

TEXAS WORKFORCE COMMISSION LETTER

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Keyword:	Administration; All Programs; Fiscal-Allocations; WIOA
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers
Reagan Miller

From: Reagan Miller, Director, Workforce Development Division

Subject: **Workforce Innovation and Opportunity Act: Texas Workforce System Partners' Memoranda of Understanding, Including Infrastructure Funding Costs**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with Workforce Innovation and Opportunity Act (WIOA) guidance on developing and entering into memoranda of understanding (MOUs) with statutorily required and optional Texas workforce system partners (partners) relating to the operation and funding of Texas workforce system services in their local workforce development areas (workforce areas).

BACKGROUND:

WIOA requires Boards, with the agreement of their chief elected officials (CEOs), to develop and enter into MOUs with statutorily required partners regarding the operation and funding of Texas workforce system services by July 1, 2017. Additionally, WIOA allows Boards to enter into MOUs with optional partners.

However, Boards are not required to develop and enter into MOUs for partner programs under the purview of the Texas Workforce Commission (TWC) that are Board-administered. For example, a local MOU would not be needed for the unemployment insurance or Temporary Assistance for Needy Families programs because the required operational and funding requirements are covered in the Agency Board Agreement and program-specific contracts.

Required partners administer programs and activities, including:

- WIOA adult, dislocated worker, and youth programs;
- the Wagner-Peyser Employment Service program;

- the Adult Education and Literacy program;
- the Vocational Rehabilitation (VR) program;
- the unemployment insurance program;
- the Trade Adjustment Assistance program;
- the Temporary Assistance for Needy Families program;
- the Job Corps program;
- the YouthBuild program;
- Native American and Migrant and Seasonal Farmworker programs;
- the Senior Community Service Employment Program;
- Career and Technical Education programs;
- U.S. Department of Labor Employment and Training Administration Community Services Block Grant programs;
- ex-offender programs under the Second Chance Act; and
- programs administered by the U.S. Department of Housing and Urban Development.

Optional partners administer programs and activities, including:

- Social Security Act Employment and Training programs (e.g., Ticket to Work and Self-Sufficiency);
- Small Business Administration programs;
- the Supplemental Nutrition Assistance Program Employment and Training program;
- the Client Assistance Program under the Rehabilitation Act;
- the National and Community Service Act Program; and
- other appropriate federal, state, and local programs, including employment, education, and training programs provided by public libraries or in the private sector.

PROCEDURES:

Contents

LF: If a local partnership agreement between the Board and CEOs representing the workforce area delegates statutorily required responsibilities under WIOA to the Board, then the Board can continue to operate under the parameters of the partnership agreement.

For example, if the partnership agreement delegates signatory authority for an MOU to the Board, CEOs will not be required to sign MOUs required by WIOA.

NLF: Boards must be aware that, at a minimum, an MOU between a Board and its partners must include:

- a description of services to be provided through the Texas workforce system, including the manner in which the services will be coordinated and delivered;

- a final plan—or an interim plan, if needed—on how costs of services and operating costs will be funded, including infrastructure costs, if required, as noted;
- the methods for referring individuals between Workforce Solutions Offices and partners for appropriate services and activities;
- the methods for ensuring that the needs of workers, youth, and individuals with barriers to employment, including individuals with disabilities, are provided access to services, including access to technology and materials available through the Texas workforce system;
- the beginning and end dates of the MOU and procedures for amending it; and
- assurances that each MOU will be reviewed not less than once in every three-year period, and then renewed if substantial amendments have been made as a result of the review. Substantial changes include changes in the Board’s signatory official, partners, and CEOs, or infrastructure funding.

NLF: Boards must ensure that executed MOUs contain:

- signatures of the designated Board and partner representatives and CEOs; and
- the MOU’s beginning and end dates.

LF: Boards may include additional provisions in MOUs that are consistent with WIOA Title I.

To ensure compliance with WIOA, Attachment 1 to this WD Letter provides a detailed checklist on required and additional items that MOUs address.

Infrastructure Funding

- NLF**: Boards must negotiate and agree with partners on infrastructure costs when:
- dedicated space is reserved in a Workforce Solutions Office for a partner program that is not available for use by another party (e.g., Texas Veterans Commission staff is housed permanently in a Workforce Solutions Office on a full-time basis); or
 - space in a Workforce Solutions Office is used by a partner program after hours or when the facility is normally closed.

NLF: Boards must be aware that an infrastructure cost agreement is not required if common space in a Workforce Solutions Office is used by a partner program on an itinerant basis to serve a common customer.

For example, if VR staff is physically present in a Workforce Solutions Office every other Tuesday afternoon and is using space available for use by partner programs—or employers and job seekers—to provide services to customers, then an infrastructure cost agreement is not required.

NLF: Boards must ensure that MOUs include a final plan detailing how the Board and its partners will fund Workforce Solutions Offices' infrastructure costs.

NLF: Boards must ensure that each partner MOU:

- contains the infrastructure funding agreement's beginning and end dates, which may denote a time period different from the MOU's beginning and end dates;
- identifies each partner participating in the infrastructure funding agreement;
- identifies an infrastructure and shared services budget that will be periodically reconciled against actual costs incurred and adjusted accordingly;
- describes how shared operating/infrastructure costs will be funded by system partners;
- identifies cash and in-kind contributions used to fund shared operating costs;
- describes steps the Board, its CEOs, and partners use to reach consensus, or an assurance that the Board, its CEOs, and partners followed the guidance pertaining to the infrastructure funding process;
- describes the process partners use to resolve issues during the MOU's duration when consensus cannot be reached; and
- describes the periodic review and modification process.

NLF: Boards must be aware that partner organizations may pay for their allocable share of common Workforce Solutions Office costs using resources in addition to cash transfers, including, but not limited to, the provision of goods and services, full-time equivalent staff positions, and in-kind contributions.

NLF: Boards must follow the requirements pertaining to cost allocation and resource sharing as set forth in TWC's *Financial Manual for Grants and Contracts* at <http://www.twc.state.tx.us/financial-manual-grants-contracts-chapter-11-cost-allocation-resource-sharing>.

LF: If a final plan regarding infrastructure costs is not complete when other sections of the MOU are ready, Boards may include an interim infrastructure cost agreement in order to allow the partner programs to operate in a Workforce Solutions Office. The MOU may include an interim infrastructure funding agreement, including as much detail as the Board has negotiated with its partners, if all other parts of the MOU have been negotiated, in order to allow the partner programs to operate in Workforce Solutions Offices.

NLF: Boards must finalize the interim infrastructure agreement within six months of signing the MOU. If the interim infrastructure agreement is not finalized within that time frame, the Board must notify TWC.

NLF: Boards must report failure to execute an MOU with a partner to TWC. TWC will in turn notify the state agency responsible for administering the partner's program. If TWC cannot assist the Board in resolving the issue, TWC will notify the governor, the Texas Workforce Investment Council, the Secretary of Labor,

and the head of any other federal agency with responsibility for the failure of a partner program to execute an MOU.

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENT:

Attachment 1: Workforce Innovation and Opportunity Act MOU Provisions Checklist

RESCISSIONS:

None

REFERENCES:

Workforce Innovation and Opportunity Act, § 106 and § 121
Texas Workforce Commission *Financial Manual for Grants and Contracts*

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”