

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.

Public Records Act, N.M. Stat. Ann. §§ 14-3-1 through 14-3-23

NMAC §§ 1.13.30.1 through 1.13.30.7

Various retention and disposition schedules found in NMAC.

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.

The definition of “public agency” under the statute would appear to apply only to executive agencies.

“As used in the Public Records Act [this article]: . . .

“C. ‘public records’ means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein. Library or museum material of the state library, state institutions and state museums, extra copies of documents preserved only for convenience of reference and stocks of publications and processed documents are not included;

“D. ‘agency’ means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico.” N.M. Stat. Ann. § 14-3-2. However, Attorney General opinions which interpret the statute indicate that elected officials and the chief justice are also covered by the Public Records Act.

“Official documents and correspondence of former officials. -- It is clear that the official documents and correspondence of a former territorial governor, chief justice, representative and delegate should be in the custody of the commission in the state records center. 1961-62 Op. Att’y Gen. No. 61-7.” (Interpreting N.M. Stat. Ann. § 14-3-8.)

“Disposition of official’s records upon expiration of term. -- After his term of office has expired, an elected state official may not dispose of his official public records in any manner other than that prescribed by the New Mexico commission of public records.” (Interpreting N.M. Stat. Ann. § 14-3-9.)

“District attorneys are state officers and office of the District Attorney falls within broad definition of ‘agency’ as used in 14-3-1 NMSA of Public Records Act, therefore, records of district attorney’s office subject to provisions of act for purpose of care, custody, preservation and disposition...” 1975 Op. Att’y Gen. No. 75-36. (Interpreting N.M. Const. Art. 6, § 24.)

Additional comments:

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

N.M. Stat. Ann. § 14-3-2(C).
NMAC § 1.13.30.7.

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?

Generally, the Public Records Act does not treat electronic records differently. There is a provision in the statute (N.M. Stat. Ann. § 14-3-15.1) that relates to computer databases. The State Records Administrator recommends procedures, schedules and technical standards for the retention of computer databases. N.M. Stat. Ann. § 14-3-15.1(B). Under this statute, information contained in information systems databases is a public record. N.M. Stat. Ann. § 14-3-15.1(A). It should be noted, however, that the provisions here are intended to provide privacy protection for individuals, since New Mexico does not have a separate non-criminal, individual privacy protection act in New Mexico.

Additional comments:

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

Yes
 No

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

Records retention and disposition schedules are found throughout the NMAC.

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

Additional comments:

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.

"Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act [this article] is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees." N.M. Stat. Ann. § 14-2-5. (This code section is under the Inspection of Records Act, rather than the Public Records Act.)

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.

N.M. Stat. Ann. § 14-3-6.

NMAC 1.16.119.

State Records Administrator, New Mexico Commission of Public Records.

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:

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.

Inspection of Public Records Act, N.M. Stat. Ann. § 14-2-1 through 14-2-12

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.

Applies to any public records from any public body except those specified by statute. Public body defined in N.M. Stat. Ann. § 14-2-6(D).

Additional comments:

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

N.M. Stat. Ann. § 14-2-6(E).

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:

Not separately addressed. Database is mentioned in N.M. Stat. Ann. § 14-2-9(A). The statute allows an agency to provide a partial printout of data containing public records where such a

printout is necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database. N.M. Stat. Ann. § 14-2-9(A).

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.

While no statutes address “permanent public access,” every retention schedule in the regulations state that, if records are to be kept permanently under the retention schedule, they will be retained permanently regardless of format. Neither the act nor the regulations, however, assure permanent public access.

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.

“Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act [this article] is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.” N.M. Stat. Ann. § 14-2-5.

Additional comments:

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

Yes
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?

- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

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

Yes

No

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

Additional comments:

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

C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

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

Yes

No

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

N.M. Stat. Ann. § 18-2-4(J) provides that the State Librarian shall establish and administer a library depository and distribution system for state documents and publications. N.M. Stat. Ann. § 18-2-4.1(A) provides that each state agency “shall deposit at least twenty-five copies of all its publications intended for public distribution, when issued, with the state library depository for depository and distribution purposes, excluding those publications issued strictly for internal use.”

N.M. Stat. Ann. § 14-4-4 states that, “Each agency issuing any publication, pamphlet, report, notice, proclamation or similar instrument shall immediately file five copies thereof with the records center. The records center shall deliver three copies to the state library, which shall keep one copy available for public inspection during office hours. All other copies may be circulated. The state library is designated to be an official depository of all such publications, pamphlets, reports, notices, proclamations and similar instruments.”

NMAC § 1.25.10.

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.

NMAC § 1.25.10.7(A) defines agency as "any agency, authority, board, bureau, commission, committee, department, institution or officer of state government except the judicial and legislative branches of state government."

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:

While permanency is not required, five year retention is required for depository libraries. NMAC § 1.25.10.10.

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.

“Depositories shall provide sufficient space in a public area to adequately house the state publications.” NMAC § 1.25.10.10(A).

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.

Information Technology Management Office and Chief Information Officer. N.M. Stat. Ann. § 15-1C-6.

b. If “No,” skip this whole section.

Additional comments:

Information Technology Management Act, N.M. Stat. Ann. § 15-1C-1 through 15-1C-9.

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

1999 N.M. Laws ch. 16, § 6 created the office. 1999 N.M. Laws ch. 16, § 9 repeals N.M. Stat. Ann. § 15-1C-1 through 15-1C-9 effective 7/1/2006.

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.

Information Technology Commission regulations at NMAC 1.12.1 and 1.12.2.

Additional comments:

Information Technology Commission has authority to adopt and promulgate rules under N.M. Stat. Ann. § 15-1C-5.

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.

Not clear but it appears that this commission and officer only have authority over the executive agencies.

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:

This office only deals with electronic information.

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:

Only the depository program and records retention seem to relate to maintenance of government information but neither requires permanent retention as a state policy matter.

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.

Information Technology Commission, N.M. Stat. Ann. § 15-1C-2.

Rule requiring preparation of annual state information technology strategic plan at NMAC § 1.12.2.15(A).

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

State of New Mexico Information Technology (IT) Plan: Fiscal Year 2003 Update, Fiscal Year 2004 Strategic Guide (June 1, 2002), at <http://cio.state.nm.us/strategicplan.htm>.

- 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 references all branches. It is not clear that the Commission has authority over all branches.

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:

The section on E-Democracy includes a goal of making public documents available on the web to the extent permitted under the Inspection of Public Records Act.

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

F. STATE PRINTING OFFICE AND STATE PRINTER

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

- Yes
- No

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

While the Compilation Commission oversees the publication of the statutes, session laws and case reports and the State Library handles depository program and deals with publication of materials for agencies, there is not official state printer or printing office.

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.

State Commission of Public Records and the State Records Administrator, created by the Public Records Act, serve this function. N.M. Stat. Ann. § 14-3-3; N.M. Stat. Ann. § 14-3-6. The Administrator is custodian of all public records and archives. N.M. Stat. Ann. § 14-3-6. The State Commission of Public Records hires the Administrator and oversees various aspects of records management. N.M. Stat. Ann. § 14-3-4.

- 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.

N.M. Stat. Ann. § 14-3-6.

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.

Title 1, Chapter 13 of the NMAC plus retention schedules.

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.

Under N.M. Stat. Ann. § 14-3-6, the records administrator is responsible for any public records and archives transferred from any public office of the state or from any other source.

Additional comments:

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

Under N.M. Stat. Ann. § 14-3-6, the state records administrator has the following responsibilities. “The administrator is the official custodian and trustee for the state of all public records and archives of whatever kind which are transferred to him from any public office of the state or from any other source. He shall have overall administrative responsibility for carrying out the purposes of the Public Records Act [this article], and may employ necessary personnel, purchase equipment and provide facilities as may be required in the execution of the powers conferred and duties imposed upon him. He shall keep the commission advised throughout the year of operations conducted and future operations projected, and shall report annually to the commission which records have been destroyed, transferred or otherwise processed during the year. The administrator shall establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records. It shall be the duty of the administrator, in cooperation with and with the approval of the general services department, to establish standards, procedures and techniques for

effective management of public records, to make continuing surveys of paperwork operations, and to recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining and servicing records. It shall be the duty of the head of each state agency to cooperate with the administrator in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the agency's records. The administrator shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the Public Records Act. Records disposal schedules shall be filed with the librarian of the supreme court library, and shall not become effective until thirty days after the date of filing. Records so scheduled may be transferred to the records center at regular intervals, in accordance with the regulations of the administrator."

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.

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 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:

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.

State Librarian, N.M. Stat. Ann. § 18-2-3

Supreme Court Law Librarian, N.M. Stat. Ann. § 18-1-7

- 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.

N.M. Stat. Ann. § 18-2-4 (History: 1953 Comp., § 4-11-3.1, enacted by Laws 1961, ch. 126, § 4; 1977, ch. 246, § 11; 1978, ch. 140, § 1.)

Supreme Court Law Library, N.M. Stat. Ann. § 18-1-7 (History: Laws 1915, ch. 47, § 6; C.S. 1929, § 133-106; 1941 Comp., § 3-707; 1953 Comp., § 4-10-7; Laws 1963, ch. 27, § 4.)

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.

State Library – NMAC Title 4, Chapter 5.

Additional comments:

The State Librarian has authority to establish and administer the library depository and distribution system for state documents and publications. Under N.M. Stat. Ann. § 18-2-4(I), the librarian has authority to make rules and regulations necessary to administer the division and as provided by law. The State Library is under the Office of Cultural Affairs.

Supreme Court Law Library board of trustees has “the right to prescribe such rules and regulations for the management and control of the supreme court law library, as in the judgment of said board may seem fit and proper for the safety, care and custody of the library, shelving, books, documents and archives therein, and for the convenience and accommodation of the patrons of such library.”
N.M. Stat. Ann. § 18-1-3.

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 has responsibility for collecting publications and administering a state depository library system. This seems to relate most to executive agencies but could be construed more broadly.

The supreme court law library has responsibility for judicial branch but is also to be made available to the legislative council. N.M. Stat. Ann. § 2-3-14.

Additional comments:

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

“The state librarian shall:

“A. administer the state library;

“B. administer grants-in-aid and encourage local library service and generally promote an effective statewide library system;

“C. make studies and surveys of public library needs;

“D. supply advice and information to existing libraries and aid in the establishment of new libraries;

“E. obtain each year, from all libraries in the state, reports showing the conditions, growth and development, together with such other facts and statistics regarding them as is of public interest;

“F. cooperate with other educational services and governmental agencies of the state, and with library agencies of other states and with national library agencies;

“G. cooperate with the administrative services division in preparing the budget for the state library;

“H. administer the library extension service;

“I. make rules and regulations necessary to administer the division and as provided by law; and to perform other duties as provided by law; and

“J. establish and administer a library depository and distribution system for state documents and publications.” N.M. Stat. Ann. § 18-2-4.

The supreme court law librarian “shall have the custody and charge of all books, archives, maps, charts, engravings and all other things properly belonging to the library, or directed to be deposited therein.” N.M. Stat. Ann. § 18-1-7.

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.

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.

N.M. Stat. Ann. § 18-2-4.1
NMAC Title 1, Chapter 25, Part 10

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

Additional comments:

The State Library administers the depository library system. N.M. Stat. Ann. § 18-2-4(J).

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?

For electronic publications, the State Library publications division requests one copy in paper for distribution to depository libraries.

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:

 0 Formerly distributed in print, now distributed exclusively in electronic format.

 0 Never before distributed, now distributed in electronic format.

Additional comments:

A paper copy of electronic materials is requested for distribution in the depository program.

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

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.
- 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)

Information Technology Management Office
404 Montezuma Avenue
Santa Fe, NM 87501
Phone (505) 476-0400
<<http://cio.state.nm.us/>>

2. State Printer

3. State Archivist

New Mexico Commission of Public Records
State Records Center and Archives
1205 Camino Carlos Rey
Santa Fe, NM 87507
Phone (505) 476-7900
<<http://www.nmcpr.state.nm.us/>>

4. State Librarian and/or State Law Librarian

New Mexico State Library
1209 Camino Carlos Rey, Santa Fe, NM 87507
Phone (505) 476-9700
Fax (505) 476-9701
<<http://www.stlib.state.nm.us/>>

New Mexico Supreme Court Law Library
237 Don Gaspar
Santa Fe, New Mexico
Phone (505) 827-4850
<<http://fscll.org/>>

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

Attorney General
407 Galisteo Street
Bataan Memorial Building, Room 260
Santa Fe, NM 87501
Phone (505) 827-6000
Fax (505) 827-5826
<http://www.ago.state.nm.us/PIO/Public_Records_Act/public_records_act.html>

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

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

2. State agency portal

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

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

There is a basic search function.

3. Legislative website

<<http://legis.state.nm.us/>>

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

No, you can search bills back to the 1996 regular session.

- b. Are services free or fee-based?

Free.

4. Judicial websites

<<http://www.nmcourts.com/>>

5. Regulatory agency websites

See official state web site for agency website listing.

6. Freedom of Information Service Hotline

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