

CoSA/NAGARA/SAA Joint Statement: “Sale of Historical Public Records on eBay”

Historical records of government agencies document actions taken by governments from the local level to the national in conducting the public's business. They represent the essential information by which all citizens may understand the consequences of decisions made by public agencies. They allow the governed to hold those who govern accountable. To that end, these documents should remain where they are available for public inspection.

As documents of all types have become increasingly collectible, the number of official government records appearing for sale through online venues such as eBay has grown. Their disappearance into private hands deprives the public of access to important historical details concerning the development of property rights, taxation, judicial actions, and community growth, as well as the enduring impact of human beings upon their surrounding environments.

To protect the integrity of the public record and to ensure continuing public access to necessary historical documents, we respectfully request eBay's assistance in alerting its users to the ramifications of the sale of historical public records. We propose that notices be posted on its site at appropriate locations identifying the legal issues involving public records and directing potential buyers and sellers to a Web site created and maintained by the Council of State Historical Records Coordinators (COSHRC). This Web site will provide links to definitions of public records, to laws that govern their disposition and to state and federal agencies that have responsibility for them. It will help eBay customers to distinguish the kinds of records that should not be handled by private parties and will provide them with access to expert advice to answer questions about public documents.

The on-going loss of portions of our documentary heritage risks nothing less than erasing part of our national memory. As representatives of those professions charged with protecting that documentary heritage, we look forward to working with eBay through this or other appropriate action to help preserve and provide broad public access to America's historical public records.

Notes for consideration:

1. The Web site will need to provide a series of specific definitions of official public records within the federal, state and local contexts in order to fulfill its stated role of helping the buyer and seller recognize what to avoid. NARA's "Personal Papers of Executive Branch Officials" (Management Guide Series, 1992) offers the following basic statement: Federal records are "all documentary materials, regardless of physical form, that are made or received by an agency of the U. S. Government under Federal law or in connection with the transaction of public business, and preserved or appropriate for preservation as evidence of agency activities or because of the value of the information they contain." (page 4) The pamphlet then goes on to offer various qualifications. Other definitions will vary from state to state and should appear on each state's specific site.
2. The site should offer direct links not only to the relevant parts of NARA and federal legislation but also to as many state archives/historical records commissions or related bodies as possible, especially in those states that have specific guidelines about the disposition of public records.
3. The state Web sites should also include examples of documents illegally sold to serve as illustrative case studies.

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