

## 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.

Wyoming Statutes Annotated §§ 16-4-201 to 16-4-205 (LexisNexis 2002)  
Chapter 2 of the Rules and Regulations of the Wyoming State Archives Museums and Historical Department addresses “Information Practices”

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.

Wyo. Stat. Ann. § 16-4-201(a) (v) (LexisNexis 2002) provides that the public record statutes apply to records created by “the state of Wyoming and any counties, municipalities and political subdivisions thereof and by any agencies of the state, counties, municipalities and political subdivisions thereof...” Although the statute seems to indicate that it would apply to all agencies, no matter which branch, given the constitutional separation of powers, there is some question as to whether the Legislature would have the power to control how the courts or elected officials deal with their documents. The courts have not yet addressed the issue.

Additional comments:

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

The definition in the Public Records Act is found at Wyo. Stat. Ann. § 16-4-201(a)(v) (LexisNexis 2002).

Additional comments:

They are also defined in the enabling statutes of the State Archives, Museums and Historical Department at Wyo. Stat. Ann. § 9-2-401(a)(5) (LexisNexis 2002)

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?

The 2002 Wyoming Legislature added Wyo. Stat. Ann. § 16-4-202(d) (LexisNexis 2002) which specifically addresses how the electronic public records may be accessed. It provides that:

(d) If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester. Electronic record inspection and copying shall be subject to the following:

- (i) The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services;
- (ii) An agency shall provide an electronic record in alternative formats unless doing so is impractical or impossible;
- (iii) An agency shall not be required to compile data, extract data or create a new document to comply with an electronic record request if doing so would impair the agency's ability to discharge its duties;
- (iv) An agency shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained;
- (v) Nothing in this section shall prohibit the on-line government commission from enacting any rules pursuant to its authority under W.S. 9-2-2501.

Additional comments:

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

Yes  
 No

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

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

Additional comments:

Although the statutes and regulations do not specifically address retention, the State Archivist has created a retention schedule which includes a number of records which must be permanently retained.

- 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:

There is a recent Wyoming Supreme Court opinion, *Allsop v. Cheyenne Newspapers, Inc.*, 2002 WY 22, 39 P.3d 1092 (2002), which provides that under the Wyoming Public Records Act (WPRA), disclosure not secrecy should prevail. Implementation of that goal is provided by affording a liberal interpretation to the WPRA and construing its exceptions narrowly. The legislature intended for the courts to use traditional judicial remedies, as well as to fashion new ones that suit the circumstances which the statute was intended to remediate. Thus, a district court may use redaction as one of the remedies to vindicate the public's interests in access to public records.

- 7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes  
 No

- a. If "Yes," cite to applicable statutes/regulations and identify the responsible officer/government entity.

The director of the State Archives, Museum and Historical Department shall collect, arrange and make available to the public at reasonable times in his office in original form, copies or microfilm copies or negatives, all records in his custody not restricted by law, including official records of the of the state and its political subdivisions, of the United States or of foreign nations. He is the legal custodian of all public records in the custody of the Wyoming parks and cultural resources commission. See Wyo. Stat. Ann. § 9-2-407 (LexisNexis 2002).

Each department or agency of the state government shall designate a records officer who shall supervise the departmental records program and who shall represent the office in all departmental

matters before the records committee. The records officer and the director shall prepare transfer schedules for the transfer of public records to the records centers or to the archives. See Wyo. Stat. Ann. § 9-2-409 (LexisNexis 2002).

The records committee is created to be composed of the director of the State Archives, Museum and Historical Department or his deputy, who shall act as chairman and secretary of the committee, the attorney general or his appointee and the director of the state department of audit or his appointee. The records committee shall meet upon call by the chairman at least once every quarter. Action by the committee shall be by majority vote and records shall be kept of all committee business. When the disposition of records is considered by the records committee, it shall ascertain the recommendations of the head of the department or the departmental records officer. The records committee shall approve, modify or disapprove the recommendations on retention schedules of all public records and act upon requests to destroy any public records. Any modification of a request or recommendation shall be approved by the head of the agency originating the request or recommendation. Upon written request of the department or agency head, the director shall furnish the film or a copy of the film to be retained by the department if deemed necessary or expedient by the records committee. The department shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved. This is actually the entity that develops the retention schedules. Once the retention schedules are developed, they carry the force of law. See Wyo. Stat. Ann. § 9-2-411 (LexisNexis 2002).

- 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.

Wyo. Stat. Ann. § 9-2-410 (LexisNexis 2002) provides that all public records are the property of the state. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with W.S. 9-2-405 through 9-2-413. The Department of Archives has established a series of retention schedules which identify records which need to be retained permanently and provide guidance as to when temporary records may be destroyed.

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:

Legislation has been enacted providing a means of public access to electronic

records but does not address the issue of permanent retention and preservation.

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.

Wyoming Statutes Annotated §§ 16-4-201 to 16-4-205 (LexisNexis 2002)

Chapter 2 of the Rules and Regulations of the Wyoming State Archives Museums and Historical Department addresses "Information Practices"

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

Additional comments:

2. The freedom of information act statutes/regulations apply to which of the following branches?

Executive

Legislative

Judicial

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

Other

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

Wyo. Stat. Ann. § 201(a) (v) provides that it applies to records created by “the state of Wyoming and any counties, municipalities and political subdivisions thereof and by any agencies of the state, counties, municipalities and political subdivisions thereof...” Although the statute seems to indicate that it would apply to all agencies, no matter which branch, given the constitutional separation of powers, there is some question as to whether the Legislature would have the power to control how the courts or elected officials deal with their documents.

Additional comments:

There is a list of records that are not available for general public inspection in Wyo. Stat. Ann. § 16-4-203 (LexisNexis 2002)

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

The definition in the Public Records Act is found at Wyo. Stat. Ann. § 16-4-201(a)(v) (LexisNexis 2002).

They are also defined in the enabling statutes of the State Archives, Museums and Historical Department at § 9-2-401(a)(5) (LexisNexis 2002).

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.

The 2002 Wyoming Legislature added Wyo. Stat. Ann. § 16-4-202(d) (LexisNexis 2002) which specifically addresses how the electronic public records may be accessed. It provides that:

(d) If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester. Electronic record inspection and copying shall be subject to the following:

- (i) The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services;
- (ii) An agency shall provide an electronic record in alternative formats unless doing so is impractical or impossible;
- (iii) An agency shall not be required to compile data, extract data or create a new document to comply with an electronic record request if doing so would impair the agency's ability to discharge its duties;
- (iv) An agency shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or

integrity of the original record or of any proprietary software in which it is maintained;

(v) Nothing in this section shall prohibit the on-line government commission from enacting any rules pursuant to its authority under W.S. 9-2-2501.

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

It appears as if in some instances a record that would be available for inspection in paper format could be restricted if it is electronic format. See Wyo. Stat. Ann. § 16-4-202(d)(iv) (LexisNexis 2002).

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:

There is a recent Wyoming Supreme Court opinion, *Allsop v. Cheyenne Newspapers, Inc.*, 2002 WY 22, 39 P.3d 1092 (2002), which provides that under the Wyoming Public Records Act (WPRA), disclosure not secrecy should prevail. Implementation of that goal is provided by affording a liberal interpretation to the WPRA and construing its exceptions narrowly. The legislature intended for the courts to use traditional judicial remedies, as well as to fashion new ones that suit the circumstances which the statute was intended to remediate. Thus, a district court may use redaction as one of the remedies to vindicate the public's interests in access to public records.

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:

Although not designated a public access law, Wyo. Stat. Ann. § 8-2-101 (LexisNexis 2002), provides that each principal county library in Wyoming will receive copies of the statutes, supplements, and session laws. There are no other materials that by statute need to be publicly distributed.

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.

The Division of Information Technology is in the Department of Administration and Information. Its responsibility is to support and enhance the information content and information transfer needs of the state. Its duties are primarily to handle telecommunications and computer operations. It has no true responsibilities regarding content of documents or permanent preservation and access. See Wyo. Stat. Ann. § 9-2-1026.1 (2002).

In 2002, the legislature created the Chief Information Officer. The enacting language was in the appropriations bill and will not appear in the Wyoming Statutes Annotated. The governor was authorized to employ either directly or through a contractual arrangement a chief information officer. "The chief information officer shall develop a plan for the organization of information technology activities for all executive branch agencies. The plan shall categorize each information technology structure into an enterprise framework by function. The plan shall also include the development of a system for creating a common information technology architecture and standards, which lead to an efficient and effective use of funds. The chief information officer shall submit the plan to the governor for approval and to the joint appropriations committee for review. Notwithstanding W.S. 9-2-1005(a)(xii), 9-2-1018, 9-2-1026.1 and 9-2-2051, the chief information officer's written approval shall be required prior to any executive branch agency's acquisition of any information technology software, hardware or services unless the agency has received a specific written exemption from the governor. All executive branch agencies shall assist in developing the plan and provide any information requested by the chief information officer." S.B. 2, § 306, 56th Leg., Budget Sess. (Wyo. 2002) (appropriations bill signed as unnumbered chaptered law on Mar. 3, 2002)

The language of this enactment does not specifically discuss anything regarding permanent preservation or access to information. However, the charge to the position may be broad enough that whoever assumes the position may undertake a project to ensure preservation.

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

Additional comments:

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

Additional comments:

The office was created in 2002 as part of a budget bill and the powers were only generally defined as stated in question 1 of this section.

- 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:

At this point in time, it is unknown the extent of the authority the Chief Information Officer will have.

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

Executive  
 Legislative

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

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

Additional comments:

It should be noted that the Supreme Court has its own Chief Information Officer. This position was internally created by the Judicial Branch and there is no authorizing legislation. The Court's CIO is charged with creating a technology plan for the judicial branch. Currently, the primary responsibility for this office is court automation. The Court Technology Office's Vision is to help advance the highest quality of justice throughout the provide technical leadership and innovation; promote effective and efficient use of technical tools; renders exceptional service to every customer; and strives to understand the business processes we enable. They have not yet considered permanent preservation. The records they deal with are not available to the public even if the court is covered by the Public Records Act, these records fall within the exceptions.

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:

It is too soon to tell.

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

## E. STATE TECHNOLOGY PLANS

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

Yes  
 No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.
- b. If "Yes," also provide complete bibliographic information about the plan; when was it published?
- c. If "No," skip this whole section.

Additional comments:

The new Chief Information Officer has been charged with developing one. There is, however, a committee (Wyoming on the Web--or WOW) which represents various state agencies and independent Web developers which has been meeting regularly for over 5 years to share ideas, techniques, devise standards, and keep an eye on the latest technology so as to produce a better web product.

2. The technology plan covers which branches?

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

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

Additional comments:

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

- Yes
- No

a. If "Yes," cite to and provide relevant language of the plan.

Additional comments:

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

## **F. STATE PRINTING OFFICE AND STATE PRINTER**

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

- Yes
- No

a. If "Yes," provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.

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

Additional comments:

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

Additional comments:

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

- Yes
- No

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

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

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

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

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.
- b. What percentage of official state government documents are printed by the printing office/official printer?
- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Additional comments:

6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

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

Additional comments:

7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to "permanent public access" of government information?

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

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

Yes  
 No

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

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes  
 No

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

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state's failure to "permanently" maintain government information?

Yes  
 No

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

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

## G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state's official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes  
 No

- a. If "Yes," provide the complete official name for the archives and/or archivist; cite the statute giving that information.

Wyo. Stat. Ann. § 9-2-401 et seq. (LexisNexis 2002) creates the State Archives, Museums and Historical Department

- 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.

Wyo. Stat. Ann. § 9-2-404(b) (LexisNexis 2002) actually defines the powers of the director of the Department. Wyo. Stat. Ann. § 9-2-406 and § 9-2-407 ((LexisNexis 2002) discuss the Department's responsibilities with regard to public 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.

The Wyoming State Archives, Museums and Historical. Department promulgates rules and regulations pursuant to Wyo. Stat. Ann. §§ 9-2-401 through 9-2-425 and Wyo. Stat. Ann. §§ 16-4-201 through W.S. 16-4-205 (LexisNexis 2002).

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

Executive

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

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

Rules of the Wyoming State Library, Archives, Museums and Historical Department particularly Chapter 2.

Additional comments:

All Branches have representatives on the Records Committee.

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

Under Wyo. Stat. § 9-2-404(c)(ii) the director shall:

Acquire by gift, devise, bequest, donation, purchase, lease or otherwise, money, books, manuscripts and other personal property of historical value. He shall hold and own the property in the name of the state and provide for its restoration, care and preservation;

Under Wyo. Stat. § 9-2-406:

(a) The director shall properly manage and safely keep all public records in his custody, and administer the state archives. He shall:

- (i) Manage the archives of the state;
- (ii) Centralize the archives of the state to make them available for reference and scholarship and to insure their proper preservation;
- (iii) Inspect, inventory, catalog and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;
- (iv) Maintain and secure all state public records and establish safeguards against unauthorized removal or destruction;
- (v) Establish and operate state record centers for preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;
- (vi) Gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures and devices for efficient and economical management of records;
- (vii) Establish and operate a central microfilm division in which all memoranda, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, may be microfilmed. The division shall microfilm public records approved for filming by the head of the office of origin and by the director, and shall establish standards for microfilming. All state departments, agencies and subdivisions of the state government and all counties, municipalities and political subdivisions thereof shall consult with the director prior to microfilming within the departments, agencies or political subdivisions and shall comply with the standards for all microfilming

established by the central microfilm division. The central microfilm division may microfilm records which are required to be kept a specified length of time or permanently, or to be destroyed by specific methods or under specific supervision. When records are microfilmed, the microfilm may be substituted for the original documents and retained in lieu of the original documents and the original documents may be destroyed;

(viii) Maintain necessary facilities for the review of records approved for destruction and their economical disposition by sale, shredding or burning, and supervise the destruction of public records.

Under Wyo. Stat. Ann. § 9-2-407(a) (LexisNexis 2002):

(a) The director shall collect, arrange and make available to the public at reasonable times in his office in original form, copies or microfilm copies or negatives, all records in his custody not restricted by law, including official records of the state and its political subdivisions, of the United States or of foreign nations. He is the legal custodian of all public records in the custody of the Wyoming parks and cultural resources commission.

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes

No

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

Additional comments:

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to "permanent public access" of government information?

Yes

No

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

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes  
 No

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

The Wyoming State Records Committee establishes determines which documents should be retained permanently. They have assumed this authority under Wyo. Stat. Ann. § 9-2-411 (LexisNexis 2002).

Additional comments:

The Governor has also issued an executive order regarding e-mail records (Executive Order 1999-4). The policy provides that records contained within the e-mail system need to be identified and controlled in the same manner as any other state record.

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:

The Department of Archives has taken the view that nothing created Digitally/Electronically is of a permanent nature due to fragility of the media and obsolescence of software and hardware. It is the Wyoming State Archive's position that all records which are "born digitally" be transferred to a permanent media (Paper or Microfilm as directed by the appropriate retention schedule). They are constantly reviewing the industry to determine if a truly archival solution is developed. Should this happen they will change its policy.

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.

The position of Wyoming State Librarian is created and the duties defined at Wyo. Stat. Ann. § 9-2-1026.6.

- 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.

The position of Wyoming State Librarian is created and the duties defined at Wyo. Stat. Ann. § 9-2-1026.6.

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:

The State Librarian has specifically been given the power to create regulations. However, there currently are none.

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.

There are no specific defined responsibilities as regards to any specific branch of government. The State Library is within the Executive Branch (Department of Administration and Information) and has defined its mission as being to promote library development, foster library cooperation and provide reliable information to its customers. It does, however, have a defined responsibility to maintain a state publications depository system. Seven (7) copies of each publication issued by a state officer, commission, commissioner or board of a state institution shall be deposited with the state library.

Additional comments:

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

Wyo. Stat. Ann. § 9-2-1026.6(b), (c), (f) and (g) (LexisNexis 2002) provide:

- (b) With the approval of the director, the state librarian may employ within the state library division necessary deputies, assistants and employees and shall:
- (i) Develop a budget for the state library and control the expenditures of funds appropriated for and received by the library;
  - (ii) Accept gifts or grants of any nature for the purpose of carrying on the work of the state library division;
  - (iii) Report to the director regarding the receipts, disbursements, work and needs of the state library division;
  - (iv) Expend or disburse gifts and grants as approved in writing by the director;
  - (v) Adopt policies and projects to fulfill the purposes of this act regarding the state library division.
- (c) For purposes of maintaining a state publications depository system, up to seven (7) copies of each publication issued by a state officer, commission, commissioner or board of a state institution shall be deposited with the state library for distribution as follows:
- (i) Three (3) copies to the state library permanent file;
  - (ii) Two (2) copies to the university library;
  - (iii) One (1) copy to the library of congress;
  - (iv) One (1) copy to the council of state governments; and
  - (v) The total number of copies and distributions may be modified at the discretion of the state librarian.

\*\*\*\*\*

- (f) The state librarian shall guide local library agencies participating in any state plan adopted by the board and approved by the director for the expenditure of any federal funds or materials. The state librarian shall assure compliance with the policies and methods of administration adopted by the board under the state plan.

(g) The state librarian is responsible for the extension and development of library services throughout the state and shall supervise and superintend the expenditures of monies provided for library services and federal funds allocated to the state for these purposes.

Wyo. Stat. § 9-2-1026.7 provides that:

- (a) With the approval of the director, the state librarian may:
- (i) Acquire books, materials, equipment and supplies which are necessary for the efficient operation of the state library;
  - (ii) Sell outdated and unused books in the collection of the state library when the board deems the sale necessary due to limited shelf space;
  - (iii) Regulate the hours during which the library is open for the use of educators, students and researchers. To accommodate these uses, he may stagger the working schedules of the library employees in accordance with rules and regulations of the human resources division of the department.
- (b) Prior to sale under subsection (a) of this section the department of state parks and cultural resources shall be given an opportunity to choose, without charge, books which have special historical value. After the department of state parks and cultural resources has had an opportunity to choose books it desires, any library in this state which is supported by public funds shall be given an opportunity to take, without charge, books it desires to add to its collection.
- (c) At the recommendation of the state librarian the department may dispose of unused materials, supplies or equipment belonging to the state library in any manner provided by law.
- (d) The department in consultation with the board may promulgate necessary rules and regulations to effectuate the purposes of this section.

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:

Like the State Archives, the State Library is concerned about fragility of the media and obsolescence of software and hardware.

As a professional practice many Wyoming agencies, including the State Library and State Law Library, are placing as much public information as possible up on their websites. The State Law Library is working to get the court's decisions posted and searchable. There are no statutes or regulations at the present time requiring these postings but there is a service orientation to get as

much government information as possible into the hands of the public. Each agency is making its own determination as to which information should be readily accessible.

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:

There is nothing in writing but the Wyoming State Library views its position as a repository for state documents as carrying the responsibility to permanently retain those 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.

Additional comments:

Although it has not undertaken any special projects, the Wyoming State Library is well aware of and is monitoring the Government Information Locator System (GILS) and other projects for permanent preservation being undertaken by other states. It is taking a wait and see stance until something that is truly permanent is available.

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:

No depository in the traditional sense. Seven copies of documents are to be supplied to the Wyoming State Library but the distribution is limited beyond that point. Copies are only supplied to the University of Wyoming Library, the Library of Congress, and to the Council of State Governments.

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.

Reform language could be inserted in the Public Records Statutes (Wyo. Stat. §§ 16-4-201 et seq. (LexisNexis 2002), the State Archives, Museums and Historical Records Statutes (Wyo. Stat. §§ 9-2-401 et seq. (LexisNexis 2002), or with the State Librarian Statutes ((Wyo. Stat. §§ 9-2-1026.3 et seq. (LexisNexis 2002). There should be references and/or cross-references made in all these areas regarding electronic records and documents.

- 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:

However, the Wyoming Department of Archives has taken the view that legislation is not the answer. Mandating digital preservation at the present time is like mandating the Sun stand still. Until software and hardware producers can agree on standards which last more than a few years at best, Archives will need to continue to use paper and microfilm. For more information on this see *Government Technology*, June 2002, at 040 & 042.

The State Library has taken a similar wait and see stance as regards to Public Documents.

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):

Bill Campbell

Telephone: (307) 777-5840

E-Mail: [bcampb1@state.wy.us](mailto:bcampb1@state.wy.us)

2. State Printer: Not Applicable

3. State Archivist:

Tony Adams

State Archivist

Barrett Building

2301 Central Avenue

Cheyenne, Wyoming 82002

Telephone: (307) 777-7826

E-Mail: [tadams@state.wy.us](mailto:tadams@state.wy.us)

4. State Librarian and/or State Law Librarian:

Leslie Boughton  
State Librarian  
Supreme Court Building  
2301 Capitol Avenue  
Cheyenne, Wyoming 82002  
Telephone: (307) 777-6289  
Fax: (307) 777-6289  
E-Mail: lbough@state.wy.us

Kathy Carlson  
State Law Librarian  
Supreme Court Building  
2301 Capitol Avenue  
Cheyenne, Wyoming 82002  
Telephone: (307) 777-7509  
Fax: (307) 777-6240  
E-Mail: kcarls@state.wy.us

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

Deputy Attorney General  
Administrative Law Division  
123 State Capitol  
Cheyenne, Wyoming 82002

This position is currently vacant so alternative would be:

Mr. Martin Hardsocg  
Supervising Attorney  
Administrative Law Division  
123 State Capitol  
Cheyenne, Wyoming 82002  
Phone: (307) 777-7083

#### **M. IMPORTANT STATE RESOURCES**

Provide URLs or other finding information for:

1. Official state home page:  
<<http://www.state.wy.us/>>

2. State agency portal: n/a

a. Does the portal have a searching capability similar to FirstGov?  
No

3. Legislative website:  
<<http://legisweb.state.wy.us>>

a. Does the website cover the current year only?  
Current Session Only

b. Are services free or fee-based?  
Free

4. Judicial websites:  
<<http://www.courts.state.wy.us>>

5. Regulatory agency websites:  
Included are all elected official websites as well.

Governor's Homepage <[http://www.state.wy.us/governor/governor\\_home.html](http://www.state.wy.us/governor/governor_home.html)>  
Secretary of State <<http://soswy.state.wy.us/>>  
Attorney General <<http://ATTORNEYGENERAL.STATE.WY.US/>>  
Auditor's Office <<http://sao.state.wy.us/index.htm>>  
Department of Administration & Information <<http://ai.state.wy.us/>>  
Department of Agriculture <<http://wyagric.state.wy.us/>>  
Department of Audit <<http://audit.state.wy.us/>>  
Board of Equalization <<http://taxappeals.state.wy.us/>>  
Business Council <<http://wyomingbusiness.org/internal.cfm?areaID=1&navDetailID=176>>  
Developmental Disabilities Division <<http://DDD.state.wy.us/>>  
Department of Education <<http://www.k12.wy.us/>>  
Department of Employment <<http://wydoe.state.wy.us/>>  
Department of Environmental Quality <<http://deq.state.wy.us/>>  
Department of Family Services <<http://dfsweb.state.wy.us/>>  
Department of Game & Fish <<http://gf.state.wy.us/>>  
Department of Health <<http://wdhfs.state.wy.us/WDH/>>  
Department of Insurance <<http://insurance.state.wy.us/>>  
Department of Parks & Cultural Resources <<http://spacr.state.wy.us/>>  
Department of Revenue <<http://revenue.state.wy.us/>>  
Department of Transportation <<http://wydotweb.state.wy.us/>>  
State Engineer's Office <<http://seo.state.wy.us/>>  
Treasurer's Office <[http://treasurer.state.wy.us/txt\\_index.asp](http://treasurer.state.wy.us/txt_index.asp)>  
Department of Corrections <<http://doc.state.wy.us/>>  
State Public Defender's Office <<http://wyodefender.state.wy.us/>>  
Homeland Security Council <<http://wyohomelandsecurity.state.wy.us>>

6. Freedom of Information Service Hotline

a. Does the state have an ombudsman for freedom of information act issues? NO

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

Deputy Attorney General  
Administrative Law Division  
123 State Capitol  
Cheyenne, Wyoming 82002

This position is currently vacant so alternative would be:

Mr. Martin Hardsocg  
Supervising Attorney  
Administrative Law Division  
123 State Capitol  
Cheyenne, Wyoming 82002  
Phone: (307) 777-7083