

MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY
Policy Number 32
RECORDS RETENTION AND PUBLIC ACCESS
Workforce Innovation and Opportunity Act

I. Scope and Purpose

Grantees, subrecipients, and contractors funded under the Workforce Innovation and Opportunity Act (WIOA), whether in whole or in part, must abide by the Workforce Investment Opportunity Act of 2014, the WIOA regulations, all applicable Office of Management and Budget (OMB) circulars, state requirements in laws and rules, and state WIOA policies.

This policy sets forth the criteria and rules for the application of the Workforce Innovation and Opportunity Act and its regulations regarding the retention of records as found in 29 CFR 97.42 and 29 CFR 95.53 and public access as found in 2CFR 200 and the Mississippi State Code.

This policy is established to ensure that Local Workforce Development Areas (LWDAs), their subrecipients and contractors, and subrecipients and contractors of the Mississippi Department of Employment Security (MDES) properly maintain and retain records of all fiscal and program activities funded under the Workforce Innovation and Opportunity Act of 2016 (WIOA). With some exceptions, such records shall be available to the public. This policy sets forth the minimum requirements and timeframes for records retention, and the extent to which such records may be made available to the public. Individual LWDAs, subrecipients, or contractors may set requirements that are more restrictive than those included in this policy.

II. Requirements

A. Records Retention

Each Local Workforce Development Board (LWDB) fiscal agent and any subrecipient and contractor of WIOA funds shall:

1. Retain all records pertinent to the grant, grant agreements, interagency agreements, contracts or any other award, including financial, statistical, property, applicant or registrant records, cost allocation plans, audit reports, 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.
2. Retain all records of non-expendable property for a period of at least three (3) years after final disposition of property.
3. Retain all records pertinent to employees, and applicants for employment for a period

of not less than three (3) years from the close of the applicant program year.

4. Retain all records pertinent to participants for a period of not less than four (4) years from the close of the program year during which the participant exited. Example – the record for a participant who exits in May of 2020 may be destroyed after June 30, 2024.
5. Retain records regarding complaints and actions taken on the complaints for a period of not less than three (3) years from the date of resolution of the complaint.
6. Have written guidelines in place for the disposal of confidential information after the files have been retained for a minimum of three (3) years.
7. Retain all records beyond the required three (3) years [or four (4) years for participants] 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 a LWDA fiscal agent or other WIOA subrecipient/contractor, the fiscal agent or subrecipient/contractor 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 any fiscal agent or subrecipient unable to maintain and retain its own records and/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.

B. 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 Workforce Investment Network (WIN) in Mississippi 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:

1. The U.S. Department of Labor;
2. The Office of the Governor;

3. WIOA Grant Recipients;
4. Local Area Subrecipients; and
5. 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:

1. WIOA registrants will have access to all information concerning themselves as individuals unless the records or information are exempted from disclosure.
2. The names of LWDA 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.
3. Public agencies responsible for financial and/or program activities under WIOA will have public records systems in accordance with Mississippi Code Chapter 61 relating to Public Access to Public Records. Nongovernmental agencies with such responsibilities will have public records systems which comply with the spirit and intent of Mississippi's Sunshine Law. State and local entities may establish additional guidelines related to which final, formal documentation will be shared. Exceptions to sharing data are listed at WIOA Section 185 (A)(4), the Freedom of Information Act & Privacy Act (applies only to records transferred to the Secretary of Labor), and Mississippi's Sunshine Law. A nominal fee may be charged to recover costs of processing information requests.

C. Procedures for Disposal of Records

Each LWDA fiscal agent, and any subrecipient or contractor of WIOA funds shall have written procedures for the timely and prudent disposition of records, i.e. an inventory listing destroy dates and method of disposal such as shredding of files.

III. Effective Date

This policy shall be effective immediately upon signature.



Robin Stewart
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Mississippi Department of Employment Security

11-29-2021

Date