TO: ALA Executive Board

RE: Report on Washington Office Activities

ACTION REQUESTED/INFORMATION/REPORT:
For information purposes. No action requested.

ACTION REQUESTED BY:
No action requested.

CONTACT PERSON:
Emily Sheketoff, 202-628-8410, esheketoff@alawash.org

DRAFT OF MOTION:
None.

DATE: October 13, 2009

BACKGROUND:
See Executive Summary.
EXECUTIVE SUMMARY

OFFICE OF GOVERNMENT RELATIONS (OGR)

- With three provisions of the USA PATRIOT Act set to expire on December 31, 2009, the Senate began the process of reauthorization legislation in September, beginning with the introduction of, S. 1686, the JUSTICE Act introduced by Senators Feingold (D-WI) and Durban (D-IL). Chairman Leahy and Sens. Cardin and Kaufman introduced. S. 1692, the USA PATRIOT Act Sunset Extension Act of 2009, a bill to reauthorize the expiring provisions on September 22, 2009. The three sections scheduled to sunset include Section 215 on “business records” often referred to as the “library provision.” Hours before the first scheduled mark-up on October 1, a bill negotiated by Sens. Patrick Leahy (VT-D) and Dianne Feinstein (CA-D) was substituted in place of the original S. 1692. Although several senators attempted a number of amendments, none of the amendments that would have improved protection of our civil liberties passed. It is unclear when the bill will go to the Senate floor for a final vote. Both the healthcare legislation and financial reform proposals are supposedly in the agenda queue ahead of S. 1692. However, with the December 31st sunset deadline, there needs to be a vote within the next two months. ALA is monitoring the Senate activities and has started to work with allies in the House and in our coalitions to develop a better House bill.

- On August 26, 2009, the Consumer Product Safety Commission (CPSC) issued its final rule on children’s products containing lead. In the rule, the CPSC confirmed that libraries have no independent obligation to test library books for lead under the law. CPSC also announced its intention to release a Statement of Policy specifically providing guidance for libraries with regard to the treatment of children’s books on library shelves. According to the Washington Office’s conversations with CPSC officials, that Statement of Policy is promised for Fall 2009.

- On August 28, OGR filed comments with the Department of Education on the stimulus program, Race to the Top. In collaboration with the AASL Legislative Committee, we suggested that 21st century school library programs provide students with more than just books selected to hone readers’ developing skills and instill a love of reading.

- In September, OGR lobbied for the inclusion of community college libraries in the bill text of the Student Aid and Fiscal Responsibility Act of 2009 (H.R. 3221), a bill to establish two new competitive grant programs providing states and junior and community colleges the opportunity to apply for funds to launch initiatives to improve graduation and employment-related outcomes.

OFFICE OF INFORMATION TECHNOLOGY POLICY (OITP)

- The ALA Office for Information Technology Policy (OITP) has released the official version of its policy brief, “Fiber to the Library: How Public Libraries Can Benefit.”
The Bill & Melinda Gates Foundation established a new program to support second round applicants to the Broadband Technology Opportunities Program. The Foundation invited 43 state library agencies and several national-level organizations to respond to a Request for Information (RFI). Organizations selected by the Foundation will receive consulting assistance and a commitment to provide cash for a part of the required matching funds in a BTOP application. OITP was invited to respond to the RFI and submitted its ideas by the September deadline.

The Washington Office filed comments to the U.S. Department of Commerce regarding requirements for information collection under the first-round Notice of Funds Availability (NOFA) for the National Telecommunications and Information Administration’s (NTIA) Broadband Technology Opportunities Program (BTOP).

OITP participated at the 2009 LITA National Forum in Salt Lake City. OITP’s Timothy Vollmer, Assistant Director, Program on Public Access to Information, talked about some of the policy considerations in libraries adopting mobile devices and services, such as digital copyright and content licensing, digital rights management, user privacy, and accessibility.

On August 20, Carrie Lowe, director of the Program on Networks for OITP, participated in a Federal Communications Commission (FCC) workshop as part of a panel discussion on the future of E-rate.

OITP filed an application to the Broadband Technology Opportunities Program (BTOP) on August 18, 2009, requesting $1,644,785 from the National Telecommunications and Information Administration (NTIA) to fund a project to develop a set of resources to help librarians manage and plan broadband capacity.


Since the BTOP program has many ideal opportunities for libraries, the ALA Washington Office released two publications: “A Note on the Public Computer Center Funding Category and Library Proposals,” to guide members of the library community who have a serious interest in applying to the Public Computer Center program, and “A Note on Resources about Jobs and the Economy: Assistance for the Library Community in Their Applications to the Broadband Technology Opportunities Program (BTOP).”

July 22, Alan Inouye and other staffers from the Washington Office participated in a webinar about guidelines and opportunities for stimulus funding.

On August 5, the Washington Office held the “Nuts and Bolts” webinar given by OITP Consultant and EdTech Strategies President, Linda Schatz, along with Chris McLean and Jennifer Holtz from E-Copernicus. The webinar covered last-minute questions before the application deadline.
• ALA, along with the Association of Research Libraries (ARL), the Association of College and Research Libraries (ACRL), The Organization for Transformative Works and the Right to Write Fund have filed an amicus curiae brief asking the U.S. Court of Appeals for the Second Circuit to reverse the Federal District Court judge’s ruling in Salinger v. Colting.

• ALA, along with the Association of College and Research Libraries (ACRL) and the Association of Research Libraries (ARL) sent a letter to William Cavanaugh, Deputy Assistant Attorney General of the U.S. Department of Justice’s (DOJ) Antitrust Division, requesting that the court presiding over the Google Book Settlement supervise the implementation of the settlement.
USA PATRIOT Act

With three provisions of the USA PATRIOT Act set to expire on December 31, 2009, the Senate began the process of reauthorization legislation in September, beginning with the introduction of, S. 1686, the JUSTICE Act introduced by Senators Feingold (D-WI) and Durban (D-IL). Chairman Leahy and Sens. Cardin and Kaufman introduced. S. 1692, the USA PATRIOT Act Sunset Extension Act of 2009, a bill to reauthorize the expiring provisions on September 22, 2009. The three sections scheduled to sunset include Section 215 on “business records” often referred to as the “library provision.”

Hours before the first scheduled mark-up on October 1, a bill negotiated by Sens. Patrick Leahy (VT-D) and Dianne Feinstein (CA-D) was substituted in place of the original S. 1692. Although there was no public statement of support, it was clear that behind the scenes the White House and/or the Department of Justice knew about, and likely supported, the “Feinstein” version of S. 1692.

Although several senators attempted a number of amendments, none of the amendments that would have improved protection of our civil liberties passed. Senators Feingold and Durbin should be thanked for their repeated attempts to improve S. 1692 and to argue for protecting our constitution rights. The substitute bill substantially weakened the reforms the library community has sought relevant to Sec. 215 and national security letters.

There is a provision in the amended version of S. 1692 that slightly raises the legal standard to obtain a Section 215 order for “library circulation records or patron lists” – a very narrow definition. This “fix” does not address “reader privacy” as a whole, so unfortunately bookstores are not covered in this provision. Further, the provision only addresses 215 orders and does nothing for increasing the legal standards for national security letters which are far more troubling. The substitute “Feinstein” bill was passed by the Judiciary Committee with an 11 to 8 vote.

It is unclear when the bill will go to the Senate floor for a final vote. Both the healthcare legislation and financial reform proposals are supposedly in the agenda queue ahead of S. 1692. However, with the December 31st sunset deadline, there needs to be a vote within the next two months. ALA is monitoring the Senate activities and has started to work with allies in the House and in our coalitions to develop a better House bill.

For more detailed reports see these sources:
- Previous ALA reports in District Dispatch.
- President of the Center for Democracy and Technology (CDT), Leslie Harris’ blog.
- News report on Vermont librarians comments on Leahy’s actions and his response.
Consumer Product Safety Improvement Act

As the ALA has emphasized since the enactment of the Consumer Product Safety Improvement Act (CPSIA), concern for children’s safety is our first priority in providing materials to young patrons. On August 26, 2009, the Consumer Product Safety Commission (CPSC) issued its final rule on children’s products containing lead. In the rule, the CPSC confirmed that libraries have no independent obligation to test library books for lead under the law. CPSC also announced its intention to release a Statement of Policy specifically providing guidance for libraries with regard to the treatment of children’s books already on the shelf. According to the Washington Office’s conversations with CPSC officials, that Statement of Policy has been promised for a Fall 2009 release.

While we await the Statement of Policy, the ALA recommends that if a library is aware that any children’s book does indeed contain lead above the legal limits or otherwise presents a danger to children, the library should remove it from public access. For instance, the library should move it to the non-circulating collection. We also ask that if libraries who learn of any books containing lead to let the ALA Washington Office know so that we might share that information with other libraries. When the Statement of Policy is released, we will promptly notify our members.

Race to the Top Comments

On August 28, OGR filed comments with the Department of Education on the stimulus program, Race to the Top. In collaboration with the AASL Legislative Committee, we suggested that 21st century school library programs provide students with more than just books selected to hone readers’ developing skills and instill a love of reading.

While reading and books are mainstays of the school library program, today’s school libraries are also sophisticated learning environments that provide the skills necessary to succeed in the workplace – but only when staffed by qualified professionals trained to collaborate with teachers and engage students meaningfully with information that matters to them both in the classroom and in the real world.

The ALA believes that taking action to fund school library programs with state-licensed school librarians is imperative. Research and experience points out that doing so leads to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness. In order for states to articulate an innovative, comprehensive, coordinated commitment to reform, they must invest in school library programs headed by state-licensed school librarians.
Student Aid and Fiscal Responsibility Act of 2009

In September, OGR lobbied for the inclusion of community college libraries in the bill text of the Student Aid and Fiscal Responsibility Act of 2009 (H.R. 3221), a bill to establish two new competitive grant programs providing states and junior and community colleges the opportunity to apply for funds to launch initiatives to improve graduation and employment-related outcomes.

The original bill language did not explicitly include community college libraries as potential recipients of the grants, which the ALA believes is essential for highlighting the important role libraries play in preparing students to successfully obtain and retain employment and for encouraging community colleges pursuing the grants to invest in their libraries and the services and resources they offer.

By working with Rep. Raúl Grijalva (AZ-7) who championed an amendment to include community college libraries, OGR was successful in securing this text in the bill, which passed the House of Representatives on September 17. OGR continues to work to ensure comparable language is included in the drafting of a Senate version of the bill.
OFFICE OF INFORMATION TECHNOLOGY POLICY (OITP)

Release of Fiber to the Library Policy Brief
The ALA Office for Information Technology Policy (OITP) has released the official version of its policy brief, “Fiber to the Library: How Public Libraries Can Benefit.” The purpose of this paper is to assist libraries in understanding the benefits of fiber optic technology and to suggest strategies they can consider when exploring how to obtain fiber connectivity. This paper provides background information and arguments that may be useful in library community applications to the Broadband Technology Opportunities Program (BTOP) of the U.S. Department of Commerce. This policy brief (No. 1) represents the first publication in a newly structured OITP Policy Brief series of signed papers. Subsequent policy briefs are expected to be released in the coming months.

OITP Submits Proposal to Gates Foundation
The Bill & Melinda Gates Foundation established a new program to support second round applicants to the Broadband Technology Opportunities Program. The Foundation invited 43 state library agencies and several national-level organizations to respond to a Request for Information (RFI). Organizations selected by the Foundation will receive consulting assistance and a commitment to provide cash for a part of the required matching funds in a BTOP application. OITP was invited to respond to the RFI and submitted its ideas by the September deadline.

Washington Office Files Comments to Department of Commerce Seeking Improvements to BTOP Applications Process
The Washington Office filed comments to the U.S. Department of Commerce regarding requirements for information collection under the first-round Notice of Funds Availability (NOFA) for the National Telecommunications and Information Administration’s (NTIA) Broadband Technology Opportunities Program (BTOP). The compressed time frame resulted in an application process that needs improvement. The comments outline how the application process restricts the opportunity to describe the substantive aspects of a proposed project while also mandating excessive, often redundant requirements for information collection. The Washington Office’s comments set forth recommendations for changes to the next NOFA to address these matters as well as other issues, such as improvements needed for the online application process.

OITP Presents at 2009 LITA National Forum
OITP participated at the 2009 LITA National Forum in Salt Lake City. OITP’s Timothy Vollmer, Assistant Director, Program on Public Access to Information, talked about some of the policy considerations in libraries adopting mobile devices and services, such as digital copyright and content licensing, digital rights management, user privacy, and accessibility. OITP will continue to refine its analysis of the public policy considerations surrounding mobile technologies in libraries, and is working to release a policy brief in the coming months.
OITP’s Carrie Lowe Serves as Panelist at FCC Workshop

On August 20, Carrie Lowe, director of the Program on Networks for OITP, participated in a Federal Communications Commission (FCC) workshop as part of a panel discussion on the future of E-rate. The panel is part of the FCC’s initiative to gather information from key constituents to develop the National Broadband Plan. She discussed how the program brought direct broadband access to libraries and schools and should be a key component of a national broadband plan.

Broadband Technology Opportunities Program (BTOP)

OITP Files Broadband Stimulus Application

OITP filed an application to the Broadband Technology Opportunities Program (BTOP) on August 18, 2009, requesting $1,644,785 from the National Telecommunications and Information Administration (NTIA) to fund a project to develop a set of resources to help librarians manage and plan broadband capacity. The Chief Officers of State Library Agencies (COSLA) and individual state librarians, the Center for Library and Information Innovation at the University of Maryland, the Information Institute at Florida State University and state library associations through the ALA Chapter Relations Office would be partners in the project.

OITP Publishes Two Overview Documents on BTOP

ALA’s Washington Office released two documents, “Broadband Funding: American Recovery and Reinvestment Act of 2009” and “Guidance for the Library Community: Preparing a Proposal for the Broadband Technology Opportunities Program.” The first document provides an overview of and library perspective on the broadband funding programs administered by NTIA and RUS. The second document provides more detail and some thoughts on strategy for libraries that are considering applying for BTOP funding.

OITP Publishes Two Specialized Documents on BTOP

Since the BTOP program has many ideal opportunities for libraries, the ALA Washington Office released two publications: “A Note on the Public Computer Center Funding Category and Library Proposals,” to guide members of the library community who have a serious interest in applying to the Public Computer Center program, and “A Note on Resources about Jobs and the Economy: Assistance for the Library Community in Their Applications to the Broadband Technology Opportunities Program (BTOP).”

OITP Hosts Webinars

July 22, Alan Inouye and other staffers from the Washington Office participated in a webinar about guidelines and opportunities for stimulus funding.
On August 5, the Washington Office held the “Nuts and Bolts” webinar given by OITP Consultant and EdTech Strategies President, Linda Schatz, along with Chris McLean and Jennifer Holtz from E-Copernicus. The webinar covered last-minute questions before the application deadline.

Frequently Asked Questions Web page

In addition to the webinars found on the “Know Your Stimulus Web site” (www.ala.org/knowyourstimulus), the Washington Office has also put together an informal “Frequently Asked Questions” (FAQ) page and links to the official FAQ page from NTIA and RUS. During the height of this first application round, the Washington Office created an e-mail account specifically designed for ALA members to e-mail their stimulus questions. The questions were either answered in house or routed to one of our experts who have been reading and digesting the Notice of Funds Availability (NOFA), application guidelines, as well as attending NTIA workshops. We are fortunate to have many talented and knowledgeable people working on behalf of the library community.

First Amendment Rights File Amicus Brief

ALA, along with the Association of Research Libraries (ARL), the Association of College and Research Libraries (ACRL), The Organization for Transformative Works and the Right to Write Fund have filed an amicus curiae brief asking the U.S. Court of Appeals for the Second Circuit to reverse the Federal District Court judge’s ruling in Salinger v. Colting. In July, the District Court ruled in favor of author J.D. Salinger, who claimed that Fredrik Colting, the author of “60 Years Later: Coming Through the Rye,” infringed his copyright on “Catcher in the Rye.” The District Court’s preliminary injunction prohibits the publication and distribution of the book, which the groups believe implicates free speech rights of authors, publishers and the public protected by the First Amendment.

Google Book Search Settlement

ALA, along with the Association of College and Research Libraries (ACRL) and the Association of Research Libraries (ARL) sent a letter to William Cavanaugh, Deputy Assistant Attorney General of the U.S. Department of Justice’s (DOJ) Antitrust Division, requesting that the court presiding over the Google Book Settlement supervise the implementation of the settlement. With an absence of competition for the proposed services, the settlement could compromise fundamental library values such as equity of access to information, patron privacy and intellectual freedom.