

ARIZONA@WORK Job Center MOU and Infrastructure Costs Policy

**05-2016** **ARIZONA@WORK Job Center MOU and Infrastructure Costs**

**ISSUING AGENCY:** State Workforce Development Board

**SCOPE:** **Workforce Arizona Council**, ~~State Workforce Development Board~~, Arizona Department of Economic Security, Arizona Department of Education, Arizona Commerce Authority - Office of Economic Opportunity, Local Workforce Development Boards, Local Workforce Administrative Entities, ~~One-Stop Operators~~, and Workforce System Stakeholders

**REFERENCES:** Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, (Pub. L. 113-128); WIOA Final Regulations, 20 CFR Part 678 Description of the One-Stop System Under Title I of the WIOA; 2 CFR 200, Uniform Guidance for Federal Financial Assistance, as applicable.

**EFFECTIVE DATE:** **August X, 2017**

**OBJECTIVE:** This policy provides local workforce development boards and other workforce system partners with instruction and guidance regarding the administration of ARIZONA@WORK Job Center Service Delivery system. Note: The term one-stop delivery system is used interchangeably with ARIZONA@WORK Job Center service delivery system.

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**I. DEFINITIONS**

The **One-Stop Delivery System** brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving assistance. One-stop partners administer separately funded programs as a set of integrated streamlined services to job seeker and employer customers. (20 CFR 678.300)

American Job Centers, also referred to as the one-stop delivery system, are known as **ARIZONA@WORK Job Centers**.

**State Workforce Development Board** is called the **Workforce Arizona Council (WAC)**. **Arizona Commerce Authority - Office of Economic Opportunity serves as staff to the WAC.**

**State Administrative Entity** is the Arizona Department of Economic Security for WIOA Title I, III, and IV funds and the Arizona Department of Education for WIOA Title II funds.

**Limiting Percentage:** The statutory percentages listed in WIOA sec. 121(h)(2)(d) that are applied to the total Federal funds received by a specific program in order to calculate the cap.

**Maximum Potential Cap (MPC):** The maximum amount that a program cap can be, only applicable if every Local Area within a State falls under the State funding mechanism.

**Determining Factor:** The factor used by Governor to reasonably indicate the use of one-stop centers.

**Consensus Area Factor Percentage:** The percentage of the determining factor that can be attributed to Local Areas which reach consensus.

## II. Memorandum of Understanding for the One-Stop Delivery System

- A. The memorandum of understanding (MOU) is an agreement relating to the operation of the one-stop delivery system in the local area. The Local Board develops the MOU through local discussion and negotiation, and executes the agreement between the Local Board, the chief elected official, and the one-stop partners. Two or more local areas in a region may develop a single joint MOU, if they are in a region that has submitted a regional plan under sec. 106 of WIOA. (20 CFR 678.500)
1. A single "umbrella" MOU may be developed that addresses the issues relating to the local one-stop delivery system for the Local Board, chief elected official and all partners. Alternatively, the Local Board (with agreement of chief elected official) may enter into separate agreements between each partner or groups of partners. (20 CFR 678.505)
  2. Since funds are generally appropriated annually, the Local Board may negotiate financial agreements with each partner annually to update funding of services and operating costs of the system under the MOU.
  3. The MOU, whether an umbrella MOU or separate partner agreements, must include (20 CFR 678.500b):
    - a. A detailed description of services to be provided through the one-stop delivery system, including the manner in which the services will be coordinated and delivered through all components of the system;
    - b. A final plan, or an interim plan if needed, on how the costs of the services and the operating costs of the system will be funded, including:
      - i. Funding of infrastructure costs of one-stop centers in accordance with §§ 678.700 through 678.755; and
      - ii. Funding of the shared services and operating costs of the one-stop delivery system described in § 678.760;

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- c. Methods for referring individuals between the one-stop operators and partners for appropriate services and activities;
  - d. Methods to ensure that the needs of workers, youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in providing access to services, including access to technology and materials that are available through the one-stop delivery system;
  - e. The duration of the MOU and procedures for amending it;
  - f. Assurances that each MOU will be reviewed, and if substantial changes have occurred, renewed, not less than once every 3-year period to ensure appropriate funding and delivery of services; and
  - g. Any other provisions agreed to by the parties that are consistent with WIOA title I, the authorizing statutes and regulations of one-stop partner programs, and the WIOA regulations. (WIOA sec. 121(c).) This includes personnel rules and regulations and collective bargaining agreements of the respective partner entities.
4. When fully executed, the MOU must contain the signatures of the Local Board, one-stop partners, the chief elected official(s), and the time period in which the agreement is effective.
5. The MOU must be updated not less than every 3 years to reflect any changes in the signatory official of the Board, one-stop partners, and chief elected officials, or one-stop infrastructure funding. If a one-stop partner appeal to the State regarding infrastructure costs results in a change to the one stop partner's infrastructure cost contributions, the MOU must be updated to reflect the final one-stop partner infrastructure cost contributions.

**III. MOU Development Process**

- A.** The MOU is a product of local discussions and good-faith negotiations between Local Workforce Development Boards, chief elected officials, and one-stop partners and should reflect the full and effective partnerships of these partners. (20 CFR 678.510)
- 1. Local Workforce Development Boards, chief elected officials, and one-stop partners may also request assistance from a State agency responsible for administering the partner program, the Governor, State Board, or other appropriate parties on other aspects of the MOU.
  - 2. Local Workforce Development Boards and one-stop partners must establish, in the MOU, a final plan for how the Local Board and programs will fund the infrastructure costs of the one-stop centers. If a final plan regarding infrastructure costs is not complete when other sections of the MOU are ready, an interim infrastructure funding agreement, including as much detail as the Local Board has negotiated with one-stop partners, may be included instead (20 CFR 678.715(c)).
    - a. The interim infrastructure agreement must be finalized within 6 months of when the MOU is signed. If the interim infrastructure agreement is not finalized within that timeframe, the Local Board must notify the Governor (20 CFR 678.725).



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1. The infrastructure costs are funded through cash and fairly evaluated in-kind partner contributions and include any 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 (20 CFR 678.715);
2. Contributions must be negotiated between one-stop partners, chief elected officials, and the Local Board and the amount to be contributed must be included in the MOU;
3. The one-stop partner program's proportionate share of funding must be calculated in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 based upon a reasonable cost allocation methodology whereby infrastructure costs are charged to each partner in proportion to relative benefits received, and must be allowable, reasonable, necessary, and allocable;
4. Partner shares must be periodically reviewed and reconciled against actual costs incurred, and adjusted to ensure that actual costs charged to any one-stop partners are proportionate and equitable to the benefit received by the one-stop partners and their respective programs or activities.

#### V. State-Funding Mechanism for Infrastructure Costs

- A. If the LWDB, chief elected officials, and one-stop partners in a local area do not reach consensus on methods of sufficiently funding local infrastructure costs through the local funding mechanism in accordance with section IV. A-C of this policy and include that consensus agreement in the signed MOU, then the LWDB must notify the Governor, the WAC, and the Superintendent of Education in writing at least 60 days prior to the required date of execution for the MOU (678.725).
- B. Once notified, the WAC staff will apply the State funding mechanism, as described in this policy, for the program year impacted by the local area's failure to reach consensus and make a recommendation to the Governor and the Superintendent of Education, who must administer funding through the State funding mechanism.
  1. The State funding mechanism applies to allocation of infrastructure costs only as defined in section IV.A of this policy. The State funding mechanism is not used to determine partner contributions related to additional costs including career services, shared operating costs, and shared services.
  2. The Superintendent of Education, in consultation with the Governor, will make the determination of the amount each of the applicable partners must contribute to assist in paying the infrastructure costs of one-stop centers with respect to the funds provided for adult education and literacy activities authorized under title II of WIOA, and postsecondary career and technical education activities authorized

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under the Carl D. Perkins Career and Technical Education Act of 2006 (678.730 c.2).

3. The appropriate portion of funds to be provided by Native American program grantees to pay for one-stop infrastructure must be determined as part of the development of the MOU described in section III of this policy and specified in that MOU. The State funding mechanism will not determine the contribution amounts for infrastructure funds for Native American program grantees described in part 684 of the WIOA Final rules (678.730 c.).
- C. The LWDB must provide the Governor and the Superintendent of Education with local negotiation materials including (678.735 a):
1. The most recent version of the ARIZONA@WORK Infrastructure Funding Agreement template with attachments A through D related to infrastructure costs;
  2. The cost allocation method being used to determine proportionate use and relative benefit as proposed by the partners;
  3. Any back up documentation or calculations related to attachment A through D in the ARIZONA@WORK Infrastructure Funding Agreement template;
  4. The amount of total partner funds included and the type of funds or non-cash contributions;
  5. A brief written description of the areas of agreement and disagreement related to the allocation of infrastructure funding costs as currently proposed by the partners.
- D. Based on the materials provided, an infrastructure budget will be created for use in the State funding mechanism based on the following:
1. If the infrastructure budget submitted by the LWDB in section V.C of this policy has been agreed to by all of the partners so that only the individual programmatic contributions to infrastructure funding based upon proportionate use of the one-stop centers and relative benefit received are at issue, the State funding mechanism will use this budget to calculate each partner's contribution; or
  2. If the infrastructure budget submitted by the LWDB in section V.C of this policy has not been agreed to by all of the partners, the WAC staff will consult with the LWDB to determine the areas of disagreement and solutions proposed by those in disagreement and the reasons supporting the alternative budget. The State funding mechanism will be calculated based on multiple budgets to determine which budget option is most reasonable, supported by documentation of the costs, and is congruent with the requirements of WIOA.

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3. ARIZONA@WORK Job Center partners 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).
- E. Under the State funding formula, all required one-stop partners must contribute to infrastructure costs of the one-stop centers based on proportionate use and relative benefits received. The measure used to determine proportionate use and relative benefits received to each ARIZONA@WORK Job Center partner is based upon the “percentage of each co-located ARIZONA@WORK Job Center partner’s occupancy” in each ARIZONA@WORK Job Center location.
1. Required ARIZONA@WORK Job Center partners’ shares in infrastructure costs must be necessary, reasonable, and allocable to their program based upon relative benefits received. Only those ARIZONA@WORK Job Center partners who are physically co-located in the ARIZONA@WORK Job Centers (either full-time or part-time) are required to contribute to infrastructure costs at this time.
  2. ARIZONA@WORK Job Center partners who are not physically co-located in the ARIZONA@WORK Job Centers may also be receiving benefit from the ARIZONA@WORK system. However, until there is a statewide data tracking system that can provide accurate and reliable data for allocating the benefit received, partners that are not co-located at an ARIZONA@WORK Job Center are not included in the State funding formula.
- F. The WAC staff will review the proportionate share of infrastructure costs allocated to each co-located partner submitted to the Governor and State Superintendent of Education to determine if the formula has been applied accurately. If the proportionate shares submitted by the LWDB in section V.C of this policy have not been agreed to by all of the partners, the WAC staff will consult with the LWDB to determine the areas of disagreement and solutions proposed by those in disagreement and the reasons supporting the alternative budget. The State funding mechanism will be calculated based on multiple proportionate shares to determine which option is most reasonable, supported by the documented data, and is congruent with the requirements of WIOA.
- G. The Statewide funding mechanism is used to calculate the statewide caps to determine the maximum amounts that required partners could be required to contribute toward infrastructure costs.
1. There are no statewide caps for additional partners, because the State funding mechanism does not apply to them.

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2. The caps only restrict those partners in Local Areas which could not reach consensus in the local funding mechanism negotiations.
3. If more than one local area in a State falls under the State funding mechanism, it is the aggregate of the infrastructure cost contributions for each required partner in these local areas that is restricted by the caps.
4. The Statewide cap will be calculated using the following steps:
  - a. Determine the Maximum Potential Cap (MPC) for each program by multiplying the total Federal funding the State receives for the program in the affected program year by the limiting percentage as determined by program statute. The limiting percentages are as follows:
    - i. WIOA title I programs (youth, adult, or dislocated worker) - 3%
    - ii. Wagner-Peyser Act Employment Service - 3%
    - iii. Adult Education and Family Literacy Act (AEFLA) - 1.5%
    - iv. Perkins IV - 1.5% of funds made available to postsecondary level programs and activities, as well as funds used to administer postsecondary level programs and activities, in the prior year.
    - v. Vocational Rehabilitation - build from 0.75% of the previous year's Federal funding in Program Year 2017, to 1.5% in Program Year 2020 (and subsequent years)
    - vi. Community Services Block Grant (CSBG) - 1.5% of funds from the previous year spent by local CSBG-eligible entities to provide employment and training activities, plus any associated administrative costs.
    - vii. YouthBuild; Job Corps; NFJP programs; SCSEP; TAA; Unemployment Compensation; HUD employment and training programs; and programs authorized under sec. 212 of the Second Chance Act of 2007 - 1.5%.
  - b. Select a determining factor to indicate the potential use of ARIZONA@WORK Job Centers across Arizona. The determining factor for Arizona will be the total population of adults 18 and over plus the total youth ages 16 and 17 who have dropped out of school for each local area. The State will use the data for the most recent available year from a reliable, standard data source such as the American Community Survey and school dropout data from the Arizona Department of Education.
  - c. Calculate the total population of adults 18 and over for each local area. Calculate the total population of adults 18 and over for all of the areas that reached consensus on infrastructure cost allocation as a percentage of the total Arizona population of adults 18 and over. This calculation is called the consensus areas' factor percentage.

- d. Multiply the consensus areas' factor percentage by the Maximum Potential Cap calculated in section V.4.a of this policy. This represents the portion of the Maximum Potential Cap attributable to the local areas that reached consensus.
  - e. Subtract the Maximum Potential Cap attributable to the local areas that reached consensus from the Maximum Potential Cap calculated in section V.4.a of this policy. The result is the maximum amount each partner can be required to spend on the infrastructure costs in the local areas that did not reach consensus.
- H. The Governor must ensure the proportionate share of the infrastructure costs that the State funding formula has determined would be required of each local partner in a non-consensus area does not exceed the applicable statewide program cap.
1. If the aggregate total contributions exceed the cap, the Governor may:
    - a. Inquire whether those local partner programs whose aggregate total contributions exceed the applicable program cap are willing to contribute beyond the applicable program cap up to their proportionate share. The statewide caps only apply to how much the Governor can require partners to contribute. Partners are allowed to contribute beyond the cap amounts, as long as they adhere to the principle of proportionate share. Or,
    - b. Allow the LWDB, one-stop partners, and CEO(s) to re-enter negotiations to reassess each one-stop partner's proportionate share, 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.
    - c. If the LWDB, CEO(s), and the required one-stop partners fail to reach agreement on how to address exceeding the cap, the Governor and Superintendent of Education must make adjustments to specific local partners' proportionate share, and thus the services provided, in accordance with the amount available under the cap.
  - I. In accordance with WIOA 121(h)(2)(E), if a one-stop partner wishes to appeal the Governor's determination regarding the partner's portion of funds to be provided for one-stop infrastructure costs, the partner may submit a written appeal to the WAC within 30 days of the Governor's determination. Appeals submitted after this time will not be considered.

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The appeal may be made on the grounds that the Governor’s determination is inconsistent with proportionate share requirements in 678.735(a), the cost contribution limitations in 678.735(b), or the cost contribution caps in 678.735(c). The appealing entity must explain why it believes the determination is contrary to the provisions of WIOA 121(h)(2)(E). No other cause for appeal will be considered. The WAC must consider and respond in writing to such an appeal within 30 days of its receipt.

**CONTACT ENTITY:** Inquiries regarding this policy should be directed to the Workforce Arizona Council Manager at [Ashley.Wilhelm@oeo.az.gov](mailto:Ashley.Wilhelm@oeo.az.gov) or 602-771-0482 or the Arizona State Director of Adult Education at [Sheryl.Hart@azed.gov](mailto:Sheryl.Hart@azed.gov).