

PRELIMINARY REPORT: Review of Public Records Training, Consultation, and Grant Programs

Legislative Auditor's Conclusion:

The Attorney General's Office and State Archives have served at least 420 local governments through their public records programs. Participants report they are satisfied, but the programs have yet to establish a plan to evaluate long-term impacts.

December 2019

Washington's Public Records Act (PRA) requires state and local governments to make their records available to the public, unless the law specifically exempts the records from disclosure.

In 2017, the Legislature directed the Attorney General's Office (AGO) and State Archives (Archives) to provide three programs that assist local governments¹ with their public records management, retention, and disclosure practices.

The 2017 legislation also directed JLARC to review these programs by December 2019. Although the original legislation terminated the programs as of June 30, 2020, the Legislature has since removed the termination date (HB 1667, 2019).

Attorney General's Office and State Archives provided consultation, training, and grant programs that collectively served at least 420 local governments across the state

The three programs that assist local governments with public records are:

1. **The AGO's consultation program** assists local governments with developing best practices for managing records requests, incorporating technology into request response, and mitigating costs and liability related to compliance with the Public Records Act.
2. **Archives' consultation and training program** provides local governments with advice, guidance, and support related to their public records management and retention practices.
3. **Archives' Local Records Grant Program** provides funding to local governments so that they can improve their public records organization, digitization, and technology tools.

Since July 2017, at least 420 distinct local governments participated in these programs. JLARC staff estimate the total number of local governments in Washington is 2,340. Local governments can

¹[RCW 42.56.010\(1\)](#) defines these as "any county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency."

participate multiple times in all three programs. Data in this report reflects program activities during fiscal years 2018 and 2019.

Key Terms Related to Public Records

Public record: Any written, recorded, electronic, or illustrated document that relates to the conduct or function of government. If it is prepared, owned, received, used, or retained by any state or local government agency, then it must be made available for public inspection unless the law specifically exempts it.

Records management: The creation, receipt, maintenance, use, and disposition of electronic and paper records.

Records retention: The period of time that records must be maintained by an agency. After the retention period ends, the records may be destroyed if they have no archival function, maintained by the agency, or transferred to State Archives.

Records disclosure: The process through which the public obtains public records.

Local government: Any county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

Local governments generally report satisfaction with programs

JLARC staff surveyed program participants. Seventy-six percent of respondents said that the programs met their needs and that they made changes to their records management, retention, and disclosure practices after receiving services. Several respondents provided examples of the changes they implemented due to the programs. Some also reported that they need additional resources in order to make changes.

Attorney General's Office and State Archives have yet to develop performance measures or evaluate long-term impacts of their programs

Both the AGO and Archives track the amount of public records assistance they provide to local governments and collect customer feedback from their program participants. However, the agencies have not developed performance measures or a plan for evaluating long-term impacts. The Legislature removed the program termination date in 2019, providing AGO and Archives an opportunity to begin this process.

Strategic planning could help both entities focus their future efforts and determine whether they are meeting the legislative goals of improving local agency records management, retention, and disclosure practices. A new statewide data collection effort on agency public records practices also has the potential to inform the future direction of the programs.

Legislative Auditor Recommendations

The Attorney General's Office and State Archives should each produce strategic plans to focus their future efforts and evaluate the impact of training, consultation, and grant programs on response times, costs, and liability.

You can find additional information on the Recommendations tab.

REPORT DETAILS

1. Three programs assist local governments with public records

The Attorney General's Office and State Archives provide training and other services related to public records management and disclosure

In 2017, the Legislature passed ESHB 1594, amending the Public Records Act (PRA) to improve public records administration. This legislation originated from stakeholders who sought to alleviate the demands on local governments related to public records management and disclosure. The bill focused on local governments and the impacts of PRA compliance on their costs and staff time.

The bill established three programs to assist local governments with public records management and disclosure:

1. **The AGO's consultation program** assists local governments with developing best practices for managing records requests, incorporating technology into request response, and mitigating costs and liability related to compliance with the Public Records Act.
2. **Archives' consultation and training program** provides local governments with advice, guidance, and support related to their public records management and retention practices.
3. **Archives' Local Records Grant Program** provides funding to local governments so that they can improve their public records organization, digitization, and technology tools.

While the AGO and Archives share a similar directive for assisting local governments, there is little overlap in the content of their trainings and consultations or the services they deliver. Archives provides assistance with records management and the AGO provides assistance with records disclosure.

For FY18 and FY19, the programs served at least 420 local governments across the state

The AGO and Archives work independently of each other to provide training, consultations, and grants to local governments. Both use their own methods for tracking their program participants:

- AGO tracks the total number of local governments that receive consultations or on-site trainings.

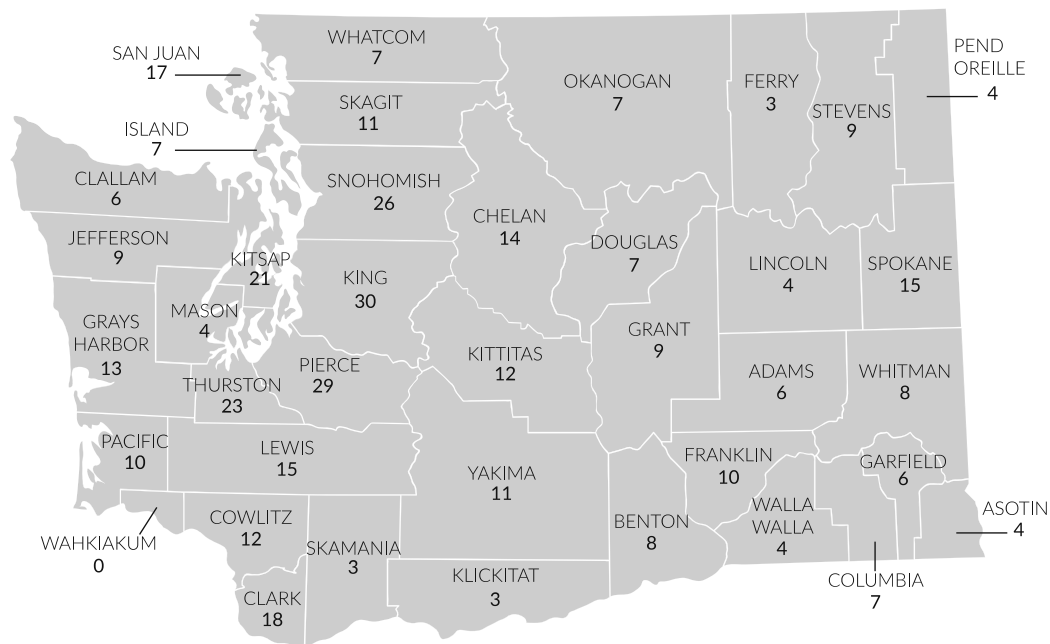
- Archives tracks the total number of local governments that receive its customized consultations and trainings and its grant awards. For its email and phone consultations and general trainings, Archives tracks the number of program participants rather than the number of local governments represented.
- JLARC staff identified 420 distinct local governments that received services through the programs. See Appendix A for a list of the local governments. In addition to these local governments, Archives also serves other state and local governments through its email and phone consultations and general trainings.

Programs are funded by a document recording fee

All programs are funded by a \$1 document recording fee deposited into the Local Government Archives Account. Per statute, up to half of the funds may be used for the consultation and training programs and the remainder is for the Local Records Grant Program. In the 2017-19 biennium, \$660K was appropriated for the AGO program. The new document recording fee also generated an additional \$2.25M for the Archives programs.

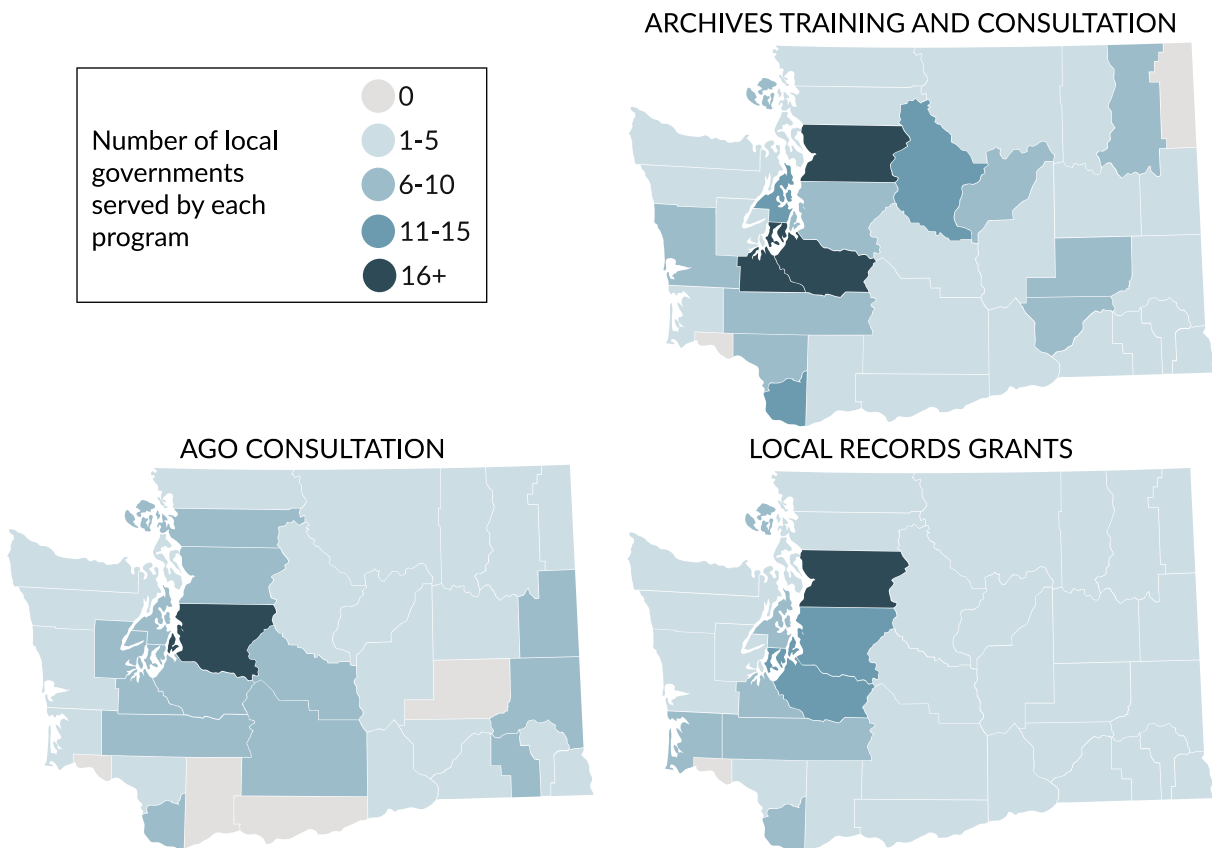
Exhibit 1.1: JLARC staff identified 420 local governments served by the programs

This map does not include local governments that received a phone or email consultation from State Archives because Archives does not track the names of the local governments that received these types of consultations.



Source: JLARC staff analysis based on data provided by AGO and Archives staff.

Exhibit 1.2: The number of local governments in each county served by each of the three programs



Source: JLARC staff analysis. Local governments that participated in more than one program are counted once for each program.

The Attorney General's consultation program assists local governments with developing best practices and complying with the Public Records Act

What is it? Created in 2017, the AGO's consultation program assists local governments via phone, email, on-site visits, and trainings. Two staff from the AGO administer the program and work collaboratively with local governments to review the Public Records Act (PRA) requirements and suggest best practices for meeting them. Consultations involve an informal assessment of the local government's public records request practices. Topics typically include review of the local government's PRA policy, PRA exemptions, managing and responding to public record requests, and using software tools to redact records.

How many local governments have received services? During fiscal years 2018 and 2019, the program has provided:

- 52 on-site consultations to 48 local governments.
- 227 consultations by email or phone to 141 local governments.

- 40 trainings to over 1,900 local government representatives.
- Some local governments received multiple consultations. The number of distinct local governments served is 179.

How is it promoted? AGO staff advertise their program through their website, on-site visits, conferences, direct marketing “cold calls,” and referrals. Local governments can request a consultation at any time. In addition to consultations, AGO staff also provide trainings to local governments, state agencies, and associations as part of their broader agency responsibilities.

State Archives provides trainings and consultations on records management

What is it? Archives has five designated records management staff that assist state agencies and local governments with records management through trainings and consultations. Other Archives staff may also assist local governments with records management. Archives provides instructional videos, recorded webinars, and guidance documents on its website.

- **Trainings** are structured educational events such as conference presentations, in-person and webinar classes, or individualized sessions for a specific agency.
- **Consultations** are one-on-one advice sessions between Archives staff and local governments. This may take place via email, phone, video conference, or in person.

Common topics for trainings and consultations include improving records management and records retention practices.

How many local governments have received services? During fiscal years 2018 and 2019, Archives provided:

- 297 customized, in-person consultations or trainings to 225 distinct local governments. Some received both.
- 4,933 email and phone consultations to state agencies and local governments. Archives does not track the specific entities that received these services.
- An additional 137 trainings, attended by 4,873 participants from state agencies and local governments. Although Archives tracks the number of participants, it does not track how many local governments are represented. Records management trainings are open to both state and local governments.

How is it promoted? State Archives advertises its consultation and training services through an email listserve, its website, routine interaction with local governments, and conferences.

Local Records Grant Program funds technology for records management, retention, and disclosure

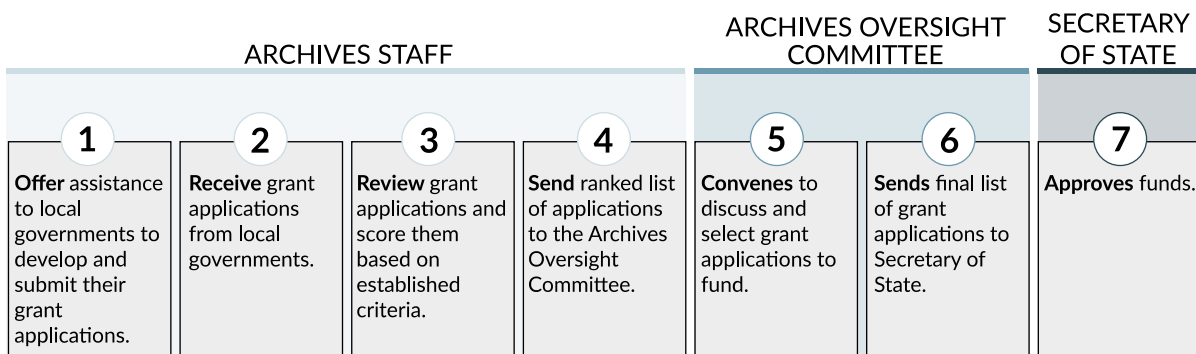
What is it? Archives also administers the Local Records Grant Program to help local governments improve their records organization, digitization, and technology related to public records. Archives

established three types of grant awards: organizing the file room, digital imaging, and technology tools.

State Archives and the Archives Oversight Committee select the grant recipients

Archives staff developed criteria for awarding grants based on an agency's need and ability to improve its information technology systems for managing and retaining public records. Statute specifies that preference be given to small agencies. Neither statute nor the State Archives has clearly defined what "small agency" means. State Archives staff and the Archives Oversight Committee² review grant applications.

Exhibit 1.3: Archives staff and the Archives Oversight Committee review grant applications



Source: JLARC staff analysis.

While Archives staff has established criteria for scoring applications, they have not clearly identified priorities for the grant program. For example, some local governments are just beginning the process of organizing their paper files while other local governments are farther along in the process of electronic records management. When selecting which local governments to receive grants, there is sometimes disagreement among staff and committee members on which applicants to prioritize. Archives and the Oversight Committee acknowledged this issue and stated they intend to address it in the future.



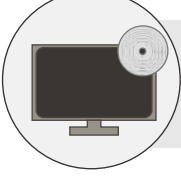
Tab 3 provides information about how Archives can use strategic planning to identify and clarify priorities for the grant program.

How many local governments have received services? Since July 2017, Archives has awarded grants in three rounds of funding. There is no limit on the number of times a local government can apply for or receive a grant.

- A total of 168 grants have been awarded to 160 local governments. The total amount of funding awarded is \$2.4 million.

²An advisory committee appointed by the State Archives composed of local government representatives whose statutory duties include reviewing grant applications.

Exhibit 1.4: During FY18 and FY19, 168 grants totaling \$2.4 million were awarded

| | Grant award cannot exceed | Number of grants | Total funds awarded | Average grant amount |
|---|---------------------------|------------------|---------------------|----------------------|
|  ORGANIZE THE FILE ROOM Organize paper records and destroy or transfer records that have met their retention period. | \$20,000 | 84 | \$778,725 | \$9,271 |
|  DIGITAL IMAGING Scan paper records into electronic format. | \$50,000 | 39 | \$872,219 | \$22,365 |
|  TECHNOLOGY TOOLS Obtain specific hardware or software for managing records and responding to requests. | \$30,000 | 45 | \$776,198 | \$17,249 |
| TOTAL | | 168 | \$2,427,142 | |

Source: JLARC staff analysis.

How is it promoted? Archives advertises the grant program on its website, through trainings and consultations, via email listserve, and at conferences.

2. Local governments report satisfaction with programs

Survey respondents report that programs have met their needs and that they changed their public records practices

The Legislature directed JLARC to evaluate the effectiveness of the training, consultation, and grant programs.

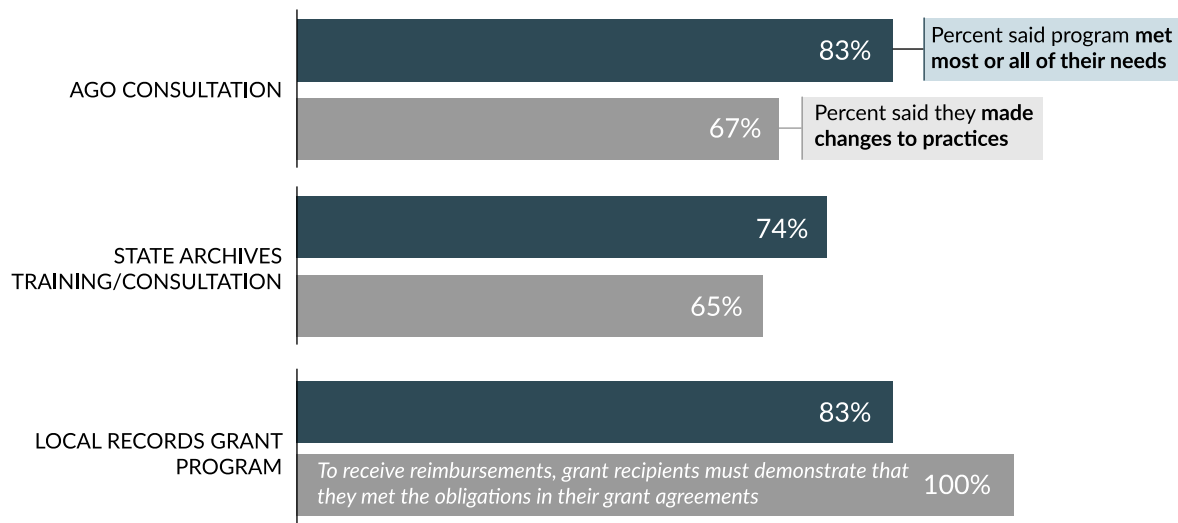
- JLARC staff surveyed over 5,000 participants to determine how well the programs met agency needs and whether agencies made changes to their public records practices after receiving services.
- A total of 693 participants from local governments responded to the survey.

See Appendix B for the survey methodology.

Survey respondents reported satisfaction with programs

Collectively, 76% of survey respondents said the programs met most or all of their needs and 66% said they made changes to their records management, retention, and disclosure practices after participating in a training or consultation. The responses for each program are below.

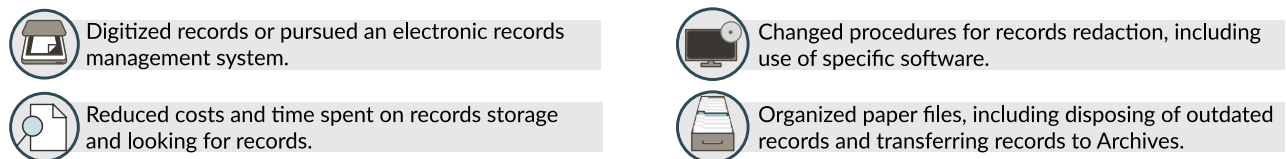
Exhibit 2.1: Survey respondents indicate that all three programs have met their needs and led to changes in practices



Source: JLARC staff survey to program participants.

Some respondents provided examples of changes their local government made after a training or consultation, or provided feedback about how the grant program affected them. Common themes from these comments include the following actions and effects:

Exhibit 2.2: Survey respondents provided examples of the changes they made to their practices after participating in a program



Source: JLARC staff survey to program participants.

Some respondents provided specific reasons for why their local government did not change practices after participating in a program. Reasons include that they lacked resources or already had adequate practices in place. Survey respondents also indicated that additional guidance documents, training on agency-specific topics, and additional funding or staff time would improve their public records practices.

3. Long-term program impacts unknown

The Attorney General's Office and State Archives have yet to develop plans for evaluating long-term program impacts

The AGO and Archives track the type and amount of public records assistance they provide to local governments and collect feedback from their customers through questionnaires. However, neither has developed plans yet to evaluate the long-term impacts of their programs and use this information to manage its efforts going forward.

In 2019, the Legislature removed the expiration date for all three public records programs. Since the programs are no longer temporary, this provides an opportunity for the AGO and Archives to measure the effect of the programs on legislative priorities and use that information to focus their efforts going forward.

Strategic planning could help the AGO and Archives focus their efforts and evaluate impacts

The Legislature directed the AGO and Archives to provide the public records assistance programs to help local governments improve their records management practices, obtain and use technology tools, reduce response times, and mitigate costs and liability.

Now that the programs are no longer temporary, the AGO and Archives could engage in strategic planning efforts that are focused on defining their program missions, goals, strategies, and performance measures. The Office of Financial Management's (OFM) strategic planning guidance recommends that plans clearly communicate:

- The agency's goals, priority activities, and key customers.
- The results or outcomes the agency wants to achieve.
- Strategies the agency intends to pursue to achieve its goals.
- How the agency will measure its progress.
- Additional resources the agency may need to meet its goals.

By engaging in these planning efforts, AGO and Archives could also make progress on the following issues:

Targeting service delivery: Both AGO and Archives currently use emails, phone calls, and site visits to conduct outreach to local governments. Taking time to outline their program goals, priority activities, and key customers may help them identify specific local governments across the state that may benefit most from their programs.

Clarifying priorities for awarding grants: When reviewing applications, Archives staff and the Archives Oversight Committee³ members have expressed some differences in the way they

³An advisory committee appointed by the State Archives composed of local government representatives whose statutory duties include reviewing grant applications.

interpret the purpose of the grant program and how funds should be awarded. By clearly defining program priorities, Archives staff and committee members can ensure that they agree on funding priorities for future grant cycles.

Identifying opportunities for collaboration: Staff from the AGO and Archives do not communicate regularly with each other about their program activities. Defining clear program goals and strategies may help them identify opportunities for collaboration in providing trainings and consultations to local governments.

New statewide data collection effort may inform program planning and evaluation efforts

The same legislation that created the public records assistance programs also established a requirement for state agencies and local governments to report specific information to JLARC if they spend more than \$100,000 per year on public records. Agencies that spend less than this amount may report voluntarily. Several of the required metrics are relevant to the training, consultation, and grant programs. These include:

- Costs of managing records and responding to requests.
- Estimated staff time spent responding to public records requests, and average response time.
- Number of requests completed using the following fulfillment methods: electronic, physical records, and scanning physical records electronically.
- Number of claims filed against the agency alleging a violation of the Public Records Act.
- Costs of litigation related to alleged violations of the Public Records Act.

Agencies began reporting public records data to JLARC staff in 2018. As more years of data are collected, the AGO and Archives could potentially use this data to help evaluate changes in agency practices over time or to target their future program efforts.

If the local governments they serve are not currently required to report this data, AGO and Archives could request that their customers provide similar types of data to evaluate their program outcomes. For example, they could analyze data on response times, staff workload, and legal costs to help determine whether their programs are having the desired effect of reducing backlogs and mitigating costs.

Appendix A: Program participants

Local governments served by the Attorney General's Office and State Archives' public records training, consultation, and grant programs

Below are the local governments served by one or more of the public records programs. The number of local governments served by State Archives trainings and consultations may be undercounted because Archives does not track the names of the agencies that attend its open trainings or the names of agencies that receive consultations through phone or email.

Local governments

| County | Agency Type | Agency Name | AGO Consultation | State Archives Consultation & Training | Grant Recipient | Grant Award |
|--------|---------------------|--|-------------------------------------|--|-------------------------------------|-------------|
| Adams | City/town | Othello | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$6,900 |
| | | Ritzville | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$7,000 |
| | County | Adams County | | <input checked="" type="checkbox"/> | | |
| | | Adams County Public Works | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$39,800 |
| | School district/ESD | Othello School District | | <input checked="" type="checkbox"/> | | |
| Asotin | Special district | East Columbia Basin Irrigation District | | <input checked="" type="checkbox"/> | | |
| | City/town | Clarkston | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$14,000 |
| | County | Asotin County | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$15,000 |
| | School district/ESD | Clarkston School District | | <input checked="" type="checkbox"/> | | |
| Benton | Special district | Port of Clarkston | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$3,575 |
| | City/town | Benton City | | <input checked="" type="checkbox"/> | | \$34,520 |
| | | Kennewick | <input checked="" type="checkbox"/> | | | |
| | | Prosser | | | <input checked="" type="checkbox"/> | \$5,500 |
| | School district/ESD | Richland School District | <input checked="" type="checkbox"/> | | | |
| | Special district | Benton County PUD #1 | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | \$3,600 |
| | | Benton-Franklin Health District | | <input checked="" type="checkbox"/> | | |
| | | Franklin County Noxious Weed Control Board | <input checked="" type="checkbox"/> | | | |
| | | West Benton Fire Rescue | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$8,000 |
| | City/town | Cashmere | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$900 |
| Chelan | City/town | Chelan | | <input checked="" type="checkbox"/> | | |
| | | Entiat | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | \$1,900 |
| | | Wenatchee Police | | <input checked="" type="checkbox"/> | | |
| | County | Chelan County | <input checked="" type="checkbox"/> | | | |

Click here to view interactive data

Appendix B: Survey methodology

Survey methodology

The Legislature directed JLARC to evaluate the effectiveness of the Attorney General's Office and State Archives' public records training, consultation, and grant programs. JLARC staff surveyed 5,391 state and local government representatives to determine how well the programs met local government needs and whether they made changes to their public records practices.

The Attorney General's Office and the State Archives provided JLARC staff with email addresses for participants in all three of their programs. JLARC staff identified 5,391 unduplicated emails. JLARC staff surveyed these participants through SurveyMonkey. Survey responses are confidential and cannot be linked to a specific individual or local government.

JLARC staff received 1,042 responses to its survey. The overall response rate was 19.3%. Of these responses, 693 (12.9%) were from local governments, including cities/towns, counties, K-12 educational agencies, and special districts. The remaining respondents were from state agencies, higher education institutions, or from participants that do not work for a public agency or did not specify the type of agency they represented. These respondents were not included in the analysis for this report.

RECOMMENDATIONS & RESPONSES

Legislative Auditor Recommendation

The Legislative Auditor makes one recommendation regarding the public records training, consultation, and grant programs.

The Legislature directed the AGO and Archives to provide the public records assistance programs to help local governments improve their records management practices, obtain and use technology tools, reduce response times, and mitigate costs and liability.

Now that the programs are no longer temporary, the AGO and Archives could engage in strategic planning efforts that are focused on defining their program missions, goals, strategies, and performance measures. The same legislation that created the programs also established a requirement for state agencies and local governments to report information about public records management and disclosure. As more years of data are collected, the AGO and Archives could potentially use this data to evaluate changes in local government practices over time and to target their future program efforts.

Recommendation #1:

The Attorney General's Office and State Archives should each produce strategic plans to focus their future efforts and evaluate the ongoing impact of the training, consultation, and grant programs on response times, costs, and liability.

Key plan components should include:

- Opportunities to collaborate across the two agencies.
- Methods for standardizing data collection across programs.
- Program strategies that align with statutory priorities to improve local government records management, reduce response times, and mitigate costs and liability.
- Evaluation of program outcomes using existing public records data and other data sources.

| | |
|-----------------------|--|
| Legislation Required: | None |
| Fiscal Impact: | JLARC staff assume the plans can be developed within existing resources. |
| Implementation Date: | December 2020 |
| Agency Response: | To be included with Proposed Final Report. |

Agency Response

Agency response(s) will be included in the proposed final report, planned for January 2020.

Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in [Chapter 44.28 RCW](#), requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

MORE ABOUT THIS REVIEW

Study Questions



Proposed Study Questions: Public Records Training, Consultation, and Grants Programs

State of Washington Joint Legislative Audit and Review Committee

May 2019

JLARC will evaluate three programs that help local governments manage their public records

Washington's Public Records Act (PRA) requires state and local governments to make their public records available to the public. In 2017, the Legislature established three programs focused on helping local government agencies manage their public records and meet the requirements of the PRA.

1. The **State Archives' training services program** provides advice, guidance, and support in public records management to local government agencies. State agencies can access training as well.
2. The **Attorney General's consultation program** assists local government agencies with developing best practices and complying with PRA requirements.
3. The **State Archives' grants program** provides funding to local government agencies to improve retention, management, and disclosure of public records.

The Legislature directed JLARC to review the programs, focusing on the:

- Number of program participants & amount of grant funding distributed.
- Types of training and consultation provided.
- Effectiveness of each program.

The review must also address whether the programs meet legislative intent.

Evaluation will focus on program participation and outcomes

JLARC staff will answer the following questions about the three public records programs:

1. What types of grants, trainings, and consultations were provided and how did agencies access them?
 - a. Which agencies participated in the programs, where are they located, and what services did they receive?
 - b. How did the Attorney General's Office and State Archives identify agency needs and communicate services available?
 - c. What did agencies report about their ability to access services?
 - d. How did the Attorney General's Office and State Archives select or prioritize service recipients?
2. Are the grant, training, and consultation programs meeting legislative intent to provide assistance and improve technology systems?
 - a. How satisfied are local governments with the services they received?
 - b. What changes have agencies implemented as a result of the programs?
 - c. How do the Attorney General's Office and State Archives measure effectiveness of their services?

Study timeframe

Preliminary Report: December 2019

Proposed Final Report: January 2020

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Keenan Konopaski, Washington State Legislative Auditor

What is a public record?

A public record is any written, recorded, emailed, or illustrated documentation of a government activity or function. The record is public if it is prepared, used, or retained by a state or local agency (including a city, county, district, or similar governmental entity).

All records maintained by state and local agencies are available for public inspection unless the law specifically exempts them.

Proposed Study Questions: Public Records Training, Consultation, and Grants Programs

Study team

| | | | |
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JLARC Study Process



Methodology

The methodology JLARC staff use when conducting analyses is tailored to the scope of each study, but generally includes the following:

- **Interviews** with stakeholders, agency representatives, and other relevant organizations or individuals.
- **Site visits** to entities that are under review.
- **Document reviews**, including applicable laws and regulations, agency policies and procedures pertaining to study objectives, and published reports, audits or studies on relevant topics.
- **Data analysis**, which may include data collected by agencies and/or data compiled by JLARC staff. Data collection sometimes involves surveys or focus groups.
- **Consultation with experts** when warranted. JLARC staff consult with technical experts when necessary to plan our work, to obtain specialized analysis from experts in the field, and to verify results.

The methods used in this study were conducted in accordance with Generally Accepted Government Auditing Standards.

More details about specific methods related to individual study objectives are described in the body of the report under the report details tab or in technical appendices.

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