

Department of Labor

W. Averell Harriman State Office Campus
Building 12, Room 440, Albany, NY 12240
www.labor.ny.gov

New York State Workforce Development System Technical Advisory #16-2 March 18, 2016

To: Workforce Development Community

SUBJECT: Retention of Records by Local Workforce Development Boards

PURPOSE

To advise Local Workforce Development Boards (LWDBs) of the policy and procedures on retention of records related to all Federal awards administered by the New York State Department of Labor (NYSDOL).

This Workforce Development System Technical Advisory (WDS TA) rescinds and replaces the previous WDS TA #01-27 "Instructions for Retention of Records for Local Workforce Investment Areas" dated 12/27/2001.

ACTION

LWDBs must ensure that record retention policies and requirements herein are adhered to in their Local Workforce Development Area (LWDA).

POLICY

In accordance with Federal requirements, all records (e.g., financial/expenditure records, supporting documents, statistical records, other non-Federal entity records, pertinent books, papers or other records of grant recipients and sub-recipients) pertinent to a Federal award administered by NYSDOL, must be retained by the custodian of the records for a period of three (3) years from the date of submission of the final expenditure report by NYSDOL to the United States Department of Labor (USDOL). The custodian of the records is the person who is tasked with taking care of records, whether physical or electronic in nature.

Examples of Federal awards subject to record retention requirements include: Workforce Investment Act (WIA), Workforce Innovation and Opportunity Act (WIOA), Trade Adjustment Assistance (TAA) and all other pass-through funds (i.e., funds issued by USDOL to NYSDOL that are then transferred to LWDA).

LWDBs, local area grant recipients, sub-recipients, and any other entities (e.g., fiscal agents, discretionary grantees, Eligible Training Providers) receiving any of the funds mentioned above must retain all records, until the required Record Retention Period has been met. In addition, records for real property and equipment acquired with Federal funds shall be retained for three (3) years after final disposition of the real property or equipment.

ADDITIONAL INFORMATION

Calculation of three year Record Retention Period:

The three (3) year Record Retention Period begins on the date final expenditure reports are submitted by NYSDOL to USDOL. Should any audit or litigation issues arise, the records must be retained for the full three (3) year Record Retention Period or until all issues are resolved, whichever is longer.

A table showing current [Record Retention periods](#) for the WIA/WIOA and TAA programs can be found on the NYSDOL website on the “[Programs and Tools](#)” page (<http://labor.ny.gov/workforcenypartners/tools.shtm>).

Method of Record Retention:

All documents associated with record retention must be maintained in such a manner that will preserve the integrity and admissibility as evidence in any audit, litigation or other proceeding. The burden of production and authentication of the documents must be on the custodian of the records. While no specific media for record retention is specified, the custodian must ensure that the method used ensures that the security safeguards and protections are sufficient for the records to be accepted by a court as evidence. In addition, the custodian must ensure that a satisfactory plan of recovery exists should critical records be lost in the event of fire, vandalism, or natural disaster.

Access to Information:

Rights of timely and reasonable access to records must be granted to USDOL, the Comptroller General of the United States, NYSDOL, Grant Recipients, Fiscal Agents or any of their authorized representatives to make audits, examinations, excerpts and transcripts as they deem necessary. This right also includes timely and reasonable access to a recipient’s personnel for the purpose of interview and discussion related to such documents.

REFERENCE

Record retention requirements are found in: (a) 29 CFR 97.42 (State, Local Governmental Entities and Indian Tribes); (b) 29 CFR 95.53 (Institutions of Higher Education, Hospitals, Non-Profits and Commercial Organizations); and (c) Super-Circular 2 CFR 200.333 (Retention Requirements for Records).

INQUIRIES

Questions regarding this WDS TA may be directed to the NYSDOL Financial Oversight and Technical Assistance (FOTA) Representative for the LWDA.