

## Federal Record Retention Requirements for Businesses

Law	Records/Reports	Retention Requirements
<p><b>Age Discrimination in Employment Act (ADEA)</b> Applies to employers with at least 20 employees.</p>	<p>Payroll or other records, including those for temporary positions showing employees' names, addresses, dates of birth, occupations, rates of pay and weekly compensation. Applications (including those for temporary employment), personnel records relating to promotion, demotion, transfer, selection for training, layoff, recall, or discharge; job advertisements and postings; copies of employee benefit plans, seniority system and merit systems.</p>	<p>Three years for payroll or other records showing basic employee information. One year for applications and other personnel records. Where a charge or lawsuit is filed, all relevant records must be kept until "final disposition" of the charge or lawsuit.</p>
<p><b>Americans with Disabilities Act (ADA)</b> Applies to employers with at least 15 employees.</p>	<p>Applications and other personnel records (e.g. promotions, transfers, demotions, layoffs, terminations) requests for reasonable accommodation.</p>	<p>One year from making the record or taking the personnel action. Where a charge or lawsuit is filed, all relevant records must be kept until "final disposition."</p>
<p><b>Civil Rights Act of 1964, Title VII</b> Applies to employers with at least 15 employees.</p>	<p>Applications and other personnel records (e.g. promotions, transfers, demotions, layoffs, terminations), including records for temporary or seasonal positions. Requires the filing of an annual EEO-1 Report (for Federal contractors with 50 or more employees, non-contract employers with 100 or more).</p>	<p>One year from making the record or taking the personnel action. Where a charge or lawsuit is filed, all relevant records must be kept until "final disposition." A copy of the current EEO-1 Report must be retained.</p>
<p><b>Consolidated Omnibus Budget Reconciliation Act (COBRA)</b></p>	<p>Provide written notice to employees and their dependents of their option to continue group health plan coverage following certain "qualifying events," such as the employee's termination, layoff or reduction in working hours, entitlement to Medicare and the death or divorce of the employee (that would cause dependents to lose coverage under the employer's plan).</p>	
<p><b>Davis Bacon Act Service Contract Act Walsh-Healy Public Contracts Act</b> Applies to federal contractors.</p>	<p>Records containing the following information for each employee: • Basic employee data to include name, address, social security number, gender, date of birth, occupation and job classification. -- Walsh-Healy requires the retention of current work permits for minors • Compensation records to include: - Amounts &amp; dates of actual payment. - Period of service covered. - Daily and weekly hours. - Straight time and overtime hours/pay. - Fringe benefits paid. - Deductions and additions. • Walsh-Healy requires the retention of data with respect to job-related injuries and illnesses, specifically, logs with dates and summaries and details of accidents</p>	<p>Three years from the end of the contract.</p>
<p><b>Employee Retirement Income Security Act (ERISA)</b></p>	<p>Maintain, disclose to participants and beneficiaries and report to the Department of Labor, IRS and the Pension Benefit Guaranty Corporation (PBGC) certain reports, documents, information and materials. Except for specific exemptions, ERISA's reporting and disclosure requirements apply to all pension and welfare plans, including:</p>	<p>Employers must maintain ERISA-related records used to develop all required plan descriptions or reports, as well as other materials needed to certify information for a minimum of six years.</p>

	<ul style="list-style-type: none"> <li>• Summary plan description (updated with changes and modifications).</li> <li>• Annual reports.</li> <li>• Notice or reportable events (such as plan amendments that may decrease benefits, a substantial decrease in the number of plan participants, etc.).</li> <li>• Plan termination.</li> </ul>	Records used to determine benefits that are or will become due for each employee participating in the plan must be retained as long as they are relevant.
<b>Employee Polygraph Protection Act</b>	Polygraph test results and the reasons for administering.	Three years.
<b>Equal Pay Act</b>	Payroll records including time cards, wage rates, additions to and deductions from wages paid and records explaining sexually based wage differentials.	Three years.
<b>Executive Order 11246</b> Applies to federal contractors.	Requires the preparation of an Affirmative Action Plan (AAP) for Minorities and Women. Applications and other personnel records that support employment decisions (e.g. hires, promotions, terminations) are considered "support data" and must be maintained for the AAP.	AAPs must be updated annually; AAPs and documentation of good faith efforts must be retained for two years. Personnel or employment records must be retained for two years. If there are less than 150 employees or contract is less than \$150,000, the retention period is one year.
<b>Fair and Accurate Credit Transactions Act (FACTA)</b>	Consumer credit reports.	Recently written rules for the <u>Fair and Accurate Credit Transactions Act (FACTA)</u> will require every employer that employs one or more employees to shred any and all documents that contain information derived from a credit report. These provisions will go into effect on June 1, 2005. Penalties for failing to obey the shredding provisions could be severe. The penalties for failure to observe the shredding rules include: civil liability in which an employee can recover actual damages from his/her employer for all damages incurred from identity theft; statutory damages of up to \$1,000 per employee; an employer may open itself to class action liability if a large number of employees are affected; federal fines of up to \$2,500 for each violation; and state fines of up to \$1,000 per employee.
<b>Fair Labor Standards Act (FLSA)</b>	Payroll or other records containing the following information for each employee: <ul style="list-style-type: none"> <li>• Employee's name, home address, date of birth (if under 19 years of age), gender, and occupation</li> <li>• Time of day/day of week for beginning of workweek</li> <li>• Regular hourly rate of pay or other basis of payment (hourly, daily, weekly, piece rate, commission on sales, etc.)</li> <li>• Daily hours worked and total hours for each workweek</li> </ul>	For at least three years.

	<ul style="list-style-type: none"> <li>• Total daily or weekly straight-time earnings (exclusive of overtime premiums)</li> <li>• Total additions to and deductions from wages for each pay period</li> <li>• Total wages per paid period</li> <li>• Date of each payment of wages and the period covered by the payment</li> </ul> <p>For executive, administrative, and professional employees, or those employed in outside sales, employers must maintain records that reflect the basis on which wages are paid in sufficient detail to permit calculations of the employee's total remuneration, perquisites, including fringe benefits.</p>	
<b>Family &amp; Medical Leave Act (FMLA)</b>	<p>Records containing the following information:</p> <ul style="list-style-type: none"> <li>• Basic employee data to include name, address, occupation, rate of pay, terms of compensation, daily and weekly hours worked per pay period, additions to/deductions from wages and total compensation.</li> <li>• Dates of leave taken by eligible employees. Leave must be designated as FMLA leave.</li> <li>• For intermittent leave taken, the hours of leave.</li> <li>• Copies of employee notices and documents describing employee benefits or policies and practices regarding paid and unpaid leave.</li> <li>• Records of premium payments of employee benefits.</li> <li>• Records of any dispute regarding the designation of leave.</li> </ul>	Three years.
<b>Federal Insurance Contribution Act</b>  <b>Federal Unemployment Tax Act</b>  <b>Federal Income Tax Withholding</b>	<p>Records containing the following information for each employee:</p> <ul style="list-style-type: none"> <li>• Basic employee data to include name, address, social security number, gender, date of birth, occupation, and job classification.</li> <li>• Compensation records to include: <ul style="list-style-type: none"> <li>- Amounts &amp; dates of actual payment.</li> <li>- Period of service covered.</li> <li>- Daily and weekly hours.</li> <li>- Straight time and overtime hours/pay.</li> <li>- Annuity and pension payments.</li> <li>- Fringe benefits paid.</li> <li>- Tips.</li> <li>- Deductions and additions.</li> </ul> </li> <li>• Tax records to include: <ul style="list-style-type: none"> <li>- Amounts of wages subject to withholding.</li> <li>- Agreements with employee to withhold additional tax.</li> <li>- Actual taxes withheld and dates withheld.</li> <li>- Reason for any difference between total tax payments and actual tax payments.</li> <li>- Withholding forms (W-4, W4-E).</li> </ul> </li> </ul>	Four years from the date tax is due or tax is paid.
<b>Immigration Reform &amp; Control Act (IRCA)</b>	INS Form 1-9 (Employee Eligibility Verification Form) signed by each newly-hired employee and the employer.	Three years after date of hire or one year after date of termination, whichever is later.
<b>Occupational Safety &amp; Health Act (OSHA)</b> Applies to employers with at least 10 employees.	<ul style="list-style-type: none"> <li>• A log of occupational injuries and illnesses.</li> <li>• A supplementary record of injuries and illnesses.</li> <li>• Post a completed annual summary of injuries and illnesses.</li> <li>• Maintain medical records and records of exposure to toxic substances for each employee.</li> </ul>	Five years. Employee's job tenure plus thirty years.

<p><b>Rehabilitation Act of 1973</b> Applies to federal contractors.</p>	<p>Personnel/employment records (e.g., requests for reasonable accommodation, results of physical exams, job advertisements and postings, applications, resumes, tests, test results, interview notes and records regarding hiring, assignment, promotion, demotion, transfer, layoff, termination, rates of pay or terms of compensation and selection for training or apprenticeship). Data on complaints of disability discrimination and actions taken. Requires an Affirmative Action Plan for individuals with disabilities.</p>	<p>Two years. (Note: If a contractor has fewer than 150 employees or a contract of less than \$150,000, the retention period is only one year.) Where a charge or lawsuit is filed, all relevant records must be kept until "final disposition." AAPs must be updated annually; no current requirement to retain expired plans.</p>
<p><b>Uniform Guidelines on Employee Selection Procedures</b></p>	<p>For employers with 100 or more employees, records showing the impact of the selection process for each job, maintained by sex for each racial or ethnic group that constitutes at least 2 percent of the labor force in the relevant labor area or 2 percent of the applicable workforce. For employers with less than 100 employees, records showing for each year the number of persons hired, promoted, terminated, applicants hired for each job by sex and where appropriate by race and national origin. Records include applications, tests, and other types of selection procedures used as a basis for employment decisions, such as hiring, promotion, transfer, demotion, training and termination. Adverse impact analysis of selection process must be conducted annually.</p>	<p>Where adverse impact is found in the selection process, records must be maintained for two years after the adverse impact is eliminated. For federal contractors, during a compliance review from the Department of Labor's Office of Federal Contract Compliance Programs, data from the prior year's analysis must be available and for the current year if a contractor is six months into its AAP plan year. (See also Executive Order 11246.)</p>
<p><b>Vietnam Era Veterans' Readjustment Assistance Act.</b> Applies to federal contractors.</p>	<p>Personnel/employment records (see Rehabilitation Act of 1973 above). Affirmative Action Plan for covered veterans. Requires the filing of the annual VETS-100 report. Job openings for positions must be listed with the state employment service.</p>	<p>Two years. (Note: If a contractor has fewer than 150 employees or a contract of less than \$150,000, the retention period is only one year.) AAPs must be updated annually; no current requirement to retain expired plans. A copy of the current VETS-100 report must be retained.</p>

Source: Federal Record Retention Requirements for Employers, by Wallace Bonapart and Cornelia Gamlem, SPHR. March 1997, Reviewed December 2002