

ATTACHMENT A

RECORDS RETENTION REQUIREMENTS

A. Applicability

This policy applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or sub-grantees that are;

- (i) Required to be maintained by the program regulations or that grant agreement, or
- (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

It does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Appendix II to Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

B. Length of retention period

- (1) Except as otherwise provided, records must be retained for three years from the starting date specified in Section C (below).
- (2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later. If financial reports must be revised based on resolution activities, the records retention clock is not reset to zero on the date that the adjusted financial report is submitted.

Records shall be retained beyond the prescribed period in the event of delays or failure to obtain or resolve a required and appropriate audit. Failure to obtain an audit extends the records retention requirement indefinitely. A delay in obtaining an audit or a delay in resolving audit findings extends the records retention period until all audit requirements have been satisfied and all findings have been resolved to the satisfactions of EOLWD.

C. Starting date of retention period

- (1) General
Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. If an Expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records

The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for program income transactions after grant or sub-grant support

In some cases grantees must report program income after the period of performance.

Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the grantee's fiscal year in which the program income is earned.

(4) Indirect cost rate proposals, cost allocation plans, etc.

This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

- (i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
- (ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

D. Custody of records

To avoid duplicate record keeping, grant recipients may make special arrangements with sub-recipients, contractors, etc. to retain any records which are continuously needed for joint use. The sub-recipient may request transfer of records to its custody when it determines that the records possess long-term value. When the records are transferred to or maintained by the grant recipient/sub-state grantee, the retention requirement is not applicable to the entity which relinquished its records.

E. Substitution of original

When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

F. Access to records

(1) Records of grantee and sub-grantees

The U.S. Department of Labor, Inspectors General, the Executive Office of Labor and Workforce Development (and any of its Departments, including the Department of Career Services), the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and sub-grantees which are pertinent to the grant, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a sub-recipient's personnel for the purpose of interview and discussion related to such documents.

(2) Expiration of right of access

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

G. Restrictions on public access

The Federal Freedom of Information Act (5 U.S.C.552) applies only to records of federal agencies. However, under Massachusetts General Laws c.66, s.10, state and local government agencies/entities must provide copies of records unless they meet one or more of the exemptions from disclosure specified in G.L.c.4, s7(26).

A partial list of exemptions includes:

- (1) specifically or by necessary implication exempted from disclosure by statute;
- (2) related solely to internal personnel rules and practices of the government unit, provided that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (3) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (4) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this sub-clause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (5) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;
- (6) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;

(7) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this sub-clause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;

(8) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;

(9) appraisals or real property acquired or to be acquired until (a) a final agreement is entered into; or (b) any litigation relative to such appraisal has been terminated; or (c) the time within which to commence such litigation has expired;

(10) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefore, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

(11) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;

(12) contracts for hospital or related health care services between

- (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and
- (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self-insured and provided health care benefits to its employees.