

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKFORCE DEVELOPMENT

GUIDANCE NAME: WIOA Record Retention

GUIDANCE NUMBER: 24-001

DATE OF REISSUE: June 1, 2024

EFFECTIVE DATE: April 15, 2011

APPLIES/OF INTEREST TO: Kentucky Career Center (KCC) Staff, Local Workforce Boards, and Local Workforce Development Area (LWDA) staff.

POINT OF CONTACT: Division of Technical Assistance, compliance.unit@ky.gov

HISTORY: It was initially issued on April 15, 2011, and reissued on September 10, 2020, with no substantive change; thus, the effective date remains the same.

PURPOSE: Local Workforce Development Areas (LWDAs) and subrecipients play a crucial role in maintaining and retaining records of all fiscal and program activities funded under the Workforce Innovation and Opportunity Act (WIOA). With few exceptions, such records shall be available to the public; these requirements are vital to our operations.

This policy is a framework that sets forth the minimum requirements, the timeframes for records retention, and the extent to which such records may be made available to the public. It's a guide that ensures our collective responsibility towards maintaining transparency and accountability.

PROCEDURAL GUIDANCE: All LWDAs and sub-recipients (entities that receive funds from the primary recipient, such as contractors or service providers) must comply. Each fiscal agent, Local Workforce Development Board, and any sub-recipient of WIOA funds must:

- Retain all records pertinent to the grant, grant agreements, interagency agreements, contracts, or any other award, including financial, statistical, performance, or other pertinent records and supporting documentation, for a period of at least three years after the original submittal by the Department of Workforce Development of the final expenditure report (closeout) for that funding period to the federal Department of Labor, the awarding agency. This timeframe is crucial and must be strictly followed.
- Retain all records of non-expendable property for at least three years after the final disposition (the point at which the property is no longer in use or has been sold or transferred).
- Retain indirect cost records such as computations or proposals, cost allocation plans, and supporting documentation for three years from the date the indirect cost rate package is

submitted for negotiation. If not submitted for negotiation, the three-year period identified in (1) above shall apply.

- Retain all records pertinent to applicants, registrants, eligible applicants/registrants, participants, terminations, employees, and applicants for employment for not less than three years from the close of the applicant program year (the year in which the applicant applied for the program). Such records must be maintained as a whole record system.
- Retain records regarding complaints and actions taken on the complaints for not less than three years from the date of resolution of the complaint.
- Retain all records beyond the required three years if any litigation (legal action) or audit (examination of records) has begun or a claim is instituted involving the grant or agreement covered by the records. The records shall be retained until the litigation, audit, or claim has been resolved or the required three years, whichever period is longer.

In the event of the termination of the relationship between the grantee (Department of Workforce Development) and a Local Workforce Development Area fiscal agent or other WIOA sub-recipient, the fiscal agent or sub-recipient will be responsible for the maintenance and retention of their records as well as the records of any subrecipient unable to maintain and retain its records in accordance with the time frames contained in this policy. For those sub-recipients unable to keep their records, the grantee will take custody and be responsible for the maintenance and retention of the records of any fiscal agent or sub-recipient unable to maintain and retain its records or those of its sub-recipients.

Copies of records made by microfilming, photocopying, or similar methods may be substituted for the original records if they are preserved with integrity. The custodian of records for the local area can certify that the records are the business records of the local area.

Limitation of Public Access to Records

Personal records of WIOA registrants will be private and confidential in compliance with statutory requirements contained in KRS 61.878(1)(a) and will not be disclosed to the public. Personal information may be made available to One-Stop 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;
- Kentucky Department of Workforce Development staff;
- The Governor or a Designee;
- WIOA grant recipients;
- Local Workforce Development Area sub-recipients;

- Appropriate governmental authorities that are part of the implementation 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 One-Stop 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 recipients 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.

REQUIRED ACTION: LWDA's and their contractors, as well as KCC staff, are encouraged to distribute this guidance widely throughout the system to ensure that all workforce development system staff, including you, are fully informed and familiar with its content and requirements, fostering a sense of inclusion and shared responsibility.

REFERENCES:

- Workforce Innovation and Opportunity Act Section 184 Uniform Administrative Requirements
 - 2 CFR Section 200.333.
 - KRS 61.878(a)(1)
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