

## 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.

Wis. Stat. § 16.61 (1999-2000) ; Wis. Admin. Code PR 1 (1994); Wis. Admin Code Adm 12 (2002).

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.

“State agency” means any officer, commission, board, department or bureau of state government. Wis. Stat. § 16.61(2)(d) (1999-2000).

Additional comments:

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

Wis. Stat. § 16.61(2)(b) (1999-2000).

Additional comments:

“Public records” means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection

with the transaction of public business, and documents of any insurer that is liquidated or in the process of liquidation under ch. 645. Wis. Stat. § 16.61(2)(b) (1999-2000).

Public record does not include “any state document received by a state document depository library.” Wis. Stat. § 16.61(2)(b)1m (1999-2000).

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?

Wis. Stat. § 16.611, 16.612 (1999-2000) and Wis. Admin. Code § Adm 12 (2002).

Additional comments:

While the definition of public record includes electronic documents, the statutes address record transfer to optical disk and electronic storage of certain records in separate statute sections. (Wis. Stat. § 16.661, 16.612) In these sections, the Public Records Board had a limited role, with the Department of Administration taking the main role. Wis. Admin. Code § 12, Electronic Records Management – Standards and Requirements is promulgated by the Department of Administration, rather than the Public Records Board.

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

Yes  
 No

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

See Wis. Stat. § 16.61(2)(cm) and 16.61(4) (1999-2000); no retention schedules are set forth, the statutes require state agencies to submit proposed retention schedules for approval by the Public Records Board.

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.

Wis. Stat. § 16.61(5)

Subject to rules promulgated by the department under s. 16.611, state agencies that transfer to or maintain in optical disk or electronic format public records in their custody shall ensure that the public records stored in that format are protected from unauthorized destruction.

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.

Wis. Stat. § 16.61(1) (1999-2000).

The public records board shall preserve for permanent use important state records, prescribe policies and standards that provide an orderly method for the disposition of other state records and rationalize and make more cost-effective the management of records by state agencies.

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.

Wis. Stat. § 15.105(5) (1999-2000).

There is created a public records board which is attached to the department of administration under § 15.03. The public records board shall consist of the governor, the director of the historical society, the attorney general, the state auditor, and the director of the legislative council staff, or their designated representatives, and a representative of the small business community, a representative of a local unit of government, as defined in § 106.215 (1) (e), and one other member.

Wis. Stat. § 16.61(1) (1999-2000).

The public records board shall preserve for permanent use important state records, prescribe policies and standards that provide an orderly method for the disposition of other state records and rationalize and make more cost-effective the management of records by state agencies.

Wis. Stat. § 16.61(3L) (1999-2000).

The department shall, with the consent of the board and based on qualifications approved by the board, appoint an official in the classified service to oversee the day-to-day execution of the board's duties, to serve as the executive secretary of the board and to coordinate the statewide records management 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.

Wis. Stat. § 16.61(1) (1999-2000).

The public records board shall preserve for permanent use important state records, prescribe policies and standards that provide an orderly method for the disposition of other state records and rationalize and make more cost-effective the management of records by state agencies.

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.

Wis. Stat. § 19.31 (1999-2000).

b. If “No,” skip this whole section.

Additional comments:

Known as “Wisconsin’s Open Records Law”

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.

Wis. Stat, § 19.32(1) (1999-2000).

Additional comments:

Also applies to local government.

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

Wis. Stat. 19.32(2) (1999-2000).

Additional comments:

“Record” means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. “Record” includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. “Record” does not include drafts, notes, preliminary computations and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

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:

Electronic records are included in the definition of "record." Wis. Stat. § 19.32(2) (1999-2000)

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.

Wis. Stat. § 19.31 (1999-2000).

Declaration of policy. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, §§ 19.32 to 19.37 shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

Wis. Stat. § 19.23(4).

Any other articles or materials which are of historic value and are not required for current use may, in the discretion of the department or agency where such articles or materials are located, be transferred into the custody of the historical society as trustee for the state, and shall thereupon become part of the permanent collections of said society

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.

Wis. Stat. § 35.825 (1999-2000).

- 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.

Wis. Stat. § 35.83 (1999-2000).

Wis. Stat. § 35.81(2) (1999-2000).

The state’s public printing statutes, which cover distribution of state documents through the state’s depository library program, addresses publications regardless of format. Wis. Stat. § 35.83 (1999-2000); Wis. Stat. § 35.81(2) (1999-2000).

Additional comments:

As more documents are created in electronic format, fewer print documents are distributed through this system. Agencies seem to forget to submit electronic documents for distribution through the system.

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

Wis. Stat. 35.81(3) (1999-2000)

“State document” includes every publication produced by a state agency in multiple copies or prepared for a state agency in multiple copies by a private individual or organization that is supported wholly or partly by any funds appropriated by this state, regardless of the format or process by which produced and regardless of the source of funds provided to the publisher, which is intended by the publisher to be disseminated or made accessible to the public or is required by law to be published, but does not include any publication of a state agency intended by the state agency to be used solely for internal purposes within the state agency or between that state agency and other state agencies.

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.

Wis. Stat. 35.825 (1999-2000).

Each state document depository library shall make freely available to inhabitants of the state all state documents retained by the library, shall keep state documents readily accessible for use and shall render assistance in their use to such inhabitants without charge.

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.

Department of Electronic Government;  
Wis. Stat. § 15.21 (slip law 2001 Wis. Act. 16).

Department of electronic government; creation. There is created a department of electronic government under the direction and supervision of the secretary of electronic government, who shall be known as the “chief information officer.”

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

Additional comments:

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

Wis. Stat. § 15.21, created by 2001 Wis. Act 16, effective Sept. 1, 2001.

Wis. Stat § 22.05 sets forth the powers of the department.

Additional comments:

The Department of Electronic Government may be disbanded. In late June 2002 a state budget conference committee recommended eliminating this department as a cost saving measure. If this happens, the function of IT support / administration for the executive branch would revert to the Department of Administration.

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:

There is currently no statutory authority to promulgate regulations. This situation should be remedied if this department is not disbanded. The department was created from two smaller departments within the Department of Administration. When the new statutes were written to create the department, the administrative rules power was overlooked.

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.

Wis. Stat. § 22.01(5m); 22.03(j); 22.03(L)

Throughout Chapter 22, there are references to authority and power within the executive branch only. There is mention of collaboration with the judicial branch.

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?

Wis. Stat. Chapter 22, Department of Electronic Government, is concerned with information technology systems throughout the executive branch agencies. Printed records of agencies are addressed in Wis. Stat. Chapter 16 and access to government publications is addressed in Wis. Stat. Chapter 35. The Department of Electronic Government is geared towards IT systems and forms management. Because forms can become public records, there is some element of interaction with the public records preservation requirements in Chapter 16.

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:

The State Web Administrators Group (SWAG), along with the Wisconsin Information Resources Council (WIRC) has drafted a proposed policy "Web Pages as Government Records." (See <<http://enterprise.state.wi.us/static/swag/webrec.htm>>.) This policy will be presented to the Department of Electronic Government (DEG) with the recommendation that it be adopted as an interim policy and that DEG develop a formal policy. The policy recognizes that some information on government websites may qualify as public records. Therefore the policy calls for early identification of such records and it requires that such records be made available in print, distributed through the state depository library program, and archived in such a way to provide meaningful long-term access. It was hoped that this policy would be approved in July of 2002. However, given the current budget situation and the recommendation that the DEG be disbanded, this policy may not have a vehicle.

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.

As noted above, this department may be disbanded.

## **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:

Agencies and government branches currently have their own technology plans. New legislation in Chapter 22, Department of Electronic Government, would require executive branch agencies to adopt and submit to DEG annual strategic plans for information technology.

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.

Department of Administration, Bureau of Document Services / Document Sales and Distribution.

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

Additional comments:

This bureau, within the Department of Administration, acts as the official printer for the State of Wisconsin. It is not its own agency.

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the printing office/official printer.

Wis. Stat. § 35.03; defines duties of the Department of Administration in regards to document sales and printing.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes, power is with the Department of Administration  
 No

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

None.

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.

Wis. Stat. 35.03(4) (1999-2000)

The department shall: direct the manner, form, style, quantity and method, when these are not expressly prescribed by law, of printing for state agencies except printing of the first class; and provide editorial services to state agencies in the preparation of copy for the printer.

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.

Most state agencies use the printing office for their in-house printing. Larger jobs are bid out to commercial publishers.

b. What percentage of official state government documents are printed by the printing office/official printer?

Because many "official" state documents are very large jobs (statutes, laws, Blue Books), most are sent to commercial printers. The printing office prints less than 50 percent of the volume of official documents.

c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

No involvement.

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?

Wis. Stat. Chapter 35, under the Department of Administration, addresses printing by government agencies. Wis. Stat. Chapter 22, under the Department of Electronic government, addresses public records in electronic format. However, “government publications” in electronic format get no treatment from either chapter. Chapter 22 deals mainly with forms, rather than government publications.

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:

The printing office acknowledges a responsibility to have current information available. For example, if a member of public wanted to purchase the current statutes, the printing office would ensure that copies are available. If none were available, they would print more.

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.

The State Historical Society of Wisconsin Wis. Stat. § 44.01(1) (1999-2000), see also, Wis. Stat. § 44.06 (1999-2000).

Division of Library / Archives has the responsibility for the state archives and the director is considered the State Archivist. This is not explicitly stated in the statutes.

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.

See Wis. Stat. 16.61(13) and 44.06 (1999-2000) for duties of the State Historical Society in regards to government records

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 Historical Society may promulgate rules.

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.

Wis. Stat. § 16.61 (13) (1999-2000) explaining the historical society's duties as the state archives for all agencies.

Additional comments:

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

Regarding government records, the state archivist sits on the Public Records Board which approves schedules of agency records series. The schedule contains the proposal for the life of the record series. It includes information such as how long the record will be active at the agency, how long it will remain in storage and when it will be scheduled for destruction or transfer to the archives at the historical society. When records are ready for transfer, the state records center contacts the state archives with the information. The archives have the final say as to whether the record is historically significant and will be transferred. After transfer, the record becomes the property of the Historical Society and further sifting, sorting and classification takes place.

Additional comments:

In reading the statutes, it seems that power to decide if a record should be kept on a permanent basis is with the Public Records Board but in speaking with representatives at the archives, it seems the historical society has the final say. The state archivist does sit on the Public Records Board and perhaps this ensures agreement between the Public Records Board and the historical society.

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:

Note that the guidelines for permanent retention do not specifically mention electronic records. It appears that it is understood that any record that fits permanent retention status, regardless of format, has to follow the guidelines. See Electronic Records Primer, <<http://enterprise.state.wi.us/static/erecords/Primer.htm>> (interpreting Wis. Admin. Code ADM 12).

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.

Wis. Stat. § 16.61(13)c (1999-2000).

"The historical society shall, in cooperation with the staff of the board, as soon as practicable, adequately and conveniently classify and arrange the state records or other official materials transferred to its care, for permanent preservation under this section and keep the records and other official materials accessible to all persons interested. . . ."

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.

Wis. Stat. § 16.61(13)(a).

The [Public Records] board may transfer to the [Historical] society such original records and reproductions as it deems proper and worthy of permanent preservation.

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.

No source, only comments from the archives – the archives is committed to preserving a body of information it seems historically significant.

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.

The historical society was involved in one of the first electronic records projects in the country in the mid-1980’s. The project studied the process and feasibility of acquiring electronic records. In the mid-1990’s a second similar project was conducted. The historical society has also secured federal money to help local governments preserve information. In the mid-1990’s the society completed a project of reassessing and reappraising government information in the archives. This project helped them improve the state archives.

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.

Due to budget constraints the State Historical Society laid off several staff members involved in state archives and government publications. Their last day of work was June 28, 2002. As a result, the society has to completely re-access the state archives program. In February 2003, the historical society board voted to accept a committee recommendation to charge state agencies a fee for storing public records. If this plan is implemented, it should help the historical library meet its legal obligation to archive state records.

#### **H-1. STATE LAW LIBRARY AND STATE LAW 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.

Wisconsin State Law Library; Wis. Stat. 758.01 (1999-2000)

- 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.

Wis. Stat. 758.01 (1999-2000);

Wis. Stat. 758.02 (1999-2000).

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.

Wis. Stat. § 758.01(1) (1999-2000)

The supreme court shall maintain a state law library for the use of officers and employees of this state, attorneys and the public.

Additional comments:

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

From the library's mission statement: The Wisconsin State Law Library exists to serve the legal information needs of the officers and employees of this state, attorneys and the public by providing the highest quality of professional expertise in the selection, maintenance and use of materials, information and technology in order to facilitate equal access to the law.

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.

No supporting source of law. The library's collection development policy notes that the library is committed to collecting all editions of Wisconsin statutes, session laws, and constitution.

Additional comments:

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

Yes

No

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

The Wisconsin State Law Library maintains a comprehensive collection of briefs filed with the Supreme Court and Court of Appeals, dating back to 1839. In recent years, the library began a digitization project where briefs are scanned and saved in electronic format as well as print. Older briefs are saved on microfiche and print. The project is successful and will continue to be a major part of the library's Wisconsin collection.

In 1995, the library "rescued" 6,400 documents from the state's disbanded Judicial Council. This collection includes committee records, proceedings and correspondence. Over a two-year period the collection was organized and cataloged. Digitized indexes were created. While there is no official order to keep this information on a permanent basis, it is understood that if the collection were removed from the State Law Library, it would go to the Historical Society for permanent access.

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.

## H-2. 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

b. If "Yes," provide the complete official name for the library and/or librarian; cite to the statute giving that information.

Reference and Loan Library; Wis. Stat. § 43.05(11) (1999-2000).

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

Additional comments:

The Reference and Loan Library is considered the "library of last resort" in Wisconsin. It is a resource library for all types of libraries in the state. The library is operated through the Department of Public Instruction, Division of Libraries, Technology and Community Learning. The State Superintendent of Schools is ultimately responsible for ensuring that the division meet statutory requirements.

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the library/librarian.

Wis. Stat. § 4305(11) (1999-2000).

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.

Wis. Stat. § 43.05(11) (1999-2000); the library has responsibility to serve all government units, libraries and members of the public.

Additional comments:

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

Per Wis. Stat. § 43.05(11):

“...supplement the collections of all types of libraries in this state by providing specialized materials not appropriately held and information sources not provided by local libraries or readily available from other area or state-level resource providers. The library shall provide specialized information services to state agency libraries and state employees, institution libraries, public library systems, public libraries, school libraries and other types of libraries according to policies developed by the division. Library and information services may include development of collections of specialized materials, interlibrary loan services, reference services, provision of database search services and maintenance of a statewide database of library materials. The library may contract with state agencies and libraries to provide library material cataloging and processing services.”

In addition, the library negotiates state-wide contracts for electronic databases and manages the state document depository system.

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:

The Reference and Loan Library became a state depository library in 1991 so much of its government information collection is recent. The state has relied on the State Historical Society to maintain permanent access to state documents.

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.

Recent budget cuts at the State Historical Society have taken a toll on the state archives and document depository program at that library. A committee is being formed to address changes in the depository program due in part by these cuts. The committee will also be investigating how state documents in electronic format can be captured to ensure permanent public access. This committee has not yet met (June 2002).

Additional comments:

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

Yes

No

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

Additional comments:

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

To clarify, Wisconsin does not have one "official" state library. Wisconsin has a State Law Library, the Reference and Loan Library and the State Historical Society Library. These three libraries have various statutory requirements. The State Law Library serves as the library for the Wisconsin Court System as well as the law library resource for the legislature, state agencies, and the public. The Reference and Loan Library supports public library systems and state agencies through many services, including the operation of the state depository program. The State Historical Society is the official archives for Wisconsin public records and government publications.

## 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.

Wis. Stat. § 35.81 through 35.84 (1999-2000).

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

Additional comments:

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

Yes  
 No

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

The statutes do not call for distribution of electronic documents through the depository system. However, recently the State Historical Society added URLs (when known) to the shipping lists of depository items. In doing so, there was no special understanding about use of those URLs or efforts to preserve the electronic documents. Note that, due to budget cuts, the URL feature is no longer available on shipping lists.

Additional comments:

Note that the top records manager at the Department of Electronic Records indicates that some agencies are archiving their own electronic records, but no examples of this are readily available.

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:

The statute reads as follows:

Each state document depository library shall make freely available to inhabitants of the state all state documents retained by the library, shall keep state documents readily accessible for use and shall render assistance in their use to such inhabitants without charge.

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:

As noted above:

Recent budget cuts at the State Historical Society have taken a toll on the state archives and document depository program at that library. In June of 2002, the Wisconsin Document Depository Study Committee was formed to address several issues facing the depository library program, including digital distribution and preservation of government documents. In December of 2002, a subcommittee was formed “to specifically explore the content management issues, organizational (process and people) challenges, and technology requirements for the identification, management, preservation and retrieval of depository publications that are ‘born digital.’” See <http://www.dpi.state.wi.us/dpi/dltcl/rll/inddep.html> for a complete record of these committees. In addition, in February 2003, the Department of Electronic Government launched a webpage “Digital Depository” to track this issue in the State of Wisconsin. See <http://enterprise.state.wi.us/static/deposit/default.htm>

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:

There were no statistics available for this information. The depository library program notes that 1,301 titles were distributed in 2001. In 2000, 1,571 titles were distributed. The number of titles distributed each year is becoming less, in part because more titles are being distributed in electronic format.

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

The program is addressing the need to become more effective in this area. For a time, URLs were added to document shipping lists. However, due to budget cuts, this feature is no longer available. URLs are being made available on the state-wide catalog.

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:

There has been discussion of what will become of the former governor's web page (Gov. Tommy Thompson). The web page has been in state storage since Thompson left state service in 2001. The page may be permanently housed at the State History Society website but there has also been talk of housing it at Marquette University, a private school that has dedicated a new library to Tommy Thompson. If Marquette receives the web page, this would be one example of government records being stored by a non-government entity. There is probably some question as to whether a website constitutes a state record. This issue could be what is holding the matter back.

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.

Wis. Stat. § 35.825 (1999-2000) sets forth the duties of state document depository libraries. No retention schedule is set forth. The statutes could read:

Each state document depository library shall make freely available to inhabitants of the state all state documents retained by the library, shall keep state documents readily accessible for PERMANENT use and shall render assistance in their use to such inhabitants without charge.

Wis. Stat. § 35.83 (1999-2000) sets forth document distribution. It requires agencies to meet distribution requirements and provides for the number of copies to be distributed to state depository libraries. In addition to the hard copy distribution requirements, this section could require state agencies to permanently retain on their website any government publication created in electronic format.

- 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)

Rebecca Heidepriem  
Department of Electronic Government  
101 E. Wilson, 8th Floor  
Madison, WI 53702  
(608) 264-9502  
<<http://deg.state.wi.us/static>>

2. State Printer

Bureau of Document Services / Document Sales and Distribution Section  
202 S. Thornton Avenue  
P.O. Box 7840  
Madison, WI 53707  
(608) 266-3358  
<<http://www.doa.state.wi.us/dsas/docserv/docsales/index.asp>>

3. State Archivist

Peter Gottlieb, Administrator, Library and Archives / State Archivist  
State Historical Society  
816 State Street, Room 421  
Madison, WI 53706  
(608) 264-6480  
<<http://www.shsw.wisc.edu/library>>

4. State Librarian and/or State Law Librarian

Jane Colwin / Julie Tessmer, Acting co-State Law Librarians  
Wisconsin State Law Library  
120 Martin Luther King, Jr. Blvd  
Madison, WI 53703  
(608) 266-1600  
<<http://wsll.state.wi.us>>

Sally Drew, State Librarian, Division of Libraries, Technology and Community Learning  
2109 S. Stoughton Road  
Madison, WI  
(608) 224-6161  
<<http://www.dpi.state.wi.us/dlcl/rll/index.html>>

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

Wisconsin Department of Justice / Attorney General's Office  
State Programs, Administration and Review  
P.O. Box 7857  
Madison, WI 53707  
(608) 266-3952  
<<http://www.doj.state.wi.us/dls/spar.asp#pubrec>>

**M. IMPORTANT STATE RESOURCES**

Provide URLs or other finding information for:

1. Official state home page

<<http://www.wisconsin.gov/state/home>>

2. State agency portal

<[http://www.wisconsin.gov/state/core/agency\\_index.html](http://www.wisconsin.gov/state/core/agency_index.html)>

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

Yes.

3. Legislative website

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

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

Most information dates back to 1995.

- b. Are services free or fee-based?

Free.

4. Judicial websites

<<http://www.courts.state.wi.us/>>

5. Regulatory agency websites

<[http://www.wisconsin.gov/state/core/agency\\_index.html](http://www.wisconsin.gov/state/core/agency_index.html)>

6. Freedom of Information Service Hotline

(608) 266-3952

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

The State Programs, Administration and Review section of the Attorney General's office handles inquires from the public.

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

Yes.