

EASTERN WASHINGTON PARTNERSHIP

WORKFORCE DEVELOPMENT COUNCIL

956 S. Main • Colville WA 99114 • (509) 684-8421 • Fax (509) 685-6094

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WDC Policy #: 115
Effective Date: 5/25/06
Revision Date: 07/01/2015

SUBJECT RECORD RETENTION AND PUBLIC ACCESS POLICY

PURPOSE

The purpose of this policy is to provide guidance for the grant recipient and its subrecipients of Title I Workforce Innovation and Opportunity Act (WIOA) funds in regard to the WIOA requirements for record retention and provision of public access to those records.

BACKGROUND

Local Workforce Development Councils (WDCs) are required to maintain and retain records of all fiscal and program activities funded under the Workforce Innovation and Opportunity Act of 2014 (WIOA). With some exceptions, such records shall be available to the public. This policy sets forth the minimum requirements the timeframes for records retention, and the extent to which such records may be made available to the public.

POLICY

Recipients of WIOA funds must keep records that are sufficient to permit the preparation of records 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.

1. Records Retention

The Workforce Development Council's administrative entity and fiscal agent, and any of its subrecipients of WIOA funds shall:

- Retain all records pertinent to the grant, grant agreements, interagency agreements, contracts or any other award, including financial, statistical, property, applicant or registrant records, and supporting documentation, for a period of at least three (3) 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 three (3) years after final disposition of property.
- Retain all records pertinent to applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment for a period of not less than three years from the point that the record is no longer included in reportable outcomes.
- Retain records regarding complaints and actions taken on the complaints for a period of not less than 3 years from the date of resolution of the complaint.
- After files have been retained for at least three (3) years, refer to your organization's guidelines for destroying confidential information.
- Retain all records beyond the required three (3) years if any litigation or audit is begun or a claim is instituted involving the grant or agreement covered by the records. The records shall be retained for an additional three (3) years after the litigation, audit, or claim has been resolved.

In the event of the termination of the relationship between the state and the WDC's fiscal agent or its WIOA subrecipient, the fiscal agent or subrecipient will be responsible for the maintenance and retention of their own records as well as the records of any subrecipient unable to maintain and retain its own records. The state, however, will be responsible for the maintenance and retention of the records of the fiscal agent or subrecipient unable to maintain and retain its own records or those of its subrecipients.

Copies of records made by microfilming, photocopying, or similar methods may be substituted for the 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.

2. Limitation of Public Access to Records

Personal records of WIOA registrants will be 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 "Release of Information" 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
- Local Area Subrecipients
- Appropriate governmental authorities involved in the administration of WIOA to the extent necessary for its proper administration.

The conditions under which information may be released or withheld are shown below:

- WIOA registrants will have access to all information concerning themselves as individuals unless the records or information are exempted from disclosure.
- The names of WDC staff 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 in positions not funded by WIOA.
- Public agencies responsible for financial and/or program activities under WIOA will have public records systems in accordance with RCW 42.17.250. Nongovernmental agencies with such responsibilities will have public records systems which comply with the spirit and intent of RCW 42.17.250.

DEFINITIONS

Agency: Includes all state agencies and all local agencies. “State agency” includes every state office, division, bureau, 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, bureau, board, commission, or agency thereof, or other public agency.

NOTE: In a decision called Telford v. Thurston County Board of Commissioners, the court adopted a four-part test to determine if a private entity is to be regarded as a public agency:

- 1) Whether the entity performs a governmental function;
- 2) The level of government funding;
- 3) The extent of government involvement or regulation; and
- 4) Whether the entity was created by the government.

Under Telford, each of these criteria need not be equally satisfied, but rather the criteria on balance should suggest that the private entity in question is the functional equivalent of a state or local agency.

REFERENCES

- Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Section 185(a)
- 2 CFR 200.333-337
- 29 CFR 37.37
- 29 CFR 97.42
- RCW 42.56
- RCW 40.14
- RCW.42.17.020(1)
- Telford v. Thurston County Board of Commissioners

DIRECT INQUIRIES TO

Rod Van Alyne
Eastern Washington Partnership WDC
956 S. Main
Colville, WA 99114
(509) 684-8421
E-mail address: rvanalyne@ruralresources.org