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## Workforce Innovation and Opportunity Act Policy 06-17, Change 1

**To:** Local Workforce Development Boards, Chief Elected  
Officials, Regional Executive Directors, State Workforce  
Development Board

**From:** WorkForce West Virginia

**Subject:** MEMORANDUM OF UNDERSTANDING/INFRASTRUCTURE  
GUIDANCE

**Effective Date:** October 18, 2017

**WV State Workforce  
Development Board  
Review Date:** October 18, 2017

**Change 1:** April 16, 2020

### **Purpose**

To provide comprehensive guidance and policy direction to Local Workforce Development Boards (WDBs) and all Workforce Innovation and Opportunity Act (WIOA) required one-stop system partners on required WIOA infrastructure funding.

### **Overview**

A critical component of the successful implementation of the State Plan vision is a well-articulated Memorandum of Understanding (MOU) governing the one-stop system in each Local Workforce Development Area (Local Area). The law envisions that Local WDBs will act as both the convener of the MOU negotiations as well as the shaper of how one-stop services are delivered within their Local Area.

### **Background**

The Workforce Innovation and Opportunity Act of 2014 (WIOA) requires all partners to contribute to infrastructure funding of the one-stop system in each Local Area. The one-stop system in West Virginia is comprised of the American Job Centers (AJCs). Contributions can be made in cash or in fairly-evaluated in-kind contributions. Each Local WDB is required to establish an MOU with each partner in that Local Area that includes

how infrastructure funding will be contributed. If a Local WDB cannot reach agreement with the partners, then the State Funding Mechanism (SFM), which is outlined in this policy must be followed.

**References**

- Title I of the Workforce Innovation and Opportunity Act (WIOA) PL 113-128 – July 22, 2014; *WIOA Sections 107, 111(b), and 121(c), (d), (g), and (h)*;
- Workforce Innovation and Opportunity Act; Final Rule published at 81 FR 56,072. August 19, 2016;
- WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule published at 81 Federal Register 55,791. August 19, 2016;
- Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program’s Fair Share of Allocable One-Stop Costs; Notice. Published at 66 Federal Register 29,638. May 31, 2001;
- TEGL 16-16: One-Stop Operations Guidance for the American Job Center Network;
- TEGL 17-16: Infrastructure Funding of the One-Stop Delivery System;
- WIOA Department of Labor Joint Rule (81 FR 56016, Aug. 19, 2016), Subpart E, 678.700 – 678.760; 361-700 – 361.760; 463.700 – 463.760;
- 20 CFR 683.600;
- Office of Management and Budget (OMB) CFR Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Final Rule. December 26, 2013; and
- Department of Labor (DOL) CFR Chapter II, Part 2900 et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. December 19, 2014.

**Definitions**

Term	Definition
<b>Co-location</b>	<i>Co-located Partners</i> Job Center partners who have a physical presence within the center(s), either full time, part time, or intermittent.
	<i>Non Co-located Partners</i> Job Center partners with no physical presence in the center(s).
<b>Comprehensive Job Center</b>	A physical location within a Local workforce development area that provides access to career services, training services, employment services, and all required programs and activities of all required partners. American Job Center (AJC)
	<i>Cash Contributions</i> Cash funds used to cover a partner’s proportionate share of the AJC infrastructure costs. Can be paid either directly from the partner or through an interagency transfer on behalf of the partner (WIOA Joint Final Rule Section 678.720c).

<b>Contributions</b>	<p><i>Non-Cash Contributions</i> Expenditures made by one partner on behalf of the AJC or contributions of goods or services contributed by a partner for the AJC’s use. Contributions must be valued consistent with Uniform Guidance 2CFR200.306 (WIOA Joint Final Rule Section 678.720c).</p> <p><i>Third Party In-Kind Contributions</i> Contributions by a non-AJC partner to support the AJC in general, not a specific partner; or contributions by a non-AJC partner to an AJC partner to support its proportionate share of the infrastructure costs. Unrestricted contributions that support the AJC in general would lower the total amount of infrastructure costs prior to proportionate division whereas restricted contributions can be used by the intended partner(s) to lower their share of the infrastructure costs (WIOA Joint Final Rule Section 678.720(c)(4)).</p>
<b>Full-time Equivalent (FTE)</b>	<p>The ratio of the total number of hours worked (whether part-time, full-time or contracted) divided by an average full-time work week (e.g., 40 hours).</p> <p><i>Example: One employee who works 20 hours per week is expressed as .5 FTE.</i></p>
<b>Infrastructure Costs</b>	<p>The non-personnel costs that are necessary for the general operation of the physical AJC, including:</p> <ul style="list-style-type: none"> <li>• Rental/lease costs of facilities</li> <li>• Costs of utilities and maintenance</li> <li>• Equipment (including assessment-related products and assistive technology for individuals with disabilities)</li> <li>• Technology to facilitate access to the AJC, including the AJC’s planning and outreach activities</li> </ul>
<b>Local Infrastructure Funding Mechanism</b>	<p>The method used to cover infrastructure costs of the local <i>comprehensive</i> AJC(s) in a Local Area when all co-located partners agree about how those costs will be shared. Cash, in-kind contributions and philanthropic or private funds are allowable for each required partner to use to cover their fair share of the infrastructure costs under this mechanism. Under this mechanism, there is no maximum amount that each required partner can contribute to the AJC’s infrastructure costs other than what is outlined in program-specific statutes.</p>
<b>Memorandum of Understanding (MOU)</b>	<p>A document defining the agreement between the Local WDB, Chief Elected Officials (CEOs) and co-located partners relating to the operation of the workforce delivery system in the Local Area, including shared system and infrastructure costs.</p>
<b>Proportionate Share</b>	<p>An amount that represents a required partner’s portion of comprehensive AJC infrastructure costs based on its proportionate use of the AJC, relative to benefits received. This amount is determined through a reasonable cost allocation methodology that assigns costs to co-located partners in proportion to relative benefits received.</p>

<b>Required Partners</b>	<p>WIOA identifies required program partners that <i>must</i> provide services in comprehensive AJCs and share in the cost of maintaining the AJC’s delivery system subject to an MOU. The required partners are:</p> <ol style="list-style-type: none"> <li>1. Title I of WIOA – Adults, Dislocated Workers, and Youth</li> <li>2. Title II of WIOA – Adult Education and Literacy programs</li> <li>3. Title III of WIOA – Employment Services under the Wagner-Peyser Act</li> <li>4. Title IV of WIOA – Vocational Rehabilitation Services under Title I of the Rehabilitation Act of 1973</li> <li>5. Carl D. Perkins Career and Technical Education Act 2006 – Career and technical education programs at the secondary and post-secondary levels</li> <li>6. Programs under the Trade Act of 1974 (TAA)</li> <li>7. Title IV of the Social Security Act [Temporary Assistance for Needy Families (TANF) programs]</li> <li>8. Senior Community Services Employment Program (SCSEP)</li> <li>9. Community Services Block Grant (CSBG) – Employment and training activities</li> <li>10. Housing and Urban Development (HUD) employment and training activities</li> <li>11. Unemployment compensation programs</li> <li>12. Activities under the Second Chance Act of 2007</li> <li>13. Veterans job counseling, training and placement programs under Chapter 41 of Title 38, United States Code</li> <li>14. Native American Programs</li> <li>15. National Farmworker Jobs Program</li> <li>16. Job Corps career and technical education for youth</li> <li>17. YouthBuild education and job pathways</li> </ol>
<b>Shared System Costs</b>	<p>Additional non-infrastructure costs AJC partners are required to pay. These shared costs may include the cost of shared services authorized for an individual participant, such as intake and assessment costs, as well as shared costs of Local WDB functions like Business Services, AJC partner staff cross training, and AJC Operator costs. May also include shared personnel (and other non-infrastructure costs) for co-located partners.</p>
<b>State Infrastructure Funding Mechanism</b>	<p>The method used to cover infrastructure costs of the AJC(s) in a Local Area when co-located partners are unable to agree on how to share those costs. The amount that each required partner can contribute is capped per WIOA section 121(h)(3)(B). The State Infrastructure Funding Mechanism only applies to certified comprehensive AJCs in Local Areas that cannot reach agreement on a cost sharing agreement by November 15, 2017. (May 1st each year thereafter).</p>

## **Policy**

Local WDBs must enter into an MOU as described in this policy between the Local WDB, the CEO and the required AJC partners relating to the operation of the one-stop delivery system in the Local Area. The MOU must outline the operations of the one-stop delivery system and provide for cost sharing among the required one-stop program partners. The MOU must be signed by the Local WDB, AJC partners, and the CEO(s) and must include, at a minimum (WIOA sec. 121(c)(2)):

- A description of the services to be provided through the one-stop delivery system;
- A plan for how costs of the services and the operating costs of the system will be funded;

- Methods of referral to/from/between core programs;
- Methods to ensure the needs of individuals with barriers are met; and
- The duration of the MOU, methods for amendment, and assurances for review at least once every three years to ensure appropriate funding and delivery of services.

## I. Development of a Memorandum of Understanding

Each MOU should act as a functional tool as well as a visionary plan for how the Local WDB and AJC partners will work together to create a unified service delivery system that best meets the needs of their shared customers. Local WDBs may develop a single “umbrella” MOU that addresses overarching issues for the Local WDB, CEO, and AJC partners as they relate to the local AJC system. Alternatively, they may choose to enter into a separate MOU with each individual partner or groups of partners (20 CFR § 678.505) or a separate MOU for each AJC. MOU development has two parts:

- **Part I: Service Coordination**  
For Part I, Local WDBs are expected to work with all the required partners in their Local Area to reach agreement regarding the operations of the Local AJC system as it relates to shared services and customers.
- **Part II: Shared Resources and Costs**  
For Part II, Local WDBs should build upon the agreements established in Part I and determine how to best support their established service delivery model through the sharing of resources and costs.

The tables in Attachment A outline the minimum content for Part I and Part II of the MOU.

## II. Infrastructure Costs

Under WIOA, each AJC partner that carries out a program or activities within an AJC must use a portion of the funds available for their program and activities to help maintain the AJC delivery system, including proportional payment of the infrastructure costs of the AJCs (20 CFR § 678.700). If it has been determined that a partner is receiving benefit from the AJC, the amount of funds each AJC partner is required to contribute must be based on their proportionate use of the AJC(s). When determining each partner’s proportionate share, Local WDBs must remain in compliance with the federal statute authorizing each partner’s program as well as Subpart E, Federal cost Principles of the Uniform Guidance 2 CFR part 200. An infrastructure funding agreement (IFA) negotiated by the Local WDBs with all AJC partners for each AJC is the Local Funding Mechanism (LFM) (20 CFR § 678.715).

The only exception is that Native American programs are not required to contribute to infrastructure funding but, as a required AJC partner, they are encouraged to contribute.

Any agreement regarding the contribution or non-contribution to infrastructure costs by Native American programs must still be recorded in the signed MOU (WIOA Section 121(h)(2)(D)(iv)). It is important to note that if the Native American program partner chooses not to contribute to infrastructure costs and a AJC identifies infrastructure costs that are allocable solely to the Native American program, those costs cannot be allocated to the remaining partners and therefore must either be removed from the center budget or paid for by an alternate source of funding.

### Establishing IFA Budgets

When establishing the IFA budgets, Local WDBs have two options:

1. Develop a separate budget for each AJC.
2. Develop a consolidated system-wide budget for the network of AJCs.

Whichever option is selected, all partners must agree to the budget and cost allocation methodology. They must also meet the standards of proportionate use and relative benefit and comply with federal cost principles.

Although federal guidance requires that the entire MOU be reviewed and updated a minimum of every three years, the IFA budgets must be reviewed annually and updated if there are substantial changes.

### Reconciliation of AJC partner Contributions

The Local WDB is responsible for ensuring that all the AJC infrastructure costs are paid according to the provisions of their signed MOUs. The estimated proportionate share of costs for each partner are based on budgeted expectations. Until the actual costs are known, and the usage and benefits are calculated, each partner's true proportionate share of costs will be unknown. Therefore, all AJC partner contributions, regardless of the type, must be reconciled on a regular basis (e.g., monthly or quarterly), comparing expenses incurred to relative benefits received. The reconciliation process is necessary in order to ensure that the proportionate share each partner program is contributing remains consistent with the cost methodology, is up to date, and in compliance with the terms of the MOU. The MOU must also identify who will be responsible for this regular reconciliation.

Attachment B provides more detail on developing IFA Budgets and Cost Allocation Methodology.

### State Infrastructure Funding Mechanism

One of the hallmarks of WIOA is an increased emphasis on Local WDBs as conveners who are responsible for the MOU negotiation process. Initiating negotiations via an LFM

allows for decision making to be kept at the local level. WorkForce West Virginia’s (WFWV) goal is to provide the support and guidance necessary to help all Local Areas reach agreement under the LFM rather than under the SFM. Local WDBs are urged to seek guidance and support from the state throughout the negotiation process to help prevent the triggering of the SFM. However, if a Local WDB is unable to complete an IFA with all its AJC partners, then the SFM will be triggered and WFWV, with the Governor’s approval, must then determine the required contributions of each AJC partner.

If a Local WDB does not believe they will be able to come to an agreement regarding joint infrastructure costs with any of their AJC partners by November 15, 2017 (May 1st each year thereafter), they must notify WFWV immediately by following steps 1 and 2 of Attachment C: State Funding Mechanism Steps.

### III. Other Shared Costs

In addition to jointly funding infrastructure costs, AJC partners must use a portion of funds made available under their authorizing federal statute (or fairly evaluated in-kind contributions) to pay the additional costs relating to the operation of the AJC delivery system. These costs may be shared through cash, non-cash, or third-party in-kind contributions (20 CFR § 678.760). The other system costs budget must include applicable career services, and may include any other shared services that are authorized for and commonly provided through the AJC partner programs to any individual, such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other AJC partners, and business services. Shared operating costs may also include shared costs related to the Local WDB’s functions.

The requirements presented in Reconciliation of AJC partner Contributions (above) also applies to other shared costs.

The table below summarizes the above referenced requirements. Once again, this will change once data systems and/or procedures are developed to provide reliable data for allocating the benefit received by non-co-located partners.

	Must sign MOU	Must contribute to infrastructure costs	Must contribute to other shared costs, including applicable career services
Partner who is co-located	YES	YES	YES
Partner who is not co-located	YES	NO	YES

Attachment B provides more detail on determining Other Shared/System Costs.

## **Action**

Each Local WDB will ensure that this policy is brought to the attention of AJC partners and will convene AJC partners for good-faith negotiations of a Local Area MOU(s) as described in this policy. IFAs must be included in partner MOUs effective January 1, 2018.

A sample MOU and Infrastructure Costs Toolkit and additional information may be found here:

[https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample\\_MOU\\_Infrastructure\\_Costs\\_Toolkit](https://ion.workforcegps.org/resources/2017/03/23/13/30/Sample_MOU_Infrastructure_Costs_Toolkit)

## **Appeals Process**

Upon receipt of the specific terms of an SFM, any Local WDB or one-stop required partner may appeal for cause, within 21 calendar days, in writing (electronic or hardcopy), WFWV's (with the Governor's approval) determination regarding the portion of funds (or non-cash contributions) it is to provide. To be officially received, an appeal must fully contain and evidence the following:

- Addressed to the attention of the Deputy Executive Director of Federal Programs or his/her designee.
- An introduction identifying the appellant and designating the letter as a formal appeal.
- Full citations from WIOA or the WIOA Final Rules in Title 29 or Title 34 of the Code of Federal Regulations (CFR) that support the appeal.
- Identify the basis for the appeal. *WIOA stipulates that a State Funding Mechanism (SFM) allocation determination may be appealed only if the determination is inconsistent with the requirements of WIOA sec. 121(h)(2)(E). The Final Rule at 20 CFR 678.750 further limits admissible grounds for an appeal to three possibilities. The petitioner must make a case that the State's determination is inconsistent with:*
  - the proportionate-share requirements in 20 CFR 678.737, or
  - the cost-contribution limitations in 20 CFR 678.730(c), or
  - the cost-contribution caps in 20 CFR 678.738
- The letter must be signed (electronic signature is acceptable) and dated.

WFWV will have 10 days to acknowledge the appeal. WFWV then has 30 business days to convene and hear testimony from all parties involved. After hearing testimony, WFWV, under the designated authority and approval of the Governor, has an additional 30 business days to issue a formal resolution for the issue. Until the appeals process is completed, the appellant will remain liable for its contribution as originally determined in the SFM. If a one-stop partner's appeal to WFWV using the process described in 20 CFR 678.750 is successful and results in a change to the one-stop partner's infrastructure-cost contributions, then the Local Area's MOU *must* be updated to reflect the final one-stop partner infrastructure cost contributions.

## **INQUIRIES:**



Please direct inquiries about this directive to WFWV at (304) 558-5050.

### Attachment A

The tables below outline the minimum content for Part I and Part II of the MOU development process. The left column lists the provisions that each MOU must contain, as required by WIOA. The right column lists what corresponding information needs to be included in order to address each provision.

<b>Part I Service Coordination</b>	
<b>MOU Provisions Required under WIOA Section 121(c)</b>	<b>Corresponding Information Needed In the MOU</b>
<p>Services provided through the One-Stop delivery system</p> <p>WIOA sec. 121(c)(2)(A)(i)</p> <p>Describe the services to be provided through the One-Stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated and delivered through such a system.</p>	<ul style="list-style-type: none"> <li>▪ Define the purpose, mission, values and goals of the one-stop delivery system in the Local Area.</li> <li>▪ Identify the Required One-Stop Partner(s) included in the MOU.</li> <li>▪ Identify the One-Stop Centers covered by the MOU, indicating comprehensive one-stop centers and any affiliated sites and attach a map with the locations noted.</li> <li>▪ Identify the One-Stop Center(s) in the Local Area covered by the Operational Standards.</li> <li>▪ Describe the One-Stop Center services that are applicable to each partner, including career services.</li> <li>▪ Identify the One-Stop Center system customers and describe shared customers.</li> <li>▪ Describe the responsibilities of the Required One-Stop Center Partner(s), including joint planning, and staff development/professional development.</li> </ul>
<p>Methods for Referring Customers</p> <p>WIOA sec. 121(c)(2)(A)(iii)</p> <p>Describe methods of referral of individuals between the One-Stop operator and the One-Stop partners for appropriate services and activities.</p>	<ul style="list-style-type: none"> <li>▪ Describe the referral process within and between One-Stop Centers.</li> <li>▪ Describe commitment to ensuring a high quality customer service and customer-centered focus.</li> </ul>

<p>Access to Services</p> <p>WIOA sec. 121(c)(2)(A)(iv)</p> <p>Describe methods to ensure the needs of workers and youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in the provision of necessary and appropriate access to services, including access to technology and materials, made available through the One-Stop delivery system.</p>	<ul style="list-style-type: none"> <li>▪ Identify how the One-Stop Center(s) will provide access to partner services, including direct linkage through real-time technology.</li> <li>▪ Define how priority of service is ensured, including priority for veterans, recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient in the Local Area in accordance with WIOA sec. 134(c)(3)(E).</li> <li>▪ Describe how the One-Stop Center(s) will ensure access to services for individuals with barriers to employment (WIOA sec. 3(24)).</li> <li>▪ Describe how the One-Stop Center(s) will provide measures to promote nondiscrimination and equal opportunity.</li> <li>▪ Describe the One-Stop Center grievance procedures.</li> <li>▪ Include a commitment that the Required One-Stop Center Partner(s) and locations will comply with ADA physical and programmatic access requirements.</li> </ul>
<p>Duration of MOU</p> <p>WIOA sec. 121(c)(2)(A)(v)</p> <p>Describe the duration of the MOU and the procedures for amending/modifying the memorandum during the duration of the memorandum, and assurances that such memorandum shall be reviewed not less than once in every 3-year period to ensure appropriate funding and delivery of services.</p>	<ul style="list-style-type: none"> <li>▪ Identify the effective dates of the MOU.</li> <li>▪ Include an assurance to review the MOU at least every three years.</li> <li>▪ Describe the procedures established to revise and modify the MOU.</li> <li>▪ Describe the procedures established to terminate the MOU.</li> <li>▪ MOU must be signed by all Required One-Stop Partners.</li> </ul>
<p>Signatories</p>	<ul style="list-style-type: none"> <li>▪ Local WDB</li> <li>▪ Required Partners</li> <li>▪ CEO(s)</li> </ul>
<p>Appeals</p>	<ul style="list-style-type: none"> <li>▪ If an appeal regarding the SFM is successful the MOU must be updated to reflect final AJC partner contribution.</li> </ul>

<b>Part II Shared Resources and Costs</b>	
<b>MOU Provisions Required under WIOA Section 121(c)</b>	<b>Corresponding Information Needed In the MOU</b>
<p>Funding of Services and Operating Costs</p> <p>WIOA Section 121(c)(2)(A)(ii)</p> <p>Describe how the costs of such services and the operating costs of such system will be funded, including the following:</p> <p>(I) Funding through cash and in-kind contributions (fairly evaluated), which contributions may include funding from philanthropic organizations or other private entities, or through other alternative financing options, to provide a stable and equitable funding stream for ongoing One-Stop delivery system operations.</p> <p>(II) Funding of the infrastructure costs of One-Stop centers in accordance with subsection (h).</p>	<p><u>Infrastructure Costs</u></p> <ul style="list-style-type: none"> <li>▪ A budget clearly identifying the infrastructure costs for each One-Stop Center or network of Centers in the Local Area with a detailed description of what specific costs are included in each line item.</li> <li>▪ The cost allocation methodology chosen to charge each partner in proportion to its use of the One-Stop Center(s) and benefit received, in accordance with Uniform Guidance.</li> <li>▪ The initial proportionate share of infrastructure costs allocated to each partner based on the agreed upon cost allocation methodology, each partner’s estimated total contribution amount, and whether it will be provided through cash, non-cash (in-kind), and/or third-party in-kind contributions. This initial determination must be periodically reconciled against actual costs incurred and adjusted accordingly.</li> <li>▪ For any identified non-cash or in-kind contributions, the method by which the value of the contribution was or will be fairly evaluated, in accordance with Uniform Guidance Section 200.306.</li> </ul> <p><u>Other Shared Costs</u></p> <ul style="list-style-type: none"> <li>▪ A budget clearly identifying other shared costs for each One-Stop Center or network of Centers in the Local Area with a detailed description of what specific costs are included in each line item. The budget must include “applicable career services” as well as any other shared costs agreed upon by the Required One-Stop Center Partners.</li> <li>▪ The cost allocation methodology agreed to by all partners to charge other system costs according to if benefit is received and their proportionate use in accordance with Uniform Guidance.</li> <li>▪ The initial proportionate share of other system costs allocated to each partner based on the agreed upon cost allocation methodology, each partner’s estimated total contribution amount, and whether it will be provided through cash, non-cash (in-kind), and/or third-party in-kind contributions. This initial determination must be periodically reconciled against actual costs incurred and adjusted accordingly.</li> <li>▪ For any identified non-cash or in-kind</li> </ul>

	<p>contributions, the method by which the value of the contribution was or will be fairly evaluated, in accordance with Uniform Guidance.</p>
	<p><u>Process and Development</u></p> <ul style="list-style-type: none"> <li>▪ The period of time in which the Infrastructure Funding Agreement (IFA) and other shared costs agreement is effective.</li> <li>▪ Identification of all Required One-Stop Center Partners, Chief Elected Official(s) (CEO), and the Local WDB participating in the infrastructure and other shared costs funding agreements.</li> <li>▪ The Infrastructure Funding Agreement (IFA) and other shared costs agreement must be signed by all parties to each agreement.</li> <li>▪ Steps the Local WDB, CEO, and Required One-Stop Center Partners used to reach consensus and/or an assurance that the Local Area followed guidance for the state infrastructure funding mechanism.</li> <li>▪ A description of the process to be used among partners to resolve issues during the MOU duration period when consensus cannot be reached.</li> <li>▪ A description of the periodic modification and review process that will be used to ensure all Required One-Stop Center Partners continue to contribute their fair and equitable fair share of infrastructure and other system costs, including the identification of who will fulfill this responsibility.</li> </ul>

<b>Recommended MOU Provision</b>	<b>Optional Sections to include in the MOU</b>
Administration and Operations Management	<ul style="list-style-type: none"> <li>▪ Describe management operations, including site supervision and day to day operations.</li> <li>▪ Describe how the one-stop delivery system will handle dispute resolution.</li> </ul>

## Attachment B

### Infrastructure Funding Agreements (IFA)

The advantages of Local WDBs establishing self-negotiated, successful IFAs under the Local Funding Mechanism (LFM) include the following:

- Local autonomy – Under the LFM, decisions remain at the Local level which ensures the IFAs will be tailored to each Local Area’s unique needs.
- Stronger regional partnerships – The more each partner can have a direct say in the Local negotiations, the stronger the partnerships will be.
- No caps on partner contributions – Under the State Funding Mechanism (SFM), specific caps are set on the amount and percent of each partner’s funds that may be contributed. However, under the LFM there are no caps.
- Flexibility on funds used – Title I programs are allowed to use program funds to pay their proportionate share of the infrastructure costs when negotiating under the LFM. If the SFM is triggered, Title I programs may be required to pay their proportionate share only out of administrative costs.

IFA budgets include, but are not limited to, all non-personnel costs that are necessary for the physical operation of the One-Stop Center such as: rent, utilities and maintenance, equipment, technology, and non-marketing common identifier expenses. Every One-Stop Center infrastructure budget must also have an “Access and Accommodation” line item for ensuring physical and programmatic access to the One-Stop Center by individuals with disabilities.

The budgets must contain descriptions of the specific costs grouped under each line item. Local WDBs may consolidate and/or break out line items as best fits with their individual area budgets and cost allocation methodology. Examples of costs that may fall under the above mentioned line items include, but are not limited to, the following:

- Rental of the Facilities
- Utilities and Maintenance Costs
  - Electric
  - Gas
  - Water
  - Sewer connections
  - High-speed internet connectivity
  - Telephones (landline for the center, not cell phones)
  - Facility maintenance contracts
- Equipment Costs
  - Assessment-related products
  - Assistive technology for individuals with disabilities
  - Copiers
  - Fax machines
  - Computers

- Other tangible equipment used to serve all center customers (not specific to an individual program partner)
- Technology to Facilitate Access to the One-Stop Center Costs
  - Cost of creation and maintenance of a center website (not specific to an individual program partner) that provides outreach to customers by providing information on One-Stop Center services and/or provides direct service access to One-Stop Center services
  - Technology used for the center's planning and outreach activities
  - This does not include data systems or case management systems specific to individual program partners.
- Common Identifier Costs (Local option)
  - Creating new signage
  - Updating templates and materials
  - Updating electronic resources

Note: If a Local WDB decides to include common identifier costs as part of the IFA, they cannot include costs associated with any sort of advertising campaign promoting the One-Stop Center under the new common identifier (WIOA Joint Final Rule Preamble page 55904).

### **Cost Allocation Methodology**

Required One-Stop Center Partner's proportionate share of infrastructure costs must be calculated in accordance with Uniform Guidance and based on a reasonable cost allocation methodology, whereby infrastructure costs are charged to each partner in proportion to their use of the One-Stop Center(s). All costs must be allowable, reasonable, necessary, and allocable (20 CFR § 678.715).

After determining whether an IFA will be created for the Local network of One-Stop Centers as a whole, or optionally, for each One-Stop Center, and determining the benefit received by each partner, the WDB must select a cost allocation methodology to identify the proportionate share of infrastructure costs each partner will be expected to contribute. Any cost allocation methodology selected must adhere to the following:

- Be consistent with the federal laws authorizing each partner's program (including any Local administrative cost requirements).
- Comply with federal cost principles in the Uniform Guidance.
- Include only costs that are allowable, reasonable, necessary, and allocable to each program partner.
- Be based on the proportionate use and if benefit is received by each partner.

Examples of cost allocation methods that may be used for infrastructure include, but are not limited to, the following:

- The proportion of a partner program's occupancy percentage of the One-Stop

- Center (square footage).
- The proportion of a partner program's participants compared to all participants served by the One-Stop Center (participant counts).
- The proportion of partner program's staff among all staff at the One-Stop Center (FTE).
- The proportion of a partner program's use of equipment at the One-Stop Center (various).

#### Cash, In-Kind, or Third-Party In-Kind Contributions

Required AJC Partners (or their respective state entity) may provide cash, non-cash, and third-party in-kind contributions to cover their proportionate share of infrastructure costs. If non-cash or in-kind contributions are used, they cannot include non-infrastructure costs (such as personnel), and they must be valued consistent with Uniform Guidance Section to ensure they are fairly evaluated and meet the partner's proportionate share (20 CFR § 678.720).

If third-party in-kind contributions are made that support the AJC(s) as a whole (such as space), that contribution will not count toward a specific partner's proportionate share of infrastructure. Rather, the value of the contribution will be applied to the overall infrastructure costs and thereby reduce the contribution required for all partners. When determining the use of non-cash and in-kind contributions, overall costs must be kept in mind as there must first be enough cash contributions to cover those.

#### Determining the Source of Funds to Pay Infrastructure Costs

When determining which funds can be used to pay infrastructure costs, Required AJC Partners must remain in compliance with their authorizing federal statute as well as 20 CFR § 678.720, which provides stipulations on the types of funds certain partners are allowed to use towards their proportionate share under the LFM. These limitations include the following:

Source	Available Funds to Pay Infrastructure Costs
<i>WIOA Title I</i>	Administrative and program funds
<i>WIOA Title II</i>	Funds available for Local administrative expenses or from non-federal resources that are cash, in-kind, or third party contributions
<i>WIOA Title III</i>	Any available funds
<i>WIOA Title IV</i>	Administrative funds
<i>TANF</i>	Funds used for the provision and administration of employment and training
<i>Career and Technical Education (CTE)</i>	Funds available for Local administration of postsecondary level programs and activities for eligible participant; Funds made available by the state or non-federal resources that are cash, in-kind, or third-party contributions

### Other Shared Costs

Unlike the IFA, other system costs are not limited to the non-personnel costs of operating a One-Stop Center. They can include shared personnel costs such as a center receptionist or staff who are cross trained in and deliver services for multiple partner programs. Everything in the other system costs budget must be agreed to by all partners Locally. There is no state funding mechanism for other system costs that will be triggered due to lack of agreement at the Local level.

As with infrastructure costs, other system costs must be allocable according to the proportion of benefit received by each of the Required One-Stop Center Partner programs, consistent with the partner's authorizing federal statute and Uniform Guidance. The method(s) for allocating other system costs can include those allocation methods identified for infrastructure costs as well as other appropriate methods including, but not limited to, the proportion of a partner program's service counts. The MOU must also include an agreed upon budget for these other costs along with the agreed upon cost sharing methodology.

The agreed upon budget for other shared costs must align with Part I of the MOU that outlines shared customers and services. The other shared costs budget can be a part of one overall one-Stop Center system budget (including infrastructure) or it can be developed and described separately. The other shared costs budget must include a line item for applicable career services. Part I of the MOU requires identification of the career services that are applicable to each partner program. Accordingly, this budget must include each of the partner's costs for the service delivery of each applicable career service and a consolidated system budget for career services applicable to more than one partner.

The budget may also include shared services, which have been agreed upon by all



partners, which are authorized for and may be commonly provided through the One-Stop Center system. Examples of these types of services include, but not limited to, the following:

- Initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, and referrals to other Required One-Stop Center Partners. This may include costs such as technology and tools that increase integrated service delivery through the sharing of information and service delivery processes.
- Business services. This may include costs related to a Local or regional system business services team that has one or more partners on the team or has delegated a specific partner to provide business services on behalf of the system.
- Required One-Stop Center Partner staff cross training. This may include any staff cross training on partner programs and eligibility identified in the Part I.
- One-Stop operator. This may include the system role of the One-Stop operator (e.g., coordinating service providers across the AJC delivery system) when the role is not specific to the operation of the One-Stop Center and/or specific partner programs, so long as the role was defined by the Local WDB in the procurement process and agreed to by all Required One-Stop Center Partners in the MOU.
- Shared personnel (and other non-infrastructure costs) for co-located partners. This may include center receptionists and/or center managers.

#### Process and Development

The guidance presented in **Cost Allocation Methodology** (above) also applies to other shared costs although cost allocation methods will likely be different for many of the shared costs included.

## Attachment C

*Term Definitions: LFM = Local Funding Mechanism; SFM = State Funding Mechanism*

**Step 1: Notice of failure to reach consensus given to the WFWV (with the Governor's approval).** If the Local WDB, local one-stop partners, and CEO(s) cannot reach consensus on methods of sufficiently funding a one-stop center's infrastructure costs and the amounts to be contributed by each local partner program, the Local WDB is required to notify WFWV. Notification must be given to WFWV by November 15, 2017. In subsequent years in which agreements are renewed, notification must be given by May 1st. In years during which an Adult Education Family Literacy Act (AEFLA) competition takes place, alternative timing may be necessary.

**Step 2: Local negotiation materials provided to the WFWV (with the Governor's approval).** In order to assist WFWV, the Local WDB must provide the appropriate and relevant materials and documents used in the negotiations under the LFM, preferably when notifying WFWV of the failure to reach consensus. At a minimum, the Local WDB must give WFWV: (1) the local WIOA plan; (2) the cost allocation methodology or methodologies proposed by the partners to be used in determining the proportionate share; (3) the proposed amounts or budget to fund infrastructure costs and the amount of partner funds included; (4) the type of funds (cash, non-cash, and third-party in-kind contributions) available; (5) any proposed or agreed upon one-stop center or system budget; and (6) any partially agreed upon, proposed, or draft IFAs. The Local WDBs also may give WFWV additional materials that they or WFWV find to be appropriate.

**Step 3: WFWV (with the Governor's approval) determines one-stop center infrastructure budget(s).** WFWV must determine the infrastructure budget(s). Depending on the local delivery system structure, there may be more than one infrastructure budget, each of which is contained in a one-stop operating budget. While WFWV should take into account the one-stop center's operating budget, WFWV only has the power to determine the infrastructure budget under the SFM. WFWV must determine the infrastructure budget in one of two ways. If, as a result of, an agreed upon infrastructure budget, only the individual programmatic contributions to infrastructure funding based upon proportionate use of the one-stop centers and relative benefit received are at issue, WFWV may accept the infrastructure budget, from which WFWV must calculate each partner's contribution consistent with the cost allocation methodologies contained in the Uniform Guidance.

If, however, an infrastructure budget or budgets were not agreed upon in the local negotiations, or WFWV determines that the agreed upon budget does not adequately meet the needs of the Local Area or does not reasonably work within the confines of the resources available to that Local Area in accordance with WFWV's guidance on one-stop infrastructure funding, then WFWV must use the state backup formula. This formula must identify the factors, as well as each factor's corresponding weight, that WFWV must use in determining the one-stop center infrastructure budget. At a minimum, these factors must include: (1) the number of one-stop centers in a Local Area; (2) the total population served by such centers; (3) the services provided by such

centers; and (4) any factors relating to the operations of such centers in the Local Area that the State WDB determines are appropriate (20 CFR 678.745, 34 CFR 361.745, and 34 CFR 463.745).

**Step 4: WFWV (with the Governor's approval) establishes cost allocation methodology.** After an infrastructure budget has been determined, WFWV must establish a cost allocation methodology that determines the distribution of infrastructure funding costs among the local one-stop partners in accordance with the principles of proportionate use of the one-stop center and relative benefit received. This allocation methodology must be consistent with the Federal Cost Principles of the Uniform Guidance in 2 CFR part 200, all relevant Federal regulations and statutes, further regulatory guidance, and the partner programs' authorizing laws and regulations. Beyond these requirements, the determining factor can be a wide range of variables, such as number of customers served, square footage used, or a different basis that is agreed upon for determining each partner's contribution level for infrastructure costs.

- *A Local Area may use more than one cost allocation methodology to distribute costs.*

**Step 5: Partners' proportionate shares are determined.** Once a methodology is established, WFWV (with the Governor's approval) must use this methodology to determine each required one-stop partner's proportionate share of infrastructure funding costs. WFWV must take into account a number of factors in reaching a proportionate share determination including: (1) the costs of administration of the one-stop delivery system for purposes not specifically related to a one-stop center for each partner (such as costs associated with maintaining the Local WDB or information technology systems); (2) statutory requirements for each partner program; (3) each one-stop partner's ability to fulfill such requirements; and (4) all other applicable legal requirements. WFWV may draw upon any proportionate share determinations made during the local negotiations, including any agreements reached at the local level by one or more partners, as well as any other materials or documents from the negotiating process.

In some instances, the Governor does not determine each one-stop partner's contribution amounts for infrastructure costs. In States where the policy-making authority is placed in an entity or official that is independent of the authority of the Governor with respect to the funds provided for the AEFLA program, postsecondary career and technical education activities authorized under Perkins IV, or the VR program, the determination of the amount each of the applicable partners must contribute to assist in paying the infrastructure costs of one-stop centers must be made by the official or chief officer of the entity with such authority, in consultation with WFWV (with the Governor's approval).

For other required partner programs in which grant awards are made to entities that are independent of the authority of the Governor, such as Job Corps center contractors or grant recipients of the DOL-administered national programs, the determination of the amount each of the applicable partners must contribute to assist in paying the infrastructure costs of one-stop centers continues to be made by WFWV (with approval of the Governor), through the authority granted to WFWV (with approval of the

Governor) by WIOA and its implementing regulations.

**Step 6: WFWV (with the Governor’s approval) calculates statewide caps.** Once WFWV has created a cost allocation methodology, WFWV then must calculate the statewide caps to determine the maximum amounts that required partner programs could be *required* to contribute toward infrastructure funding in that Local Area. There are no statewide caps for additional partners because the SFM does not apply to them.

The statewide caps are a statutory requirement for purposes of the SFM, even when only one Local Area is unable to reach consensus on an IFA through the LFM. However, the caps only restrict those infrastructure cost contributions required by one-stop partners within the Local Area(s) that has (or have) not reached consensus. The caps used in the application of the SFM are referred to as the applicable program caps, which must be calculated by WFWV using the five sub-steps listed below.

In the event that more than one Local Area in a State does not reach consensus, then the aggregate of the infrastructure funding costs that must be contributed by each required one-stop partner in all of the Local Areas that did not reach consensus is restricted by the applicable program cap.

- For example, if three of ten Local Areas did not reach consensus, then the required infrastructure funding contributions of each required one-stop partner under a particular program in these three areas would be added together, the sum of which could not exceed the calculated applicable program cap.

WFWV (with the Governor’s approval) must take five sub-steps to calculate the applicable program cap for any given program.

Sub-Step 1:	WFWV must apply a partner’s individual applicable limiting percentage (the statutory percentages listed in WIOA sec. 121(h)(2)(d))—which is dependent on the type of program (see chart below)—to the total Federal funding which that program receives for the affected program year to reach the maximum potential cap (MPC). The applicable limiting percentage for a program is listed in Attachment 2 and in WIOA sec. 121(h)(2)(d), 20 CFR 678.738(c), 34 CFR 361.738(c), and 34 CFR 463.738(c). Some programs will use previous years’ funding to determine the cap due to internal program funding allocation or reallocation methods.
Sub-Step 2:	WFWV must select a determining factor or factors that reasonably indicate the use of one-stop centers in the State. This will be the percentage of Title I-B and Title III funding each Local Area
Sub-Step 3:	WFWV applies the determining factor(s) to <i>all</i> Local Areas across the State, and then determines the percentage of the factor(s) that is applicable to those areas that reached consensus, or the consensus areas’ factor percentage.

Sub-Step 4:	WFWV then applies the consensus areas' factor percentage to the MPC to find the consensus areas' portion of the MPC.
Sub-Step 5:	WFWV subtracts the amount equal to the consensus Local Areas' portion of the MPC from the MPC. The remaining amount is the applicable program cap for use in the Local Areas that have not reached consensus and are subject to the SFM.

**Step 7: WFWV (with the Governor's approval) assesses the aggregate total of infrastructure contributions as it relates to the statewide cap.** Once has determined the applicable program cap for each program, as well as the proportionate share of the infrastructure costs that WFWV has determined under Step 5 would be required of each local required one-stop partner in a non-consensus area without regard to the cap, WFWV must ensure that the funds required to be contributed by each partner program in the non-consensus Local Area(s), in aggregate, do not exceed the applicable program cap.

If the aggregate total contributions are below the applicable program cap, then WFWV must direct the one-stop partners to contribute what was determined to be their proportionate shares. If the aggregate total contributions exceed the cap, then WFWV may either:

- Inquire as to whether those local partner programs that have pushed the aggregate total contributions above the applicable program cap (i.e., those whose contributions would have otherwise exceeded the Statewide cap on contributions) are willing to contribute beyond the applicable program cap in accordance with their proportionate share; or
- Allow the Local WDB, one-stop partners, and CEO(s) to:
  - Re-enter negotiations to reassess each one-stop partner's proportionate share and make adjustments and identify alternate sources of funding to make up the difference between the capped amount and the proportionate share of infrastructure funding of the one-stop partner; and
  - Reduce infrastructure costs to reflect the amount of funds available without exceeding the applicable program cap level.

**Step 8: WFWV (with the Governor's approval) adjusts proportionate shares.** WFWV must make adjustments to specific local partners' proportionate share in accordance with the amounts available under the applicable program cap for the associated program, if the Local WDB, CEO(s), and the required one-stop partners fail to reach agreement on how to address the situation in which the proportionate share exceeds the cap using the approaches described in Step 7. The aggregate total contribution of a program's local one-stop partners under the SFM may not exceed the applicable program cap.

Statewide Caps on Proportionate Share (Only if Governor needs to determine Local share)

**WIOA formula programs and Wagner-Peyser Act Employment Service:** The portion of funds required to be contributed under the WIOA youth, adult, or dislocated worker programs, or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) must not exceed 3% of the amount of the program in the State for a program year.

**For other required Job Center partners:** The portion of funds required to be contributed must not exceed 1.5% of the amount of Federal funds provided to carry out that program in the State for a fiscal year.

**Carl D. Perkins Career and Technical Education Act of 2006:** The cap on contributions is determined based on the funds made available by the State for postsecondary level programs and activities of the Carl D. Perkins Career and Technical Education Act and the amount of Perkins Act funds used by the State during the prior year to administer postsecondary level programs and activities, as applicable.

**Vocational rehabilitation:** Within a State, for the entity or entities administering programs, the allotment is based on the one State Federal fiscal year allotment, even in instances where that allotment is shared between two State agencies, and the cumulative portion of funds required to be contributed must not exceed:

- 0.75% of the amount of Federal funds provided to carry out such program in the State for the current Fiscal Year for purposes of applicability of the State funding mechanism for the next program year (1<sup>st</sup> Year);
- 1% of the amount provided to carry out such program in the State for the current Fiscal Year for purposes of applicability of the State funding mechanism for the next program year (2<sup>nd</sup> Year);
- 1.25% of the amount provided to carry out such program in the State for the current Fiscal Year for purposes of applicability of the State funding mechanism for the next program year (3<sup>rd</sup> Year);
- 1.5% of the amount provided to carry out such program in the State for the current Fiscal Year and following years for purposes of applicability of the State funding mechanism for the next program year and subsequent years (4<sup>th</sup> Year and beyond).

**TANF programs:** The cap on contributions is determined based on the total Federal TANF funds expended by the State for work, education, and training activities during the prior Federal fiscal year (as reported to the Department of Health and Human Services (HHS) on the quarterly TANF Financial Report form). Also include any additional amount of Federal TANF funds that the State TANF agency reasonably determines was expended for administrative costs in connection with these activities but that was separately reported to HHS. The State's contribution to the one-stop infrastructure must not exceed 1.5% of

these combined expenditures.

**Community Services Block Grant (CSBG) programs:** The cap on contributions will be based on the total amount of CSBG funds determined by the State to have been expended by Local CSBG-eligible entities for the provision of employment and training activities during the prior Federal fiscal year for which information is available (as reported to HHS on the CSBG Annual Report). Also include any additional amount that the State CSBG agency reasonably determines was expended for administrative purposes in connection with these activities but was separately reported to HHS. The State's contribution must not exceed 1.5% of these combined expenditures.