

QUESTIONS FOR THE RECORD FY2015 BUDGET

Committee on Appropriations Subcommittee on the Legislative Branch United States Senate

Questions submitted by Chairwoman Shaheen

PRESERVATION EFFORTS

Question. In fiscal year 2015, LOC's request includes \$22 million for preservation efforts, \$4.9 million of which specifically funds the Library's Mass Deacidification Program. As part of the program, the Library originally anticipated completing 8.5 million volumes and 30 million manuscript sheets by fiscal year 2030. Is the Library on track to meet that goal?

Answer. The Library is ahead of schedule for the treatment of books by approximately 2 1/2 years. In 2001, the Library estimated that 8.5 million books would require deacidification treatment. Through fiscal 2013, the Library has treated 3.7 million books and is approximately 800 thousand books ahead of schedule. A mid-program review has estimated the future need for treatment to be no more than 4.1 million books, and it could be considerably lower due to drastically reduced numbers of new, incoming acidic books. Today, our revised program target total is 7.8 million books. For manuscript sheets the Library is on schedule, and the program target remains to treat 30 million sheets.

Question. Has the original goal or methodology changed in response to advances in preservation technologies since it was first developed in the 1990s?

Answer. The physical characteristics of the collections dictate that the Library maintain a diversified and well balanced preservation program. Given that the Library is almost midway through the original 30-year Mass Deacidification Program timeframe, now is a prudent time to re-evaluate target collection needs in light of available technologies.

Since the late 1990s, the costs of deacidification and cold storage have increased somewhat, while the cost of digital reformatting for stable material has decreased significantly. The Library views all three approaches as having measured preservation value for the Library's collections. The original mass deacidification program goal was established before the advancement of digital conversion technology was well understood and before the appropriate technical infrastructure was available to support the content. The original program goal also was developed before the first Ft. Meade environmental storage module was available. For the subset of acidic general collection books that are in sound and usable condition – a sizeable subset of the Library's collection – deacidification remains a viable preservation option at current costs. The presence of a deacidification alkaline

reserve is beneficial for paper strength retention and the prevention of embrittlement. At room temperature, research shows that deacidified paper will retain its strength about 3.3 times longer than untreated paper. However, mass deacidification addresses only one form of paper deterioration – the loss of physical strength and embrittlement caused mainly by acid hydrolysis.

An improved storage environment, on the other hand, addresses multiple forms of chemical decay including loss of strength, discoloration, and leather binding deterioration, and is helpful in reducing the impact of light and pollutant damage. Colder storage provides preservation benefits to a broader range of collections, including those materials that cannot be deacidified, such as severely embrittled books and photographs. Research shows that, at current Ft. Meade storage facility temperature and humidity levels, acidic paper will retain its strength about two times longer than if stored at normal room temperature and humidity. Construction of these modules also increases the overall storage capacity of the Library.

Digital reformatting of embrittled works offers not only access for multiple users but also transformative value, for example through text search capabilities, not possible when only preserving the original artifact. The quantity of severely embrittled books (16% of survey sample) that cannot benefit from deacidification represents a growing concern and will require additional preservation resources. In addition, the current overcrowding in book collection storage areas represents further risk to the collections and limits the ability to effectively identify candidate items for deacidification. These logistics dictate a decelerated program pace for the next five-year period until additional Ft. Meade storage modules can be constructed and occupied.

COPYRIGHT BACKLOG

Question. The Copyright Office's transition to electronic processing in 2007 resulted in a backlog of unprocessed registration applications. The Copyright Office has previously reported on addressing this backlog and reducing processing times. However, beginning in fiscal year 2012, budget cuts and sequestration forced the Copyright Office to reduce the number of staff available to process these claims.

Please provide a status update on the progress being made in terms of the copyright registration backlog.

Answer. Updating the registration program for the digital age has been a focus of the Register of Copyrights over the past several years. Unfortunately, under-staffing and other infrastructure challenges brought about by budget shortfalls have created difficulties in the overall management of the registration program.

In the past two years, the number of outstanding claims has slowly but steadily increased to over 240,000 and continues to rise. The pendency time for processing applications has also increased. Not surprisingly, staffing levels in the Registration Program are a key issue, with staffing falling nearly 25% during this period. In order to meet reasonable customer expectations in terms of service delivery while also maintaining the highest quality level of work, the Copyright Office requires sufficient funding to attract and train new Registration Specialists to make up for losses sustained in recent years.

Question. Is the Copyright Office going to be able to get back on track and make up ground that was lost during sequestration?

Answer. The Register notes that replacing trained Registration Specialists is both time- and resource-intensive. These staff are professionals who must successfully complete a formal, rigorous program of training in U.S. copyright law, and they assess whether applications and corresponding deposits meet the legal and formal requirements of the statute based on their training in the Copyright Act. Formal training typically takes 2-3 years for trainees to achieve complete competency and independence, and the training is also conducted in house, which means existing resources must be diverted for the entirety of the training period.

Apart from staffing issues, the Register has previously expressed the need to address shortcomings with the technology that supports the registration program. In that regard, the Office has worked with a diverse group of stakeholders over the past two years to define possible improvements to information technology applications and databases. These customers want a variety of updates, including user-friendly web interfaces, instructional wizards, the ability to see all completed registrations as well as the status of claims within the processing system, granulated identification systems (works within works), image-recognition capabilities or partnerships with those who have those capabilities, business-to-business data exchange to support batch submissions, the facilitation of APIs to connect disparate IT systems, compatibility with mobile devices, and swifter and easier processes.

In the past two years, the Copyright Office has spent considerable time updating the Compendium of Practices for the digital environment, as well as discussing with its customers the Office's quality level of services and improvements it might or should make. It is clear that in this digital era of copyright law, the ability of the Register to run the national registration system and otherwise administer the copyright law is largely dependent upon the investment, planning, and management of technology infrastructure.

Registration volume has generally remained steady over the past several decades, primarily because registration carries certain legal benefits when exercised in a timely manner (as set forth in the Copyright Act). Nonetheless, registration does not come close to encompassing most works of authorship and it is unknown, but must be presumed, that it does not encompass all of the most culturally or commercially important ones. As the Register has stated in her lectures and testimony, if the registration system is going to play a vital role within the copyright law of the twenty-first century, it has to be made lighter, swifter and more reflective of the digital era. Certainly the electronic registration system in 2014 represents a major achievement. It does not, however, offer the level of service that would truly facilitate a twenty-first century law.

COPYRIGHT MODERNIZATION

Question. The Copyright Office has noted that they currently do not offer an online filing system for document recordation. They have stated that first-year costs for initial planning and development of this capability would be \$1.5 million. What does the Copyright Office anticipate in terms of future annual costs to complete development of an online document recordation system? What is the anticipated total program cost to implement the system?

Answer. The Copyright Office is undertaking analyses of relevant information, including public comments and business requirements, to assess the long term costs. In this process, it is considering the costs of recordation as part of a bigger picture, in which improvements to registration and statutory license functions are necessary. It is also possible that Congress may make changes to the

statutory responsibilities of the Copyright Office over the next few years, as it proceeds with discussions to modernize the copyright law.

Question. What timeframe does the Copyright Office anticipate in terms of completing the online document recordation system?

Answer. The Copyright Office has done quite a lot of ground work in the past couple of years, and it is in the middle of a targeted public discussion regarding the best way to bring the recordation function online. For example, the Register solicited written comments and conducted three public hearings in New York, Los Angeles and Northern California, respectively. The hearings, which were coordinated by the Copyright Office Arthur Kaminstein Scholar-in-Residence, focused on five questions that will further refine the Register's recommendations to Congress and the ultimate strategies for administrative improvements.

To protect the existing records, the Office may need to bring recordation on line in phases. In any event, it is clear that the long-term success of a recordation project will depend upon the quality and flexibility of technology infrastructure and the budgets available for it. It may also require retraining staff or recalibrating their roles over time. The Register created a new Office of Public Records and Repositories and appointed a new Senior Level manager to oversee this work. Finally, the Register has testified that the registration and recordation databases, as currently populated and presented, do not produce adequate information about registered claims or their owners. I understand that some of these issues were a focus of Congressional deliberations in recent years regarding the problem of so-called "orphan works" (missing copyright owners) and the requirement that would-be users conduct a diligent search of copyright records. In summary, the Copyright Office will have both short-term and long-term costs as it moves forward.