

## **Subject: Records Retention and Public Access Policy**

**Policy No: 2015-57**

**Effective Date: April 2017**

**Revised: 04.2019, 08.2022, 12.2023**

### **Purpose:**

The Benton-Franklin Workforce Development Council (BFWDC) follows Workforce Innovation and Opportunity Act (WIOA) [Policy 5403, Revision 2](#) "Records Retention and Public Access" and the Uniform Guidance provided in 2 CFR 200. Revision 2 clarifies the retention schedule when any litigation or audit is underway.

### **Background:**

Grantees, sub-recipients, and contractors funded under the WIOA must abide by WIOA law, regulations, and guidance, all applicable Office of Management and Budget (OMB) Circulars, state regulations in laws and rules (Revised Code of Washington and Washington Administrative Code), Office of Financial Management (OFM) policies and state WIOA policies.

## Policy:

Recipients of WIOA funds must keep records that are sufficient to permit the preparation of reports required by the Secretary of Labor and the tracing of funds to a level of expenditure adequate to ensure that the funds have been spent lawfully.

### A. Records Retention:

1. BFWDC will maintain and retain records of all fiscal and program activities funded under WIOA. With some exceptions, such records must be available to the public. The minimum requirements, timeframes for records retention and extent to which such records may be made available to the public are as follows:
  - BFWDC will retain all records pertinent to grants, grant agreements, interagency agreements, contracts or any other awards, including financial, statistical, property, 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.
  - BFWDC will retain all records of non-expendable property for a period of at least **three (3) years** after the final disposition of the property.
  - BFWDC will retain all program and data validation records pertinent to applicants, registrants, eligible applicants/registrants, participants, terminates, employees, and applicants for employment for a period of not less than **six (6) years** after the end of the fiscal year.
  - BFWDC will retain records regarding complaints and actions taken on complaints for at least **three (3) years** from the date of resolution of the complaints.
  - BFWDC will retain all records beyond the required **three (3) or six (6) years** if any litigation or audit is underway or a claim involving the grant or agreement covered by the records is instituted. The records must be retained for at least **six (6) years** after resolving the litigation, audit, or claim.
  - BFWDC will retain the following Corporate and Fiscal Records **permanently**:
    - i. Articles of Incorporation & Bylaws (CEO & Fiscal Manager)
    - ii. Inter-local Agreements (CEO & Fiscal Manager)
    - iii. County Joint Powers Agreement (CEO & Fiscal Manager)
    - iv. IRS Tax Determination Letter (CEO & Fiscal Manager)
    - v. Income Tax Returns (CEO & Fiscal Manager)
    - vi. Personnel Records (CEO)
    - vii. Pension & Payroll Records (Fiscal Manager)
    - viii. Board & Committee Minutes (Office Manager)
    - ix. CPA Audit Reports & Statements (Fiscal Manager)
    - x. Year-End Financial Statements (Fiscal Manager)
    - xi. Year-End Financial Reports (Fiscal Manager)

xii. Year-End General Ledgers (Fiscal Manager)

xiii. Year-End Trial Balances (Fiscal Manager)

xiv. Debt Collection Cases (Fiscal Manager)

xv. Fixed Asset & Property Records (Office Manager)

- BFWDC will retain the following records for **ten (10) years**:
  - i. All other Corporate Records (CEO & Fiscal Manager)
  - ii. All other Fiscal Records (Fiscal Manager & Office Manager)
- BFWDC will retain the following records for **six (6) years**:
  - i. BFWDC Applicants for Employment (CEO)

2. After all files and records have been retained for the required amount of time, all documents shall be collected and shredded either from the BFWDC site or the BFWDC Storage Unit.

3. In the event of the termination of the relationship between the State and the BFWDC's fiscal agent or other WIOA sub-recipient, the fiscal agent or subrecipient is responsible for maintaining and retaining our own records as well as the records of any sub-recipient unable to maintain and retain its own records.

Copies of records made by microfilming, photocopying, scanning or similar methods may be substituted for original records if they are preserved with integrity and are admissible as evidence.

## **B. Limitation of Public Access to Records:**

Personal records of WIOA registrants are private and confidential and will not be disclosed to the public. Personal information may be made available to WorkSource partners, TC Futures partners or service providers on a selective basis consistent with the registrant's signed "Authorization for Release of Requested 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 Governor
3. WIOA Grant Recipients and Public Agencies
4. Local Subrecipients

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 exempt from disclosure.
2. The names of BFWDC 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.

**Definitions:**

Agency: Includes all state agencies and all local agencies. “State agency” includes every state office, division, bureau, board, commission or other state agency. “Local agency” includes every county, city, town, municipal corporation, quasi-municipal corporation or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other public agency.

**Note:** In a decision called Telford v. Thurston County Board of Commissioners, the court adopted a four-part test to determine if a private entity is to be regarded as a public agency: (1) whether the entity performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the entity was created by the government. Under Telford, each of these criteria need not be equally satisfied, but rather, the criteria on balance should suggest that the private entity in question is the functional equivalent of a state or local agency.

**References:**

- Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Section 185(a)
- 2 CFR 200.333-337
- 29 CFR 37.37
- 29 CFR 97.42
- RCW.42.56
- RCW.40.14
- [ESD Records Retention Schedule, Version 1 \(Aug. 2020\)](#)
- [Telford v. Thurston County Board of Commissioners](#)