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Reference: Confidentiality of Records and Public Records Requests and Subpoenas

## **FINAL GUIDANCE**

### **Confidentiality of Records and Public Records Requests and Subpoenas**

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#### **OF INTEREST TO:**

Workforce Florida, Inc. and Regional Workforce Boards

#### **SUBJECT:**

Confidentiality of Records and Public Records Requests and Subpoenas

#### **PURPOSE:**

To provide guidance to Regional Workforce Boards, Partnership for School Readiness Coalitions, Agency for Workforce Innovation employees and other partners regarding what information is confidential by law and how to process records requests and subpoenas. This guidance modifies and replaces the Final Guidance entitled Confidentiality of Records and Public Records Request and Subpoenas rendered on December 27, 2002.

#### **BACKGROUND AND UNDERLYING FEDERAL/STATE POLICY:**

**Confidential:** As used in this guidance, the term confidential refers to entire record systems, specific records, or individually identifiable data that by law are not subject to public disclosure under Article 1, Section 24 of the Florida Constitution and Section 119.07, Florida Statutes. When applicable, confidentiality covers all documents, papers, computer files, letters and all other notations of records or data that are designed by law as confidential. Further, the term confidential also covers the verbal conveyance of data or information that is confidential.

**Integrated Systems and Confidentiality:** Given the integration and merging of services within One-Stop settings, it may be necessary to determine what type of record has been requested, e.g., WIA record, TANF record. Whether the records can be released may depend upon that determination. Confidential information that is received by AWI from another agency retains its confidentiality unless otherwise provided by law. The requirements of the program that provides the information shall apply.

#### **GENERAL PROCEDURES:**

##### **A. General Confidential Information:**

## **(1) Social Security Numbers:**

Social Security Numbers are confidential pursuant to s. 119.0721 F. S. (2004), and 5 USCA 552a. Social Security numbers are to be redacted (eliminated) from all documents prior to delivery, except as specifically provided by law, including documents to be filed with the courts and personnel records. Section 119.0721, Florida Statutes, requires that individuals required to disclose their social security number be provided with a statement of the purpose for the collection. Additionally, the law allows commercial entities access to social security numbers if there is a legitimate business purpose and a request is submitted in writing. These requests are to be maintained for reporting purposes to the Florida Legislature. For commercial entity requests, please contact the AWI, Office of the General Counsel. (Address provided below)

## **(2) Demographic Data in WIA Title I-Financially Assisted Programs**

Pursuant to 29 CFR 37.37(b)(2)&(c), demographic data (race/ethnicity, sex, age, and where known, disability status) for applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment must be stored in a manner that ensures confidentiality. The data must be used only for the purposes of record keeping 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 nondiscriminatory manner; or other use authorized by law. The data will be used for statistical purposes only and will not be used in any manner which reveals the identity of the individual.

### **B. Workforce Services Records:**

Employment Services records (ES) are confidential by law (ss. 443.171, 443.1715 and 445.010(2) F.S.). Any employee or individual receiving or releasing confidential information that violates any provision of this subsection commits a misdemeanor of the second degree punishable as provided in sections 775.082 and 775.083, Florida Statutes. **All subpoenas and requests for ES records should be served at the local One Stop centers. The local One Stop and/or regional Workforce board are responsible for handling these requests based upon the guidance provided herein.**

The following types of information or data received by the agency or its partners in the Workforce One-Stop System are confidential by law and cannot be provided to the public without an explicit authorization from the person who is the subject of the information. Records can be released to an individual or entity with a properly executed authorization or release for the ES records.

1. **Food Stamp (FSET)** records are confidential pursuant to 7 CFR 272.1 (c). The entire record is confidential. Questions regarding these programs should be directed to:

Food Stamp Coordinator  
One-Stop and Program Support  
107 E. Madison Street, MSC G-229  
Tallahassee, Florida 32399-4128

Telephone 850-245-7411  
Facsimile 850-921-3252

2. **Job Corps** records are confidential pursuant to 20 CFR 670.965, 29 CFR Part 70 & 29 CFR Part 71. Job Corps is a federal program that operates in partnership with states to provide training to young people. All records which may personally identify any participant are confidential and subject to release only as provided in 29 CFR Part 71. Questions regarding this program should be directed to:

State Coordinator for Job Corps  
107 E. Madison Street, MSC G-229  
Tallahassee, Florida 32399-4128  
Telephone 850-245-7490  
Facsimile 850-488-1647

3. **Migrant and Seasonal Farm Workers** records (maintained as part of the Employment Services system) are confidential pursuant to 20 CFR 653.110 (d). The term "Migrant and Seasonal Farm Worker" means any domestic farm laborer who works in any given local area on a seasonal basis and relocates his or her place of residence as farm work is obtained in other areas during the year. For present purposes, the relevant records are those documents generated during the course of rendering services via the employment services that are funded through the Wagner-Peyser Act. Questions regarding this program should be directed to:

Senior Monitor Advocate  
107 E. Madison Street, MSC G-229  
Tallahassee, Florida 32399-4128  
Telephone 850-921-3207  
Facsimile 850-921-3252

4. **North American Free Trade Agreement - Transitional Adjustment records** are confidential pursuant to 20 CFR 617.57(b). These records are generated in the course of providing services to persons adversely affected by trade between the United States of America and Mexico or Canada. Questions regarding this program should be directed to:

NAFTA/TAA State Coordinator  
107 E. Madison Street, MSC G-229  
Tallahassee, Florida 32399-4128  
Telephone 850-921-3317  
Facsimile 850-921-3312

5. **Trade Adjustment Assistance Under Trade Act of 1974 records**, are confidential pursuant to 20 CFR 617.57(b). These records are generated in the course of providing retraining services to individuals that have been adversely affected as a result of increased imports. Questions regarding this program should be directed to:

TAA State Coordinator  
107 E. Madison Street, MSC G-229

Tallahassee, Florida 32399-4128  
Telephone 850-921-3317  
Facsimile 850-921-3312

6. **WARN Notices (Worker Adjustment And Retraining Notification Act) records**, are generated in the course of providing retraining services to individuals who are adversely affected by plant closures and significant layoffs as described at 29 USCA § 2102-2109. WARN laws require each employer to give employees prior notice of the intended layoffs or plant closures. Under the general provisions of the Workforce Investment Act, WARN records are public. However, any information contained in the WARN notice that provides personal identification of employees is confidential. The WIA confidentiality provision also applies to trade secrets, or commercial or financial information that is obtained from the employer and that is part of the WIA records. See WIA 185(a)(4) (B), 29 USCA 2101, 29 USCA 2801 (WIA). In responding to public records requests for WARN notices, associates must redact information identifiable as to individual employees being laid off, e.g., names, addresses, Social Security Numbers. Questions regarding this program should be directed to:

REACT Coordinator  
107 E. Madison Street, MSC B-040  
Tallahassee, FL 32399-4128  
Telephone 850-921-3323  
Facsimile 850-921-3312

7. **Welfare Transition/TANF records** are confidential pursuant to 45 CFR 205.50 and 414.295, F.S. Questions regarding this program should be directed to:

Welfare Transition Coordinator  
One-Stop and Program Support  
107 E. Madison Street, MSC G-229  
Tallahassee, Florida. 32399-4128  
Telephone 850-245-7429  
Facsimile 850-921-3252

8. **Workforce Investment Act (WIA)**-records are public records pursuant to Section 185, WIA. However, public access is not allowed if: (a) Disclosure of information would constitute a clearly unwarranted invasion of personal privacy; and (b) the information constitutes a trade secret, or commercial or financial information that is obtained from a person that is privileged or confidential. Questions regarding WIA should be directed to:

WIA Coordinator  
One-Stop and Program Support  
107 E. Madison Street, MSC 229  
Tallahassee, Florida. 32399-4128  
Telephone 850-245-7402  
Facsimile 850-921-3252

9. **Displaced Homemaker**-Information about displaced homemakers received by the agency or its designee in offering services pursuant to Sections 446.50 and

446.51 F.S. is confidential and exempt from disclosure pursuant to s. 446.52 F.S. Questions regarding this program should be directed to:

One-Stop and Program Support  
107 E. Madison Street, MSC 229  
Tallahassee, Florida 32399-4128  
Telephone 850-245-7408  
Facsimile 850-921-3252

### **C. Labor Market Information (LMI)**

LMI is confidential pursuant to section 443.1715, F.S., 445.010(2), F.S. and Commissioner's Order 3-93 (USDOL). Labor Market Information (LMI) includes data such as labor force, employment, unemployment, unemployment rates, mass layoffs, employment and wages by industry and occupation, and employment projections. These data are collected and produced through cooperative agreements with the U. S. Department of Labor, Bureau of Labor Statistics and AWI, Labor Market Statistics. The information is collected under a pledge of confidentiality to employers and must be treated in a manner that will ensure **individual identifiable data** will be accessible to only authorized persons. No information or records that would reveal the identity of any individual employer obtained from AWI should be copied or disclosed to any party other than those authorized by Labor Market Statistics. Confidential employer information may be made available only to public employees (including regional workforce boards) in the performance of their public duties including statistical research, economic forecasting, job search and training, and implementation and administration of state law. Request for the above information should be directed to:

Labor Market Statistics  
107 E. Madison Street, MSC-020  
Tallahassee, Florida 32399-4128  
Telephone 850-245-7205  
Facsimile 850-245-7204

### **D. School Readiness Records:**

Individual records of children enrolled in School Readiness programs, when held in the possession of the School Readiness Coalition or the Florida Partnership for School Readiness, are confidential and exempt from public disclosure. The child's parent or guardian and other entities as set forth in the exemption are authorized to have access to the records (s. 411.011, F.S.). Questions regarding subpoenas or records requests for School Readiness Records can be directed to the AWI, Office of the General Counsel:

Some other types of information which School Readiness Coalitions may have access to, but are required to be confidential are as follows:

1. Section 402.308(3) (a), F.S.-Disclosure of social security numbers submitted by an applicant for a child care facility license issued by the Department of Children and Families shall be limited to child support enforcement purposes.
2. Section 409.175(16)(a) & (b), F.S.-Specified personal information about foster care parents and their family that is contained in the licensing file of the

Department of Children and Family is exempt from disclosure unless otherwise provided by court order.

3. Section 409.821, F.S.-Information in an application for the determination of eligibility for the Florida Kidcare program that identifies applicants, including medical information and family financial information, is confidential and exempt from disclosure. In addition, any information obtained through quality assurance activities and patient satisfaction surveys that identify program participants, obtained by the Florida Kidcare program under cited statutes, is also confidential and exempt from disclosure.

#### **G. Medical Records & Disability-Related Information:**

1. Medical records and disability-related information on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment must be stored in a manner that ensures confidentiality, and must be used only for the purposes of record keeping 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 nondiscriminatory manner; or other use authorized by law. (29 CFR 37.37)

2. Medical information regarding employees and applicants for employment: additional requirements. (29 CFR 1630.14)

Information regarding the medical condition or history of an employee or applicant for employment shall be collected for the purpose of determining whether the employee or applicant can perform the job related function. The information must be maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that:

- (i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
- (ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- (iii) Government officials investigating compliance with this part shall be provided relevant information on request.

#### **E. Unemployment Compensation Records:**

Unemployment Compensation records (UC) are confidential by law (ss. 443.171, 443.1715 F.S. Any employee or individual receiving or releasing confidential information that violates any provision of this subsection commits a misdemeanor of the second degree punishable as provided in sections 775.082 and 775.083, Florida Statutes. UC Records, however, are available to public employees in pursuit of their public duties upon agreement by AWI.

1. Subpoenas and requests for UC records:

- (a) Subpoenas for UC records should not be accepted in the One Stop Centers or at the regional workforce board offices. Please forward all process servers to the address below. All subpoenas and requests for UC records should be forwarded to:

UC Records Custodian  
107 East Madison Street MSC 230  
Tallahassee, FL 32399-4132  
Telephone 850-921-3456 or 921-3433 or 921-3968  
Facsimile 850-921-9327 or 921-3912

2. Verification of employment and wage record requests should be sent to the:

Data and Records Release  
PO Drawer 5750  
Tallahassee, Florida 32314-5750  
Facsimile 850-921-3912; sc fax 291-3912

3. Requests for microfilmed UC documents should be sent to the

Benefits Records Unit  
Attention Records Custodian  
PO Drawer 5750  
Tallahassee, Florida 32314-5750

4. Release of Claim-Specific Information via Telephone:

The RSVP system or voice response system is able to answer a large percentage of routine claimant telephone inquiries. Security is safeguarded by the use of the Personal Identification Number (PIN). If a claimant requests additional information about his claim that is not available from the RSVP system, the following should be verified before releasing information: the claimant's **social security number**, **birth date**, and **address**. If there is reasonable certainty that the individual calling is the claimant, no additional verification is required. No information should be provided to a spouse or relative of a claimant unless the individual is hearing impaired or interprets for the claimant or applicant. Questions or concerns should be routed to the Orlando Unemployment Compensation (UC) Call Center at 1-866-778-7356.

**F. Other requests:**

1. Subpoenas and public records requests not related to a request for UC records and not directed to a regional workforce board or service provider should be served and forwarded to the:

Agency for Workforce Innovation  
Office of General Counsel  
107 E. Madison Street  
Caldwell Building, MSC 150  
Tallahassee, FL 32399-4128  
Telephone 850-245-7150  
Facsimile 850-921-3230

2. Verification of employment for AWI employees should be directed to:

AWI Human Resources  
107 E. Madison Street, MSC 140  
Tallahassee, Florida 32399-4127  
Telephone 850-245-7168  
Facsimile 850-921-3221

**AUTHORITY** – Florida and Federal privacy provisions cited in this guidance

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. All voice telephone numbers on this [website][document] may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.