

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.

LA. CONST. ART. XII, § 3 (2002)

LA. REV. STAT. ANN. 44 §1 et seq (West Supp.2002)

LA. ADMIN. CODE tit. 4, § 301 (2000)

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

Additional comments:

A great many records are exempt from the Public Records Act. These include records of legislative investigations (LA. REV. STAT. ANN. 44 §2 (1982)); prosecutive, investigative, and law enforcement agencies records in certain circumstances (LA. REV. STAT. ANN. 44 §3 (West Supp. 2002)); and records of the Governor's office (LA. REV. STAT. ANN. 44 §5 (West Supp. 2002)). There is also a list of specific exemptions (LA. REV. STAT. ANN. 44 §§2-19 (1982 & West Supp. 2002)). See also LA. REV. STAT. ANN. 44 §4.1 (West Supp. 2002).

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.

Quoting LA. REV. STAT. ANN. 44 §1 (West Supp. 2002),

As used in this Chapter, the phrase "public body" means any branch, department, office, agency, board, commission, district, governing authority, political subdivision, or any committee, subcommittee, advisory board, or task force thereof, or any other instrumentality of state, parish, or municipal government, including a public or quasi-

public nonprofit corporation designated as an entity to perform a governmental or proprietary function.

Additional comments:

A limited exception to public disclosure exists for documents that the Supreme Court determines should remain confidential. *Bester v. La. Supreme Court, Committee on Bar Admissions*, 2000-1360, 779 So.2D 715 (La. 2001).

Minutes of meetings among the judges of the Ninth Judicial District are exempt from public meeting laws; the minutes or notes from these meetings are not public records. *Op. Atty. Gen. No. 96-229*, July 17, 1996.

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

LA. REV. STAT. ANN. 44 §1A(1) (West Supp. 2002). For language, see Additional Comments, below. Not defined in regulations.

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 only statutes that address electronic format separately are those dealing with records created in relation to electronic transactions.

LA. REV. STAT. ANN. 9:2607 (West Supp. 2002), the part of Louisiana’s Civil Code Ancillaries that treats uniform electronic transactions, confirms the legal effect of electronic records meeting the UETA standard, and states electronic format is acceptable for records required to be in writing under Louisiana law.

§ 2607. Legal recognition of electronic records, electronic signatures, and electronic contracts

A. A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

B. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

C. If a law requires a record to be in writing, an electronic record satisfies the law.

D. If a law requires a signature, an electronic signature satisfies the law.

Louisiana State Law Institute comments to this section state:

a) This Section sets forth the fundamental premise of this Chapter: namely, that the medium in which a record, signature, or agreement is created, presented or retained does not affect its legal significance. Subsections A and B of this Section are designed to eliminate the single element of medium as a reason to deny effect or enforceability to a record, signature, or agreement. The fact that the information is set forth in an electronic, as opposed to paper, record is irrelevant.

(b) Subsections C and D of this Section provide the positive assertion that electronic records and signatures satisfy legal requirements for writings and signatures. The provisions are limited to the requirements in laws other than found in this Chapter that a record be in writing or be signed. This Section does not address the requirements imposed by the other law in addition to requirements for writings and signatures.

Subsections C and D of this Section are particularized applications of Subsection A of this Section. The purpose of these Subsections is to validate and effectuate electronic records and signatures as the equivalent of writings, subject to all of the rules applicable to the efficacy of a writing, except as such other rules are modified by the more specific provisions of this Chapter.

(c) Section 2608 addresses additional requirements imposed by other law which may affect the legal effect or enforceability of an electronic record in a particular case. For example, in Subsection A of § 2608 the legal requirement addressed is *the provision of information* in writing. The section then sets forth the standards to be applied to determine whether the provision of information by an electronic record is the equivalent of the provision of information in writing. The requirements in § 2608 are in addition to the bare validation that occurs under this section.

(d) Under the substantive law applicable to a particular transaction within this Chapter, the legal effect of an electronic record may be separate from the issue of whether the record contains a signature. For example, where notice must be given as part of a contractual obligation, the effectiveness of the notice will turn on whether the party provided the notice regardless of whether the notice was signed (See § 2615). An electronic record attributed to a party under § 2609 and complying with the requirements of § 2615 would suffice in that case, notwithstanding that it may not contain an electronic signature.

Additional comments:

Although records in electronic format are not treated separately, their existence and inclusion under public records law are recognized in the statutory language, as noted below:

LA. REV. STAT. ANN. 44 §1A(2) (West Supp. 2002)

(a) All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, **regardless of physical form or characteristics, including information contained in electronic data processing equipment**, having been used, being in use, or prepared, possessed, or retained

for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, are "public records", except as otherwise provided in this Chapter or the Constitution of Louisiana.

LA. REV. STAT. ANN. 44 §39 (West Supp.2002) permits public bodies having custody of public records to utilize "any appropriate form of micrographic process, or an **electronic digitizing process capable of reproducing an unalterable image of the original source document** in order to maintain efficient and economical records management programs and to conserve storage space".

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

Yes
 No

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

LA. REV. STAT. ANN. 44 §32, §36 (West Supp. 2002)

Under LA. REV. STAT. ANN. 44 §36 (West Supp. 2002), custodians of public records, except those specifically excepted, are required to exercise "diligence and care" in preserving the records for the periods specified in **formal records retention schedules** developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. If no such retention schedule has been executed, such records must be preserved for at least three years from the date on which the record was created. There are exceptions for specific notarial, correctional, and revenue records, and for records accumulated during state agency participation in federal programs or grants. Title 44 §405 (West Supp. 2002) expands on the secretary of state/state archivist's right to promulgate retention guidelines.

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.

There are no provisions that cite to retention periods for electronic records, although Louisiana's version of the Uniform Electronic Transactions Act requires that electronic records arising under UETA remain accessible "for later reference." Additionally, Louisiana State Law Institute Comments to this section require migration of information to emerging technologies.

LA. REV. STAT. ANN. 9:2612 ((West Supp. 2002), "Retention of electronic records; originals" states:

- A. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:
- (1) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise.
 - (2) **Remains accessible for later reference.**
- B. A requirement to retain a record in accordance with Subsection A of this Section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.
- C. A person may satisfy Subsection A of this Section by using the services of another person if the requirements of Subsection A of this Section are satisfied.
- D. If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with Subsection A of this Section.
- E. If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with Subsection A of this Section.
- F. A record retained as an electronic record in accordance with Subsection A of this Section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after July 1, 2001, specifically prohibits the use of an electronic record for the specified purpose.
- G. This Section shall not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the jurisdiction of the agency.

Louisiana Law Institute Comments to this section follow:

- a) This Section deals with the serviceability of electronic records **as retained records and originals. As long as there exists reliable assurance that the electronic record accurately reproduces the information, this Section continues the general policy of this Chapter of establishing the functional equivalence of electronic and paper-based records.**
- (b) Subsection A requires accuracy and the ability access at a later time. The requirement of continuing accessibility addresses the issue of **technology obsolescence** and the need to **update and migrate information to developing systems**. This Section permits parties to convert original written records to electronic records for retention so long as the requirements of Subsection A are satisfied. Accordingly, in the absence of specific requirements to retain written records, **written records may be destroyed once saved as electronic records satisfying the requirements of this Section.**
Subsection A refers to the information contained in an electronic record, rather than simply relying on the term electronic record, to clarify that the critical aspect in retention is the information itself. What information must be retained is determined by the purpose for which the information is needed.
- (c) Subsections B and C simply make clear that certain ancillary information or the use of third parties, does not affect the serviceability of records and information retained electronically.

(d) Subsection D continues the theme of the Chapter as validating electronic records as originals where the law requires retention of an original.

(e) Subsection E addresses check retention requirements in other law. These requirements preclude banks and their customers from realizing the benefits and efficiencies related to truncation processes. The benefits to banks and their customers from electronic check retention are effectuated by this provision.

(f) Subsection F provides relief from existing record retention statutes. As long as the standards in this Section are satisfied, this Section permits all parties to obtain those benefits. The government may require records in any medium, however, Subsection G requires a governmental agency to specifically identify the types of records and requirements that will be imposed.

There are no provisions, regulations, or guidelines that address electronic records, decisions, or administrative rules. New rules and retention schedules for electronic records are in process as of this writing.

Note:

Only one case actually specifies electronic records as public records.
State v. Mart, 96 1584, (La.App. 1 Cir. 6/20/97), 697 So.2d 1055

There are a few Attorney General opinions which construe electronic documents as public records and which discuss retention periods. These do not pertain to *permanent* public access, however.

Opinion no. 01-206, July 11, 2001
Opinion no. 00-495, January 17, 2001
Opinion no. 98-366, December 29, 1998

Additional comments:

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.

There are many cases which uphold access to public records as a fundamental right, including:

Title Research Corp. v. Rausch, 450 So.2d 933 (La.,1984)

Alliance for Affordable Energy v. Frick, 695 So.2d 1126 (La.App.4.Cir.,1997)

Capital City Press v. East Baton Rouge Parish Metropolitan Council, 96-1979 (La. 7/1/97), 696 So.2d 562 (La. Jul 01, 1997)

Bartels v. Roussel, 303 So.2d 833 (La.App. 1 Cir., 1974)

Lewis v. Spurney, 456 So.2d 206 (La.App. 4 Cir., 1984)

Harrison v. Norris, 569 So.2d 585 (La.App.2.Cir.,1990)

Treadway v. Jones, 583 So.2d 119 (La.App. 4 Cir.,1991)

Amoco Production Co. v. Landry, 426 So.2d 220 (La.App. 4 Cir.,1982)

Trahan v. Larivee, 365 So.2d 294 (La.App. 3 Cir.,1978)

Bartels v. Roussel, 303 So.2d 833 (La.App. 1 Cir.,1974)

Landis v. Moreau, 779 So.2d 691 (La.,2001)

Elliott v. District Attorney of Baton Rouge, 664 So.2d 122 (La.App. 1 Cir.,1995)

Johnson v. Stalder, 754 So.2d 246 (La.App.1.Cir.,1998)

State v. Mart, 697 So.2d 1055 (La.App.1.Cir.,1997)

Elliott v. District Attorney of Baton Rouge, 664 So.2d 122 (La.App. 1 Cir.,1995)

Elliott v. Taylor, 614 So.2d 126 (La. App. 4 Cir.,1993)

State v. Campbell, 566 So.2d 1038 (La.App. 3 Cir.,1990)

United Financial Services of Baton Rouge, Inc. v. Guste, 555 So.2d 561 (La.App. 1 Cir.,1989)

Hill v. Mamoulides, 482 So.2d 26 (La.App. 5 Cir.,1986)

Laplante v. Stewart, 470 So.2d 1018 (La.App. 1 Cir.,1985)

Several Attorney General opinions cite to the public records law and affirm right of access. Attorney General Opinion no. 77-1359, Sept. 30, 1977, in particular states the following:

It is our opinion that it is the entire decision-making process that the Legislature intended to affect by the enactment of the Statute before us. This Act is a declaration of public policy by the State. It would be contrary to public interest to frustrate its objectives.

Additional comments:

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.
- 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.

Additional comments:

All responsibility rests with the individual custodians. However, LA. REV. STAT. ANN. 44 §36 (West Supp. 2002) provides for preservation of records through records retention schedules created by State Archives. If no retention schedule is set, the record must be preserved for at least three years.

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:

All supporting authority focuses on retention periods, as opposed to specifying what records must be kept in perpetuity. LA. REV. STAT. ANN. 44 §417 (West Supp. 2002) requires that records and associated historical materials of all state officials be transferred to the State Archives once there is change of administration. Comments by Assistant State Archivist Lewis Morris on June 3, 2002, indicate that agency compliance is problematic.

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.

LA. REV. STAT. ANN. 44 §§31-35 (1982 & West Supp. 2002). No regulations have been published.

b. If “No,” skip this whole section.

Additional comments:

The Louisiana statute cited above regarding public access to public records requires that any public document requested by a person of the age of majority must be delivered with no questions asked.

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.

Title 44 §§ 31-35 applies to all public entities: state, parochial, and municipal. Title 44 specifically exempts specific information emanating from specific offices from being construed as public records, but only the governor’s office has a broad exemption. The burden of proving that a public record is not subject to inspection, as well as copying and reproduction, rests with the custodian.

Additional comments:

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

La. Rev. Stat. Ann. 44 §§31-35 (1982 & West Supp. 2002) relies on the definition of public record stated in 44:1A(2) (West Supp. 2002).

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

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.

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 the cases and attorney general's opinion cited in A6, above.

Additional comments:

In Louisiana, an alternative remedy for a person denied access to public records is to institute action seeking mandamus that will direct a custodian to produce the requested records or will enjoin custodian from withholding records. *Alliance for Affordable Energy v. Frick*, 695 So.2d 1126 (La.App.4.Cir.,1997)

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

See also new regulations relating to authority of State Librarian, below.

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

Under authority of La. R. S. 25: 125 (1989), the Secretary of State delivers to the law library of Louisiana State University and Agricultural and Mechanical College not later than ninety days after they are printed:

- Twenty-five copies of the acts of the legislature
- Five copies of the journals of each house of the legislature
- Five copies of the proceedings of any constitutional convention.

In addition, in any contract which the Supreme Court may make for the printing of the Supreme Court reports, provision shall be made that the printer thereof shall deliver to the LSU Law Library without charge, fifty copies of each volume thereof within a reasonable time after printing. The LSU Law Library may exchange the public documents enumerated in this law for

publications relating to government useful to students of public law and to public officials, and shall catalog such material so as to make it serviceable to members of the legislature.

Under LA. REV. STAT. ANN. 24: 173 (1989), distribution of current acts and journals, the Secretary of State shall also distribute the current acts and journals of the legislature

- (1) To each member of the legislature, upon request submitted in writing to the secretary of state not later than September 1 of each year, not more than two copies of the journals of each house, and not more than two copies of the acts passed each session of the legislature while he is a member;
 - (2) To each department of the state government and to each state agency so designated by law, for the use thereof, as many copies of the acts as may be needed and are certified as necessary by the head of the department or agency;
 - (3) To each district attorney and sheriff of the various parishes of the state and to each clerk of the civil and criminal district courts throughout the state, one copy of the acts for the use of their offices and courts, respectively; to the clerk of each city or municipal court and of each juvenile court throughout the state, one copy of the current acts and journals for the use of their offices and courts, respectively; and to the clerk or secretary of the police jury or governing authority of each parish, one copy of the acts for the use of the police jury or other governing authority of the parish.
 - (4) To the recorder of mortgages and to the register of conveyances in and for the parish of Orleans, one copy each of the acts for their use of their respective offices;
 - (5) To the clerk of each of the courts of appeal of the state, three copies of the acts for the use of those courts;
 - (6) To the clerk of the supreme court of Louisiana, seven copies of the acts and seven copies of the journals for the use of the court;
 - (7) To the clerk of each of the circuit courts of appeal and district courts of the United States in and for the state of Louisiana, one copy of the acts, for the use of those courts;
 - (8) To each senator and to each representative elected from the State of Louisiana to the congress of the United States, one copy of the acts;
 - (9) To the State Library of Louisiana and to the Huey P. Long Memorial Library, three copies each of the acts and journals, for the use of those libraries; and to the Law Library of Louisiana at New Orleans, seventy copies of the acts to be used by it for library purposes and exchange purposes with state libraries of other states or other departments or agencies thereof;
 - (10) Repealed by Acts 1988, No. 58, § 5.
- B. The secretary of state may, in his discretion, distribute copies of any acts of the legislature to foreign governments or foreign institutions of learning as a means of promoting the free interchange of information regarding current social and legal developments.

LA. REV. STAT. ANN. 49:954.1 D (1987) reads

One copy, or multiple copies if practical, of the Louisiana Register and Louisiana Administrative Code shall be made available upon request to state depository libraries free of charge, and to other agencies or persons at prices fixed by the department of the state register to recover all or a portion of the mailing and

publication costs. Notwithstanding the provisions of R.S. 49:951(2) of this Chapter to the contrary, the Department of the State Register shall provide free copies of the Louisiana Register and the Louisiana Administrative Code to the David R. Poynter Legislative Research Library, the Senate Law Library, and the Huey P. Long Memorial Law Library.

There are no regulations related to these statutes.

- 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.

LA. REV. STAT. ANN. 24: 173 (West Supp. 2002) directs the Secretary to distribute specified materials not only to state officials in all three branches of government, but also to officials in parishes.

LA. REV. STAT. ANN. 25:125 (1989) directs the Secretary to distribute the specified materials only to the LSU Law Library

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.

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?

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.

Both laws cited are aimed at increasing distribution of legislative materials to officials as well as the public. Requiring distribution to publicly accessible libraries is obviously designed to facilitate public use.

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.

La. R.S. 25:125 (1989) is contained in Chapter 2 of Title 25, which has as its public policy statement:

§ 121. Policy

Freedom of access to public documents is a basic right of citizenship. Therefore, it is the policy of the state of Louisiana that state public documents shall be made available to the public. In order to obtain maximum efficient distribution and maximum availability of these documents, a depository system is hereby established.

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.

The Office of Information Technology; Chief Information Officer.

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

Additional comments:

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

Act 772 of 2001, effective July 1, 2001 (LA. REV. STAT. ANN. 39 §15 et seq (West Supp. 2002)).

Additional comments:

See also Executive Order MJF 02-06, March 27, 2002, further implementing the powers of the CIO, and ordering executive departments, commissions, boards, agencies, and officers of the state to cooperate with the CIO. 28 La. Reg.744 (Apr. 20, 2002)

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

- Yes
 No

LA. REV. STAT. ANN. 39 §15.2A (West Supp. 2002)

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

Notice of Intent to promulgate regulations, 28 La. Reg. 888 (April 20, 2002) (to be codified at LA. ADMIN. CODE tit. 4:XI.101, 301,303, 501, 503).

Additional comments:

There is also an Office of Electronic Services (formerly Louisiana Database Commission). LA. REV. STAT. ANN. 39 §16.3 (West Supp. 2002)

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.

The law reads:

The Office of Information Technology shall have authority over all information technology systems and services for agencies in the executive branch of state government. The office shall have no authority over the legislative or judicial branches of state government or agencies thereof. LA. REV. STAT. ANN. 39 §15.1 (2002)

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:

The correct answer is "Not applicable." The statute empowers OIT/CIO only in regard to creation of standards for hardware, software, services, contractual agreements, consolidation of systems and consolidations of management systems and to creation of IT strategic business technology planning, procurement, budgeting, and personnel.

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:

In an interview on June 11, 2002, state CIO Chad McGee noted that his official mandate from the governor does not require his involvement with permanent public access issues. However, Mr. McGee acknowledged that as head of the Office of Information Technology he has authority over all information technology systems and services for agencies in the executive branch. That being the case, he is willing to promulgate a policy statement recognizing electronic information products as items falling within the scope of Louisiana depository law and directing agencies to cooperate in transmitting electronic information products to the Louisiana Recorder of Documents.

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.

Louisiana also has an Office of Electronic Services. The Office of Electronic Services (OES), formerly known as the Office of Data Base Commission, was created within the Office of Information Technology by Act 772 during the 2001 Legislative Session. OES provides citizens, businesses, and government electronic access to comprehensive state information and services. The Office maintains INFO Louisiana (official state web site), the Louisiana Services Directory, Louisiana Database Catalog, Louisiana News, Louisiana E-Mall, electronic Announcements and Notifications, and the State Census Data Center. The purpose of the OES is to provide for a catalog maintained in electronic format of databases in Louisiana. LA. REV. STAT. ANN. 39 §16.3A(2) and 16.4 (West Supp. 2002).

The Director of the OES indicated during an interview with the author conducted on June 13, 2002 that his office could work toward a standard for metadata to be included in electronic documents. He noted that OES might be able to conduct training seminars for agency representatives in the proper creation of such metadata. He believes that from there the issues of discovery, retrieval, accessibility, format, and so on can be explored. There will still be troublesome issues--some very important agencies have their own content management systems and will be harder to reach.

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.

Office of the Governor, Division of Administration, Office of Information Technology.
LA. REV. STAT. ANN. 39 §15.3B(1) (West Supp. 2002)

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

Information Technology Master Plan, Executive Summary. April 10, 2002. Available at: http://www.state.la.us/oit/docs/IT_Master_Plan_041102.pdf (last visited December 12, 2002). The author has been advised by the Office of Information Technology that the executive summary is the full report.

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 IT Master Plan was created by the Office of Information Technology, an office within the executive branch. The office has no authority over the legislative or judicial branches. LA. REV. STAT. ANN. 39 §15.1 (West Supp. 2002)

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.

Additional comments:

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

The Master Plan does not include language related to public accessibility of electronic government information or permanency. However, the catalyst for this plan was a report entitled LAConnections, Louisiana's Blueprint for Digital Government, Making Louisiana State Government Technology Ready, February 1, 2001 (available at <http://www.state.la.us/oit/laconnections.htm>, last viewed December 12, 2002). This document includes as its vision

Every citizen will have access to Louisiana government services 24 hours a day, 7 days a week." Among the initiatives introduced in the plan were an Internet-based Louisiana E- Mall to offer government services though the Internet, such as licenses, permits, maps, publications, subscriptions, payment of fees, etc.; a uniform customer service directory where citizens can locate and access information about services from all state departments and agencies; a single state e-government Internet portal for integrated service delivery; and a security

architecture and web guidelines based on state/ agency privacy policies to assure customers that the appropriate security infrastructure and procedures are in place to guarantee the privacy and integrity of how state government information is handled. Another initiative provides for high speed information access for all communities via public libraries.

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.

Division of Archives, Records Management, and History, LA. REV. STAT. ANN. 44 §401 (West Supp. 2002)

State Archivist and Director of the Division of Archives, Records Management, and History, LA. REV. STAT. ANN. 44 §404 (West Supp. 2002).

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.

La. Acts, no. 337 (1956), no.691 (1972), and no.238 (1985)

Additional comments:

LA. REV. STAT. ANN. 44 §404 (West Supp. 2002) states that the Secretary of State has authority to enforce the provisions of Chapter 5; the Archivist exercises administrative duties and functions under the supervision and direction of the Secretary.

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

Yes (see additional comment)
 No

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

No regulations have been promulgated.

Additional comments:

The archivist may promulgate regulations, as authorized by the Secretary of State. See LA. REV. STAT. ANN. 44 §405A and B (West Supp. 2002).

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.

LA. REV. STAT. ANN. 44 §46A (West Supp. 2002) states that "All persons and public bodies having custody or control of any public record, other than conveyance, probate, mortgage, or other permanent records required by existing law to be kept for all time, shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State.

However, LA. REV. STAT. ANN. 44 §405 (West Supp. 2002) states that the legislature's intention is that such policies, rules, and regulations for records promulgated by the Archivist shall be binding upon **all the agencies of the state and its subdivisions.**

Additional comments:

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

LA. REV. STAT. ANN. 44 §405 et seq (West Supp. 2002)

The Archivist is empowered, under the supervision of the Secretary,

- (1) to promulgate policies for submission of lists and schedules of records proposed for disposal.
- (2) to develop procedures for the disposal of records authorized for disposal.
- (3) to develop procedures for the reproduction of public records by photographic, microphotographic, or other appropriate processes when necessary to assure the preservation thereof.
- (4) to develop procedures for preservation, repair, treatment, and restoration of records which are declared by the state archivist to have historical or archival value, whether stored in the state archives, the records center, or held in the custody of the repository agency.
- (5) to collect court records, official documents, reports, newspapers, church records, private papers, and other historical materials and data pertaining to the colonial, territorial, and statehood periods from the earliest times to the present, to have said documents, records, and material properly repaired, filed, indexed, and preserved, whether physically or by micrographic or other appropriate process or both, and, when deemed desirable, edited and published to encourage historical investigation and research in the history of the state.
- (6) to make surveys of government records and records management and disposal practices and obtain reports thereon from the state and local governmental agencies; to promulgate, on the basis of information obtained from those surveys and reports, such policies, rules, and regulations as are necessary to produce improved records management practices and controls in the various state and local agencies, including the central storage or disposition of records not needed by such agencies for their current use.
- (7) to administer a records management program and a records center for the use of state and local agencies.
- (8) to establish standards for the selective retention of records of continuing value, and to monitor agency compliance with such standards.
- (9) to accept records and associated historical materials of any governor of the state or any other official of the state.
- (10) to provide a centralized microfilm unit for use of state agencies.

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.

LA. REV. STAT. ANN. 44 § 417 (West Supp. 2002), cited below, would seem to require, by use of the word “shall,” that all state governmental records be transferred to the State Archives. The use of the words “associated historical materials” would seem to imply that records of significance should be retained and preserved. Section 417.B.2 would seem to require the State Archivist to take possession of records of enduring value.

There are no court decisions, attorney general opinions, or other sources of law that might be used to assess just how whether the State Archives pursues or receives such records.

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:

See 7.A., above, and Additional Comments, below.

LA. REV. STAT. ANN. 44 § 417 (West Supp. 2002) requires

A. The records and associated historical materials of any governor of the state of Louisiana, or any other official of the state, **shall** be transferred to the custody of the state archivist and deposited with the state archives program within the division when the governor, or other official of the state, leaves office. This Section shall not affect the confidentiality of such records as established by law, nor require the transfer of any document certified by the governor, governor elect, or other official of the state, to be essential for the continued efficient operation of the relevant governmental office; nor shall the provisions of this Section be construed to apply to demonstrably personal and private papers.

B. The state archivist is authorized:

(1) To accept for deposit in the state archives those records of any state or local agency or of the legislature that are determined by the director to have sufficient historical or other value to warrant their continued preservation by the state government of Louisiana.

(2) To direct and effect the transfer to the state archives of any records that have been in existence for more than fifty years and that are determined by the state archivist to have sufficient historical or other value to warrant their continued preservation by the state, unless the head of the state or local agency having custody of the records shall certify in writing to the state archivist that those records must be retained in agency custody because they are essential in the conducting of the regular current business of the said agency.

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:

Assistant State Archivist Lewis Morris, in an interview conducted on June 3, 2002, acknowledged the Division's responsibility to preserve public records (not the government information found in governmental publications), as required by Louisiana law. See LA. R. S. ANN. 44:417 (West Supp. 2002), cited in Item G.8. Additional comments, above.

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:

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:

The author located no such cases during research. Assistant State Archivist Lewis Morris, in an interview conducted on June 3, 2002, confirmed that no such litigation has been brought.

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

Assistant State Archivist Lewis Morris, in an interview conducted on June 3, 2002, said that the Division is currently working with the state CIO to develop retention schedules and regulations related to electronic public records. The regulations will detail how the records are to be maintained or migrated to new systems.

He also stated that the Division participates in yearly seminars for various records managers (municipal clerks, parish clerks of court) and electronic records are always the subject of discussion. A task force on records management of parochial records is being created, and one of the focuses will be electronic migration.

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.

State Library of Louisiana, LA. REV. STAT. ANN. 25 §1 (West Supp. 2002)
State Librarian as Executive Secretary of the Board of Commissioners of the State Library of Louisiana. LA. REV. STAT. ANN. 25 §5 (West Supp. 2002)
La. Acts, no. 938, § 2, 1991

- 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.

La. Acts, no. 938, 1991; LA. REV. STAT. ANN. 25 §8 (West Supp. 2002)

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.

LA. ADMIN. CODE tit. 25, Pt. 7 (2000), as provided for in LA. REV. STAT. ANN. 25 §14 (West Supp. 2002)

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 State Library Commission and State Library are primarily responsible for services and programs related to the executive branch. Other defined responsibilities for the State Library Commission and State Library with regard to parish and regional libraries are defined in LA. REV. STAT. ANN. 25 §§ 8-10, 16 (West Supp. 2002).

Additional comments:

In an interview on May 29, 2002, State Librarian Thomas Jaques said that it is understood that his administration of the Louisiana State Depository Program relates to the executive branch only.

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

The State Librarian

- (1) is the Executive Secretary for the Board of Commissioners of the State Library of Louisiana, which is charged with planning a coordinated system of parish and regional libraries throughout the state;
- (2) coordinates and integrates library service so as to afford institutions of primary, secondary, and higher education with the best free library service possible;
- (3) gives supervisory assistance and advice to parish libraries and receives reports from their boards of control;
- (4) administers the Louisiana Library Resources Program;
- (5) administers the State Depository Program under the management of the Recorder of Documents.

The State Library acts as recipient and facilitator of federal and state funding which gives aid to libraries and provides educational library service for citizens of Louisiana. The Library may also provide library services to the blind in cooperation with other states.

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.

Additional comments:

At the time of this writing, new regulations have been promulgated for public comment. These new regulations (28 La. Reg. 361, Feb. 20, 2002, to be published in LA. ADMIN. CODE tit. 25 § 4303), define "Electronic documents" as any discrete public document published in a static electronic or digital format, i.e.: CD-ROM, web document, floppy disk, etc." The regulation also states that whenever possible, paper is the preferred format for deposit with the Recorder of Documents.

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.

Yes, but indirectly. The regulations provide for "legally designated complete depository libraries, which are the historical depository libraries and which must retain one copy of all public documents received by the Recorder for distribution. (LA. ADMIN. CODE tit. 25 §4501)

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.

In an interview conducted on Wednesday, May 29, 2002, the State Librarian directly acknowledged responsibility for permanent public access to government publications due to responsibility assigned as head of the State Depository Program.

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.

In May 1999, the State Librarian called a committee of depository librarians, consumers, and agency representatives to study the state documents depository program. One of the focuses of this study committee was the effect of digitalization on the distribution of and access to state information. As a result, the aforementioned proposed regulations to define electronic information have been created and are awaiting final promulgation.

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:

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

Louisiana's ability to preserve electronic information is plagued by budgetary constraints, incessant cost-cutting measures, and a prevailing attitude among agency officials that paper documents are passé. These agency officials acknowledge electronic documents as being a new, effective, and efficient form of government publication, but thus far have shown little interest in preserving them.

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.

LA. REV. STAT. ANN. 25 §123 et seq (West Supp. 2002)

LA. ADMIN. CODE tit. 25 §4501 et seq (2001)

- 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?

The statutes and regulations have not been so construed on a consistent basis.

Additional comments:

See proposed regulations cited in H.7 Additional Comments, above.

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:

LA. REV. STAT. ANN. 25 §4105 (West Supp. 2002) states: “The State Librarian has the **duty** to establish a depository system to facilitate the accessibility and **preservation** of state documents for the use of the public.” This language, with the use of the words duty and preservation would seem to be a strong assurance of the state’s commitment to permanent 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.

§121. Policy

Freedom of access to public documents is a basic right of citizenship. Therefore, it is the policy of the state of Louisiana that state public documents shall be made available to the public. In order to obtain maximum efficient distribution and maximum availability of these documents, a depository system is hereby established. LA. REV. STAT. ANN. 25 §121 (1989)

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.

Additional comments:

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

10 % Formerly distributed in print, now distributed exclusively in electronic format.
Less than 1% Never before distributed, now distributed in electronic format.

Additional comments:

This is an estimation based upon a conversation with Ferol Foos, Louisiana State Recorder of Documents, May 31, 2002.

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

Detailed guidelines issued by the Louisiana Recorder of Documents under the auspices of the State Library of Louisiana, or SLOL ensure that the depository system functions quite well. Stacey S. Hathaway-Bell and Alison Foster, [Louisiana State Documents Depository Manual: A Handbook for Depository Librarians Participating in the Louisiana State Documents Depository Program](#). Baton Rouge, LA: State Library of Louisiana, 2001.

The State Librarian and the Recorder of Documents are laboring to establish a system whereby each agency emails discrete web documents to the Recorder. The plan is that the State Library will download the documents onto a server purchased for that purpose. The Cataloging Department of the State Library will catalog every document. The project has been stymied by a

laborious discovery process, insufficient funding, staffing problems, and disinterest on the part of state agencies. As of February 2003, no further progress has been made.

Additional comments:

There is a Louisiana Advisory Council on State Documents, which is very active. Members are appointed by the State Librarian and include representatives of state agencies, state depositories, and other interested persons. The Council advises the Librarian on the selection, organization, distribution, and bibliographic control of publications; recommends policy and procedures for the effective and efficient operation of the office of the Recorder of Documents and provides a forum for the exchange of information and ideas. (LA. ADMIN. CODE tit. 25 §4107 (2001))

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.

By authority of LA. REV. STAT. ANN. 13: 4682 and 4686 (1991), the Law Library of the Paul M. Hebert Law Center is a depository for duplicate records and briefs of the Louisiana Supreme Court and the Louisiana Courts of Appeal, for which the appeal process has been exhausted. All deposited records and briefs remain the property of the courts. However, attorneys and officers of the lower courts may check out these materials for a twenty day period. For the Louisiana Supreme Court holdings begin in 1912; for the appellate courts, 1960. Due to space problems, the Law Library obtained an amendment to R.S. 4686 in 1990 (La. Act no. 88, 1990) whereby the Library is authorized to dispose of civil appeal (not Supreme Court) records on deposit with the Library for five years or longer. In 2002, the Legislature granted funds to the project by amending the Judicial Budget to include an additional \$60,000 to be paid by the Louisiana Supreme Court to the LSU Law School to reimburse the Law School for the cost of storage of the records. The Court approved the payment for as long as the funds are made available through legislative appropriation.

Under La R.S. 24:256 (1989), the Louisiana Secretary of State is authorized to enter into contracts with private publishers for the printing, publication, sale and distribution of any edition or supplement of the Louisiana Revised Statutes prepared by the [State Law] Institute and certified by it pursuant to the provisions of this Chapter. Those editions so authorized by the

Secretary of State and containing the printed facsimile of the Institute's certificate of correctness are admissible as prima facie evidence of the laws contained therein.

West Publishing Company publishes the official edition of the Louisiana state code.

Additional comments:

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.

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:

See plans in LAConnections (February 1, 2001 (available at <http://www.state.la.us/oit/laconnections.htm>), Goals & Initiatives, #9, Maximize applied research to support the delivery of government services, training, and education. This initiative will provide government with a continuous point of access to the applied research communities available within higher education. An example cited in the report is the use of high tech sensors and computer models is available in the university community to mitigate the impact of pending natural and man-made environmental hazards such as hurricanes, river flooding, and toxic chemical releases.

Using this cooperative arrangement as a model, a like arrangement could be developed between the State Library, the LSU School of Library and Information Science (for internships to create the cataloging and metadata necessary for preservation of electronic materials), and the regional universities (who might capture specific documents and preserve them on their servers.)

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.

In the author's estimation, the best place to insert reform language for PPA of electronic publications will be in the Louisiana Administrative Code, Title 25, §4303. This is the newly promulgated section that defines electronic documents. It would be rather simple to insert language that requires each agency to transmit discrete electronic files to the State Library of Louisiana as those files are finalized and mounted on the Web.

- 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."

Additional comments:

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

There are no failed efforts as the state is just beginning to discuss PPA initiatives. At this point, dialogs between the CIO, the Director of the Office of Electronic Services, the State Librarian and the administrative agencies would be in order.

Additional comments:

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)

Mr. Chad McGee
Chief Information Officer
1051 North Third, Room 229
Baton Rouge, LA 70802
PO Box 94095
Baton Rouge, LA 70804-9495

Division of Administration
Office of Information Technology
Post Office Box 94095
Baton Rouge, LA 70804-9095
225/342-7105
225/219-4994 (fax)
Internet Address: cmcgee@doa.state.la.us

<http://www.state.la.us/ltif/ltifmem.htm>

2. State Printer

N/A

3. State Archivist

Dr. Florent Hardy
State Archivist
P. O. Box 94125
Baton Rouge, LA 70804-9125
225/922-1200
225/922-0433 (fax)
FHardy@sec.state.la.us

4. State Librarian and/or State Law Librarian

Thomas F. Jaques, State Librarian
701 North 4th Street
Baton Rouge, LA 70802
225/342-4923
225/219-4804 (fax)
Mailing Address:
P.O. Box 131
Baton Rouge, LA 70821

5. State Attorney General (on freedom of information act issues, etc.)

Mr. Richard Ieyoub
Attorney General
State Capitol, 22nd Floor
225/339-5191
225/342-8703 (fax)
Office of Public Information
300 Capitol Drive
Baton Rouge, LA 70802

P.O. Box 94005
Baton Rouge, LA 70804-9005

6. Other

Ed Leachman, Director
Office of Electronic Services
P.O. Box 94095

Baton Rouge, LA 70804-9095
Phone: (225) 219-4025 Fax: (225) 219-4027

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

InfoLouisiana <http://www.state.la.us/> (covers all branches)

2. State agency portal

Same as above [executive] agency index http://www.state.la.us/gov_agency.htm

Division of Administration <http://www.state.la.us/doa/doa.htm>

Agriculture and Forestry <http://www.ldaf.state.la.us/>

Justice <http://www.ag.state.la.us/>

Civil Service <http://www.dscs.state.la.us/>

Corrections <http://www.corrections.state.la.us/>

Culture, Recreation, and Tourism <http://www.crt.state.la.us/>

Economic Development <http://www.lded.state.la.us/>

Education <http://www.doe.state.la.us/DOE/asps/home.asp>

Elections <http://www.elections.state.la.us/>

Environmental Quality <http://www.deq.state.la.us/>

Health and Hospitals <http://www.deq.state.la.us/>

Insurance <http://www.ldi.state.la.us/>

Labor <http://www.ldol.state.la.us/>

Natural Resources <http://www.dnr.state.la.us/>

Public Safety <http://www.dps.state.la.us/dpsweb.nsf>

Revenue <http://www.dps.state.la.us/dpsweb.nsf>

State <http://www.sec.state.la.us/>

Social Services <http://www.dss.state.la.us/>

Transportation and Development <http://www.dotd.state.la.us/>

Treasury <http://www.treasury.state.la.us/>

Wildlife and Fisheries <http://www.wlf.state.la.us/apps/netgear/page1.asp>

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

Yes, but they not as effective. Director of OES says they are investigating better search capabilities (Interview with Ed Leachman, Director Louisiana Office of Electronic Services, June 13, 2002.)

3. Legislative website

<http://www.legis.state.la.us/>

a. Does the website cover the current year only?

Legislation back to 1997

b. Are services free or fee-based?

Free

4. Judicial websites

http://www.state.la.us/gov_judicial.htm

5. Regulatory agency websites

http://www.state.la.us/gov_exe.htm

6. Freedom of Information Service Hotline

No specific hotline. Call Attorney General's office and ask for duty lawyer for the day.

Does the state have an ombudsman for freedom of information act issues?

No

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

Yes, although inquiries must be initiated at the agency level. Each agency has attorneys who review the FOIA claims.