

Office of the Secretary of Labor

§ 37.38

DATA AND INFORMATION COLLECTION AND
MAINTENANCE

§ 37.37 What are a recipient's responsibilities to collect and maintain data and other information?

(a) The Director will not require submission of data that can be obtained from existing reporting requirements or sources, including those of other agencies, if the source is known and available to the Director.

(b)(1) Each recipient must collect such data and maintain such records, in accordance with procedures prescribed by the Director, as the Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA or this part. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with section 188 of WIA and this part.

(2) Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a non-discriminatory manner; or other use authorized by law.

(c) Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with it that allege 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. The log

must include: the name and address of the complainant; the ground of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

(d) Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

(e) A service provider's responsibility for collecting and maintaining the information required under this section may be assumed by the Governor or LWIA grant recipient, as provided in the State's Methods of Administration.

§ 37.38 What information must grant applicants and recipients provide to CRC?

In addition to the information which must be collected, maintained, and, upon request, submitted to CRC under § 37.37:

(a) Each grant applicant and recipient must promptly notify the Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. This notification must include:

- (1) The names of the parties to the action or lawsuit;
- (2) The forum in which each case was filed; and
- (3) The relevant case numbers.

(b) Each grant applicant (as part of its application) and recipient (as part of a compliance review conducted under Section 37.63, or monitoring activity carried out under § 37.65) must provide the following information:

- (1) The name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the grant applicant or recipient to be in noncompliance, during the two years before the grant application was filed or CRC began its examination; and

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(2) Information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the grant applicant or recipient during the two years before the application or renewal application, compliance review, or monitoring activity. This information must include:

- (i) The names of the parties;
- (ii) The forum in which each case was filed; and
- (iii) The relevant case numbers.

(c) At the discretion of the Director, grant applicants and recipients may be required to provide, in a timely manner, any information and data necessary to investigate complaints and conduct compliance reviews on grounds prohibited under the nondiscrimination and equal opportunity provisions of WIA and this part.

(d) At the discretion of the Director, recipients may be required to provide, in a timely manner, the particularized information and/or to submit the periodic reports that the Director considers necessary to determine compliance with the nondiscrimination and equal opportunity provisions of WIA or this part.

(e) At the discretion of the Director, grant applicants may be required to submit, in a timely manner, the particularized information necessary to determine whether or not the grant applicant, if financially assisted, would be able to comply with the nondiscrimination and equal opportunity provisions of WIA or this part.

(f) Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

§ 37.39 How long must grant applicants and recipients maintain the records required under this part?

(a) Each recipient must maintain the following records for a period of not less than three years from the close of the applicable program year:

- (1) The records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and

(2) Such other records as are required under this part or by the Director.

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(b) 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.

§ 37.40 What access to sources of information must grant applicants and recipients provide the Director?

(a) Each grant applicant and recipient must permit access by the Director during normal business hours to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigation, for the purpose of conducting complaint investigations, compliance reviews, monitoring activities associated with a State's development and implementation of a Methods of Administration, and inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIA or this part.

(b) Asserted considerations of privacy or confidentiality are not a basis for withholding information from CRC and will not bar CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIA and this part.

(c) Whenever any information that the Director asks a grant applicant or recipient to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the grant applicant or recipient must certify to CRC that it has made efforts to obtain the information and that the agency, institution, or person has failed or refused to provide it. This certification must list the name and address of the agency, institution, or person that has possession of the information and the specific efforts the grant applicant or recipient made to obtain it.

§ 37.41 What responsibilities do grant applicants, recipients, and the Department have to maintain the confidentiality of the information collected?

The identity of any individual who furnishes information relating to, or