

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.

Missouri Annotated Statutes, Chapter 19 contains the Public and Business Records laws. The “State and Local Records Law,” which establishes the Records Management and Archives Service (RMAS), is contained in Sections 109.200 to 109.310. The accompanying regulations are in Title 15 of the Missouri Code of State Regulations, Chapter 45. MO. CODE REGS. ANN. tit. 15, § 30-45 (1997).

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.

Additional comments:

Section 109.290 does, however, provide that RMAS will assist the legislative and judicial branches in establishing and maintaining a records management program as it does for the executive branch.

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

MO. REV. STAT. § 109.210 – Definitions.

The following sections of the statute contain definitions of records:

(4) “Local record”, any record not a state record;

(5) “Record”, document, book, paper, photograph, map, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in sections 109.200 to 109.310, and are hereinafter designated as “nonrecord” materials.

...

(7) “State record”, any record designated or treated as a state record under state law.”

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?

Additional comments:

In defining a record, the statute specifies that something is a record “regardless of physical form or characteristics,” but does not make specific reference to an electronic record. MO. REV. STAT. § 109.210. The Office of Records Management publishes “guidelines” specifically for the management of electronic records. Section 109.241(4), which details the duties of local agency heads regarding retention of originals, does, however, contain specific language about electronic reproduction processes, as well as language regarding preserving an electronically created record.

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

Yes

No

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

Missouri Revised Statutes section 109.260 instructs that agencies may not dispose of their records unless approved by the Records Commission.

- 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.

Perhaps the closest the law comes to addressing this is in sections 109.120 and 109.241, where the law addresses making copies of records using electronic processes and the preservation and retention of these electronic copies. However, it does not address preserving or making copies of records that were originally electronic.

Additional comments:

The Office of Records Management publishes guidelines for the retention and preservation of electronic records. The guidelines include the quote from the definition portion of the statute that a record is any “document, book, paper, photograph, sound recording or other material regardless of *physical form or characteristics*, made or received pursuant to law or in connection with the transaction of official business.” OFFICE OF RECORDS MANAGEMENT, MO SECRETARY OF STATE’S OFFICE, THREE THINGS YOU SHOULD KNOW ABOUT ELECTRONIC RECORDS, available at <<http://www.sos.state.mo.us/records/recmgmt/electronicrecords.pdf>>. Additionally, the State Records Management Program’s section of the annual report says “Records management functions apply to . . . electronic records” and cites the definition section of the law (Mo Ann. Stat. § 109.210). RECORDS SERVICES DIVISION, MISSOURI SECRETARY OF STATE’S OFFICE, ANNUAL REPORT (Fiscal 2001) available at: <http://www.sos.state.mo.us/records/fy2001/RS_AnnualReport_FY01.pdf>

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 statements regarding legislative intent to permit *access* to public records. However, these statements fall under Missouri’s Sunshine Law, Missouri Revised Statutes sections 610.010 to 610.030. There is a penalty given in section 109.180 for refusal to keep state, county, and municipal records available for personal inspection. And the section regarding the disposal of records says that they must have been determined to have “no further administrative, legal, fiscal, research or historical value.” MO. REV. STAT. § 109.260. Section 109.230(10) requires that copies of the public records filed with the state archives be made.

Additional comments:

Beyond the information given above, there isn’t a broad, general statement of public policy about permanently maintaining public records. The statute’s provision for a “Records Management and Archives Service” suggests the legislature understands the need for archives, but a broad policy is not stated (MO. REV. STAT. § 109.220). Dr. Shelly J. Croteau, C.A., Assistant State Archivist wrote in an email, “The Records Services Division takes responsibility for the electronic record,

versus the electronic information. We take the stand that a record is a record regardless of its format or medium.”

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.

The secretary of state is authorized to establish a Records Management and Archives Service and appoint a director to administer the State and Local Records Law. MO. REV. STAT. § 109.220.

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.

The Director of the Records Management and Archives Service is required to establish standards for the preparation of schedules which provide for the retention of state or local records of continuing value; publish lists of records authorized for disposal or retention; establish standards and formulate procedures for the transfer, safeguarding and servicing of records. MO. REV. STAT. § 109.230(3), (4), and (6).

Additional comments:

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.

As discussed above, the State and Local Records Law includes some access provisions. The sunshine or “freedom of information act,” however, is contained in Missouri Revised Statutes section 610.010 to 610.030.

b. If “No,” skip this whole section.

Additional comments:

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.

While the State and Local Records Law covers only the executive and administrative parts of the government, the Sunshine Law governs the actions of public governmental bodies, which are defined as legislative, administrative or other governmental entities created by the constitution or statutes of the state, or by order or ordinance of any political subdivision or district as well as judicial entities when operating in an administrative capacity. This includes state agencies and officials, governing bodies of institutions of higher education; and any department of any political subdivision of the state, county or municipal government, school district or special-purpose district, including sewer and water districts. MO. REV. STAT. § 610.010(4).

Additional comments:

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

MO. REV. STAT. § 610.010(6).

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:

The definition includes the language, “any record, whether written or electronically stored.” MO. REV. STAT. §610.010(6).

Additionally, public governmental bodies keeping their records in an electronic format are strongly encouraged to provide access to their public records in an electronic format. MO. REV. STAT. §610.029.

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.

Section 610.011(1) of the Sunshine Law states: “It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public

unless otherwise provided by law. Sections 610.010 to 610.028 shall be liberally construed and their exceptions strictly construed to promote this public policy.”

Additional comments:

For a list of attorney general opinions and court cases on the Sunshine Law, see <<http://www.ago.state.mo.us/sunintro.htm>>.

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.

MO. REV. STAT. § 181.100, 181.110, 181.120, and 181.130. These are part of the State Library laws. They require that the agencies deliver copies of their reports to the State Library for access by others.

- 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.

Section 181.100 covers only state agencies (and their distribution of reports to the state library). Section 181.110, however, directs the state library to publish a monthly index of “all printed publications of all state offices, departments, divisions, board and commissions, whether legislative, executive or judicial, and any subdivisions of each, including state-supported institutions of higher education.” The state library is also instructed to distribute copies of publications to depository libraries.

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.

Section 181.100 defines “state publications” as “all multiple-produced publications of state agencies, regardless of format or purpose, with the exception of correspondence and interoffice memoranda.” It defines a “report” as a “state publication which is either a printed statement by a state agency, issued at specific intervals, which describes its operations and progress, and possibly contains a statement of its future plans; or a formal, written account of an investigation given by a person or group delegated to make the investigation.”

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.

Section 181.120 of the Missouri Revised Statutes requires two copies be provided to the state archives for preservation and to the state historical society.

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.

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.

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 exists under the Office of Administration, which is under the Governor. The current Chief Information Officer is Gerry Wethington.

- 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?

There is no enabling statute – it appears that this was a position created by former Governor Carnahan and has been continued by Governor Holden, but it has no “official” place in the government hierarchy. According to the *Official Manual, State of Missouri, 2001-2002*, “[t]he Office of Information Technology’s primary responsibility is to promote the effective use of information technology (IT) as a key business enabler through the development and execution of a statewide Information Systems Strategic Plan.” “The statewide Information Systems Strategic Plan drives the mission and goals identified in four key areas: access, optimization, architecture and innovation.” “In order to maximize accessibility, the Plan’s goal is to create an operational environment that provides access to appropriate information enabling delivery of services to

Missouri citizens.”

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.

Because the office exists without an enabling statute, it has no “jurisdiction” over any branch. It is, however, assisted by the Information Technology Advisory Board which is comprised of agency IT directors.

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.

The Office of Information Technology issued a report on October 18, 2000 titled “State of Missouri: E-Government Report and Plan. A Vision for Missouri’s Future.” The governor assigned “[r]esponsibility for developing the blueprint” to the Chief Information Officer and the Office of Information Technology (p.5).

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

Office of Information Technology. State of Missouri E-Government Report and Plan: A Vision for Missouri’s Future (Jefferson City, Mo) (2001) (with note, revised 1/11/01).

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 plan focuses on providing government services via the Internet, e.g., paying taxes online or renewing license plates, and on automating functions of state government, e.g., departments purchasing goods and services online, making payments online, etc. The focus is on the administration of State government.

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:

There is a section calling for money for a Department of Elementary & Secondary Education program titled "Community Connection" that deals with access. According to the report this program would provide a statewide database of community resources on the Internet. The goal would be to "(1) improve access to information about community services and resources; (2) enable community resources to make information about their services widely available and easily found; (3) enhance information sharing, referral, and collaboration among community agencies and resources; and (4) aid in community capacity building."

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

The plan focuses on budgeting funds for automation improvements.

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.

Missouri State Archives.

- 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.

The enabling statute is the State and Local Records Law, discussed in Section A. Section 109.220 created both the Records Management Service and the Archives. MO. REV. STAT. § 109.200 to 109.310.

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.

Section 30-45.010 et seq. of title 15 of the Missouri Code of State Regulations covers both the Archives and the Records Management Service.

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.

Section 109.290 does, however, provide that Records Management and Archives Service will assist the legislative and judicial branches in establishing and maintaining a records management program as it does for the executive branch.

Additional comments:

The Missouri Archives, while not mandated to have responsibility for the Judicial and Legislative branches, does appear to include them. Descriptions of the Archives (from the Official Manual and from the Archives web page) say they serve as the “repository for state records of permanent historical value.” “Its holdings date from 1770 and include: executive, legislative, and judicial records; records of state departments and agencies; land records; military records; state publications; photographic collections; county and municipal records on microfilm; and manuscript and reference collections.”

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

The director of the Records Management and Archives Service is responsible for the “efficient and economical application of management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records.” MO. REV. STAT. § 109.220

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.

Missouri Revised Code Section 109.260 on destruction of records and nonrecord materials specifies that no record can be destroyed or disposed of unless it is determined not to have any further “administrative, legal, fiscal, research or historical value.”

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.

Section 109.260 of the Missouri Revised Code states:

1. No record shall be destroyed or otherwise disposed of by any agency unless the commission or board determines that the record has no further administrative, legal, fiscal, research or historical value.

2. Nonrecord materials or materials not included within the definition of records as contained in sections 109.200 to 109.310 may, if not otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials with approval of the commission or board. The director of the records management and archives service may formulate advisory procedures and interpretation to guide in the disposition of nonrecord materials

Additional comments:

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.

Besides the statute, the Archivist details how to maintain records, both paper and electronic, in a manual for any agency/department/unit that maintains records. See <http://www.sos.state.mo.us/records/recmgmt/rmpm>.

Additional comments:

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:

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

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.

Sara Ann Parker, Missouri State Librarian
Missouri State Library
600 W. Main St.
P.O. Box 387
Jefferson City, MO 65101

- 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.

MO. REV. STAT. § 181.043.

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:

Missouri Revised Statutes section 181.021 technically gives the secretary of state authority to promulgate rules and regulations. The secretary of state, however, appoints the librarian. The only rules and regulations authorized under section 181.021 are those in connection with federal or state aid for public libraries or other types of library service. MO. CODE REGS. ANN. 15 CSR 30-200.

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 librarian does not have responsibility for any branch of government. It serves as an arm of the Secretary of State, but does not exercise any control over any other branch.

Additional comments:

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

According to their website, they are: "to provide direct library and information service in support of the executive and legislative branches of Missouri state government, to provide library service to blind and physically handicapped residents of Missouri, and to promote the development and improvement of library services throughout the state." <<http://www.sos.state.mo.us/library>>.

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:

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.

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.

The state documents librarian (Bryan Dunlap) has been charged with creating a public database that will make current and future state documents available to the general public via the World Wide Web. The project is still in the planning stages and is intended to result in the retention of electronic copies of substantial documents. Although electronic documents that are not part of the depository program are not being actively sought, Mr. Dunlap intends to save any he discovers.

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.

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.

MO. REV. STAT. § 181.130.

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 state depository program's practice is to provide links to the electronic titles and to retain a copy in electronic form.

Additional comments:

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:

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.

Additional comments:

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

Formerly distributed in print, now distributed exclusively in electronic format.
 Never before distributed, now distributed in electronic format.

Additional comments:

Although the answers to these questions are not available, Mr. Dunlap guesses that the first is roughly 10-15% and the second is probably 20-25%. Because of Missouri's FY 2003 budget crisis, however, he expects the numbers to dramatically change.

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

According to Bryan Dunlap, the program has strong support throughout state government. It distributes close to 1000 unique titles per year to depository libraries.

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.

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:

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.

Electronic documents that are “born digital” could be added to the State Depository program. The State Library could be responsible for the permanent public access of these documents. This would be a difficult mandate to carry out in the long term without a corresponding budget line. Given Missouri’s current budget crunch, permanent electronic public access will be a difficult accomplishment for the near future.

- 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?

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)

Gerry Wethington
Office of Information Technology
Truman State Office Building
301 West High Street, Room 560
Jefferson City, MO 65102
Telephone: 573-526-7741
Fax: 573-526-7747
E-Mail: wethig@mail.oit.state.mo.us

2. State Printer

None.

3. State Archivist

Dr. Kenneth H. Winn
Missouri State Archives
600 W. Main
P.O. Box 1747
Jefferson City, MO 65102
Telephone:(573) 751-3280
Fax: (573) 526-73333
E-Mail: wink@sosmail.state.mo.us

4. State Librarian and/or State Law Librarian

Sara Ann Parker
Missouri State Library
600 W. Main St.
P.O. Box 387
Jefferson City, MO 65101
Telephone: (573) 751-3615
Fax: (573) 526-1142
E-Mail: parkes@sosmail.state.mo.us

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

Jay Nixon
Missouri Attorney General's Office
Supreme Court Building
207 W. High St.
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-3321
Fax: 573-751-0774
E-Mail: attgenmail@moago.org

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

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

2. State agency portal

<<http://www.state.mo.us>> (it is the home page)

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

It has a search box on the home page.

3. Legislative website

<<http://www.moga.state.mo.us>>

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

No, it goes back to 1995

- b. Are services free or fee-based?

Free.

4. Judicial websites

Judiciary: <<http://www.osca.state.mo.us>>

Supreme Court:

<<http://www.osca.state.mo.us/sup/index.nsf>>

Court of Appeals:

<<http://www.osca.state.mo.us/appellate/index.nsf/9DFD92495509F13F8625681F0079FD11/E3A84CB150BE1C9B862568B0006E914A?OpenDocument>>

Circuit Courts:

<<http://www.osca.state.mo.us/circuits/index.nsf>>

5. Regulatory agency websites

Office of Administration

<<http://www.oa.state.mo.us>>

Department of Agriculture

<<http://www.mda.state.mo.us>>

Department of Conservation

<<http://www.conservation.state.mo.us>>

Department of Corrections

<<http://www.corrections.state.mo.us>>

Department of Economic Development

<<http://www.ded.state.mo.us>>

Department of Elementary

and Secondary Education

<<http://www.dese.state.mo.us>>

Department of Health

<<http://www.health.state.mo.us>>

Department of Higher Education

<<http://www.cbhe.state.mo.us>>

Department of Insurance

<<http://www.insurance.state.mo.us>>

Department of Labor and Industrial Relations

<<http://www.dolir.state.mo.us>>

Department of Mental Health

<<http://www.modmh.state.mo.us/index.htm>>

Department of Natural Resources

<<http://www.dnr.state.mo.us/homednr.htm>>

Department of Revenue

<<http://www.dor.state.mo.us>>

Department of Social Services

<<http://www.dss.state.mo.us>>

Department of Transportation

<<http://www.modot.state.mo.us>>

6. Freedom of Information Service Hotline

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

No.

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

Yes.