



Workforce Innovation and Opportunity Act Policy Letter No. 16-06

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs

I. Purpose

The purpose of this policy is to communicate guidance and parameters for implementation of the state infrastructure funding mechanism when required partners and the local workforce development boards (WDB) cannot reach consensus on funding OhioMeansJobs Center infrastructure costs through the local infrastructure funding mechanism.

II. Effective Date

July 1, 2016

III. Background

Per section 121 (h) of the Workforce Innovation and Opportunity Act (WIOA), states are required to develop an infrastructure funding mechanism that will be implemented by the state to determine and collect each partner's proportionate share of funds for OhioMeansJobs center infrastructure costs when a WDB and local partners in a local workforce development area cannot reach a consensus on infrastructure funding through the local infrastructure funding mechanism.

The state infrastructure funding mechanism must take into consideration the number of centers in the area, the population served, and services provided. It must take into account each local partner's costs for administration of the local workforce development system that are not for purposes related to OhioMeansJobs centers, as well as the statutory requirements for each partner program, all other legal requirements, and the ability of each partner program to fulfill those requirements.

The Ohio Department of Job and Family Services (ODJFS), as the state workforce agency responsible for administration and oversight of WIOA, will provide guidance, technical assistance, and facilitation as needed to local WDBs, chief elected officials, and partners in determining equitable and stable methods of funding the infrastructure costs.

IV. Definitions

Cap on required contributions: The maximum dollar amount a local partner is mandated to contribute under the state infrastructure funding mechanism. Each partner's maximum cap is defined in WIOA section 121(h)(2)(D)(ii) as a specific percentage of the partner's annual federal funding for workforce programs (*i.e.*, education, employment, and training activities delivered using that funding.)

Infrastructure funding: Contributions to pay for nonpersonnel costs necessary to operate an OhioMeansJobs Center, including rent, utilities, maintenance, supplies, equipment, technology to facilitate access, and outreach activities.

Local Memorandum of Understanding (MOU): The agreement resulting from negotiations at the local level that describes the roles and responsibilities of the local WDB and local partners in the operation of the OhioMeansJobs Centers and participation in the local workforce development system. The MOU lists each local partner's proportionate share of infrastructure costs and the costs for shared services as well as other locally negotiated terms.

Non-required partner: An entity voluntarily participating in the local OhioMeansJobs Center system that is not carrying out any of the programs or activities that would mandate such participation under WIOA.

Participating area: A local workforce development area subject to the state infrastructure funding mechanism during a given program year; an area in which the partners failed to complete the local MOU negotiation process for one or more OhioMeansJobs Centers in the area.

Partner: The collective term to reference both required and non-required partners.

Requested contribution: The aggregate annual state infrastructure costs allocable to a required partner based on the MOU budgets from all participating areas where the partner has a presence; a partner's actual cost and benefit received from OhioMeansJobs Center participation within the areas participating in the state infrastructure funding methodology.

Required partner: An entity carrying out programs or activities listed in WIOA section 121(b)(1)(B) which mandate participation in the local OhioMeansJobs Center delivery system.

V. Requirements

A. **Methods for Determining Infrastructure Costs**

Section 121 (h) of WIOA provides two options for determining the partners' proportionate share of infrastructure costs for certified OhioMeansJobs centers located in the workforce development area:

Method 1: Local Funding Mechanism - A local funding methodology is agreed upon by the local board, chief elected official(s), and partners as defined in the local MOU.

Prior to the beginning of each program year, the partners in each local workforce development area will participate in a negotiation process to determine how to fund the costs of the area's certified OhioMeansJobs Center(s) in the upcoming program year. ODJFS will provide guidance and technical assistance to the partners to facilitate the MOU negotiation process. The MOU describing the locally-defined funding method and total costs signed by the partners, WDB, and chief elected official(s), must be submitted to the state workforce agency by May 31 for the subsequent program year beginning on July 1.

Method 2: State Infrastructure Funding Mechanism - If no consensus agreement is reached using the local infrastructure funding method, the state infrastructure funding mechanism will be implemented.

When ODJFS receives notice from WDB that it, the chief elected official(s), and area partners are unable to reach consensus on the funding of infrastructure costs, ODJFS, in consultation with state-level partner agencies, will provide local mediation and negotiation assistance to help the area reach consensus under the local infrastructure mechanism. If consensus still cannot be reached, the state infrastructure funding mechanism will be implemented.

Areas that have not submitted a signed MOU for the upcoming state fiscal year (beginning July 1) by May 31, or have not notified ODJFS that consensus has been reached on funding the OhioMeansJobs Center costs by May 31, will be considered to have failed the local infrastructure mechanism. These areas will be subject to the state infrastructure funding mechanism.

B. **State Infrastructure Funding Formula**

For each local workforce development area subject to the state infrastructure funding mechanism, ODJFS will calculate the total amount

payable by each required partner in a participating area, using the following methodology:

1. **Identification of negotiated infrastructure costs:** ODJFS will identify the infrastructure costs and each partner's share of those costs from the most recent MOU successfully negotiated by the partners in the participating area.
2. **Infrastructure cost adjustments:** The budget associated with the most recent MOU will be adjusted as described below:
 - A. Personnel costs within the MOU budget will be subtracted from the total cost to be requested from the partners.
 - B. Costs charged to non-required partners and Native American programs will be subtracted from the total amount to be requested from the remaining partners.
 - C. Alternative funding that would defray the costs to partners will be subtracted from the total to be requested from the partners.
 - D. Infrastructure costs may be increased by up to three percent over the most recent MOU budget for each consecutive year the area participates in state infrastructure funding if such cost increases are supported by documentation.
3. **Partner funding requests:** Each required partner will be notified of its aggregate costs in all participating areas in which the partner has a presence. Each partner must notify ODJFS if the requested amount exceeds the cap on required contributions listed in section 121 (h)(2)(D)(ii) of WIOA.
4. **Calculation of allocations:** If any required partner's cap is exceeded and the partner will not voluntarily contribute the requested contribution, the state infrastructure allocations for all participating areas in which that partner has a presence will be reduced proportionately until the total allocations to the participating areas do not exceed the contributions from the required partners. ODJFS will notify each participating area of its final calculated annual state infrastructure funding allocation.

Attachment 1 to this policy – State Infrastructure Funding Methodology – contains more details about the above steps.

E. Allocation Process

Each participating area will receive quarterly allocations for OhioMeansJobs center infrastructure costs. To fund these awards, ODJFS will collect required contributions from each partner with a presence in participating areas at the beginning of each calendar quarter by invoicing the required partners for one-fourth of the partner's annual contribution. Once the funds are collected from the partners, the contribution from each partner will be divided among the participating areas according to the formula for state infrastructure funding, aggregated with the other required partner contributions to that participating area, and issued as a single allocation to the area's WIOA fiscal agent.

Participating areas may draw the allocated state infrastructure funds to pay for actual costs of OhioMeansJobs center operations for line items of expense identified by ODJFS as infrastructure costs in the most recently negotiated MOU. Actual costs must be reported against the allocations using financial system codes established by ODJFS. Participating areas must maintain records documenting their actual costs paid with state infrastructure funding dollars in accordance with the records retention schedule identified in the WIOA subgrant agreement. ODJFS will conduct monitoring to ensure costs are allowable and properly documented.

F. Completion of MOU Negotiation

Implementation of the state infrastructure funding mechanism does not relieve the WDB or partners from the responsibility to negotiate for other required aspects of the local MOU including provision of shared career services, common costs such as costs of intake, assessment, and appraisal of basic service needs, and methods of referral. Personnel costs are excluded from the state infrastructure funding calculation and will need to be negotiated separately among the partners and included along with the state infrastructure funding in the MOU budget.

If the state infrastructure funding allocation amount from a required partner will be less than the infrastructure costs originally budgeted in the MOU for a participating area, partners will be directed to reenter negotiations to resolve the shortage in a manner that is consistent with the laws and regulations that authorize each partner's program. Participating areas must submit a completed MOU signed by all parties and containing all required elements including the resource sharing budget reflecting each partner's contribution under state infrastructure funding and any additional contributions by June 30. Delaying the submission of the MOU may delay the issuance of the state infrastructure funding allocation.

G. Coordination of State Agency Required Partners

At the beginning of each biennium, the state agencies responsible for administration and oversight of required partner programs listed in section 121 (b)(1)(B) of WIOA (state partners) will execute an interagency agreement in which the state partners will ensure that program funds in an amount not to exceed the cap listed in section 121 (h)(2)(D)(ii) of WIOA will be available to pay required contributions in the event that the state infrastructure mechanism has to be implemented for one or more local workforce development areas. If the infrastructure funding mechanism is implemented in any local area, ODJFS will enter into a similar agreement at that time with any required partner receiving its funds directly from a federal agency rather than through a state agency pass-through.

If the infrastructure funding mechanism is implemented in any area, ODJFS will provide state partners with a list of all areas that successfully negotiated MOUs and those that will be subject to the state infrastructure funding mechanism along with the amounts of required contributions needed from each partner for each participating area.

H. Partner Appeals

Partners may appeal the determination of state infrastructure funding contributions on the basis that such determination is inconsistent with this policy or with any part of section 121(h) of WIOA. The appeals process is as follows:

- Within 21 calendar days from the date of receipt of the notice of state infrastructure funding determination, the partner(s) may file an appeal to the State in writing that clearly describes the reason(s) the partner is disputing the required contribution amount calculated under the state infrastructure funding mechanism.
- The State will review the request for appeal.
- The State will notify the partner of its actions in writing within 30 calendar days upon receipt of the appeal.

The flowchart in Attachment 2 illustrates the state infrastructure funding process graphically.

VI. Monitoring

Through the state's monitoring system, program monitors and auditors will review the area's MOU negotiation process during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

VII. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: OWDGRANTS@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, § 121, Public Law 113-128.

NPRM § 678.700 found at 80 Fed. Reg. No. 73, page 20644 (April 16, 2015) (to be codified at 20 C.F.R. § 678.700).

NPRM § 678.705 found at 80 Fed. Reg. No. 73, page 20644 (April 16, 2015) (to be codified at 20 C.F.R. § 678.705).

NPRM § 678.710 found at 80 Fed. Reg. No. 73, page 20644 (April 16, 2015) (to be codified at 20 C.F.R. § 678.710).

NPRM § 678.715 found at 80 Fed. Reg. No. 73, page 20644-20645 (April 16, 2015) (to be codified at 20 C.F.R. § 678.715).

NPRM § 678.720 found at 80 Fed. Reg. No. 73, page 20645 (April 16, 2015) (to be codified at 20 C.F.R. § 678.720).

NPRM § 678.725 found at 80 Fed. Reg. No. 73, page 20645 (April 16, 2015) (to be codified at 20 C.F.R. § 678.725).

NPRM § 678.730 found at 80 Fed. Reg. No. 73, page 20645 (April 16, 2015) (to be codified at 20 C.F.R. § 678.730).

NPRM § 678.735 found at 80 Fed. Reg. No. 73, page 20645-20646 (April 16, 2015) (to be codified at 20 C.F.R. § 678.735).

NPRM § 678.740 found at 80 Fed. Reg. No. 73, page 20646 (April 16, 2015) (to be codified at 20 C.F.R. § 678.740).

NPRM § 678.745 found at 80 Fed. Reg. No. 73, page 20646 (April 16, 2015) (to be codified at 20 C.F.R. § 678.745).

NPRM § 678.750 found at 80 Fed. Reg. No. 73, page 20646-20647 (April 16, 2015) (to be codified at 20 C.F.R. § 678.750).

NPRM § 678.755 found at 80 Fed. Reg. No. 73, page 20647 (April 16, 2015) (to be codified at 20 C.F.R. § 678.755).

NPRM § 678.760 found at 80 Fed. Reg. No. 73, page 20647 (April 16, 2015) (to be codified at 20 C.F.R. § 678.760).

2 C.F.R. Parts 200 and 2900.

Attachments

Attachment 1: State Infrastructure Funding Methodology

This methodology details the state infrastructure funding formula process summarized in the state policy on infrastructure funding for local workforce development areas that fail to reach a consensus with required partners on funding the infrastructure costs for the operation of OhioMeansJobs Centers. In June of each year, ODJFS, as the state workforce agency, will calculate the amount of infrastructure costs payable by each required partner through the state infrastructure funding mechanism as follows:

1. Identification of negotiated infrastructure costs

For each area subject to the state infrastructure funding mechanism (participating area), ODJFS will identify the infrastructure costs and each required partner's share of those costs from the most recent MOU successfully by the local workforce development boards (WDBs) and partners. This amount will serve as the base for how much will be allocated to the area, subject to adjustments identified below.

If the OhioMeansJobs Centers contained within a local area will change in the subsequent program year due to designation or re-designation of the area, the area's infrastructure costs and partner shares for the upcoming program year will be calculated by summing the most recently negotiated MOU costs in total and by partner for those OhioMeansJobs Center(s) that will be included in the area following designation or re-designation.

If an area wishes to increase infrastructure funding for its OhioMeansJobs Centers, such as to add additional centers, enhance service delivery at greater expense, or expand facility square footage, the area would need to complete a local MOU negotiation with a budget agreed upon by the partners in order to implement such cost increases.

2. Infrastructure cost adjustments

The total infrastructure costs and partner shares identified in the previous step for each OhioMeansJobs Center in each participating area will be adjusted as follows:

- A. Costs of personnel, which are normally identified within the One-Stop Management Cost Pool in the MOU budget, will be subtracted from the state infrastructure funding to be requested from the partners. Personnel costs are not included in state infrastructure funding calculations and therefore must be negotiated separately and collected from partners using local invoicing processes.
- B. Costs charged to non-required partners and Native American programs will be subtracted from the total amount to be requested from remaining partners. Any partner that is providing services through the

OhioMeansJobs centers and therefore receiving a benefit from use of the centers must pay its proportionate share of infrastructure costs. Participating areas must collect payments from non-required partners and Native American programs using local invoicing processes. These contributions will be considered contributions beyond the funding amount allocated to the participating area as state infrastructure funding.

Any new required partners that did not participate in the most recent MOU identified above will be treated as non-required partners and excluded from the state infrastructure funding process until after the participating area successfully completes a local MOU negotiation to include the new partners. Participating areas should collect infrastructure costs from excluded new partners using local invoicing processes.

- C. By May 31, the area shall notify ODJFS of any new alternative funding it plans to use to cover costs of its OhioMeansJobs Centers in the upcoming program year, such as contributions from a county general fund, non-federal funds, philanthropic organizations, fees or donations from private entities, or other financing options meant to defray partner infrastructure costs. ODJFS will reduce each required partner's share of the participating area's infrastructure costs proportionately by the total alternative funding the participating area plans to expend.
- D. For each year that the area participates in state infrastructure funding, the area may request an increase in allocation amount (and in each partner's calculated share) of up to three percent over the most recently negotiated MOU cost. The request for an increase in infrastructure funding must be submitted to the state workforce agency by May 31 for the upcoming state fiscal year and must include documentation of actual annual costs in excess of the current infrastructure funding. If the increase in state infrastructure funding causes any required partner to exceed its cap on required contributions, the partner will not be required to pay more than its statutory cap. The state workforce agency will review the area's request and notify the area of approval or denial of the cost increase amount.

3. Partner funding requests

If one or more local areas failed to complete the local MOU negotiation process, ODJFS will provide written notice to partners having a presence in the participating area(s) that state will collect the partners' shares of infrastructure funding in the upcoming state fiscal year and will include each partner's required contribution in the notice.

Each required partner's cap on required contributions is defined in section 121(h)(2)(D)(ii) of WIOA as a specified percentage of the partner's workforce development funding used for education, employment, and training activities

(which may be less than the total federal funding received for the program.)
The maximum caps pertaining to each program are:

- For the WIOA youth, adult, or dislocated worker programs, no more than 3 percent of Federal funds provided to carry out the program
- For the Wagner-Peyser Act, no more than 3 percent;
- For vocational rehabilitation programs funded under the Rehabilitation Act, no more than 0.75 percent of Federal funds provided in State Fiscal Year (SFY) 2016; 1.0 percent in SFY 2017; 1.25 percent in SFY 2018; and 1.5 percent thereafter.
- For other required partners, no more than 1.5 percent of Federal funds provided to carry out the education or employment and training program in the fiscal year.

If the required contribution exceeds a partner's cap, the partner must notify ODJFS within 30 days that its cap is exceeded. The partner must also provide federal award letters or other documentation verifying its current funding for workforce development activities funded from any programs listed in section 121(b)(1)(B) of WIOA that are administered by the partner. A partner may opt to contribute more than its cap on required contributions and, if this is the case, must notify the ODJFS of the dollar amount in excess of the cap that it will contribute.

ODJFS will also execute agreements with all required partners that have a presence in the participating area(s) other than Native American programs. For local partner programs administered by a state agency, ODJFS will execute an interagency agreement with the state agency, which will represent all local partners. If the infrastructure funding mechanism is implemented in an area, ODJFS will execute agreements with required local partners that receive funding directly from a federal agency or that are not under state-level oversight. The agreements will ensure that required partners will have funding available and will pay their required contributions if ODJFS must implement the state infrastructure funding mechanism for a local area.

Required partners participating in state infrastructure funding will be invoiced quarterly for one-fourth of the annual required contribution calculated for infrastructure costs. For most partners, other than those noted as exceptions in section 121(h)(2)(D)(i)(II) of WIOA, contributions made to state infrastructure funding must be provided only from the funds available for costs of administration under the program and shall be subject to any programmatic limitations on administrative expenditures.

4. Calculation of allocations

If a partner verifies that its cap on required contributions (plus any voluntary contribution) is less than the requested contribution, partners in each participating area will be directed to reenter negotiations to resolve the shortage in a manner that is consistent with the federal laws and regulations that authorize each partner's program.

The state infrastructure funding to each participating area will be reduced proportionately to not exceed the partner's cap (plus voluntary contribution). Each affected area's reduction in state infrastructure funding will equal the total requested contribution in excess of the partner's cap (or cap plus voluntary donation) times the ratio of the area's requested contribution from that partner to the partner's total requested contribution.

For example, if the contribution requested from a partner exceeds the partner's cap plus voluntary donation by \$10,000.00 and a given area's requested infrastructure funding from the partner equals thirty percent of that partner's total requested contribution for all areas participating in state infrastructure funding, the example area's infrastructure funding will be reduced by thirty percent of \$10,000.00, or by \$3,000.00.

In short, the amount to be allocated to each area under this methodology will equal:

- The sum total of infrastructure costs negotiated by the partners in the most recent MOU for the OhioMeansJobs Centers to be included in the participating area in the upcoming year;
- Less the amount of any personnel costs listed in the most recent MOU (which must be negotiated separately and collected locally);
- Less costs attributed to non-required partners or Native American programs (which must be collected locally);
- Less planned alternative funding sources that will be used to defray partner costs;
- Plus an increase of up to three percent for each consecutive year the area participates in state infrastructure funding (if justified by actual cost data);
- Less the proportionate reductions in funding for any required partners whose requested contributions exceeded the cap on required contributions (plus voluntary donation, if any),
- Less any contributions that ODJFS is unable to collect from partners;
- Less the WIOA formula funds in support of local infrastructure funding which are already allocated to the area.

Attachment 2: State Infrastructure Funding Process Flow

OHIO MEANS JOBS CENTER INFRASTRUCTURE FUNDING METHODOLOGY FLOWCHART

