



## Record Retention, Maintenance, Disposition, Disclosure and Confidentiality

Department: Office of Economic & Workforce Development

Effective Date: July 2012

Directive # 28-12

Supersedes: 28-07

### **PURPOSE**

To provide record retention, maintenance and disposition procedures for the Office of Economic and Workforce Development (OEWD) and its service providers that will ensure compliance with state and federal law.

### **REFERENCES**

- Workforce Investment Act, Section 185
- Title 20 Code of Federal Regulations (CFR) 667.200
- Title 29 CFR 37, 39 and 41
- Title 29 CFR 97.42
- Title 29 CFR 95.53
- California Govt. Code § 6254(k)

### **POLICY:**

OEWD and its service providers will incorporate into their management systems the following procedures for the management of all Workforce Investment Act (WIA) records.

#### **General**

All records and documents pertinent to all WIA grants and agreements including financial, programmatic and statistical information, and their supporting documents for each funding period shall be retained for a period of five (5) years following the date on which the annual expenditure report for that period, containing the final fiscal expenditures charged to the program year allotment, is submitted to the State Employment Development Department. This includes hard copies of relevant information stored within the MIS.

#### **Participant Data**

OEWD and its service providers shall maintain for a period of not less than five (5) years from the close of the applicable program year: applicant; eligible applicant (for further explanation please see definition of terms section); employee; applicant for employment records; and such other records as are required by the Civil Rights Center, U.S. Department of Labor, (29 CFR 37.39). In addition, records must also be retained until all monitoring reviews or audits of the program year in which the individual applied have been completed and finally resolved.

Records regarding complaints and actions taken under 29 CFR 37 shall be maintained for a period of not less than five years from the date of resolution of the complaint.

**Property**

Records for nonexpendable property shall be retained for a period of five (5) years after final disposition, replacement or transfer of such of the property.

**Indirect Cost Proposals, Cost Allocation Plans**

Indirect cost rate proposals, cost allocation plans, etc. and their supporting records are to be kept as follows:

- If submitted to a cognizant agency for negotiation, the records must be retained for five years from the date of submission.
- If a plan has not been submitted for negotiation or is not required to be submitted, the five-year retention period begins from the end of the fiscal year or accounting period covered by the plan.

**Extended Retention Period**

The aforementioned records shall be retained beyond the period described above if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records shall be retained until the litigation, audit or claim has been finally resolved.

In the event of the termination of the relationship with a service provider, OEWD shall be responsible for the maintenance and retention of the records of any service provider unable to retain them.

**Access**

OEWD, and other oversight entities in coordination with OEWD, shall have the right to timely and reasonable access to the service provider, premises, personnel, monitoring, auditing, evaluation, or interview and discussion, related to all records required to be retained which exist for the purposes of accomplishing the goals of the contract. The service provider will give the appropriate entities timely and reasonable access to copy or mechanically reproduce all reports, books, papers, documents, automated data systems and other records pertaining to contract awards through OEWD.

Timely and reasonable access to records shall be made available to the public upon request, notwithstanding exemptions as outlined in California Govt. Code § 6254(k).

The rights of access in this section are not limited to the required retention period but shall last as long as the records are retained.

**Disposal**

No WIA records shall be disposed of prior to the required retention period of five (5) years without instruction from or approval of OEWD. OEWD will provide service providers with instructions and timelines for disposing of records.

Any records which are confidential in nature, including participant records, must be burned, shredded, or similarly destroyed. Non-confidential records may be discarded.

If there is any outstanding litigation or audit claim begun on records prior to termination of retention, the records will be retained until resolution of litigation or audit claim.

### **DEFINITION OF TERMS**

Applicants: Individuals that applied for but did not receive services.

Eligible Applicants: Individuals that applied for services, were determined eligible, however, may or may not have received services.

### **INQUIRIES**

Inquiries should be addressed to the Program Operations Director at 415-701-4848 or [workforce.development@sfgov.org](mailto:workforce.development@sfgov.org).

*OEWD and its service providers shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.*