

CALL Public Affairs Committee
OMB IGNORES CONGRESS
MAKES NEW PROPOSALS FOR FDLP

By Walter Baumann, November 15, 2002

At the end of October the Office of Management & Budget (OMB) announced

that the administration was going ahead with its plan to have a non-GPO

(Government Printing Office) printer for the 2004 budget even after

Congress has specifically ordered OMB to use GPO to print the budget.

(<http://www.govexec.com/dailyfed/1002/103002b1.htm>,

http://www.whitehouse.gov/omb/print_far_dev.pdf)) This was the one of

the latest chapters in a contest between Congress and the last two presidential

administrations over the requirement that most executive agencies have to use

the GPO for their printing (44 U.S.C. 501,

<http://www.access.gpo.gov/aboutgpo/title44/chap05.html>)

OMB claims that two Department of Justice legal opinions dealing with the

constitutionality of this requirement are the basis for its position.

(http://www.whitehouse.gov/omb/print_hj_res120_op.pdf ,
Oct.22,2002, and

<http://www.usdoj.gov/olc/printer.fin.htm>, May 31,1996). They assume that a

change in the Federal Acquisition Regulation (FAR) is all that is needed to

carry out their position. However, several members of Congress contend that

the requirement to go through GPO is set in law, so changing the

requirement

should then necessitate a court challenge or a vote in Congress.

OMB's proposed regulatory changes do not prevent executive agencies

from using the services of GPO. But it rejects the mandatory use as embodied

In Title 44 and FAR 8.8 (Acquisition of Printing and Related Supplies, see

<http://farsite.hill.af.mil/vffara.htm> , click on numeral "8" link) and it would create

new procedures for agencies to obtain printing from commercial printers and GPO.

Agencies will be required to provide notice for purchases over \$2500 on the

government site, "FedBizOpps", which the proposal describes as "...arguably the

most robust one-stop gateway of its kind in the world ...". Additionally, notice for

printing contracts would be posted to the General Services Administration Electronic

quote system, "e-Buy", (www.gsaAdvantage.gov)

(http://www.whitehouse.gov/omb/gpo_proposed_rule_revised.pdf)

It seems that part of the motivation for moving agency printing away from GPO,

are the aims in the administration's "'Freedom To Manage" Initiative (Freedom to

Manage Act of 2001, S.1613), the purpose of which is "To provide

for expedited congressional consideration of 'Freedom to Manage' legislative proposals

transmitted by the President to Congress to eliminate or reduce barriers to efficient

government operations that are posed by laws that apply to one or more agencies,

including government-wide laws". However, it appears that when it comes to GPO,

the executive is bypassing the legislative level.

Regardless of GPO's generally good record and its willingness to make changes

where needed, the Administration seems intent on challenging Congress and the

historical role of the GPO. Surprisingly, the section of the proposal dealing with

"Information Distribution" and the role of the FDLP has several recommendations

that are rather positive from the viewpoint of depository libraries, unlike the OMB

memorandum of May 3, 2002 (<http://www.whitehouse.gov/omb/memoranda/m02-07.pdf>)

which only mentioned the FDLP in a footnote. The regulatory proposal has an entire

two and a half pages addressing some of the important issues that had been raised regarding the potential negative impact of the OMB's original proposal.

(http://www.whitehouse.gov/omb/print_far_dev.pdf)

It recognizes the importance of federal depository libraries in ensuring "...that the

public has equal, efficient, permanent, and ready access to government publications."

The proposal also will deal with the problem of "fugitive documents" by "...specifying

mandatory steps for meeting the requirement that Executive Branch agencies provide

publications to the Superintendent of Documents for distribution to the depository

libraries". These would preferably be conveyed in electronic format. But there is a

provision for GPO to pay for and receive hard copy publications as part of an agency's

printing contract. To foster compliance with the above regulations, agencies would be

required to report to OMB on their obligation to make information available to the

public, including the FDLP. It is rather amazing for OMB critics to find these provisions

in their proposal. It appears that their staff was listening and judged these issues to be

important enough to explicitly address.

The proposal would provide a little over a year during which agencies can still use

the services of GPO "without conducting a competition". After January 1, 2004,

the agencies would be required to follow the procedures outlined in the revised

regulation.

For official comments (From Federal Register):

DATES: Interested parties should submit comments to the FAR Secretariat

at the address shown below on or before December 13, 2002.

ADDRESSES: Submit written comments to--General Services Administration,

FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie

Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to--farcase.2002-011@gsa.gov.

Please submit comments only and cite FAR case 2002-011 in all correspondence related to this case.

[Return to Home Page](#)