

17/3/10



WASHINGTON NEWSLETTER



BOX 54, 110 MARYLAND AVENUE, N.E. • WASHINGTON, D. C. 20002 • TEL. 202-547-4440
TWX 710-822-1976 ISSN: 0001-1746

Vol. 32

December 16, 1980

No. 14

: All or any part of the ALA Washington Newsletter :
: may be reprinted for distribution :

C O N T E N T S

HEA II Regs. Development	p. 1	Revenue Sharing Extension	p. 3
Info. Science & Tech. Act	p. 1	Copyright	p. 4
Arts and Humanities	p. 2	Approp. '81, Cont. Res.	p. 4
Paperwork Reduction Act	p. 2	Federal Grant Notices	p. 5

Attachments: 1) Thor Power Tool -- Considerations for Libraries and Publishers,
2) Report of the Commission on the Humanities, 3) ALA Midwinter Alert

HEA II Regulation Development

The Education Department has asked for early public involvement in the development of regulations for Higher Education Act and other programs covered by the Education Amendments of 1980 (PL 96-374). A notice of intent to develop regulations was published in the November 14 Federal Register (pp. 75564-6). Programs listed include the HEA title II-A college library resources, II-B library training, research and demonstration, and special purpose grants, and the II-C research libraries program.

In addition to making changes required by legislation, existing regulations will be reviewed to clarify, simplify, and reduce burdensome requirements. For programs which were not substantially revised by Congress, existing regs will be edited for clarity and published in final form without further public comment. The HEA II-B library training program and the II-C research library program are expected to fall in this category. For other HEA II programs, the next stage will be proposed regulations published in the Federal Register for comment.

Comments on the HEA II library programs in response to the November 14 notice should be directed to Ray M. Fry, ED, (Room 3124 ROB-3), 400 Maryland Ave., SW, Washington, D.C. 20202 (202/245-9687).

Information Science and Technology Act

Rep. George Brown (D-CA), Chairman of the House Science, Research and Technology Subcommittee, introduced HR 8395, the Information Science and Technology Act of 1980, on December 1 as a working draft to emphasize his interest "in addressing the serious challenges presented to policymakers by the explosive growth of microelectronics and telecommunications technologies."

The bill would establish an independent Institute for Information Policy and Research as a focal point for information policy research and analysis and a forum for consideration of the information interests of government, business and education. The Institute would be governed by a 15-member, presidentially-appointed National Information Science and Technology Board. Of the persons appointed, 4 would be from the federal government, 4 from the private sector, 4 from "educational public sectors, or from scientific and professional associations, including the chairman of the National

Commission on Libraries and Information Science;" and 3 from persons nominated by the initial 12 board members. An earlier subcommittee draft of the bill would have eliminated NCLIS.

Authorization levels for the Institute would be \$20 million for FY 1982, \$25 million for '83, and \$30 million for '84. The Institute would terminate after 10 years unless extended by the President. HR 8395 would also establish a Division of Scientific and Technical Information within the Office of Science and Technology Policy in the Executive Office of the President. The bill stems from earlier subcommittee work on information issues, including hearings and a workshop on information technology in education. It is expected that a revised version will be introduced early next year, with further discussion or hearings.

Arts and Humanities

A five-year extension of the National Foundation on the Arts and Humanities Act and the Museum Services Act was signed into law by President Carter on December 4. The measure, S. 1336 (now PL 96-496), makes some minor changes, but is essentially a straight extension of existing arts, humanities, and museum programs. Authorization levels are as follows:

Fiscal Year	National Endowment for the Arts	National Endowment for the Humanities	(NEH Challenge Grant Subtotal)	Institute of Museum Services
1981	\$175,000,000	\$170,000,000	(\$30,000,000)	\$25,000,000
1982	201,000,000	196,000,000	(34,500,000)	30,000,000
1983	231,000,000	226,000,000	(40,000,000)	35,000,000
1984	266,000,000	260,000,000	(46,000,000)	40,000,000
1985	306,000,000	299,000,000	(53,000,000)	45,000,000

The Senate passed its version of arts, humanities, and museums programs extension last February 7. The House Education and Labor Committee reported its bill, HR 7153, on May 12. However, the Postsecondary Education Subcommittee (chaired by Rep. Bill Ford, D-MI) which developed the bill was delayed in bringing it to the floor because of the lengthy reauthorization process for the Higher Education Act. The bill passed by the House on November 17 was a compromise between the House and Senate versions. The Senate then accepted the House amendments, thus avoiding the conference committee stage so late in the session.

For another humanities development, see the attachment to this newsletter which summarizes the library recommendations of The Humanities in American Life, the recent report of the Commission on the Humanities.

Paperwork Reduction Act

President Carter signed into law on December 11 HR 6410 (now PL 96-511), the Paperwork Reduction Act, a measure designed to reduce federal paperwork requirements and duplications, and to consolidate statistical policy activities with information management in the Office of Management and Budget.

The major provisions of PL 96-511 include: 1) establishment of an Office of Information and Regulatory Affairs within OMB to provide overall direction in the development and implementation of federal information policies, principles, standards, and guidelines, including direction over the review and approval of information collection requests, the reduction of the paperwork burden, federal statistical activities, records management activities, privacy of records, interagency sharing of information, and acquisition and use of automatic data processing and other technology for managing information resources; 2) designation by each agency head of a senior official who reports directly to the agency head and who is responsible for carrying

out efficient, effective and economical information management activities; and 3) establishment within the new Office of Information and Regulatory Affairs of a Federal Information Locator System to serve as the register of all information collection requests. For carrying out the Act, \$8 million would be authorized for FY 1981.

The House passed HR 6410 on March 24. The Senate passed a similar bill on November 19 with specific exemptions for certain intelligence, defense, and investigatory activities. The House accepted the Senate amendments on December 1. The Senate report (S. Rept. 96-930) on the bill (S. 1411) approved September 8 by the Governmental Affairs Committee took note of ALA recommendations:

The Committee received a number of constructive comments from public and private library and information service groups and individuals. These groups and individuals supported the imposition of limitations on Federal paperwork requirements, but also emphasized the principle of full and free public access to the information which the government does collect. The Committee recognizes that this principle is important and that the full benefit of Federal compilation of information is derived only when the material is made available to the widest possible audience.

The American Library Association suggested that established policies and existing laws governing access to government information be adhered to in developing and implementing the Paperwork Reduction Act policies. The Committee notes that the OMB has recently offered for public comment a proposed comprehensive policy regarding Federal information management and dissemination. The proposed policy reminds agencies of their responsibilities to adopt policies and procedures consistent with the provisions of Title 44 of the U.S. Code--especially those pertaining to the federal depository library system and the Government Printing Office

...the Committee expects that the Director of OMB will consult with other Federal agencies concerned with developing government-wide information policies, such as the Government Printing Office and the Library of Congress, as well as the National Commission on Libraries and Information Science, the Joint Committee on Printing, and the Federal Library Committee....

The Committee expects the Director to take appropriate steps to maximize public access to the information the Federal government collects.

Revenue Sharing Extension

The House on December 10 and the Senate on December 12 gave final approval to a three-year extension of the revenue sharing program to provide general purpose fiscal assistance to local and state governments. The measure (HR 7112), which is now on its way to the President, continues the program as is for local governments, providing \$4.6 billion in entitlement payments for each of fiscal years 1981, '82, and '83.

The state revenue sharing program is discontinued for FY 1981, but reinstated for FY 1982 and '83 at the current level of \$2.3 billion per year. However, this is an authorization level, subject to the congressional appropriations process. Previously the states received automatic entitlement payments. In order to get the state share, state governments would have to agree to refund or decline to receive an equal amount of categorical grant assistance. This trade-off provision was an amendment by Rep. Elliott Levitas (D-GA) to HR 7112 as passed by the House on November 13. When the Senate passed the bill on December 9, it included a study and pilot program in which five states would trade categorical grant reductions for state revenue sharing, but the Senate later agreed to the Levitas amendment. Categorical grant programs eligible for such a trade-off would be specified by regulations. Many questions about how such a provision would work have yet to be answered, but federal library programs could definitely be affected.

Copyright

Public Hearing. The Copyright Office, in a November 23 Federal Register notice (pp. 79202-4), invites participation in the fifth and last of a series of regional public hearings in preparation for the five-year review of the library photocopying provisions of the copyright law. The hearing will be held January 26-29, 1981, at the New York Hilton, 53d St. and Avenue of the Americas, New York City, in Room B of the Gramercy Suite, beginning at 9:30 a.m. See the FR notice for full information and specific questions raised. Those testifying should submit 10 copies of written statements by January 21 to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Dept. DS, Washington, DC 20540 (202/257-6360). The Copyright Office would particularly like to hear from users of copyrighted materials, as well as from libraries or information centers with or without copyright problems.

Copyright Office Survey. The Copyright Office has awarded a contract to King Research, Inc. of Rockville, Maryland, to do a survey of libraries, publishers and users in preparation for the Register of Copyrights' report to Congress on January 1, 1983 as mandated by subsection 108 (1) of the Copyright Act of 1976. The purpose of the study is to gather and analyze data to determine whether Section 108 has achieved a balancing of the rights of creators of copyrighted works and the needs of users who receive or make copies. The final report of the contractor will be submitted to the Copyright Office not later than March 1, 1982.

The library survey, scheduled to be mailed out in January 1981, will collect background data from 500 public, academic, Federal and special libraries regarding the reproduction of copyrighted works (by photocopying and related methods of replication), by the library staff, on unsupervised machines, and on copying machines elsewhere in the surveyed organization. In addition, 200 of the 500 sample libraries will be asked to participate in on-site monitoring of photocopying. The publisher survey will sample 150 publishers from each of the following three categories: 1) books, 2) scholarly and scientific journals, and 3) general audience periodicals. Users will be surveyed on site in 25 libraries. Because of the importance of the King Survey to all interested parties, ALA is urging all sampled libraries, publishers and users to cooperate to the fullest extent possible in responding to the survey questionnaire.

Computer Software. The 1976 Copyright Law (PL 95-553) would be clearly applied to computer programs under a provision of HR 6933, now PL 96-516, a bill signed by the President December 12, which makes numerous amendments to the patent laws. Section 117 of PL 94-553 disclaimed any intent to modify the pre-existing copyright law for computer programs. The patent law amendments have been used as the vehicle to delete Section 117, as recommended by the National Commission on New Technological Uses of Copyrighted Works.

Appropriations, FY 1981 - Continuing Resolution

Around five in the morning on December 16 a weary House and Senate finally completed action on a continuing resolution, H.J. Res. 644, which would continue funding for several government agencies from December 15 to June 5, 1981. Included are Department of Education library programs for which funding is continued at the level passed by the House in HR 7998 (see October 6 newsletter). This includes two increases over FY 1980 levels--LSCA III interlibrary cooperation at \$12 million (up from \$5 million), and HEA II-B research and demonstrations at \$500,000 (up from \$333,000). However, the final decision on FY 1981 funding for these and other programs has been left to the new Administration and Congress. After reaching agreement on what had become a very complex and acrimonious funding measure, the lameduck session hastily adjourned, ending the 96th Congress.

Federal Grant Notices

Ethnic Heritage Studies Program. Closing date, January 3 (November 25 Federal Register, pp. 78194-5). Info. from: Lawrence Koziarz, Ethnic Heritage Studies Program, USED (Rm. 3928, ROB-3), 400 Maryland Ave. SW, Washington DC 20202 (202/245-9506).

Minority Institutions Science Improvement Program. November 21 Federal Register pp. 77112-3. Grants to develop quality science education and increase minority representation in science careers. Closing date January 30 for Institutional and Cooperative Project Awards for which approx. \$4 million is available. Closing date March 2 for Special Project and Design Awards for which approx. \$ 1 million is available. In the past, minority institutions have requested funds to increase their science library holdings. Info from: Dr. Argelia Velez-Rodriguez, Minority Institutions Science Improvement Program, Attention: 84.120, FIPSE, USED, 400 Maryland Ave. SW, Rm. 3123, Washington, D.C. 20202 (202/282-7760).

Teacher Centers. Librarians and media specialists can use teacher centers which provide elementary and secondary school teachers with training and curriculum development opportunities. Final regs and closing date info were issued in the December 3 Federal Register, pp. 30983-97. Changes incorporated in the final regs include the funding of at least one center in each state, and "the use of technology and telecommunications" as an allowable area of curriculum development. Approx. \$6,375,000 will be available for awards to local educational and service agencies, and higher education institutions to plan, establish and operate teacher centers. Application forms from: Division of Teacher Centers, USED, 400 Maryland Ave. SW (Rm. 319, Riviere bldg.), Washington DC 20202. Further info from: Dr. Allen Schmieder, Teacher Centers Program, USED, Rm. 2010, 400 Maryland Ave. SW, Washington DC 20202 (202/472-5550).

Consumers' Education Program. Libraries are specifically eligible to develop and carry out innovative special projects to help people be effective consumers. Final regs were published in the April 13 Federal Register (pp. 22758-62). Closing date: February 2 (October 7 Federal Register, p. 66600). Applications forms and program info from: Dr. Dustin W. Wilson, Jr., Consumers' Education Program, USED (Rm. 807 Riviere Bldg.), 400 Maryland Ave. SW, Washington DC 20202 (202/653-5983).

NIE Research on Teaching and Learning. Competitions will be administered in four cycles covering FY 1981 through '84, with approx. \$1.8 million available each year. Areas with likely library applications are Language and Literacy (deadline dates: January 27, 1981 and October 1982) and Teaching and Learning in Non-School Settings (deadline dates: October 1981 and October 1983). Request grants announcement from: National Institute of Education, USED, Washington DC 20208.

NHPRC Historical Photograph Grants. New Guidelines available from: National Historical Publications and Records Commission, National Archives and Records Service, Washington DC 20403 (202/724-1033).

NSF "Guide to Programs, Fiscal Year 1981." The guide includes two programs of special interest to librarians--information Science and Technology, and Science Education Resources Improvement--and is available from: National Science Foundation, Washington, D.C. 20550.

NEH Youth Projects. Deadline date is April 15 for Planning and Pilot Grants to cultural organizations, educational institutions and community groups to develop projects or resource materials for humanities programs for children and youth during out-of-school hours. Applications and guidelines from: National Endowment for the Humanities, NS 351-M, NEH Youth Projects guidelines, 806 15th St. NW, Washington, DC 20506.

THOR POWER TOOL--CONSIDERATIONS FOR LIBRARIES AND PUBLISHERS

THE DECISION: In Thor Power Tool Co. v. Commissioner (439 U.S. 522(1979)), the Supreme Court interpreted IRS inventory accounting laws to require a true reflection of taxpayer's income. Before Thor, it had been a common practice for business to write-down the value of their inventories to a nominal level at the end of each taxable year. A deduction for a business loss--a paper loss in the value of inventory --was then taken against the business's income for that year which was thereby substantially reduced. The Thor court characterized this practice as taking a "current 'deduction' for an estimated future loss" and disallowed it.

The value of the inventory can now be written-down only if it is defective or with objective evidence that it has actually been offered for sale below cost.

RETROACTIVE IMPLEMENTATION: Rev. Rul. 80-60 which was to enact Thor would require producers to change inventory valuation for the 1979 and 1980 tax years as well as tax years in the future. Producers are left unable to adjust 1979 inventory levels; they must simply forego the deduction upon which they had relied. For 1980, they are left with the unhappy choice of foregoing the deduction once again or destroying the inventory.

FIRST AMENDMENT IMPLICATIONS: In the areas of information and scholarship in which libraries and publishers are primarily interested, the impact of Thor is especially devastating. In the short run, some smaller publishers will have to burn or shred their books in order to be afforded the 1980 tax deduction they need just to stay in business. Some publishers may be put out of business because of the denial after-the-fact of the 1979 deduction about which nothing (shredding books or otherwise) can be done. Only the most successful publishing houses will be able to absorb the unanticipated costs and maintain their inventories intact.

In the long run, good business tactics will require that publishers only publish those books likely to sell quickly and forego slower sellers. Scholarly and scientific materials and children's literature will be even harder to locate. And those smaller publishers which until now have been the ones willing to take risks with such materials are likely to fail because their working capital will be tied up in inventory which, though it is important, does not produce profits quickly enough. The works would sell eventually, but the publishers will not be able to wait.

New ideas will not be able to enter the marketplace as easily as they did before Thor. The nation's solution-seekers will be denied the specialized information they need to support their work. Libraries which previously have purchased holdings from publishers' backlists will lose the opportunity to add important titles to their collections. Backlists will evaporate, and the nation's storehouse of knowledge will be further depleted.

BILL STATUS: Several legislators sponsored first step legislation to prevent Thor as implemented in Rev. Rul. 80-60 and Rev. Proc. 80-5 from being retroactively applied to the 1979 tax year. The Senate did pass Sen. Moynihan's amendment, but it was dropped in conference. So despite the best efforts of Senators Bumpers, Lugar, Moynihan, and Nelson and Representatives Conable and Jenkins, each of the bills died at the end of 96th Congress.

THE TASK AT HAND: A special tax treatment for publishers' inventories is needed and is justified for two reasons. First, books are different from power tools. There is no evidence that specialized books sell more quickly if prices are reduced as is recommended for tools in the Thor case. Second, the availability of information to enable the free flow of ideas in the marketplace is the very cornerstone of this country's constitutional foundation. This cornerstone must not be jeopardized because of the real world impact of a technical tax ruling.

Letters expressing your opinion on a permanent special tax treatment as well as a much needed first step to prevent the retroactive applicability of the Thor case should be addressed to your Representative and Senators as well as the Chairmen of the Senate Finance Committee and the House Ways and Means Committee.

The highest priorities for increased funding for the humanities in the next decade are elementary and secondary education, research, and the operating expenses of cultural institutions such as libraries. These are the conclusions of the Commission on the Humanities established in 1978 by the Rockefeller Foundation. Chaired by Richard Lyman, Chairman of the Rockefeller Foundation, the commission's members included Warren Haas, President of the Council on Library Resources, and Jeremiah Kaplan, President of Macmillan Publishing Company.

A similar Commission in 1964 led to the establishment of the National Foundation on the Arts and the Humanities. The current Commission does not propose the creation of a major agency, but recommends means for strengthening the humanities over the next decade. Its seven priorities and 31 recommendations include numerous references to libraries. Specifically, priority 3 and recommendations 21 and 22 are as follows:

Priority 3. Our cultural institutions must receive sufficient funds for their preservative and educational missions. For museums, libraries, and historical societies, the combined costs of conservation, maintenance, security, acquisitions, and interpretive programs have increased faster than inflation. Public support for their institutions must refute the erroneous argument that they do not provide essential community services for which taxes ought to pay. Federal and private sources of support should not compound the financial difficulties of cultural institutions by distinguishing between operating expenses and programs and markedly preferring to fund the latter. Sources of support as well as cultural institutions themselves should view programs as normal and necessary operations.

Recommendation 21. To encourage greater public use of their resources in the humanities, libraries should expand their educational programs, seek the participation of humanists in the planning of these programs, and improve the independent learner's access to collections.

Recommendation 22. Communities must keep public libraries open and preserve access to library services. Local and state governments must support public libraries by every means available. We recommend that federal support for public libraries increase in a way that neither discourages local and state support nor intrudes on the operations of local libraries.

Other recommendations -- HEA Title II-C: Funding for research libraries under the Higher Education Act Title II-C should be raised to the authorized ceiling of \$20 million by FY 1982. Preservation: "That millions of books and magazines are disintegrating is an ecological fact of enormous public consequence. Preservation--and the training in skills it requires--may indeed be the most important and least risky investment the federal government can make in our national culture." Corporate giving: Corporations should more fully use the allowable 5 percent of their pre-tax income that may be deducted for charitable contributions. The national average is only 1 percent. Among the areas recommended for corporate donations: operating expenses of museums and libraries. Operating costs: "The most critical need of many libraries...is for funds to cover general operating costs. While NEH Challenge Grants may be used for this purpose, the Endowment made only twelve such awards to public libraries from 1976 to May 1979--in part because it received few applications." (Challenge grants require a match of 3 nonfederal dollars to each federal dollar received.)

The commission's report, The Humanities in American Life, is available for \$12.50 in hardcover or \$3.50 in paperback from the University of California Press, 2223 Fulton Street, Berkeley, California 94720.

American Library Association
Washington Office
November 1980

ALA Midwinter Meeting, Washington, D. C., January 31-February 5

MIDWINTER ALERT!!!!

Saturday, January 31
2-4 p.m., Richmond Room
Sheraton Washington Hotel

Ad Hoc Copyright Subcommittee and liaisons to ALA Units and Chapters will meet with Dorothy Schrader, Copyright Office General Counsel, to discuss work in progress on the 5-year review of library photocopying provisions of the copyright law.

Sunday, February 1
2-5:30 p.m., Palladian Rm.
Shoreham Hotel

Legislative Workshop, "Higher Education Act Library Programs - An Endangered Species?"

Purpose: To spearhead a drive for more adequate funding of HEA academic library, library training and research and demonstration programs. To analyze techniques for lobbying the new Administration and Congress.

Agenda: Rep. Bill Ford as keynote speaker, a panel of higher education association lobbyists, and small group strategy sessions.

To participate: Space limitations necessitate advance registration with ALA Washington Office (202/547-4440).

5:30-7 p.m., Diplomat Rm.
Shoreham Hotel

Reception and informal follow-up for workshop participants. Cash bar.

Monday, February 2
2-5:30 p.m., Blue Room
Shoreham Hotel

Legislation Committee's Information Update. Recap of library-related legislation and outlook for future. Analysis of election results. Organization of 97th Congress and new Administration. Outlook for Education Department. Last hour and a half will cover WHCLIS implementation with representatives of NCLIS and the delegates' "Committee of 118."

Tuesday, February 3
2-5:30 p.m., Wilmington Rm.
Sheraton Washington Hotel

Public hearing on 2 critical networking issues: 1) ownership and distribution of bibliographic data, and 2) governance for a nationwide library and information services network. Cosponsors: ASCLA's Multitype Library Cooperation Section and the Network Advisory Committee to LC and CLR. Papers on the 2 subjects will be available.

8-10 p.m., Sheraton Hall
Sheraton Washington Hotel

President's Program. Preview of San Francisco Conference theme--"Libraries and the Pursuit of Happiness." Program includes "LSCA; 25 Years in Illinois" by Ruth Gregory, former director, Waukegan, IL, Public Library.

*
* IMPORTANT! Visit your Members of Congress while you are in town, especially *
* new Members and staff. Getting acquainted now will pave the way for later *
* contacts when action is needed. *
*
