



**The Office of Workforce Development**  
Missouri Department of Higher Education and Workforce Development

# OWD Issuance 01-2019

Release Number—Program Year

Release Date:  
July 1, 2019

Effective Date:  
July 1, 2019

Expiration Date:  
Continuous, until further notice

**SUBJECT:**

## One-Stop Center Memoranda of Understanding and Infrastructure Funding Agreements for Local Workforce Development Boards

**ATTACHMENTS:** None. [Elaboration—This Issuance has **four** standalone companion documents that are accessible in an adjacent column next to the location of this Issuance at <https://jobs.mo.gov/dwdissuances>. These documents include:

- (1) Local Workforce Development Boards Guidelines for a Memorandum of Understanding;
- (2) Memorandum of Understanding Template, with Instructions;
- (3) Missouri Infrastructure Cost Sharing Policy; and
- (4) Missouri WIOA Infrastructure Cost Sharing Guidelines.

Adherence to these documents is implicit with this Issuance. The separate posts allow for periodic administrative review and revision as needed. Implementation of this Issuance should refer to the most recent posting of each document.

*This Issuance is Official Policy of the Missouri Office of Workforce Development*

**ISSUING AUTHORITY:**

Mardy Leathers, Director  
Missouri Office of Workforce Development

**THIS ISSUANCE REQUIRES CREATION OR ALTERATION OF A CORRESPONDING LOCAL AGREEMENT**

**KEYWORDS:**

Infrastructure Funding Agreement (IFA);  
Local Workforce Development Boards (WDB);  
One-Stop Partners [required];  
Memorandum of Understanding (MOU);  
Workforce Innovation and Opportunity Act (WIOA).

**THIS ISSUANCE AFFECTS:**

Missouri One-Stop Delivery System (MJC/AJCs)  
WIOA Title I Local Areas/Local Boards/Local Plans  
WIOA Title I One-Stop Delivery/Service Providers  
WIOA Fiscal/Administrative Procedures  
State of Missouri Workforce System Procedures

**FOR THE ATTENTION OF:**

DHEWD State Professional Staff  
Chief Elected Officials  
Local Fiscal Agents  
Local WDB Chairpersons  
Local WDB Directors  
Local WDB Members  
One-Stop Operators  
WIOA One-Stop Required Partners

**RESCISSIONS:**

DWD Issuance 12-2015, “Memorandum of Understanding Guidelines for Local Workforce Development Boards,” December 22, 2015.

DWD Issuance 08-2016, “One-Stop Center Infrastructure Cost-Sharing Agreements,” December 27, 2016.

**REFERENCES:**

Workforce Innovation and Opportunity Act Section 121 [[29 U.S.C. 3151](#)], paragraph (c) “Memorandum of Understanding” and paragraph (h) “Funding of One-Stop Infrastructure.”

[20 CFR Part 678](#), “Description of the One-Stop Delivery System under Title I of the Workforce Innovation and Opportunity Act,” “[Subpart C](#)—Memorandum of Understanding for the One-Stop Delivery System,” and “[Subpart E](#)—One-Stop Operating Costs.”

## SUMMARY:

WIOA<sup>1</sup> requires each Local WDB to develop a MOU for the delivery of programs and services, and the sharing of costs, in the One-Stop Delivery System for its Local Workforce Development Area (LWDA). The Local WDB guides the development of the content of this MOU among all the required One-Stop Partners,<sup>2</sup> including itself. The LWDA's Chief Elected Official (CEO) must approve this MOU, and all required Partners are signatories. An integral component within the MOU is a separately negotiated Infrastructure Funding Agreement (IFA), or infrastructure cost-sharing agreement, for the operation of the One-Stop Centers in the LWDA. Known also as the "local funding mechanism,"<sup>3</sup> The IFA details how *every required One-Stop Partner will contribute* to non-personnel operating costs. **Without a completed IFA within it, an MOU is not valid.** Every required Partner must help subsidize the infrastructure operating costs of the One-Stop Center(s), in a proportionate manner, with cash, non-cash, or third-party in-kind contributions. This Issuance presents guidelines, templates, process timelines, and deadlines for Local WDBs to develop new MOUs, and the IFAs they contain, for submission to the Office of Workforce Development (OWD) and publication within the Local Plan. It combines, updates, and rescinds previous OWD guidance<sup>4</sup> on this process.

## BACKGROUND:

All Missouri Local WDBs have previously (July 1, 2017) executed MOUs with their required One-Stop Partners. These Memoranda describe the coordination of the One-Stop Delivery System in each LWDA. They establish how the One-Stop Centers will provide programs and services for all Partners and, by means of an integrated infrastructure agreement, establish how the One-Stop Partners will apportion costs. WIOA requires a duration of no less than three (3) years between reviews and renewals of local MOUs.<sup>5</sup> Accordingly, the schedule and procedures for creation, approval, and implementation of the next series of agreements will take place during the first six (6) months of 2020 (*see "Timeline," below*).

WIOA requires that the MOU include details on how the Local WDB, CEO, and One-Stop Center required Partners will fund One-Stop infrastructure costs<sup>6</sup> for all comprehensive One-Stop Centers in the LWDA. (OWD's guidance recommends that Local WDBs negotiate any infrastructure cost-sharing agreement for affiliated-site costs separately from the statutorily required cost-sharing agreement covering Comprehensive One-Stop Centers.)

WIOA sec. 121(h) mandates that the state, through the designated authority of the Governor, provide guidance to assist Local WDBs, CEOs, and One-Stop Partners to determine equitable and stable methods to fund One-Stop Center infrastructure costs. The cost-allocation methodology must be in accord<sup>7</sup> with Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Parts 200 and 2900.

WIOA and its implementing regulations also require<sup>8</sup> that the state's guidance include timelines for Local WDBs to notify the state if local infrastructure cost-allocation negotiations reach an impasse. If the Local WDB and the required Partners are unable to conclude *and sign* a local infrastructure cost-sharing agreement for the ensuing Program Year (PY) before the state's deadline, WIOA gives the state no recourse but to impose a state infrastructure cost-allocation mechanism.<sup>9</sup> This is *not* a local "option" to creating a local funding agreement. It is a statutory *consequence* triggered by an inability of the Local WDB and its required Partners to self-determine a funding plan.

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<sup>1</sup> Pub. L. 113-128 [[29 U.S.C. 3101 et seq.](#)]

<sup>2</sup> [20 CFR 678.400](#).

<sup>3</sup> [20 CFR 678.715](#).

<sup>4</sup> DWD Issuance 12-2015, "Memorandum of Understanding Guidelines for Local Workforce Development Boards," December 22, 2015 [*herein rescinded*] and DWD Issuance 08-2016, "One-Stop Center Infrastructure Cost-Sharing Agreements," December 27, 2016 [*herein rescinded*].

<sup>5</sup> WIOA Sec. 121(c)(2)(A)(v) [[29 U.S.C. 3151\(c\)\(2\)\(A\)\(v\)](#)].

<sup>6</sup> "Infrastructure costs" are generally all non-personnel costs necessary for the operation of the one-stop center. *See also* WIOA Sec. 121(h)(4) [[29 U.S.C. 3151\(h\)\(4\)](#)] and [20 CFR 678.700](#), "What are the one-stop infrastructure costs?"

<sup>7</sup> [20 CFR 678.705\(a\)\(1\)](#).

<sup>8</sup> [20 CFR 678.705\(b\)\(3\)](#).

<sup>9</sup> [20 CFR 678.725](#).

## **SUBSTANCE:**

OWD provides the accompanying documents (<https://jobs.mo.gov/dwdissuances>) to assist the MOU-development process, from conception through discussions, negotiations, writing, signing, implementation, and subsequent modification.

### **State Guidelines**

In compliance with WIOA sec. 121(h)(1)(B)(ii) and the implementing rules at 20 CFR 678.705, OWD specifically provides the accompanying “Missouri Infrastructure Cost Sharing Policy” and the “Missouri WIOA Infrastructure Cost Sharing Guidelines.” The Missouri State Public Workforce Council oversaw preparation of these guidelines. Therefore, as well as OWD, these recommendations are guidance from all State-level agencies with oversight of local One-Stop Partners.

Local MOU signatories may adopt any local cost-allocation mechanism that is in accord with the Uniform Guidelines in 20 CFR Parts 200 and 2900. Nevertheless, OWD *strongly encourages* Local WDBs, CEOs, and One-Stop Partners to develop their local infrastructure-cost allocation agreements using the accompanying State-approved guidelines.

### **Budget Preparation**

The local budget, and definitions upon which the local infrastructure cost-allocation agreement will be based, should be agreed upon by the signatories prior to the creation of the IFA (ideally, **before February 3, 2020**) because the budget will determine the costs to be allocated.

### **Negotiation of the IFA**

Negotiation of the IFA, and the MOU that contains it, should commence as soon as all signatories agree to the local infrastructure cost budget. The IFA must be completed and signed before **March 2, 2020**, or the parties must inform OWD that they are at an impasse, as in the following paragraph.

### **Notice of Impasse**

MOUs, and their constituent IFAs, must be negotiated, signed, and approved far in advance of their effective date at the commencement of PY 2020 (July 1, 2020). The required signatories must advise the State if there is a likelihood of failure to accomplish this task. If an agreement has not been concluded successfully by **March 2, 2020**, the Local WDB must officially notify the Director of the Office of Workforce Development in writing (electronic or hard copy). This notification also may originate with the CEO or any one of the required Partners who are parties to the negotiation. (If there are earlier indications that negotiations will not be successful, the parties may approach OWD for assistance prior to the March 2 deadline.) Upon receipt and acknowledgement of such notice, the State will attempt to assist<sup>10</sup> with up to 60 days of mediation or arbitration to produce a successful agreement, or **until May 1, 2020**.

### **Local Budgets**

Local WDBs must submit final budgets and IFAs to [OWDLocalPlan@dhewd.mo.gov](mailto:OWDLocalPlan@dhewd.mo.gov) by **May 1, 2020**. In the event of an impasse in negotiations for a local infrastructure cost-allocation agreement, any budget approved by the Local WDB, CEO, and the required Partners will be used by the State as a basis for a State-imposed mechanism, as mandated by the WIOA rules.<sup>11</sup> If, by the State’s May 1 deadline for local cost-allocation agreements, there is also no locally approved infrastructure cost budget, the WIOA regulations **require the State to determine that LWDA infrastructure budget**.<sup>12</sup>

### **Completed MOU and IFA Submission Deadline**

Local WDBs must submit completed MOUs and IFAs to OWD ([OWDLocalPlan@dhewd.mo.gov](mailto:OWDLocalPlan@dhewd.mo.gov)) no later than close of business **June 1, 2020**. This deadline allows DWD Central Office 30 days prior to the implementation date of the agreements to collate the local cost-sharing agreements with the Local MOUs that those cost-sharing agreements complete. OWD also will perform

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<sup>10</sup> This assistance may include mediation efforts by any, or more than one, of the State partner agencies that are members of the Missouri State Public Workforce Council.

<sup>11</sup> [20 CFR 678.731\(b\)](#).

<sup>12</sup> [20 CFR 677.735\(b\)\(3\)](#).

vetting to ensure those agreements conform to the requirements of 20 CFR 678.715, 20 CFR 678.720, and the Uniform Guidance at 2 CFR Parts 200 and 2900.

### **State Infrastructure Cost-allocation Mechanism**

If, by **June 1, 2020**, the local infrastructure cost-allocation mechanism has not been completed, signed, and submitted to the State, the State will be statutorily compelled to impose a State infrastructure cost allocation mechanism as prescribed by WIOA sec. 121(h) and 20 CFR Part 678. OWD will notify the CEO, the Local WDB, and the required Partners of the specific allocations in this mechanism prior to the start of PY 2020, if feasible.

Imposition of the State funding mechanism makes fewer funds available than a local agreement. The U.S. Department of Labor noted in its preamble to the WIOA Final Rules, "...while under the local funding mechanism Partner programs may contribute through any funds allowed by their authorizing statutes, under the State funding mechanism, infrastructure funds must come from administrative funds for the majority of Partner programs."<sup>13</sup>

### **Effective Date**

Barring any of the aforementioned difficulties, a correctly negotiated, finalized, and OWD-approved MOU, including its constituent IFA, will have an effective implementation date of **July 1, 2020**. Likewise, if a State funding mechanism has to be imposed, it will have an effective date of July 1, 2020.

### **Appeals Process (following imposition of a State funding mechanism)**

If OWD has to impose a State infrastructure cost-allocation mechanism, and upon receipt of the specific terms in it, any Local WDB or One-Stop required Partner may appeal, *individually and for cause*, the specific allocation imposed upon it within 21 calendar days. The appeal must be in writing (electronic or hardcopy) and make specific reference to that portion of cash, non-cash, or third party in-kind contributions which the mechanism requires that Local WDB or Partner to provide.<sup>14</sup> To be officially received, an appeal must fully contain and evidence the following:

- Addressed to the attention of the Director of the Office of Workforce Development.
- An introduction identifying the appellant (identify the name of the LWDA and the name of the Local WDB, and the name of the appellant if it is a required Partner). The letter must clearly declare that it is a formal appeal.
- Full citations from WIOA or the WIOA Final Rules in Title 29 (or Title 34) of the *Code of Federal Regulations* that supports the appeal.
- *Identify the basis for the appeal.* WIOA stipulates that a determination to apply a State funding mechanism may be appealed *only* if the determination is inconsistent with the requirements of WIOA sec. 121(h)(2)(E). The Final Rule at 20 CFR 678.750 further limits admissible grounds for an appeal to *three possibilities*. The petitioner must make a case that the State's determination was not consistent with:
  - the proportionate-share requirements in [20 CFR 678.737](#),<sup>15</sup> or
  - the cost-contribution *limitations* in [20 CFR 678.730\(c\)](#),<sup>16</sup> or
  - the cost-contribution *caps* in [20 CFR 678.738](#).
- The letter must be signed (electronic signature is acceptable) and dated.

The State will acknowledge the appeal and return a determination from OWD under the designated authority of the Governor as quickly as feasible. Until the appeals process is completed, **the appellant will remain liable** for its contribution as originally determined in the State funding mechanism. If the appeal to the State using the process described in 20 CFR 678.750 is successful, it will result in a change to the appellant's infrastructure-cost contributions. Consequently, the Local

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<sup>13</sup> [81 FR 55910](#), August 19 2016.

<sup>14</sup> WIOA sec. 121(h)(2)(E) [29 U.S.C. 3151(h)(2)(E)].

<sup>15</sup> **The correct citation to this rule is [20 CFR 678.737](#).** A cross-reference in 20 CFR 678.750 points to "20 CFR 678.735(a)" for a discussion of proportionate share requirements. This is a *technical error* in the rules text that still has not been corrected as of the date of this Issuance.

<sup>16</sup> **The correct citation is [20 CFR 678.730\(c\)](#).** A cross-reference in 20 CFR 678.750 points to "20 CFR 678.735(b)" for a discussion of cost-contribution limitations. This is a *technical error* in the rules text that still has not been corrected as of the date of this Issuance.

WDB must update the MOU, <sup>17</sup> annotate it accordingly to reflect the final version of One-Stop Partner infrastructure-cost contributions, and distribute the updated version to all signatories.

**ROLES, RESPONSIBILITIES, and REQUIRED ACTIONS:**

All **Local WDBs** are responsible for ensuring that all CEOs, Local Fiscal Agents, Local WDB members, One-Stop Required Partners, and appropriate staff supporting all the above have access to this Issuance and the four accompanying guidance documents.

All **Local WDBs** are responsible for organizing and steering the process of creating their local MOUs and IFAs.

All other **WIOA required Partners** are responsible for cooperating with the Local WDB and the CEO in good faith to negotiate and implement these agreements.

The **Local WDB, or any required partner**, will be responsible for notifying OWD of any impasse remaining no later than **March 2, 2020**. In that event, the Local WDB also will be responsible for providing OWD with all appropriate and relevant documents used in the failed negotiations, as outlined in the WIOA rules.<sup>18</sup>

The **LWDA's CEO** will be responsible for final signature approval of the IFA and MOU after all other parties have signed.

The **Local WDB** will be responsible for forwarding completed IFAs and MOUs to OWD on or before the required deadlines.

**OWD** will be responsible for coordinating arbitration if required and for vetting and final approval of IFAs and MOUs in a timely manner. OWD will also be responsible for imposing a State funding mechanism, if necessary, and for coordinating an appeals process if an appellant files as outlined herein.

**TIMELINE:**

<b>Local WDB</b> — Distribution of this MOU/IFA guidance to local signatories .....	<b>Upon receipt of this guidance</b>
<b>Local WDB and WIOA Required Partners</b> — Local negotiation and creation of infrastructure cost budget.....	<b>February 3, 2020</b>
<b>Local WDB and WIOA Required Partners</b> — Request OWD arbitration <b>if</b> negotiations are at an impasse.....	<b>March 2, 2020</b>
<b>Local WDB</b> — Submission of Local Infrastructure Cost Budget and signed IFA to OWD.....	<b>May 1, 2020</b>
<b>Local WDB</b> — Submission of completed and signed MOU (including final IFA) to OWD.....	<b>June 1, 2020</b>
<b>OWD</b> — Imposition of State infrastructure cost funding mechanism for one PY if the above step is not completed .....	<b>June 1, 2020</b>
<b>All Parties</b> — Effective implementation date of MOU and IFA for PY 2020/FY 2021 .....	<b>July 1, 2020</b>

**INQUIRIES:**

Please direct all questions or comments regarding this Issuance document to [dwdpolicy@dhewd.mo.gov](mailto:dwdpolicy@dhewd.mo.gov). Direct procedural questions or requests for technical assistance on its contents to [OWDLocalPlan@dhewd.mo.gov](mailto:OWDLocalPlan@dhewd.mo.gov). All active Issuances are available at [jobs.mo.gov/dwdissuances](http://jobs.mo.gov/dwdissuances). Expired/rescinded Issuances are available on request.

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<sup>17</sup> [20 CFR 678.500\(e\)](#).

<sup>18</sup> [20 CFR 678.735\(a\)](#).