft gives GPO, an agency of the legislative branch, regulatory powers affecting executive branch agencies.

The regulations would be issued pursuant to the "plenary authority" of the renamed Public Printer. Plenary means "unlimited, absolute." This provision, if enacted, would appear to make the renamed Public Printer unique among Federal officials, as the term "plenary authority" only appears two other times in the U.S. Code; in both instances it is used to describe Congress's plenary authority under the Constitution to regulate Indian affairs. See 25 U.S.C. 5130 and 43 U.S.C. 1601. If the regulations issued by the renamed Public Printer are subject to judicial review, how is "plenary authority" consistent with judicial review?

The authority of a legislative branch officer to exercise regulatory authority over executive branch agencies is unusual and raises concerns that it would run afoul of the separation of powers doctrine under the Supreme Court's opinion in *INS v. Chadha* (1983).

During the oversight hearings conducted by the Committee in 2017, the subject of what kind of regulations GPO would issue regarding Government printing and the operation of the FDLP was not discussed, so it is unclear to what purpose this authority would be put.

Title 44 already includes provisions for agencies to send printing to GPO and provide GPO with copies of publications produced elsewhere than GPO for depository libraries. It is not clear how regulations issued by the renamed Public Printer for the same purposes would produce a different result.

Depending on how this authority is exercised, it could lead to an increase in the number of regulations affecting the Federal Government and, indirectly, the printing industry and related commercial and non-governmental entities. On whom would the regulations be binding? What

other legislative branch agencies issue regulations under Title 5 processes? Who has the authority to enforce regulations issued by the renamed Public Printer and what form would the enforcement take? Other than the 3-year review rule, are there any other avenues for appeal or repeal of any of these regulations?

GPO does not have a regulatory staff and would have to acquire them, increasing its costs of operations.

If ensuring Federal agency compliance with these requirements is the purpose of this proposed regulatory authority, the clearer path would appear to be a statutory requirement for the Office of Management and Budget to issue the necessary regulations concerning agency printing and cooperation with the FDLP, accompanied by a directive for agency Inspectors General to ensure compliance on an annual basis and report back to Congress.

Public Printer The draft bill continues to propose changing the name of GPO's chief executive officer to the anachronistic title of "Public Printer." This title, created in 1876 for GPO, is derived from the term "publick printer," used in colonial American times to describe those who printed "publick," usually legal or governmental, notices which appeared primarily in newspapers.

Reverting the agency head's title to "Public Printer" and its "graphic arts" qualifications in the 21st century would pose a risk for the present and future of GPO. It could easily limit the ability to attract a qualified CEO to strategically run this agency in the digital age.

While printing remains an important component of the services GPO provides today, its presence continues to decline (as we reported to the House Administration Committee in 2017, GPO's annual expenditures for paper and inks have declined by 80% since we began posting information online for public access in the early 1990's). Executing our mission effectively in the modern era increasingly requires the skills related to modern information technologies and systems and the management of these technologies in the service of public access, openness, and transparency.

Current law provides for the selection of a "suitable person" by the President, which easily comprises those with backgrounds in different kinds of information technologies, public access, or related fields. The draft bill proposes that the qualifications of the Superintendent of Documents should include being "an accomplished general manager," which would be an equally appropriate background for the agency head.

A 10-year appointment may not be the best match for keeping up with the pace of changing technologies in the digital information environment. In the past, the longest Public Printer term of service was 12 years, coinciding with FDR's term.

State and local government printing Like the previous draft, the February draft would authorize GPO to perform "related manufacturing," including secure credentials, for state and local governments. GPO has not sought this authority nor has there been any analysis of its potential impacts. There is already a well-established infrastructure for this work in the states and localities nationwide, which GPO knows from its past membership in the National Government Publishing Association (known before 1996 as the National State Printing Association).

In its 2013 report on GPO, the National Academy of Public Administration said: “To generate additional revenue...Congress should consider whether to allow GPO to respond to state and local government requests *for smart cards*” (emphasis added).

GPO did not follow that recommendation because of the continuing presence of smart card options at the Federal level as well as other obligations related to Federal printing and related publishing work (for example, see **Work produced in agency plants**, above).

Joint Committee on Printing Like the previous draft, the February draft bill abolishes the Joint Committee on Printing while setting up a system of operational oversight by dual House and Senate committees, each of which would be authorized by the bill to set their own form and format requirements for their publications. Our view is that a single point of operational oversight is more effective than multiple points of oversight.

GPO is concerned that the JCP’s current consensus-driven decision-making process, which requires GPO to secure a single authoritative approval to undertake congressional work, would be replaced by one that requires multiple, sequential committee approvals. This potential scenario could lead to delays in securing necessary approvals for GPO to provide services to Congress in a timely and efficient manner. Such delays could lead to increased costs and waste, which are largely avoidable under the current GPO operating procedures.

GPO’s longstanding recommendation in this matter is that the JCP should be preserved for operational oversight of GPO with respect to the production and dissemination of congressional publications in digital and print formats. The Committee could be renamed the Joint Committee on Congressional Publishing. Providing it with a professional staff would provide for continuity of policy oversight.

The JCP oversees the development of a wide range of publications for both chambers of Congress, from the *Congressional Record* to the *Congressional Directory* to *Our Flag* and the pocket *Constitution*. Dispersing these responsibilities, as proposed by the bill, risks jeopardizing the continuation of these publications.

As with the previous draft, section 201 of Title II of the February draft bill terminates existing authorities of the JCP as provided by resolution, waiver, letter, regulation, etc. If enacted this language would terminate the authority for key GPO operations, including the production of passport and secure credentials in Stennis, MS, ongoing GPO equipment and technology procurements, and other matters, all of which were established over the years by JCP letters of approval.

Elimination of duplicating from statutory definition of printing As in the December draft, the February draft bill eliminates “duplicating” from the proposed statutory definition of printing. GPO believes this is a mistake.

In 1994 Congress enacted and the President signed into law the definition of “printing” found in the note to 44 U.S.C. 501. This achievement was the result of cooperation between GPO and representatives of the Printing Industries of America, Inc.

This provision had previously been enacted annually as part of the appropriations process in response to attempts by the executive branch to revise the FAR to permit executive branch agencies to produce or procure their own printing. The definition pertains to the procurement of printing for executive branch agencies that is related to the “production of Government publications (including printed forms).”

The definition includes “duplicating,” rather than distinguishing it from “printing,” and there is no language distinguishing “copying” from “duplicating” based on volumes. Because duplicating in this definition must be related to the production of publications and forms, simple office copying and duplicating unrelated to those purposes are excluded from the definition.

While there are circumstances under which this note does not apply (orders costing less than \$1,000.00 if the work is not of a continuing or repetitive nature, work produced by certain national security agencies, and work statutorily authorized to be produced elsewhere), executive branch printing (including duplicating) that is related to the production of Government publications (including printed forms) is expected to be accomplished by or through the GPO.

The omission of duplicating from the definition of printing in the draft bill, if enacted, would leave a significant class of publications unregulated (including the production of most congressional bills).

GPO operates specific programs of contracting for duplicating used in the production of publications, most notably GPOExpress.

Increased discretionary expenditures As in the December draft, the February draft bill includes two provisions related to expanded discretionary spending authorities granted to the renamed Public Printer that we believe will expose GPO to future criticism.

Section 103(b)(2) appears to be inconsistent with existing limitations in appropriations law to authorize the renamed Public Printer to use GPO funds for “official reception and representation expenses, in accordance with procedures and rules established by the [renamed] Public Printer.” The amount is currently limited in GPO’s appropriations law to \$7,500, and other limitations exist in other statutes.

On page 113, (the possibly misnumbered?) section 103(h) would authorize the renamed Public Printer to use Government-supplied transportation to and from work. There appears to be no geographic limitation on this service.

While the bill does not require the renamed Public Printer to make such expenditures, the inclusion of provisions that authorize them seems unnecessary and poses an unintended invitation for future abuse. If utilized, they would also impose additional costs on GPO operations with no apparent increase in public benefit.

Other provisions In our comments on the December draft bill, we said there were other provisions that concern us. These are applicable to the recent February draft as well:

Section 103: The language about capitalizing assets at “fair and reasonable values” suggests that revolving fund assets be revalued instead of using current book values.

Section 103: There should be a provision for the revolving fund so that requirements for working capital and capital expenditures in excess of depreciation expense are included in the concept of cost.

Section 105: Does the Buy American Act apply to procurement of services?

Section 106: Current law (44 USC 312) provides for GPO to accept machinery, equipment, materials, and supplies from other Federal agencies. This is not included in the draft bill.

Section 111: Under the definition of printing, the language implies that the digital form of IDPs is included in “printing”, i.e., creating a PDF is printing.

Section 121: It’s not clear why the qualifications for the renamed Deputy Public Printer are the same as those for the renamed Public Printer. The skill sets required to establish a strategic vision and direction for the agency are different from the skill sets needed to implement and carry out that strategy.

Section 121: The renamed Deputy Public Printer may not carry out of the duties of the renamed Public Printer more than one year. What happens if a successor is not appointed after one year, as has been the case before? Additionally, this section revises existing language limiting the authority of the President to appoint any other Presidentially-nominated, Senate-confirmed officer to head the GPO for ten days, and drops current language stating this kind of temporary appointment can only be made during a recess of the Senate. The revised language reduces the advice and consent role of the Senate in filling this position.

Section 122 sets the compensation of the Superintendent of Documents at Executive Level III (and in section 141 even more for the IG, at Executive Level III plus 3 percent). The Deputy’s compensation is set at Executive Level III. This will create confusion as to the hierarchy of positions and reporting relationships, which will become especially apparent when the Deputy must act for the renamed Public Printer. We recommend retaining the Superintendent of Documents and the IG within GPO’s Senior Level Service.

Section 123: Rules for Arbitration - how will the agreement governing the rules for conducting an arbitration be reached if the unions do not agree with renamed Public Printer?

Sections 124 and 125: GPO is already covered by buyout and early out legislation. If the intent is to raise the buyout premium from the current \$25,000 to \$40,000, why not simply amend the current statute? Also, it appears this authority may be exercised without congressional review/approval, as is currently required by law.

Section 141: The IG is to be funded by an appropriation. This will increase GPO's annual appropriations request by several million dollars, all as a cost to the legislative branch, when today part of the IG's cost is recovered from funds reimbursed from agencies.

Section 302: This requires that payments to GPO are to be made using funds obligated during the fiscal year in which the order was placed. However, appropriation language frequently permits executive agencies to use up to 1% of current appropriations to satisfy prior year obligations. The draft appears to disallow this practice.

Section 306: GPO's Online Paper store serves the entire Nation. The draft bill would restrict paper and envelope sales to the National Capital Area.

Section 322: The House and Senate would be allowed to set different styles for such products as committee hearings, legislative calendars, committee prints, etc. This will limit GPO's ability to cost-effectively produce these publications, for example, if one Chamber uses a different trim size for committee hearings than the other Chamber.

Section 325(d): as the Journals of Houses of Congress are required by the Constitution, language explicitly providing that these must be printed to ensure longevity and preservation should be included. The allowance for "alternative formats" appears to mean that they don't need to be printed, when only print has a demonstrated record of longevity.

Congressional Record Index The draft bill contains language in sections 342 and 344 related to transforming the Congressional Record Index (CRI) from a manually-driven process to an automated process. Normally, this kind of decision-making is part of the management of GPO.

GPO's CRI office employs 9 staff. The CRI, including the History of Bills, is printed monthly but made available online daily, and is incorporated into the production of the permanent or bound edition of the Congressional Record, where it is an indispensable finding aid. The History of Bills is also incorporated into the House Journal. All CRI issues dating to the inception of the Congressional Record in 1873 have been digitized and made available online as part of GPO's historical Congressional Record collection. The CRI is available on the Library of Congress's Legislative Information System and Congress.gov and is hyperlinked to actual Record pages and to bill texts, which makes it easy to go directly to the spot in the Record that is being referenced in the Index or the text of the bill that is referenced. This service is available on GPO's **govinfo** as well.

The manual process is used for the production of the CRI because there are no digital sources currently available that are capable of replicating the judgment and precision used by professionals in its development. This process ensures that the CRI gives direct access to a subject/person/bill where searching the full-text database can give a significant number of false or irrelevant hits that must then be sorted through. Using the index can end up saving the end user time and money. Here is an example as provided by a professional librarian serving Congress:

The entry for “aliens” directs users to “immigration” and “refugees.” If a user were searching the phrase “aliens”, that user would get a jumble of results including things like the text of the Iran Sanctions Act which at one point refers to “United States citizen or an alien lawfully admitted,” but would miss potentially important results on the topic of immigration/refugees that do not use the specific word “alien”. In another case, searching for Member remarks can take forever in full text because searches also return things like bill cosponsors, votes, etc. We use the Remarks section for Senators/Reps.

In addition, GPO prints the online corrections to the daily Congressional Record in the monthly CRI, in accordance with direction from the House and the Senate. If the CRI is not printed, users of the print version will have no way of knowing what the online corrections are.

GPO has employed digital technologies extensively in carrying out its work and will do so in the production of the CRI if and when such technologies were available to replicate the work currently performed manually.

Additional concepts for possible incorporation into the draft bill:

- The provisions of H.R. 4631, concerning public access to congressionally mandated reports.
- Require the digitization of the U.S. Statutes at Large back to 1789 in XML/USLM format.

Comments on Chapter 5 In general, the language remains overly prescriptive. It focuses too much on “how” to do things, which makes it vulnerable to being overcome by processes and technology that are rapidly changing. The statutory language should instead describe and focus on what is to be done, or describe the desired outcome - i.e., increased access to Government information - and let GPO as the administrator of the program determine the best way to achieve program outcomes.

While the proposal for grants to depository libraries has been eliminated, there is little doubt that the new requirements for the FDLP - including developing and issuing regulations, managing the posting of notices in the Federal Register, managing inventories of all IDPs originated by Federal agencies prior to the enactment of the bill (presumably dating back to the establishment of each particular agency), ensuring that Federal agencies which produce or procure products elsewhere than GPO submit their IDPs to the FDLP, ensuring that agency certifications of compliance with the FDLP are verified before they produce or procure their own IDPs, using any means not prohibited by law to obtain IDPs if agencies fail to provide them for the national collection, administering the bill’s system of prices for IDPs, ensuring agencies do not terminate products before the expiration of the prescribed 70-day period, managing gifts of real and personal property on behalf of the program, and so on - will lead to a significant increase in program appropriations.

As we previously discussed, we are concerned with the possibility of congressional publications changing styles with each Congress, as authorized under section 322. This could be detrimental to potential

programming for automated metadata extraction, or location of the authentication symbol on publications ingested into the online repository. Additionally, the current size of congressional publications makes it easier for libraries to plan. The consistent smaller sized publications can fit more on shelving units than varying sizes. The size of the current congressional hearings can fit 8 shelves in a section, where publications of varying sizes can fit only 6 shelves per section.

Under section 344, any working group to investigate methodologies and transition the CRI from manual indexing to electronic should include the Superintendent of Documents and representatives of Federal depository libraries. Also, as long as the Congressional Record is printed the CRI should be printed.

Section 502 does not include the descriptive language we recommended: “National Collection means the corpus of information dissemination products produced by the Federal Government. It is a distributed collection that is accessible from Federal depository libraries, the online repository, and from official partner websites.”

The bill continues to involve agencies in determining how an IDP is to be cataloged, made accessible to the public, and preserved, at section 503(b)(2)(B). This should be the responsibility of the Superintendent of Documents, as we recommended previously.

There appears to be no language requiring Federal agencies to designate a point of contact to work with the Superintendent of Documents, other than “applicable officials,” as we recommended previously.

Under sections 502, 503, 506, and 542, the use of the phrase “Locator Services” is obsolete. A better phrase would be “Discovery Services,” as we recommended previously.

Under section 502, we previously discussed that the Catalog of U.S. Government Publications contains links to online and harvested content and the bill specifies that the catalog records will contain a digital object identifier (under section 506), thus making the National Collection accessible from the Catalog. This catalog has long been established with its predecessor the Monthly Catalog dating from 1895 – it doesn’t need to be established, as in section 506. Additionally, the bill should recognize that there are instances for which content will be accessible from official partner sites, e.g., the CyberCemetery website at the University of North Texas, or health information from the National Library of Medicine’s PubMed website.

Under section 502, the proposal for establishing prices for the cost of “IDPs” included in the FDLP is needlessly complex and will be difficult to administer. Current law requires these costs to be borne by the Superintendent of Documents whenever GPO produces the product, and by the issuing agencies if the products are produced elsewhere than GPO. Recommend sticking to that methodology.

Section 508(b)(1) continues to name NARA rather than stipulating that GPO is responsible for the lifecycle management of Government IDPs, as we recommended previously. Concerning NARA, its new draft strategic plan for fiscal years 2018-2022, on which the comment period has closed, includes this objective and commentary: “By December 31, 2022, NARA will, to the fullest extent possible, no longer accept transfers of permanent or temporary records in analog formats and will accept records only in electronic format and with appropriate metadata. We added the phrase ‘to the fullest extent possible’ based on extensive feedback from both staff and external commenters. We modified the language of this objective to recognize that NARA may need to accept a limited number of analog records after the

December 31, 2022 deadline.”

Under section 508, there still appear to be no operational definitions to differentiate between recalls, withdrawals, disposals, and deaccessioning, as we recommended previously.

As we noted previously, we are pleased to see that the importance of GPO’s educational programs for depository libraries is recognized by having training included in the bill (under section 543). However, education should include the public at large as well since they are also direct users of digital content in **govinfo** and Ben’s Guide. In addition to education and training opportunities there are other support services that GPO provides depository libraries, such as marketing and promotional support, consultations, and the creation of discovery tools like LibGuides (<https://libguides.fdlp.gov/>). Other support services are likely as we coordinate the lifecycle of the National Collection. We previously suggested We suggest renaming section what is now section 543 as as Availability of Training and Library Support Services, with the following objectives: (1) to increase government information literacy the Superintendent of Documents shall provide educational and professional development opportunities for depository library staff and the public at large; and (2) the Superintendent of Documents shall provide services that enhance access to public information or provide services that support Federal depository libraries in their efforts to serve their communities.

Under section 544, there still appears to be no provision for a selective depository library to be digital-only, as we previously recommended.

Under section 545, the floor for regionals continues to be set at 2 per each of 4 census regions. We continue to recommend a floor of 2 for each of 10 Federal regions. Also under this section, would an inability to meet the requirements of section 508 (not section 508 of this bill) be a reason to withdraw an “IDP” from a regional collection?

Under section 563, the FDLP needs gift authority to accept library-related materials for the program, such a bibliographic records, digitized files, etc., not “real and personal property,” the management and disposition of which will create additional administrative burdens for the program.