

Committee on Legal Services Meeting - Renewal of Publications Contract Jennifer Gilroy to: nikki.daugherty 06/17/2016 08:07 AM

Bcc: Jennifer Gilroy

Good morning, Nikki -

I wanted you to know that the Committee on Legal Services (our office's oversight committee) just scheduled its fall meetings, including one on **September 29th** beginning at 9:00 a.m. at which I will be asking the Committee to consider extending the publications contract with LexisNexis (that expires on December 31, 2017) for an additional 5 years. I thought you might want to be there to answer questions (or even make a presentation if you want). Mainly I wanted to get it on your calendar.

Thanks! Let me know if you have any questions.

Warm regards,

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327



RE: Committee on Legal Services Meeting - Renewal of Publications Contract Daugherty, Nikki (LNG-CHO) to: Jennifer Gilroy 06/17/2016 09:55 AM

Hi Jennifer: Happy Friday. Appreciate the heads up. I will definitely plan to be there!

Thanks ~Nikki

From: Jennifer Gilroy [mailto:jennifer.gilroy@state.co.us]

Sent: Friday, June 17, 2016 10:08 AM

To: Daugherty, Nikki (LNG-CHO) <

Subject: Committee on Legal Services Meeting - Renewal of Publications Contract

Good morning, Nikki -

I wanted you to know that the Committee on Legal Services (our office's oversight committee) just scheduled its fall meetings, including one on **September 29th** beginning at 9:00 a.m. at which I will be asking the Committee to consider extending the publications contract with LexisNexis (that expires on December 31, 2017) for an additional 5 years. I thought you might want to be there to answer questions (or even make a presentation if you want). Mainly I wanted to get it on your calendar.

Thanks! Let me know if you have any questions.

Warm regards,

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327



Memo to the Committee on Legal Services re Extension of the Publications Contract Jennifer Gilroy to: nikki.daugherty 10/27/2016 12:16 PM Bcc: Jennifer Gilroy

1 Attachment



COLS memo re extension of pub contract 2016.docx

Hi Nikki -

So nice to chat with you. And I'm so glad you're feeling better!!!

Here is the memo I provided to the Committee on Legal Services for their September 14, 2016, meeting. I can't believe I let yet another ball drop and did not provide you with the Word version.

(See attached file: COLS memo re extension of pub contract 2016.docx)

Happy reading!

Talk to you soon.

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327

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MEMORANDUM

To: The Committee on Legal Services

FROM: Office of Legislative Legal Services

DATE: September 14, 2016

SUBJECT: Recommendation to Extend the Publications Contract for the Colorado

Revised Statutes 1

Statement of Issue

LexisNexis is the contract printer and distributor of the Colorado Session Laws and the Colorado Revised Statutes. The General Assembly is currently in the fourth year of a 5-year contract with LexisNexis, that will expire on December 31, 2017. The process for entering into a new contract is governed by statute. Section 2-5-105, C.R.S., gives the Committee on Legal Services the option either to extend the current contract with LexisNexis for up to an additional 5 years or to put the contract out for bid. The issue presented is whether the Committee on Legal Services should extend the current contract and, if so, for how long or whether it should put the contract out for bid.

¹ This legal memorandum results from a request made to the Office of Legislative Legal Services (OLLS), a staff agency of the General Assembly. OLLS legal memoranda do not represent an official legal position of the General Assembly or the State of Colorado and do not bind the members of the General Assembly. They are intended for use in the legislative process and as information to assist the members in the performance of their legislative duties.

Staff Recommendation

Staff recommends that the Committee extend the contract with LexisNexis for 5 more years.

The statute permits the Committee on Legal Services (Committee) to extend the existing contract with LexisNexis for the production and distribution of the Colorado Session Laws and the Colorado Revised Statutes for an additional 5 years if the Committee determines that an extension would be in the public interest.² In addition, it directs the Committee to consider the economic, fiscal, and tax impacts of the award of a contract following a bid process or the extension of an existing contract on the state of Colorado, its citizens, and its businesses.³

Based on the public interest and economic, fiscal, and tax advantages, as well as consideration of staff resources, the Office of Legislative Legal Services (OLLS) recommends that the Committee extend the current contract with LexisNexis for an additional 5 years as discussed more fully below.

Discussion

1. Obligation to Publish the Law - Publications Contract Process.

<u>Colorado Session Laws.</u> The Colorado Constitution directs the General Assembly to provide for the publication of the laws passed at each session⁴, and state statute directs the revisor of statutes to prepare for publication a copy of all the laws passed at each session of the General Assembly.⁵ The resulting publication is commonly known as the Colorado Session Laws, currently published in both softbound volumes and in electronic format online.

<u>Colorado Revised Statutes.</u> The laws are further codified in the form of the Colorado Revised Statutes (CRS) which are compiled, edited, arranged, and prepared for

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² Section 2-5-105 (3)(b)(I), Colorado Revised Statutes.

³ Section 2-5-105 (3)(f), Colorado Revised Statutes.

⁴ Section 8 of Article XVIII of the Colorado Constitution.

⁵ Section 24-70-223, Colorado Revised Statutes.

publication pursuant to statute.⁶ Since 1997, the CRS have been published in annual, softbound books. There are 24 volumes in the 2016 CRS set, which includes the 2-volume index and 2 volumes dedicated to the rules of the Colorado Supreme Court, also published pursuant to statute.⁷ The statutes and court rules are also published online, in DVD format, and in downloadable ebooks; however, only the print version of the CRS may be relied upon as the official version.⁸

<u>Publications Contract.</u> The work of formatting, printing, binding, and distributing the statute books must be performed pursuant to a contract that is bid and awarded in a manner directed by the Committee using standard bidding practices such as requests for information, requests for proposals, or other standard vendor selection practices as the Committee may determine (publications contract or contract). If the Committee finds that economy and efficiency will be achieved, it may combine the contract for the publication of the Session Laws with that for the publication of the CRS. The Committee has exercised this option for at least the past two decades.

New Contracts. The Committee may extend an existing publications contract for one additional term of up to 5 years if it finds that the extension would be in the public interest; however, a contract must be put out for bid at least every 10 years. A new contract, whether the result of an extension of a current contract or a bid process, must be awarded at least 6 months prior to the expiration of the existing contract.

Contracts must be awarded to the lowest responsible bidder or bidders.¹² In determining the lowest responsible bidder or in determining whether to extend a contract, the Committee must take into consideration the economic, fiscal, and tax impacts of the award or extension on the state of Colorado, its citizens, and its businesses.¹³

⁶ Section 2-5-105, Colorado Revised Statutes.

⁷ Section 2-5-102 (2)(d), Colorado Revised Statutes.

⁸ Sections 2-4-207, 2-5-105 (2), and 2-5-118 (1)(a) and (4), Colorado Revised Statutes.

⁹ Section 2-5-105 (2), Colorado Revised Statutes.

¹⁰ Section 2-5-105 (3)(f), Colorado Revised Statutes.

¹¹ Section 2-5-105 (3)(a), Colorado Revised Statutes.

¹² Section 29 of Article V of the Colorado Constitution; section 2-5-105 (3)(a) and (f), Colorado Revised Statutes.

¹³ Section 2-5-105 (3)(a) and (f), Colorado Revised Statutes.

2. Current Publications Contract - Committee options - deadlines.

The General Assembly is in the fourth year of a 5-year publications contract with LexisNexis to format, print, bind, and distribute the Colorado Session Laws and the CRS. The General Assembly has had a publications contract with LexisNexis since 2002, having extended that original contract for an additional 5 years in 2007. The Committee last put the contract out for bid in 2011 and completed the process in June of 2012. Three companies submitted bids at that time, and the Committee awarded a 5-year contract to LexisNexis -- the current contract.¹⁴ The current LexisNexis publications contract will expire December 31, 2017.

The Committee may extend the current contract for up to an additional 5 years if it determines that an extension would be in the public interest or it may put the contract out for bid. The new contract, whether the result of an extension or bidding process, must be in place no later than June 30, 2017, six months prior to the December 31, 2017, expiration date of the existing contract.

If the Committee decides to put the contract out to bid, staff will prepare a timeline for the request for proposals (RFP) process for the Committee's consideration. When the Committee last sought bids in 2011, the timeline spanned approximately 18 months (see attached Proposed Timeline for C.R.S. Publications RFP dated 9/28/2010). Should the Committee elect to proceed with a bidding process rather than an extension of the existing contract, the equivalent timeline would need to be compressed in half. In order to meet the June 30, 2017, deadline, the process would need to begin immediately and a significant portion of the process would necessarily occur during the 2017 legislative session (see attached timeline chart).

3. Public Interest.

The statute permits the Committee to extend the current contract for up to 5 more years if it finds that an extension would be in the public interest. If the Committee determines an extension is not in the public interest, it should put the contract out to bid. An extension of the current contract with LexisNexis serves the public interest as follows:

¹⁴ A fourth company submitted a bid strictly for the creation of a digital application for the Colorado Revised Statutes.

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- LexisNexis has done an excellent job of meeting (or, in many cases, exceeding) its contractual publication obligations in a professional and reliable manner. The books are attractive, durable, and meet the General Assembly's specifications; they are delivered in a timely and dependable manner. LexisNexis turned around our CRS in record time this year, preparing and shipping the books in less than 3 weeks!
- The OLLS has developed an excellent, mutually respectful working relationship with its partners at LexisNexis, communicating regularly regarding all aspects of the publications process, including developing a system of translating the office's dated SGML document markup language to a more contemporary language that is consistent with industry standards.
- Although not part of any contractual arrangement, our partners at LexisNexis often provide editorial guidance, correcting errors or oversights and accommodating last-minute, staff-initiated changes in the publications.
- LexisNexis has recently assumed responsibility for building the Colorado Court Rules database (at no additional cost) thereby saving legislative staff a significant amount of time and resources in the publications process.
- LexisNexis distributes 3150 additional sets of the statutes and 1200 additional sets of the Session Laws under the contract price for state and local government agencies and it offers government offices a deep discount on purchases of additional sets (just \$36 plus shipping).
- LexisNexis's customer service is outstanding. For example, they provide a dedicated individual to work with our office on deliveries. Their communication and coordination of delivery details is exceptional and their responses to delivery glitches, when they occur, are immediate and professional.
- LexisNexis provides electronic public access to the Colorado Revised Statutes through the General Assembly's website without charge. It also produces DVDs for sale that include embedded caselaw associated with the annotations. At the request of the General Assembly, LexisNexis also developed CRS ebooks which it now sells on the LexisNexis online bookstore and provides at no cost to members of the General Assembly as part of the terms of the contract.
- LexisNexis representatives have worked closely with the OLLS to develop and offer online editorial enhancements including: hyperlinks to bills cited in source notes, and, following the conclusion of a regular legislative session and prior to the availability of the new statutes, up-to-date conspicuous "flag" notifications linking readers to the newest Session Laws amending a particular section of law.

- The cost to purchase a set of the CRS (and the Session Laws) is very reasonable, around \$300 for nongovernment consumers and only \$36 for a government agency seeking more than the number of sets currently allocated to that agency and the cost of the contract to the state is significantly less than it had been before LexisNexis took over the publication of the Session Laws and CRS in 2003.
- A representative of LexisNexis has confirmed that, if the publications contract is extended an additional 5 years, the terms outlined in the 2013 contract will remain the same.
- The OLLS and Legislative Council Staff Information Technology (LCSIT) are in the process of investigating, developing, and ultimately implementing an entirely new method of drafting legislation and publishing the Session Laws and CRS using a webbased XML format. This multi-year undertaking has and will continue to require a significant amount of staff time, attention, and energy with the expectation that, when completed, the effort will result in a more reliable, resilient, and useful product for the General Assembly and the public.

The goal of the project is to eliminate reliance on a dated markup language for coding documents (SGML) and on commercial word-processing products that are subject to fluctuating consumer demands and market conditions, thereby reducing the post-session publications timeline. It is staff's ultimate goal to improve, accelerate, and facilitate the publications process, starting with drafting.

The new drafting and publication design will be built on a web-based XML format. This approach allows for a departure from the historical reliance on a particular commercial word processing application thus circumventing consumer preferences for one product over another (Word over WordPerfect, for example). It will also relieve the concern that the commercial word processing product may completely cease to exist at some indeterminate point in the future as the result of dwindling consumer demand. Furthermore, staff's concern over reliance on aging macros, designed in the 1980s and increasingly uncertain as generations of WordPerfect advance, should also be alleviated.

Staff believes that a web-based XML format will be more resilient and adaptive to change, offering greater flexibility, functionality, and independence. Bill drafts would no longer be drafted in WordPerfect -- eliminating concerns about aging macros and user preferences -- but would be drafted using a platform-agnostic, web-based tool. Enhanced capabilities would likely accelerate the lengthy publications process during and following legislative sessions. For example, staff anticipates that it could design a

tool that would automatically generate the Session Laws as bills are enacted and signed by the Governor -- a process that is currently done manually.

Once in place and operational, the new drafting-to-publications process should pave the way for the in-house publication of the CRS online and, ultimately, achieve the goal of an official digital version of the CRS in a format capable of meeting the authentication, preservation, and permanency requirements of the "Uniform Electronic Legal Material Act". This format would offer the public a more agile and navigable official version of Colorado's primary statutory law on line, a resource that would certainly be in the public's interest.

Extending the current publications contract would benefit this effort. First, maintaining the same publications vendor with which the OLLS has already developed a strong and reliable relationship would allow staff to continue to direct its energy on the XML project. Good communication, excellent customer service, quick response times, and consistent reliability define the partnership with LexsNexis that has developed over the past 14 years. The OLLS is confident that LexisNexis will provide the support, reliability, and consistency that will allow legislative staff to dedicate the time, attention, and effort necessary to continue their work on the XML project and ultimately to facilitate a smooth transition to a new generation of publications. Furthermore, staff is concerned that putting the contract out to bid would divert resources over the next nine months that could otherwise be dedicated to the XML project and would necessarily hamper the project's momentum and delay its progress.

4. Economic, Fiscal, and Tax Impacts of an Extension.

The following considerations address the economic, fiscal, and tax impacts of a contract extension on the state of Colorado, its citizens, and its businesses:

- The public sale price for a set of CRS is moderately priced at \$306 plus delivery charges. This is a very reasonable amount which, in turn, has a direct economic impact on Colorado businesses such as law firms and other Colorado businesses and individuals who purchase the Session Laws or the CRS.
- LexisNexis sells approximately 3200 sets of the Colorado Revised Statutes each year which increases the sales tax revenue base for the state. While other states' book

¹⁵ Article 71.5 of title 24, Colorado Revised Statutes.

orders have declined, Colorado's orders remain sustained, which may be due in part to the affordable pricing of the books.

- The inclusion of 3150 sets of the statutes and 1200 sets of the Session Laws for state and local government offices within the contract amount help state and local governments realize a combined savings of nearly \$1 million each year.
- LexisNexis has a brick-and-mortar legal research division in Colorado Springs, Colorado, that employs 134 Colorado employees on whose behalf the corporation withholds individual state income tax.
- Due to its Colorado operations, LexisNexis (aka Matthew Bender & Company, Inc., a New York corporation) presumably pays Colorado corporate income tax which, in turn, increases the state's revenue base.
- In working with LexisNexis, legislative staff enjoys the responsiveness and relationship of working with a small company through the personal interaction and customer service the company provides, while the state, in turn, enjoys the benefits of the economies of scale realized through working with a large corporation the size of LexisNexis. In fact, the contract price with LexisNexis is significantly less than it had been prior to its initial 2002 contract, and has continued to remain comparatively modest.
- On more than one occasion, the LexisNexis representative, as a courtesy, has waived costs associated with an additional publication.
- LexisNexis has provided many services and has accommodated staffs many requests over the years without adding to the cost of the contract.
- Staff resources will be conserved if allowed to focus exclusively on the XML project without the need to divert time to a bid process for the publications contract.

5. Other Considerations.

There are many advantages to extending the current contract with LexisNexis. LexisNexis provides much more than just books. The following are additional facts for the Committee's consideration:

• *Exceptional professional relationship*. Staff at the Office of Legislative Legal Services (Office) has worked with their partners at LexisNexis for approximately 14 years during which time they have developed a strong, mutually respectful, professional relationship. Working together over the years toward a common goal --

producing the best statutes and court rules product possible -- the Office has come to know its counterparts at LexisNexis very well and have developed an excellent relationship with them. Over that time they have developed a trusting, effective, and efficient method of working together made possible only by time and mutual experience.

- *XML Drafting and Publications Project*. Staff's XML project has and will continue to require a significant amount of staff time, attention, and energy that would necessarily be suspended if the Committee decided to put the publications contract out to bid. Furthermore, it would seem illogical to contract with a new publisher before staff has completed the project and has a better idea of what the future drafting-to-publications technology and process will be.
- *Time*. Finally, the bidding process will take a significant amount of the Committee members' and staff time and effort and will require immediate attention to meet the contract deadlines set out in statute.

Conclusion

The current publications contract with LexisNexis will expire on December 31, 2017, and a new contract must be in place no later than June 30, 2017. The Committee may extend the current contract for an additional 5 more years or it may put the contract out for bid. The committee may extend the contract if an extension would be in the public interest. The Committee must consider the economic, fiscal, and tax impacts of an extension of the current contract on the state, its citizens, and its businesses.

For the reasons stated in this memorandum, staff recommends that the Committee extend the current publications contract with LexisNexis for an additional 5 years.

S:\LLS\Staff\Jennifer(JGG)\COLS memo re extension of pub contract 2016.docx



RE: Quick Question About Possible Extension of Colorado's Contract with LexisNexis Daugherty, Nikki (LNG-CHO) to: Jennifer Gilroy 09/09/2016 10:27 AM History:

This message has been replied to.

Hi Jennifer: Happy Friday! Confirming that we will keep costs and prices as set out in the current contract the same for the renewal. No changes.

Appreciate your advocacy on our behalf. Have a great weekend!

~Nikki

From: Jennifer Gilroy [mailto:jennifer.gilroy@state.co.us]

Sent: Friday, September 09, 2016 12:26 PM

To: Daugherty, Nikki (LNG-CHO) <

Subject: Quick Question About Possible Extension of Colorado's Contract with LexisNexis

Hi Nikki -

I'm putting the final [persuasive] touches on my memo for the Committee on Legal Services to use in deciding whether to extend its contract (on behalf of the Colorado General Assembly) with LexisNexis. And as I was doing so, I realized that I was assuming, but had not confirmed, that the terms of the contract (primarily costs and prices) would remain the same as in the current contract. I don't want to misrepresent anything and I think it's likely that the Committee members will want to know that. Could you please confirm that that is the case and that LexisNexis would keep the costs and prices set out in the current contract the same up-to-3% adjustment set out in sections VIII. A. 2. and VIII. B. 2.

Thanks, Nikki. I don't know why I didn't ask you this earlier.

Take care,

jennifer



Article from Colorado Freedom of Information Coalition Jennifer Gilroy to: nikki.daugherty 03/08/2016 10:32 AM

Bcc: Jennifer Gilroy

History:

This message has been forwarded.

Hi Nikki -

Here is the article that Jeffrey Roberts, Executive Director of the Colorado Freedom of Information Coalition, wrote about my agenda item at the Committee on Legal Services meeting last Friday (3/4/16).

So nice to talk with you -- even if briefly -- today.

jennifer

http://coloradofoic.org/colorado-statutes-database-should-be-free-lawmakers-decide/



Jennifer Gilroy to: nikki.daugherty 09/30/2020 08:47 AM

Bcc: Jennifer Gilroy

Good morning, Nikki -

Thought of you while I was rowing this morning!; -) Hope you're doing well.

I am wondering if you can do a favor for me. I'd like to send an email to the members of the Committee on Legal Services advising them about our conversation and my decision to authorize LexisNexis to proceed with plans for "continuous publication" in the new year. What I would love is a description from you (or whomever) as to what, exactly, that means and the benefits the users of our public access--as well as your contract customers--will realize as a result. It can be brief, but I think you all could describe the process you intend to implement better than I can.

Than you, in advance, for your help with this request.

Warm regards,

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us



RE: Slight Modifications to Extension of Publications Contract

Jennifer Gilroy to: Daugherty, Nikki (LNG-CHO)



03/23/2017 08:39 AM

Bcc: Jennifer Gilroy

2 attachments





Publications Contract 2017 Extension.pdfPublications Contract 2017 Extension.002.pdf

Good grief. First I sent it to the wrong email address the day before (putting a "." between lexis and nexis), and when I re-sent it, I neglected to include the attachment. My apologies, Nikki. I cannot be trusted with technology!

Below are both a "marked up" version and a "clean" version:

Version with Track Changes:

(See attached file: Publications Contract 2017 Extension.pdf)

Clean Version for State Controller:

(See attached file: Publications Contract 2017 Extension.pdf)

jennifer

"Daugherty, Nikki (LNG-CHO)" ---03/23/2017 08:13:37 AM---Hi. There was no content or attachments in your email. From: Jennifer Gilroy [mailto:jennifer.gilr

From: "Daugherty, Nikki (LNG-CHO)" < To: Jennifer Gilroy < jennifer.gilroy@state.co.us>

Date: 03/23/2017 08:13 AM

Subject: RE: Slight Modifications to Extension of Publications Contract

Hi. There was no content or attachments in your email.

From: Jennifer Gilroy [mailto:jennifer.gilroy@state.co.us]

Sent: Wednesday, March 22, 2017 3:02 PM

To: Daugherty, Nikki (LNG-CHO) < Subject: Slight Modifications to Extension of Publications Contract

EXTENSION AND MODIFICATION OF CONTRACT

PUBLICATION OF THE COLORADO GENERAL ASSEMBLY'S SESSION LAWS AND COLORADO REVISED STATUTES

THIS EXTENSION AND MODIFI	ICATION OF CONTRACT ("EXTENSION OF
CONTRACT"), made this day o	of, 2017, by and between the
General Assembly of the State of Co	plorado, acting through its Committee on Legal
Services, hereinafter referred to as th	e State or the Committee, and Matthew Bender &
Company, Inc., a New York corpora	tion, hereinafter referred to as LexisNexis or the
contractor:	

WITNESSETH

WHEREAS, the Committee and LexisNexis are parties to a contract entitled Contract for Publication of the Colorado General Assembly's Session Laws and Colorado Revised Statutes, effective January 1, 2013, with attachments, hereinafter referred to as the "2013 Contract"; and

WHEREAS, the parties wish to exercise the provisions of section V.A. of the 2013 Contract to extend the term of the 2013 Contract for an additional period; and

WHEREAS, such an extension conforms to section 2-5-105 (3)(b)(I), Colorado Revised Statutes, which authorizes one extension of a publications contract for an additional period not to exceed five years if such an extension is found to be in the public interest; and

WHEREAS, the Committee has found that such an extension is in the public interest and therefore, upon motion duly made and voted thereon at its meeting held September 29, 2016, authorized an extension of the 2013 Contract for a period of five years; and

WHEREAS, the parties wish to assure their mutual understanding of the terms and conditions upon which such extension is made by entering into this EXTENSION OF CONTRACT to the 2013 Contract; and

WHEREAS, the parties further wish to modify the terms of the 2013 Contract in certain respects as set forth more fully in Sections II and III of the EXTENSION OF

CONTRACT as a result of changes in circumstances that have arisen, or concerning which the parties have become aware, since the effective date of the 2013 Contract.

NOW, THEREFORE, In consideration of the following premises and mutual promises, the parties agree as follows:

- I. <u>EXTENSION OF TERM</u>. That the term of the 2013 Contract is extended on a one-time basis for an additional period of five years from January 1, 2018, through December 31, 2022. The 2013 Contract will expire on December 31, 2022, rather than on December 31, 2017. section V.A. of the 2013 Contract is modified to read as follows:
- "A. **Initial Term Extension of Term.** Except as provided in section V.B., the initial term of the Contract is five years, from January 1, 2013, to December 31, 2017. The Committee, having found it to be in the public interest, extends this Contract for an additional term of five years beyond the initial term, from January 1, 2018, to December 31, 2022."
- II. <u>PAPER SPECIFICATION AND CHANGES IN PAPER</u>. That the paper specification set forth in section VII.E. of the 2013 Contract, which references an obsolete standard from the American National Standards Institute (ANSI), is modified to comply with the standards set forth in section 2-5-105.5, Colorado Revised Statutes, and to meet the applicable industry standards for acidity and alkaline levels in paper used for publication and documents in library materials; and that section VII.E. of the 2013 Contract is further modified to require LexisNexis to notify the Committee or its designee before making any change in the paper it uses for the publication of the Colorado Revised Statutes, Session Laws, or Red Book. Accordingly, section VII.E. of the 2013 Contract is modified to read as follows:

"E. Paper Specification - Changes in Paper.

- 1. To publish the Statutes, Session Laws, and Red Book, LexisNexis shall use paper that meets the paper standards specified in section 2-5-105.5, Colorado Revised Statutes.
- 2. LexisNexis shall notify the Committee or its designee before changing the paper it uses to publish the Statutes, Session Laws, or Red Book.".

III. <u>COPYRIGHT</u>. That section 2-5-115, Colorado Revised Statutes, permits the Committee or its designee to register a copyright for and in behalf of the state of Colorado in any and all original publications and editorial work ancillary to the Colorado Revised Statutes that are prepared by the General Assembly or its staff. In 2016, the Committee suspended its past historical practice of registering a copyright with the federal copyright office pursuant to this section; however, the statutory authority remains. The 2013 Contract indicates that the publications are copyrighted. In order to correctly reflect the Committee's current practice, section X.A. of the 2013 Contract is modified to read as follows:

"A. **Property of the State.** The Statutes and the editorial publications ancillary to the statutes, Session Laws, and Red Book, as published, are the sole property of the State as owner and publisher thereof and may be copyrighted for and in behalf of the State to the extent that they are not a part of the public domain. Pursuant to section 2-5-115, C.R.S., the Committee maintains the authority to copyright for and in behalf of the State the original and editorial work ancillary to the Statutes, including source notes, editors notes, cross references, annotations, indices, and tables."

IV. <u>TERMS AND CONDITIONS</u>. The provisions of the 2013 Contract, as amended herein, continue in full force and effect through December 31, 2022, and are binding on the parties.

IN WITNESS THEREOF, the parties have executed this Extension of Contract on the day first above written.

STATE OF COLORADO	MATTHEW BENDER & COMPANY,
COMMITTEE ON LEGAL SERVICES	INC., A NEW YORK CORPORATION
By	By
Senator John Cooke, Chairperson Committee on Legal Services	Anders Ganten, Senior Director
Colorado General Assembly	Federal ID Number
v	Attest (Seal)
	Ву
	Assistant Sagratary

CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

Section 2-2-320 (2)(a), Colorado Revised Statutes, requires that the State Controller approve all legislative contracts subject to Section 29 of Article V of the Constitution of the State of Colorado. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER Robert Jaros, CPA, MBA, JD		
By	Date	
APPROVED AS TO LEGALITY Cynthia H. Coffman Colorado Attorney General		
By Linda C. Shubow Senior Assistant Attorney General		

EXTENSION AND MODIFICATION OF CONTRACT

PUBLICATION OF THE COLORADO GENERAL ASSEMBLY'S SESSION LAWS AND COLORADO REVISED STATUTES

THIS AGREEMENT EXTENSION AND MODIFICATION OF CONTRACT ("EXTENSION OF CONTRACT"), made this ____ day of _______, 2017, by and between the General Assembly of the State of Colorado, acting through its Committee on Legal Services, hereinafter referred to as the State or the Committee, and Matthew Bender & Company, Inc., a New York corporation, hereinafter referred to as LexisNexis or the contractor:

WITNESSETH

WHEREAS, the Committee and LexisNexis are parties to a contract entitled Contract for Publication of the Colorado General Assembly's Session Laws and Colorado Revised Statutes, effective January 1, 2013, with attachments, hereinafter referred to as the "2013 Contract"; and

WHEREAS, the parties wish to exercise the provisions of section V.A. of the 2013 Contract to extend the term of the 2013 Contract for an additional period; and

WHEREAS, such an extension conforms to section 2-5-105 (3)(b)(I), Colorado Revised Statutes, which authorizes one extension of a publications contract for an additional period not to exceed five years if such an extension is found to be in the public interest; and

WHEREAS, the Committee has found that such an extension is in the public interest and therefore, upon motion duly made and voted thereon at its meeting held September 29, 2016, authorized an extension of the 2013 Contract for a period of five years; and

WHEREAS, the parties wish to assure their mutual understanding of the terms and conditions upon which such extension is made by entering into this EXTENSION OF CONTRACT to the 2013 Contract; and

WHEREAS, the parties further wish to modify the terms of the 2013 Contract in certain respects as set forth more fully in Sections II and III of the EXTENSION OF

CONTRACT as a result of changes in circumstances that have arisen, or concerning which the parties have become aware, since the effective date of the 2013 Contract.

NOW, THEREFORE, In consideration of the following premises and mutual promises, the parties agree as follows:

- I. <u>EXTENSION OF TERM</u>. That the term of the 2013 Contract is extended on a one-time basis for an additional period of five years from January 1, 2018, through December 31, 2022. The 2013 Contract will expire on December 31, 2022, rather than on December 31, 2017. section V.A. of the 2013 Contract is modified to read as follows:
- "A. **Initial Term Extension of Term.** Except as provided in section V.B., the initial term of the Contract is five years, from January 1, 2013, to December 31, 2017. The Committee, having found it to be in the public interest, extends this eContract for an additional term of five years beyond the initial term, from January 1, 2018, to December 31, 2022."
- II. <u>PAPER SPECIFICATION AND CHANGES IN PAPER</u>. That the paper specification set forth in section VII.E. of the 2013 Contract, which references an obsolete standard from the American National Standards Institute (ANSI), is modified to comply with the standards set forth in section 2-5-105.5, Colorado Revised Statutes, and to meet the applicable industry standards for acidity and alkaline levels in paper used for publication and documents in library materials; and that section VII.E. of the 2013 Contract is further modified to require LexisNexis to notify the Committee or its designee before making any change in the paper it uses for the publication of the Colorado Revised Statutes, Session Laws, or Red Book. Accordingly, section VII.E. of the 2013 Contract is modified to read as follows:

"E. Paper Specification - Changes in Paper.

- 1. To publish the Statutes, Session Laws, and Red Book, LexisNexis shall use paper that meets the paper standards specified in section 2-5-105.5, Colorado Revised Statutes.
- 2. LexisNexis shall notify the Committee or its designee before changing the paper it uses to publish the Statutes, Session Laws, or Red Book.".

III. <u>COPYRIGHT</u>. That section 2-5-115, Colorado Revised Statutes, permits the Committee or its designee to register a copyright for and in behalf of the state of Colorado in any and all original publications and editorial work ancillary to the Colorado Revised Statutes that are prepared by the General Assembly or its staff. In 2016, the Committee suspended its past historical practice of registering a copyright with the federal copyright office pursuant to this section; however, the statutory authority remains. The 2013 Contract indicates that the publications are copyrighted. In order to correctly reflect the Committee's current practice, section X.A. of the 2013 Contract is modified to read as follows:

"A. **Property of the State.** The Statutes and the editorial publications ancillary to the statutes, Session Laws, and Red Book, as published, are the sole property of the State as owner and publisher thereof and may be copyrighted for and in behalf of the State to the extent that they are not a part of the public domain. Pursuant to section 2-5-115, C.R.S., the Committee maintains the authority to copyright for and in behalf of the State the original and editorial work ancillary to the Statutes, including source notes, editors notes, cross references, annotations, indices, and tables."

IV. <u>TERMS AND CONDITIONS</u>. The provisions of the 2013 Contract, as amended herein, continue in full force and effect through December 31, 2022, and are binding on the parties.

IN WITNESS THEREOF, the parties have executed this Extension of Contract on the day first above written.

MATTHEW BENDER & COMPANY,

COMMITTEE ON LEGAL SERVICES	INC., A NEW YORK CORPORATION
BySenator John Cooke, Chairperson	ByAnders Ganten, Senior Director
Committee on Legal Services	
Colorado General Assembly	Federal ID Number
	Attest (Seal)
	By
	Assistant Secretary

s:\lls\staff\jennifer(jgg)\publications contract 2017 extension.docx

STATE OF COLORADO

ALL-CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24 30 202 Section 2-2-320 (2)(a), Colorado Revised Statutes, requires that the State Controller approve all state legislative contracts subject to Section 29 of Article V of the Constitution of the State of Colorado. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

Formatted: Space Before: 0 pt, After: 0 pt,

Line spacing: single

STATE CONTROLLER Robert Jaros, CPA, MBA, JD
By
Robert Jaros, State Controller of the State of Colorado
APPROVED AS TO LEGALITY
Cynthia H. Coffman Colorado Attorney General
Colorado Pittorney General
By
<u>Linda C. Shubow</u>
Senior Assistant Attorney General

Archived: Thursday, August 12, 2021 10:52:56 AM

From:

Mail received time: Tue, 13 Apr 2021 13:32:49 -0600

Sent: Tue, 13 Apr 2021 13:32:44 -0600

Subject: RE: Quick Question re the Publications RFP

Terrific! Thank you, Nikki, for the quick response!

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Daugherty, Nikki (LNG-HBE)" ---04/13/2021 01:30:25 PM---Hi: Feel free to remove the random limiting provision. �Ì

From: "Daugherty, Nikki (LNG-HBE)" <

To: "Jennifer Gilroy" < jennifer.gilroy@state.co.us>

Date: 04/13/2021 01:30 PM

Subject: RE: Quick Question re the Publications RFP

Hi: Feel free to remove the random limiting provision.

From: Jennifer Gilroy <jennifer.gilroy@state.co.us> **Sent:** Tuesday, April 13, 2021 1:41 PM

To: Daugherty, Nikki (LNG-HBE) <

Subject: Quick Question re the Publications RFP

*** External email: use caution ***

Hi Nikki -

This question is more for LexisNexs, must we still limit the number of pages of a section that an online user may print or has lexisadvance at least permitted more flexibility in that regard? In other words, can I eliminate this random limiting provision: at least one full section of the Statutes or 10 pages of the Statutes, whichever is greater.

Thanks!

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us



Re: Permission to redistribute under contract section X.B.



Jennifer Gilroy to: Daugherty, Nikki (LNG-CHO)

Bcc: Jennifer Gilroy

06/21/2016 10:17 AM

Hi Nikki

The letter you sent [below] uses the term "Statutes" which is defined in our contract (Section IV.C. on page 2) as "the official codification of the General Assembly's revised statutes, fully annotated and indexed and annually published in a softbound set of volumes". (emphasis added). By means of this letter, is LexisNexis also seeking the right to republish the annotations, indices, source notes, editor's notes, and other materials prepared by this office ancillary to the Colorado Revised Statutes beyond the statutory text, headnotes, and numbering convention of the statutes? I just want to make sure I fully understand the extent of this request.

Thank you for the clarification.

Jennifer Gilrov **Revisor of Statutes** Office of Legislative Legal Services 303.866.4327

"Daugherty, Nikki (LNG-CHO)" ---06/13/2016 01:22:32 PM---I pulled legal into the issue of documenting the permission you gave LN to redistribute, which was n

From: "Daugherty, Nikki (LNG-CHO)" <

To: "Jennifer Gilroy (jennifer.gilroy@state.co.us)" <jennifer.gilroy@state.co.us>

Date: 06/13/2016 01:22 PM

Subject: Permission to redistribute under contract section X.B.

I pulled legal into the issue of documenting the permission you gave LN to redistribute, which was not contemplated in the current contract under Section X B. Republication. Instead of revising the contract or eliminating the section they came up with the attached letter agreement. If it works for you please sign and send me a copy. (pdf is fine). If it doesn't work we can try something else.

Thanks ~Nikkki

Nikki L. Daugherty LexisNexis | Legal & Professional Director, Government Content 434.242.1049

[attachment "LN Permission to redistribute.pdf" deleted by Jennifer Gilroy/CLICS]



Permission to redistribute under contract section X.B. Daugherty, Nikki (LNG-CHO) to: Jennifer Gilroy (jennifer.gilroy@state.co.us) 06/13/2016 01:22 PM

History:

This message has been replied to and forwarded.

1 Attachment



LN Permission to redistribute.pdf

I pulled legal into the issue of documenting the permission you gave LN to redistribute, which was not contemplated in the current contract under Section X B. Republication. Instead of revising the contract or eliminating the section they came up with the attached letter agreement. If it works for you please sign and send me a copy. (pdf is fine). If it doesn't work we can try something else.

Thanks ~Nikkki

Nikki L. Daugherty
LexisNexis | Legal & Professional
Director, Government Content
434.242.1049



June 13, 2016

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 091 State Capital Building Denver, CO 80203-1782

Dear Jennifer,

This is to follow-up on our conversation on Thursday, June 9, 2016 to confirm our joint understanding that LexisNexis' republication rights under Section X of the contract includes the right for LexisNexis to redistribute all or any parts of the Statutes to third parties for use in their products and services.

Please confirm your agreement with the above by signing below.

Sincerely,

Nikki L. Daugherty

Director, Government Content

AGREED TO AND ACCEPTED BY

Ву:	
Name:	2
Title:	
Date:	



RE: Online Statutes

Jennifer Gilroy to: Daugherty, Nikki (LNG-HBE)

05/12/2021 12:39 PM

Yay! It's the first actual acknowledgement, but I'm sure folks are really appreciating it! I DO!! :-)

jen

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Daugherty, Nikki (LNG-HBE)" ---05/12/2021 12:33:29 PM---Thanks for passing this along! I circulated internally and gave Dennis all of the credit for this s

From: "Daugherty, Nikki (LNG-HBE)" <

To: "Jennifer Gilroy" <jennifer.gilroy@state.co.us> Date: 05/12/2021 12:33 PM

Date: 05/12/2021 12:33 PM Subject: RE: Online Statutes

Thanks for passing this along! I circulated internally and gave Dennis all of the credit for this success! ©

From: Jennifer Gilroy < jennifer.gilroy@state.co.us>

Sent: Tuesday, May 11, 2021 3:21 PM

To: Subject: Fw: Online Statutes

*** External email: use caution ***

Hi Talai -

Thank you for noticing! Yes, our printer, LexisNexis who also hosts the online public access to the Colorado Revised Statutes via the Colorado General Assembly's webpage has just recently started continuous publication for this legislative session . We are excited about this new feature and hope that you find it helpful. We will work with LexisNexis at the end of summer when our office has completed all of the necessary publications work from the 2021 legislative session to make the appropriate harmonizations and revisions to those updates and to add the proper editorial material as prepared by this office.

Kind regards,

Jennifer Gilroy

Revisor of Statutes Office of Legislative Legal Services 303.866.4327 <u>jennifer.gilroy@state.co.us</u>

Hello,

I noticed your online statutes have updated on a weekly basis. Is CO moving to real time online statutes?

Thank you,

Talai Shirey
Executive Assistant
T. Mark Fay Consulting, Inc.
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RE: DRAFT Email to COLS re Continuous Publishing

Jennifer Gilroy to: Daugherty, Nikki (LNG-HBE)
Cc: "Dougherty, Dennis M. (LNG-HBE)"

11/17/2020 12:48 PM

Hi Nikki -

Yes, I was thinking that too, Nikki. Great suggestion.

Thank you both for taking the time to review this draft email. I really appreciate it.

Take good care of yourselves.

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Daugherty, Nikki (LNG-HBE)" ---11/17/2020 12:46:22 PM---Hi Jennifer: Dennis and I reviewed your draft and both of us think what you wrote is perfect for yo

From: "Daugherty, Nikki (LNG-HBE)" < To: "Jennifer Gilroy" < jennifer.gilroy@state.co.us >

Cc: "Dougherty, Dennis M. (LNG-HBE)" < Date: 11/17/2020 12:46 PM

Subject: RE: DRAFT Email to COLS re Continuous Publishing

Hi Jennifer: Dennis and I reviewed your draft and both of us think what you wrote is perfect for your audience. We would not get any more specific.

We will run a disclaimer on the updated sections that they are not final, as they are subject to review and approval by the OLLS. You may want to also include that info.

Thanks! ~Nikki

From: Jennifer Gilroy < jennifer.gilroy@state.co.us >

Sent: Friday, November 6, 2020 12:41 PM

To: Daugherty, Nikki (LNG-HBE) < >; Dougherty, Dennis M. (LNG-HBE) <

Cc: Kathy Zambrano < <u>kathy.zambrano@state.co.us</u>> **Subject:** DRAFT Email to COLS re Continuous Publishing

*** External email: use caution ***

Hi Nikki and Dennis -

As I mentioned to Nikki, I would like to advise the Committee on Legal Services about your plan--which I

approved--to move forward with "continuous publishing" online starting next session. Below is a DRAFT email I have prepared for the Committee. I would appreciate your review of this DRAFT and any corrections, explanations, or details you would like to make or add to it. It's very general since my understanding of this change is very limited at this point. Feel free to modify, amplify, and otherwise improve this communication to insure its accuracy and enhance it's informative value. : -)

Members of the Committee on Legal Services -

The purpose of this email is to inform you about a new enhancement to the General Assembly's online Colorado Revised Statutes publication that is accessible through the General Assembly's website. Recently, Nikki Dougherty, our LexisNexis representative, spoke with me about LexisNexis's interest in providing a real-time enhancement to the public access Colorado Revised Statutes, seeking our authority to proceed in that manner. Specifically, she described their interest in continuously updating the online resource as legislation becomes law or, as she described it, "continuously publishing" the statutes. This new feature would provide online users with more up-to-date, real-time access to Colorado's law than the printed books can offer. In today's world, I believe that there is an expectation for this more immediate electronic access to changes in the law. I'm excited about this prospect and I authorized Ms. Dougherty and the staff at LexisNexis to proceed with this improvement.

Of course, this new approach to publication will require good communication between our staff and our partners at LexisNexis. However, over the years we have developed an excellent relationship with the folks at LexisNexis with whom we work on a daily basis perfecting the books, DVDs, ebooks, and online publications. Going forward, we will be working together even more closely to achieve success with this new method of publishing the online version to insure that, as it is continuously published, it accurately reflects the revision changes, correction schedule changes, harmonizations, source note updates, and other details about which this office makes nearly daily decisions. At the end of our post-session publication period (typically ending on August 10th), LexisNexis will replace the online version as they have continuously updated it up to that point with the database finalized and approved by the Office of Legislative Legal Services.

I am confident that this new enhancement to the online statutes will be beneficial to--and greatly appreciated by--online users of the Colorado Revised Statutes. I look forward to seeing it go live. If you have any questions, please feel free to contact me or Nikki Dougherty at 434.242.1049.

What do you think? Can you add more technical details? Thanks for looking this over and adding to it as you think would be helpful.

Take care of yourselves!

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

Archived: Thursday, August 12, 2021 10:49:21 AM Mail received time: Thu, 3 Jun 2021 16:56:15 -0600 Sent: Thu, 3 Jun 2021 16:56:02 -0600 Subject: RE: Copyright Office Search Results

Thanks!

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

 igtimes "Daugherty, Nikki (LNG-HBE)" ---06/03/2021 01:43:41 PM---Thanks for this. I'm on it! Nikki

From: "Daugherty, Nikki (LNG-HBE)"
To: "Jennifer Gilroy" <jennifer.gilroy@state.co.us>
Date: 06/03/2021 01:43 PM Subject: RE: Copyright Office Search Results

Thanks for this. I'm on it!

Nikki

From: Jennifer Gilroy <jennifer.gilroy@state.co.us> Sent: Thursday, June 3, 2021 2:52 PM To: Daugherty, Nikki (LNG-HBE) < Subject: Fw: Copyright Office Search Results

*** External email: use caution ***

Hi Nikki -

This is what we found in a search in 2019. (The last time this office registered a copyright was in 2015 for the publications ancillary to the CRS, so I assume these are Matthew Bender's.)

You need to make them stop!

Thanks for your help, Nikki.

jennifer

---- Forwarded by Jennifer Gilroy/CLICS on 06/03/2021 12:49 PM ----

From: Michele Brown/CLICS To: Jennifer Gilroy/CLICS@CLICS Date: 03/06/2019 10:42 AM Subject: Copyright Office Search Results

Copyright Office search results for Colorado Revised Statutes:

Public Catalog

Copyright Catalog (1978 to present)
Search Request: Left Anchored Title = Colorado Revised Statutes
Search Results: Displaying 1 through 25 of 176 entries.

previous 1 26 51 76 101 126 176 next

Resort results by: Date (descending) ▼

Set Search Limits

#	Title <	Full Title	Copyright Number	Date
[1]	Colorado Revised Statutes Pertaining To Criminal Law 2017 with Rules of Criminal Procedure and Rules of Evidence.	Colorado Revised Statutes Pertaining To Criminal Law 2017 with Rules of Criminal Procedure and Rules of Evidence.	TX0008525082	2017
[2]	Colorado Revised Statutes Special Supplement 2016 Edition.	Colorado Revised Statutes Special Supplement 2016 Edition.	TX0008381033	2017
[3]	Colorado Revised Statutes Pertaining To Criminal Law 2016 with Rules of Criminal Procedure and Rules of Evidence.	Colorado Revised Statutes Pertaining To Criminal Law 2016 with Rules of Criminal Procedure and Rules of Evidence.	TX0008266782	2016
□ [4]	Colorado Revised Statutes 2016 Edition Replacement and Historical DVD.	Colorado Revised Statutes 2016 Edition Replacement and Historical DVD.	TX0008268734	2016
<u> [5]</u>	Colorado Revised Statutes Red Book 2015.	Colorado Revised Statutes Red Book 2015.	TX0008249714	2015
<u>[6]</u>	Colorado Revised Statutes 2015 Edition and Historical DVD.	Colorado Revised Statutes 2015 Edition and Historical DVD.	TX0008132255	2015
[7]	Colorado Revised Statutes 2014 Edition w/DVD; 2014 Index; 2014 Court Rules.	Colorado Revised Statutes 2014 Edition w/DVD; 2014 Index; 2014 Court Rules.	TX0007944431	2014
<u>[8]</u>	Colorado Revised Statutes 2013 Edition, 2013 Index, 2013 Court Rules, 2013 Replaement Code Historical DVD.	Colorado Revised Statutes 2013 Edition, 2013 Index, 2013 Court Rules, 2013 Replaement Code Historical DVD.	TX0007740372	2013
<u> [9]</u>	Colorado Revised Statutes "Red Book 2012".	Colorado Revised Statutes "Red Book 2012".	TX0007570028	2012
[10]	Colorado Revised Statutes 2012 Edition, 2012 Index (2 vols), 2012 Court Rules (2 vols)	Colorado Revised Statutes 2012 Edition, 2012 Index (2 vols), 2012 Court Rules (2 vols)	TX0007597449	2012
<pre>[11]</pre>	Colorado Revised Statutes Pertaining To Criminal Law 2012 with Rules of Criminal Procedure and Rules of Evidence.	Colorado Revised Statutes Pertaining To Criminal Law 2012 with Rules of Criminal Procedure and Rules of Evidence.	TX0007607313	2012
[12]	Colorado Revised Statutes "Red Book 2011".	Colorado Revised Statutes "Red Book 2011".	TX0007419204	2011
[13]	Colorado Revised Statutes 2011 Edition; Court Rules 2 volumes; Index 2 volumes.	Colorado Revised Statutes 2011 Edition; Court Rules 2 volumes; Index 2 volumes.	TX0007427081	2011
[14]	Colorado Revised Statutes "Red Book 2010"	Colorado Revised Statutes "Red Book 2010". [Published: 2010-07-21. Issue: vol. Supp., no. Pub 45320, July 2010]	TX0007203501	2010
<pre>[15]</pre>	Colorado Revised Statutes Set w/CD 2010 Edition.	Colorado Revised Statutes Set w/CD 2010 Edition.	TX0007255025	2010
■ [<u>16]</u>	Colorado Revised Statutes "Red Book 2009".	Colorado Revised Statutes "Red Book 2009".	TX0006999268	2009
[17]	Colorado Revised Statutes Annotated 2009 Replacement Volumes; 2009 Index; 2009 Court Rules (20 volumes)	Colorado Revised Statutes Annotated 2009 Replacement Volumes; 2009 Index; 2009 Court Rules (20 volumes)	TX0007074708	2009
[18]	Colorado Revised Statutes "Red Book 2008".	Colorado Revised Statutes "Red Book 2008".	TX0007004325	2008
<u> [19]</u>	Colorado Revised Statutes 2008 Replacement Volumes and 2008 Historical CD-ROM.	Colorado Revised Statutes 2008 Replacement Volumes and 2008 Historical CD-ROM.	TX0006904939	2008
<u>[20]</u>	Colorado Revised Statutes Pertaining to Criminal Law 2008 Edition with CD-ROM.	Colorado Revised Statutes Pertaining to Criminal Law 2008 Edition with CD-ROM.	TX0006928321	2008
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Archived: Thursday, August 12, 2021 10:49:11 AM

From: "Daugherty, Nikki (LNG-CHO)"

Mail received time: Mon, 10 Oct 2016 19:24:46 -0600

Sent: Mon, 10 Oct 2016 19:11:00 -0600

Subject: Re: Contract Extension and 2016 CRS DVDs

Hi Jennifer. The discs were to have shipped last week. Dennis' shipping contact was out Friday and today. Dennis will confirm, hopefully, tomorrow that they have shipped.

Nikki

Sent from my iPhone

On Oct 7, 2016, at 5:37 AM, Jennifer Gilroy < <u>jennifer.gilroy@state.co.us</u>> wrote:

Hi Nikki -

I just wanted to follow up on a couple of things. First, I wanted to let you know that I will be preparing an Extension of Contract, similar to what I did in 2007. Are there any modifications that you can think of that I should include? There's always a bit of a delay because I have to have it approved by the State Controller, as well, but I will send you a draft when I get it written up.

Also, we're all curious (and have had inquiries from the courts) when we can expect the arrival of the DVDs. They're typically here by late September or early October, but I know there were some difficulties this year. Keep me posted.

Finally, thank you for the ebooks thumb drive. We really appreciate it!

It was just so nice to see you on the 29th. I'm glad we could spend some time together.

take care,

jennifer

Archived: Thursday, August 12, 2021 10:48:14 AM

From: "Daugherty, Nikki (LNG-HBE)"

Mail received time: Thu, 3 Jun 2021 12:20:38 -0600

Sent: Thu, 3 Jun 2021 18:20:31 +0000 Subject: RE: Colorado Revised Statutes

Hi Jennifer: We believe these two may have just slipped through the cracks. We have published special supplements since the 2016 one and none have been copyrighted. We have published a 2020 edition of the criminal law title and it wasn't copyrighted. If you would like I can see if it is possible to cancel the copyrights on these. I have reiterated that there should be no copyrights filed in any pub containing the CO Statutes.

Thanks Nikki

From: Jennifer Gilroy <jennifer.gilroy@state.co.us>

Sent: Thursday, June 3, 2021 1:25 PM
To: Daugherty, Nikki (LNG-HBE) <

Subject: RE: Colorado Revised Statutes

*** External email: use caution ***

Thank you!

See ?2-5-115, C.R.S. regarding ownership and copyright:

2-5-115. Copyright by state. Colorado Revised Statutes and ancillary publications thereto, as published, shall be the **sole property of the state of Colorado as owner and publisher thereof**. The committee, or its designee, may register a copyright for and in behalf of the state of Colorado in any and all original publications and editorial work ancillary to the Colorado Revised Statutes that are prepared by the general assembly or its staff. The committee shall use its best efforts to ensure that any federal copyright registered pursuant to this section is appropriately maintained. Any prior actions of the committee and the revisor in securing such federal copyright are hereby validated. [emphasis added]

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

From: "Daugherty, Nikki (LNG-HBE)" <
To: "Jennifer Gilroy" < jennifer.gilroy@state.co.us >

Date: 06/02/2021 10:56 AM

Date: 06/03/2021 10:56 AM
Subject: RE: Colorado Revised Statutes

Yikes. I will find out.

Nikki

From: Jennifer Gilroy < jennifer.gilroy@state.co.us>

Sent: Thursday, June 3, 2021 12:03 PM
To: Daugherty, Nikki (LNG-HBE) <
Subject: Fw: Colorado Revised Statutes

*** External email: use caution ***

Hi Nikki -

Can you please let me know what exactly Matthew Bender is copyrighting and why?

Thank you!

jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

----- Forwarded by Jennifer Gilroy/CLICS on 06/03/2021 10:01 AM -----

From: "Peter W. Martin" <

"Jennifer Gilroy" < jennifer.gilroy@state.co.us>

Date: 06/03/2021 09:54 AM

Subject: Re: Colorado Revised Statutes

Right, but it appears to me that Matthew Bender has continued to register a copyright claim on the state's behalf. Here is a registration from 2017.

Type of Work: Text

Registration Number / TX0008381033 / 2017-02-16 Date:

Application Title: Colorado Revised Statutes Special Supplement 2016 Edition.

Title: Colorado Revised Statutes Special Supplement 2016 Edition.

Description: Print material, 66 p.

Copyright Claimant: Committee on Legal Services for The State of Colorado, Transfer: By written agreement. Address: 701 E. Water St., Charlottesville, VA, 22902.

Date of Creation:2017

Date of Publication:2017-01-24

Nation of First United States

Authorship on Matthew Bender & Company, Inc., employer for hire; Citizenship: United States. Authorship: original annotations & summaries of statutory text, Application: regulatory rules, judicial decisions, admin code.

Pre-existing Material:text, statutory text, regulatory rules, judicial decisions, administrative codes and other edicts of government.

Basis of Claim:original annotations and summaries of statutory text, regulatory rules, judicial decisions and administrative codes.

ISBN:978-1-6328-3046-3

Names: Matthew Bender & Company, Inc.

Committee on Legal Services for The State of Colorado

The 2019 registration is for a criminal law compilation.

Type of Work: Text

Registration Number / TX0008829170 / 2019-10-29

Application Title: Colorado Revised Statutes Pertaining To Criminal Law 2019 with Rules of Criminal Procedure and Rules of Evidence.

Title: Colorado Revised Statutes Pertaining To Criminal Law 2019 with Rules of Criminal Procedure and Rules of Evidence.

Description:Book, 2317 p.

Copyright Claimant: Matthew Bender & Company, Inc., Transfer: By written agreement. Address: 701 E. Water St., Charlottesville, VA, 22902.

The Committee of Legal Services for the State of Colorado, Transfer: By written agreement. Address: 1900 Grant St. 9th Floor, Denver, CO, 80203.

Date of Creation: 2019

Date of Publication: 2019-09-28

Nation of First Publication: United States

Authorship on Application: Matthew Bender & Company, Inc., employer for hire; Citizenship: United States. Authorship: new and revised text of annotations, summaries,

Pre-existing Material: previously published edition, text of government works and government edicts.

Basis of Claim: new and revised text of annotations, summaries, comments.

ISBN:000-630-015-180-0

Names: Matthew Bender & Company, Inc.

Committee of Legal Services for the State of Colorado

Sounds like the Committee on Legal Services has been unaware of this ongoing practice.

peter martin

On 6/2/2021 5:33 PM, Jennifer Gilroy wrote:

Good afternoon Professor Martin -

I'm not sure what copyright you may be looking at. That 2019 copyright is not ours. The last copyright this office registered with the federal copyright office was in 2015; as I previously stated, the Committee on Legal Services suspended the practice of registering a copyright in 2016. Who is the author on the 2019 application? I am certain that it is not be the Colorado General Assembly.

Best,

Jennifer Gilroy

Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Peter William Martin" < From: To: "Jennifer Gilroy" <iennifer.gilroy@state.co.us>

06/01/2021 09:41 AM Date:

Re: Colorado Revised Statutes Subject:

Jennifer -

I've heard from a few other states that the U.S. Copyright Office is now rejecting applications for copyright registration of annotated statutes and case reports with headnotes. Rather than considering the several factors that led the Supreme Court to attribute the Georgia annotations to legislators the office appears to be operating with a presumption that state prepared annotations and headnotes are not copyrightable. The last copyright registration I can find for the Colorado Revised Statutes is dated 2019. Have you had any post April 2020 experience bearing on this point? Respectfully,

peter martin

On 5/10/2021 5:25 PM, Jennifer Gilroy wrote:

By the way, I neglected to provide you with a link to the follow-up blog article written by our Senior Attorney for Annotations following the Supreme Court's Ruling in the Georgia case: https://legisource.net/2020/04/30/united-states-supreme-court-equates-annotators-to-legislators-and-judges/

Kind regards,

Jennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Peter William Martin" < From: "Jennifer Gilroy" <jennifer.gilroy@state.co.us> To:

05/10/2021 03:12 PM Date:

Subject: Re: Colorado Revised Statutes

Many thanks for the swift and enormously helpful response.

peter martin

On 5/10/2021 4:47 PM, Jennifer Gilroy wrote:

Hello Professor Martin -

Thank you for your email. I am happy to clarify and distinguish the situation in Colorado and answer your questions. By coincidence, I conducted my own 50-state survey of publications information back in 2005. Of course outdated now, I learned at that time what you mention in your email: There is quite a bit of diversity in the states' approaches to publication of their statutory law. And specifically, I learned that Colorado's approach was relatively unique--at least back then.

- 1. Actually, Colorado's arrangement with LexisNexis is nothing like Georgia's. Pursuant to the contract with LexisNexis (attached below), LexisNexis has the responsibility of printing, delivering, warehousing, advertising for sale, and selling the Colorado Revised Statutes, Session Laws, and Red Book Unlike Georgia, this Office (the Office of Legislative Legal Services), nonpartisan staff for the Colorado General Assembly, not only compiles the entire database for both the Session Laws and Red Book as well as the Colorado Revised Statutes, we also draft and prepare in house all of the editorial work, including source notes, cross references, annotations, indices, etc. LexisNexis does not produce or do any of the editorial work. And specifically with respect to the annotations, our staff reads all of the appellate opinions and drafts the annotations included in the Colorado Revised Statutes publication which are accessible online through the Colorado General Assembly's web page for use by the general public without cost.
- 2. Section 2-5-115, C.R.S., historically required the registration of a copyright in the Colorado Revised Statutes and ancillary publications. Accordingly, this office would annually register a copyright with the federal copyright office in those publications not otherwise part of the public domain. However, in 2011, the General Assembly amended that statute to permit the registration of the copyright and, in fact, in 2016, the Committee on Legal Services (the legislative committee that oversees the publication of the Colorado Revised Statutes and Session Laws) suspended the practice of registering a copyright. Accordingly, the last copyright this office registered was in March of 2015 for the publications and editorial work ancillary to the 2014 Colorado Revised Statutes. We identified the "author" of those works as the "State of Colorado by and through the Revisor of Statutes under the Committee on Legal Services". Here is a link to a blog article our office's DU Sturm College of Law intern at the time and I wrote about this subject back in 2017: https://legisource.net/2017/04/06/who-owns-the-law-the-colorado-perspective-on-copyright-and-state-statutes/
- 3. Yes, our negotiated contract price includes section VIII.A.1. requiring LexisNexis to provide the state with 1200 sets of the annual Session Laws and 3,150 Red Books. And section VIII.B. requires LexisNexis to provide 3,150 sets of the Colorado Revised Statutes to the state. Section VI. D requires LexisNexis to provide 600 subscriptions to the Colorado Revised Statutes on CD-ROM. Section VI. G. of the 2013 contract also requires LexisNexis to provide the Colorado General Assembly with 100 copies of the CRS ebook to this Office for distribution to the members of the General Assembly. and its staff.

Here is the 2013 publications contract and the 2017 extension.

2013 Colorado Publications Contract with LexisNexis:

2017 Extension of the 2013 Publications Contract:

I am happy to discuss any of this with you by telephone if you have additional questions.

Kind regards.

Jennifer Gilroy

Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Peter William Martin" < From:

Jennifer.Gilroy@state.co.us To: Date: 05/10/2021 09:30 AM Subject: Colorado Revised Statutes

Dear Ms. Gilrov:

For more years than I care to count, I have been studying and writing about electronic publication of primary legal material.*

The Supreme Court's decision a year ago in Georgia v. Public.Resource.Org has drawn my attention back to the diverse arrangements entered into between public law-making bodies and commercial publishers. Since the case dealt with an annotated statutory compilation, it has focused my attention on the statutory basis and editorial origins of a diverse range of official state codes with annotations. That brings me to you with a few straightforward questions that I hope you will find it easy to answer or be in a position to pass on to someone more directly involved.

The official version of the Colorado Revised Statutes is published by LexisNexis. Like the Georgia Code at the center of the Public.Resource.Org case the LexisNexis edtion contains annotations and is copyrighted. (Also, as was the case with Georgia, that copyright is registered in the name of the state - specifically the "Committee on Legal Services for The State of Colorado".)

I am curious to know whether you or the Committee on Legal Services are involved in the preparation or approval of the editorial material that LexisNexis adds to the statutory provisions. I would also be interested to know whether the contract with LexisNexis results in print sets of the code or an electronic version being provided electronically to the legislature and other state entities (as Matthew Bender's contract with Georgia does).

Finally, I assume that the current contract with LexisNexis is a public document. I would like to compare its principal features with the Georgia - Matthew Bender contract at the center of the Public.Resource.Org case and with others I have collected. If you have that contract in digital form that would be most convenient, but I am also content to scan a paper copy. If it must be the latter, please send it to me at 305 Willow Ave., Ithaca, NY 14850. (I am currently working from home.) If it would be simpler to talk our way through these questions over the phone, I can give you a call.

Should you be interested, I'll share the results of this comparative study with you once it is complete.

Respectfully,

peter martin

* See, e.g., Abandoning Law Reports for Official Digital Case Law, 12 Journal of Appellate Practice and Process 25 (2011)

Peter W. Martin

Jane M.G. Foster Professor of Law, Emeritus and Co-Founder, Legal Information Institute, Cornell

Phone: 607-351-5035

Archived: Thursday, August 12, 2021 10:46:56 AM

From:

Mail received time: Wed, 30 Sep 2020 11:42:18 -0600

Sent: Wed, 30 Sep 2020 11:42:15 -0600

Subject: RE: A Favor

Super. Thanks, Nikki!

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

"Daugherty, Nikki (LNG-HBE)" ---09/30/2020 11:41:14 AM---Hi: I can certainly provide the description and the benefits to continuous updating. Let me check i

From: "Daugherty, Nikki (LNG-HBE)" <

To: "Jennifer Gilroy" <jennifer.gilroy@state.co.us>

Date: 09/30/2020 11:41 AM Subject: RE: A Favor

Hi: I can certainly provide the description and the benefits to continuous updating. Let me check in on the progress and try to get a timeframe for when it will be available and get back to you.

Thanks Nikki

From: Jennifer Gilroy <jennifer.gilroy@state.co.us> Sent: Wednesday, September 30, 2020 10:47 AM

To: Daugherty, Nikki (LNG-HBE) <

Subject: A Favor

*** External email: use caution ***

Good morning, Nikki -

Thought of you while I was rowing this morning!; -) Hope you're doing well.

I am wondering if you can do a favor for me. I'd like to send an email to the members of the Committee on Legal Services advising them about our conversation and my decision to authorize LexisNexis to proceed with plans for "continuous publication" in the new year. What I would love is a description from you (or whomever) as to what, exactly, that means and the benefits the users of our public access--as well as your contract customers--will realize as a result. It can be brief, but I think you all could describe the process you intend to implement better than I can.

Than you, in advance, for your help with this request.

Warm regards,

iennifer

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us



Publications Contract

Jennifer Gilroy to: nikki.daugherty 03/08/2016 09:54 AM

Bcc: Jennifer Gilroy

Hi Nikki -

I am beginning to worry about you! I hope everything is okay. I am keeping you in my thoughts.

When it is convenient for your, would you please give me a call? I would like to chat with you about our contract with LexisNexis. We've just entered the 4th year of our 5-year contract (can you even believe that?!). I made a presentation to our oversight Committee on Legal Services last Friday (3/4/16) addressing several publications matters, including this contract issue. I let them know that I am going to ask them to make a decision about the contract at their September meeting, but that I would be encouraging them to extend the contract for 5 more years. I would like confirmation from you that LexisNexis is interested in such a continuation! I'd also like to advise you of the other matters the Committee made decisions on at that meeting.

Give me a call when it you have a few free minutes to talk.

Warm regards,

Jennifer



The Notice Is Up on the Website in One Place! Jennifer Gilroy to: nikki.daugherty 12/07/2017 04:03 PM

Bcc: Jennifer Gilroy

Hi Nikki -

Wade immediately put up the notice on our OLLS website. Check it out: https://leg.colorado.gov/agencies/office-legislative-legal-services/colorado-revised-statutes

Manish Jani (or one of his folks) in our LIS office will have to put it up on the GA's website (another method of entering the public access to the CRS). He is out of the office today, but returning tomorrow. I anticipate it should not be too difficult to get that done by next Tuesday.

Thanks, again, for your head's up on this. Hopefully we won't get too many complaints!

Have a great weekend.

jennifer

Archived: Thursday, August 12, 2021 10:46:10 AM

From:

Mail received time: Thu, 30 Nov 2017 09:32:18 -0700

Sent: Thu, 30 Nov 2017 09:32:15 -0700 Subject: "Pardon Our Dust" Notice to Users

Hi Nikki -

Craziness blossomed shortly after we spoke about the temporary changes to Colorado's public access to the C.R.S. and, as a result, I have not had a chance to write up a notice to online users apologizing for the temporary changes. I'm envisioning one of those "pardon our dust" kind of notices with a clever image (see examples below). Could you please remind me when this will take place so I can be sure to have our notice up before it changes.

Thanks!

jennifer







Archived: Thursday, August 12, 2021 10:44:52 AM

From:

Mail received time: Thu, 16 May 2019 12:16:56 -0600

Sent: Thu, 16 May 2019 12:16:46 -0600

Subject: Letter to Anders Ganten re Problems from the Past Year

Attachments:

Letter to Anders Ganten 2019.pdf.

Hi Nikki -

I was hoping to talk to you today before I sent out this letter to Mr. Ganten detailing all of the issues we have experienced in the past year under the contract with LexisNexis. I regret it has taken so long to prepare and send, but it was an incredibly difficult legislative session this year and forced this letter to the back burner, notwithstanding the great importance of its message. Please feel free to call me to discuss it. I have sent the original hard copy to Mr. Ganten in your care to the Charlottesville address as you suggested. I have also sent a hard copy to Mr. Bigger and will be coing both of you on the email I send to Mr. Ganten. Of utmost importance, though--and I tried to emphasize this in the letter--we value you, Dennis, Vickie, Holly, and Tracy tremendously. Especially you and Dennis. You two are the most awesome publications partners we could have ever hoped for and made our transition from years with the local company Bradford so much easier. Thank you.

(See attached file: Letter to Anders Ganten 2019.pdf)

Warm regards,

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us



Issues Related to Colorado's Publication Contract with LexisNexis

Jennifer Gilroy to: anders.ganten 05/16/2019 12:32 PM

Cc: omry.bigger, nikki.daugherty, Sen. Foote, Sen. Lee, Rep. Herod, Sen. Cooke, Sen.

Gardner, Sen. Holbert, Sharon Eubanks

Bcc: Jennifer Gilroy

History:

This message has been forwarded.

1 Attachment



Letter to Anders Ganten 2019.pdf

Dear Mr. Ganten -

Attached to this email you will please find a letter, sent to you by first class mail this date in care of Ms. Nikki Daugherty in Charlottesville, Virginia, detailing the multitude of issues we have experienced over the past year in relation to the Colorado General Assembly's publications contract with LexisNexis, the magnitude of their impact on the products and services we received from LexisNexis, and our resulting disappointment and demand for assurances that steps have been taken to resolve the issues identified.

I look forward to receiving your response.

Sincerely,

Jennifer Gilroy Revisor of Statutes Office of Legislative Legal Services 303.866.4327 jennifer.gilroy@state.co.us

(See attached file: Letter to Anders Ganten 2019.pdf)

OFFICE OF LEGISLATIVE LEGAL SERVICES COLORADO GENERAL ASSEMBLY

DIRECTOR Sharon L. Eubanks

DEPUTY DIRECTOR
Julie A. Pelegrin

REVISOR OF STATUTES Jennifer G. Gilroy

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COLORADO STATE CAPITOL 200 EAST COLFAX AVENUE SUITE 091 DENVER, COLORADO 80203-1716

Tel: 303-866-2045 Fax: 303-866-4157 Email: olls.ga@state.co.us

16 May 2019

Via: First Class Mail and Email

Mr. Anders Ganten Senior Director Government Content Acquisition LexisNexis 701 E. Water Street, #421 Charlottesville, VA 22911

RE: Products and Services under Colorado's Publications Contract

Dear Mr. Ganten:

It is with regret that we are writing to advise you of multiple issues that have arisen over the course of the past year that have negatively affected the excellent products and service that the Colorado General Assembly has come to expect under its contract with LexisNexis. As you are aware, the Colorado General Assembly has been in a contractual relationship with LexisNexis for sixteen years the terms of which require LexisNexis to print, distribute, warehouse, advertise for sale, and sell the Colorado Session Laws, Colorado Revised Statutes, Colorado Court Rules, and the United States and Colorado constitutions and to make this law publicly accessible online and available in CD/DVD and ebook formats. The current contract will expire on December 31, 2022, and the Colorado statute (§2-5-105, C.R.S.) requires that it be put out for bid prior to that time, an arduous process that will likely begin in a little over a year.

One thing that has not been compromised, however, are the extraordinary partners we have at LexisNexis with whom we have developed an invaluable relationship. Specifically, over the course of the past sixteen years, the publications staff at the Office of Legislative Legal Services have been privileged to work with the following remarkable team of LexisNexis representatives: Nikki Daughtery, Dennis Dougherty, Vickie Collins, Tracy Baldwin, and Holly Posniewski. These dedicated professionals

MANAGING SENIOR ATTORNEYS

Michael J. Dohr R Jason Gelender

Robert S. Lackner Thomas Morris

SENIOR ATTORNEYS

Jennifer A. Berman Brita Darling Edward A. DeCecco Kristen J. Forrestal Nicole H. Myers

Jery Payne Jane M. Ritter Richard Sweetman Esther van Mourik

SENIOR ATTORNEY FOR ANNOTATIONS

Michele D. Brown

STAFF ATTORNEYS

Jacob Baus Conrad Imel H. Pierce Lively Shelby L. Ross Yelana Love Megan Waples have been responsive to our needs and critical to our mission of publishing the law previously itemized and, notwithstanding the multiple issues described in this letter, have been instrumental in addressing problems, explaining shortcomings, and ultimately insuring the accurate publication of Colorado's primary law. We cannot emphasize enough our respect and appreciation for each of these individuals.

However, problems began in January of 2018 when LexisNexis switched to its Lexis Advance platform which transition, in turn, resulted in the interruption and, in some cases, the discontinuation of some functionality and sources of law associated with our state's online public access to the Colorado Revised Statutes, court rules, and constitutions. We were told that there was a mis-communication among those at LexisNexis about the timing of Colorado's legislative-staff-hosted site going live that may have been the root of some of the problems; however, that goal is still approximately two years out at best and was never intended to begin in 2018.

In the fall of 2017, Ms. Daugherty advised this office, and subsequently kept us updated, about the impending platform transition. She forewarned us that we might lose some functionality on our site; however, she also assured us that those functions would be restored. In preparation for the transition, on December 7, 2017, the Colorado General Assembly's Information Technology (IT) staff posted a notice on the Colorado General Assembly's website stating that the site was under transition. The notice also touted the substantial technological upgrade the new Lexis Advance platform would provide to users as it had been described to us. That notice is still posted on the website today, some 17 months later, since functionality and at least one law source that this state lost as a result of the transition to the "improved" Lexis Advance platform have still not been restored. (To see the notice, visit: https://leg.colorado.gov/agencies/office-legislative-lega-services/colorado-revised-statutes.)

ISSUES RELATED TO THE PLATFORM MIGRATION IN 2018

In fact, shortly after the transition to the new platform occurred on January 25, 2018, site users began contacting this office with issues—issues that exceeded the mere loss of some functionality. The following is a summary of some of the effects that the platform migration had on internet users' public access to Colorado law.

No Court Rules; No U.S. or Colorado Constitutions. Not long after the transition, we became aware that the Colorado Court Rules, unavailable electronically through any other government-sponsored online source, were simply no longer available online through the LexisNexis-hosted site. Judges and citizens alike were inquiring about their availability. With the help of Ms. Daugherty, Mr. Dougherty, and others at

LexisNexis, the Court Rules were eventually re-posted on February 14, 2018, nearly two weeks after they had been rendered unavailable by the platform transition. We also discovered that the United States and Colorado constitutions were dropped following the transition. Again, our LexisNexis partners in Virginia addressed this loss to the best of their abilities, restoring the Colorado Constitution. To this day, however, the U.S. Constitution is still not available through the LexisNexis-hosted Colorado online site.

Under the contract dated June 28, 2012, the terms of which were extended by the Extension and Modification of Contract, dated June 23, 2017, section VI.E.1. states that "LexisNexis shall host without charge to the State, a fully annotated version of the Statutes, the United States Constitution, the Colorado Constitution, and the Colorado court rules, each in a searchable format, on a website selected by LexisNexis, which service shall be accessible from the Colorado General Assembly's home page." (See page 5 of the 6/28/12 contract) LexisNexis is not meeting this requirement of the contract since the U.S. Constitution is still not available on line.

Problems with PDF tables. On February 8, 2018, this office discovered that the PDF tables embedded in multiple statutory sections throughout the Colorado Revised Statutes were not viewable online and, in their place, the words "Display Images" appeared. Again, when we brought this concern to the attention of Mr. Dougherty, the problem was quickly remedied. The online version of the C.R.S. tables had similar problems in 2018. Again, Mr. Dougherty and Ms. Collins were able to manually fix it so that the tables appeared properly. Section VII.C. of the contract contemplates the use of PDF files by this office. (See page 8 of the 6/28/12 contract)

No copy citation function. In addition to the missing law, as Ms. Daugherty correctly forecasted, the site also lost some functionality. For example, the "copy citation" function was rendered inoperable immediately following the platform transition (when a user is sent a direct citation URL via the copy citation function, it prompts the user to enter a LexisNexis ID and password. It should not do that.) On March 1, 2018, and again on March 14, 2018, approximately two months following the platform transition, Wade Harrell of this office inquired about the restoration of this function. Following more user complaints, Mr. Harrell again inquired on May 15, 2018. On May 29, 2018, Ms. Daugherty explained to Ms. Gilroy that, while Ms. Daugherty and Mr. Dougherty had been persisting on this matter (and other items for the Colorado site), they were told it was not a priority since the C.R.S. public access site is not a revenue-generating endeavor for LexisNexis, this notwithstanding the fact that the state's contract with LexisNexis requires LexisNexis to provide this function and other

functions on the public access format. (See section VI.E.4.c. on page 6 of the 6/28/2012 contract)

Following yet another complaint, Ms. Gilroy again inquired on August 27, 2018. Finally, on September 26, 2018, Ms. Daugherty relayed a work-around solution that you had provided to her that basically entails copying the URL in the browser bar and pasting that lengthy URL into the transmission. This solution does not display the actual section being linked and is, as Ms. Daugherty observed, "clunky". Worse, however, is the fact that every time our online public access is updated (which is frequently), that URL changes. Accordingly, this solution is insufficient and unsatisfactory.

While Ms. Daugherty had advised me in September that the engineers at LexisNexis were continuing to work on a "permanent fix" to the copy citation function, in late February of this year she informed Ms. Gilroy that, for economic reasons, the copy citation function will likely never be restored. It is frustrating for users of the site to see the "copy citation" button and assume that it works, use it, and send off what they believe to be a trustworthy link to Colorado law, only to learn after the fact that it is a non-functioning display that previously, when the platform was less "advanced", worked effectively. It is difficult to explain this loss of functionality to both legislators and other users of the site who had come to rely on it, and we can assure you it reflects poorly not only on the state, but also on LexisNexis. Section VI.E.4.c. of the contract (see page 6 of the 6/28/2012 contract) requires LexisNexis to provide the capability of allowing the internet user to capture a universal resource locator (URL) that will link directly to a specific statute on the internet site. The low-tech work-around that you suggested is unacceptable. This is not the level of service and quality product that our legislators and users have come to expect from LexisNexis and to which they are entitled under the terms of the contract.

No "flags" function. Another contractually required function that disappeared at the time of the platform migration and which still has not been restored is the "flag" (or notification) and link associated with law that has been amended by newly enacted legislation but which update is not yet available in the public access version of the C.R.S. Section VI.E.4.a. of the contract (see page 6 of the 6/28/2012 contract) requires LexisNexis to provide a method of linking the internet user to the pertinent chapter of the current year's Session Laws as the Governor acts on legislation that amends, repeals, or adds to provisions of the statutes. Because of the delay in getting the updated law to the public following the end of a legislative session, your resourceful staff developed this convenient and incredibly useful function as a way to alert the user that the section of law he or she is viewing has been amended or repealed

by recent legislation. I have previously raved about this function and lauded LexisNexis to other legislative staff across the country at NCSL conferences and elsewhere only to now have the function rendered unavailable despite its requirement in our contract.

No link from source notes to Session Laws. Section VI.E.4.b. of the contract (see page 6 of the 6/28/2012 contract) requires LexisNexis to provide a method of linking the internet user to the pertinent chapter of the Session Laws from the source notes. This function is also no longer available to users of the public access to the C.R.S. and it is spotty on the DVD. This function was partly what made LexisNexis stand out among its competitors. Once again, it is disappointing to no longer have the convenience of this contractually required function available to our users and the legislators who had come to expect and depend upon it.

DELIVERY ISSUES

In addition to the multiple issues created by the transition to the Lexis Advance platform, there have been other problems over the past year, including significant delivery issues.

Delayed delivery of the Session Laws. The contract contemplates that time is of the essence in the provision of services under the contract. (See section VII.A. on page 7 of the 6/28/2012 contract) And, specifically, section VII.D.2. of the contract (pages 7-8 of the 6/28/2012 contract) directs LexisNexis to print and bind the Session Laws and Red Book in no more than 30 days after it receives the final approval to print. This office began sending chapters of the Session Laws to our partners at LexisNexis by late May of 2018, and the final portions were provided by June 26, 2018, with authority for LexisNexis to print. Nevertheless, we did not receive the 2018 Session Laws (and accompanying Red Book) until August 8, 2018, nearly two weeks following the expiration of the 30-day window contemplated in the contract. By contrast we have typically received the Session Laws in the third or possibly fourth week of July in past years. In 2008, we received them as early as July 7th.

Delayed DVD delivery. Section VII.D.4. of the contract (see page 9 of the 6/28/2012 contract) requires LexisNexis to complete the CD-ROMS or DVDs of the constitutions and statutes and ship them not more than 20 days after approval and release of the final C.R.S. title by this office. In 2018, this office provided final approval on titles between July 17th and August 10th, giving final approval on the last half of the final title to the C.R.S. on August 10, 2018. However, we did not receive the DVDs until November 13, 2018, some three months later. This delay is unacceptable. Courts and executive agencies, as well as the legislature and others, rely

on the DVDs and, when the earlier released DVD (without the newly enacted changes reflecting the 2018 legislation) expired, users must shift to another source of the law. We need to be assured that LexisNexis has taken steps to ensure timely delivery of the DVDs in the future.

Significant Problems with C.R.S. Book Delivery. One of the most significant problems in 2018 was the complete chaos that ensued when the C.R.S. statute books were delivered in September. While the 761 sets of statutes (each set packed in two separate boxes) arrived (unusually the boxes were not marked 1 of 2 and 2 of 2 this year) at the state capitol complex on September 6, 2018, for delivery to the legislature and its staff as arranged between our office and our capable LexisNexis partners in New York, shortly thereafter, we began receiving a flood of emails and phone calls from county clerks, courts, and other government recipients of the statute books notifying us that they never received the first box of the two boxes, that they didn't receive any shipment, or that they received incomplete shipments.

First, it's my understanding that the packing facility that LexisNexis uses was "in transition" causing some delay in our delivery. But then, as complaints began to stream in, we realized it was more than just that. It began to seem as if not a single government recipient (out of approximately 3,150) received what they were to have received. One gentleman in our office, Nate Carr, dedicated tireless weeks doing nothing but addressing the many communications this office received from annoyed and exasperated government employees (local government town/city clerks, court clerks, executive agency representatives, etc.) who were trying to get their shipments of the law. All of Mr. Carr's other core functions and office responsibilities went on hold for a period of nearly a month as he responded personally to every call and email with courtesy and assurance. Working daily with Ms. Baldwin and Ms. Posnieski in New York, Mr. Carr was eventually able to address every single problem of the multitude that demanded his attention. We credit whatever shred of satisfaction these government "customers" of LexisNexis might still have to Mr. Carr's concern, attention, dedication, and partnership with Ms. Baldwin and Ms. Posnieski, who also personally called or otherwise contacted each of the government customers to insure that every order was ultimately correctly filled as quickly as possible.

To this day, it is not clear what caused such a huge problem in the shipment of the statute books which in prior years had gone so smoothly. However, you should know that it was nothing short of a nightmare. We understand that, for whatever reason, the warehouse shipped box 2 of the 2-box sets first. We also understand that there might have been a problem with the way the address list spreadsheet that Mr. Carr had sent to LexisNexis was re-formatted at LexisNexis for purposes of printing the address

labels. Whatever the reason, we need to be assured that the cause of these delivery problems has been determined and addressed and that the delivery issues will not recur.

Delayed delivery of the Special Supplement. The voters in Colorado approved one statutory measure and four constitutional measures on the ballot at the November 6, 2018 election. Our office sent the data to our partners at LexisNexis on November 15, 2018 for purposes of printing a Special Supplement reflecting the voter-approved changes. The Colorado Governor declared the vote by proclamation on December 19, 2018. The Governor's proclamation date was intentionally omitted from the data we sent because of this Office's practice of sending the information to LexisNexis at the earliest possible date so that the supplement can be printed and delivered as quickly as possible. At Mr. Dougherty's request, Mr. Carr sent the mailing list for the Special Supplement to LexisNexis on January 3, 2019. However, the Special Supplement booklets did not arrive until January 17, 2019.

PRINTING ISSUES

Inconsistent paper thickness; irregular books. When the Session Laws arrived last year, it was immediately apparent that, although both volumes 1 and 2 of the 3-book set were approximately the same number of pages, volume 1 was half-again thicker than volume 2. Upon inspection, it became apparent that thicker paper was used in printing volume 1 than was used for volume 2. We still do not know why different paper was used to print volume 1. In addition, the printing on the spines of the Session Laws books does not line up. These are basic book production issues that a printing company the size of LexisNexis should not have.

The same problem with the inconsistent paper thickness recurred with the publication of the C.R.S. books. Some volumes arrived very thick this year, despite being a more slender or moderate-sized volume. For example, the volume containing Title 13, the volume containing Titles 16-17, the volume containing Titles 29-30, and the second volume of the Court Rules are each much thicker than they need to be due to the thickness of the paper used for these volumes. Again, we do not know why some volumes were randomly printed on thicker paper, thereby greatly increasing the shelf space needed to house a set of the statutes—not to mention increasing the size of the boxes required to ship the books and undoubtedly the cost of shipping. It is not satisfactory to us and we request that this issue not recur in the future.

SUMMARY

There were other problems that arose randomly over the course of the year, such as the recurring lack of accessibility to the text of a certain provision in the online version of the state constitution, error codes on the public access site, an out-of-date URL on the print-out request form following the platform migration, and paragraphs not aligning in the outline format used with the public access version of the statutes, all of which were addressed in a timely fashion by our incredible partners at LexisNexis in Virginia. We realistically expect a few glitches to arise each year and we have always been able to depend on the quick response we consistently receive from our partners at LexisNexis to address those matters as they occur. But the purpose of this letter is to notify you of the number of issues that arose during the past year and the magnitude of their impact on the products and services we have historically received from LexisNexis. Again, we are grateful for such responsive counterparts at LexisNexis who met each challenge with concern and respect. However, we must be assured that, in the future, Colorado will not experience the many serious issues that arose in 2018, that full functionality related to our public access website as required in our publications contract will be addressed and restored, that steps have been taken to avoid the delivery problems, and that due attention is being given to the terms of our contract with the company you represent.

Sincerely,

Sharon L. Eubanks

Director

Office of Legislative Legal Services

Tharon L. Enkanles

Colorado General Assembly

Revisor of Statutes

Office of Legislative Legal Services

Colorado General Assembly

cc: Mr. Omry Bigger

email: Mr. Omry Bigger

Ms. Nikki Daugherty

Committee on Legal Services:

Senator Pete Lee, Chair

Senator John Cooke Senator Mike Foote

Senator Bob Gardner

Senator Robert Rodriguez Representative Leslie Herod, Vice Chair Representative Marc Snyder Representative Matt Soper

Representative Kevin Van Winkle

Representative Mike Weissman



Letter

Ganten, Anders P. (LNG-HBE) to: jennifer.gilroy@state.co.us 06/07/2019 10:19 AM Cc: "Daugherty, Nikki (LNG-CHO)"

History:

This message has been forwarded.

1 Attachment



Dear Jennifer,

Please find a letter in response to your recent letter. Let me know if you have any questions.

Best regards,

Anders

Anders Ganten

Senior Director Government, Corrections & Alliances

LexisNexis Legal & Professional

Phone: +1.434.284.1269

E-mail:

Web: www.lexisnexis.com



June 6, 2019

Colorado General Assembly Committee on Legal Services Attention: Jennifer Gilroy 200 E. Colfax Avenue Suite 091 Denver, CO 80203-1782

Dear Ms. Gilroy:

I am writing in response to your letter dated May 16, 2019. At the outset, I would like to take this opportunity to thank you for the kind recognition of the hard work and dedication of the members of the different teams working diligently every day to ensure a high-quality and timely production of the Colorado Statutes and Session Laws.

With that being said, I would also like to acknowledge that we have seen a few issues in the last year that have adversely impacted the production and distribution of the C.R.S and, consequently, also our long-standing relationship with you, your staff and users of the C.R.S.

As you and Nikki Daugherty have discussed over the phone, we agree that rather than addressing each point raised in your letter in this format, we are looking forward to meeting with you and the Committee at an appropriate time to discuss the issues raised, as well as, any other issue members may like to raise.

We remain at your complete disposal for this meeting but acknowledge that it may be challenging to convene such a meeting during the summer recess. Please work with Nikki on the scheduling.

Finally, I would appreciate if you could distribute this note to any additional recipients on your end.

I am looking forward to seeing you in Denver soon. In the meantime, do not hesitate to call or email with any questions or concerns.

Sincerely,

CC:

Anders Ganten

Senior Director

Government, Corrections and Alliances

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Omry Bigger. Nikki Daugherty

Archived: Thursday, August 12, 2021 10:40:23 AM

From: "Daugherty, Nikki (LNG-CHO)"

Mail received time: Tue, 18 Jul 2017 08:13:51 -0600

Sent: Tue, 18 Jul 2017 14:13:48 +0000

Subject: Contract extension

Hi Jennifer: Hope you are doing well and enjoying the summer! Just wanted to let you know that I received the executed contract. Happy to have that behind us. Looking forward to the next five years!!

Thanks ~Nikki

Nikki L. Daugherty
LexisNexis | Legal & Professional
Director, Government Content
434.242.1049



Contract Extension and 2016 CRS DVDs Jennifer Gilroy to: nikki.daugherty 10/07/2016 09:37 AM

Cc: Nate Carr

Bcc: Jennifer Gilroy

Hi Nikki -

I just wanted to follow up on a couple of things. First, I wanted to let you know that I will be preparing an Extension of Contract, similar to what I did in 2007. Are there any modifications that you can think of that I should include? There's always a bit of a delay because I have to have it approved by the State Controller, as well, but I will send you a draft when I get it written up.

Also, we're all curious (and have had inquiries from the courts) when we can expect the arrival of the DVDs. They're typically here by late September or early October, but I know there were some difficulties this year. Keep me posted.

Finally, thank you for the ebooks thumb drive. We really appreciate it!

It was just so nice to see you on the 29th. I'm glad we could spend some time together.

take care,

jennifer

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

COLORADO STATE CAPITOL 200 EAST COLFAX AVENUE SUITE 091 DENVER, COLORADO 80203-1716

> Tel: 303-866-2045 Fax: 303-866-4157 Email: olls.ga@state.co.us

> > 15 May 2017

Nikki Daugherty LexisNexis 701 East Water Street Charlottesville, VA 22902

RE: Extension and Modification of Contract

Dear Nikki –

After sending the original contract extension documents to my contact at the Colorado Attorney General's office, she informed me that she and the Colorado State Controller prefer that the contractor [LexisNexis] sign the contract first. Accordingly, I am enclosing three (3) originals for Anders' signature. Would you kindly bring them to his attention for execution and return them to me at your earliest convenience whereupon I'll have them signed by all the Colorado parties. I will plan to return one of the fully executed copies to you.

Thank you, Nikki, for your help with this. I apologize for the confusion.

Warm regards,

Jennifer Gilroy Revisor of Statutes

enc.