ALABAMA WORKFORCE INVESTMENT SYSTEM

Alabama Department of Commerce
Workforce Development Division
401 Adams Avenue
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Montgomery, Alabama 36130-4106

January 20, 2016

GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY2015-10

SUBJECT: One-Stop Career Center System Infrastructure Costs and Appeals Process Relating to Determinations for Infrastructure

1. Purpose. This Directive provides an overview of One-Stop Career Center System infrastructure costs as well as the appeals process referred to in the Workforce Innovation and Opportunity Act (WIOA) Section 121(h)(2)(E) relating to determinations of infrastructure funding.

2. Discussion. WIOA Section 121 outlines the requirements for the establishment of One-Stop Delivery Systems. In this section it states that infrastructure costs must be shared by all of the required partners in the system. Infrastructure costs are defined as:

- Non-personnel costs that are necessary for the general operation of the one-stop center, including:
  - Rental costs of facilities
  - Costs of utilities and maintenance
  - Equipment
    - Assessment related products
    - Assistive technology for individuals with disabilities
  - Technology to facilitate access to the one-stop center
    - Center's planning activities
    - Center's outreach activities

In each Local Area, the local board, chief elected officials, and one-stop partners are charged with coming to an agreement regarding the methodology for determining the infrastructure cost contributions per WIOA Section 121(h)(1)(A)(i)(I). These agreements will be captured in MOUs between the local board and the one-stop partners (WIOA Section 121(h)(1)(A)(i)(I)).

To be eligible for infrastructure funds, one-stop centers must be certified by local boards as meeting certain criteria regarding the effectiveness, the physical and programmatic accessibility of the center in accordance with the Americans with Disabilities Act of 1990, and continuous improvement of one-stop centers and the one-stop delivery system. This certification will occur every three (3) years (WIOA Section 121(g)).

If local officials are unable to reach consensus (beginning on July 1, 2016 per WIOA Section 121(h)(1)(A)(ii)), they will be required to use the infrastructure funding methodology determined by the Governor (WIOA Section 121(h)(1)(A)(i)(II)). This methodology must abide by the percentage limitations described below.

Funds for infrastructure costs must come only from the administrative funds (when no consensus has been reached) of each respective program (per WIOA Section 121(h)(2)(D)(i)(I)) and shall be subject to the program's limitations with respect to the portion of funds under such program that may be used for administration. Limitations are also placed on how much each partner can contribute to infrastructure costs. These limitations are as follows, by program:

- **Adult, Dislocated Worker and Youth:** Shall not exceed 3 percent of the federal funds provided to the State for a full program year.
- **Wagner-Peyser Act:** Shall not exceed 3 percent of the federal funds provided to the State for a full program year.
- **Vocational Rehabilitation:** Shall not exceed .75 percent of the federal funds provided to the State in the second full program year; 1 percent of the federal funds provided to the State in the third full program year; 1.25 percent of the federal funds provided to the State in the fourth full program year; 1.5 percent of the federal funds provided to the State in the fifth full program year and in each succeeding year.
- **Other Partners:** Shall not exceed 1.5 percent of the federal funds provided to the State.

Subject to the above limitations, those local areas in which the local board, chief elected officials, and One-Stop partners fail to reach a consensus agreement on methods to fund the infrastructure of the One-Stop Career Centers in the local areas beginning on July 1, 2016 and thereafter, the Governor, after consultation with chief elected officials, local boards, and the State Board, shall determine the portion of funds to be provided by each One-Stop Career Center partner. In making such determinations (for the purpose of determining funding contributions), the Governor shall calculate amounts for the proportionate use of the One-Stop Career Centers in the State consistent with Chapter II of Title 2, Code of Federal Regulations (or any corresponding similar regulation or ruling) taking into account the costs of administration of the One-Stop delivery system for purposes not related to One-Stop Career Centers for each partner.

The Governor shall exclude from such determination of funds the amounts for proportionate use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the costs of

infrastructure of one-stop centers are funded under the option described in WIOA Section 121(h)(1)(A)(i)(I), e.g. funding methods agreed on by the local board, chief elected officials, and One-Stop Career Center partners (and described in the memorandum of understanding described in WIOA Section 121(c). The Governor shall also take into account the statutory requirements for each partner program and the partner program's ability to fulfill such requirements. Per WIOA Section 121(h)(2)(C) in a State in which the State constitution or a State statute places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under Title II, postsecondary career and technical education activities authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under a provision covered by Section 3(13)(D), the determination with respect to the programs authorized under that title, Act, or provision shall be made by the chief officer of the entity, or the official, with such authority in consultation with the Governor.

Pursuant to WIOA Section 121(h)(2)(E), the Governor shall establish a process, described under WIOA Section 102(b)(2)(D)(i)(IV), for a One-Stop partner administering a program described in WIOA Section 121(b)(1) to appeal a determination regarding the portion of funds to be provided by the One-Stop partner. Such a determination may be appealed under the process on the basis that such determination is inconsistent with the WIOA requirements for One-Stop partners' contributions for One-Stop Career Center infrastructure costs. Such process shall ensure prompt resolution of the appeal in order to ensure the funds are distributed in a timely manner, consistent with the requirements of WIOA Section 182(e).

In order to comply with the requirements for an efficient and judicious appeals process pursuant to WIOA Section 121(h)(2)(E), the following appeals process should be utilized by One-Stop partners who do not agree with the Governor's determination of its share of One-Stop Career Center infrastructure costs.

In accordance with WIOA as stated above, One-Stop partners may appeal the Governor's determination on the portion of funds to be provided for One-Stop infrastructure cost and request a hearing. A written appeal and request for a hearing must be mailed to the State Board (Alabama Department of Commerce / Workforce Development Division / State Workforce Development Board / Post Office Box 304106 / Montgomery, Alabama 36130-4106) within twenty-one (21) calendar days from the Governor's infrastructure cost determination.

The appeal must be in writing and state the grounds for the appeal. The appellant must describe how the Governor's infrastructure cost determination is inconsistent with proportionate share requirements, cost contribution limitations, and/or the cost contribution caps, in accordance with WIOA Notice of Proposed Rulemaking Section 678.750(b).

The Workforce Development Division staff will work in conjunction with the State Board to expedite review of an infrastructure cost appeal and to schedule a formal hearing before the State Board. Efforts will be made by the Workforce Development Division staff to enable Board members to review the appeal informally, i.e., via e-mail or mail outs, or, if the situation warrants, the Board may be convened by the Governor in advance of a scheduled meeting date in order that the appeal might be heard.

The appellant will be contacted within ten (10) calendar days of the receipt of the appeal and a hearing date will be scheduled. In order to ensure a prompt resolution of the appeal and distribution of funds in a timely manner, the appellant will receive a written decision no later than fifteen (15) calendar days after the hearing.

3. Action. One-Stop Career Center partner agencies in each local area should work in conjunction with the local board and chief elected officials to reach a consensus for funding the infrastructure of the One-Stop Career Center System in accordance with this policy.

4. Contact. Questions regarding this Directive should be referred to Bill Hornsby, Supervisor, Workforce Development Division, State Programs, Planning and Divisional Budget Management Section at (334) 242-5847 or bill.hornsby@commerce.alabama.gov.

1/20/2016

Steve Walkley, Division Manager, Workforce Development Division **Date**
Alabama Department of Commerce

Disclaimer: This policy was drafted based on the WIOA Law (Public Law 113-128). If, upon issuance of the WIOA's Implementing Regulations, there are additional requirements and/or clarifications; this policy will be revised as may be necessary.