

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 Documents Administration Act, 3 P.R. Laws Ann. §§ 1001-1013 (2000).

Regulation for the Administration of Public Documents of the Executive Branch of the Commonwealth of Puerto Rico, No. 4248 (September 24, 1990).

Reglas para la Administración del Programa de Conservación y Disposición de Documentos de la Rama Judicial, Resolución del 7 de noviembre de 1975.

Reglamento para Establecer el Programa de Administración de Documentos Públicos del Senado de Puerto Rico, Núm. 13 (15 de Julio de 1988).

Reglamento del Programa de Administración de Documentos Públicos de la Cámara de Representantes, Orden Administrativa 99-07, (29 de marzo de 1999).

Conservación y Disposición de Documentos Públicos en la Oficina del Contralor de Puerto Rico, Reglamento Núm. 6, (2 de noviembre de 1999).

b. If “No,” skip this whole section.

Additional comments:

The Puerto Rico Public Documents Act, 3 P.R. Laws Ann. §§ 1001-1013 (2000), creates the Documents Administration Program which covers all departments and agencies of the Commonwealth. Each agency has a document administrator.

Administration of public documents are governed by the following regulations:

a. Departments and agencies under the Executive Branch: Regulation for the Administration of Public Documents of the Executive Branch of the Commonwealth of Puerto Rico, No. 4248 (September 24, 1990).

b. Judicial Branch: Reglas para la Administración del Programa de Conservación y Disposición de Documentos de la Rama Judicial, Resolución del 7 de noviembre de 1975.

c. Senate: Reglamento para Establecer el Programa de Administración de Documentos Públicos del Senado de Puerto Rico, Núm. 13 (15 de Julio de 1988).

d. House: Reglamento del Programa de Administración de Documentos Públicos de la Cámara de Representantes, Orden Administrativa 99-07, (29 de marzo de 1999).

e. Controller of the Commonwealth of Puerto Rico: Conservación y Disposición de Documentos Públicos en la Oficina del Contralor de Puerto Rico, Reglamento Núm. 6, (2 de noviembre de 1999).

f. Department of the Treasury: Reglamento para la Conservación de Documentos de Naturaleza Fiscal o Necesarios para el Examen y Comprobación de Cuentas y Operaciones Fiscales, Núm. 23, (15 de agosto de 1988). This regulation deals with the conservation of documents of a fiscal nature needed for checking and verifying accounts and other fiscal operations.

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 Puerto Rico Public Documents Administration Act, which governs the “planning, control, direction, organization, training, promotion and other administrative activities related to the creation, use and conservation of documents, as well as to their disposition,” applies to the three governmental branches, including municipalities. 3 P.R. Laws Ann. §§ 1001-1013 (2000).

Additional comments:

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

Public Documents Administration Act, 3 P.R. Laws Ann. §§ 1001(b) (2000).

Regulation for the Administration of Public Documents of the Executive Branch of the Commonwealth of Puerto Rico, No. 4248, Art. 8(9), (September 24, 1990).

Reglas para la Administración del Programa de Conservación y Disposición de Documentos de la Rama Judicial, Reg 3(5), Resolución del 7 de noviembre de 1975.

Reglamento para Establecer el Programa de Administración de Documentos Públicos del Senado de Puerto Rico, Núm. 13, Art. V (13), (15 de Julio de 1988).

Reglamento del Programa de Administración de Documentos Públicos de la Cámara de Representantes, Orden Administrativa 99-07, (29 de marzo de 1999).

Conservación y Disposición de Documentos Públicos en la Oficina del Contralor de Puerto Rico, Reglamento Núm. 6, Art. 5(18), (2 de noviembre de 1999).

Additional comments:

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

Yes
 No

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

Additional comments:

3 L.P.R.A. §1001 reads:

For the purposes of this chapter, the following terms shall have the meaning stated below:

(a) Document.-- The word document shall include any paper, book, pamphlet, photograph, film, microfilm, magnetic tape, map, drawing, plan, record, video disk or any other material read by machine and any other informative material, regardless of its physical form or characteristics. It also includes materials generated electronically even though they may never be printed on paper or other media different from the originally created one.

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

Yes
 No

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

According to the Puerto Rico Documents Administration Act, Program Administrators in each government agency are required to prepare an inventory of the documents under their control. After the inventory is completed, each agency must classify them according to type. Depending on the categories, documents will either be preserved indefinitely or for a period fixed by law, destroyed, or transferred to the Archives. Each agency prepares an annual list for the disposal of documents within their jurisdiction. The Archivist examines the lists and determines which documents will be preserved at the Archives. Those documents designated by the Archivist will be transferred to the General Archives. Those documents not selected by the Archivist may be destroyed by the Documents Administrator upon the express authorization of the Program Administrator.

- 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.

No additional sources other than the statute and regulations listed above.

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.

Additional comments:

When the Public Documents Administration Act of 1955, as amended, 3 P.R. Laws Ann. §§ 1001-1013, (2000) was enacted, its main purpose was to establish a systematic program for the conservation of public documents. The scope of citizens' access to public records was not considered. Emphasis has been placed on conservation and preservation of public documents.

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.

According to the Puerto Rico Public Documents Administration Act, 3 P.R. Laws Ann. § 1002 (2000), the General Services Administrator; the Chief Justice of the Supreme Court; the President of the Senate; the Controller; or their respective authorized representatives are authorized to administer the Public Documents Administration Plan in the departments and agencies under their jurisdiction. Each Program Administrator must draft a set of rules and regulations to govern the Documents Administration Program.

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

No additional sources other than statute and regulations listed above.

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:

There are no reported appellate cases involving permanent access and none of the officials interviewed spoke of any litigation concerning permanent public access.

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

Additional comments:

The Puerto Rico Supreme Court in *Soto v. Secretary of Justice*, 112 P.R. Offic. Trans. 597, 608 (1982), elevated to constitutional status the citizens’ right to have access to government information when it stated that: “Hence, it is logical to conclude that there is a close relationship between the freedom of speech and the freedom of information.” That constitutional status was reiterated in *López Vives v. Policía de Puerto Rico*, 118 P.R. Offic. Trans. 264, 275 (1987), when the Court stated that: “ We have held that a citizen of a self-governing society has the constitutional right to examine information held by the State. This right is a necessary corollary to the freedom of speech consecrated in Art. II, Sec. 4 of the Commonwealth Constitution.”

Article 49 of the Code of Civil Procedure, 32 P.R. Laws Ann. § 1782 (1990), also states that “Every citizen has a right to inspect and take a copy of any public document of Puerto Rico, except as otherwise expressly provided by law.”

PS 1599, 14th Leg., 3rd Reg. Sess. (P.R. 2002) would create the Government Free Access to Information Act. This bill sets forth the administrative procedures for inspection and reproduction of public documents; creates an Ad Hoc Committee for the preparation of a General Regulation of Access to Public Information; sets forth exceptions on the information subject to disclosure and the appeals process when an application is denied.

The last action on this bill was on May 13, 2002 when it was referred to the Senate Government and Public Safety Committees.

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.

Additional comments:

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

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.

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

Additional comments:

There are four different bills presently pending in either the House or the Senate addressing the need to give citizens public access to government information by electronic and/or print methods. These bills are:

PC 14, 14th Gen. Assem., 1st Reg. Sess. (P.R. 2001): Creates the Access to Environmental Information Act. This Act compels every government agency and municipality to provide the public with information on environmental decisions that will affect the environment.

PC 2621, 14th Gen. Assem., 3rd Reg. Sess. (P.R. 2002): Requires that Municipal Legislatures, through their secretaries, to place essential information on the totality of ordinances and resolutions signed by the Mayors and the President of the Municipal Legislature at the direct and immediate disposal of the public, by means of publication on a web page, in informative handbooks accessible to the public, free of cost, in school libraries in their jurisdiction and at municipal agencies, with competence over the matter dealt with in each resolution and ordinance.

PS 139 ,14th Gen. Assem., 1st Reg. Sess. (P.R. 2001): Creates the Environmental Information Access Act. This bill compels every government agency and municipality to provide the public with environmental information.

PS 252, 14th Gen. Assem., 1st Reg. Sess. (P.R. 2001): Creates the Electronic Access to Legislation Act. The Legislative Assembly (Senate and House) must create, in a comprehensive manner, a page on the World Wide Web for the public distribution of information, free of cost. The information would include: bills, approved laws, joint and concurrent resolutions, substitute and enrolled measures, daily schedule of sessions, etc..

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.

Additional comments:

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

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.

Office of Management and Budget, Government IT Program.

Melba Acosta, Director

Management and Budget Office Organic Act, 23 P.R. Laws Ann. §§ 101-109 (1999).

- 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?

Management and Budget Office Organic Act, 23 P.R. Laws Ann. §§ 101a(b), 103(b)(5), 105b (1999).

The statute was first enacted in 1995.

Additional comments:

An adjunct committee to OMB, the Governor's Committee on Information Systems, oversees the policy making process for the Government IT. The Committee is composed of seven cabinet members, three of whom are appointed by the Governor on a discretionary basis. OMB's Director chairs the committee.

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.

Office of Management and Budget Memorandum Letter 96-01.

Additional comments:

Memorandum Letter 96-01 provides a set of guidelines to govern information technology aspects of the Executive Branch only, thus having limited applicability.

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.

Within the Executive Branch, her jurisdiction encompasses both public and semi-public entities. Although her jurisdiction regarding information technology does not expressly include semi-public entities such as public corporations, her de facto jurisdiction has been extended by virtue of Memorandum Letter No. 96-01.

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.

EGov Initiative

EGov will provide approximately one thousand online services to citizens. Information regarding the regulatory processes, rights to service, and government accountability will be available for universal access. This project is scheduled for completion in 2004. An initial version will be available in August 2002. All necessary information for completing a service request will be available online, although there will not be online capability for submittals before Summer 2003.

Commonwealth’s Office of Statistics

Mirroring the federal statistical model, the Commonwealth's system is composed of 120 disparate departments and many other agencies, making meaningful access to statistical information impractical. An Office of Statistics will be created in FY 2003 to address issues related to standardization, normalization, nomenclatures, federal and international correlation of systems and products, methodologies, and to solve the critical issue of universal access to timely and accurate information. OS's jurisdiction most likely will comprise the Executive Branch, although part of the Criminal Statistical System, having links with the Judiciary, will also be included. OMB is overseeing the process with an information technology strategy aimed at creating a shared statistical database for the Commonwealth.

Commonwealth Portal

The Portal will convey content from 138 agencies, 87 of which have no Internet presence to this date. A major release is scheduled for December 2002.

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.

The Government Information Technology Office will become an independent agency within the Executive Branch by FY2004. Its creation will provide the means to manage public information and provide universal access to this information, access which is now limited in scope.

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:

Although Act of July 23, 1974, No. 164, § 17, as amended by Act of August 4, 1979, No. 196, § 3, 3 P.R. Laws Ann. § 933b (2000), provides for the General Services Administration to be in charge of and administer the "Government Printing Office" the reality is that the only printing services provided by the our "GPO" to the agencies, departments or instrumentalities of the Executive Branch are of materials of a fiscal nature (invoices, books for accounting purposes, etc.), posters and brochures. Most of the government agencies have their own mini printing offices or contract out their printing needs to private companies.

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.

General Archives of the Commonwealth of Puerto Rico.

General Archivist.

Puerto Rico Public Documents Administration Act, as amended, 3 P.R. Laws Ann. §§ 1003, 1006 (2000).

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.

Puerto Rico Public Documents Administration Act, 3 P.R. Laws Ann. §§ 1003-1013 (2000).

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.

Additional comments:

The Puerto Rico General Archives Advisory Committee, composed of representatives of each of the Public Documents Administrators, is in charge of formulating the general rules which are to govern the Archives. 3 P.R. Laws Ann. §1007 (2000)

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.

The Public Documents Administration Program deals, among other things, with the use, conservation and disposition of public documents. Documents Administrators in the three branches of government prepare an annual list for the disposal of documents in their respective agencies. The Archivist examines the lists and determines which documents will be transferred to the General Archives.

3 P.R. Laws Ann. §§ 1001, 1002 (2000)

Additional comments:

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

The General Archives is the official depository of all public and private documents transferred to it, regardless of their date, which in the opinion of the Program Administrators are deemed to have lost their administrative usefulness. The Public Documents Administration Program includes every department, agency or corporate entity, board, committee, body, bureau, office and every other government body of the three branches of the Commonwealth Government and the municipalities.

The Archivist is responsible for the custody, preservation and use of all existing documents in the Archives. He/she is bound and authorized to certify and issue copies of those documents in his/her custody of which reproductions are impossible to otherwise obtain.

3 P.R. Laws Ann. §§ 1001, 1003, 1006, 1008-1014.

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.

In terms of archival materials, by virtue of the Puerto Rico Public Documents Administration Program Act, 2 P.R. Laws Ann. §§ 1003-1013 (2000), the General Archives becomes the official depository of all public and private documents transferred to it. The Archives shall make those documents available to the general public.

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.

The responsibility derives from the Puerto Rico Public Documents Administration Program Act. By this Act, the General Archives becomes the official depository of all public or private documents transferred to it. The Archives shall have funds to make those documents available for the use of Government employees and the general public. The Archivist is responsible for the custody, preservation and use of all the documents under his/her custody.

3 P.R. Laws Ann. §§ 1001-1013 (2000).

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.
- 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.

Additional comments:

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

Yes
 No

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

Additional comments:

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

Executive

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

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

Additional comments:

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

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

Additional comments:

The Puerto Rico Documents Administration Act, 3 P.R. Laws Ann. § 1013(a) (2000), provides that “Government offices shall send to the Puerto Rico Library and the Puerto Rico Collection of the University of Puerto Rico a copy of each report, bulletin, magazine or book published by and disseminated within the government.” In reality few of the government departments send their publications to the two institutions mentioned above.

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

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

Never before distributed, now distributed in electronic format.

Additional comments:

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.

One statute that could be amended creates the Legislative Library, Law 59 of June 19, 1964; 2 P.R. Laws Ann. §§ 421-438 (1998).

According to section 1, the Legislative Library’s facilities “shall be at the service of the public.” Section 429 states that: “The Secretaries of both Legislative Houses are hereby directed to transmit to the Legislative Library three (3) copies of the daily records of each House as well as three (3) copies of all reports of the various legislative committees and subcommittees and documents supplementary thereto, and all publications of each House.”

Section 430 states that: “In addition to any books and publications which must be furnished to the Legislative Library Service Office under other provisions of law, the Governors’ Office, the Supreme Court Office of Puerto Rico and its Chief Justice, the Controller’s Office, the Court Administrator, as well as all departments, branches, agencies, bureaus, offices, public corporations and its subsidiaries, and all other dependencies of the Commonwealth of Puerto Rico, including its municipalities, the Institute of Puerto Rican Culture and the University of Puerto Rico, are hereby directed to send to the Legislative Library three (3) copies of each of every one of their publications, bulletins, reports and printed or mimeographed materials of whatever kind, including, but not limited to annual, monthly or periodic reports: audit, special, or any kind of reports; regulations; administrative and technical manuals on systems and procedures; circulars; functional and administrative memoranda; and by any recordings; maps and plans which may reasonably be incorporated to the Library catalog and including, further, such other printed or mimeographed materials as may be required by the Director of the Legislative Service Office.”

Since the Legislative Library should have almost all documents produced by the Government of Puerto Rico, it seems the obvious office responsible for providing “permanent public access” to those documents. An amendment to this effect could be inserted to the law, which must also include documents in electronic format.

Presently the Legislative Library is only receiving a small percentage of documents from government agencies. Also the present physical facilities of the Library will not permit the housing and storage of those documents. There will have to be an allocation of funds for a new building.

Another statute that could be amended is the Puerto Rico Public Documents Administration Act, 3 P.R. Laws Ann. § 1013 (2000). Article 15 states that: Government offices shall send to the Puerto Rico Library and the Puerto Rican Collection of the University of Puerto Rico a copy or edition of each report, bulletin, magazine or book published by and disseminated within the Government.” Since almost every library within the library system of the University of Puerto Rico has a Puerto Rican collection, the statute should be amended for those copies to be sent to every Puerto Rican

collection within the UPR Library system. That will make most of the government information available to citizens island wide.

In order to make the implementation of this statute a reality, government agencies have to be made aware of their responsibility to send their publications out to the designated libraries. Currently, the Puerto Rico Collection of the University of Puerto Rico Rio Piedras Campus has to aggressively pursue government agencies in order to secure copies of their publications.

- 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)

Melba Acosta
Director
Office of Management and Budget
P.O. Box 9023228
San Juan, PR 00902-3228

787-725-9420 ext. 2600
787-724-1374 Fax
e-mail: webmaster@ogp.gobierno.pr

www.ogp.gobierno.pr

2. State Printer
3. State Archivist

Karin Cardona
General Archivist
General Archives of the Commonwealth of Puerto Rico
P.O. Box 9024184
San Juan, PR 00902-4184

787-725-3021

787-722-9097 Fax

4. State Librarian and/or State Law Librarian
5. State Attorney General (on freedom of information act issues, etc.)

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

www.gobierno.pr

2. State agency portal

www.estado.gobierno.pr

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

No.

3. Legislative website

www.camaradepuertorico.pr

www.senadoelapr.org

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

Yes

- b. Are services free or fee-based?

Free

4. Judicial websites

www.tribunalpr.org

5. Regulatory agency websites

Board on Environmental Quality: www.jca-pr.org

Puerto Rico Planning Board: www.jp.gobierno.pr

Regulations and Permits Administration: www.arpe.org

Telecommunications Regulatory Board of Puerto Rico: www.jrtpr.gobierno.pr

Note: There are more regulatory agencies but they do not yet have websites.

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?

No.