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Open Source America's Operating System

"It's Not Just A Good Idea—It's The Law!"

July 30, 2009

Mr. Drew Spalding, Acting General Counsel
Government Printing Office
732 North Capitol Street, NW
Washington, DC 20401

Dear Mr. Spalding:

I am writing in reference to your letter of July 29, 2009 which is in reference to my letter of July 14, 2009. I have shared our correspondence and received numerous comments from our colleagues who use the data as well as the general public. Please allow me to address several of the points you raise in your response.

First, you point to our signature of the Locator Coded Product Purchase Agreement of September 17, 2008 in which we acknowledged that the "data would be hard to use." As you know, I've worked with a number of large and complex data sets from a number of agencies. There is a big difference between "hard to use" and this product, which was quite simply a bit of a mess.

The Official Journals of Government should be made available in bulk and supported with a Developer Relations function, which is why I originally wrote to Mr. Wash who has served as the primary interface with the developer community for FDSyS. However, if you're going to make this a product, you should properly support it and you did not. Numerous questions went unanswered and the product support representative was not qualified.

Second, there appears to be some hand-waving on the definition of the product which, frankly, leaves us gobsmacked. We purchased the Code of Federal Regulations with a 1-year subscription of updates, starting in September. That means we expected a copy of "the entire CFR" (your words) and then updates for one year. Your letter seems to indicate that you think you satisfied your obligations by giving us "the titles that were issued for 2008."

As you note, not all titles are re-issued every year, so we would have to subscribe for an additional unknown period of time before we were able to accumulate a copy of "the entire CFR." What you delivered was six months of actual updates from October to March, and you never furnished the base on which the updates apply. Your actions are akin to selling somebody a copy of Linux with a year of patches, yet only delivering a few patches and no operating system. It just doesn't make sense. GPO never furnished the product we paid for and you should give us a refund of \$17,000.

Third, you indicate that GPO “is in the process of converting data bases to a different format” and you “plan to roll that out for the CFR in the very near future.” As I indicated in my initial letter, this kind of vague product plan is simply not appropriate for the Official Journals of Government of the United States. As noted above, I’ve worked with a number of large government databases, such as Patents and EDGAR documents. With those agencies, their transition from one document format to another was clearly spelled out in advance with a detailed timetable and developer support. GPO has not even released a sample DTD for the new format, yet your schedule says you will “roll that out” in the “very near future.”

Fourth, as the Acting General Counsel, you are no doubt aware of OMB Circular A-130, as well as the provisions of the E-Government Act and more generally Title 44, all of which clearly spell out that government information, such as the Official Journals of Government, should be priced as low as possible and that only your costs of distribution should be factored in.

How was the \$17,000 price arrived at? Is this really the cost of the product or is it some arbitrary number? For the small public interest groups who pooled our scarce resources, including Public.Resource.Org, GovTrack.US, and the Sunlight Foundation, as well as for our colleagues at respected research institutions such as Harvard, Stanford, and Cornell, \$17,000 for each of your Official Journals is an insurmountable obstacle. Is your pricing really compliant with the law? What is the rationale for not simply releasing the source code since you are required to create this for your clients and there is no incremental cost in simply releasing it as open source for the public to use?

Again, thank you for your prompt answer, and I hope you understand for the reasons above that I am respectfully asking again that you refund our money as the product was not delivered as promised.

Sincerely yours,

Carl Malamud
President & CEO
Public.Resource.Org