

## **RSA: One-Stop Infrastructure Costs Frequently-Asked Questions (12.27.2016)**

### **1. What is the deadline for entering into a Memorandum of Understanding between the Local Workforce Development Board and one-stop partners?**

In order to have a Memorandum of Understanding (MOU) in place for Program Year (PY) 2017, which begins on July 1, 2017, the Local Workforce Development Board (Local WDB) and one-stop partners must enter into a MOU that aligns with the requirements of WIOA — except for the final infrastructure funding agreement (IFA) — by June 30, 2017.

### **2. What is the deadline for finalizing infrastructure funding agreements for Program Year 2017?**

The U.S. Department of Labor is using the transition authority of WIOA sec. 503(b) to provide an extension for the implementation date of the final IFAs for PY 2017. With this extension, final IFAs must be in place no later than January 1, 2018. However, Governors have the discretion to require local areas to enter into final IFAs at any time between July 1, 2017, and January 1, 2018. During the extension period, local areas may use the funding agreement they used for PY 2016, with any such modifications as the partners may agree to, to fund infrastructure costs in the local area. During the extension period, the regulations at 20 CFR 678.715(c) and 678.510(b) providing for a six month interim IFA shall not apply. This extension does not change the deadline of July 1, 2017, for the rest of the MOU.

While one required component of a MOU is the IFA, the Departments realize additional time is needed for local areas to negotiate and reach consensus on the one-stop partners' contributions for infrastructure costs for PY 2017. Also, States may need additional time to develop and implement the State Funding Mechanism (SFM) that is to be applied to those local areas that are unable to reach a consensus agreement on infrastructure costs in the IFA. In order to implement the SFM, the Governor must be notified of all the local areas in the State that are not able to reach consensus in order to calculate the caps on infrastructure spending applicable to each partner program (20 CFR 678.730(b)(3), 34 CFR 361.730(b)(3), and 34 CFR 463.730(b)(3)). The statewide caps used in the SFM are the aggregate amounts available for each partner program for all local areas in the State that could not reach consensus with respect to funding the one-stop system's infrastructure costs (20 CFR 678.731(b)(5)-(6) and 678.738, 34 CFR 361.731(b)(5)-(6) and 361.738, and 34 CFR 463.731(b)(5)-(6) and 463.738). They are not separate caps for the program in each local area. Therefore, the expectation is that the Governor will establish the notification deadline for local areas unable to reach consensus sufficiently in advance of when the IFA needs to be finalized so the SFM may be implemented, including calculating and applying the statewide caps, if necessary.

### **3. What are the required elements of an infrastructure funding agreement?**

The jointly-administered regulations at 20 CFR 678.755, 34 CFR 361.755, and 34 CFR 463.755 require IFAs to include the following:

- a. The period of time in which the IFA is effective (which may be a different time period than the duration of the MOU);
- b. Identification of the infrastructure costs budget, which is a component of the overall one-stop operating budget;

- c. Identification of all one-stop partners, chief elected officials (CEOs), and the Local WDB participating in the IFA;
- d. A description of the periodic modification and review process to ensure equitable benefit among one-stop partners;
- e. Information on the steps the Local WDB, CEOs, and one-stop partners used to reach consensus or the assurance that the local area followed the SFM process; and
- f. A description of the process to be used among partners to resolve issues related to infrastructure funding during the MOU duration period when consensus cannot be reached.

The Departments also consider it essential that the IFA include the signatures of individuals with authority to bind the signatories to the IFA, including all one-stop partners, CEO, and Local WDB participating in the IFA.

#### 4. How does the infrastructure funding agreement relate to the overall one-stop operating budget?

The IFA contains the infrastructure costs budget, which is one of several integral components of the one-stop operating budget. The other components of the one-stop operating budget are considered “additional costs,” which must include applicable career services, and may include shared operating costs and shared services. While each of these components covers different cost categories, an operating budget would be incomplete if any of these were omitted because funding infrastructure costs as well as additional costs is necessary to maintain a fully functioning and successful local one-stop delivery system. Therefore, the Departments strongly recommend that the Local WDBs, one-stop partners, and CEOs negotiate the IFA and additional cost funding together when developing the operating budget for the local one-stop system. The overall one-stop operating budget must be included in the MOU.

the SFM. This means the SFM will not be triggered due to a failure by the required partners to reach consensus on additional cost funding or by a failure of any additional partners to join the consensus regarding the terms of the IFA. When implementing the SFM to determine partner contributions to cover the one-stop center’s infrastructure costs component, the Governor should consider the local area’s infrastructure cost needs in light of the additional costs included in the local one-stop operating budget (e.g., applicable career services costs, shared operating costs, and the cost of shared services). This should be done while making the determinations necessary to complete the IFA according to 20 CFR 678.730 - 678.745, 34 CFR 361.730 - 361.745, and 34 CFR 463.730 - 463.745, and should ensure that the infrastructure costs are sufficient to support the services that the one-stop center will provide. However, it is important to note that the Governor’s determinations under the SFM pertain only to the infrastructure costs, and not to any of the additional costs components. The Governor’s consideration of these other components of the overall local one-stop operating budget is simply to provide a context for the Governor when determining infrastructure costs under the SFM.

## 5. What are infrastructure costs? What are the distinctions between “non-personnel” costs and “personnel” costs?

Infrastructure costs are *non-personnel* costs that are necessary for the general operation of the one-stop center, which may include: rental of the facilities; utilities and maintenance; equipment (including assessment-related and assistive technology for individuals with disabilities); and technology to facilitate access to the one-stop center, including technology used for the center’s planning and outreach activities. This may also include the costs associated with the development and use of the common identifier (i.e., American Job Center signage) and supplies, as defined in the Uniform Guidance at 2 CFR 200.94, to support the general operation of the one-stop center (WIOA sec. 121(h)(4) and 20 CFR 678.700(a), 34 CFR 361.700(a), and 34 CFR 463.700(a)).

Non-personnel costs are all costs that are not compensation for personnel costs. For example, technology-related services performed by vendors or contractors are non-personnel costs and may be identified as infrastructure costs if they are necessary for the general operation of the one-stop center. Such costs would include service contracts with vendors or contractors, equipment, and supplies.

Personnel services include salaries, wages, and fringe benefits of the employees of partner programs or their subrecipients, as described in 2 CFR 200.430 - 200.431 of the Uniform Guidance. For example, allocable salary and fringe costs of partner program staff who work on information technology systems (e.g., common performance and reporting outcomes) for use by the one-stop center as a whole would be personnel costs. The cost of a shared welcome desk or greeter directing employers and customers to the services or staff that are available in that one-stop center is a personnel expense. These costs, therefore, could not be included in infrastructure costs but are included in “additional costs.”

## 6. Which WIOA one-stop partner programs are required to contribute towards one-stop infrastructure costs?

All required partners that carry out their program in the local area must contribute toward infrastructure costs based on their proportionate use of the one-stop delivery centers and relative benefits received. (WIOA sec. 121(b) and 121(h); 20 CFR 678.400, 678.410, 678.415, and 678.700(c); 34 CFR 361.400, 361.410, 361.415, and 361.700(c); and 34 CFR 463.400, 463.410, 463.415, and 463.700(c)). Additional partners, which are any local one-stop partner programs that are not listed as required partner programs, also must contribute to infrastructure costs in the local areas in which they are partners. However, the SFM is only applicable to required one-stop partners. This means that additional partners cannot trigger the SFM by not joining in the overall consensus regarding the terms of the IFA, nor are they subject to the SFM if it is triggered. Although WIOA does not subject the additional partners to the Governor’s determination of required partners’ infrastructure cost contributions under the SFM, the additional partners must contribute toward infrastructure costs in accordance with the program’s proportionate use and relative benefit received, consistent with the Uniform Guidance at 2 CFR 200.405.

Native American programs (described in WIOA sec. 166), as required one-stop partners, are strongly encouraged to contribute to infrastructure costs, but they are not required to make such contributions under WIOA. Any agreement regarding the contribution or non-contribution to infrastructure costs by Native American programs must be documented in the MOU. Further, if made, these contributions must be in proportion to the program's proportionate use and relative benefits received, consistent with the Uniform Guidance. The Native American programs cannot trigger the SFM, nor are they subject to the SFM.

**7. Do the infrastructure requirements and methodologies apply to comprehensive and affiliate one-stop centers? Is a separate infrastructure funding agreement needed for each center?**

The requirements that govern infrastructure costs apply to each one-stop center in the local delivery system, whether the center is a comprehensive, affiliate, or specialized one-stop center. All one-stop partners, whether they are required partners or additional partners — except as discussed above concerning Native American programs — must contribute to the infrastructure cost funding of the one-stop centers based on proportionate use and relative benefits received. The required one-stop partners must provide access to their programs in the comprehensive one-stop centers and contribute to the infrastructure costs of those centers. Only those one-stop partners that participate in the affiliate one-stop centers are required to contribute to the infrastructure costs for those centers. As with MOUs, the Local WDB may negotiate an umbrella IFA or individual IFAs for one or more of its one-stop centers.

**8. Can the Governor require a one-stop partner program (administered by outside entity or outside the Governor's authority) to contribute if the SFM is triggered? Can such a program appeal?**

To put the question more precisely: If a required one-stop partner program administered by an entity outside the control or authority of the Governor does not want to contribute towards infrastructure costs, or disagrees on the appropriate amount to contribute, and the State Funding Mechanism is triggered, can the Governor require this program to make a specific financial contribution? Can the program file an appeal?

Under the SFM, the Governor has authority to determine the financial contribution of all required one-stop partners toward infrastructure costs in accordance with 20 CFR 678.725 – 678.738, 34 CFR 361.725 – 361.738, and 34 CFR 463.725 – 463.738. For the Adult Education and Family Literacy Act (AEFLA) program, the State Vocational Rehabilitation (VR) program, and postsecondary career and technical education activities under the Carl D. Perkins Career and Technical Education Act, as specified in 20 CFR 678.730(c)(2), in States in which the policymaking authority is placed in an entity or official that is independent of the authority of the Governor, the determination of the amount each of these programs must contribute toward infrastructure costs must be made by the official or chief officer of the entity with policymaking authority, in consultation with the Governor (see also 34 CFR 361.730(c)(2) and 34 CFR 463.730(c)(2)). Programs may appeal the Governor's determinations of their infrastructure

cost contributions — or those determinations made, in certain cases, by the applicable official or chief officer — in accordance with the process established under 20 CFR 678.750, 34 CFR 361.750, and 34 CFR 463.750.

#### 9. What are non-cash contributions and how are they valued?

Non-cash contributions are expenditures incurred by one-stop partners on behalf of the one-stop center and goods or services contributed by a partner program and used by the one-stop center. The value of non-cash contributions must be consistent with 2 CFR 200.306 and reconciled on a regular basis (i.e., monthly or quarterly) to ensure they are fairly evaluated and meet the partners' proportionate share. One way to ensure that non-cash contributions are fairly evaluated is to ensure that the one-stop partners agree on the sources or companies that will be used to assess or appraise the fair market value or fair rental value of non-cash contributions (2 CFR 200.306).

**Example 1:** For Program Year (PY) 2017, a partner's proportionate use of the one-stop center results in a contribution of \$15,000. The partner does not have sufficient cash resources to fully fund its share and wishes to donate to the one-stop center (not for its own individual use) gently used surplus office furniture. The furniture is needed in the one-stop center. The office furniture was purchased in 2015 for \$18,500 using unrestricted or non-Federal funds. The office furniture has a current fair market value of \$10,000 and a depreciated value of \$11,100. In accordance with the requirements specified in the Uniform Guidance at 2 CFR 200.306(d), the value of the contribution must be the lesser of the current fair market value or the value of the remaining life of the property as recorded in the partner's accounting records at the time of donation unless approval has been granted, by the Federal awarding agency, in accordance with 2 CFR 200.306(d)(2). The partner would be able to count the \$10,000 value as part of its \$15,000 contribution and would be required to use additional resources for the remaining \$5,000 balance of its share. This one-time contribution is recognized by the partner during the year in which the contribution is made.

**Example 2:** In the same example as above, the partner does not donate the gently used office furniture but loans it for general use by partners at the one-stop center. The office furniture is on a five-year depreciation schedule. The annual depreciation is \$3,700 and the annual fair rental value is \$3,500. In accordance with 2 CFR 200.306(i)(4), the partner may count \$3,500 as part of its contribution for that year. As with any depreciable asset, an assessment of its fair rental value must be done each year in which the equipment is loaned to the one-stop center. The one-stop partners must determine annually whether the one-stop center still requires the use of the office furniture and that this cost is built into the IFA.

#### 10. What are third-party in-kind contributions and how are they valued?

Third-party in-kind contributions are contributions of space, equipment, technology, non-personnel services, or other like items to support the infrastructure costs associated with one-stop operations. The value of third-party in-kind contributions must also be consistent with the Uniform Guidance at 2 CFR 200.306 and reconciled on a regular basis (i.e., monthly or quarterly) to ensure they are fairly evaluated and meet the partners' proportionate share.

There are two types of third-party in-kind contributions: (1) general contributions to one-stop operations (i.e., those not connected to any individual one-stop partner), and (2) those made specifically to a one-stop partner program (20 CFR 678.715, 34 CFR 361.715, and 34 CFR 463.715, and 2 CFR 200.306).

**Example 1:** For PY 2017, a county government that is not a one-stop partner, has space in a vacant building and would like to donate the space for use as a one-stop center. This in-kind contribution would not be associated with one specific partner, but rather would go to support the one-stop center generally and would be factored into the underlying budget and cost pools used to determine proportionate share. The value of the donated space by a third party must adhere to the Uniform Guidance at 2 CFR 200.306(i)(3). The annual fair rental value of comparable space in the same locality, as established by an independent appraisal, is \$77,000. As with all non-cash and third-party in-kind contributions, the value at which the space has been appraised is the amount accounted for in the infrastructure budget. The value of the donated space should be assessed again each subsequent year.

The second type of third-party in-kind contribution is a contribution to a specific partner to support that partner's proportionate share of one-stop infrastructure costs. If the contribution was in the one-stop center's budget for infrastructure costs, the partner could then use the value of the third-party in-kind contribution to count toward its proportionate share.

**Example 2:** An employer provides assistive technology equipment to a VR program located in a one-stop center. The acquisition cost for the equipment at the time of purchase by the employer was \$6,800 and, at the time of the donation, the fair market value was assessed as \$4,500. If the assistive technology equipment was in the one-stop center's budget for infrastructure costs, the partner could use the fair market value of the donation toward its contribution. The Uniform Guidance at 2 CFR 200.306(g) requires that the equipment is valued at no more than the fair market value (\$4,500) at the time of donation.

**Example 3:** A local literacy foundation wants to donate gently used computer equipment to the local one-stop center to support the infrastructure cost contribution of the designated AEFLA partner program in the local community. Computer equipment is part of the one-stop operating budget. The fair market value of the computer equipment is valued at \$9,200 at the time of donation. The AEFLA partner program's proportionate use of the one-stop center is determined to be \$12,500. The AEFLA partner program may use the fair market value of this equipment towards its infrastructure cost contribution for that program year. Furthermore, the AEFLA partner program is required to contribute an additional \$3,300 in cash, non-cash, or in-kind contributions from its available resources to pay its remaining share.

#### **11. Will the specific *WIOA* requirements for local agreements for funding the one-stop infrastructure costs apply in PY 2016?**

No. The specific requirements for the local funding agreements, which are related to how the shared and infrastructure costs of the one-stop service delivery system will be paid by the one-stop partners, need not be satisfied in the funding agreements for PY 2016. States and local areas may continue to negotiate local funding agreements as they have been doing so under *Workforce Investment Act (WIA)* for purposes of PY 2016. However, the local funding agreements must satisfy the requirements of section 121(h) of *WIOA* for purposes of funding the one-stop system in PY 2017.

12. What happens if the local areas fail to reach an agreement for funding the one-stop system in PY 2016?

In the event of failure to reach an agreement for funding the one-stop system in PY 2016, the State funding mechanism will not yet be applicable as the alternative, as it will not be implemented until PY 2017. Therefore, if a local area fails to reach an agreement for funding the one-stop system in PY 2016, the one-stop partners must continue to use whatever process they have been using under WIA to resolve disputes for purposes of funding the one-stop system during PY 2016.

13. What can States do now to prepare for implementation of the funding requirements in PY 2017?

The Governor and the State Board should begin developing the guidance to be used by the local areas in negotiating agreements for the funding of the one-stop service delivery system. This guidance should also include the development of a State funding mechanism that will be used in the event that a local area fails to reach an agreement.