Secretary of State

Kim Wyman

August 29th 2018

TO: Honorable Zack Hudgins, Chair
Honorable Vicki Kraft, Ranking Member
House State Government, Elections & Information Technology Committee

Honorable Sam Hunt, Chair
Honorable Mark Miloscia, Ranking Member
Senate State Government, Tribal Relations & Elections Committee

Honorable Timm Ormsby, Chair
Honorable Bruce Chandler, Ranking Member
House Appropriations Committee

Honorable Christine Rolfes, Chair
Honorable John Braun, Ranking Member
Senate Ways & Means Committee

FROM: Kim Wyman
Secretary of State

SUBJECT: ESHB 1594 - Study on the Feasibility of Implementing a Statewide Open Records Portal

In Engrossed Substitute House Bill (ESHB) 1594, Laws of 2017, the Legislature asked the Secretary of State to conduct a study assessing the feasibility of implementing a statewide open records portal, housed on a single internet web site relating to public records information, through which a user could request and receive a response. The Legislature set out a list of questions to be answered regarding the time and costs to implement different types of records portals, including a review of open records portals in other states.

The findings of the study are included in this report.

Study on the Feasibility of Implementing a Statewide Open Records Portal

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Executive Summary

In Engrossed Substitute House Bill (ESHB) 1594, Laws of 2017, the Legislature asked the Secretary of State to conduct a study assessing the feasibility of implementing a statewide open records portal, housed on a single internet web site relating to public records information, through which a user could request and receive a response. The Legislature set out a list of questions to be answered regarding the time and costs to implement different types of records portals, including a review of open records portals in other states. (The full text of section 8 of the bill that was not codified into the Revised Code of Washington, is in **Appendix A**.)

Answer in brief It is not currently feasible to implement a statewide open records portal through which a user can request and receive a response through a single internet web site.

Although there are many ways for people to request access to public records, none currently meet the framework outlined in the legislation. No other state has attempted a centralized repository and archive for all state and local records for public records purposes. The few states that have designed portals have not made them repositories of *all* state and local public records. Many of the questions asked in the bill cannot be answered at this time, not least because structural and legal barriers would need to be removed before timelines or costs could even begin to be estimated.

Challenges to the goal of transparency

While one of the goals of ESHB 1594 is to deliver greater transparency in government, the online posting of records may not serve everyone equally. According to Pew Research Center survey data, published in March 2018 and titled "11% of Americans don't use the internet. Who are they?", found that "internet non-adoption is correlated to a number of demographic variables, including age, educational attainment, household income and community type." The article also stated that the offline populations has been shrinking and will likely continue to do so. However, it is reasonable to assume there will always be at least some telephone and written letter requests made by people unable or unwilling to use an online resource.

Conversely, local governments without an internet presence pose their own challenges for a person seeking information. According to the State Auditor's Office, about 750 of the almost-1,950 local governments subject to audit in 2018 receive assessment audits based on an annual revenue of less than $300,000 annually. Some special purpose districts may only have one or two employees, in addition to the governing board, and managing or paying for a website may not be an option.

But aside from the problems of people who don't use the internet and governments without web presences, Washington faces five significant barriers to the creation and operation of an open records portal:

- Current statutory structure of Public Records Act (PRA), chapter 42.56 RCW
- The storage and volume of state and local records currently held by the State Records Centers and the amount of new records created each day
- Volume of state and local records that contain personally identifiable information (PII) and information that is classified as confidential information or information that requires special handling
- Federal data sharing agreements with state agencies
- Increased legal liability costs for the operator of the open records portal

These barriers are discussed at length in the results section of the report.

Takeaways from other states' attempts at open records portals

ESHB 1594 asked about the experiences of other states that have crafted or attempted to expand the public's access to government records. Research found no other state has attempted a statewide open portal as contemplated by the legislation.

Utah's Records Portal

The bill specifically asked about the portal developed by Utah. The 2013 Utah State Legislature mandated the Utah Transparency Board (Board) to study the establishment of an information website. The guiding principles were to make public records more accessible to the public, to establish standards for uniformity in records posted on the website, and to consider removing barriers to the reuse of public information – while safeguarding sensitive information. The Board issued a report to the Utah Legislature that fall. It recommended having three portals featured on the OpenUtah.gov website that included:

1. The existing financial Utah Transparency Website,
2. An Open Data website for access to existing public repositories of datasets, and

3. An [Open Records website](#) to act as a single point of access for records requests made under the state's open records law, the Government Records Management and Access Act (GRAMA requests), and access to public records – with priority to public records that documented the accountability of government such as ordinances, policies, and legislatively-mandated reports.

The OpenUtah.gov homepage would also include links to datasets and records of public interest. The Board would serve as the administrative policy maker.

Goals

The Board has set the goal for the three portals on the Open.Utah.gov homepage that comprise the information website to be integrated more thoroughly. They identified the need to: create and establish an integrated naming convention for governmental entities in the three websites and the Utah Public Notice Website, to further integrate the websites in other ways and in content-exchange, and to develop a registry of governmental entities.

The State Archives' goals are to improve the Open Records portal interface; to engage entities more; to encourage entities to get information online; and to display information and documents that are *about* the governmental entity and created from other sources, not just the records *from* the governmental entity. To realize these goals, the Open Records portal should move from APPX to a new platform, one capable of the integration and performance needed. (The complete report can be found in **Appendix B**.)

Alternatives to Utah's Portal Model

There are alternatives that offer somewhat different benefits, but which might meet some aspects of the Legislature's intent. Delaware, for example, has a state sponsored Freedom of Information Act (FOIA) website featuring a video on how to make an effective records request,

a list with links to state agency public records coordinators, organized by agency, and a standard request form. Delaware also helps local governments overcome the problem of creating their own websites through its Government Information Center (GIC). Services include website design and hosting in a content management system. The GIC "hosts and takes the lead in the Municipal Web Developer's Group, which has the goal of fostering inter-governmental discussion and collaboration."[1]

Pennsylvania's record portal consists of a searchable database of public records officers, organized by entity. Again, it features a video explaining how to submit an effective request and a records request form accepted by all state and local governments.

Other states' actions to recover costs for public records requests

Naturally, since no states currently offer an open records portal, the question about whether fees were charged and collected by the portal is moot. However, a review of the 50 states shows they take different approaches to recovering costs for public records searches and redaction (**Appendix C** includes a detailed list of states and charges).

- Fifteen states allow entities to charge fees for searching and redacting. Some states limit recoupment costs, have established maximum charges and some allow entities to determine the fees.
- Sixteen states, including Washington, do not allow governments to recoup searching or redacting costs.
- Seventeen states allow searching costs after certain conditions are met, such as no fee for the first hour or after the first 15 minutes of searching.

The time needed to redact protected information is a cost directly related to a records request. Review for redaction can be labor intensive, including the time to review the document, actual redaction, and creation of exemption and withholding lists. But for the records request, the entity would not perform these tasks and incur these costs.

With no open records portal model to emulate, the Legislature can take other actions to encourage greater transparency

Washington's legislators have several options to consider as they review this report. They can create:

1. A full open records portal with a unified database of all governmental entities' public records behind the portal door. This is the portal envisioned in ESHB 1594.

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[1] https://gic.delaware.gov/delaware-municipal-websites/

2. A limited online portal that the public can use to request records from individual record owners (state and local level governments) – "a pass-through portal with some or no tracking." In addition, a standardized request form accepted by all entities, with multimedia instructions on how to make an effective records request.
3. No new online portal, but instead direct energy at re-prioritizing records management and disclosure efforts at state and local government level.

Choosing the first option requires overcoming the current barriers to an open records portal in Washington. It would most likely include amending the PRA and taking additional statutory actions. Considerations include:

- Amending RCW 42.56 to allow for reasonable redacting costs
- Restricting the practice of including confidential information in emails
- Requiring the destruction of records to be documented. Currently it is considered a best practice to document records destruction, but it is not a statutory requirement

The path in option 2 – the creation of a pass-through portal like that established by Delaware or Pennsylvania – does not necessarily require a major statutory change. It would nonetheless call for legislative action to identify a custodian agency to oversee the online portal and develop the accompanying materials such as the master request form and instructional video, and to determine how to fund the portal and its operators.

It may be feasible to incorporate Option 2 into the State Open Data Initiative or some other current state website. There would need to be funding for the creation and maintenance of the site, including ongoing funding to ensure that entity information remains current.

The Office of the Chief Information Office provided a "rough" estimate for the purposes of this study on a pass-through website <u>without</u> any tracking. The costs range between about $50,000 and $100,000. See Appendix H for additional detail.

While outside the scope of the study, the third option – to place focus on managing public records to the standard the statute already requires – calls for encouraging governments to follow best practices that can be implemented without a statutory change. Ignoring a possible route to greater transparency and responsiveness to public records requests would be an oversight. These practices include:

- Encourage state and local entities to comply with RCW 40.14.040, and create complete inventories of all entity record holdings (paper and electronic)
- Encourage raising the status of Records Officers to an upper management position that has input into management decisions

- Provide records retention training at every level of government so employees know the retention period of records they routinely create and understand that they should purge those records with no retention value when they no longer serve a business purpose
- Provide annual Public Records Act training to all state and local government employees
- Re-prioritize records management efforts at state and local government level
- Encourage state and local entities to proactively post records that are routinely requested

What are the commonly requested records entities should consider posting?

Many public records requests focus on the spending of public funds. The following list of financial records are some of the routinely requested financial records and could be posted without redaction –

- Current monthly salaries of all employees updated at least yearly
- All payments with detail made to all boards, commissioners, and council members updated at least monthly
- All travel reimbursements made to all employees and boards, commissioners, and council members
- All entity policies including human resource policies
- Copies of all executed requests for proposals, requests for qualifications, requests for quotation, and requests for information
- All contracts for purchasing
- All contracts for services
- All contracts for public works

Routine requests for other records will vary depending on the purpose/mission of the entity. Each entity should survey their constituents on what records to post.

Next steps

But before deciding if or how to begin the implementation of an open portal, legislators must first determine if the citizens of Washington want a public record open portal. They will then be able to choose between two courses of action:

1. If yes, remove current barriers to the open portal and find funding sources
2. If not an open portal, then pursue other paths to move the state closer to the goal of greater transparency

Additional questions raised in the bill include matters of time and money. These cannot be answered precisely until the path forward is selected by the Legislature.

Some Background on Public Records in Washington

The Public Records Act, chapter 42.56 RCW

Washington's Public Records Act (PRA), chapter 42.56 RCW, was enacted by Initiative 276 in 1972. As framed by the Attorney General's Office, in the publication Public Records and Open Public Meetings, the PRA statutes are

> "intended to give us an informed electorate that can evaluate the performance of elected officials and in order to ensure an honest, competent and responsive government."

The PRA limits the costs governments can charge for public records responses.

The PRA was crafted in a time before desktop computers and electronic record-keeping were common, and long before anyone envisioned providing records to the general public electronically. By the early 1990s, home computers were no longer unusual, and legislators took action to respond to the challenge of electronic access to public records.

Public Information Access Policy Task Force

The first task force on electronic public access to public records was mandated by the legislature in Engrossed Substitute House Bill (ESHB) 6426, Laws of 1994. The task force's final report, *Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments*, was issued in December 1995 (a link to the full text is provided in **Appendix D**). The general conclusions of the task force were:

- Electronic access is an immediate goal for government to pursue, in a planned, coordinated manner, using a variety of delivery systems
- Electronic information systems should be accurate, reliable, timely and easily navigated
- Fees, physical limitation, geography, incompatible systems, and unfamiliarity with technology can be significant barriers to ready access and should be systematically minimized or eliminated
- Open access to government information must be balanced with fundamental rights to individual privacy and confidentiality

The Task Force's publication goes on to note that the

> "results of the Task Force's work, …, represent a sound foundation for electronic government information policy in Washington State, at both the state and local levels."

The task force ceased to exist on June 30, 1996. The conclusions of this report still ring true after 23 years, and while the state and local governments have made some progress, many of the barriers described in the report remain.

State Auditor's Office examines records in the 21st century

A performance audit conducted by the State Auditor's Office, *The Effect of Public Records Requests on State and Local Governments* (August 2016) found that "governments struggle to provide other essential services to the public while efficiently meeting increasing requests for records." It also found that legislators face complex policy decisions as they consider balancing easy access to government records without compromising the efficiency of government operations. The state and local governments that responded to the audit's statewide survey reported spending more than $60 million to fulfill over 285,000 public records requests in the most recent year of data. The report noted

> "Because requesters pay only a small portion of the costs involved in fulfilling their requests, governments — and ultimately all taxpayers — bear the costs of the requests. Providing access to government information in a manner that does not limit the public's access to records or unduly affect government's core services is challenging."

The audit made several recommendations regarding statewide policy and better information management and disclosure practices is needed.

In 2017, the Legislature asks for a new study

In ESHB 1594, Laws of 2017, the Legislature asked the Secretary of State to conduct a study assessing the feasibility of creating a statewide open records portal through which a user can request and receive a response through a single internet web site relating to public records information.[2] The Legislature set out a list of questions to be answered regarding the time and costs to implement different types of records portals, including a review of other states open records portals. For full text of section 8 of the bill, see Appendix A.

Additional resources and reference materials used in the preparation of this report are listed in **Appendix E**.

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[2] ESHB 1954, new section 8, Laws of 2017. New section 8 was not codified into the Revised Code of Washington.

Results of Research

Key result: It is not currently feasible to implement a statewide open records portal through which a user can request and receive a response using a single internet website.

The Results section of the report provides an overview of the current landscape of public records access in Washington. It then summarizes the requested portal features and any barriers or issues involved in creating one with those features. It next summarizes the experiences of Utah and those few other states that have created some sort of centralized public records portal. Finally, it sets out information about other concerns raised in the bill, particularly cost and timelines.

Washingtonians already have access to considerable state and local government records

Evaluating access to government information requires more than examining how state agencies and local governments respond to public records requests. While this study's purpose is to determine if an open records portal for public records requests is feasible, the study should also consider how much information is currently available to the public.

Washington scores well nationally on open data measures

The U.S. Open Data Census[3] scores states on how well they provide access to nine data sets. These data sets represent information deemed essential to civic well-being; the data sets are address points, checkbook, companies, incarceration, legislation, population projections, real estate, restaurant inspections, and vehicle crashes. The 2016 census awarded Washington a score of 79 percent, exceeded only Connecticut, which scored 84 percent.

The *Following the Money 2016* report, published by the United States Public Interest Research Group (U.S. PIRG), rated the 50 states on the online access to government spending they provide. Washington received a B+ (87 percent)[4].

Many state and local agencies offer information on demand to Washingtonians

The State Digital Archives

The Washington State Digital Archives is the nation's first archive dedicated specifically to the preservation of electronic records from both state and local agencies that have permanent legal, fiscal or historical value. Anyone with internet access can download records for free.

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[3] https://census.usopendata.org/#
[4] https://uspirg.org/reports/usp/following-money-2016-0

The facility is located in Cheney, Washington, and began operations in 2004. Current holdings include 36 online collections ranging from audio records of state and local governmental meetings and hearings to local government ordinance records. (A complete listing is in **Appendix F**.) As of April 16, 2018, the Archives preserves almost 205 million records and about 70 million searchable records. The projected annual budget for the 2017-2019 biennium is $3.85 million.

State Open Data Portals

Thirty-six state agencies (listed in **Appendix G**) have complied with the Open Data Planning Policy No. 187 issued by the Washington State Office of the Chief Information Officer (OCIO) and adopted May 11, 2017.

There are currently four statewide open data sites, which gives the public access to a wide variety of data sets and publications. They are:

- **Washington State Fiscal Information,** at Fiscal.wa.gov, managed by the Legislative Evaluation and Accountability Program (LEAP) Committee and the state's Office of Financial Management. It features states budgets, checkbook, salaries and spending.
- **Washington Geospatial Open Data Portal**, at Geo.wa.gov, managed by the OCIO, features maps, apps, and information for the geospatial professional.
- **Washington State Department of Transportation**, at wsdot.wa.gov/mapsdata, features information on the state's highways, making maps, and data sets for crashes, roadway usage, travel, and other data sets.
- **Results Washington**, at Results.wa.gov, managed by the Governor's Office, features performance and accountability data for state government.

Other resources provide information and data relevant to the public's understanding of local government operations.

The **Office of the Washington State Auditor** hosts the Local Government Financial Reporting System (at portal.sao.wa.gov/LGFRS/) on its website. Anyone with access to the internet can explore unaudited annual financial data submitted to the Office by local governments as part of their financial reports. Available fund data sets include General Fund, Special Revenue, Debt Service, Capital Projects, and Enterprise.

The **Municipal Research and Services Center** (MRSC) "helps local governments across Washington State better serve their citizens by providing legal and policy guidance on any topic." The MRSC web site (mrsc.org/Home/Publications) offers extensive information about local governments, including contact information, municipal codes and links to local government web pages. MRSC also posts publications covering a wide range of subjects, such

as budgeting in cities and counties, annexation, bidding, various board guides, how to run for public office and how to start a city. All are available to the public as well as local governments.

Finally, many local governments, including cities, counties, and special purpose districts, have extensive web sites where information is posted and available to anyone with internet access. Under RCW 42.30, the Open Public Meetings Act (OPMA), most governing bodies are required to post agendas and meeting minutes on their web pages, although exceptions to that rule are permitted if the government does not have a website or employs fewer than ten full-time equivalent employees. Many larger governments post even more extensive information.

Issues surrounding the creation of a new open records portal

Each aspect of the open records portal outlined in the bill poses challenges that would need resolution before the Legislature can embark on establishing such a portal. Some, if not most, would require statutory changes and a considerable amount of work that would likely impose a prohibitively expensive burden on state agencies and local governments. **Exhibit 1** sets out the desired component and the relevant issues.

Exhibit 1: Portal requirements and relevant issues	
Proposed components of the portal	**Relevant issues**
Central repository or archive of all state records	Some duplicative work as the State Digital Archive already exists to manage some elements
Capturing all public records in the state (including local governments)	• No method to determine the volume of records created; • Records protected by federal or state law (Time for redaction before loading? Redact only upon request?) • Data containing confidential information • How to capture new entities
Capturing all records from a certain 'starting point' in time vs 'start today' and add to new searchable central database	• Volume of paper records, costs and time to scan, etc. • If 'start today' approach, then requestor may need to make two requests
A new or existing government organization to run it	Funding, staff expertise, liability issues for both running organization and contributing organizations

Existing barriers to an open portal

Definitions of records and the statutory structure of the Public Records Act

Under RCW 42.56.010(1), a public record "includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retrained by any state of local agency regardless of physical form or characteristics." Under this definition every sticky note, every email, indeed any written record and database created today is a record that can be immediately requested. Every governmental entity must provide a response to a record's requestor within five business days.[5] The governmental entity does not have to provide the record by day five, but must do one of the following:

- Provide the record
- Provide an internet address and link to the record
- Provide a reasonable estimate of when the records will be made available
- Request a clarification if the request is not clear in whole or in part
- Deny the request

There would most likely be a time lag longer than five working days between when a record is created and when it would be uploaded to the portal. To accommodate this lag, the PRA would need to be amended to define and permit a reasonable time frame for governments to meet a new uploading deadline before the record could be requested.

Records with minimal retention value

Many records created by state and local governments have minimal retention value under both state and local records retention schedules. Each has a category of records described as "records with minimal retention value (transitory records)" this might describe the sticky notes and simple emails confirming a meeting appointment noted above.[6] Records with minimal retention value can be destroyed when no longer needed for agency business unless the organization has received a public records request that encompasses such records. These retention schedules are reviewed and approved by state and local records retention committees as authorized by state law (chapters 40.14.060 and 40.14.070).

The challenge under the current PRA would be to determine what category of records would be uploaded into the portal, only those records with a specified retention value (that is, records that must be retained longer than one year) or all records, including those with minimal

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[5] See RCW 42.56.520.
[6] See Section 6, State Government General Records Retention Schedule and the Local Government Common Records Retention Schedule.

retention value. This barrier is not insurmountable. The Legislature could amend the definition of public records to limit records that have certain retention value. However, the amendment to the definition would be a monumental change to the PRA and put limits on access to records, something that would appear to violate the current intent of the PRA.

If all records are uploaded into the portal, then costs to upload and manage records with no required retention time period would greatly increase storage space, PRA review and redaction costs. If instead the portal contains only those records with a specified retention value, a requestor would need to make two requests, one to the portal and – if the record had been deemed of no retention value, another one to the agency that created the record. This too appears to defeat the purpose of the open portal described in ESHB 1594.

Addressing the volume of newly created records

A related problem is the sheer volume of records created. According to the State Auditor's Office, there are currently 2,273 state and local governments that are subject to the PRA. The state has no way at present to determine the quantity of records (paper, data, or electronic) created each day by all these state and local entities.

As an example, WaTech, the state's IT enterprise services provider, has information about the email services it offers its customers.

- Fifty-two out of 193 state agencies participate in WaTech's email services
- WaTech manages approximately 75,000 email boxes
- The total number of archived email records, as of March 2018, is 1,228,426,777. This equates to 175 terabytes of storage (1 terabyte = 1,000 gigabytes)
- The total number of daily emails from the internet is about one million; about 800,000 of these emails are virus/span/marketing and about 200,000 business email.

Furthermore, WaTech manages 5,294 mobile devices and serves 15,573 Skype for Business customers – each of which can generate additional records as text and IM messages.

These numbers are for fewer than half the state's agencies. It is not currently possible to estimate with any degree of accuracy the number of emails created and received by all Washington governments. And of course, email is only one example of the multitude of record types created daily statewide.

For the open records portal to be a repository for all public records, the existing holdings of the Archives Division in the Secretary of State's Office would need to be digitized and indexed so records could be searched by the portal operators. State rule specifies archival records as records that have continued historical value and must be permanently preserved. Under the Secretary of State's scan-and-toss policy, archival records <u>cannot</u> be scanned and destroyed. These holdings are substantial: **Exhibit 2** shows the number of cardboard records boxes held by the records centers located across the state at the start of 2018.

Exhibit 2: Estimated volume of materials held in State Archives *As of January 1, 2018*		
Records Center Location	**Number of records boxes awaiting destruction after retention period met**	**Number of records boxes of archival (permanent) records**
Tumwater	290,979	19,908
- Department of Corrections	39,290 linear feet*	
Tumwater Annex	8,049	17,016
- Department of Corrections	6,670 linear feet*	
Olympia building	10	75,279
Bellevue	0	30,741
Bellingham	0	25,071
Cheney	0	20,302
Ellensburg	0	21,988
Total	299,038	210,305
Data source: Archives Division, Secretary of State's Office. *Note: DOC storage is recorded in linear feet of storage used.		

There is more to converting a paper record to a digital record than simply running the paper through a scanner. Once scanned, the digital record must be named and indexed. An index can list the terms and topics that are discussed in the record, the record's function, or both. A good index will contain synonyms of keywords commonly used so that information can be found when a desired keyword is not actually found in the record. Indexing takes time and skill, therefore the cost to scan and index complex records is higher.

Not all records are equal in content or character, and the cost to scan and index an individual record depends on the record's characteristics. For example, typical local government records can be categorized by the size of the digital file and the degree of difficulty in converting paper records to digital format, as shown in **Exhibit 3** (on the following page).

Exhibit 3: Relative ease of digitizing paper files			
Ease	**Work performed**	**Resulting file size**	**Estimate based on**
Simple converted	Converting all 8.5" x 11" paper documents to digital images and file naming	0.05 MB	Marriage records from the Dept. of Health
Average ease	Converting mostly 8.5" x 11" paper documents to digital images, merging multi-page files, file naming, indexing	1.5 MB	Meeting minutes, Ordinances, Resolutions
Complex conversion	Converting multiple sizes of paper, including sticky notes, 8.5" x 11", 8/5" x 14", 11" x 17", and oversize plans, to digital images, merging multipage documents, file naming indexing	8.0 MB	Annexation, Planning, Public Works files

Once an approximate assessment of record complexity and file size is established, it is possible to make a reasonable calculation of the costs for creating and maintaining the record. The figures in **Exhibit 4** include the costs for the three types of digital conversions in Exhibit 3 as well as the costs for maintaining paper files in their undigitized form and for records that were digital at the time they were created (for example, an email or Excel spreadsheet that was never printed out).

Exhibit 4: Cost comparisons for 2,000 images kept for 50 years								
Media	Equivalent	Unit price monthly	Annual Storage	Filming/ Scanning	Total storage for 6 years	Grand total for 6 years	Total storage for 50 years	Grand total for 50 years
Paper	1 cubic ft	$0.38	$4.58	None	$27.48	$27.48	$229.00	$229.00
Initially digital	0.1 GB	$0.005	$0.60	None	$0.72	$0.72	$3.00	$3.00
Converted files from paper to digital								
Simple	.01 GB	$0.005	$0.06	$700.00	$0.36	$700.36	$3.00	$703.00
Average	2.9 GB	$0.15	$1.80	$844.00	$10.80	$865.96	$91.50	$935.50
Complex	31.25 GB	$1.64	$19.68	$973.00	$118.08	$1,091.08	$984.00	$1,957.00
Data source: Archives Division, Secretary of State's Office Note: Storage of paper is based upon the FY 2018 box charge for the Records Center, which is $4.58 per box. Digital storage costs are based upon the annual operating budget for the Digital Archives (FY 2018, $1,925.000), divided by the current storage capacity, 3,040,870 GB (2.9 Petabytes)								

The expense of digitizing paper records already held in the State Archives, with the goal of making the open records portal complete with every record the state holds, adds up rapidly.

- The projected cost estimate to scan and index 299,000 boxes of records *waiting for destruction* is more than $250 million, based on an average cost to scan a box of records of $839. This estimate does not include the Department of Corrections' files held by the Records Center, nor does it include the cost of storing the digitized records.
- The projected cost estimate to scan and index more than 210,000 boxes of archival records that must be kept indefinitely exceeds $175 million. Again, this cost does not include the cost of storing the digitized records.

These expenses are not one-time costs. Every year, additional paper records will be transferred to the Records Centers and will need to be scanned and indexed. While the 2015 Paper Reduction Study, produced by the Secretary of State, reported that storage of paper records by state agencies has been reduced between 2013 and 2015[7], records destroyed will continue to be replaced by incoming paper records. Additionally, four-year universities maintain records storage of their own, opting not to use the Records Centers for all or portions of their paper records, and their costs are not incorporated into the estimates above.

Without additional study funding and mandatory reporting of the number of records they generate by state and local governments, it is not possible to determine the amount of state and local government records that would need to be scanned and indexed. The costs to scan and index paper records currently held by state records centers, as well as state and local governments, may be a barrier to an open records portal that holds all state and local government public records.

Federal data sharing agreements impose restrictions on how Washington records are treated

Several state agencies have data sharing agreements with the United States federal government that limit who may have access to data that falls under Washington's definition of a public record. Here are just two examples:

- **Department of Revenue (DOR)** – 26 U.S. Code §6103(p)(4)(C). Under this federal statute DOR must "restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title[.]" These federal records would be considered public records under Washington law, because they are used by DOR, but placing them in the open records portal would violate the state-federal data sharing agreement.[8]
- **Department of Employment Security (ESD)**- 42 U.S. Code §503(a)(1) and 20 C.F.R. 603. Under this federal rule, ESD "must include provision for maintaining the confidentiality

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[7] *Report to the Legislature, Paper Records Reduction,* December 31, 2015, page 7.
[8] See also IRS Publication 1075 for detailed information on disclosure and security requirements.

of any UC [unemployment compensation] information which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provision for barring the disclosure of any such information, except as provided in this part."[9] General disclosure for the public records portal does not appear to fall within any of the exceptions found in 20 C.F.R. §603.5 to confidentiality requirements in 20 C.F.R. §603.4.

State-federal data sharing agreements that restrict access to federal records held by the state are very likely a barrier to the open public records portal.

Confidential information underlies countless government records

Confidential information is ubiquitous in state and local government records, affecting government employees as well as private citizens and companies. Many records (emails, databases, electronic and paper records) created by state and local governments contain confidential information. The Public Records Exemptions Accountability Committee (the Sunshine Committee), which makes recommendations to the Legislature to repeal or amend exemptions to the PRA, estimates there are more than 500 public records exemptions in the Revised Code of Washington. There are also numerous federal records exemptions that public records officers must be familiar with to review records for redaction.

One of the issues to be resolved before implementing any planned open portal is whether records would be reviewed and redacted before they are *uploaded* to the portal or before they are *released* to the requester by the portal. This decision affects either the contributing agency or the agency managing the portal: someone will have substantial work to perform to address confidential information that must be redacted before it can be released.

If portal records are only reviewed for confidential information when they are requested, who would do the review and redaction? Reviewing and redacting for confidential information is challenging, especially with more than 500 statutory exemptions and many federal exemptions. Most public records officers are very familiar with their own entity's redaction needs but training non-agency personnel to redact an agency's records would be challenging and time consuming. A further consideration is how many agencies and local governments each portal employee would be expected to become closely familiar with.

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[9] See 20 C.F.R. §603.4(b).

Just as challenging is the prospect of every state and local government redacting all their records before uploading them into the portal. The likelihood of redacting thousands of records that would never be requested appears to be a huge financial cost with possibly little return.

As pointed out in the 1995 Public Information Access Policy Task Force Report, open access to government information must be balanced with fundamental rights to individual privacy and confidentiality. Adequately protecting confidential information held by state and local governments may be one of the greatest barriers to an open records portal and the hardest policy to balance.

Legal liability issues: Does liability lie with the portal?

Under current public records case law, only the entity holding the records and denying access to them, or giving an unreasonable estimate of time to produce records, is subject to RCW 42.56.550(4) costs, attorney fees, and penalties. A portal created and operated by the state, in which other state and local entities participate, establishes at least two parties subject to costs under RCW 42.56.550.

Under RCW 4.22.070(1), "[i]n all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages[.]" Under proportionate liability, a negligent party is liable for his own proportionate share of fault and no more.[10]

Under RCW 42.56.550, a person who has been denied an opportunity to inspect or copy a public record may file a cause of action against the agency in the county superior court where the record is maintained. Under an open records portal system, a plaintiff would most likely file against both the portal and the record's originating agency, depending on how the portal operates. The court or jury would apportion fault between the portal and the entity through a judgement (as set out in RCW 4.22.070(1)). While the portal may be found not be at fault, it would bear litigation costs to establish there was no fault.

How many cases might be brought against the portal?

The Administrator of Courts tracks the number of public records lawsuits filed in county superior courts using a "cause code"[11] (case key count) –

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[10] *Kottler v. State*, 136 Wn.2d 437, 445-46, 963 P.2d 834 (1998).

[11] Figures from Administrator of the Courts dated March 6, 2018. Cause code for public records filings is "PRA".

Exhibit 5: Number of Public Records Act Cases Filed By Year	
Case File Date - Year	**# Case Key Count**
2015	157
2016	157
2017	147
Total	461

The Office of the Attorney General reported the following number of public records lawsuits filed against the state in 2017 and total cases open and closed over the last three years[12] –

Exhibit 6: Public Records Court Cases Defended by the Office of the Attorney General			
Public Records Cases Opened by Year		**Public Records Cases Closed by Year**	
2017	106 cases opened	2017	100 cases closed
2015 through 2017	343 cases opened	2015 through 2017	355 cases closed

By comparing the total of number of public records lawsuits opened by the Office of the Attorney General in 2017 to the total number of public records lawsuits filed for 2017, the Attorney General's litigation costs could potentially increase by 38% (147 divided by 106). This figure assumes (1) that the portal would be run by a state agency that must be represented by the Office of the Attorney General in all legal actions[13] and (2) that all public records lawsuits would name the portal operator in the lawsuit.

By comparing the total of number of public records lawsuits opened by the Office of the Attorney General from 2015 through 2017 to the total number of public records lawsuits filed for 2015 through 2017, the State has been a party to about 74.4% (343 divided by 461) of all public records lawsuits filed in the last three years. More complete public records litigation costs will most likely be available in late 2019 when the Joint Legislative Audit and Review Committees issues the first report under ESHB 1594.

Based on the current and projected figures, the increased legal liability costs to the state may be a barrier to a statewide open records portal.

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[12] Figures from the Office of the Attorney General dated March 2, 2018.
[13] RCW 43.10.030.

Very few states have attempted "open portals"

The definition of "records portal" is not universal, and none currently operating possesses the qualities ESHB 1594 proposes to include in Washington's open-records portal. For example, Georgia's Department of Administrative Services[14] has developed an agency "portal" where the agency's records can be requested. Though called a "portal," it is very similar to web pages developed by many Washington state and local governments. The website provides a video on how to make a records request, explains fees for requests, and an online form to complete. One major difference between Washington websites and Georgia's Administrative Services portal is that Georgia's portal requires the requester to register, providing personal information such as name, email address, and telephone number that Washington sites rarely insist upon.

Delaware, Pennsylvania and other states have similarly named – but equally limited – internet portals for public records. Utah, singled out in the bill for research, is the closest in concept to the site Washington's legislators envisioned.

Utah's Records Portal

The bill specifically asked about the portal developed by Utah. The 2013 Utah State Legislature mandated the Utah Transparency Board (Board) to study the establishment of an information website. The guiding principles were to make public records more accessible to the public, to establish standards for uniformity in records posted on the website, and to consider removing barriers to the reuse of public information – while safeguarding sensitive information. The Board issued a report to the Utah Legislature that fall. It recommended having three portals featured on the OpenUtah.gov website that included:

1. The existing financial Utah Transparency Website,
2. An Open Data website for access to existing public repositories of datasets, and
3. An Open Records website to act as a single point of access for records requests made under the state's open records law, the Government Records Management and Access Act (GRAMA requests), and access to public records – with priority to public records that documented the accountability of government such as ordinances, policies, and legislatively-mandated reports.

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[14] The Department of Administrative Services is analogous to the Washington State Department of Enterprise Services. Georgia's link is - https://orr.doas.ga.gov/App/Home.aspx
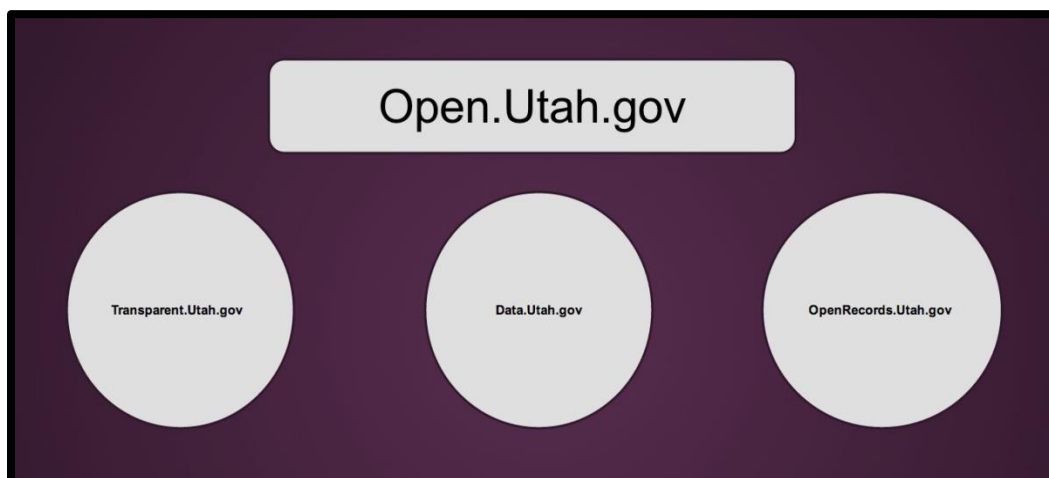
The OpenUtah.gov homepage would also include links to datasets and records of public interest. The Board would serve as the administrative policy maker.

The Board's recommendation took shape in the 2014 General Session of the Utah Legislature as SB70 State Data Portal Amendments. The bill passed and the Utah Division of State Archives (State Archives) was appropriated $75,000 one-time and $540,000 ongoing in new funding for the initiative. The funding included pass through funds to the Department of Technology Services (DTS) to expand and administer a Data portal, Data.Utah.gov, and funding for the State Archives to develop and administer the Open Records portal, Openrecords.Utah.gov. The Open Records portal was to provide 1) a single point of access to make GRAMA requests to governmental entities, with a three-year roll out period, and 2) access to public records.

The State Archives first focused on the development of the GRAMA request portion of the portal. It had six months from the allocation of funding to the launch of the first phase of the portal on January 1, 2015. It had already developed a five-year plan that established guiding principles, a framework, goals, roles and responsibilities, and functions for the information website. The plan also outlined a basic scope of work. The State Archives had also worked with DTS to select a vendor for the project.

Vendor

The State Archives selected APPX Software, Inc. as the vendor for the initiative. APPX was the platform for the State Archives' content management system, AXAEM. The content management system already contained the identity and hierarchical structures of the state and its political subdivisions, though the information would need to be updated for the initiative. The Open Records portal would draw data directly from APPX to function.

The State Archives refined the scope of work and submitted it to the vendor in July 2014. In September, State Archives staff members began testing the system and held beta testing sessions in October. Changes were submitted to the vendor; and while not all functionality worked as anticipated in the system, the Open Records portal was operational and launched in January 2015.

Staff Workflow

The first phase of providing a single point of access for GRAMA requests was to incorporate state agencies into the portal. The State Archives worked with each entity to create a unique email account that could be used in the system, such as GRAMAarchives@utah.gov. The second phase was to launch January 2016 and included incorporating school districts (and public schools); charter schools; public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act; counties; and municipalities into the portal. The third phase was to launch January 2017 and included all special and local districts (districts). The third phase proved to be the most challenging since there was not a complete accounting for all districts in the state. In all, the State Archives updated 1,530 governmental entities into its system to display in the portal.

Portal Functionality

The portal provides a single point of access for 1) *requesters* to submit GRAMA requests and for 2) governmental entities (*responders*) to respond to GRAMA requests.

Requesters

Requesters must first authenticate themselves in the system. The portal provides the ability for a requester to search all governmental entities and view record series they may hold; to locate the governmental entity's records officer and contact information; to submit the GRAMA request; to cancel a GRAMA request; and to track progress on the GRAMA request.

Responders

Governmental entity responders may use the system or respond to the requester outside the system. The system provides the ability for the responder to approve the request and deliver records; deny the request; reply that it can neither approve nor deny based on a set of extraordinary circumstances; state that it does not maintain the record and refer the requester to the governmental entity that does, if known; or use a combination of any of the previous actions by dividing the request into parts. The system tracks and logs actions taken by the responder as well as automatic notifications done by the system.

Online Records

An important function of the portal is to provide links to public records. Under the Board's direction, the State Archives began linking to those records that documented the legal purposes of governmental entities and, thus, public accountability. These included ordinances, policies, incorporation documents, proclamations, resolutions, general plans, and legislatively required

reports. By September 2017, there were 355 links to city and town records, 51 links to county records, and 103 links to schools' records.

Challenges

Presently the State Archives struggles with three broad challenges with the Open Records portal:

1) *There are still many unresolved issues in the system and functionality that does not work.* The vendor is fast to return programming, but there are a lot of errors. Some errors are bugs in the system; but more commonly these are unresolved issues because the program does not function as anticipated. There still are some issues that remain unresolved from the original 2015 scope of work.

2) *The record series data in APPX is outdated, and it is difficult to segregate poor data from good data in the portal*. The State Archives has used APPX as its content management system since the 1980s and has years of data errors in the system. There is no way to segregate meaningful from irrelevant information

3) *The APPX platform has proven insufficient to operate the portal.* The Open Records portal requires another platform with better interface applications. Programming for new functionality is stalled until this problem is solved.

Goals

The Board has set the goal for the three portals on the Open.Utah.gov homepage that comprise the information website to be integrated more thoroughly. They identified the need to: create and establish an integrated naming convention for governmental entities in the three websites and the Utah Public Notice Website, to further integrate the websites in other ways and in content-exchange, and to develop a registry of governmental entities.

The State Archives' goals are to improve the Open Records portal interface; to engage entities more; to encourage entities to get information online; and to display information and documents that are *about* the governmental entity and created from other sources, not just the records *from* the governmental entity. To realize these goals, the Open Records portal should move from APPX to a new platform, one capable of the integration and performance needed. (The complete report can be found in **Appendix B**.)

The bottom line is not even Utah's "open-portal" site serves as a central repository and archive for all public records, operated on behalf of local governments and state agencies. Washington will have no model to follow but will have to expend time, money and manpower to chart its own course.

Conclusion

It is not currently feasible to implement a statewide open records portal through which a user can request and receive a response using a single online website. Without concrete information on the size of state and local storage system requirements, the time needed to create the portal cannot be estimated. The costs required to develop an open records portal, as described in the bill, cannot be estimated. Without a timeline for the removal of current barriers, the time needed to create a portal that collects, archives and holding all public records from local and state agencies in Washington is not determinable. There are many components that need resolution before potential costs can be determined (detailed discussion in Appendix C).

With no open records portal model to emulate, the Legislature can take other actions to encourage greater transparency

Washington's legislators have several options to consider as they review this report. They can create:

1. A full open records portal with a unified database of all governmental entities' public records behind the portal door. This is the portal envisioned in ESHB 1594.
2. A limited online portal that the public can use to request records from individual record owners (state and local level governments) – "a pass-through portal with some or no tracking." In addition, a standardized request form accepted by all entities, with multimedia instructions on how to make an effective records request.
3. No new online portal, but instead direct energy at re-prioritizing records management and disclosure efforts at state and local government level.

Choosing the first option requires overcoming the current barriers to an open records portal in Washington. It would most likely include amending the PRA and taking additional statutory actions. Considerations include:

- Amending RCW 42.56 to allow for reasonable redacting costs
- Restricting the practice of including confidential information in emails
- Requiring the destruction of records to be documented. Currently it is considered a best practice to document records destruction, but it is not a statutory requirement

The path in option 2 – the creation of a pass-through portal like that established by Delaware or Pennsylvania – does not necessarily require a major statutory change. It would nonetheless call for legislative action to identify a custodian agency to oversee the online portal and develop the accompanying materials such as the master request form and instructional video, and to determine how to fund the portal and its operators.

It may be feasible to incorporate Option 2 into the State Open Data Initiative or some other current state website. There would need to be funding for the creation and maintenance of the site, including ongoing funding to ensure that entity information remains current.

The Office of the Chief Information Office provided a "rough" estimate for the purposes of this study on a pass-through website without any tracking. The costs range between about $50,000 and $100,000. See Appendix H for additional detail.

While outside the scope of the study, the third option – to place focus on managing public records to the standard the statute already requires – calls for encouraging governments to follow best practices that can be implemented without a statutory change. Ignoring a possible route to greater transparency and responsiveness to public records requests would be an oversight. These practices include:

- Encourage state and local entities to comply with RCW 40.14.040, and create complete inventories of all entity record holdings (paper and electronic)
- Encourage raising the status of Records Officers to an upper management position that has input into management decisions
- Provide records retention training at every level of government so employees know the retention period of records they routinely create and understand that they should purge those records with no retention value when they no longer serve a business purpose
- Provide annual Public Records Act training to all state and local government employees
- Re-prioritize records management efforts at state and local government level
- Encourage state and local entities to proactively post records that are routinely requested

What are the commonly requested records entities should consider posting?

Many public records requests focus on the spending of public funds. The following list of financial records are some of the routinely requested financial records and could be posted without redaction –

- Current monthly salaries of all employees updated at least yearly
- All payments with detail made to all boards, commissioners, and council members updated at least monthly

- All travel reimbursements made to all employees and boards, commissioners, and council members
- All entity policies including human resource policies
- Copies of all executed requests for proposals, requests for qualifications, requests for quotation, and requests for information
- All contracts for purchasing
- All contracts for services
- All contracts for public works

Routine requests for other records will vary depending on the purpose/mission of the entity. Each entity should survey their constituents on what records to post.

Next steps

But before deciding if or how to begin the implementation of an open portal, legislators must first determine if the citizens of Washington want a public record open portal. They will then be able to choose between two courses of action:

3. If yes, remove current barriers to the open portal and find funding sources
4. If not an open portal, then pursue other paths to move the state closer to the goal of greater transparency

Additional questions raised in the bill include matters of time and money. These cannot be answered precisely until the path forward is selected by the Legislature.

List of Appendices

Appendix A – Full text of ESHB 1594, Laws of 2017, including new section 8 which was not codified in the Revised Code of Washington

Appendix B -- Full report on Utah's experience developing an open records portal

Appendix C – Bill questions and answers (includes table of states & charges)

Appendix D – Full text of *Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments*

Appendix E – Resources and reference materials used in preparing this report

Appendix F – Searchable collections currently held by the Washington State Digital Archives

Appendix G -- State agencies with open data plans

Appendix H – Pass-through website cost estimates

Appendix A – Copy of ESHB 1594, new section 8, Laws of 2017

NEW SECTION. Sec. 8. (1) Subject to the availability of amounts

17 appropriated for this specific purpose, the division of archives and

18 records management in the office of the secretary of state must

19 conduct a study to assess the feasibility of implementing a statewide

20 open records portal through which a user can request and receive a

21 response through a single internet web site relating to public

22 records information.

23　　(2) The division of archives and records management must hire a

24 consultant to conduct the study.

25　　(3) At a minimum, the report must include:

26　　(a) The feasibility of Washington creating a central site from

27 which a user can submit a records request and receive a timely

28 response to such request;

29　　(b) An examination of the experience in other states, including

30 but not limited to the state of Utah, that have implemented an

31 electronic open records portal;

32　　(c) Whether the open records portals in other states serve as

33 central repositories and archives for the purpose of all public

34 records on behalf of local and state agencies;

35　　(d) Whether other states' open records portals track and provide

36 a timeline where each request is being responded to in the process;

37　　 (e) The cost of creating the open records portal in other states

38 and the amount of funds local and state agencies or any other

1 entities contributed to the start-up and ongoing costs to operate the

2 open records portal;

3   (f) The length of time it took for other states to develop an

4 open records portal from its initial start-up to its current full

5 operation;

6   (g) The length of time it would take for Washington to develop

7 and implement an open records portal from start-up to full operation

8 that is similar to the portals located in other states;

9   (h) The length of time it would take for Washington to develop

10 and implement an open records portal from start-up to full operation

11 that would include: (i) The portal collecting, archiving, and holding

12 all public records from local and state governmental agencies in

13 Washington; (ii) the portal being capable of allowing users to submit

14 a public records request through a central site; and (iii) the

15 records portal operating as a central site for answering and

16 providing requested public records to a user;

17   (i) The estimated cost to develop and implement an open records

18 portal that is: (i) Similar to the open records portals located in

19 other states referenced and reviewed in (g) of this subsection; and

20 (ii) a full open records portal pursuant to (h) of this subsection.

21 In both instances, the costs must include costs associated with local

22 and state governmental agencies in Washington participating in the

23 portal and any needed supporting infrastructure, staffing, and

24 training requirements;

25   (j) How much is charged and how fees are collected from a user

26 requesting a public record through other states' open records

27 portals;

28   (k) The feasibility of whether an open records portal created in

29 Washington would be able to track all public records requests, when

30 such requests for public records are made through the open records

31 portal, and provide a timeline where each request is being responded

32 to in the process;

33   (l) The feasibility of whether an open records portal created in

34 Washington would be able to directly respond to answering a user's

35 public records request and, if not, the feasibility of the portal

36 tracking when a local or state agency responds to such a request and

37 providing a timeline where each request is being responded to in the

38 process;

39   (m) The feasibility of creating an open records portal in

40 Washington that notifies a requestor that the request has been

1 received and either immediately provides the requestor with a copy of

2 the requested record, notifies the requestor that the record is not

3 available, or notifies the requestor that because of the

4 extraordinary request the record will be available on a date certain;

5   (n) The feasibility of creating an open records portal through

6 which a requestor can make a request and receive a response through a

7 single internet web site relating to public records information, and

8 the feasibility of agencies managing internet web sites to make

9 public access easier and reduce the number of requests related to the

10 same topic through best practices by offering to post different

11 categories of requested records on the web site in a manner that is

12 responsive to records requests; and

13   (o) The allocation of liability between the agency operating an

14 open records portal and any agency that provides records through the

15 portal or accepts requests for public records through the portal in

16 the event of litigation regarding denial of access to records or

17 unreasonable estimate of time to produce records in response to a

18 request.

19   (4) A report must be completed with findings and recommendations

20 on the experience of the electronic open records portal created in

21 other states and the feasibility of creating a central statewide open

22 records portal in Washington, as well as recommendations and best

23 management practices for agencies to post records that are responsive

24 to records requests on an agency internet web site and take into

25 consideration various categories of records and agency capacities in

26 order to provide broader public access to records of public interest

27 and to reduce the number of requests relating to the same topic. The

28 report must be submitted to the governor, the appropriate committees

29 of the legislature, and members of the stakeholder group in section 9

30 of this act, by September 1, 2018.

31   (5) This section expires December 31, 2018.

Appendix B-- Experience of Utah detailed report

Utah's Open Records Portal Report

Patricia Smith-Mansfield

Part I — STATUTORY AUTHORITY FOR THE CREATION OF THE OPEN RECORDS PORTAL

Study of Open Records Concept and Feasibility

In its 2013 General Session, the Utah State Legislature passed SB283 Availability of Public Information Amendments. It directed the Utah Transparency Advisory Board (Board) to make recommendations about making public information more accessible through an information website.[15] In 2008, the Utah Legislature created the Utah Transparency Website and its governing board, the Utah Transparency Advisory Board, to provide state and local government entity financial information freely available online.[16] SB283 modified the construct of the Board's membership and its responsibilities. It mandated the Board to "study the establishment of an information website and develop recommendations for its establishment; develop recommendations about how to make public information more readily available to the public through the information website, [and] develop standards to make uniform the format and accessibility of public information posted to the information website." At the same time, the Board was to ensure securing and safeguarding sensitive information. It was to report its recommendations to the Legislative Management Committee no later than November 30, 2013.[17]

The bill was not without controversy. The Legislature was concerned about increasing the availability of information with no guidance on safeguarding information that needed protection, especially since the bill provided that the Board should be guided by principles that encouraged the "removal of restrictions on the reuse of public information" and "minimizing limitations on the disclosure of public information."[18] The Legislature was concerned that the bill allowed the creation and implementation of a new information website would make available previously undisclosed information *without* legislative approval or oversight.[19] However, the bill passed the last week of the 2013 General Session on March 12.

That April, the Utah Transparency Advisory Board modified membership to include public members and representatives of the state's Department of Technology Services, the Division of State Archives, and the State Records Committee, as provided by the statute, to broaden the scope of the Board from strictly financial issues

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[15] An open information website was the brainchild of Senator Deidre Henderson who had a vision for increased government transparency through a comprehensive portal. Believing that creating an additional advisory or governing board would be an impediment, she re-purposed the scope and focus of the existing Utah Transparency Board.

[16] Utah Public Finance Website.

[17] SB283 Availability of Public Information Amendments, 2013 General Session of the Utah State Legislature.

[18] IBID.

[19] House floor debate, March 12, 2013.

to the larger issues of public information. During the legislative interim, the Board took on the task of developing recommendations to make to the Legislative Management Committee in November.

During the next few months, the Board discussed various issues related to the legislation. The Board did not want the additional interest in public records to overshadow the Transparency Website's financial mission, so Board discussions and agenda items were clearly delineated between the two functions.

The Board discussed having all public records responsive to requests made through the state's open records law, the Government Records Access and Management Act (GRAMA requests),[20] posted online at the website. Then the discussion turned to having the website as a portal to *make* GRAMA requests. At its July 2013 meeting, the Board authorized a survey of local governments to determine which types of records were most commonly requested through GRAMA, what types of public information they had online presently, and what they perceived were the barriers to posting records online without fees.[21] The results were presented at the September Board meeting.

The survey went to 700 state and local governments, with 200 responding. Approximately 29% indicated that they received few or no GRAMA requests, especially interlocal governments and local and special service districts. About half of those who responded indicated that the information most often requested was already online (the majority of which were state agencies). A high percentage of entities with no records online indicated that the "'lack of time', 'lack of funding', and 'perceived cost-benefit'" [were] the biggest barriers." Local governments pointed to the lack of funding as the reason for not posting records online while state agencies cited their need for technology and coordination. Those governmental entities that received few GRAMA requests also indicated that they did not believe it would be cost effective for them to put records online.[22]

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[20] Utah's open records requests and appeals process is governed, and outlined, in Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA), passed in 1992 and amended yearly.
[21] Utah Transparency Advisory Board Meeting minutes, July 10, 2013.
[22] Utah Transparency Advisory Board Meeting minutes, September 17, 2013.

The majority of governmental entities listed board, council, or commission meeting minutes as the most requested types of GRAMA requests. Additionally, by governmental type, the following were included as most requested records:

Charter Schools and School Districts: budgets, financial reports, and compensation data.

Cities and Towns: building and zoning ordinances and police and other reports.

Counties: tax records and delinquencies, sales tax information, marriage licenses, deeds of record, and contracts/agreements.

State agencies: specific items relating to their agency.[23]

Consolidated Report of the Portal, Priorities, and Standards Working Groups

With the impending deadline for the report due to the Legislative Management Committee, the Board created three working groups at its October meeting. The groups met during the next month and developed recommendations for board actions. The groups, and their assignments, were: 1) a *portal working group* to decide the main objectives of the legislation, including managing GRAMA requests, in a way not duplicative of "efforts and tools … already available;" 2) a *prioritization work group* to "target city codes, meetings, and minutes, and [records]…. that are not yet available online;" and 3) a *standards work group* to decide what "formats or standards the board [would]use to put information online."[24]

The Board reviewed the resulting report, *Consolidated Report of the Portal, Priorities, and Standards Working Groups,* at its November 7th meeting. After integrating suggestions made by members, the Board approved the report at its November 19th meeting and forwarded to the Legislative Management Committee. In the report, and based on the review of the working groups, the Board recommended that Open.Utah.gov be adapted to feature:

4. The existing financial Utah Transparency Website,

5. An Open Data website for access to existing public repositories of datasets, and

6. An Open Records website to act as a single point of access for GRAMA requests and access to public records – with priority to public records that documented the accountability of government such as ordinances, policies, and legislatively-mandated reports.[25]

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[23] IBID.

[24] Utah Transparency Advisory Board Meeting minutes, October 9, 2013.

[25] *Consolidated Report of the Portal, Priorities, and Standards Working Groups,* Utah Transparency Advisory Board, November 13, 2013.
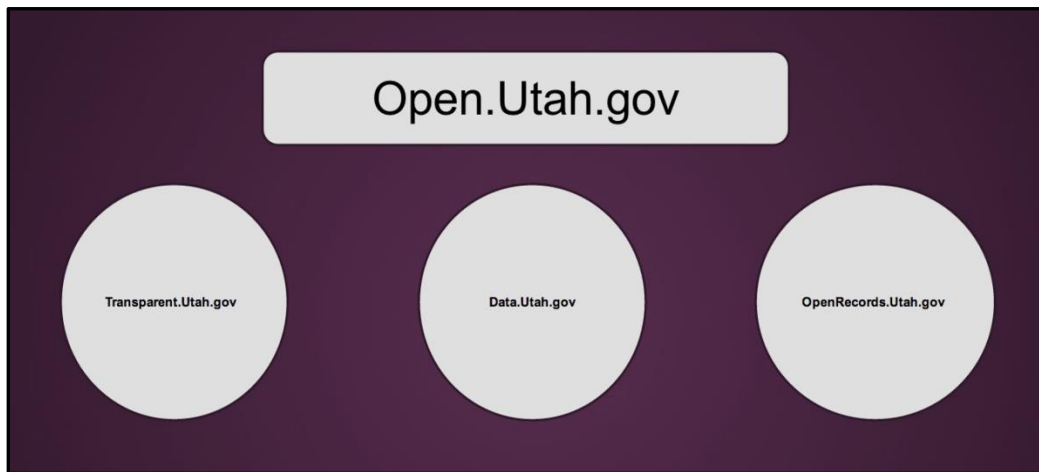
Each website/portal would be featured equally and predominately on the Open.Utah.gov homepage.[26] The information website as expressed in the statute, Utah Code Section 63A-3-403(10), was essentially a collective of sites on Open.Utah.gov.

Though members of the Board had previously expressed interest in setting standards for formatting, DTS responded that, while it was responsible for establishing standards, it did not dictate formats. Standards are in constant change as new tools become available, DTS reported. However, the report did include guidelines for standards, including the preferred use of non-proprietary, open-formats where possible; the use of de facto standards; the use of open source metadata standards (such as Dublin Core); and web standards. The report indicated a preference for standards that preserved as much of the data structure as possible and that data should be available as a RESTful API to promote re-use of information.[27]

The Board forwarded the report to the Legislative Management Committee, though there was no public presentation and no public hearing on the report.

Statutory Authority for Open Records Portal

The following year, Senator Henderson sponsored SB70 State Data Portal Amendments in the 2014 General Session of the Utah State Legislature. Since preceding year's SB283 Availability of Public Information Amendments already created an information website and a framework for its scope and purpose, SB70 State Data Portal Amendments built on previous work by retaining much of the same language and incorporating new language based on the recommendations of the Utah Transparency Board. It was billed as a product of the Board,[28] and the Utah Transparency Board would be the administrative, policy-making board.[29]

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[26] *Consolidated Report of the Portal, Priorities, and Standards Working Groups,* Utah Transparency Advisory Board, November 13, 2013.
[27] The summary is just a portion of the *Report* and the complete *Report*.
[28] House Government Operations Standing Committee, Testimony by Senator Henderson, March 7, 2014.
[29] House Government Operations Standing Committee, Testimony by Senator Henderson, March 7, 2014.

In public testimony, the sponsor, Senator Henderson, stated the bill conceived of an information portal to act as a "one-stop" searchable data portal for online public records. The portal would gather data already residing in scattered information sites into one portal at Open.Utah.gov. It would be a point of access to information to existing sites and existing datasets. These datasets would still reside on the originator's website.[30] This eased legislative concerns that data would be pulled off agency sites and only available through the portal. The Legislature especially was concerned that its constituents be able to access data through the legislative website — and not only through the portal.[31] The Director of the Department of Technology Services stressed, in testimony to the Legislature, that Utah has a lot of open data found in many individual websites, making it difficult to find. The reusability of the information is also a problem in that it is in proprietary formats and difficult to repurpose. Making this data reusable would allow the private sector to use the data in ways that the state could not. Having links to reusable data available in one place would save the state resources in the end.[32]

The bill also provided for a "one-stop" GRAMA requests portal. Requesters could make GRAMA requests to any governmental entity through the website, asking for information not already found online.[33] Public information generated from those GRAMA requests could be put online. The Utah League of Cities and Towns (ULCT) brought to the Legislature's attention (as well as the Board's attention earlier) that it had received a $250,000 allocation from the Legislature in 2012 to create a GRAMA request portal for cities and towns. ULCT indicated that it had a network of 245 cities and towns with which it was working and planned to roll out the program January 1, 2014.[34] So that efforts would not be duplicated, Senator Henderson committed the Board and implementing agencies to work with the ULCT in the GRAMA request portal.[35]

An amendment to the bill provided for a three-year roll-out to the GRAMA request portions of the information website to accommodate local governments and special districts with a longer adjustment period. State agencies would be implemented the first year, with local governments and special districts to follow the next two years.[36] The information website for GRAMA requests did not provide for inclusion of the judiciary, the legislature, elected officials, or higher education. Additionally, the Board configuration was amended so that the types of governmental entities affected by the GRAMA requests portal had representation on the Board.[37]

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[30] House Government Operations Standing Committee, Testimony by Senator Henderson, March 7, 2014.

[31] IBID.

[32] Senate Government Operations and Political Subdivisions Standing Committee, Testimony by Mark Van Orden. February 24, 2014.

[33] IBID.

[34] Utah Transparency Board meeting minutes, October 9, 2013.Senate Government Operations and Political Subdivisions Standing Committee, Testimony by Cameron Diehl, February 24, 2014. February 24, 2014.

[35] Members of the Board, Archives' staff, and DTS' staff met with the ULCT to review the software. Since the state had paid for the programming, it could be re-purpose the software for the Open Records Portal created in SB70 and perhaps the state would see a savings. However, it was found that the programming was not as promised by ULCT and was not a functioning program and would not be launched January 2014. In fact, while the ULCT had visited some cities, only one city was actually involved in the programming discussion. ULCT had simply taken the online forms already available on the State Archives' website for GRAMA requests and put them into the software.

[36]Senate Floor Debate, March 5, 2014.

[37] IBID. A representative of special districts, appointed by the Governor was added to the Board.

The board was modified to include:

> *The director of the Division of Archives created in Section 63A-12-101 or the director's designee; an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor; an individual representing counties, appointed by the governor; an individual representing municipalities, appointed by the governor; and two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), ...*

> *As used in this Subsection (10): "Information website" means a single Internet website containing public information or links to public information. "Public information" means records of state or local government that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act. . . .*

New Board responsibilities include:

> *The board shall: study the establishment of an information website and develop recommendations for its establishment; (ii) develop recommendations about how to make public information more readily available to the public through the information website; develop standards to make uniform the format and accessibility of public information posted to the information website; and no later than November 30, 2013, report the board's recommendations and standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the Legislative Management Committee.*

> *In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage: the establishment of a standardized format of public information that makes the information more easily accessible by the public; the removal of restrictions on the reuse of public information; minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website; permanent, lasting, open access to public information; and the publication of bulk public information; the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information; the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and accountability on the part of those who create, maintain, manage, or store public information or post it to an information website. The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation: is approved by the Legislative Management Committee; does not require further legislative appropriation; and is within the department's existing statutory authority.*[38] Utah Code

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[38] SB283 Availability of Public Information Amendments, 2013 General Session of the Utah State Legislature.

The board shall:

> *Analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of: infographics that provide more context to the data; and geolocation services, if possible. . . .*

Identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website. . . .

The department [of Administrative Services] shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to: by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies; by January 1, 2016, serve as a point of access for Government Records Access and Management requests for: school districts; charter schools; public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act; counties; and municipalities; by January 1, 2017, serve as a point of access for Government Records Access and Management requests for: local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and special service districts under Title 17D, Chapter 1, Special Service District Act; except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites; provide multiple download options in different formats, including nonproprietary, open formats where possible; provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and incorporate technical elements the board identifies as useful to a citizen using the information website. The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern. The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.[39] Utah Code Section 63A-3-403

Because the statute defines "Information website" as a "single Internet website containing public information or links to public information,"[40] the Board set in motion the task of aligning the statute with its recommendations. Open.Utah.gov became the homepage of the information website. From there, users could go to Transparent.Utah.gov (Transparency Website) or two new websites created to fulfill new statutory mandates, Openrecords.Utah.gov (Open Records portal) or Data.Utah.gov (Data portal). Links to other websites/repositories of public information reside in the lower portion of homepage.
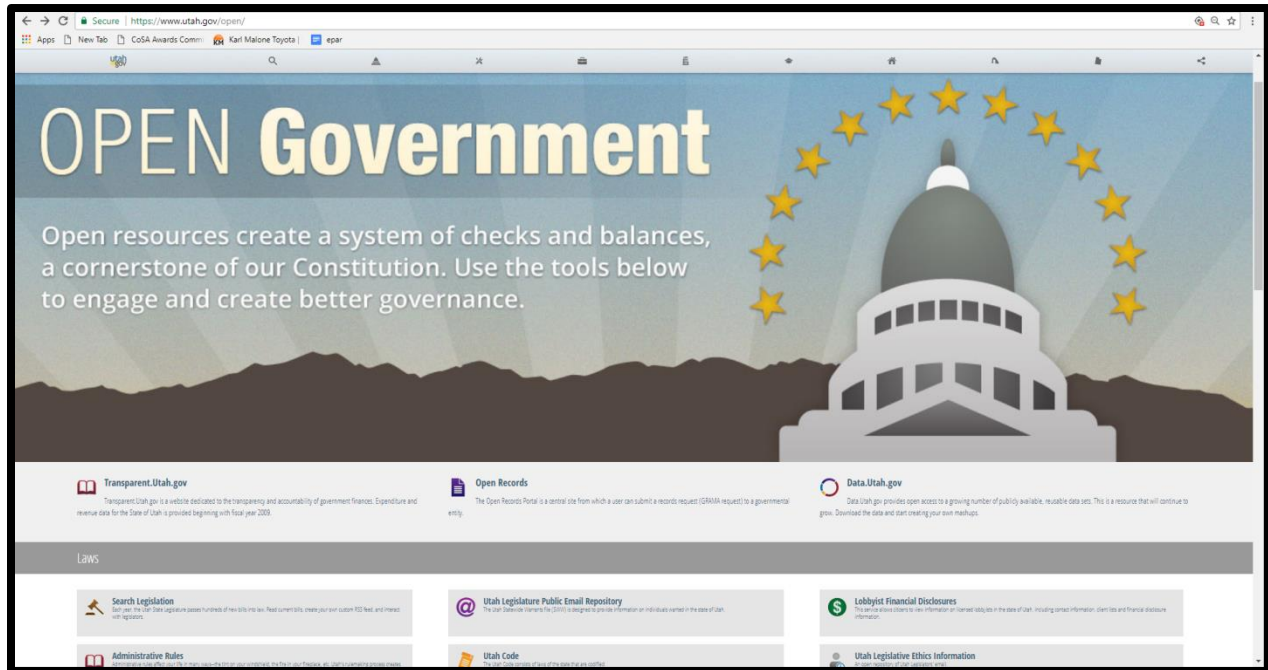
Open.Utah.gov

DTS assumed responsibility for administering the Open.Utah.gov homepage, including adding and maintaining links to public repositories and state services as suggested by the Board. Since the Utah Department of Administrative Services is mandated responsibility in the statute provisions, the divisions within the department assumed the work of development, implementation, administration, and daily operations of pieces of the information website.

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[40] Utah Code Subsection 63A-3-403(10)(a)(i). In order to preserve the separation from the Utah Transparency Website, the statute carefully segregates the new scope and functions for open records in Utah Code Subsections 63A-3-403(10 and 11).

Utah Transparency Website

The Utah Division of State Finance maintains its administration of the Utah Transparency Website and administrative support of the Board with its additional responsibilities relating to the oversight of the information website.

Data.Utah.gov

The Utah Department of Technology Services (DTS) was interested in taking advantage of the emerging trends in "big data;" but it desired additional resources to do so. DTS found an opportunity in the information website. New funding enabled DTS to fulfill its goal of providing access to big datasets that could be analyzed, downloaded, and reconfigured by users for additional purposes, including commercial purposes. DTS is not mandated website responsibility. The Department of Administrative Services and, in turn, the Utah Division of State Archives (State Archives) are responsible. However, vaulting to big data was not a complicated process.

DTS has the statutory responsibility for all policymaking and regulatory functions regarding technology on behalf of state agencies.[41] In addition, all state agencies are required to use the services of the DTS by statute, including website development; project management; acquisition of technology, software, or technology services.[42] DTS assumed the responsibility of developing and administering Data.Utah.gov, with funds allocated to the State Archives and passed through to DTS. With those funds DTS utilizes licenses to Socata Open Data API software to access state and local government datasets, as well as datasets from the legislature, the judiciary, and federal agencies with data specific to Utah. Socrata allows for customizable data and reporting. It supports multiple download options for datasets, enabling analysis, customization, and reuse of the data. State Archives' pass-through funds also support a website administrator (*data administrator*)(1 FTE) who works with governmental entities to provide data and to connect datasets to the site.

To implement Data.Utah.gov and the Open.Utah.gov websites, the State Archives and DTS staff members met to coordinate efforts to establish parameters of the Data.Utah.gov website and the Open Records portal and to tie all the information together so that efforts were not duplicated.[43] The two agencies met through the initial phases and implementation of the websites. During this process, the State Archives folded agreed-upon responsibilities for DTS and the data administrator into the State Archives' five-year plan. These included, in part, the responsibility to work with governmental entities throughout the state to acquire and maintain datasets in the Data portal, to reduce duplication of effort, and to gather data dictionaries and other models to provide context to the data. The responsibilities also included coordinating with the State Archives' portal administrator, transferring historical datasets to the State Archives, and following the State Archives' requirements for access and preservation.

Over time, DTS did not recognize the applicability of data to records and ceased to meet with the State Archives. Presently, while the State Archives is mandated statutory responsibility and charged with funding oversight, DTS works unilaterally with broad direction from the Board.

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[41] [Utah Code Section 63F-1-103](#).
[42] [Utah Code Section 63F-1-104](#).
[43] Utah Transparency Advisory Board Meeting minutes, May 14, 2014.

Open Records Portal

The State Archives assumed the responsibility of developing and implementing the new Open Records Portal. Much of the initial planning took place during the General Session of the Utah Legislature. Senator Henderson, DTS, and the State Archives met several times to discuss the structure of the portals. Even though DTS is responsible for all state technology projects, in this instance DTS and the State Archives decided to use a third-party vendor for the Open Records portal. The State Archives has a content management system for its archival repository and records management processes, AXAEM, supported by APPX Software, Inc. (APPX). Because state and local government agency identity and hierarchical structures already exist in the content management system, the State Archives selected APPX to assist in the portal development. It believed this would be more cost-efficient and effective because the portal could draw in work already done in the State Archives' system.

As soon as the bill passed on March 13, 2014, State Archives' staff members met to develop a five-year plan. The plan established guiding principles, a framework, goals, roles and responsibilities, and functions for the information website. The State Archives met with DTS in order to cooperate on portions of the plan specific to the roles and actions of DTS regarding the Open.Utah.gov homepage and the Data portal. Both agencies agreed upon the final draft, and the State Archives presented the plan to the Board at its May 14, 2014, meeting for approval.

Five-Year Plan

Principles

The plan established two guiding principles: 1) to provide a single point of access for requesters to make GRAMA requests to governmental entities and 2) to provide access to public records online. It stated that the State Archives would fulfill the mandates of the statute that included:

> "The permanent, lasting, open access to public information; public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information; and accountability of those who create, maintain, manage or store public information."[44]

Framework

The State Archives sought to fulfill these principles in a unified manner by tying the identity and hierarchical structure and functions of governmental entities with the records they create. In theory, all governmental entities would be identified in the Open Records portal along with the functions of the entity and their record series. Records online could be accessed without making a GRAMA request; offline records would be identified and described for the requester to use to make a GRAMA request. Over time, governmental entities could identify high interest records for online access.

Roles and Responsibilities

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[44] *Open Records (GRAMA) Transparency Implementation, Five-year Plan,* May 2014, and mandated in Utah Code Section 63A-3-403.

The five-year plan identified the roles and responsibilities needed to fulfill the initiative. The identified roles and responsibilities are not positions but responsibilities that might be taken on by a single person or multiple individuals. The plan emphasized coordination among the roles. One of the roles was that of *data administrator*, which was a role taken on by DTS (and described in the Data Portal section above).

State Archives' roles were identified as:

Transparency (portal) Administrator: is a liaison with governmental entities; posts online records and removes information offline when no longer useful; updates content on the website and maintains website information; coordinates with the Board, DTS, vendors, and others as needed; implements and facilitates GRAMA request processes; improves access and use based on user feedback; and provides the public face of the website.

Systems Administrator: administers the connection of the State Archives' content management system to the Open Records portal; promotes open records resources and archival and records management standards; and oversees the website functionality.

Cataloguer: researches and maintains the identity and hierarchical structure of governmental entities; maintains a list of keywords, functions, and subject terms; and enforces controlled vocabulary standards.

GRAMA Portal Support: maintains forms and functionality of online GRAMA request process; responds to questions from requesters and responders; provides training; and responds to issues and questions.

Functions

The plan outlined proposed functionality for the system to provide a single point of access for GRAMA requests as required by the statute as well as proposed future functions. The State Archives approached functionality requirements through the lens of both the requesters who make GRAMA requests and the responders in governmental entities who respond to them.

Implementing the Plan to Develop the Open Records Portal

A team developed the scope of work for the initiative and developed a plan to integrate the governmental entities into the system. The statute provided a three-year roll-out period to incorporate governmental entities into the Open Records site, with the first phase launch on January 1, 2015, six months after appropriations were allocated to the State Archives. There were two requirements for a successful January 1st launch:

1. *Work done by the vendor with State Archives' oversight:* Complete the program development according to specifications of functions in the five-year plan. Portal functionality for GRAMA requests to be completed within a six month period and, once done, effectively ready to use for all governmental entities that would be integrated in the next two phases.

2. *Work done by State Archives staff:* Contact all executive agencies to integrate information into the portal system; provide training and educational resources; input data, beta testing, and administer the portal; publicize the portal; and assist the public in its use. The next two phases

essentially would duplicate of the actions needed to integrate executive agencies, but with local governments for the second phase (launch January 1, 2016) and special and local districts for the third (launch January 1, 2017).

During this period the State Archives also needed to develop a means to put public records online through the Open Records portal.

Action 1: Vendor/Portal Programming

Vendor selection

The State Archives' content management system, AXAEM, supports both its archival and records management workflows and processes. The system was developed by the State Archives with APPX. APPX is a Rapid Application Development product for developing software solutions with ever-changing requirements. AXAEM was, in part, developed with the assistance of grant funds from the Library of Congress' National Digital Information Infrastructure and Preservation Program (NDIIP) in 2008.[45] Soon after the completion of the grant, DTS and APPX signed an Open Source agreement for AXAEM, creating the opportunity for future development.

State Archives, with approval from DTS, believed there were two benefits of APPX for this initiative. First, the identity and hierarchical structure of all governmental entities were already in the system. Though maintaining the data is labor intensive, predisposing it to becoming outdated, it was a better start than with no data. Second, Utah requires that all records officers who respond to GRAMA requests be trained and certified by the State Archives and also requires that the State Archives maintain an online list of each records officer's contact information and date of certification. Having a complete list of these individuals was critical to the initiative. The cost-savings of having those two elements already programmed is reflected in the $75,000 fiscal note for programming the GRAMA request portion of the Open Records portal.[46]

Scope of work

The State Archives team further developed the scope from the project's five-year plan. To support GRAMA requests, the portal functionality needed to provide a single point of access where a *requester* could make and track GRAMA requests and to provide a single point of access where the *responder* could respond, process, and track GRAMA requests.

To act as a single point of access for the *requester*, the system needed to allow user to:

- Authenticate self as a *bona fide* person and add contact information in order to use the portal and protect the integrity of the system.

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[45] This initiative in cooperation with the North Carolina State Archives and the Kentucky State Archives was entitled *GeoSpatial MultiState Archive and Preservation Partnership (GeoMAPP)*. However, the Utah State Archives has used a foundational version of APPX to track its work-process for decades.

[46] *Fiscal Note and Accountability Report, 2008*, Office of the Legislative Fiscal Analyst to the 2008 General Session of the Utah State Legislature. As contrast, the Utah Public Notice Website, programmed by a different vendor, with similar hierarchical requirements had programming service costs of $410,220 in 2007, though it absorbed most costs through allocations made from other state sources. Though the vendor, Utah Interactive, was a private company, it had a statewide contract with DTS and could apply general savings from one account to another. The State Archives was allocated $100,000 one-time funds from the Utah Legislature for the website development; Utah Interactive subsidized the remainder.

- Identify and select the appropriate agency and records officer.

- Choose to search the records of the agency, including online records, or make a GRAMA request directly.

- Make a GRAMA request online that promotes reasonable specificity as required by statute. Select access options, including rights to see a restricted record, etc.

- Submit the request automatically to the selected governmental entity and attach additional documentation if desired.

- Receive an automatic confirmation email of successful submission of the GRAMA request.

- View GRAMA requests submitted and track progress.

- Access information on appeals process and denials.

- Generate reports.

To act as a single point of access for the *responder*, the system needed to:

- Authenticate the records officer through DTS' master directory of users.

- Automatically forward notice of request to the governmental entity's records officer responsible for responding to GRAMA requests.

- Log and track the time limits for response when records officer acknowledges issuance.

- Allow the chief administrative officer of the governmental entity the option to receive notification that a GRAMA request was received by the entity.

- Present a dashboard to the records officer providing options in processing requests.

- Once a specific request is selected, provide options to approve the request, deny the request, consider extraordinary circumstances as provided by statute, refer the request to another records officer or a different agency, calculate fees, contact the requester, and otherwise manage the process.

- Allow records officers to manipulate a dashboard to filter requests according to status.

- Provide an internal workflow in processing and tracking requests that allows records officers to assign others to assist, track time spent on each request to calculate fees, and indicate the status of each request (pending, received, completed).

- Permit the records officer to respond to requesters using the system or, alternatively, to print requests and respond outside the system.

- Allow options in providing records including online presentation.

- Generate reports.

The system:

- Incorporate a Solr search engine into the State Archives' content management system to search across governmental entities and display them in their proper hierarchical structure (via Javascript).

- Ability to link and attach online records and to display record series information of a governmental entity's active records.

The State Archives commissioned programming changes to the APPX system and new programming to support the Open Records portal. However, though this initiative utilized data in APPX, it is not part of the AXAEM open source software. It was developed as an independent initiative.[47]

The State Archives submitted the scope of work to the vendor in July 2014. In September, staff members were testing the system and providing feedback to the vendor with bug reports and change orders. In October, the State Archives held beta testing workshops onsite. The results of the testing were submitted to the vendor for changes and fixes. The system was operational and ready for use by January 1, 2015.

Action 2: Staff Implementations

To integrate governmental agencies into the system, the State Archives created a three-year workflow plan. Aligned to the three phases of implementation, the team would contact all government entities to verify the identity and hierarchy of each entity. At the same time the State Archives would confirm the contact information for the entity's records officer, who responds GRAMA requests, and the chief administrative officer, who responds to appeals. The State Archives suggested that each entity create its own unique GRAMA request email, such as GRAMAarchives@utah.gov, so that the account could be accessed by a number of records officers or staff as desired by the entity.

Phase I – State Agencies

Fortunately, the first deadline was for state executive agencies and the State Archives felt confident that the data was cleaner than it would be for the state's political subdivisions. Staff updated 529 state agencies (departments, divisions, and offices) in approximately six months for successful launch of the portal in 2015.

Phase II – Local Government

Staff immediately began contacting governmental entities for the second phase of the initiative upon completion of the first phase. These were: school districts; charter schools; public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;[48] counties; and municipalities. This was a more labor-intensive task, given the higher volume of political subdivisions than state agencies. Staff reviewed the identity and hierarchical structure within its system for local governments and decided that it would be too voluminous,

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[47] DTS and the State Archives have been willing to share the source code of the initiative as standalone software depending upon the circumstances and requesting entity. For example, the State Archives, provided with a signed agreement from DTS, shared the product with another state archives.

[48] Utah has three public transit districts, but the one for second year integration was a statewide public transit district, Utah Transit Authority, and the subject of controversy at the time.

and confusing, to list every city office and department in the portal. In cooperation with local governments, staff presented a narrower listing in the portal structure.

- For cities: Each city would have a main GRAMA email account to receive requests. For larger cities, or those who wished to do so, another GRAMA email account would be displayed for law enforcement – given that law enforcement receives more requests on average than any other governmental entity type.

- For counties: Like cities, each county would have a unique GRAMA email account for the county and another for law enforcement.

- K-12: Though the statute stated that school districts and charter schools were to be part of the portal, each school district, public school, and charter school was entered. Communications between public schools and their districts are not always closely aligned, so every school is in the portal to preserve the integrity of the GRAMA request response deadline.

The team completed implementation on December 16, 2015, for the January 1, 2016, deadline. Online and in-person training was given to local government staff throughout the state January through March of 2016. Staff updated 248 municipalities (342 entities including law enforcement entities), 29 counties (64 entities including law enforcement agencies), 167 schools and school districts, and two transit districts, totaling 576 local governments, in the system.

Phase III – Special and Local Districts

Incorporating special and local districts (districts) for the third phase was most difficult. There was a discrepancy in the number of districts that existed. The State Archives obtained a number of listings of districts from entities which tracked them, and they numbered:

- 581 districts by the State Archives
- 324 by the Utah Local Governments Trust
- 395 by the Utah Association of Special Districts
- 399 by the State Auditor

Districts were also difficult to contact because sometimes they had no entity email or phone number. By April 2016, only 27.4% of districts had responded to attempted contact by the State Archives.[49] By August 2016, the State Archives had contacted 412 districts; an additional 106 districts had not responded, 80 had no email accounts, and 15 had no contact information. Only 172 had certified records officers. Some districts resisted and wanted to opt out of the initiative. The State Archives concluded that it would not be able to get all districts into the system so decided to display as much of the district's information as possible. By the end of the year, the State Archives had updated 479 districts, submitted nine entities it had not been able to contact to the

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[49] *Utah Transparency Advisory Board* PowerPoint presentation, Utah Transparency Board meeting, April 19, 2016.

State Auditor for follow-up, and decided the remainder on its list was obsolete.[50] The State Archives provided training through the Utah Association of Special Districts.

The Open Records portal displays districts by type: special districts, local districts, and interlocal districts. If the district is owned or managed by county government, they are also located under the county's hierarchy.

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[50] Utah Transparency Board minutes, January 5, 2017. The State Archives nor the Board has a definitive number of special and local districts as yet.

Governmental Entities Summary

Pie chart showing: state agencies 35%, municipalities 22%, county agencies 4%, special districts 24%, interlocal districts 4%, transit districts 0%, K-12 public education, including charter schools 11%
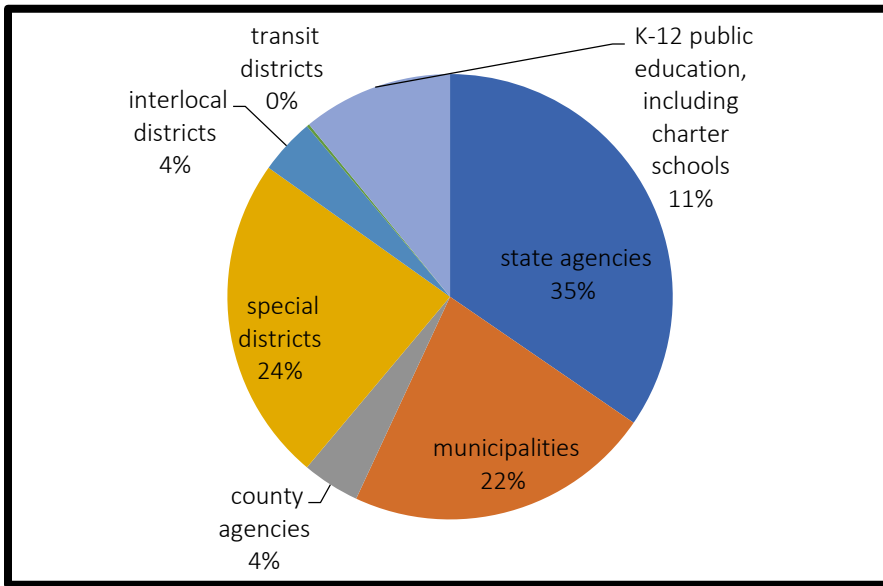
There are 1,530 governmental entities in the portal

529 state agencies

342 municipalities

64 county agencies

363 special districts

62 interlocal districts

3 transit districts

167 K-12 public education, including charter schools[51]

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[51] Utah Transparency Board PowerPoint presentation August 2017. These numbers reflect those presently in the system. The number of governmental entities fluctuated over the three years when staff were actively updating the system, with a high of 1,587 as reported in the State Archives' 2017 Annual Report.

Challenges

System

While the vendor was fast, the programming contained a lot of errors and work had to be re-done. Many of the errors were of the type that would be expected in any large initiative – words left out of text and incorrect terms used. The State Archives also had a good number of change orders. Some were simple changes such as renaming "municipality" to "city" as a more useful term; others were more complicated modifications such as reprogramming the *refer* function.[52] Having more than six months to complete the initiative would have been advantageous. More time would have allowed for better planning.

One of the biggest challenges was indexing the governmental entities for a fruitful search result and a useful display. The program uses Solr to directly draw data from APPX. Search results using the same terms generated different results, entities appeared more than once in the results, results appeared first by the entity's function rather than alphabetically, sometimes a completely irrelevant entity would come up in a search result, and more. The display was breaking up or cutting off rows and visually was stilted. The mobile display did not work.

Repairing the bugs dragged on into the second and third years of the project, and difficulties with the Solr search engine and APPX continued. One critical issue was that the index would randomly drop governmental entities from the agency page. [53] First detected and reported in 2015, it continued as a problem until early 2017.

Project management compounded the difficulties. Since DTS was only overseeing the contract for the project, the State Archives did not hire a DTS project manager. Instead it called on one of its employees with programming experience in APPX. The individual was assigned the *system administrator* role as defined in the five-year plan and was responsible for connecting the Open Records portal with the content management system. In retrospect, the Archives would have been better served by having a qualified project manager with experience and expertise in the broader technology field. The State Archives needed a project manager who had broad technological understanding rather than a detailed knowledge of APPX only. It would have benefitted by having someone who could bring a larger perspective to the table and experience in communications to avoid contentious conversations and to resolve issues that instead sometimes took months to resolve.

The vendor had its limitations in programming the software within the original cost estimate it provided. The ability to connect with other GRAMA request systems used by local governments was not feasible. While there are only a few entities with their own system, they still act independently from the GRAMA request portal. Additionally infeasible was having a records officers' records management dashboard wherein local government entity systems could integrate to the portal to interact with other State Archives services.

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[52] The original programming had the *refer* function transferring GRAMA requests directly to another governmental entity without notice to the requester, as directed by the system administrator but not as scoped out by the portal administrator. The statute provides the requester must make the request to the referred governmental entity.

[53] Correspondence with staff members on vendor actions, September 16, 2016.

A comprehensive review of bugs and needed fixes was conducted by State Archives staff and submitted to the vendor in September 2016.[54] The most critical bugs were repaired. While operational since its initial launch in January 2015, not all bugs and requests for reprogramming were done by the then and some fixes are still outstanding. However, the core functionality of the system works reliably.

Data

When working with districts, the State Archives realized that a voluminous amount of work would be required to keep contact information current in the system. The State Archives' plan to connect the annual certification contact information to the Open Records portal contact information fell short when it realized that many local entities did not have certified records officers. Certification was adhered to mostly by state agencies, while local entities, especially many smaller cities and districts, did not certify records officers annually if at all. Additionally, the State Archives is not always notified with name changes of records officers or changes in staffing, which contributes to contact information becoming outdated. To ensure current data, the State Archives would need to contact governmental entities every year, requiring resources it does not have. Instead, the State Archives takes a more reactive approach, correcting outdated information when it is reported or discovered.

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[54] Scope of work for open records portal, September 30, 2016.

Public Records Online

An important part of the information website, and the Open Records portal, is to include public records or links to public records and to "provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites."[55]

The landing page of Open.Utah.gov fulfills much of the requirement with links to existing repositories. This page contains links to public records and datasets of high interest value or frequently used by customers. The page contains links to such information as state contracts; financial reports; and to the Utah Public Notice Website where agendas, minutes, recordings, and other materials of open and public meetings are found.
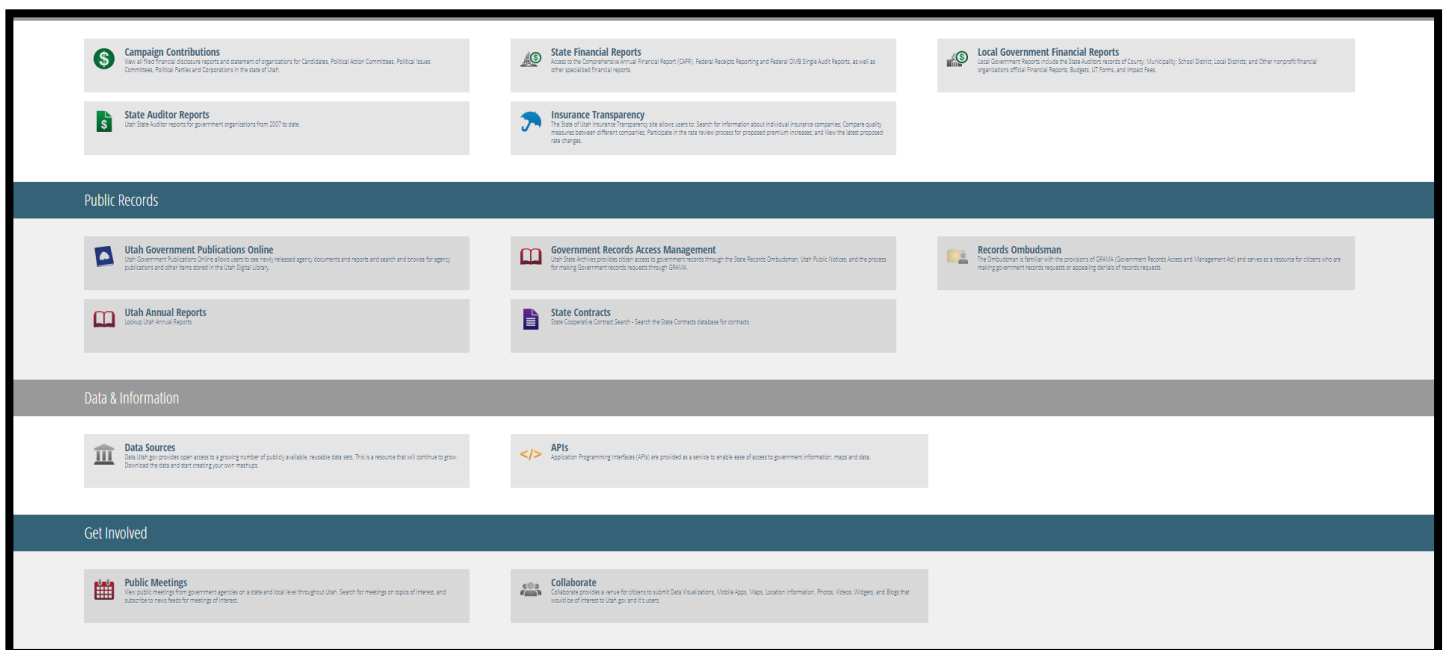
The original scope of work for the Open Records portal included functions to promote access to records online. These functions included the means to send to the State Archives URLs of public documents; to search through entity websites and harvest websites and incorporate them into record series; and to allow governmental entities be able to post records online through the portal.

It was soon apparent in the first year or two, however, that programming had to focus on developing the GRAMA request functions as this would require most of the State Archives' time and resources. Additionally, the State Archives was re-assessing APPX's ability to manage the online records process and wanted to take another look at the scopes of work regarding online records. Some functionality from the original scope was deferred, and the State Archives concentrated on using a part of the existing system where the portal administrator could add links to the agency search results.

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[55] SB70 State Data Portal Amendments, General Session of the 2014 Utah Legislature.

In April 2016, the Transparency Board formed three subgroups to address issues and establish priorities for each of the three portals of the information website. The subgroups would not take action and but would report their recommendations back to the Board.[56] The subgroup for the Open Records portal met and, referring back to the *Consolidated Report* approved by the Board in 2014, affirmed that the public records that should first go online should be those that documented government accountability.[57]

With the Board's approval, the State Archives started linking records to the Open Records portal that documented the legal mandates of each entity. These included ordinances, policies, incorporation documents, proclamations, resolutions, general plans, and legislatively required reports.[58] By January 2017, there were 98 links to local ordinances.[59] By September 2017, there were 355 links to city and town records (169 ordinance,123 general plans, and 63 budget plans), 51 links to county records (29 ordinance, 22 budget plans), and 103 links to schools' records (40 school board minutes, 30 budget plans, and 30 policies and procedures).[60] The next type of public records the State Archives plans to link to online are audit reports and state agency reports.

During 2016 the State Archives knew it needed to improve functionality of the online records aspect of the portal and program more utility into the system. The search ability and display of open records in the system confused requesters and hindered their use of the system. The construct, structure, and purpose of record series in the portal were unclear.

In January 2017, the State Archives made comprehensive change requests to the vendor to improve the display and functions of the open records portions of the portal. Headers were added to the agency page to define sections of agency, records, and agency contact information. Record series were indexed to put online records at the top of the list and eliminate obsolete record series. Record series information included descriptions and designated classifications of the records. If historical records were available at the State Archives, there was a link to the finding aid. Icons (screen shots) to online record on external sites were added, including an icon for each link if multiple sites were included. Users could expand or collapse the listings. [61] However, even with these improvements, the records online part of the portal remains underdeveloped and still needs a better designed ability to display records online.

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[56] Utah Transparency Board minutes, April 19, 2016.

[57] The Utah Transparency Board and the Open Records subgroup realized that there was much public interest in such records as investigative records. But those types of records contain information on individuals, with private information. Public records documenting government accountability were entirely public and also of high interest and value. The subgroup noted that the agendas and minutes of public bodies, which were highest on the list of requested records in the 2013 survey, were already online at the Utah Public Notice Website.

[58] Utah Transparency Board minutes, August 25, 2016.

[59] Utah Transparency Board minutes, January 5, 2017.

[60] *Utah Open Records Portal Update,* Utah Transparency Board meeting*,* September 9, 2017.

[61] Scope of work for open records portal, January 2017.

When the initiative began in 2013, no funds were allocated for the study of the information website as prescribed in SB283 Availability of Public Information Amendments.[62] However, there was a sizeable fiscal note request with SB70 State Data Portal Amendments.

Operations Planning

Independent of the Board, the sponsor of the bill met with the Division of Finance, DTS, and State Archives to discuss possible budgets and operations of the portals. The Division of Finance indicated that they could absorb any additional work needed to support the Transparency Board within their present budget. In outlining the structure of the Data and Open Records portals, DTS indicated a desire to operate the Data portal, building on an existing portal it was administering. To facilitate this, DTS requested an additional FTE and funds for software. DTS did not want to provide development support to the Open Records portal but suggested that the State Archives look to vendor support. DTS would oversee the vendor contract. With this guidance the State Archives obtained estimates of the resources needed to develop and administer the Open Records portal.

Fiscal note

Though the bill had a significant fiscal note attached, Senator Henderson underscored the fact that even if the bill passed unfunded the state could move forward. The statute empowered the Board and implementing agencies to begin the process, especially in conglomerating information presently available online. Further work could continue if funding became available.[63]

The fiscal note to the bill consisted of "$75,000 one-time and $540,000 ongoing from the General Fund beginning FY 2015 for programming, development and maintenance expenses."[64] All funds would be allocated to the State Archives for development and operations.

Provisions identified as *required* by the bill referenced creating, developing, and implementing a GRAMA portal (lines 163 to 180 of SB70) and consisted of $55,000 ongoing and $75,000 one-time for development and programming costs. Provisions to implement other parts of the bill that were considered *optional* included $250,000 ongoing to create, implement, and maintain an open data site (lines 103-106). Also considered *optional* was $235,000 ongoing for resources to add public records, data repositories, and other public information to the open records site (lines 136-137 and 177-180)."[65]

The entire fiscal note package of $615,000 ($540,000 ongoing and $75,000 one-time) was funded and allocated to the State Archives. Funds were distributed as follows:

DTS (passed through from the State Archives as IT services specific to Data.Utah.gov expenditures)

- One FTE to administer the open data portal, $125,000.

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[62] SB283 Availability of Public Information, Fiscal Note, 2013 General Session of the Utah State Legislature.
[63] IBID.
[64] SB70 State Data Portal Amendments, Fiscal Note, 2014 General Session of the Utah State Legislature.
[65] IBID.

- Software licenses for the Socrata Open Data API software, $125,000.

State Archives (except for FTEs, all expenditures approved and overseen by DTS)

- Two FTEs to develop and administer an open records portal, provide training and other support, $150,000.

- Contract (vendor) services to develop the portal, $75,000 (one-time funding).

- Ongoing maintenance and programming for portal enhancements, $70,000.

- Purchase of hardware and software and IT support (from DTS), $80,000.

According to an Office of Legislative Fiscal Analyst fiscal note follow-up report to the Utah Legislature in 2015, funding accuracy was close but not exact. DTS reported that it spent more than was allocated in the project and absorbed the additional costs, though it was not specific as to the over-run. The estimate for the State Archives' data storage systems from DTS was also inaccurate. Because DTS increased its rates in the new fiscal year, DTS could not commit to agreed-upon service fees as per the previous year's Service Level Agreement. The State Archives and DTS did a new business analysis and Service Level Agreement for data storage, but services were delayed. Beyond the appropriation, State Archives would cover approximately $10,000 more in storage/hosting costs due to the increase in DTS' fees.[66]

The total vendor cost for programming the Open Records portal consisted mostly of the GRAMA request process – needed because of the quick launch date mandated by the statute. Actual programming costs for the first fiscal year totaled $126,715, breaking down to $95,500 of initial programming costs and $28,215 programming costs for repair bugs and to improve functionality after the launch date. The total amount was more than the $75,000 fiscal note estimate for one-time funds for programming but less than the amount when combined with the $70,000 ongoing costs to support IT services.

The complete costs expended the first fiscal year to implement the Open Records portal was $627,861. This amount included two State Archives' FTEs, new hardware and software for the new employees, programming by the vendor, and DTS' service fees (including the $250,000 pass-through to DTS). This amount included the $80,000 for dedicated storage through DTS not yet expended. From the total amount of the fiscal note allocated by the Utah Legislature the State Archives had a carry-over of an unexpended $67,100 committed to DTS' storage services.[67]

Ongoing Costs

Since the portal's initial launch in January 2014, the State Archives continues to employee two FTEs to support the system. The State Archives consistently spends its $70,000 programming allocation annually and allocates additional costs to programming to improve utility of the Open Records portal if available (such as cost-savings from turnover savings). The State Archives discovered that customer input brought out new points

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[66] *Fiscal Note and Budget Follow Up Item Report*,, Office of the Legislative Fiscal Analyst to the Utah State Legislature, 2015 Interim.
[67] IBID.

for consideration and development. Additionally, the State Archives found it needed to program certain changes to its content management system in order to support parts of the utility on the backend.[68] Generally the State Archives allocates $85,000 annually for vendor programming to support the Open Records portal. To support ongoing DTS' IT costs, the State Archives allocates annually approximately $110,000 for storage, hosting, and support services. This includes desktop and software support. The State Archives also budgets annually the $250,000 pass through to DTS for support of the Data portal.[69]

All operational resources, costs, and expenses come from general funds allocated to the State Archives. There are no fees assessed the public to use the Open Records portal or fees for services to the governmental entities.

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[68] For example, the State Archives needed to do a lot of clean-up work on records series in the content management system in order to segregate obsolete series from active series and enable only the active series to show on the portal.

[69] Utah Transparency Website. Costs to DTS are difficult to determine. Because of DTS' fee-structure, costs are rolled up by service regardless of program; therefore storage fees are assessed for the portal and other State Archives programs.

Open records request process (GRAMA)

How the system works

There is a native REST interface for the portal. The Solr search engine is directly integrated into APPX, so updates of the data in APPX automatically update the search results. APPX responds in XML. There is a wrapper of information in .CGI. The database server is plugged in via a Java client, though the State Archives could update to a fully web-based system.[70]

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[70] Much of the information about the functionality of the Open Records portal is documented in communications among Archives staff (from 2014-2017) but also in meetings with staff members to discuss the system.

Requesters

After using DTS' OAuth program to authenticate oneself as a user, the requester lands on the Open Records portal homepage where governmental entities are divided by governmental types, i.e., state agencies, cities and towns, counties, etc. The requester selects a governmental entity type or browses all entities.

Open records portal homepage

The requester may either make a GRAMA request from the governmental entity page or go to the governmental entity detail page to view information about the entity, the records it keeps, and if there are records already online that might be responsive to the GRAMA request.

Agency search page

Agency detail page with record series descriptions and online records

The governmental entity detail page also contains the records officer's contact information, and certification, in case the requester would like to get in touch with the records officer outside of the system.

To make a GRAMA request, the requester must provide the information required by statute, "A person making a request for a record shall furnish the governmental entity with a written request containing: the person's name, mailing address, and daytime telephone number, if available; and a description of the record requested that identifies the record with reasonable specificity."[71]

GRAMA request form

According to Utah statute, every person has the right to inspect and take a copy of a public record, but the statute also provides that certain persons have the right to access restricted records.[72] The portal provides the capability for a person who has those rights to request restricted records.

Restricted Records:

Note: If the record has a restricted access, GRAMA provides that certain individuals may still receive access, provided that one of the following applies:

- ☐ I am the subject of the record
- ☐ I am the authorized representative of the subject of the record ❓
- ☐ I provided the information in the record
- ☐ I have a power of attorney or notarized release from the subject of the record ❓

Considerations about the desired response*

I would like to:

- ○ View or inspect the records only
- ○ Receive a copy of the records and pay associated fees
  Please notify me if the amount will exceed $_____
- ○ Receive a copy of the records and request a fee waiver. According to Utah Code §63G-2-203
- ☐ Receive an expedited response (5 days) because releasing the record benefits the public; I request the information for a story or report for publication or broadcast to the general public

(Submit Request) (Submit and Upload Documents)

GRAMA requests are public information. See State General Schedule 1-64: Records Access Requests and Appeals

GRAMA request form, records with restricted access

The form allows the requester to consider other options, such as whether to request a fee waiver or request an expedited response.[73] The requester can upload documents that might clarify the request or provide additional information.

An automatic notification of successful submission is sent to the requester.

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[72] Utah Code Sections 63G-2-201(1) and 202.
[73] Utah Code Subsection 63G-2-204(3). A person acting in the public's interest may request and expedited response.

Requesters may track their GRAMA requests in the system and review the status of those requests, actions taken, and due date of the responses. If the requester wishes to cancel the GRAMA request, the system provides for this option and the system will send a notification to both the requester and responder.

GRAMA request tracking

GRAMA is a complex statute that is sometimes difficult to navigate. The portal contains an FAQ section that answers frequently asked questions and provides information about commonly requested records. The FAQ assists the requester through the entire GRAMA process. For example, sometimes a governmental entity does not respond to the request and the requester is left to wonder what to do. The FAQ provides the requester with information about appeal rights in that instance.
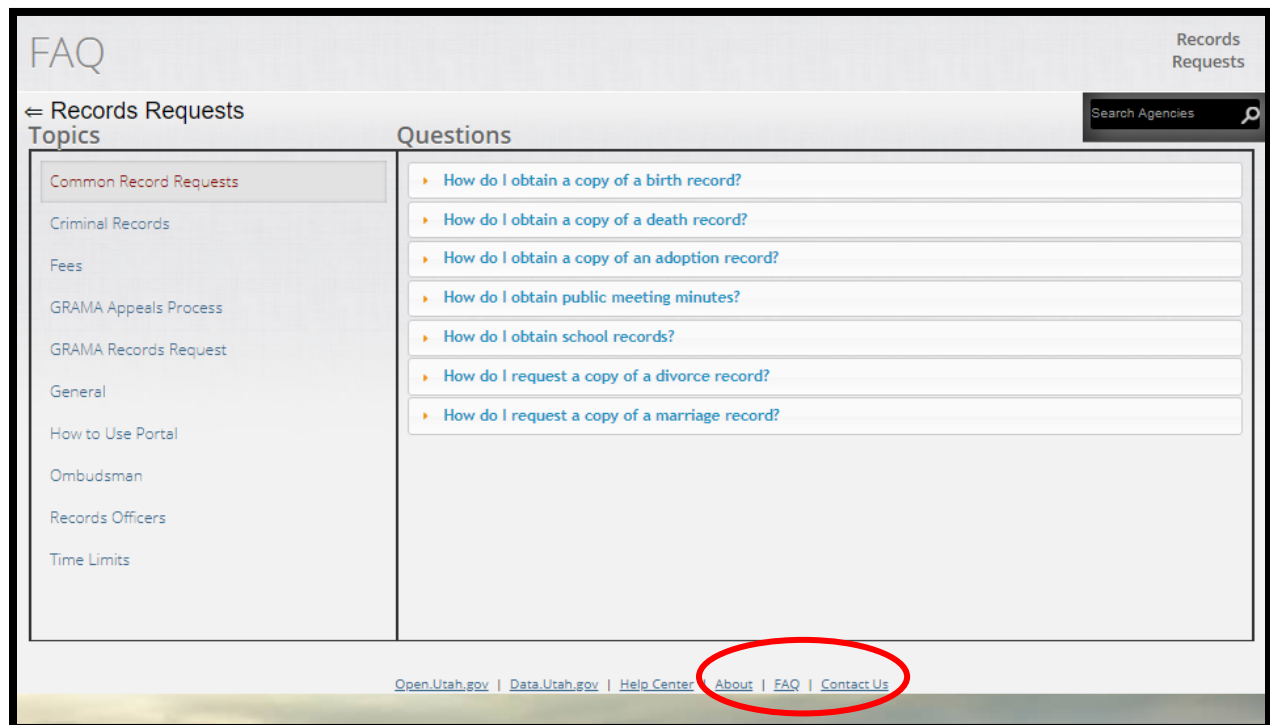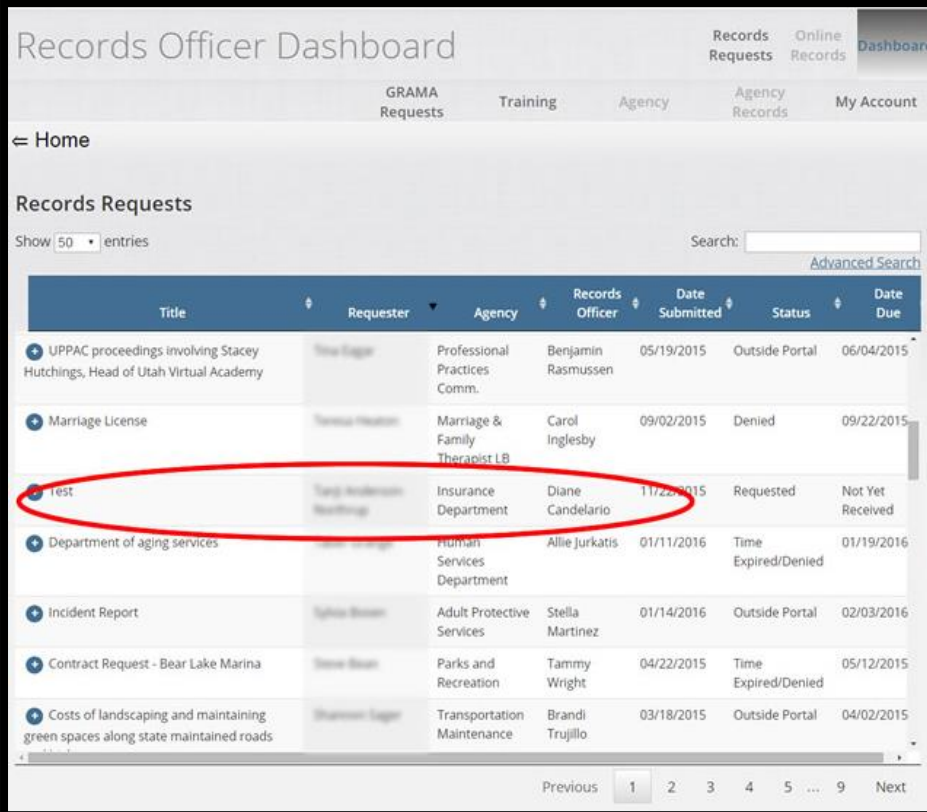
FAQ information

How the system works

Responders

Though the system manages the GRAMA process and leads the responder through the steps of a thorough response, the system does not check the quality of the response and the portal administrator does not monitor accuracy. The State Archives provides regular training on GRAMA to assist records officers in improving their performance.

According to statute, the governmental entity must: 1) approve the request and provide copies of the records, 2) deny the request and provide the reason of denial, 3) claim that extraordinary circumstances exist and it can neither approve nor deny the request, or 4) notify the requester it does not maintain the record.[74] Once the request is opened, automatic notification is sent to the requester and the governmental entity has ten days to respond (or five days if the requester asks for an expedited response). Any request not responded to within the time limit is automatically denied, and the system sends a notice to both the records officer and the requester. Any request not opened within the time limit is likewise denied. The dashboard provides searching capabilities that allow the records officer to view all the records requests to the governmental entity or to view only open requests.

Records officer dashboard

When processing the records request, the records officer has the option to print the request and respond outside the portal or to use the system to respond.

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[74] [Utah Code Subsection 63G-2-204](3).

Manage Records Requests

The system is unable to provide for more than one action in the same response. This may include instances when a request might be approved in part and denied in part. In fact, it is very common to approve in part and deny in part records requests. If a request requires different actions or contains multiple requests that require different actions, the records officer may *Divide Request into Parts*. However, although assisting in processing the request, dividing the request into parts results in responses sent to the requester in parts along the lines of the division. Sometimes a more fruitful response would be to bring all the parts together at the end and respond in whole.

Manage a request

Divide a request

Approve a Request

To approve the request or a portion of the request in the system, the records officer selects the request portion for approval and clicks *Approve*. The records officer writes a response and information about the request and selects a delivery method, such as sending a URL for a link to online records or uploading a file into the system for delivery. Upon final approval, an email is submitted to the requester with the written response.

Approve a request
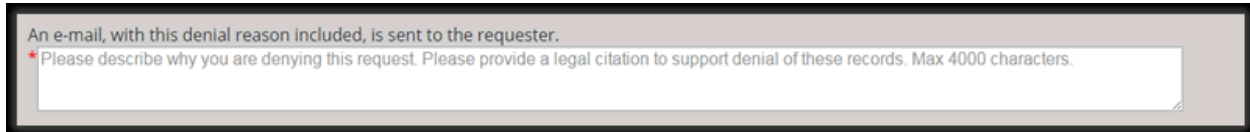
Deny a Request

To deny a request or a portion of the request, the records officer selects the request portion for denial and clicks *Deny.* The reason for denial must include a legal citation supporting the denial and a description of the records being denied. Additionally, the right of appeal to the chief administrator of the governmental entity must be provided to the requester. The contact information of the chief administrator should auto-populate in the system but can be hard entered into the field if needed. Upon final denial of the request or portion of the request, an email is submitted to the requester with the written response and instructions on how to appeal the decision.[75]
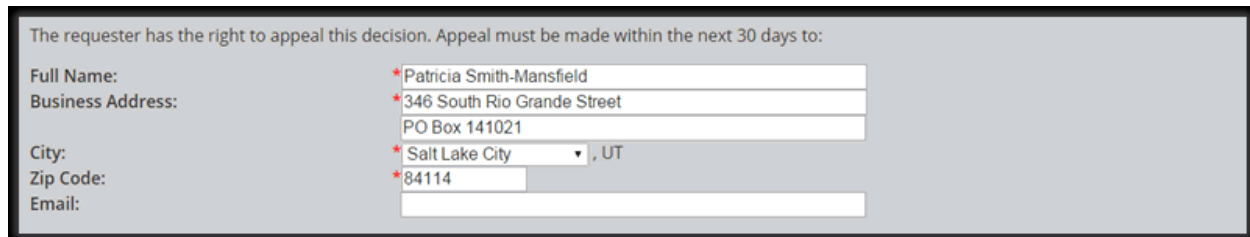
Deny a request

[75] Utah Code Section 63G-2-205.

Extraordinary Circumstances

GRAMA provides a set of circumstances where a decision on the request can be deferred to a later time. Each circumstance is unique and has a specific time extension for the response.[76] The records officer provides a description of the extraordinary circumstance and the date the records will be approved, denied, or made available.

Note: Utah Code § 63G-2-204 (3 and 5) states that the governmental entity should notify the requester if extraordinary circumstances exist when it cannot immediately approve or deny the request. The notice must include a description of the extraordinary circumstances and the date when the records will be available.

Requester's Information

Name:	Virginia Wiseman
Address:	53 SW Yamhill St
City:	Portland
State:	Oregon
Zip Code:	97204
Phone:	971-533-3848

Record Access Considerations*

The agency determines that due to extraordinary circumstances stated in Utah Code § 63G-2-204(5), it cannot respond within specifed time limits.

☐ Another governmental entity is using the record (five extra days or as soon as reasonably possible)

☐ Another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit (as soon as reasonably possible)

☐ The request, or substantial series of requests filed within five working days of each other, is for a voluminous quantity of records or a record series containing a substantial number of records (as soon as reasonably possible)

☐ The governmental entity is currently processing a large number of record requests (as soon as reasonably possible)

☐ The request requires the governmental entity to review a large number of records to locate the records requested (as soon as reasonably possible)

☐ The decision to release a record involves legal issues that require legal counsel analysis (five extra days)

☐ Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing (fifteen extra days)

☐ Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming (as soon as reasonably possible)

Description of Extraordinary Circumstances

Date when records will be approved, denied, or made available: *[   ]

*Please describe the extraordinary circumstance in detail. Max 4000 characters

[   ]

(Complete)

Extraordinary circumstances

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[76] Utah Code Section 63G-2-204.

Refer a Request

If the governmental entity does not maintain the record, it is the responsibility of the records officer to notify the requester that it does not maintain the record and provide the name and address of the governmental entity that does, if known.[77] The records officer may refer the requester to a records officer, a government agency or office, or type in the referral in a text field. The portal does not transfer records requests to a new entity; the requester must submit a new request to the correct entity as provided by statute.

Sometimes there are no records responsive to the GRAMA request because they were properly destroyed according to an approved retention schedule or they never were created. When records do not exist, the refer section is the only means by which the responder can notify the requester that there are no records.

Refer a request

Fees

GRAMA provides that a governmental entity may charge a reasonable fee for the direct costs of fulfilling the request.[78] The portal provides a means to calculate fees. The records officer enters the quantity of items and cost per item, the wage of the person doing the work and billable time, and a description of the work done. The portal does not provide a function to process fees through the system to the governmental entity; it only provides calculation and documentation functions.

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[77] Utah Code Section 63G-2-204.
[78] Utah Code Section 63G-2-203.

Other functions

Other functions include the ability to assign tasks, create notes and logs, and upload files. There is a 30 MG file size limit in uploading. The *Notes* text field allows the responder to keep track of miscellaneous actions such as if the responder calls the requester for clarification on the request or other actions that assist in processing the request.
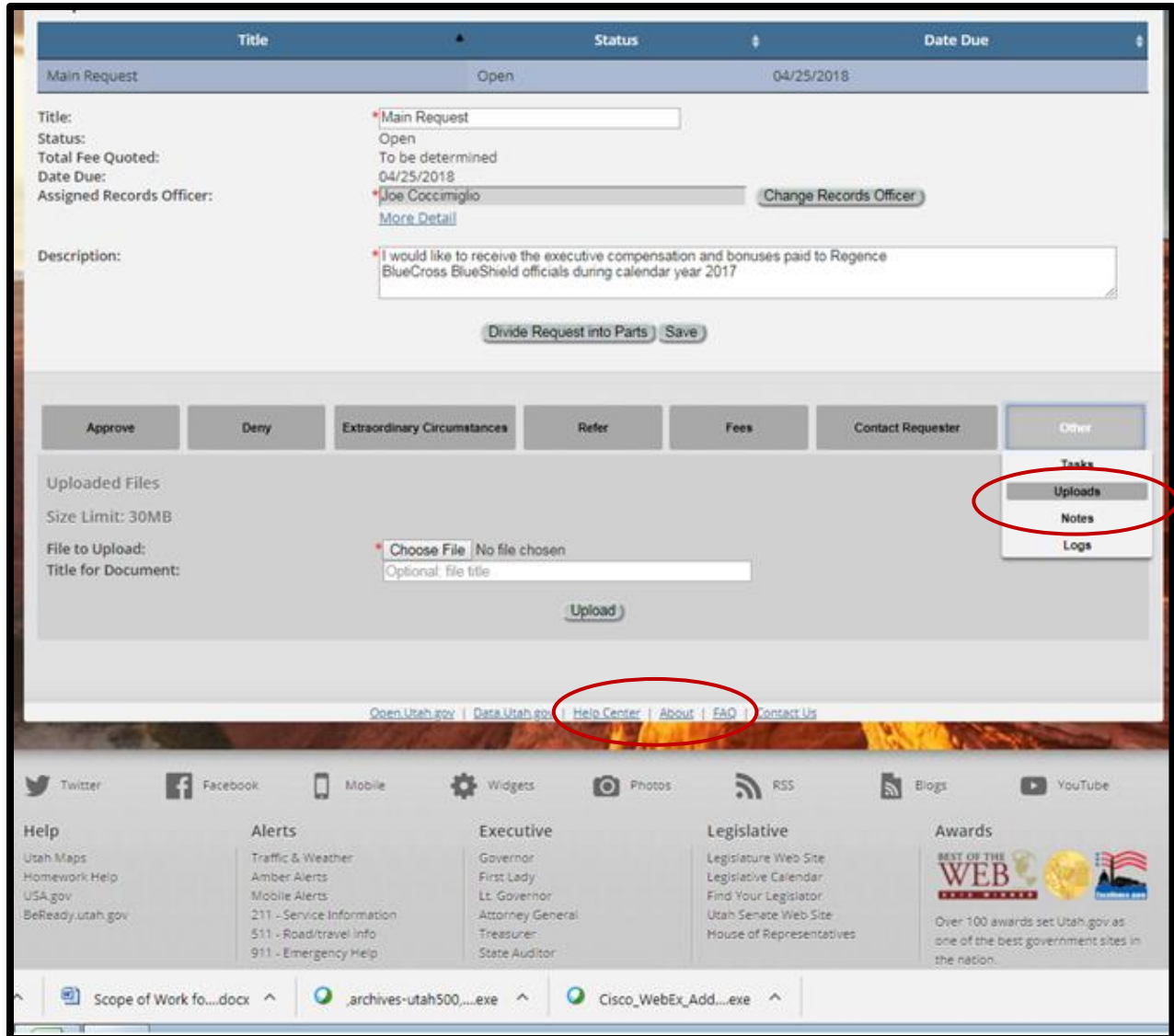
Other

An indexed *Help Center* provides records officers with information about how to use the portal.

Logs

System actions are recorded in the system. All actions taken by the system are logged as to date/time, action taken, and by whom. Logs include actions performed by both the requester and the responder pertaining to the request and actions the system is programmed to make (such as a reminder). The responder can also log additional actions into the system.

Logs

| 04/17/2018 09:46 AM | System | Additional Request Portion Created |
| 04/17/2018 09:46 AM | Dylan Mace | Request Submitted |

Add Log

Date Added: 04/17/2018 09:46 AM
Performed By: System
Action Type: Email Sent to Requester
Note: Max 2000 Characters

Visible to Requester: No ▾

Message Attached to this log:

From: System
To: Dylan Mace
Subject: Your records request has been submitted
Message: Request Title:
            email questions

            Submitted To:
            State Executive Test Agency

            Submission Date:
            04/17/2018 09:46 52

            Submitted By:
            Dylan Mace

            Records Officer:
            Amy Hamilton
            seashellwriter@gmail.com
            801-531-3842

            Text of Request:

            ***

            Please note that the time limit does not start until the records officer receives (opens) the request.

            Thank you.

            Open Records Portal Team
            openrecordsadmin@utah.gov
            openrecords.utah.gov

            ***

            Please do not respond to this email. For questions, email the Portal Administrator at
            openrecordsadmin@utah.gov

Save

Log detail

Actions in the log summary open up to a detail of each action that includes the text of messages sent and information about persons involved in the action.

Online Records

Only the portal administrator can add links to online records. The links are a function of APPX originally designed to keep track of related records that reside in repositories other than the State Archives. The portal administrator identifies a record series in the system and inputs a link to its location.

APPX data entry for series URLs

Once entered into APPX, the Solr search engine displays it in the governmental entity detail page. Record series with links to online records present first. The remaining record series identified in APPX that are attached to a specific governmental entity follow.

Record series links

The records series link opens up information about the record series found in APPX, including a description and designation of classification. The display links icons of screen shots to the external website where the records reside. Record series information for records not online is listed in alphabetical order after the list of online records.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Home   About DABC   What's New?   Products   Calendar   Online Services   How Do I ...   Employment   Contact Us

Select a Topic

- Origin and Purpose
- Our Function
- DABC Commission
- ABC Advisory Board
- Liquor Control States
- Advantages Of Being a Liquor Control State
- Annual Reports
- Utah Liquor Stores
- Utah Wine Stores
- Utah Contract Stores
- Contact Us
- Hours of Operation
- Observed Holidays

About DABC

Home > About DABC > Annual Reports

Annual Reports (Summary of Operations for a Fiscal Period)

Our fiscal period starts July 1st and ends on June 30th.

- 2017 - 82nd Annual Report
- 2016 - 81st Annual Report
- 2015 - 80th Annual Report
- 2014 - 79th Annual Report
- 2013 - 78th Annual Report
- 2012 - 77th Annual Report
- 2011 - 76th Annual Report
- 2010 - 75th Annual Report
- 2009 - 74th Annual Report
- 2008 - 73rd Annual Report
- 2007 - 72nd Annual Report
- 2006 - 71st Annual Report
- 2005 - 70th Annual Report
- 2004 - 69th Annual Report
- 2003 - 68th Annual Report
- 2002 - 67th Annual Report
- 2001 - 66th Annual Report
- 2000 - 65th Annual Report
- 1999 - 64th Annual Report
- 1998 - 63rd Annual Report
- 1997 - 62nd Annual Report

External website

V – Reports and Statistics

Reports

The reporting functions of the Open Records portal are limited. Any user can create a .PDF report generated from the system of: 1) GRAMA requests to governmental entities or 2) GRAMA requests by date. These reports cannot be manipulated; one cannot generate a report that segregates each entity distinctly or GRAMA requests per agency by date. Both reports contain similar data, reporting the number of GRAMA requests and actions taken on the aggregate number of GRAMA requests.

Reports of GRAMA requests run by governmental entity are in alphabetical order. Reports run by date have no governmental entity designation. The governmental entity, however, can run the same type of reports for its own agency in a .cvs file that they can manipulate though the reports includes no more data than accumulative totals available in the .PDF version.

Statistics

The number of GRAMA requests made through the portal is increasing yearly. During the first year of operation in 2015, the Open Records portal had 252 GRAMA requests submitted; in 2016, 766 GRAMA requests; and in 2017, 1,353 GRAMA requests (and there are 49% more requests as of May 2018). [79]

Because reporting capabilities are limited, GRAMA requests cannot be segregated by governmental *type* (state, public education, county, etc.). However, since the portal administrator otherwise samples statistics, it appears that more GRAMA requests are made to local government entities through the portal than to state agencies, though several state agencies receive a high volume of requests. Of state agencies, the Department of Human Services, Department of Environmental Quality, and Department of Administrative Services (for state bids and contracts) receive a high volume of requests. For local government, there are consistent requests for police/investigative reports.[80]

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[79] Utah Transparency Board minutes, September 26, 2017.
[80] Sample report from portal administrator, October 2017.
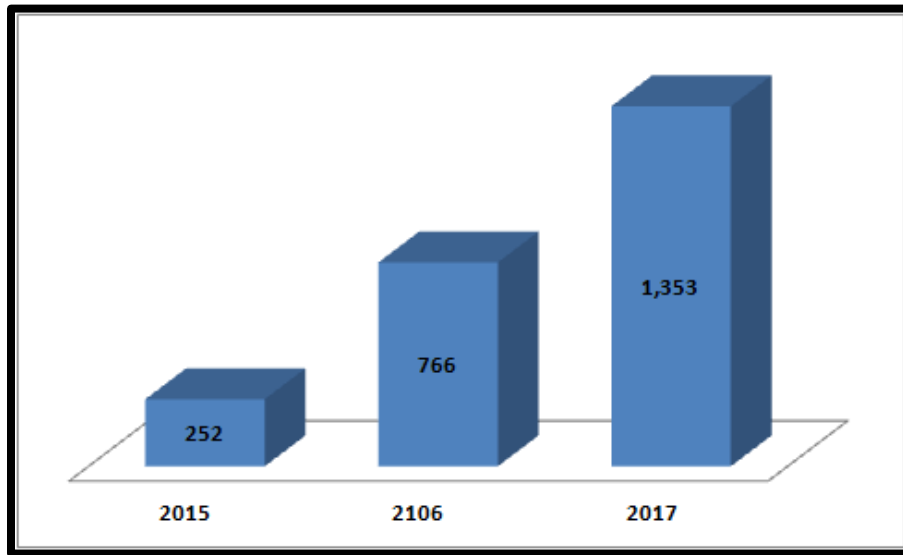
GRAMA requests made through portal

Reporting errors include counts of tests requests, split (or divided) requests, and duplicate requests, though the portal administrator can detect these errors. The number of unfulfilled requests (and past due requests) is inaccurate. The portal requires the responder to check a box when answering outside the system and to check again when the request is fulfilled. It is easy for the responder to forget or overlook this detail. To account for this, the portal administrator keeps a running total of GRAMA requests that come into the system.

VI – Plans for future development

The Open Records Portal received the 2015 Governor's Award for Excellence. The Open Records portal is an excellent resource; and the fact that it even exists is remarkable – given the resistance to GRAMA from government. It is a central place to make a GRAMA request to any governmental entity. A request can as easily be delivered to any small entity as to a large entity. The index and hierarchical structure provides organizational structure to all of government so a requester easily can find the appropriate governmental entity, and contact information, to make a GRAMA request.

It makes records more accessible: Local governments can no longer require a requester to come to the office to use their specific forms. The statute supersedes this. It provides value to the GRAMA process in its uniformity and consistency.

Requesters can manage and track the requests they make through the portal. It is a useful tool for those making GRAMA requests to multiple governmental entities, such as commercial interests but also academia doing comprehensive research.

The Board anticipates that the portal has the potential to be a valuable resource to find public records without cost to the requester. The public expects as much public information as possible be online—a challenging mandate. The portal already provides transparency in government with links to many datasets and records. Requesters once stymied in their attempts to locate local ordinances, can now find them online in a central location. They can be accessed without making a GRAMA request and at no cost.

Development Goals

Entity Identification Standard

During 2017, the Transparency Board discussed the issue of establishing a naming convention for the three data portals on the information website, plus the Utah Public Notice Website. A consistent naming convention would be useful to the State Auditor in indexing his reports and would assist users visiting multiple sites. In June 2017, the Board directed the State Archives, Finance, DTS, and Utah Interactive (a statewide vendor under contract with DTS) to develop ideas on how to sync identifiers across all the platforms and create a plan on implementing uniform naming.[81]

In September 2017, the team reported that the first issue to resolve was developing consistent standards for data and metadata. None of the systems used the same key field identifiers. The team proposed working from the State Archives' database of government entities as well gathering updates from all the entities to establish a common source; to create an index for all entities to use; and to make standard entity data available in multiple use formats, including JSON, CSV, XLS, RDF, RSS, and XML. Once established the team would work on integration.[82]

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[81] Utah Transparency Board minutes, July 27, 2017.
[82] Utah Transparency Board minutes, September 26, 2017.

Since part of the difficulty was the lack of a complete list of governmental entities, as the State Archives learned from working with districts, the 2018 General Session of the Utah Legislature passed SB29 County Listing of Local Government and Limited Purpose Entities requiring each county to list on its website information for certain local entities, charter schools, districts, and others for publication as a registry by the Lieutenant Governor.[83] The Legislature also passed SB28 Local Government and Limited Purpose Entity Registry that requires governmental entities to register with the Lt. Governor, who submits a copy to the State Archives. As this registry develops, it will also involve the Lt. Governor's Office as a player in formulating an integrated master list of governmental entities.

Further Integration

The Board also suggested that data be made more usable for the public and that the portals be more integrated in other ways. Other suggestions included:

- Adding records officers' information and Open Records data to the local pages of Utah.gov,

- Adding the Open Records search function to the search function on the Utah.gov homepage, and

- Incorporating data from the Transparency website and Utah Public Notice Website to the local pages of Utah.gov.[84]

The State Archives would also like to integrate the Open Records portal and the Utah Public Notice Website more systematically. The State Archives administers both portals and believes there would be value in having the same look and same functionality for both sites. Have parallel systems on the same platform would promote the interchange of information. This exchange of information is critical. The Utah Public Notice Website contains the agendas, minutes, and other public information of boards, commissions, and public bodies. These records were noted as the most frequently requested records made in GRAMA requests in the 2013 survey conducted by the Board.

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[83] SB29 County Listing of Local Government and limited Purpose Entities, 2018 General Session of the Utah Legislature.
[84] Utah Transparency Board minutes, September 26, 2017.

State Archives' Direction

Presently the State Archives struggles with three broad challenges with the Open Records portal:

4) *There are still many unresolved issues in the system and functionality that does not work.* There are problems that remain unresolved from the original 2015 scope of work. Programming changes are needed because functions do not work as anticipated. Functions need to be re-defined or re-configured with a user's perspective in mind

5) *The record series data in APPX is out-dated, and it is difficult to segregate poor data from good data in the portal*. The State Archives has used APPX as its content management system since the 1980s and still has years of record series data errors in the system. There is no way to segregate meaningful from irrelevant information; there is no way for the portal to segregate outdated record series; the entire array of record series must be displayed. Additionally, the State Archives needs the capability of running broken link reports to keep information current, a utility absent from APPX.

6) *The APPX platform has proven insufficient to operate the portal.* The future of the Open Records portal is another platform with better interface applications. Programming for new functionality is stalled until this problem is resolved. The Archives is exploring how better to exploit the data in APPX and obtain a more usable interface.[85]

Improving Portal Interface Functionality

The State Archives' goals are to engage entities more, to encourage entities to get information online, to survey users, and to develop link-check capabilities. The system needs to enable records officers to link and upload records for online display directly into the system instead of merely delivering a URL link or documents to the requester.

When the Open Records portal launched in 2015, most records officers were responding outside the system. This was because they had procedures already in place for responding to requests. There are also parts of the response system that are awkward to use. It requires a lot of navigating back and forth and checking boxes to get from one area to another in the process of fulfilling requests. It is not intuitive nor does it move seamlessly from one step to the next. There were a lot of bugs in the first three years that hindered use. For example, when uploading a file in response to a GRAMA request, if the responder forgot to enter text first, the file they selected disappeared.[86] The display of online records in the portal is improved but is still underdeveloped and needs focus.

While some issues are problems identified with the APPX platform, new ideas come to light as the public and governmental entities use the system. The State Archives did not anticipate the many possible scenarios when developing the Open Records portal. A recent suggestion from a customer was to program the records officer's contact information to automatically display in notifications and emails from the governmental entity.

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[85] Descriptions of remaining issues and future actions with APPX and the portal are derived from communications among staff and scopes of work and proposed scopes of work considered by management from 2015-2018.
[86] Correspondence among staff members on vendor actions documented on September 16, 2016.

This would help requesters identify the governmental entity when they make GRAMA requests from multiple entities and would provide a failsafe when the records officer forgets to include a signature block.

Presently, the Open Records portal has the capacity to link to a governmental entity's record series as reported in APPX. It needs a broader capacity to link, or include URLs, to information and documents that are *about* the governmental entity and created from other sources, not just the records *from* the governmental entity. Audit reports, legislative reports, legal mandates in code, and more need to stand next to governmental entity record series to improve the online access. Further integration to display historical records is needed so that a requester can not only search through current ordinances but also search through historical ordinances in a single search action.

APPX is not adequate to the task. APPX does not have a useable public interface; it is not seamless, not easily navigable, and not easy to use, especially for the responder. APPX still has the basic design functionality from when it was introduced to the State Archives decades ago. The State Archives has been so entrenched in using APPX that it impeded the ability to explore and develop new ideas on new platforms. With the Open Records portal, the State Archives understands a need beyond APPX. The State Archives is now searching for another vendor to support the Open Records portal interface system and for better integration among platforms. APPX will act as the system where data resides, while another system will bring that data into a friendlier and more useable form.

Though there are a lot of issues in the portal and with its connection to APPX that still need resolution, this does not diminish the value of the Open Records portal. The State Archives, with the Board's direction, consistently improves the portal every year. Even though the system has not been able to segregate poor record series data from good in the Open Records portal presentation, through this initiative the State Archives was able to have the resources it needed to update *much* data in the system. To update all governmental entity's identity and hierarchical structure, records officer information, and chief administrator information in three years is remarkable. This was a great benefit to the State Archives.

Governmental entities are actively engaged in improving the Open Records portal. They see the overall value of its comprehensive approach, so more governmental entities are responding through the system than previously. While the system is not extraordinary, it is reliable and consistent. There are a number of state agencies that would like to create administrative rules establishing the portal the sole location for GRAMA requests; and some Board members express an interest in *requiring* the use of the portal.

For all of the benefits the Open Records provides, it demonstrates that it takes years to develop a system from such a broad initiative with overarching goals.

Appendix C -- Bill questions and full text of bill responses.

Included in this appendix are detailed answers to:

Whether other states' open records portal track and provide a timeline where each request is being responded to in the process of request. Except for Utah's model, no portal was found to track and provide a timeline.

Cost of creating open records portals in other states and the amount of state, local or other funds contributed to the start-up and ongoing costs to operate the open records portals – Utah's experience, where there was no increase to agency's funding, is the only state portal found. No other costs are available.

Length of time it took for other states to develop and open records portal from its initial start-up to its current full operation.
Utah's model
See detailed information in the report.

Pennsylvania's model
      Pennsylvania's record portal consists of PDF lists of public records officers, organized by entity. There is a records request form accepted by all state and local governments and a video that details how to submit an effective public records request.

      Pennsylvania's Office of Open Records, Chief of Outreach and training, stated minimal time and costs were incurred to create the records portal. He stated that until recently the system of providing lists of municipal government records officers was voluntary so that not all records officers were listed. The old system was manual, where the records officer completed a form and sent it to the Office of Open Records. In mid-April 2018, there was an upgrade to the system. Another state agency collects municipal statistics and places information in a searchable database. A new field will be added to the required annual statistical report for the name and contact information for the municipal entity's records officer. The time and cost were minimal as it piggybacks off the municipal statistics database.

Delaware's model

      Delaware has a state sponsored Freedom of Information Act (FOIA) website where there is a list with links to state agency public records coordinators, organized by agency. There is a standard request form and a video on how to make an effective request. Delaware state law requires the Attorney General's Office to establish a standardize records request form that is used exclusively to request records.[87] The Attorney General's Office has developed a policy manual for FOIA coordinators.

How much is charged and how fees collected from a user through other states open portals.

Utah's model – no payment made through portal. Individual agency charges and collects fees.

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[87] Title 29 Delaware Code §10003(b).

No portal was found where public records fees were charged and collected by the portal. A review of the 50 states show they take different approaches to recovering costs to produce public records searches and redaction.

- Fifteen states allow entities to charge fees for searching and redacting. Some states limit fees charged, have established maximum charges and some allow entities to determine the fees.
- Sixteen states, including Washington, do not allow searching or redacting costs.
- Seventeen states allow searching costs after certain conditions are met, such as no fee for the first hour or after the first 15 minutes of searching.

Exhibit 8: How 50 states approach recovery of search and redaction expenses			
Allows recovery	Forbids recovery	Allows searching costs based on conditions	Unclear
Alabama	Arizona	Alaska - if requests in one month exceed five hours	Ohio
Kansas	Arkansas	Colorado - after 1st hour	South Dakota
Kentucky	California	Delaware - after 1st hour	
Hawaii	Connecticut	Florida - if extensive clerical or supervisory help needed	
Michigan	Illinois	Georgia - after 15 minutes	
Mississippi	Indiana	Idaho - after 2nd hour	
Missouri	Iowa	Maine - after 1st hour	
Montana	Louisiana	Maryland - after 2nd hour	
North Carolina	Minnesota	Massachusetts - after 4th hour	
Oregon	New Hampshire	Nebraska - after 4th hour	
South Carolina	New Jersey	Nevada - no unless extraordinary request	
Tennessee	New Mexico	New York - after 2nd hour	
Texas	Washington	North Dakota - after 2nd hour	
Utah	Vest Virginia	Oklahoma - only if request is for a commercial purpose	
Virginia	Wisconsin	Pennsylvania - after 1st hour	
	Wyoming	Rhode Island - after 1st hour	
		Vermont - after 30 minutes	

The time required for records searches may depend on how well the records have been managed. If an organization has inventoried its records, knows where the various categories of records are stored, and attends to relevant retention schedules, the time needed to search for records should be reduced. It does not appear equitable to impose searching costs for records that are not managed according to good records management principles.

Redacting protected information is a charge directly related to a records request. Review for redaction can be labor intensive, including the time to review, actual redaction, and creating exemption and withholding lists. But for the records request, these costs would not be incurred by the entity

Feasibility of an open portal to track records requests and provide a timeline for each record request.
Systems currently available, both commercially and at state agencies, are capable of tracking and providing a time line for each record request. If an open records portal is created the ability to track records request and provide a timeline for each record request is feasible.

Feasibility of an open records portal that would be able to directly respond to answering a user's request. It is not currently feasible for an open records portal to directly provide records in response to a public records request.

If not, feasibility of the portal tracking when a local or state responds to a request and the timeline. It is not currently feasible for a state-operated open records portal to track when a state or local government respond to a public records request. This option would create another layer of bureaucracy that could also subject the operator of the portal to records request legal liability.

Feasibility of open records portal would be able to directly respond to answering a user's request. It is not currently feasible for an open records portal to directly respond to a public records request that notifies a requestor that request is received and immediately provide the requestor with a copy of the record, notifies record is not available, or -- because it is an extraordinary request -- that the record will be available on a certain date.

Tasks beyond the capability of the study

Cost of creating open records portal.

The study is unable to determine the full cost for the system needed for a statewide portal. The primary reason is the inability to determine the volume of all records created and retained each day by state and local governments. The usual process would be to issue a request for proposal (RFP) to determine the costs of a project but without some information on the system size needed the quotes for the RFP are unlikely to be accurate.

RCW 39.04.270, which provides an acquisition method for electronic data processing and telecommunication systems for municipalities, could be an alternative method for procuring electronic data processing needed for the portal. This alternative may require a statutory amendment. Similarly, RCW 39.10, Alternative Public Works Contracting Procedures, provide alternative contracting procedures whereby a project is designed and built with coordination between the entity and the contractor. This model could be adapted for the design and building of the portal but would also likely require legislation.

Server storage costs cannot be ascertained since the volume of material to store is unknown, nor can ongoing costs to access the records once stored in the portal. Since the portal would need access to virtually every format of records, the licensing costs could be extensive for the portal. For example:

- **Text data** – Generally speaking, almost any software tool can read text data but text doesn't offer much in the way of formatting.
- **Microsoft Office data (MSFT)** (Word, Excel, PowerPoint, Visio, Publisher, etc.) – Any record in these formats will need an Office-compatible program to read them.
- **Native operating system (OS) file formats** (Windows OS, macOS) – A Windows operating system (OS) file is formatted in proprietary Windows format, as is an Apple macOS file.
- **Mobile platform OS** (iOS, Android and Android variants such as Samsung, Windows Phone, Blackberry) – These are additional OS proprietary formats that may or may not be easy to read unless using their native toolset.
- **Multiple database formats** (SQL, Access, DB2, Adabas) – There are many proprietary database formats; the list in parentheses are just a few.

Some formats used to generate, store and process records may also be challenge for the portal to manage. A few examples are:

- "SharePoint" MSSQL and XML. In the past, people have requested a copy of a "SharePoint site" as a record, but the "records" that compose the site cannot be accessed. Many entities use SharePoint as a worksite and for storage. There would need to be some method to determine when a record should be uploaded into the portal.
- "Websites" in general – There is no complete and accurate way to deliver or archive a "website" as a record.
- Email formats such as ".pst" and ".ost" may contain very large files and have confidential data imbedded within the message or attachment. Redacting native format email files requires a conversion process where the metadata must be reviewed for confidential information located within the metadata itself.

There will also be security costs to maintain the confidentiality, integrity and availability of records. The portal would need to comply with OCIO Policy 141.10. If there were a breach to the open records portal, the intruders may have access to all state and local governments' information. Currently, local governments are not subject to OCIO policies. It is also possible that local governments will face hardware and software challenges when attempting to interface with a state system.

There are also unknown employee costs, such as how many employees would be needed to manage the portal system or contracting costs if managing the portal is outsourced. If the portal is expressly designed to have state and local governments upload records to the portal themselves, there is potential for employee costs at every state and local government as they hire people manage the task of uploading records.

It is currently impossible to determine the quantity of paper records held by the 193 state agencies, commissions and boards, or at the 1,933 local governments located across the state. Until all state and local governments complete inventories of all records (electronic and paper), determining the costs of scanning all paper records is also impossible. This report contains estimates, but they are based on very incomplete data.

Time to develop and implement open records portal.

Without concrete information on the size of the state and local storage system requirements the time needed to create the portal cannot be determined. Without a timeline for the removal of current barriers, the time needed to create a portal that collects, archives and holds all public records from local and state agencies in Washington cannot be determined.

APPENDIX D – Full text of *Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments*

http://www.sao.wa.gov/state/Pages/PA_RecordsStudy.aspx

APPENDIX E -- Resources and reference materials used in preparing this report

1. Engrossed Substitute House Bill 1594, Laws of 2017 -http://lawfilesext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/1594-S.SL.pdf

2. Pew Research article, "*11% of Americans don't use the internet. Who are they?"* March 5, 2018 http://www.pewresearch.org/fact-tank/2018/03/05/some-americans-dont-use-the-internet-who-are-they/

3. Public Records Act, Chapter 42.56 RCW - http://app.leg.wa.gov/RCW/default.aspx?cite=42.56

4. State of Delaware, Government Information Center - https://gic.delaware.gov/delaware-municipal-websites/

5. State of Pennsylvania, Office of Open Records - https://www.openrecords.pa.gov/index.cfm

6. Office of the Attorney General electronic publication "Public Records and Open Public Meetings," http://www.atg.wa.gov/public-records-and-open-public-meetings , page one.

7. *Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments*, issued December 1995 - **APPENDIX D**.

8. Performance Audit: The Effect of Public Records Requests on State and Local Governments, issued August 29, 2016. http://www.sao.wa.gov/state/Documents/PA_Public_Records_Requests_ar1017396.pdf

9. U.S. Open Data Census, state scores: https://census.usopendata.org/#

10. United States Public Interest Research Group, *"Following the Money 2016"* https://census.usopendata.org/#

11. Washington State Digital Archives - https://www.digitalarchives.wa.gov/

12. Washington State Office of the Chief Information Officer, Agency Open Data Plans - https://ocio.wa.gov/initiatives/open-data/guidance-agency-open-data-plans

13. Washington State Fiscal Information - http://fiscal.wa.gov/

14. Washington State Department of Transportation, http://wsdot.wa.gov/mapsdata.htm

15. Washington State Auditor's Office, Local Government Financial Reporting System - http://portal.sao.wa.gov/LGFRS/

16. Municipal Research and Services Center, http://mrsc.org/Home/About-MRSC.aspx About Us

17. Municipal Research and Services Center, Publications Page- http://mrsc.org/Home/Publications.aspx for a complete listing.

18. Open Public Meetings Act, Chapter 42.30 RCW - http://app.leg.wa.gov/RCW/default.aspx?cite=42.30

19. Preservation and Destruction of Public Records, Chapter 40.14 RCW - http://app.leg.wa.gov/RCW/default.aspx?cite=40.14

20. State Government General Records Retention Schedule, https://www.sos.wa.gov/_assets/archives/recordsmanagement/state-government-general-records-retention-schedule-v.6.0-(june-2016).pdf

21. Local Government Common Records Retention Schedule, https://www.sos.wa.gov/_assets/archives/recordsmanagement/local-government-common-records-retention-schedule-core-v.4.0-(may-2017).pdf

22. Washington Technology Solutions (WaTech) - https://watech.wa.gov/

23. Washington State Archives - https://www.sos.wa.gov/archives/

24. WAC 434-610-090 defines archival records as records that have continued historical value and must be permanently preserved. Under the Secretary of States' scan and toss policy, archival records cannot be scanned and tossed. http://app.leg.wa.gov/wac/default.aspx?cite=434-610-090

25. *Report to the Legislature, Paper Records Reduction,* December 31, 2015, page 7. https://www.sos.wa.gov/_assets/archives/recordsmanagement/paper-records-reduction-report-to-legislature-december-2015.pdf

26. Washington State Department of Revenue - https://dor.wa.gov/

27. Title 26 United States Code §6103 - https://www.gpo.gov/fdsys/pkg/USCODE-2016-title26/pdf/USCODE-2016-title26-subtitleF-chap61-subchapB-sec6103.pdf

28. Internal Revenue Service Publication 1075 for detailed information on disclosure and security requirements - https://www.irs.gov/pub/irs-pdf/p1075.pdf

29. Department of Employment Security - https://esd.wa.gov/

30. Title 42 United States Code §503(a)(1) - https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapIII-sec503.pdf

31. Title 20 Code of Federal Regulations, §603.4(b). https://www.ecfr.gov/cgi-bin/text-idx?SID=a2294386beae863e717591f59723217a&mc=true&tpl=/ecfrbrowse/Title20/20cfr603_main_02.tpl

32. RCW 4.22.070, Percentage of Fault – Determination – Exception – Limitations - http://app.leg.wa.gov/RCW/default.aspx?cite=4.22.070

33. *Kottler v. State*, 136 Wn.2d 437, 445-46, 963 P.2d 834 (1998). http://courts.mrsc.org/supreme/136wn2d/136wn2d0437.htm

34. The Department of Administrative Services is analogous to the Washington State Department of Enterprise Services. Georgia's link is - https://orr.doas.ga.gov/App/Home.aspx

Appendix F – Searchable Collections Currently Held by the Washington State Digital Archives

Exhibit 9-- Collections online at WSDA	
As of March 2018	
Type of record	**Number of individual records**
Audio Records	28,667
Audit Reports	24,200
Auditor Misc Records	5,141,045
Birth Records	89,094
Cemetery Records	456,850
Census Records	2,010,786
Corporation Records	626,237
Death Records	46,655,227
Divorce Records	1,270,279
Documents	23
Email Records	2,264,165
Frontier Justice	38,179
Indian Census	26,749
Inmate and Parolee Case Files	148
Institution Records	30,613
Land Records	37,597,220
Map Records	6,095
Marriage Records	6,799,150
Military Records	245,905
Minutes and Meeting Records	325,677
Miscellaneous Family History	478,647
Naturalization Records	127,424
Oaths of Office	40,430
Olmsted Project Records	1,266
Ordinance Records	146,509
Photographs	24,622
Plats and Surveys Records	305,191
Power of Attorney Records	522,195
Professional License Records	37,449
Publications, Local Government Agencies	1,791
Publications, State Government Agencies	55,054
Real Property Record Cards	66,730
Recorded Agreements and Contracts	552,326
Resolution Records	144,409
Scrapbooks	14,670

Superior Court Cases	31,455,250
Trademark Records	68,797
Uniform Commercial Code Recordings	953,934

Each of the collections have two tabs, illustrated in Figure XX.

Exhibit 10 -- Screen capture of WSDA Collections Page
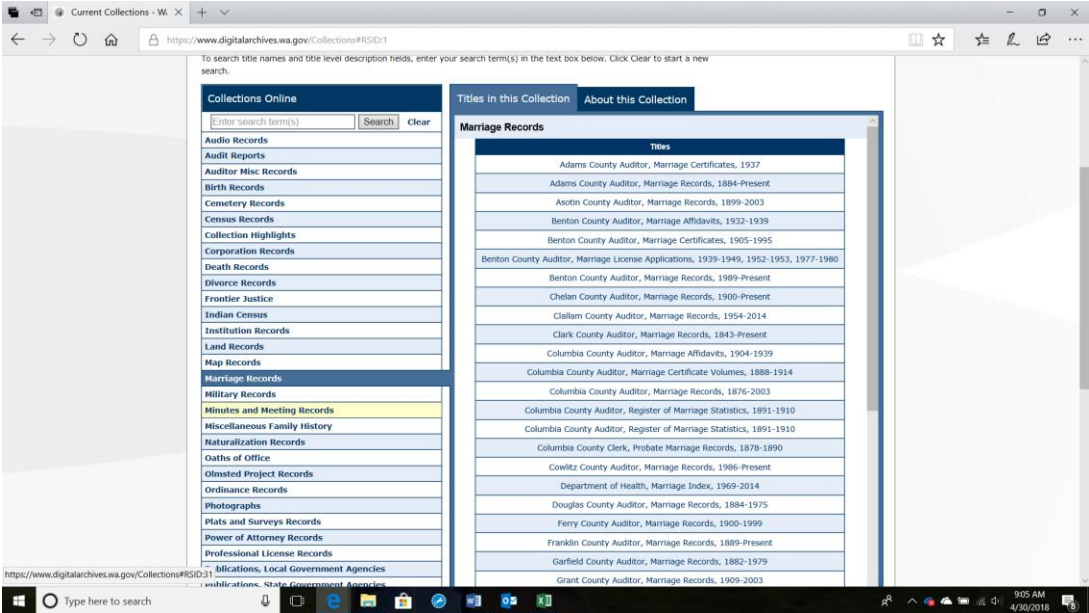
- Tab 1 – Titles in this Collection
- Tab 2 - About this Collection

For example, the Marriage Records Collection in Tab 1 lists Washington counties and the Department of Health marriage records. This allows for a search of a specific county's records. Tab 2 describes the marriage records in the collection –

Exhibit# 11 Information on the Marriage Record Collection
About this Collection
In the State of Washington, County Auditors are "recording officers" (RCW 65.04.015 (1)) and "custodians of records" (RCW 65.04.140). The Revised Code of Washington (RCW) Title 65 requires the recording of legal documents, including marriage documents. In 1866, the Legislative Assembly of Washington Territory passed the Act to Regulate Marriages. Although there were legal marriage requirements prior to this year, there were no official forms or recordkeeping to document that the laws were upheld. Marriage records were maintained at the County level until 1968, when the state took over collecting marriage records. Over time there have been various steps in the marriage process and these have generated a variety of forms/certificates. These include: **Marriage license application or affidavit,** in which the parties (or parent or guardian for minors) seeking a marriage license swear these is no legal impediments to the marriage. Marriage license, which allows the marriage ceremony to take place. Marriage licenses

themselves were customarily retained by the ceremony officiant and therefore will not generally be held by county. However, the information from the marriage license may have been retained by the county.

Marriage certificate, which officially documents the marriage ceremony has taken place. The marriage certificate form has traditionally been completed by the officiant after the ceremony and filed with the county. Information may include names of bride and groom, marriage date, marriage location, names of witnesses, and name and title of officiant.

For marriages between before 1968, there will be one marriage certificate filed with:

1) The county where the marriage took place (1866-1927)
2) The county where the marriage took place (a copy will also be at the county where the license was issued, if different) (1927-1947)
3) The county where the license was issued (1947-1967)

For marriages between 1968 and 2002, there will be two different marriage certificates:

1) One filed with the county where the license was purchased
2) One filed with the state

Beginning in 2002, only one marriage certificate is filed. The original is filed with the state and the county also keeps a copy.

Marriage return, which generally includes details about the bride and groom beyond what was required by law such as including age, race, birthplace, occupation, number of marriages, location of residence, and parents' names.

Marriage certificate corrections, Because of the variety of documents used for recording marriages, multiple records may exist for individual marriage events.

Community Property Agreements, Under Washington law, property acquired after marriage or after registration of a state-registered domestic partnership is presumed to be community property (i.e., each partner owns an undivided one-half interest in the party). A community property agreement is a statutory contract between spouses or domestic partners, which in most cases converts the spouses' or domestic partners' separate property to community property. Prior to the establishment of state-registered domestic partnerships in 2007 and extension of community property law to domestic partnerships in 2008, only married couples could enter into a community property agreement. Therefore, such agreements can provide documentation of a marriage.

These marriage records include indexed, digitized images created by the Washington State Archives in a project to make the entire marriage series available from the beginning of marriage record keeping. The more current index records (approximately 1995 forward) are updated by partner Auditors on a periodic basis and may not include images.

Appendix G – Washington State Agencies with Open Data Plans

Office of the Chief Information Officer (OCIO) Policy 187 requires agencies to develop, implement and maintain an Open Data Plan that outlines how the agency will routinely work to make open data publicly available. Agency plans must be revised or re-affirmed annually by October first. This table identifies the plans received by the OCIO and the last reporting period submitted.

Exhibit 12 -- State Agencies with Open Data Plans

Entity ID	Filing name	Reporting period
ACB	State Board of Accountancy	2018
ART	Washington State Arts Commission	2016
COM	Commerce Open Data Plan	2017
DEL	Department of Early Learning	2016
DFI	Department of Financial Institutions	2016
DFW	Department of Fish and Wildlife	2017
DOH	Department of Health	2016
DOL	Department of Licensing	2017
DOR	Department of Revenue	2017
DRS	Department of Retirement Services	2016
DSB	Department of Services for the Blind	2016
DSHS	Department of Social and Health Services	2017
DVA	Department of Veterans' Affairs	2016
ECY	Department of Ecology	2016
ESD	Employment Security Department	2017
GMB	Washington State Gambling Commission	2016
HCA	Health Care Authority	2017
LEAP	Legislative Evaluation and Accountability Programs Committee	2017
LEOFF	Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board	2016
OAH	Office of Administrative Hearings	2016
OEO	Office of Education Ombudsman	2018
OFM	Office of Financial Management	2016
OIC	Office of Insurance Commissioner	2017
OMWBE	Office of Minority and Women's Business Enterprises	2016
OSPI	Office of the Superintendent of Public Instruction	2016
OST	Office of the State Treasure	2016
PDC	Public Disclosure Commission	2017
PSP	Puget Sound Partnership	2016
RCO	Recreation & Conservation Office	2016
UTC	Utilities and Transportation Commission	2016
WaTech	Consolidated Technology Services	2016
WHCFA	Health Care Facilities Authority	2016
WSDOT	Washington State Department of Transportation	2017
WSPRC	State Parks and Recreation Commission	2017
WSSB	Washington State School for the Blind	2017

Appendix H – Pass-Through Website Cost Estimates[88]

These are the estimated costs for an informational portal. The portal would contain public records officer's contact information for all Washington governmental entities. There would either be a link to the entities public records website or if there is no entity website then there would be a link to the public record's officers contact information. There would be no tracking of requests.

Cost analysis - Records Directory

Item	Open Data + WASL Qty	Unit cost	SubTotal	New Drupal Website Qty	Unit cost	SubTotal	Shared Website (e.g. Access.wa) Qty	Unit cost	SubTotal	Web application (e.g. Contact.wa) Qty	Unit cost	SubTotal
		$ -				$ -		$ -				$ -
Web page / Database of PRO's	1	$ -	$ -	1	$ 12,000	$ 12,000	1	$ -	$ -	1	$ 50,000	$ 50,000
Links to agency records sites	1	$ -	$ -	1	$ -	$ -		$ -	$ -	1	$ -	$ -
Maintenance and staff support FTE FRA2	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390
		$ -				$ -		$ -				$ -
Static Public Records Request form (PDF)	1	$ -	$ -	1	$ -	$ -		$ -			$ -	
Live Public Records Request form	1	$ -	$ -	1	$ -	$ -		$ -			$ -	
Maintenance and staff support FTE FRA2	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390	0.5	$ 48,780	$ 24,390
		$ -				$ -		$ -				$ -
Video hosting online		$ -		12	$ 20	$ 240	12	$ 20	$ 240	12	$ 20	$ 240
		$ -				$ -		$ -				$ -
		$ -				$ -		$ -				$ -
Total			**$48,780**			**$61,020**			**$ 49,020**			**$99,020**

Author Biographies

Cindy R. Evans graduated from Seattle University School of Law in May 1997. She received her bachelor's in psychology and master's in education degrees from Chapman University (then Chapman College) in 1986 and 1988 respectively. She is an attorney in good standing with more than 20 years legal experience working for the Office of the Attorney General, Department of Revenue, and the State Auditor's Office.

Patricia Smith-Mansfield received her bachelor's and master's degrees from the University of Utah. She started her career as a curator in the Utah Division of Parks and Recreation. From there worked as a reference archivist with the Utah Division of State Archives and Records Service, and then went to the Utah State Historical Society as assistant director. In 2003, she returned to the State Archives as director, serving as state archivist until her retirement in 2017. She served on three state boards: the State Records Committee, which hears appeals of records denials; the Utah State Historical Advisory Board, which administers the Archives' grants; and the Utah Transparency Board, which oversees public information online. She served as President of the Council of State Archivists.