



NEMO WORKFORCE DEVELOPMENT BOARD



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NEMO WDB ISSUANCE # 03-2017

ISSUED:
EFFECTIVE:

SUBJECT: PUBLIC ACCESS/RECORD RETENTION/DESTRUCTION OF RECORDS

Purpose: To provide policy on the proper destruction of records and the retention guideline, government access, and public access to records. It also provides cost of reproducing documents upon request per the Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri.

Background: NEMO Workforce Development Board and its Sub-Recipients must retain all records applicable to Department of Labor (DOL) awards. Records shall include, but are not limited to, financial records, supporting documents, statistical records, and all other records pertinent to a grant or contract. The Code of Federal Regulations at 29 CFR 97.42 (for all state and local government agencies) or 29 CFR 95.53 (for all non-state or non-local government entities) requires records to be retained for a period of three years from the date of the final expenditure report unless otherwise indicated on Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255.

Substance: To provide policy on the retention and destruction of records and Public Access to records. NEMO WDB and its sub-recipients shall follow this policy.

References: Internal Revenue Service Record Retention Guidelines
Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255

Rescissions: NEMO WIB Issuance #02-07

Attachments: Prior Approval Request Form (DWD Form)

Diane Simbro, Executive Director
NEMO Workforce Development Board

RECORD RETENTION AND DESTRUCTION

1. Prior to disposal/destruction of any records, NEMO WDB must submit a written request, using the DWD Prior Approval Request Form (ATTACHMENT A). This request must be submitted via email to DWD at DWDFinancial-HelpDesk@ded.mo.gov. The final destruction of records is contingent on DWD's written approval.

Sub-recipients must request permission to destroy records in writing from NEMO WDB by providing detail of the records by subject matter, i.e. financial, programmatic, etc. and the program years they wish to destroy. The final destruction of records is contingent on NEMO WDB's and DWD's written approval.

2. The only exceptions to the aforesaid record destruction provisions are as follows:
 - a. The aforementioned records will be retained beyond the three year requirement if any litigation or audit has begun, if a claim is instituted involving the grant or contract covered by the records, or in some instances, in accordance with the Internal Revenue Service record retention guidelines. In these cases, the records will be retained until the litigation, audit, or claim has been finally resolved.
 - b. If certain records indicated on Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255 require a unique retention period.
 - c. Records for real property and equipment acquired with Federal funds shall be retained for three years after "Final Disposition" ("Final Disposition" shall mean the sale or other disposal of said real property or equipment).
 - d. When any records are transferred to or maintained by DWD, the three year retention requirement for these records is no longer applicable.
 - e. Indirect cost rate proposals, cost allocations plans, etc., as specified in paragraph (j) of this section.
 - f. Copies of original records may be substituted for the original records if authorized by DWD.
 - g. DWD shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, DWD may make arrangements for recipients to retain any records that are continuously needed for joint use.
 - h. DWD, the Federal grantor awarding agency, the Inspector General, the Comptroller General of the United States, or any of their duly authorized

representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

- i. Unless required by statute, Department of Labor or DWD shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOL or DWD can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to DOL.
 - j. Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (j)(1) and (j)(2) of this section apply 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 recipient submits to DWD or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.
 - II. If not submitted for negotiation. If the recipient is not required to submit to DWD or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation
3. The method of records disposal is relative to the **confidentiality** of the document. Records which disclose references to individual personnel or participants must be obliterated before discarding.

PUBLIC ACCESS TO RECORDS – Missouri Statute 610.023

Records of governmental bodies to be in care of custodian, duties – records may be copied but not removed, exception, procedure – denial of access, procedure.

1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.
2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.
4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

610.024. Public record containing exempt and nonexempt materials, nonexempt to be made available – deleted exempt materials to be explained, exception.

1. If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public governmental body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.
2. When designing a public record, a public governmental body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public governmental body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

610.025. Electronic transmission of messages relating to public business, requirements. Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

610.026. Fees for copying public records, limitations – fee money remitted to whom – tax, license or fee as used in Missouri Constitution article X, section 22, not to include copying fees.

1. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

(a) Fees for copying public records, except those records restricted under section 32.091, shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. *Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester; (NEMO WDB and its sub-recipients will not charge a fee for this service)*

(b) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

2. Payment of such copying fees may be requested prior to the making of copies.
3. Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.
4. Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.
5. The term "tax, license or fees" as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.

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Missouri Division of Workforce Development

Prior Approval Request Form

This form may be utilized for prior approval requests. For equipment and other capital expenditure cost items, this prior approval request form must be utilized for any expenditure that meets the lesser of the capitalization threshold established by the requesting Subrecipient or \$5,000

Request Date.....

Name of Requesting Subrecipient.....

Prior Approval for.....

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[Provide sufficient description and other vital information here for the specific prior approval requested to allow the DWD to determine whether the request is necessary and reasonable. Explain how the acquisition will enhance your operation].

Total Amount Requested.....

[Where feasible, provide the estimated cost amount here. Include detailed line item of the expenditure(s)]

Proposed Funding source.....

Additional information.....

[Where applicable, provide any additional information that will aid the DWD to undertake an analysis of the prior approval request. For example, if purchasing new equipment, indicate whether the new equipment will replace an existing one and whether the old equipment will be traded or disposed of entirely].

Name/Title of Requester.....

Date Signed.....