

## 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.

67 O.S. 201, et seq.

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.

67 O.S. 203 (b); this statute defines what a “State record” and includes all governmental agencies, the legislature, the courts, local governments, and public entities.

Additional comments:

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

67 O.S. 203

Additional comments

Under the statutory definition, “record” means document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in

connection with the transaction of official business, the expenditure of funds, or the administration of property.

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:

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

Yes  
 No

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

Additional comments:

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.

67 O.S. 202, Records Management Act:

The Legislature declares that programs for the efficient and economical management of state and local records will promote economy and efficiency in the day-to-day record-keeping activities of state and local governments and will facilitate and expedite government operations.

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.

67 O.S. 204; State Librarian as State Archivist

- 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 following statute describes the duties of the State Librarian/Archivist for preserving state document records and the provisions for removing of certain records. The AG opinion that follows the statute provides for the State Librarian/Archivist=s control over quality of non-Oklahoma Department of Libraries microfilming operations.

67 O.S. 205, Records Management Act:

1. The Administrator shall, with due regard for the functions of the agencies concerned:

- (a) Establish standards, procedures, and techniques for effective management of records;
- (b) Make continuing surveys of records and information operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records;
- (c) Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping;
- (d) Establish programs for the selection and preservation of essential records; and
- (e) Obtain reports from agencies as are required for the administration of the program.

2. The Administrator may remove an essential record from its legally designated and customary location if a disaster has occurred or is imminent, make or cause to be made preservation duplicates, and designate as preservation duplicates existing copies of essential records.

67 O.S. 206 Provides that agency heads establish record management programs and cooperate with the State Librarian/Archivist in maintaining agency records in compliance with the rules and regulations. set by the State Librarian/ Archivist.

67 O.S. 207 Provides that local governmental units keep efficient records management practices and provides that these units may ask the advise of the State Librarian/Archivist in doing so.

67 O.S. 208 State Librarian/Archivist upon request may advise and assist in the records management program of the legislative and judicial branches and he/she may provide services similar to those provided to the Executive agencies of the State.

67 O.S. 209-211 These sections cover the disposition of records by State officials and the process by which state records may be destroyed.

Under section 209, there is a ruling by the Attorney General of Oklahoma that e-mail records are covered under the Administrative Records Act. 2001 OK AG 46 decided 11/7/01.

The rest of title 67 Records covers microfilming specifications, preparation of documents, quality control, and equipment; membership of the Archives and Records Commission; applications to destroy records; keeping records of destroyed records; disposing of records in a State Office that is closed.

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.

51 O.S. 24A.1, et seq., Oklahoma Open Records Act.

- 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.

In 51 O.S. 24A.3(2), records of judges, justices, the Council of Judicial Complaints, the Legislature or legislators are excluded from the definition of public bodies, except as required by 51 O.S. 24A.4.

Additional comments:

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

51 O.S. 24.3(1)

Additional comments:

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

- Yes  
 No

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

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

Additional comments:

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

- Yes  
 No

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

Additional comments:

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

Yes  
 No

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

51 O.S. 24A.2, Oklahoma Open Records Act:

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The Oklahoma Open Records Act shall not create, directly or indirectly, any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

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.

65 O.S. 3-113.1;

Oklahoma Administrative Code 405:20

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.

65 O.S. 3-113.2(1), Oklahoma Library Code:

As used in Sections 3-113.1 through 3-115 of this title:

1. “Agency” means any office, officer, department, division, unit, bureau, board, commission, authority, institution, substate planning district, or agency in any branch of the state government, and all subdivisions of each when applicable, including state institutions of higher education, defined as all state-supported colleges, universities, junior colleges, and technology center schools[.]

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.

65 O.S. 3-113.2(2), Oklahoma Library Code:

2. “State publications” means any informational materials, regardless of format, method of reproduction, or source, which originate in or are produced with the imprint, by the authority, or at the total or partial expense of an agency supported wholly or in part by state funds and which are distributed to persons outside of the creating agency or are required by law. “State publication” incorporates those publications that may or may not be financed by state funds but are released by private entities pursuant to a contract with or subject to the supervision of any agency.

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.

65 O.S. 3-113.3(2), (3), (9), Oklahoma Library Code:

The Publications Clearinghouse shall have the following duties:

1. To establish a state publications depository library system for the use of the citizens of this state; and
2. To collect state publications from every agency and to retain and preserve permanently a minimum of two copies of said publications; and
3. To enter into contracts with other libraries within this state whereby the Publications Clearinghouse designates the contracting library to be a depository library for the Oklahoma Department of Libraries and agrees to distribute copies of state publications deposited with the Publications Clearinghouse to said depository library, and the contracting library agrees to receive and maintain the collection of said publications and not to dispose of said publications without prior approval of the Publications Clearinghouse, to provide adequate facilities for the storage and use of the publications, and to provide free access to the publications for the use of its patrons; and
4. To determine the necessity of and to make arrangements for the conversion of state publications to microform and to establish a system to assure the availability of said microform for distribution to designated depository libraries; and
5. To prepare and publish official lists of state publications and to distribute said lists to all contracting depository libraries, other libraries within this state, and every agency; and
6. To determine the quantity of each publication of an agency to a maximum of twenty-five copies required to meet the needs of the state publications depository library system and to notify each agency of the required quantity; and
7. To distribute copies of state publications as follows:
  - a. One copy to the United States Library of Congress,
  - b. Two copies for the collection of state publications within the Publications Clearinghouse, and
  - c. Selected copies to each depository library; and
8. To receive for use and for exchange purposes a maximum of fifty copies of all state legal publications including bar journals and official reports of decisions, codes, opinions, rules and regulations, and one hundred ten copies of Oklahoma Statutes, Oklahoma Statute Supplements, and Oklahoma Session Laws; and
9. To compile and maintain a permanent record of state publications.

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.

65 O.S. 3-113.3 (3):

3. To enter into contracts with other libraries within this state whereby the Publications Clearinghouse designates the contracting library to be a depository library for the Oklahoma Department of Libraries and agrees to distribute copies of state publications deposited with the Publications Clearinghouse to said depository library, and the contracting library agrees to receive and maintain the collection of said publications and not to dispose of said publications without prior approval of the Publications Clearinghouse, to provide adequate facilities for the storage and use of the publications, and to provide free access to the publications for the use of its patrons[.]

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.

Oklahoma Administrative Code 405:20-1-3:

Publications Clearinghouse has been designate to systematically collect, preserve and distribute state governmental publications and to promote their use by the citizens of Oklahoma and the United States.

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes

No

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

Additional comments:

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

#### **D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER**

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

Yes

No

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

Additional comments:

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

Additional comments:

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

Yes

No

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

Additional comments:

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

Executive

Legislative

Judicial

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

Other

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

- Yes
- No

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

Additional comments:

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

## E. STATE TECHNOLOGY PLANS

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

- Yes
- No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.
- b. If "Yes," also provide complete bibliographic information about the plan; when was it published?
- 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.

Additional comments:

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

- Yes
- No

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

Additional comments:

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

**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.

Archives and Records Division of the Oklahoma Department of Libraries, 67 O.S. 306 (1); “The Director shall be the State Librarian and Archivist . . .,” 65 O.S. 3-103; “The State Librarian, as the State Archivist, is hereby designated the State Records Administrator,” 67 O.S. 204.

- 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.

67 O.S. 305 et seq. The State Librarian is Vice Chairman and Secretary of the Archives and Records Commission.

Additional comments:

Note that the Commission has final authority for disposition of all public records. 67 O.S. 305.

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.

Oklahoma Administrative Code: Title 60

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.

See 67 O.S. 203

As used in the Records Management Act, Section 201, et seq. of this title:

(a) “Record” means document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business the expenditure of public funds, or the administration of public property. Library and museum material made or acquired and preserved solely for reference or exhibition purposes and stocks of publications are not included within the definition of records as used in this act.

(b) “State record” means:

(1) A record of a department, office, commission, board, authority or other agency, however designated, of the state government.

(2) A record of the State Legislature.

(3) A record of the Supreme Court, the Court of Criminal Appeals or any other court of record, whether of statewide or local jurisdiction.

- (4) Any other record designated or treated as a state record under state law.
- (c) “Local record” means a record of a county, city, town, village, township, district, authority or any public corporation or political entity whether organized and existing under charter or under general law unless the record is designated or treated as a state record under state law.
- (d) “Agency” means any department, office, commission, board, authority or other unit, however designated, of the state government.
- (e) “Essential record” means a state or local record necessary to the operation of government during an emergency created by a disaster, or necessary to protect the rights and interests of persons or to establish and affirm powers and duties of governments in the resumption of operations after a disaster.
- (f) “Disaster” means any occurrence of fire, flood, storm, earthquake, tornado, explosion, epidemic, riot, sabotage, or other condition of extreme peril resulting in substantial damage or injury to persons or property within this state, whether such occurrence is caused by an act of nature or by persons, including an enemy of the United States.
- (g) “Preservation duplicate” means a copy of an essential record used for preservation purposes pursuant to the Records Management Act.

And section 208:

Upon request, the Administrator shall advise and assist in the establishment of records management programs in the legislative and judicial branches of state government and shall, upon request, provide a program of services similar to those available to the executive branch of state government pursuant to the provisions of this act.

Additional comments:

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

67 O.S. 205:

- 1. The Administrator shall, with due regard for the functions of the agencies concerned:
  - (a) Establish standards, procedures, and techniques for effective management of records;
  - (b) Make continuing surveys of records and information operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records;
  - (c) Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping;
  - (d) Establish programs for the selection and preservation of essential records; and
  - (e) Obtain reports from agencies as are required for the administration of the program.

2. The Administrator may remove an essential record from its legally designated and customary location if a disaster has occurred or is imminent, make or cause to be made preservation duplicates, and designate as preservation duplicates existing copies of essential records.

And section 306:

Every state officer and the heads of all departments, boards, commissions, agencies and institutions of the State of Oklahoma who have in their custody public records and archives deemed by them to be unnecessary for the transaction of the business of their offices shall consult with the State Librarian for the purpose of determining if such records and archives are desired for deposit in the archives division of the Oklahoma State Library. Upon certification by the State Librarian that such records and archives are or are not desired for such purpose, then such custodian shall, in conformity with such determination, apply to the Commission for authorization to destroy or transfer such records and archives to the Oklahoma State Library as hereinafter provided. Upon the filing of such application the Commission shall have authority to authorize or direct the disposition of such records and archives by any one or more of the following methods:

1. By destruction; provided that, the Commission shall not authorize destruction of records and archives less than five (5) years old except upon a showing of good cause by the agency or the Archives and Records Division of the Oklahoma Department of Libraries and a unanimous vote of the members of the Commission, or their designees, present.
2. By transfer to the custody and control of the Oklahoma State Library and there retained. The State Librarian may, in his discretion, microfilm such records and archives, especially if so doing would aid in the preservation of their contents.
3. By transfer to the Oklahoma State Library with authorization to the State Librarian to microfilm said records and archives and upon the completion of this process to destroy said records and archives in accordance with the order of the Commission.

Records and archives transferred to the Oklahoma State Library shall never be returned to their former custody except by order of the Commission and written consent of the State Librarian

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.

67 O.S. 311:

The Secretary of the Archives and Records Commission in person, or through a deputy authorized by him, shall have the right of access to all public records and archives of this state, except those records and archives classified as confidential by Act of the Legislature, with a view of securing their safety and preservation and determining their administrative or legal value. On behalf of the State of Oklahoma and the Oklahoma State Library the Attorney General may replevin any public records or archives illegally removed which were formerly part of the records or files of any public office of the Territory or of the State of Oklahoma

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.

67 O.S. 205, Records Management Act:

1. The Administrator shall, with due regard for the functions of the agencies concerned:

- (a) Establish standards, procedures, and techniques for effective management of records;
- (b) Make continuing surveys of records and information operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records;
- (c) Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping;
- (d) Establish programs for the selection and preservation of essential records; and
- (e) Obtain reports from agencies as are required for the administration of the program.

2. The Administrator may remove an essential record from its legally designated and customary location if a disaster has occurred or is imminent, make or cause to be made preservation duplicates, and designate as preservation duplicates existing copies of essential records.

And:

67 O.S. 209, Records Management Act:

All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this state in the course of their public duties shall not be mutilated, destroyed, transferred, removed, altered or otherwise damaged or disposed of, in whole or in part, except as provided by law.

And:

67 O.S. 306:

Every state officer and the heads of all departments, boards, commissions, agencies and institutions of the State of Oklahoma who have in their custody public records and archives deemed by them to be unnecessary for the transaction of the business of their offices shall consult with the State Librarian for the purpose of determining if such records and archives are desired for deposit in the archives division of the Oklahoma State Library. Upon certification by the State Librarian that such records and archives are or are not desired for such purpose, then such custodian shall, in conformity with such determination, apply to the Commission for authorization to destroy or transfer such records and archives to the Oklahoma State Library as hereinafter provided. Upon the filing of such application the Commission shall have authority to authorize or direct the disposition of such records and archives by any one or more of the following methods:

1. By destruction; provided that, the Commission shall not authorize destruction of records and archives less than five (5) years old except upon a showing of good cause by the agency or the Archives and Records Division of the Oklahoma Department of Libraries and a unanimous vote of the members of the Commission, or their designees, present.
2. By transfer to the custody and control of the Oklahoma State Library and there retained. The State Librarian may, in his discretion, microfilm such records and archives, especially if so doing would aid in the preservation of their contents.
3. By transfer to the Oklahoma State Library with authorization to the State Librarian to microfilm said records and archives and upon the completion of this process to destroy said records and archives in accordance with the order of the Commission.

Records and archives transferred to the Oklahoma State Library shall never be returned to their former custody except by order of the Commission and written consent of the State Librarian.

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.

Yes, by virtue of the existence of the State Archives and the establishment of viable records management program for state government.

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.

The state archives reached its capacity in 1989 and has not been able to accept state records since that time with the exception of the Governor’s papers.

## 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.

Oklahoma Department of Libraries (65 O.S. 3-101);  
Director, State Librarian and State Archivist (65 O.S. 304).

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.

65 O.S. 3.101 et seq.

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.

Oklahoma Administrative Code 405:20

Additional comments:

65 O.S. 2-106(m), “The Oklahoma Department of Libraries board . . . shall promulgate such rules as may be necessary to carry out the intent and purposes of this act.”

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.

Duties related to state publications and depository program. 65 O.S. 3-113.1 et seq.; 65 O.S. 3104, 3105, 3106.1

Additional comments:

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

See 65 O.S. 3-105, Oklahoma Library Code:

The departmental functions shall include but not be limited to library services, library research, library development, archival, records management and preservation, legislative reference, legal reference, general reference, library promotion and public information, informational, information processing and retrieval, government documents and any allied, cognate or related functions, and the Department shall be the authority of the state for these functions.

The Department is authorized and directed to discharge the state's responsibility for library service, including service to state government, to public and special libraries and library services, cooperation with and rendering of services to local units of government in the establishment and operation of local libraries and library systems, and the performance of all technical and other services necessary to the Department. The Department shall assist with and supervise the establishment and operation of libraries at all state institutions and agencies, except public schools and institutions of higher learning.

And:

65 O.S. 3-104, Oklahoma Library Code:

The Director shall be the administrative, executive, directing and supervising official of the Department under the supervision of and in accordance with policies established by the Board. He shall:

- (a) Approve all requisitions and claims;
- (b) Prepare budgets;
- (c) Prepare the staff organization and position classification with the approval of the Board;
- (d) Employ or terminate employment of all personnel as provided by 74 O.S. 1961 Sections 801 [74-801] - 839 [74-839], as amended; and
- (e) Make all reports, maintain all records and execute all instruments required by law or regulation and perform all duties necessary to discharge the functions of the Department.

The Director shall be accountable and responsible to all proper state and federal officials for the activities of the Department. He shall be the representative of the state in all matters pertaining to the duties and services of the Department, or any other library, archival, public documents, reference, research, records, information and information processing functions, including all allied or related services, of the state government, or in which the state may participate; provided that he may designate a staff member of the Department to act as his agent under such conditions as he may prescribe. The Director, or any staff member of the Department designated by him, shall receive travel expense and per diem as provided by 74 O.S. 1961 Sections 500.5 - 500.12, as amended, including necessary fees incurred in the exercise of his duties, or in attending conferences, institutes and meetings of library, reference, research, documentation and informational associations or bodies, or any allied or related groups.

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.

65 O.S. 3-113.2 Publications Clearinghouse – Definitions of state agency and state publications.  
65 O.S. 3-114, Failure to comply with depository requirement – provides penalties.

74 O.S. 3104, “Every agency, board, department, commission, or institution of this state shall deposit a maximum of twenty-five copies of its annual, semiannual, or biennial reports with the Publications Clearinghouse of the Department of Libraries for distribution and depository system purposes . . . “

74 O.S. 3106(C), “Upon release of a state publication by an agency, the publications officer shall deposit a maximum of twenty-five copies of the publication with the Publications Clearinghouse for record and depository system purposes.”

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.

65 O.S. 3-113-3(2), Duties of Publications Clearinghouse, “To collect state publications from every agency and to retain and preserve permanently a minimum of two copies of said publications.”

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

The state librarian is also the state archivist and state records administrator.

## 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.

65 O.S. 3-113.1, Publications Clearinghouse – Creation – Director – Rules and Regulations; Oklahoma Administrative Code 405:20, The Oklahoma Publications Clearinghouse.

- 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 Law states the definition of a state publication and the State Library feels that the phrase "regardless of format" includes electronic publications: 65 O.S. 3-113.2 Definitions

Additional comments:

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

Yes  
 No (only in the same regard as in the above answer.)

- 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.

65 O.S. 3-311.3(1), Oklahoma Library Code

The Publications Clearinghouse shall have the following duties:

1. To establish a state publications depository library system for the use of the citizens of this state; and
2. To collect state publications from every agency and to retain and preserve permanently a minimum of two copies of said publications[.]

Additional comments:

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

Yes

No

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

Additional comments:

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

10-15% Formerly distributed in print, now distributed exclusively in electronic format.

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

Additional comments:

No way to determine an absolute number, but could estimate about 10-15% for each of the two categories, as shown. Source: Oklahoma State Library. Deputy Director, Vickie Sullivan.

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

We are very successful in disseminating and providing access to electronic government information through Oklahoma Department of Libraries (ODL) Online website, <http://www.odl.state.ok.us/sginfo/index.htm> . The website provides hotlinks to important documents, agency by agency. See <http://www.odl.state.ok.us/okgov/oklinks.asp> .

Government documents can be located through the SoonerSearch search engine <http://www.soonersearch.odl.state.ok.us:8080/> For FY 2001 the library we had 264,758 hits to state government information and 599,894 hits to SoonerSearch.

As for its efforts at preserving electronic government information, if the library finds a “document” only in electronic format, it makes three paper copies, retaining two for the library and using the other to prepare a microfiche to distribute through the depository library program. As a matter of practice, the library does not treat the whole agency website as a “document.” And it does not consider FAQs, mission statements, “what’s new” materials, etc. as documents. The library looks for reports, rules, laws, standards, regulations, guides, manuals, handbooks, newsletters, etc. as documents. The library checks all agency websites monthly to see if new publications have been added. Source: Oklahoma State Library. Deputy Director, Vickie Sullivan.

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.

The most appropriate place would be to place reform language in the Records Management Act, 67 O.S. 201 et seq.

- a. 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.”

With proper funding, the State Library should 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) (See 4.)
2. State Printer n/a
3. State Archivist (See 4.)
4. State Librarian and/or State Law Librarian

Susan McVey  
State Librarian  
Oklahoma Department of Libraries  
200 N.E. 18th St.  
Oklahoma City, OK 73105  
(405) 521-2502

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

Drew Edmondson  
State Capitol, Rm. 112  
Oklahoma City, OK 73105-4894  
(405) 521-3921

## **M. IMPORTANT STATE RESOURCES**

Provide URLs or other finding information for:

1. Official state home page

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

2. State agency portal

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

3. Legislative website

<<http://www.lsb.state.ok.us>>

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

Yes.

- b. Are services free or fee-based?

Free.

4. Judicial websites

<<http://www.oscn.net>>

5. Regulatory agency websites

<<http://www.soonersearch.odl.state.ok.us:8080>>

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.