

LOCAL WORKFORCE DELIVERY SYSTEM - MEMORANDUM OF UNDERSTANDING

WORKFORCE SYSTEM POLICY

Local Workforce Delivery System

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Policy Owner: *Pennsylvania Department of Labor & Industry, Bureau of Workforce Development Administration's PA CareerLink® Finance & Budget Unit*

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Purpose of the Policy

The Workforce Innovation and Opportunity Act, or WIOA, and its regulations set forth provisions for states' local workforce delivery systems. This policy and the attached technical guidance outline required and optional components of Pennsylvania's Local Workforce Delivery System Memorandum of Understanding, or MOU, and provide information about funding PA CareerLink® costs. Under WIOA, the MOU is a critical tool for ensuring that the roles and responsibilities of the entities involved with the commonwealth's public workforce system are well-defined and mutually agreed upon for the successful operation of the integrated service delivery system in each local workforce development area, or local area.

Policy Statement

Local discussion and negotiations produce the MOU. The MOU details the roles and responsibilities of the Chief Elected Official, or CEO; local workforce development board, or LWDB; and program partners, or partners, in the local area workforce delivery system. This agreement should be negotiated to best meet PA CareerLink® partners' customers' shared needs.

WIOA Section 121(b) identifies the required and additional workforce development programs and activities that PA CareerLink® must provide. All entities participating as partners must agree to the MOU and abide by (1) the terms prescribed by applicable federal, state, and local rules, and (2) all applicable plans and policies authorized under each partner's program and pursuant to federal guidelines. Recognizing that successful program integration leads to coordinated use of resources, WIOA requires partners to proportionately contribute to PA CareerLink® delivery system costs. The MOU includes how LWDBs and partners fund infrastructure costs and other shared PA CareerLink® costs.

Scope

This policy applies to the state, local area CEOs, LWDBs and partners, whether required or additional, involved in negotiations about PA CareerLink® funding costs.

Audience

Pennsylvania CEOs, LWDB members and staff, PA CareerLink® partners, and other local workforce system stakeholders must adhere to the conditions of use and specifications as outlined in this policy and any supporting documents.

Related Policies

[PA CareerLink® System Operator Policy](#)

[Financial Management Policy](#)

Definitions

Access to each partner program and its services means having a program staff member physically present at the one-stop center; or having a staff member from a different partner program physically present at the one-stop center appropriately trained to provide information to customers about the program, services and activities available through partner programs; or making available a direct linkage through technology to program staff who can provide meaningful information or services.

Additional costs are operating and shared costs for services commonly provided through the one-stop partner programs including initial intake, needs assessment, basic skills appraisal, identifying appropriate services, referrals to other one-stop partners and business services.

Affiliate sites or affiliate one-stop centers:

- (a) make available to job seekers and employer customers one or more of the one-stop partners' programs, services and activities. An affiliate site does not need to provide access to every required one-stop partner program. The frequency of program staff's physical presence in the affiliate site will be determined at the local level. Affiliate sites are access points in addition to the comprehensive one-stop center(s) in each local area. If used by local areas as a part of the service delivery strategy, affiliate sites must be implemented in a manner that supplements and enhances customer access to services.
- (b) As described in §361.315, Wagner-Peyser Act employment services cannot be a stand-alone affiliate site.
- (c) States, in conjunction with LWDBs, must examine lease agreements and property holding throughout the one-stop delivery system in order to use property in an efficient and effective way. Where necessary and appropriate, states and LWDBs must take steps as soon as reasonably possible to align lease expiration dates with efforts to consolidate one-stop operations into service points where Wagner-Peyser Act employment services are collocated. These steps must be included the state plan.
- (d) All affiliate sites must be physically and programmatically accessible to individuals with disabilities, as described in 20 CFR part 38, the implementing regulations of WIOA sec. 188.

Allocation is the process of assigning a cost, or a group of costs, to one or more cost objectives, in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

Chief elected official, or CEO, is the chief executive officer of a unit of general local government in a local workforce development area. By legislation, the CEO is financially liable for the workforce funds that are allocated to a local workforce development area. The CEO is responsible for appointing local workforce development board members, approving the local workforce development board budget and serving as the local grant recipient.

Commonwealth Workforce Development System, or CWDS, is the sole data-management and reporting system of record used for data collection and reporting related to all WIOA Title I and Title III,

Wagner-Peyser Act and Trade Act-related activity in Pennsylvania.

Comprehensive one-stop center is a physical location where job seekers and area employers can access the programs, services, and activities of all required one-stop partners during regular business hours. A comprehensive one-stop center must have at least one WIOA title I staff person physically present. It must provide access to (1) career services; (2) training services; (3) employment and training activities; (4) programs and activities carried out by required and additional one-stop partners; and (5) workforce and labor market information. All comprehensive one-stop centers must be physically and programmatically accessible to individuals with disabilities, as described in 29 CFR part 38, the implementing regulations of WIOA sec. 188.

Cost objective is a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the costs of processes, products, jobs, capital projects, etc. A further distinction is made between intermediate cost objectives (2 CFR 200.60) and final cost objectives (2 CFR 200.44).

Direct linkage means providing direct connection at the one-stop center, within a reasonable time, by phone or through a real-time Web-based communication to a program staff member who can provide program information or services to the customer. To constitute “direct linkage,” more is required than only providing a phone number, website, or information, pamphlets or materials.

Funding types:

- **Cash** are funds provided to the LWDB or its designee by one-stop partners, either directly or by an interagency transfer or third party.
- **Non-cash** 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. Contributions must be valued consistent with *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* 2 CFR Part 200, also known as the *Uniform Guidance*, and 20 CFR 678.720.
- **Third-party in-kind** are contributions of space, equipment, technology, non-personnel services or other like items to support the infrastructure costs associated with one-stop operations, by a non-one-stop partner to: support the one-stop center in general or to support the proportionate share of one-stop infrastructure costs of a specific partner.

Generally accepted accounting principles, or GAAP, refers to a common set of accepted accounting principles, standards and procedures issued by the Financial Accounting Standards Board.

Governmental Accounting Standards Board is the source of generally accepted accounting principles, or GAAP, used by the state and local governments in the United States. As with most of the entities involved in creating the GAAP in the United States, it is a private, non-governmental organization.

Impasse is a disagreement by at least one of the required partners regarding MOU negotiations. The LWDB must report an impasse to the state WDB, Governor, and relevant state agency. If an impasse is not resolved informally, a formal dispute resolution process is followed to reach consensus. An impasse related to infrastructure cost funding must be resolved using the state funding mechanism, or SFM.

Infrastructure costs are non-personnel costs necessary for the general operation of the one-stop center,

including but not limited to applicable facility costs (such as rent), utilities and maintenance, equipment (including assessment-related products 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. Common identifier costs may be considered as costs of one-stop infrastructure.

Infrastructure funding agreement, or IFA, describes a reasonable cost allocation methodology, where infrastructure costs are charged to each partner based on partners' proportionate use of the one-stop center, relative to the benefits received from the use of the one-stop center consistent with Federal Cost Principles in the Uniform Guidance at 2 CFR part 200, and the Department of Labor exceptions at 2 CFR part 2900. A LWDB may negotiate an umbrella IFA or individual IFAs for one or more of its one-stop centers.

Local funding mechanism is an IFA negotiated by the LWDBs with all PA CareerLink® partners for each comprehensive one-stop delivery center.

Local one-stop delivery system is the network of workforce-related products, programs, services, activities, and service locations established to meet business and jobseeker needs in a local workforce area.

Memorandum of understanding, or MOU, is an agreement negotiated, developed and executed between the LWDB and the one-stop partners, with the agreement of the CEO and the one-stop partners, relating to the operation of the one-stop delivery system in the local area. Two or more local areas in a region may develop a joint MOU, if they are in a region that has submitted a regional plan under sec. 106 of WIOA.

Non-Consensus is when the LWDB, CEO, and one-stop partners in a local area do not reach agreement on methods of sufficiently funding the costs of the infrastructure of one-stop centers for a program year, triggering the SFM applicable to the local areas for that program year.

Operating budget, or OB, (formerly Resource Sharing Agreement Budget, or RSAB) is a consolidated budget report in which the local area grantees enter their budget data for the new year and report actual expenditures on a quarterly basis. The consolidated budget reports provided by the local area grantees initiate and finalize discussions and internal agreements with each state PA CareerLink® partner agency. The results provide the annual allocation of state PA CareerLink® funds made available for distribution to local area grantees. Grantees identify the costs as Facility, Operating and Personnel expenses by each PA CareerLink® and applicable State PA CareerLink® partner agency.

Pennsylvania CareerLink®, or PA CareerLink®, is the registered trademarked name of Pennsylvania's one-stop workforce development service-delivery system, including each one-stop center and public-facing aspects of the online job matching system used by individuals, job seekers, employers, program partners and providers, training providers and other stakeholders.

Pennsylvania Workforce Development Board, or PA WDB, is the governor's private-sector policy advisor on building a strong workforce development system aligned with state education and economic development goals.

Proportionate use refers to a partner program contributing its fair share of the costs proportionate to: (1) the use of the one-stop center by customers that may include reportable individuals and participants in its program at the one-stop center; (2) the amount of square footage occupied by the partner program in the one-stop center; or (3) another allocation base consistent with the Uniform Guidance at 2 CFR part 200.

Relative benefit is the process of assigning a cost or group costs to one or more cost objectives which are in reasonable proportion to the benefit provided. The relative benefit received from participating in the one-stop delivery system is another step in the cost allocation process that determines proportionate share.

Request for funds, or RFF, is an application from the local area submitted in accordance with state guidelines that requests additional funding for specified purposes.

Required and additional partners are entities that administer required programs or activities as described in WIOA Sec. 121(b)(1)(B) and 20 CFR 678.400, or the additional programs as described in WIOA Sec. 121(b)(2)(B) and 20 CFR 678.410 in a local area. Required programs and activities are mandated to be made available in the PA CareerLink® delivery system while additional programs may be made available if approved by the CEO and the LWDB. All one-stop partners must enter into a MOU with the LWDB.

Specialized centers address specific needs, including those of dislocated workers, youth or key industry sectors, or clusters. A specialized center must include other programs besides Wagner-Peyser Act employment services, local veterans' employment representatives, disabled veterans' outreach program specialists and unemployment compensation. As described in 34 CFR §361.320, they must be connected to comprehensive or affiliated sites by having processes in place to make referrals to these centers and the partner programs located within.

State funding mechanism, or SFM, is an IFA established by the governor if a LWDB is unable to secure agreement to the MOU from all required partners by the deadline established in WIOA regulations.

System of record/records system is an information technology resource used to generate either an electronic or physical record that is based on business rules and processes. For purposes of this policy, "system of record" is CWDS/PA CareerLink®.

Workforce Innovation and Opportunity Act, or WIOA, superseded the Workforce Investment Act of 1998, or WIA, and amended the Adult Education and Family Literacy Act, the Wagner Peyser Act, and the Rehabilitation Act of 1973. To help businesses and job seekers meet their needs, the workforce system established under WIOA is integrated by design. WIOA envisioned connecting businesses with job seekers through meaningful partnerships among workforce, education, human services, and economic development entities, ensuring optimum results and resource leveraging. The law addresses job seekers' needs by establishing a workforce system delivering access to employment, education, training, and support services to succeed in the labor market. Through the PA CareerLink® one-stop system, WIOA addresses employers' needs by connecting them with skilled workers able to compete in the global economy.

Procedures

MOU Content and Provisions: The MOU is an agreement between the LWDB and the partners that make up the local one-stop service delivery system. This MOU is reviewed and renewed at least every three (3) years by each of the partners and signatures are applied accordingly.

There are three primary components of the MOU: (1) the MOU Terms and Conditions, (2) the Infrastructure Funding Agreement, or IFA, and (3) the Operating Budget, or OB.

- *Terms and conditions.* The MOU terms and conditions must clearly state (1) the roles and responsibilities of each party, (2) how services are coordinated through the local workforce development system, (3) how infrastructure and additional costs are funded, and (4) other applicable tenets as defined by WIOA and its promulgating regulations and/or agreed to by the MOU parties.
- *IFA.* An IFA is a mandatory component of the local MOU, as described in WIOA sec. 121(c) and 20 CFR 678.500 and 678.755. Each required partner must contribute to the infrastructure and additional costs of the local PA CareerLink® delivery system based on the program's proportionate use and relative benefit received, consistent with the Uniform Guidance. The LWDB and partners may define their own methodology to determine contribution amounts, so long as it is based on the partners' proportionate use and benefit received and is consistent with the Uniform Guidance and WIOA's promulgating regulations. For affiliate and specialized centers, only the LWDB and those partners participating in the operation of that service delivery site are required to enter into the IFA for that particular center. Refer to the *Local Workforce Delivery System - Memorandum of Understanding Guide* for additional IFA-specific information and requirements.
- *OB.* The operating budget is the end result of MOU negotiation and the IFA process. WIOA requires an annual PA CareerLink® OB for local service delivery sites. The OB is a financial plan within which CEOs, the LWDB and partners in each local area agree to each partner's contribution to certain costs. This budget consists of costs identified in WIOA sec. 121(h)(2), specifically infrastructure and additional costs. The OB may include separate budgets for each PA CareerLink® comprehensive, affiliate, or specialized center. Once the OB is established and agreed upon by the LWDB and all partners, negotiations of partner contributions toward infrastructure and additional costs of the local PA CareerLink® system will convene.

OBs, one-stop/staffing surveys, and expenditure reporting must be submitted to the Pennsylvania Department of Labor & Industry, or L&I. Downloadable templates are found within the [Financial Management Policy](#). Current staffing levels and negotiations with one-stop program partners will be evaluated and used to determine the proposed PA CareerLink® funding level for each local area. The use of the Cost Allocation Reimbursement System, or CARS, provides drawdown information. Expenditures are reported on the quarterly Operating Budgets-Financial Status Reports, or OB-FSR. LWDBs must ensure submissions comply with L&I guidance and that current templates are used. Refer to the *PA CareerLink® Operating Budget Bulletin* for additional direction.

MOU Timeline

A general MOU timeline is in the *Local Workforce Delivery System - Memorandum of Understanding Guide*. LWDBs are to consider their parameters and unique circumstances and adjust the suggested

MOU timeline accordingly. The annual Operating Budget must be submitted to L&I by May 1 of each year.

MOU Negotiation Outcome: Consensus or Impasse

The LWDB Chair (or designee) is responsible for convening all required and additional PA CareerLink® partners (either in person or using an electronic forum such as Zoom or Microsoft Teams) to begin MOU negotiations. During this meeting, the LWDB Chair (or designee) must provide a detailed review of all relevant documents (including the budget for the new program year), facts, and information, while ensuring all parties have sufficient time to ask questions, voice concerns, and are fully aware of expectations and processes.

The LWDB must report the outcome of MOU negotiations (i.e., consensus or impasse) on or before March 10 during a planned MOU renewal, using the publicly posted *MOU Negotiation Outcome Notification* template on [PA's Workforce System Directives](#). The LWDB must submit the completed template to BWDA's PA CareerLink® Finance and Budget Unit at RA-LI-PACL-FINOP@pa.gov. Outcomes will be reported to the governor, Pennsylvania Workforce Development Board, or PA WDB, and state workforce agency, or SWA. Refer to the *MOU Negotiation Outcome Notification* template for more information.

The goal of each LWDB and required one-stop partners is to negotiate in good faith and reach consensus. All parties of the MOU should attempt to resolve any disputes internally. Should the parties reach an impasse, the LWDB must report it and provide documentation of negotiation efforts including the newly drafted MOU and/or newly drafted budget, if either has been developed and/or signed by one or more parties. A description of the process used among partners to resolve issues when non-consensus occurred must also be outlined. L&I staff will attempt to resolve the impasse through an informal dispute resolution process by working collaboratively with the impacted LWDB and required one-stop partners as necessary. Typically, this process will occur between March 11 to April 15.

SFM Appeal Process

The SFM, as described in 20 CFR Part 678.730, will only be used when there is an impasse related to infrastructure cost funding. A one-stop partner may file an appeal when the SFM is enacted and there is a disagreement with the governor's determination of infrastructure cost contributions. Refer to the *Local Workforce Delivery System - Memorandum of Understanding Guide* for additional direction.

Submission

BWDA's PA CareerLink® Finance and Budget Unit must receive the local area's annual OBs with appropriate supporting documentation by May 1. The submission is considered complete only after L&I acknowledges to the local area that the submission meets acceptable standards.

Local areas must use the PA CareerLink® Finance and Budget Resource Account, RA-LI-PACL-FINOP@pa.gov, when electronically submitting documents that affect MOU subjects such as *MOU Negotiation Outcome Notification*, OBs, staffing surveys and OB-FSRs.

Resources (located on [PA's Workforce System Directives](#) website)

Associated with MOU policy:

- Appendix A: Epilogue
- Local Workforce Delivery System - Memorandum of Understanding Guide

- Sample Memorandum of Understanding template
- MOU Authority and Signature Page
- MOU Negotiation Outcome Notification template
- MOU Negotiators and Signers Contact List
- Optional WIOA Service List

Associated with Financial Management policy:

- PA CareerLink® Operating Budget template
- PA CareerLink® Staffing Survey template
- Operating Budget-Financial Status Report template
- PA CareerLink® Operating Budget Bulletin

Supporting Information

- Workforce Innovation and Opportunity Act (Pub. L 113-128), July 22, 2014
- WIOA promulgating regulations including 20 CFR Part 678, Aug. 19, 2016
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule (also known as the *Uniform Guidance*), 2 CFR Part 200, Dec. 19, 2014
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Technical Amendments, 2 CFR Part 2900, Dec. 30, 2015
- Training and Employment Guidance Letter, or TEGL, 16-16, One-Stop Operations Guidance for the American Job Center Network, Jan. 18, 2017
- TEGL 17-16, Infrastructure Funding of the One-Stop Delivery System, Jan. 18, 2017
- Training and Employment Notice, or TEN, 13-20, WIOA Operating Guidance, Jan. 4, 2021

Policy History

The Workforce Investment Act of 1998, or WIA, required LWDBs, with the agreement of the CEOs, to develop and enter into a MOU with the partners concerning the operation of the PA CareerLink® delivery system. WIOA provided greater detail on the requirements of the one-stop delivery system including the MOU. The commonwealth determined that the MOU should be divided into two (2) agreements: a *One-Stop Partner Agreement* and a *Resource Sharing Agreement* with its accompanying budget.

WIOA section 121(c) outlines MOU development and its contents while describing the one-stop delivery system, its operation, services, and the method of infrastructure funding and other shared costs associated with the local PA CareerLink® system. Subsequently, the commonwealth changed prior practice and provided guidance for a unified MOU.

Summary of Changes

Revision Date	Author	Description
5/9/22	L&I BWDA	Epilogue was created and added. Additional changes to the <i>MOU Negotiator and Signers Contact List</i> were added in response to public posted comments.
4/15/22	L&I BWDA	Entire guidance was reformatted; most content remained the same, however, it was reorganized and separated into policy and guidance. A separate document, the MOU policy, was created. WIOA Service Lists were added into the MOU template and

		<p>an optional WIOA Service List was created should local boards choose this possibility. The MOU template’s list of required programs in the PA CareerLink® workforce delivery system was updated. The MOU Authority and Signature page, found in the MOU template, was edited.</p> <p>In the MOU Guide, the following changes occurred: collaborative professional development was added as part of the MOU required components. Also, in the MOU required components, additional specification for the MOU time period was added to be in alignment with TEGL 16-16; the MOU amendment or modification as well as an unplanned renewal of an MOU was added. The state funding mechanism, or SFM, section was expanded to be in alignment with federal regulations and the SFM appeals process section was created.</p>
2/25/2020	L&I BWDA	<p>Minor typographical and grammatical errors were corrected. MOU Template was edited to remove technical instruction which was added to Local Workforce Delivery System - Memorandum of Understanding Guide. WIOA Service Lists were added into the MOU template. A general timeline for the MOU and operating budget was revised. List of required programs in the PA CareerLink® workforce delivery system was updated. Revised definitions; edited <i>MOU Authority and Signature page</i>, MOU Negotiators and Signers Contact List as well as OB Bulletin (formerly referred to as 2019 RSAB Reference Guide). <i>MOU Negotiation Outcome Notification template</i> was created to provide additional direction and clarification.</p>
6/21/2017	L&I’s BWDA	<p>Provided initial guidance outlining a MOU’s required components and clarified the funding of infrastructure costs and other shared costs within the one-stop service delivery system to chief elected officials, LWDBs, and other local workforce system stakeholders.</p>

Public Comment

L&I in collaboration with the Pennsylvania Workforce Development Board, commonwealth agency partners and local workforce system stakeholders developed this policy. This policy was made available for public review and comment by LWDBs, authorized administrators of WIOA partner programs and service providers, system stakeholders and the general public at large on April 22, 2022. Refer to *Appendix A: Epilogue* for public comments received and L&I responses.