RECORD RETENTION AND PUBLIC ACCESS

POLICY NUMBER: 3004

EFFECTIVE DATE: July 1, 2015

Supersedes: Record Retention, approved February 17, 2011

PURPOSE

This policy sets forth the minimum requirements for WorkForce Central (WFC) and its subrecipients for the timeframes of record retention (paper and/or electronic) and the extent to which such records may be made available to the public.

BACKGROUND

Grantees, subrecipients, and contractors funded under the Workforce Innovation and Opportunity Act (WIOA) must abide by WIOA law, regulations, and guidance; all applicable Office of Management and Budget (OMB) Circulars; State regulations in laws and rules (e.g., Revised Code of Washington and Washington Administrative Code); Office of Financial Management (OFM) policies; and State WIOA policies.

POLICY

Public agencies and non-public agencies will comply with applicable records retention and disclosure laws in regards to WIOA records.

Recipients of WIOA funcs must keep records that are sufficient to permit the preparation of reports required by the Secretary of Labor and the tracing of funds to a level of expenditure adequate to ensure that the funds have been spent lawfully.

Grantees, subrecipients, fiscal agents, and contractors are required to maintain and retain records (paper and/or electronic) of all fiscal and program activities funded under WIOA. With some exceptions, such records must be available to the public.

The minimum requirements, timeframes for records retention and extent to which such records may be made available to the public are as follows:

1. RECORD RETENTION

Note: Washington State Employment Security Department (ESU) Record Retention and Public Access policy, #5403, released August 19, 2015 (with an effective date of July 1, 2015) requires a minimum record retention timeframe of three (3) years for the documents listed below.

However, WorkForce Central has elected to align the record retention timeframes in this policy with the current Secretary of State Washington State Archives Local Government Common Records Record Retention Schedule which provides for a record retention timeframe of a minimum of six (6) years.

- Retain all records pertinent to grants, grant agreements, interagency agreements, contracts or any other award, including financial, statistical, property, and supporting documentation, for a period of
at least six (6) years after submittal of the final expenditure report (closeout) for that funding period to the awarding agency.

- Retain all records of non-expendable property for a period of at least six (6) years after final disposition of the property.

- Retain all program and data validation records pertinent to applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment for a period of not less than six (6) years from the point that the record is no longer included in reportable outcomes (as opposed to the close of the applicant's program year).


- Retain records regarding complaints and actions taken on the complaints for at least six (6) years from the date of resolution of the complaints.

- After the files have been retained for the six (6) years, staff shall refer to their organizations' guidelines for archiving and/or destroying of confidential information.


- Copies of records made by microfilming, photocopying, or similar methods may be substituted for original records if they are preserved with integrity and are admissible as evidence.

- All records retained beyond the mandatory retention period are subject to audit and/or review.

Exceptions to the six (6) year retention policy:

- Retain all records beyond the required six (6) years if any litigation or audit is under way or a claim is instituted involving the grant or agreement covered by the records. The records must be retained for at least six (6) years after the litigation, audit, or claim has been resolved.

- In the event of a termination of the relationship between WFC and a WIOA subrecipient, the subrecipient will be responsible for the maintenance and retention of their records for the minimum six (6) year timeframe. However, if the subrecipient is unable to maintain and retain its own records, WFC will assume the responsibility of maintaining and retaining the subrecipient's WIOA records at which time the subrecipient is no longer subject to the six (6) year record retention policy.

2. ACCESS TO RECORDS

Personal records of WICA registrants are private and confidential and will not be disclosed to the public. Personal information may be made available to WorkSource partners or service providers on a selective basis consistent with the registrant's signed "Authorization to Share Information and Records" form. In addition, this information may be made available to persons or entities having responsibilities under WIOA, including representatives of:

- The U.S. Department of Labor;
- The Governor;
- WIOA Grant Recipients and Public Agencies; and
- Local Subrecipients.
The conditions under which information may be released or withheld are:

- WIOA registrants will have access to all information concerning themselves as individuals unless the records or information are exempt from disclosure [e.g., personal information in any files maintained for students in public school; patients or clients of public institutions or public health agencies; or welfare recipients RCW 42.56.230(1)]; and

- The names of Workforce Development Council (WDC) and subrecipient staff in positions funded by WIOA, in part or in whole, will be a matter of public record. Other information pertaining to these recipient or subrecipient employees will be made available to the public in the same manner and to the same extent as such information is made available on staff positions not funded by WIOA.

REFERENCES

- Public Law 113-128, WIOA of 2014, Section 185(a)
- 2 CFR Parts 200.333-.337
- 29 CFR 36.37
- 29 CFR 97.42
- RCW 42.56
- RCW 40.14
- RCW 42.17.020(1)
- Telford v. Thurston County Board of Commissioners
- Secretary of State Washington State Archives Local Government Common Records Record Retention Schedule
- ESD WIOA Policy 5403 – Records Retention and Public Access

DEFINITIONS

Agency (ESD Policy 5403) – Includes all State agencies and all local agencies. “State agency” includes every state office, division, bureau, board, commission, or other state agency. “Local agency” includes every 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.

Closeout (2 CFR 200.16) – The process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed.

Contract (2 CFR 200.22) – A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this Part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor (2 CFR 200.23) – An entity that receives a contract as defined in 2 CFR 200.22 “Contract”.

Grant Agreement (2 CFR 200.51) – A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity.

Nonexpendable Property (United States Bureau of Reclamation) – Property which has a continuing use, is not consumed in use, is of durable nature with an expected service life of one or more years, and does not become a fixture or lose its identity as a component of another article when put into use.

Non-Federal Entity (2 CFR 200.69) – A state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
Pass-through Entity (2 CFR 200.74) — A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Period of Performance (2 CFR 200.77) — The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award.

Recipient (2 CFR 200.85) — A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. See also Non-Federal Entity.

Subaward (2 CFR 200.62) — An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient (2 CFR 200.83) — A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

ACTION REQUIRED

WIOA contractors and W²C subrecipients must be familiar with the content of this policy and follow the procedures set forth herein for the retention and access of records pertinent to the WIOA award.

INQUIRIES

Direct Inquiries To:
WorkForce Central
3650 South Cedar Street
Tacoma, WA 98409-5714
(253) 472-8094 or 1-800-999-8168

APPROVED

[Signature]
Linda Nguyen, WFC CEC
Date: 10-8-15

APPROVED BY WDC

Date: N/A; Minor changes only:
WIA to WIOA references updated

EQUAL OPPORTUNITY - EQUAL ACCESS

WorkForce Central is an equal opportunity employer and provider of employment and training services.
Free auxiliary aids and services are available upon request for individuals with disabilities. Washington Relay Service – 711.