

A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between “public records,” which may include correspondence, office records, personnel records, etc., and “government publications,” which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have “public records statutes,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite your state’s public records statutes and the administrative regulations that supplement them.

Enacted in 1988, Hawaii’s public records statute is the Uniform Information Practices Act (Modified), HAW. REV. STAT. §92F -1 *et seq.* (1993 & Supp. 2001).

WEIL’S CODE OF HAW. RULES (1998; current through the 2001 legislative session):

Chapter 92F	5-1-5; 7-32-12; 10-1-3, 14;13-197-4; 14-21-12; 14-31-2; 14-41-5; 20-40-4
92F-1	15-15-9
92F-2	5-31-39
92F-3	2-71-2; 13-300-2; 15-191-2; 17-15-1
92F-11	2-71-1, 11 to 18; 5-31-39; 6-20-2, 3; 6-61-5; 15-160-13; 11-60.1-99; 14-56-5; 15-180-6; 16-25-27, 28; 16-36-14; 16-301-2; 17-15-3; 17-1702-8
92F-12	6-20-4; 11-60.1-99; 13-1-9; 13-300-2, 4, 24; 15-26-6; 15-191-7; 16-36-14
92F-13	5-31-39; 6-20-4; 13-300-4; 15-26-6; 15-160-14; 15-180-7; 16-25-27, 28; 18-231-19.5-04
92F-14	3-124-3; 5-31-39; 6-20-4; 15-26-6; 17-400-5; 17-401-26,27; 17-601-3; 17-1401-3; 17-1702-4
92F-18	5-31-40; 6-61-6; 16-25-27, 28
92F-19	17-1702-6
92F-21	17-15-4; 17-601-4; 17-1401-5
92F-22	17-15-4; 17-601-4; 17-1401-5; 23-601-3
92F-23	6-20-4; 17-15-4; 17-601-4; 17-1401-5
92F-24	17-15-5; 17-601-4, 6; 17-1401-5, 6
92F-25	17-15-6; 17-601-4, 6; 17-1401-5, 6
92F-27	17-601-8; 17-1401-8
92F-42	2-71-3, 19, 20, 31 to 33; 3-122-30, 58

b. If “No,” skip this whole section.

Additional comments:

2. The public records statutes/regulations apply to which of the following branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

HAW. REV. STAT. §92F-3, “General Definitions” provides the following definition of **agency**: “Agency” means any unit of government in this State, any county, or any combination of counties; department; institution; board; commission; district; council; bureau; office; governing authority; other instrumentality of state or county government; or corporation or other establishment owned, operated, or managed by or on behalf of this State or any county, but does not include the non-administrative functions of the courts of this State.”

WEIL’S CODE OF HAW. RULES §2-71-2 Definitions. Unless the context otherwise requires, in this chapter: ...”Agency” shall be as defined in section 92F-3, HRS.”

Additional comments:

3. Cite to public records statutes/regulations where “public record” is defined.

The term “public record” is not used within the UIPA; rather HAW. REV. STAT. 92F-3, “General Definitions” provides the following: ““Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form.”

This is distinguished from a definition for: ““Personal record” means any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individual’s education, financial, medical, or employment history, or items that contain or make reference to the individual’s name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.”

Additional comments:

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

- Yes
- No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

The word “electronic” is included in the definition of the term “government record” without mention of special treatment (see response to A.3., *supra.*).

Additional comments:

5. Do the public records statutes/regulations address retention of records?

Yes

No

a. If “Yes,” cite to and briefly summarize the retention provisions.

b. If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

Retention of government records is not addressed directly within the Uniform Information Practices Act (Modified). The issue of retention is addressed in Chapter 94 “Public Archives; Disposal of Records” portion of the statutes at HAW. REV. STAT. §94. Section 94-1 establishes that “the department of accounting and general services shall collect all public archives; arrange, classify, and inventory the same; provide for their safekeeping; and compile and furnish information concerning them.” Section 94-2 provides for selling duplicate government publications.

Section 94-3 addresses “Disposal of government records generally.” The section reads as follows: “Each public officer, except public officers of the judiciary, having the care and custody of any government records shall submit to the state comptroller a list of records for disposal, which shall include the name of the office, department, or bureau, the subject of the records for disposal and the inclusive dates of the records. The comptroller shall determine the disposition of the records; stating whether such records should be retained by the office, department, or bureau; be transferred to the public archives, the University of Hawaii, the Hawaiian Historical Society, or other agency; or be destroyed. The comptroller shall have full power of disposal of all records submitted for such purpose. The records of all records disposed of, including lists submitted by the public officers, and the action taken by the comptroller, shall be kept on proper forms, specified by the comptroller, one copy of which shall be filed in the office, department or bureau where the records originated, one copy shall be filed in the office of the attorney general, and the original shall be filed in the public archives.”

Other relevant sections include HAW. REV. STAT. §94-4, which provides for certification by the comptroller, the archivist or other officer performing the duties of archivist or custodian of public archives to certify fee-based copies or reproductions of records within their custody. Section 94-5 allows for retention of examinations by statutory licensing agencies until after the legislative session following the examination. Section 94-6 sets forth provisions regarding studies done by contract by the State or one of its political subdivisions, wherein the initiating body shall notify the state archivist, who is in turn charged with maintaining a complete, current index of these studies and sending copies, at least semi-annually to the governor, county mayors, the

legislative reference bureau, and the legislative auditor. The archivist may request deposit of a copy of any study or portion thereof with the archives which shall be complied with, with exemptions from compliance for the governor and mayors if it would be “contrary to the public interest.” Section 94-7 provides that restricted access to government records in the state archives be honored until eighty years after the creation of the record.

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes
 No

- a. If “Yes,” cite to and provide relevant language.

HAW. REV. STAT. §92F-2 promotes the conduct of governmental business as openly as possible, balanced by a recognition of personal rights of privacy. Citizens’ access to government records is addressed by the following subsections of this statute:

“(3): Enhance governmental accountability through a general policy of access to government records;

(4) Make government accountable to individuals in the collection, use, and dissemination of information relating to them; and

(5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy.”

HAW. REV. STAT. §92F-11 – 92F-19 comprise the “Freedom of Information” provisions, which detail the responsibilities of agencies to provide citizens with access to government records, notice, penalties and methods of enforcement, and limitations and exceptions to disclosure requirements.

The Director of the Office of Information Practices, under HAW. REV. STAT. 92F-42(11) “Shall inform the public of the following rights of an individual and the procedures for exercising them:

(A) The right of access to records pertaining to the individual ;”

Additional comments:

Acknowledgment of the state’s responsibility to permanently maintain public records is less clear, but arguably, there is a commitment to retention, subject to the judgment of appropriate governmental officers as set forth in HAW. REV. STAT. 94-3, *supra*, despite the language highlighting “disposal” rather than “retention.”

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes
 No

- a. If "Yes," cite to applicable statutes/regulations and identify the responsible officer/government entity.

Part IV of the Uniform Information Practices Act (Modified) is entitled "Office of Information Practices; Duties." HAW. REV. STAT. §92F-41 establishes the Office within the Office of the Lieutenant Government for administrative purposes, provides for a gubernatorial appointed Director of the Office, and vests powers and duties of the Office in the Director and his or her officers or employees. HAW. REV. STAT. §92F-42 is entitled and details the "Powers and duties of the office of information practices."

- b. If "Yes," also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

No sources of law could be identified regarding the permanency of maintaining government information.

Additional comments:

House Bill 2602 (and companion bill SB2545), introduced in the 2002 legislative session, but apparently not enacted, proposes the creation of a five-person State Information Practices Commission, to be appointed by the Governor. Among the Commission's charges, which include appointment of the Director of the Office of Information Practices, are the following:

"3) Make recommendations to the legislature for proposed changes to the Uniform Information Practices Act, chapter 92F, the public reports required under section 92F-18, chapter 92, and other issues relating to government information, disclosure of information, or information privacy;
(4) Study information issues raised by technology and make recommendations on appropriate information practices and policies in the new economy."

- 8. Has any public records legislation/administrative regulation been proposed calling for "permanent public access" to electronic public records?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

- 9. Has litigation under the public records statutes resulted from the state's failure to "permanently" maintain a public record?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under public records statutes/regulations.

B. FREEDOM OF INFORMATION ACT

A state’s freedom of information act (or law) generally addresses public access to “public records.” As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

1. Does your state have a “freedom of information act,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite your state’s freedom of information act (or law) statutes and the administrative regulations that supplement them.

Uniform Information Practices Act (Modified), HAW. REV. STAT. §92F-11-92F-19 (1993).

WEIL’S CODE OF HAW. RULES (1998; current through the 2001 legislative session).

92F-11	2-71-1, 11 to 18; 5-31-39; 6-20-2, 3; 6-61-5; 15-160-13; 11-60.1-99; 14-56-5; 15-180-6; 16-25-27, 28; 16-36-14; 16-301-2; 17-15-3; 17-1702-8
92F-12	6-20-4; 11-60.1-99; 13-1-9; 13-300-2, 4, 24; 15-26-6; 15-191-7; 16-36-14
92F-13	5-31-39; 6-20-4; 13-300-4; 15-26-6; 15-160-14; 15-180-7; 16-25-27, 28; 18-231-19.5-04
92F-14	3-124-3; 5-31-39; 6-20-4; 15-26-6; 17-400-5; 17-401-26,27; 17-601-3; 17-1401-3; 17-1702-4
92F-18	5-31-40; 6-61-6; 16-25-27, 28
92F-19	17-1702-6

b. If “No,” skip this whole section.

Additional comments:

Part II of the Uniform Information Practices Act (Modified), is entitled “Freedom of Information.”

2. The freedom of information act statutes/regulations apply to which of the following branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

The Freedom of Information provisions are part of the Uniform Information Practices Act (Modified) and are thus covered by the regulations issued thereunder (see explanation under A.2.a., *supra*).

Additional comments:

3. Cite to freedom of information law statutes/regulations where “public record” is defined.

The term “public record” is not used within the UIPA. Part I of the statute, entitled “General Provisions and Definitions,” includes HAW. REV. STAT. 92F-3, “General Definitions,” which provides the following: ““Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form.” This definition is distinguished from a subsequent definition in the same provision for “Personal record.”

This definition applies to the entire UIPA, including Part II, Freedom of Information provisions.

Additional comments:

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

Yes
 No

- a. If “Yes,” discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.

Updated through the 2001 legislative session, HAW. REV. STAT. 92F-3 (1993), which defines “government record” to include electronic records, has remained unchanged since its enactment in 1988.

- b. If “Yes,” also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

See 4. a., *supra*. The definitional section of the statute specifically mentions electronic records, without providing for any different treatment.

Additional comments:

5. Do any freedom of information act statutes/regulations assure “permanent public access” of electronic public records?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

See notes at A.5.a., *supra*.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes
 No

- a. If “Yes,” cite to and provide relevant language.

See discussion at A.6.a., *supra*.

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for “permanent public access” of electronic public records?

Yes
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state’s failure to “permanently” maintain a public record?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

9. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under freedom of information act statutes/regulations.

C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section

is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

1. Does your state have any “public access laws,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite each of your state’s public access law statutes and the administrative regulations that supplement them.

Uniform Information Practices Act (Modified), HAW. REV. STAT. §92F -1 *et seq.* (1993 & Supp. 2001).

WEIL’S CODE OF HAW. RULES: See listing at A.1., *supra*.

b. If “No,” skip this whole section.

Additional comments:

2. For each public access law, specify the branches to which it applies.

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

See discussion at A.2.a., *supra*.

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

For the Uniform Information Practices Act (Modified), the government information addressed by the law is “government records,” as distinguished from “personal records.” See discussion at A.5.a., *supra*.

Additional comments:

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

In most instances, the term “electronic” is included as a form of government record to be maintained, but no different, separate treatment is specified (see discussion at A.3., *supra*).

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

Yes

No

- a. If “Yes,” for each public access law, cite to and briefly discuss the permanency provisions.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

Yes

No

- a. If “Yes,” cite to and briefly discuss the accessibility provisions.

See discussion under A.6.a., *supra*.

Additional comments:

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to government publications or acknowledge the state’s responsibility to permanently maintain government publications?

Yes

No

- a. If “Yes,” cite to and provide relevant language.

See discussion under A.6.a., *supra*.

Additional comments:

8. Has any public access legislation/administrative regulation been proposed calling for “permanent public access” of electronic publications?

Yes

No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under any public access law resulted from the state’s failure to “permanently” maintain a government publication?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of government publications under public access laws.

D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes
 No

- a. If “Yes,” provide the complete official name for the office and/or officer; cite to the statute giving that information.
- b. If “No,” skip this whole section.

Additional comments:

Uniform Information Practices Act (Modified), HAW. REV. STAT. §92F -1 *et seq.* (1993 & Supp. 2001).

WEIL’S CODE OF HAW. RULES: See listing at A.1., *supra*.

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

Additional comments:

3. Does the office/officer have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the office/officer.

Additional comments:

4. The office/officer has jurisdiction over which branches?

- Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

- Yes
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to "permanent public access" of government information?

- Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

7. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

- Yes
 No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

- Yes

No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

9. Has the office/officer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes

No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

10. Has any litigation involving the office/officer resulted from the state's failure to "permanently" maintain government information?

Yes

No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

E. STATE TECHNOLOGY PLANS

1. Does your state have a current official information technology plan (or equivalent)?

Yes

No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.

According to the State of Hawaii government Web site, the State IT Strategic Plan, adopted in September 2000, was a collaboration between the Office of the Government and the Department of Accounting and General Services, with significant contributions by the Statewide Information Technology Committee (SWITCH, comprised of IT managers from the state agencies, the legislature and the judiciary). The Web site at http://www2.state.hi.us/tech/page_text.cfm?p=32 sets forth a presentation to the Governor's Cabinet (9/20/00), a Report, with an appendix, and the Governor's Chief Information Officer Proposal, with Exhibits 1-4. Presumably, the Plan was authorized by the Governor.

- b. If “Yes,” also provide complete bibliographic information about the plan; when was it published?

As detailed in E.1.a., *supra*, the plan was adopted in September 2000. A search of the available area online catalogs reveal no bibliography entry for the 2000 plan. It is accessible at the Web site http://www2.state.hi.us/tech/page_text.cfm?p=32.

- c. If “No,” skip this whole section.

Additional comments:

2. The technology plan covers which branches?

- Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

The “Vision” statement of the Plan seeks to “Optimize delivery of State of Hawaii government services through information technology (IT), including alternative IT service delivery mechanisms that will supplement over-the-counter delivery of State government services to citizens, businesses, employees, other government entities.” There is no known applicable statute or regulation.

Additional comments:

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

- Yes
 No

- a. If “Yes,” cite to and provide relevant language of the plan.

While there is no direct mention of “permanency” in the Plan, Section “III. Invest in State’s Physical Information Technology Infrastructure, 2. Improve IT Infrastructure Survivability and Continuity of Service” evinces a commitment to safeguard the integrity of government information through power outages, natural disasters and communication disruptions.

Section “V. Manage Information From an Enterprise Perspective, 1. Establish data warehousing” also evokes the notion of consolidating and storing information. The commentary to this section states: “Information is a critical asset of State government. It must be managed from an enterprise perspective to ensure accuracy, integrity and availability.”

Additional comments:

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

F. STATE PRINTING OFFICE AND STATE PRINTER

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.
- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the printing office/official printer.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.

- b. What percentage of official state government documents are printed by the printing office/official printer?
- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Additional comments:

- 6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

- 7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

- 8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

- 9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state’s official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes
 No

- a. If “Yes,” provide the complete official name for the archives and/or archivist; cite the statute giving that information.

Public Archives, HAW. REV. STAT. §94-1 (1993). However, HAW. REV. STAT. §94-7 (1993), initially enacted in 1989 and amended in 1991, refers to the “state archives” rather than the “public archives.”

Archivist, HAW. REV. STAT. §94-4 (1993).

- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the archives/archivist.

Laws of 1905, Act 24, §2, as codified in HAW. REV. STAT. §94-1 (1993).

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

Yes
 No

a. If "Yes," cite the body of administrative regulations promulgated by the archive/archivist.

WEIL'S CODE OF HAW. RULES §3-20-1 - §3-20-9; §8-5-12; §17-401-28 (1998; current through the 2001 legislative session). Promulgated by the Department of Accounting and General Services and Comptroller, on behalf of the Archivist.

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

HAW. REV. STAT. §94-3, covers disposal of government records generally. The Judiciary is exempt from State Comptroller's authority.

Additional comments:

5. Briefly discuss the functions of the archive/archivist.

The State Archives acquires, preserves, and makes accessible non-current government records of enduring administrative, fiscal, legal, and historical value.

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes
 No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The statutory provisions specific to the archives and archivist do not specifically address “permanent public access.” These are discussed in Chapter 92F Uniform Information Practices Act (Modified), Hawaii Revised Statutes.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Refer to Section 94-3 Hawaii Revised Statutes. “...The comptroller shall determine the disposition of the records; stating whether such records should be retained by the office, department, or bureau; be transferred to the public archives, the University of Hawaii, the Hawaiian Historical Society, or other agency; or be destroyed. The comptroller shall have full power of disposal of all records submitted for such purpose....”

Additional comments:

Not all government information if of permanent value.

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

Records that have been appraised as permanent may be transferred to the State Archives pursuant to HAW. REV. STAT. §94-1.

10. Has the archive/archivist undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes

No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

Hawaii State Archives appraises, arranges, and describes records in its collection. Bibliographic records are entered into Hawaii Voyager, an online bibliographic database. Selected records series are microfilmed.

The determination of which government records are open or closed to the public is a function of the Office of Information Practices.

11. Has any litigation involving the archive/archivist resulted from the state's failure to "permanently" maintain government information?

Yes

No

- a. If "Yes," briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

Not during the past 15 years.

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

None.

H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes

No

- a. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

Official name of library: Hawaii State Public Library System

Official name of librarian: State Librarian

- b. If "No," skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the library/librarian.

Statutory provisions relating to the State Librarian and the Hawaii State Public Library System fall predominantly within the purview of Chapter 312 Libraries in the Hawaii Revised Statutes. Under HAW. REV. STAT. §312-1. Duties of the board of education, the Board is charged with the responsibility of providing and supporting library services within the State of Hawaii. This includes the power to “...appoint such officers and employees as it deems necessary” to effect its programs.

HAW. REV. STAT. §312-2.1(a) (1993 & Supp. 2001) states that “The state librarian shall be appointed by the board of education, without regard to chapters 76 and 77 [Civil Service and Compensation], shall be under the direction of the board, shall be responsible for the operation, planning, programming and budgeting of all community/school and public libraries within the State, and may be removed by a majority votes of its members. The state librarian may be appointed:

- (1) Without regard to the state residency provisions of section 78-1(b); and
- (2) For a term of up to four years.

Although there are specific responsibilities of the State Librarian and of the Hawaii State Public Library System set forth elsewhere within Chapter 312, the primary charge to the State Librarian and to the Hawaii State Public Library System essentially is captured within and delegated to them by the Board of Education’s duties enumerated in §312-1, which include:

“The board of education shall care for, manage, and control all property set apart, donated, loaned to, or in any manner acquired for the use of libraries; receive, care for, expend, and account for any money which may be received for the purpose of erecting buildings for libraries or for any other purposes of the libraries; collect, purchase, receive gifts of, and otherwise acquire all books and other publications proper for libraries, and arrange, classify, and catalogue the same; provide for their safekeeping; expend moneys appropriated by the legislature and otherwise acquired for the development, use, support, and maintenance of libraries; provide ways and means for placing libraries within reach of all residents throughout the State and particularly of all public and private school children; provide and maintain branch libraries, offices, or places for the distribution of books and periodicals throughout the State; make such contracts as may be necessary to carry into effect the general duties herein imposed; appoint such officers and employees as it deems necessary; and make rules for the management and use of libraries, and for the control of the property under its management.”

Other responsibilities are set forth in the remaining provisions of Chapter 312. Provisions relating to the state government documents program within the Hawaii State Public Library System, under the direction of the State Librarian, are covered in Chapter 93 Government Publications, Hawaii Revised Statutes.

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

- Yes
 No

a. If "Yes," cite the body of administrative regulations promulgated by the library/librarian.

Administrative rules with statewide applicability are promulgated by the Department of Education (DOE), and set forth in Title 8, Department of Education, Subtitle 3 Public Libraries, Chapter 200.1 *et seq.* These rules are available from the agency, in WEIL'S CODE OF HAW. RULES §8-200.1 – 8-210.1 (1998), and at the agency's website (<http://doe.k12.hi.us/>).

Additional comments:

The State Librarian and her staff draft administrative rules affecting them and the Hawaii State Public Library System.

4. The library/librarian has defined responsibilities for which branches?

- Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Under the delegated authority of HAW. REV. STAT. §312-1 (1993), the State Librarian and the Hawaii State Public Library System have defined responsibilities to all residents of the state, presumably including members of all branches of government.

Additional comments:

5. Briefly discuss the functions of the library/librarian.

Additional comments:

The primary functions of the State Librarian and the Hawaii State Public Library System are set forth in Question 2., *supra*. In a nutshell, they are charged with responsibility for all community/school and public libraries within the State; for the state government depository program, and for literacy and lifelong learning programs.

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

- Yes
 No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to “permanent public access” of government information?

Yes
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The State Publications Distribution Center, now referred to as the Hawaii Documents Center, which is the depository and distribution center for government publications, is established within the Hawaii State Public Library System under the direction of the State Librarian (HAW. REV. STAT. §93-1 - §93-15 (1993 & Supp. 2001), and is subject to records retention laws. Under the definition §93-2, “Publication” includes any document, compilation , journal, report, statute, regulation, ordinance issued in print by any state or county agency, and confidential publications which shall be deposited in accordance with security regulations to be determined by the issuing agency.”

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

See note under H.7.a., *supra*.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the library/librarian resulted from the state's failure to "permanently" maintain government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

The State Librarian has observed that in most other states, the State Archives (administratively under the oversight of the Department of Accounting and General Services (HAW. REV. STAT. §94-1 (1993)) and the provision of information services to the executive and legislative branches, provided in Hawaii by the Legislative Reference Bureau (HAW. REV. STAT. §23G-3 (1993), as to provision of services to the Legislature) comprise two functions commonly thought of as state library functions. In addition, the Department of Commerce and Consumer Affairs bears responsibility for eHawaiiGov, the state's internet portal for government information.

H.1. STATE LAW LIBRARY AND STATE LAW LIBRARIAN

This section addresses your state's official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library and an official law library (and/or official librarian and official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

Official name of library: State Law Library System

Official name of librarian: State Law Librarian

Established by order of the Supreme Court of Hawai'i, July 8, 1969.

- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the library/librarian.

None.

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

Yes

No

a. If "Yes," cite the body of administrative regulations promulgated by the library/librarian.

Additional comments:

4. The library/librarian has defined responsibilities for which branches?

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

The position description and functional statements for the State Law Librarian position states that the librarian is responsible for the planning and administration of the State Law Library System of the Judiciary, State of Hawai`i.

Additional comments:

5. Briefly discuss the functions of the library/librarian.

The Hawai`i State Law Library System, established in 1966, collects, organizes and disseminates information and materials related to legal research and judicial administration. The Supreme Court Law Library in Honolulu, which serves as the administrative headquarters, and the satellite branches in the Second, Third, and Fifth Judicial Circuits are unified into one system under the direction of the State Law Librarian.

The operation of the State Law Library System is governed by Rule 12 of the Rules of the Supreme Court of Hawai`i.

The fundamental purpose of the State Law Library System is to provide legal reference and information services to the Hawai`i Judiciary. Therefore, the court libraries are primarily for the use of the justices/judges and their law clerks and other state court staff.

The library system is also "available to all who have need of its resources for legal research and study"; a privilege but not a legal right granted by Rule 12(a) of the Supreme Court rules. The libraries are committed to enhancing access to justice and ensuring that legal resources are available to all who have need for them through the following types of activities:

- (1) providing legal reference sources and information services
- (2) collecting, organizing, and disseminating information and materials in various formats relating to legal research and judicial administration
- (3) providing assistance and training to library users on the use of print and non-print legal resources
- (4) maintaining easily accessible, well-organized collections in as complete and up-to-date manner as is fiscally possible.

The library system is also responsible for acquiring resources and providing distribution, inventory, and maintenance support for the standard chamber collections of the Supreme Court justices, Intermediate Court of Appeals judges, circuit, family and district court judges, and other support offices of the Hawai`i Judiciary.

Additional comments:

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

Yes
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to "permanent public access" of government information?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Hawai`i Revised Statutes § 28-3, provides that the "attorney general shall file a copy of each opinion with...the supreme court library. Opinions on file with the...supreme court library shall be available for public inspection."

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

The Uniform Information Practices Act, chapter 92F, Hawai'i Revised Statutes, governs access to government records.

Also, each branch of government issues its own records retention schedules. For example, the Executive Branch has "General Records Schedule" and "Departmental Records Schedule"; each county produces its own "General Retention Schedules"; and the Judiciary issues "Records Control Schedules 1 through 4."

Additional comments:

Information in the second paragraph of a., above, was provided by the State Law Librarian. The Judiciary issues its schedules by court order. The judicial order cited in 8.a., above, is entitled:

"In the Supreme Court of the State of Hawaii. In the Matter of the Retention and Disposition of Judiciary Records. Order Governing Retention and Disposition of Judiciary Records. December 10, 1999."

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

See response to question #7 in this section.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

Additional comments:

a. If "Yes," briefly describe those special initiatives or projects;

discuss their effectiveness and actual accomplishments.

The Supreme Court Law Library has been publishing all appellate court dispositions to the Judiciary's web site (<http://www.courts.state.hi.us>) since January 1998. To the extent it is able to do so, it intends to retain archival files.

Additional comment

While not directly involving the Supreme Court Law Library, the Judiciary itself appears to be at the forefront in making government records available to the public, and expanding its offerings of archival judicial documents and materials. The Judiciary's track record evinces a commitment to providing permanent public access to its public records, even though there is no specific statutory language mandating their actions.

As a service to the public, the Judiciary, on its Web site, provides access to the full text of its appellate opinions since 1998, and access to the Ho'ohiki Web site, which provides Circuit and District court case information, updated on a daily basis. Also available are court rules and proposed court rules, the administrative orders for the Circuit Courts.

Recent legislation from the 2002 legislative session amending HAW. REV. STAT. §602-5.5, formerly entitled "Disposition of judiciary records" illustrates the State Judiciary's increasing reliance on electronic media. The new title of the section is "Judiciary records." A new section (a) was added which reads: "Notwithstanding the provisions of any other law to the contrary, the supreme court shall determine whether, and the extent to which, the judiciary, will create, accept, retain, or store in electronic form any case, fiscal, and administrative records and convert written case, fiscal, and administrative records to electronic records." Section (b) of the revised statute retains the original provision regarding care, custody, and disposition of records.

Recent legislation from the 2002 legislative session amending HAW. REV. STAT. §602-5.5, formerly entitled "Disposition of judiciary records" illustrates the State Judiciary's increasing reliance on electronic media. The new title of the section is "Judiciary records." A new section (a) was added which reads: "Notwithstanding the provisions of any other law to the contrary, the supreme court shall determine whether, and the extent to which, the judiciary, will create, accept, retain, or store in electronic form any case, fiscal, and administrative records and convert written case, fiscal, and administrative records to electronic records." Section (b) of the revised statute retains the original provision regarding care, custody, and disposition of records.

11. Has any litigation involving the library/librarian resulted from the state's failure to "permanently" maintain government information?

Yes
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a “depository library program,” as referred to in the paragraph above?

Yes
 No

- a. If “Yes,” cite your state’s depository library law statutes and the administrative regulations that supplement them.

Originally enacted in 1965, Chapter 93 of the Hawaii Revised Statutes is entitled “Government Publications.” Part I of this Chapter is entitled “State Publications Distribution Center” (HAW. REV. STAT. §93-1 - §93-5 (1993 & Supp. 2001)). The Center is now referred to as the Hawaii Documents Center. Part II. of the Chapter is entitled “Publications; Specific Provisions.” (HAW. REV. STAT. §93-11-§93-15 (1993 & Supp. 2001)). The Center and its programs are established within the public library system, under the direction of the State Librarian.

WEIL’S CODE OF HAW. RULES (1998; current through the 2001 legislative session):

93-2	8-5-3
93-3	17-6-3-4; 17-1403-4; 17-1701-4
93-11	8-5-10

- b. If “No,” skip this whole section.

Additional comments:

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?
- b. If “No,” explain whether or not the statutes/regulations have been construed to cover electronic government information?

Additional comments:

As applied to the depository program, electronic information is not even mentioned. The definitional provision of the statute, HAW. REV. STAT. §93-2 (1993) Definitions. Provides:

“Print” includes all forms of printing and duplications, except administrative forms.

“Publication” includes any document, compilation, journal, report, statute, regulation, ordinance issued in print by any state or county agency, and confidential publications which shall be deposited in accordance with security regulations to be determined by the issuing agency.

“State and county agency” includes every state, city and county and county office, officer, department, board, commission, and agency, whether in the legislative, executive, or judicial branch.”

3. Do any depository library statutes/regulations assure “permanent public access” of electronic government information?

Yes

No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

There is no specific language that assures “permanent public access,” unless the use of the term “depository” carries an inherent implication of permanency as to retention and public access.

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to government information or acknowledge the state’s responsibility to permanently maintain public records?

Yes

No

- a. If “Yes,” cite to and provide relevant language.

Additional comments:

5. Have depository libraries as a whole undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes

No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Approximately 60-70% of the monographic titles received under HAW. REV. STAT. §93-1 *et seq.* are microfilmed for permanent retention. Working copies of these microforms are provided to the seven depository public libraries in the public library system throughout the four counties of Hawaii.

Additional comments:

6. Please determine the absolute number or percentage of titles:

- 10% Formerly distributed in print, now distributed exclusively in electronic format.
 15% Never before distributed, now distributed in electronic format.

Additional comments:

These percentages are a very approximate estimate graciously provided by the Documents Librarian, Hawaii State Public Library System. His note adds that these figures are “based on observation, we do not “handle” electronic format information from government agencies except for the occasional CD-ROM).”

7. Discuss the depository library program’s effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

This activity is not within the scope of the public library system’s state and county publications program.

Additional comments:

J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure “permanent public access.” A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state’s highest court relies on the state bar association to publish the court’s decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

- Yes
 No

a. If “Yes,” describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

The Hawaii State Bar Association (HSBA) hosts certain state agencies on its HSBA Web site (<http://www.hsba.org/>). These agencies provide decisions on the HSBA Web site that are not found on their own home pages. These include:

Corporation Counsel Opinions at <http://hsba.hostme.com/Corp/corpin.htm>. These include abstracts to the Memoranda of Law issued by the Department of the Corporation Counsel, City & County of Honolulu, from 1988-1993.

Department of Labor & Industrial Relations (DLIR), State of Hawaii at <http://hsba.hostme.com/dlir/dlir.htm>. Included are Appeals Board Workers' Compensation Opinions and Occupational Safety & Health Decisions, as well a link to DLIR's Home page.

Department of the Attorney General (DAG), State of Hawaii at <http://hsba.org/Hawaii/Admin/Ag/agindex.htm>. Formal Opinion Letters 1987-1992 are hosted on the HSBA website, with a link to DAG's website for opinion letters from 1993- .

Hawaii Case Law Archives, at <http://www.hsba.org/index/court/CASELAW.HTM>. This page contains Hawaii Supreme Court and Intermediate Court of Appeals decisions, from 1989 to 1997, with a link to the Judiciary's page for decisions from 1998- .

Motor Vehicle Insurance Headnotes, at <http://www.hsba.hostme.com/MVI/mvimain.htm>, which includes cumulative compilations of headnotes from 1998- .

Office of Information Practices Opinions, at <http://hsba.hostme.com/Info/infoindex.htm>. This site includes opinions from 1989-.

Additional comments:

The Executive Director of the HSBA responded that there is a formal, written agreement with the Department of Labor and Industrial Relations regarding the hosting of that agency's administrative decisions on the HSBA home page. As to the other agencies, the Executive Director has been zealous in her efforts to encourage other governmental agencies to provide their agency decisions to HSBA for addition to its web site.

Through her own enthusiasm and advocacy efforts on behalf of the state bar and the public, the HSBA Executive Director has amply demonstrated her commitment to providing permanent public access to the agency materials offered on HSBA's web site.

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes
 No

a. If "Yes," describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

See responses to Question 1., *supra*.

Additional comments:

3. Does any state agency or other government entity secure "permanent public access" through any other type of cooperative arrangement?

Yes
 No

a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

No such arrangements could be ascertained.

K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS

1. If “permanent public access” is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:
 - a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.

HAW. REV. STAT. §92F-2 [UIPA]. Purposes; rules of construction at (3) Enhance governmental accountability through a general policy of **permanent** access to government records [emphasis added];

HAW. REV. STAT. §93-2 [Government Publications]: Alter limitation on “print” publications to include electronic; insert retention language.

H.B. No. 2306 A Bill for an Act Relating to Judiciary Records (2002 Legislative Session): Seeks to amend HAW. REV. STAT. Chapter 602 on the Courts of Appeal to give the Supreme Court sole control over the disposition of judicial records:

“§602- Judiciary records. Notwithstanding the provisions of any other law, the supreme court shall determine whether, and the extent to which the judiciary will create, accept, retain, or store in electronic form, any case, fiscal, and administrative records and convert written case, fiscal, and administrative records to electronic records.”

“Permanency” is not provided for in the statutory language, but if passed, the provision would allow the court, which appears to be committed to retaining its records, to do so.

- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

If legislation is passed creating the state level position of Chief Information Officer (CIO), it would appear that that position would most naturally be made responsible for “permanent public access” of public government information. All of the survey participants contacted are aware that there is a lack of statutory or regulatory language mandating permanency, even though all participants stated unequivocal support of permanency. The general sense among survey participants is that their parent agencies also support permanency, and that the only real concern is whether hosting parties (e.g., the HSBA or the responsible state agencies) would continue to provide adequate technological storage and support of archival electronic files. It would appear that the CIO position would be in the best position to consolidate the efforts already being developed within agencies and allied organizations, and influence and help develop policies and guidelines for permanency that would have state-wide applicability.

In the current state administration, the Office of the Lieutenant Governor has played a leadership role in creating The Virtual Rules Center (<http://swat.state.hi.us/VRC.htm>), which consolidates on the web agency administrative rules and regulations, and provides links to agency web pages. If this focus on making agency material available continues in future administrations, it would appear that the Lieutenant Governor's Office is another potential key player in assuring permanency of public information.

Additional comments:

2. Discuss known failed efforts in your state to achieve "permanent public access"; how might new efforts succeed?

No failed efforts have been discovered.

Additional comments:

Interested organizations and individuals should feel empowered to contact administrators at key agencies (e.g., Office of Information Practices), the legislature, the judiciary, and affiliated organizations (e.g., the Hawaii State Bar Association) to educate them on the merits of providing a permanent and permanently accessible collection of public government information to enhance the development of an informed state citizenry. Strategic consolidation of efforts to help achieve that goal should be particularly effective in this election year and be directed to candidates at every level of government.

L. DIRECTORY

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent):

None at this time.

2. State Printer:

None at this time.

3. State Archivist:

Susan E. Shaner

State Archivist

Iolani Palace Grounds

Honolulu, HI 96813

Telephone: (808) 586-0310

Fax: (808) 586-0330

E-Mail: archives@hawaii.gov

Web site: <http://www.state.hi.us/dags/archives/welcome.html>

- 4a. State Librarian:

Virginia Lowell

State Librarian

Hawaii State Public Library System
Office of the State Librarian
465 South King Street, Room B-1,
Honolulu, HI 96813
Telephone: (808) 586-3704
Fax: (808) 586-3715
E-mail stlib@lib.state.hi.us
Web site: <http://www.hcc.hawaii.edu/hspls>

4b. State Law Librarian:
Ann S. Koto
State Law Librarian
Supreme Court Law Library
Aliiolani Hale
417 South King Street
Honolulu, HI 96813
Telephone: (808) 539-4964
Fax: (808) 539-4974
E-mail hisella@pixi.com

5. State Attorney General (on freedom of information act issues, etc.):
Mark J. Bennett
Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813
Telephone: (808) 586-1500
Fax: (808) 586-1239
E-mail: hawaiiag@exec.state.hi.us
Web site: <http://state.hi.us/ag/>.

6. Office of Information Practices, Office of the Lieutenant Governor:
Leslie H. Kondo
Director
Office of Information Practices
No. 1 Capitol District Bldg.
250 South Hotel Street, Room 107,
Honolulu, HI 96813
Telephone: (808) 586-1400
Fax: (808) 586-1412
E-mail: oiip@state.hi.us
Web site: <http://www.state.hi.us/oiip/>.

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page:

E-HawaiiGov, at <http://www.ehawaii.gov/>

<http://www.hawaii.gov>

<http://www.state.hi.us/>.

2. State agency portal:

The Virtual Rules Center, at <http://swat.state.hi.us/VRC.htm>. Includes hyperlinks to existing and proposed Hawaii administrative rules, and a link to the agency's home page.

a. Does the portal have a searching capability similar to FirstGov?

No.

3. Legislative website:

<<http://www.capitol.hawaii.gov/>>

a. Does the website cover the current year only?:

No

b. Are services free or fee-based?

Free

4. Judicial websites:

<<http://www.courts.state.hi.us/>>

5. Regulatory agency websites:

Office of the Governor <<http://www.hawaii.gov/gov/>>

Office of the Lieutenant Governor <<http://www.hawaii.gov/lsgov/>>

Department of Accounting & General Services <<http://www.state.hi.us/dags/>>

Department of Agriculture <<http://www.hawaiiag.org/hdoa/>>

Department of the Attorney General <<http://www.state.hi.us/ag/>>

Department of Budget & Finance <<http://www.state.hi.us/budget/>>

Department of Defense <<http://web-server.dod.state.hi.us/>>

Department of Education Main Web Page <<http://doe.k12.hi.us/>>

Hawaii State Public Library System <<http://www.hcc.hawaii.edu/hspls/>>

Department of Hawaiian Home Lands <<http://www.state.hi.us/dhhl/>>

Department of Health <<http://www.state.hi.us/doh/>>

Department of Labor & Industrial Relations <<http://dlir.state.hi.us/>>

Hawaii Civil Rights Commission <<http://www.state.hi.us/hcrc/>>

Department of Land & Natural Resources <<http://www.state.hi.us/dlnr/>>

Department of Human Resources Development <<http://www.state.hi.us/hrd/>>

Department of Business, Economic Development & Tourism <<http://www.state.hi.us/dbedt/>>

Hawaii Community Development Authority <<http://www.hcdaweb.org/>>

Department of Commerce & Consumer Affairs <<http://www.state.hi.us/dcca/>>

Department of Human Services <<http://www.state.hi.us/dhs/>>

Department of Taxation <<http://www.state.hi.us/tax/>>

Department of Transportation <<http://www.state.hi.us/dot/>>

University of Hawaii <<http://www2.hawaii.edu>>

Department of Public Safety <<http://www.hawaii.gov/icsd/psd/psd.html>>
Hawaii Paroling Authority <<http://swat.state.hi.us/pdfs/psdhp.pdf>>

6. Freedom of Information Service Hotline

- a. Does the state have an ombudsman for freedom of information act issues?:

The closest parallel to an ombudsman would be the Director, Office of Information Practices.

- b. Is the state attorney general's office the public's contact for freedom of information act issues?

The contact for freedom of information act issues would be

Director

Office of Information Practices

No. 1 Capitol District Bldg.

250 South Hotel Street, Room 107

Honolulu, HI 96813

Telephone: (808) 586-1400

Fax: (808) 586-1412

E-mail: oiip@state.hi.us

Web site: <http://www.state.hi.us/oiip/>.