



**Ensuring Public Access to Government Information:
Recommendations for Modernizing Title 44 of the U.S. Code
September 15, 2017**

Key Objectives

1. Strengthen library partnerships for public access to federal publications.
2. Ensure the long-term preservation of federal publications.
3. Improve the collection and distribution of digital publications.

1. Strengthen library partnerships for public access to federal publications

Background: The Federal Depository Library Program (FDLP) supports 1,143 libraries in providing long-term public access to federal publications. However, only a limited number of libraries can participate in the program. Indeed, FDLP libraries represent just 1% of the approximately 120,000 libraries in America. Furthermore, library participation in the FDLP has declined by 19% since 1991. Modernizing program roles and streamlining burdensome requirements would allow more libraries to participate and serve more members of the public.

Recommendation: Statutorily authorize greater flexibility for the Government Publishing Office (GPO) to establish and maintain library partnerships. Effective reforms would permit GPO to:

- **Create access libraries:** A public access program with non-depository “access” libraries could expand Title 44’s benefits to hundreds more communities at marginal federal cost. Access libraries would provide reference and outreach services to assist the public in accessing government information. GPO would support access libraries with virtual training, but not tangible materials, thereby reducing cost. This role would be particularly suited to public libraries, only 2% of which currently participate in the FDLP.¹
- **Accept gifts:** GPO’s ability to partner with libraries has been hampered in the past by lack of clear statutory authority for the Office to accept gifts.²
- **Establish new partnerships:** Granting GPO broader flexibility to establish new types of partnerships, service roles and support to libraries would allow the program to evolve to meet future needs.³ This should include authority for grantmaking and sales discounts. More flexible authority also could enable new partnerships with libraries and federal agencies to connect the public with government information resources. For instance, such new partnerships could serve veterans through public libraries⁴ or children through school libraries.

- **Redraw regional service areas:** To address situations in which regional depositories want to relinquish their regional status, GPO should have greater flexibility to designate regional service areas and establish shared or multi-state regional depositories in consultation with the depository libraries in those areas.
- **Update program requirements:** Outdated program requirements should be removed from statute, including the requirement that depositories hold at least 10,000 volumes.⁵

2. Ensure the long-term preservation of federal publications

Background: The law currently requires FDLP libraries to retain depository publications as specified. However, simply retaining copies, regardless of their condition or public visibility, is insufficient to keep information available in perpetuity as intended. The law should acknowledge and support libraries' efforts to ensure that publications distributed through the FDLP remain meaningfully accessible to the public over the long term.

Recommendation: Empower GPO and the FDLP to adequately preserve federal publications for long-term public access. To protect these historical resources, impactful legislation would:

- **Establish clear authority:** Clarifying GPO's authority to undertake preservation activities would allow the Office to better oversee the life cycle of FDLP publications.
- **Create a preservation plan:** Directing GPO to prepare a preservation plan could ensure that the FDLP has an effective strategy to secure tangible and digital publications.
- **Preserve digital publications:** While the law originally established GPO's digital repository⁶ for public access purposes, this authorization should be expanded to preservation purposes as well, and should direct GPO to collect and maintain all digital FDLP publications in that repository unless infeasible so they can be preserved.
- **Permit digital deposit:** Building on their history in the FDLP, some libraries want to play a more active role in preserving digital FDLP publications. Depositories should have the option to receive digital copies of FDLP publications ("digital deposit"), thus allowing them to maintain a copy separate from the GPO repository. This practice would facilitate preservation and increase security.

3. Improve the collection and distribution of digital publications

Background: The FDLP was designed for tangible publications printed or collected by GPO. Today, most publications are born digital – some may never be printed – and many users prefer digital access. While print and tangible formats remain necessary for certain uses, the law should better position GPO and the FDLP to provide digital access to our nation's documents.

Recommendation: Facilitate the more effective collection of digital publications and their dissemination to libraries and the public. Successful enabling legislation would:

- **Update the definition of “publication”:** Chapter 19’s definition of “government publication”⁷ should be updated to unambiguously include digital publications.
- **Require a collection development plan:** To increase clarity about what types of digital publications GPO will collect and distribute through the FDLP, the law could direct GPO to prepare a collection development plan.⁸
- **Encourage agency compliance:** The ease of online publishing increases the risk that agencies will not provide required documents to GPO for distribution to the FDLP. The law should include new tools to minimize the number of such “fugitive documents.” For instance, the law could specifically authorize GPO to issue guidance to other agencies.
- **Digitize historical publications:** Thousands of historical FDLP publications are not yet freely available online. While GPO already has undertaken significant digitization activities, the law could clarify GPO’s authority to digitize past FDLP publications. That authority should permit and facilitate collaboration with libraries.
- **Codify free access:** Congress should protect the public’s continued free access to GPO’s online repository permanently by eliminating existing, though never used, provisions allowing GPO to charge fees for online access.⁹
- **Modernize cataloging:** To help the public locate relevant information, libraries rely on cataloging resources provided by GPO. The law’s current cataloging provisions use outmoded terminology that should be updated to reflect modern practice.
- **Protect integrity:** Online information is susceptible to corruption or manipulation by hackers. While GPO has already made significant efforts to maintain the authenticity of electronic information, authority for these activities could be codified in statute.
- **Preserve reader privacy:** Libraries are committed to reader privacy as a bulwark of First Amendment rights. While libraries protect the anonymity of readers of print materials, modern technologies can track website visitors and their online activities. Historical protections for reader privacy should not be abandoned as technology changes, or depend upon the form of information accessed. The law thus should add express privacy protections for online users of GPO’s repository.

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** The American Library Association is the oldest and largest library association in the world, with more than 57,000 members in academic, public, school, government and special libraries. The mission of the American Library Association is to provide leadership for the development, promotion and improvement of library and information services and the profession of librarianship in order to enhance learning and ensure access to information for all.*

Endnotes

¹ GPO proposed creating an access library role in its 2016 [National Plan for Access to U.S. Government Information](#).

² By comparison, the National Library of Medicine, which administers the National Network of Libraries of Medicine, is authorized by statute to accept gifts; *see* 42 U.S.C. § 286(f).

³ GPO has already developed various [partnership opportunities](#); clearer statutory authority could facilitate this process in the future.

⁴ For instance, the California State Library partnered with the California Department of Veterans Affairs to develop a [“Veterans Connect @ the Library”](#) program for public libraries in that state, supported by funding from the federal Institute of Museum and Library Services. The program points veterans to relevant information about services and benefits, much of which originates from government agencies. GPO, as a publisher that maintains relationships with both libraries and federal agencies, could be well-positioned to foster national partnerships of this type.

⁵ 44 U.S.C. § 1909.

⁶ *See* 44 U.S.C. § 4101(a).

⁷ 44 U.S.C. § 1901.

⁸ GPO issued a [collection development plan](#) in 2016.

⁹ 44 U.S.C. § 4102.