

Record Retention Policy

Reference:

Workforce Investment Act of 1998, Section 185; 20 CFR § 667.200, 667.300; 29 CFR § 37.36, 37.37, 37.39 and 97.42; Nebraska Records Management Act, Neb. Rev. Stat. 84-1201, et seq.; Nebraska Public Records Law, Neb. Rev. Stat. 84-712, et seq.; Interagency Workfare Contract between Nebraska Department of Labor and Nebraska Department of Health and Human Services.

Background:

Recipients and subrecipients of Workforce Investment Act funds are required to keep records that are sufficient to permit the preparation of required reports and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

Action:

After the 10 day review period, this policy is considered final. Questions and comments should be submitted in writing to Stan Odenthal, stan.odenthal@nebraska.gov.

Policy:

The following records shall be retained for a minimum of three years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Department of Labor:

- all financial and program records, supporting documents, statistical records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment.

All records must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility; to show the nondiscriminatory operation of the WIA Title I-financially assisted program; or other use authorized by law. [29 CFR § 37.37(b)(2)]

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be maintained for a period of not less than **three years from the date of resolution** of the complaint. [29 CFR § 37.39(b)]

Pursuant to interagency contract between the Nebraska Department of Labor and the Nebraska Department of Health and Human Services, all records related to the delivery of services under the Workfare program must be maintained for a period of six (6) years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer.

All grantee's and subgrantee's contracts must contain provisions to:

- allow access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- mandate retention of all required records for three years after grantees or subgrantees make final payments or for a period of not less than three years from the date of resolution of a complaint, whichever date is later.

Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint. This includes any and all allegations of discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I – financially assisted program or activity. [29 CFR § 37.37(c)]

Copies of records made by microfilming, photocopying, or similar methods may be substituted for the original records if they are preserved with integrity. [29 CFR § 97.42(d)]

Access to Records

The awarding agency, the Comptroller General of the United States, the State of Nebraska Auditor of Public Accounts, other state and federal auditing agencies, or any of their authorized representatives, shall have the right of access to examine and copy any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. The rights of access are not limited to the required retention period but shall last as long as the records are retained. [29 CFR § 97.42(e)]

The Freedom of Information Act (5 U.S.C. § 552) does not apply to records in possession of the recipient or subrecipient, however, public access to certain types of records may fall under the Nebraska Public Records Law (Neb. Rev. Stat. 84-712, et seq.) accessible at <http://nebraskalegislature.gov/laws/statutes.php?statute=84-712>.

The recipient and subrecipient shall be responsible to establish information security procedures to safeguard confidential data in all records retained

Destruction of Hard Copy Records

All requests for the destruction of any records must comply with the record retention requirements found in this policy in addition to the requirements set forth in the Nebraska Records Management Act, Neb. Rev. Stat. 84-1201, et seq. and must be consistent with Nebraska Department of Labor Record Retention and Disposition Schedules found on the Record Management Division's website at http://www.sos.ne.gov/records-management/labor_schedule.html.

Enforceability and Legal Effect of Digital/Electronic Files

Electronic records shall not be denied legal effect or enforceability as related to this policy. All records, regardless of the media on which they reside must be retained for the minimum retention period required by the nature of the record.