

**New York State  
Local Workforce Development Area  
Memorandum of Understanding**

**Guidance**

December 1, 2020

## CONTENTS

<b>GUIDANCE .....</b>	<b>1</b>
<b>Purpose.....</b>	<b>1</b>
<b>Instructions.....</b>	<b>1</b>
<b>A. Intent of the MOU .....</b>	<b>2</b>
<b>B. Parties to the MOU .....</b>	<b>2</b>
<b>C. System Design and Services .....</b>	<b>2</b>
1. Service Provision Locations/Resources.....	2
2. Common Identifier for Branding.....	3
3. Applicable Career Services Coordination and Delivery.....	3
4. Referral of System Customers .....	4
5. Confidentiality.....	4
6. System Access .....	4
<b>D. Applicable Career Services System Operating Budget .....</b>	<b>5</b>
<b>E. Infrastructure Budget of Career Center(s).....</b>	<b>5</b>
1. Third-Party In-Kind Contributions.....	6
<b>F. General Provisions and Assurances for the MOU .....</b>	<b>7</b>
<b>G. Signatures for the MOU .....</b>	<b>7</b>
<b>Submission.....</b>	<b>8</b>
<b>Key Terms .....</b>	<b>8</b>
<b>Table 3: Applicable Career Services .....</b>	<b>10</b>

## GUIDANCE

According to the Workforce Innovation and Opportunity Act (WIOA), the Memorandum of Understanding (MOU) is the product of local negotiation relating to the operation of the one-stop delivery system, referred to as the New York State (NYS) Career Center System (“System”). The MOU is an agreement developed and implemented between the Local Workforce Development Board (LWDB) and System partners, providing access to their programs in the local area, with the agreement of the Chief Elected Official(s) (CEOs). The MOU is a comprehensive and satisfies the federal regulatory requirements (20 CFR §678.500).

## PURPOSE

To ensure all required pieces of the MOU are present, this document contains instructions with requirements based on WIOA. An MOU Template, developed by the WIOA Interagency Team and required for use by each LWDB, can be found at

<https://labor.ny.gov/workforce/swib/swibresources.shtm>. The MOU must include the following:

- Service delivery and coordination, and the estimated budget of the System including service provision locations; agreement on a common identifier for branding; a description of career services and how they will be coordinated and delivered; methods for referrals between partners; methods to address the needs of individuals with barriers to employment; the estimated budget for each partner to support the System; the duration and procedures for amending the MOU; and assurances that each MOU will be reviewed not less than once every three (3) years (20 CFR §678.500).
- Sharing of costs for infrastructure and shared services including an agreement on funding of infrastructure costs for all centers; amendment procedures; and appropriate assurances.

## INSTRUCTIONS

To ensure all required pieces of the MOU are present, the NYS WIOA Interagency Team developed guidance that must be followed by each LWDB. The guidance has seven sections labeled A - G:

- A. Intent of the MOU
- B. Parties to the MOU
- C. System Design and Services
  1. Service Provision Locations/Resources;
  2. Common Identifier for Branding;
  3. Applicable Career Services Coordination and Delivery;
  4. Referral of System Customers;
  5. Confidentiality; and
  6. System Access.

- D. Applicable Career Services System Operating Budget
- E. Partner Infrastructure Budget of Career Center(s)
- F. General Provisions and Assurances for the MOU
- G. Signatures for the MOU

## **A. Intent of the MOU**

This section identifies that the requirements of WIOA are being met, including the intent of the MOU, which is not a legally binding contract. (See MOU Template)

## **B. Parties to the MOU**

Each required System partner, providing access to its programs in the local area, must enter into an MOU with the LWDB, relating to the operation of the System (20 CFR §678.420). Other entities that implement a workforce development program may serve as additional partners, if the LWDB and the local CEO(s), identified in the local CEO agreement, approve the entity as a partner. Such approved additional partners must also enter into an MOU with the LWDB (20 CFR §678.410).

As a standard, required partners are organizations with fiduciary responsibility for a program and final responsibility for delivering program services either directly or through an agent. For example, the NYS Department of Labor (NYS DOL) bears the fiduciary responsibility for the Wagner-Peyser program and provides services directly. Therefore NYSDOL is the signatory for the Wagner-Peyser program. Alternatively, while the Office of Temporary and Disability Assistance (OTDA) is the NYS agency tasked with supervising the operation of Temporary Assistance for Needy Families (TANF) in NYS pursuant to Title IV of the Social Security Act, TANF program services and activities are delivered directly by each county's local Department of Social Services (and in New York City's five boroughs, the Human Resources Administration), making each Department of Social Services the signatory (20 CFR §678.415).

Use Table 1 from the MOU Template to provide point(s) of contact information for each partner, which provides service(s) in the LWDA and is party to the MOU (20 CFR §678.400). (See MOU Template)

## **C. System Design and Services**

### **1. Service Provision Locations/Resources**

The System brings together workforce development, educational, and other human resource services in a seamless, customer-focused service delivery network for job seeking and business customers. Each LWDA must have at least one Comprehensive Career Center and may have Affiliate and Specialized Career Centers, eligible partner program sites, and self-service resources (20 CFR §678.300 – §678.420).

- Comprehensive Career Center – A physical location where job seeking and business customers can access the services of all the required partners, and where at least one WIOA Title I staff is located (note that not all required partners need to be physically located at a Comprehensive Career Center). “Access” to each partner program is defined as one of the following:
  - i. A program staff member is physically present at the Comprehensive Career Center;

- ii. A staff member from a different partner program is physically present at the Comprehensive Career Center and appropriately trained to provide information to customers about other partner programs; or
  - iii. A staff member from a different partner program is physically present at the Comprehensive Career Center and is able to make a direct linkage to the partner program (i.e., direct connection within a reasonable time by phone or real-time web-based technology to program staff that can provide program information to the customer).
- Affiliate Career Center – Makes one or more of the partner programs and services available to job seeking and business customers and assures that customers are provided information on the availability of career services. An Affiliate Center does not need to provide access to every required partner program.
  - Specialized Career Center – Addresses specific needs, including those of dislocated workers, youth, key industry sectors, or clusters. These Specialized Centers must be connected with Comprehensive or Affiliate Career Centers, at a minimum by a referral process.
  - Eligible Partner Program Sites – A partner location where one or more partner programs and services are provided and are linked, physically or technologically, to an Affiliate Center or other access points of the System.
  - Self-Service Resources – Electronic or other resources developed by the partners for job seeking and business customers.

The LWDB and CEO(s) should determine the proper number and location of centers, by drawing on their knowledge of the area’s needs (20 CFR §678.305). Each center must be identified in Table 2 from the MOU Template and indicate type (Comprehensive, Affiliate, and Specialized Career Center; Eligible partner program site; or Self-service resource), location and/or name of Career Center(s) in the LWDA, and the location point of contact. (See MOU Template)

## **2. Common Identifier for Branding**

The U.S. Department of Labor, Employment and Training Administration, in coordination with the U.S. Department of Education, established the “American Job Center network,” a unifying name and brand to identify online and in-person workforce development services as part of a single network.

Each System partner must include the “American Job Center” or “A Proud Partner of the American Job Center Network” identifier on all primary electronic resources and newly printed materials (20 CFR §678.900). Additionally, all Career Centers (Comprehensive, Affiliate, and Specialized) must prominently display the New York State Career Center logo, which includes the national branding, at the entryway to the center. (See MOU Template)

## **3. Applicable Career Services Coordination and Delivery**

Applicable Career Services include basic, individualized, and follow-up services. Basic career services must be made available and, at a minimum, must include all of the basic services listed in Table 3 of the MOU Template. Individualized career services and follow-up services must be made available if determined to be appropriate for an individual to obtain or retain employment.

Complete Table 3 of the MOU Template to reflect the applicable basic, individualized, and follow-up services provided by each partner and the manner in which they will be coordinated and delivered. Note that services applicable to multiple partners have the potential for collaborative service opportunities (20 CFR §678.430 and §678.500). (See MOU Template)

An [example](#) of a complete Table 3 is provided at the end of this document for reference.

#### **4. Referral of System Customers**

Describe the processes for the referral of job seeking and business customers to services (20 CFR §678.500). Sample language could include, but is not limited to:

Partners agree to:

- Participate in a customer focused referral system that seamlessly accesses resources from involved partners to increase quality outcomes. Partners agree to communicate regarding the status of interagency referrals.
- Offer customers information on how to apply for a partner's services and/or arrange an appointment for the customer.
- Continually develop agreed-upon standards and protocols for making quality referrals between program partners.
- Identify a partner referral liaison for each System partner.
- Provide ongoing training to all partner frontline staff in partner services and eligibility.
- Consistently strategize to improve referrals toward a standard of real-time referrals to all applicable local program partners.

#### **5. Confidentiality**

Describe how the partners will follow confidentiality requirements in sharing customer information. If programs have specific requirements, such as written release forms, these requirements should be included and described in this section (20 CFR §678.500). (See MOU Template)

Note, local staff must use the State-developed Release of Information form when seeking to obtain consent to share participant information with another WIOA partner(s). The Release of Information Form was developed collaboratively by the WIOA Interagency Team and can be found in Workforce Development System Technical Advisory (TA) [#19-1:Release of Information between Workforce Innovation and Opportunity Act \(WIOA\) Partner Programs \(03/01/2019\)](#).

#### **6. System Access**

Include a description of how the partner programs serve the needs of all workers, specifically youth and individuals with barriers to employment, including individuals with disabilities, by addressing provision of services, and access to technology and materials. (See MOU Template)

## D. Applicable Career Services System Operating Budget

The Applicable Career Services System operating budget must include the budget of Applicable Career Services (20 CFR §678.425 and §678.430) and infrastructure, and may include shared operations, services, and personnel services, including salaries, wages and fringe benefits of the employees of partner programs or their sub-recipients. (Uniform Guidance 2 CFR §200.430 and §200.431)

For example, allocable salary and fringe benefits of partner program staff whose duties include utilizing information technology systems for common performance reporting by the center would apply to the personnel budget. Additionally, a shared welcome desk for a greeter who directs business and job seeking customers to the services available in that center can also be factored into the personnel budget.

Applicable Career Services System operating budget is the budget of each partner through existing funds to support the System in the local area, as opposed to costs only associated with the Career Center(s).

Include an estimated consolidation of the average annual budget of each partner to support the System, as shown in Table 4 of the MOU Template. (See MOU Template)

## E. Infrastructure Budget of Career Center(s)

WIOA requires partners (excluding Indian and Native American programs) to share in the funding of the infrastructure costs of Career Centers, based on Federal allocation principles of proportionate use and relative benefit received (20 CFR §678.700 and §678.715). These allocation principles are applicable when partner proportions can be allocated without undue effort or cost, and in accordance with the Office of Management and Budget (OMB) Administrative Guidance (2 CFR Part 200). If the identification of partner proportions imposes an undue effort or cost, then the funding may be allocated on any reasonable documented basis (2 CFR §200.405(d)).

The current state of partner program infrastructure funding is such that identifying partner proportions based on allocation principles of proportionate use and relative benefit received will cause undue effort and cost. Therefore, the following provides a reasonable basis for allocating infrastructure funding:

- Comprehensive Centers, Affiliate Centers, and Specialized Centers – Infrastructure costs are allocated across co-located partners in each center.
- Eligible Partner Program Sites – There is no requirement for infrastructure funding to be allocated across local partners for Eligible Partner Program Sites.

Complete an annual infrastructure budget for each Career Center in the LWDA (20 CFR §678.755).

**Attachment A: Annual Career Center Infrastructure Budget**, presents a budget template that includes the infrastructure cost categories required under WIOA (20 CFR §678.700). Each partner sharing in the infrastructure costs for the Career Center must enter the amount it currently expends within each category. A partner must include those expenditures that the partner has determined are necessary for the general operation of the Career Center as defined in 20 CFR §678.700.

In some instances, a partner may not be able to disaggregate expenditures across the infrastructure cost categories. For example, a partner's lease agreement may aggregate rental of facilities, utilities and maintenance, equipment, and technology in a single payment. In such cases, the partner should enter

the aggregate amount in the cost category or categories it determined is/are most appropriate and identify the other cost categories as “cost included in [cost category],” ensuring the total expenditure is accurate.

Once the budget is completed, it must be reviewed by all partners in the center. Negotiations between partners must take place to determine acceptable share percentages. Following negotiations, **Attachment B: Negotiated Shares**, must be filled out with the agreed upon share percentages.

Note that Attachments A and B are contained in a single Excel document.

During the negotiation process, partners must utilize a reasonable cost sharing methodology (20 CFR §678.715(3)). Reasonable cost sharing methodologies may include:

- Use of the Career Center by customers, such as reportable individuals and participants in the partner’s program at the center;
- Full-time equivalent (FTE) staffing at the Career Center; and/or
- Amount of square footage occupied by the partner program in the center.

Any reasonable cost sharing methodology(ies) may be used as long as it can be documented. Partners must provide narrative indicating which cost allocation methodology or methodologies were used to determine acceptable share percentages. (See MOU Template)

### 1. Third-Party In-Kind Contributions

In addition to reflecting all partner contributions, **Attachment A** must also incorporate any third-party contributions, as required under WIOA (20 CFR §678.720), including but not limited to third-party, in-kind contributions. Third-party in-kind contributions are contributions of space, equipment, technology, non-personnel services, or other like items by a non-partner (i.e., a third-party) to support the infrastructure costs associated with Career Center operations. There are two types of third-party in-kind contributions:

1. General contributions to Career Center operations (i.e., those not connected to any individual Career Center partner):

General contributions for center operations are used to offset the entire infrastructure budget and must be included on **Attachment A** as a separate line item and identified as “Non-Partner General Contribution.”

In this situation, the value of the third-party in-kind contribution will be excluded from the partner negotiated share percentages allocated in **Attachment B**. For example, if the general in-kind contribution accounts for 20% of the infrastructure budget, only the remaining 80% will be represented in **Attachment B**.

2. Contributions made on behalf of a specific Career Center partner program (20 CFR §678.715, 34 CFR §361.715, 34 CFR §463.715, and 2 CFR §200.306):

Contributions made on behalf of a specific partner must be included on **Attachment A** as a separate line item that is identified as “Non-Partner Contribution on behalf of [insert partner name].”



In this situation, the value of the in-kind contribution will be included in **Attachment B** and attributed to the partner on behalf of which the third-party in-kind contribution is being provided. This can be done two ways:

- a. The value of the third-party in-kind contribution may be listed on a separate line in **Attachment B** labeled “Non-Partner In-Kind Contribution.” The partner would then reflect the difference between that amount and the partner’s total share on a separate line; or
- b. The value of the third-party in-kind contribution can be included in the partner’s overall share on **Attachment B**, removing the need to indicate which portion of its allocated share is provided from the third-party in-kind contribution.

The value of third-party in-kind contributions must also be consistent with the Uniform Guidance at 2 CFR §200.306.

## F. General Provisions and Assurances for the MOU

The MOU must describe the duration, amendment, and review procedures to this understanding. The MOU must include assurances from the partners that the MOU:

- Is the product of local discussion and negotiation; and
- Will be reviewed not less than once every three (3) year period (20 CFR §678.500).

This section must also include:

- The timeframe/duration of the MOU;
- Evidence the LWDB, CEO(s), and partners met to reach consensus under the Local Funding Mechanism (submitted by the LWDB as **Attachment C: Evidence of Collaboration**). For example, a LWDB may provide a copy of minutes from a meeting where negotiations took place;
- Assurance that the LWDB will facilitate periodic (i.e., monthly or quarterly) reconciliation of infrastructure funding; and
- If triggered, assurance that the local area followed the guidance for the State Funding Mechanism.

**Note: Refer to the MOU Template**

## G. Signatures for the MOU

The LWDB, CEO(s) and required partners must sign the MOU (20 CFR §678.500 and 20 CFR §678.755). LWDBs must include additional partners as applicable. See the MOU Template for a sample signature page.

Please note, the NYS Electronic Signatures and Records Act (ESRA) permits the use of electronic signatures as originals within NYS. Electronic signatures must meet the requirements of ESRA and be in line with the guidelines set forth by the NYS Office of Information Technology Services. Additional information regarding ESRA and the ESRA Guidelines can be found at: <https://its.ny.gov/electronic-signatures-and-records-act-esra>.

## SUBMISSION

The MOU must be completed and submitted to [LWDB@labor.ny.gov](mailto:LWDB@labor.ny.gov) with the subject line [LWDA Name] MOU. Due dates will be established by the WIOA State Partners and communicated to LWDBs as appropriate.

Note – The LWDB and CEO(s) must notify the Governor if the MOU reaches an impasse under the Local Funding Mechanism (20 CFR §678.715). This notification must be sent to [LWDB@labor.ny.gov](mailto:LWDB@labor.ny.gov) with the subject line [LWDA Name] MOU Impasse.

## KEY TERMS

Partners – The entities responsible for administering programs authorized under WIOA in the local area. Partners include:

- Required Partners – Entities identified in WIOA as required WIOA partners (20 CFR §678.400).
- Additional Partners – Entities the CEO(s) and LWDB for the LWDA designate as partners in the local area.
- Co-located Partners – Required or Additional partners that occupy dedicated space at the Career Center to use on a permanent, part-time, or intermittent basis.

Career Centers – Physical locations where WIOA customers (job seekers and businesses) can receive WIOA funded services. The different types of Career Centers are:

- Comprehensive Career Center – A center where job seekers and businesses can access the programs, services, and activities of partners. At least one WIOA Title I staff person must be present at a Comprehensive Center.
- Affiliate Career Center – A center that makes available to job seekers and businesses one or more of the partners' programs, services, and activities.
- Specialized Career Center – A center that addresses specific needs, including those of dislocated workers, youth, or key industry sectors or clusters.
- Network of Eligible One-Stop Partners (referred to as "Eligible Partner Program Site" in this guidance) – Sites where partner(s) provide one or more of the programs, services, and activities, linked physically or technologically, to an Affiliate site or access point that assures customers are provided information on the availability of services in the local area (20 CFR §678.300, §678.305, and §678.310).

Infrastructure Funding Mechanisms

- Local Funding Mechanism – LWDA partners develop and execute an MOU at the local level (20 CFR §678.715 and §678.720).
- State Funding Mechanism – The Governor and Board of Regents administer a State mechanism for infrastructure funding when there is impasse in executing an MOU under the Local Funding Mechanism (20 CFR §678.735, §678.725, and §678.730).

Costs – Any monetary obligation necessary for the general operation of a center. WIOA defines three cost categories:

- Personnel Costs – Personnel services, including salaries, wages, and fringe benefits of the employees of partner programs or their sub-recipients (Uniform Guidance 2 CFR §200.430 and §200.431). These costs may be incorporated in the Applicable Career Center Services operating budget but are not to be included in infrastructure costs.
- Non-Personnel Costs – All costs that are not compensation for personnel. Non-personnel costs may be incorporated in the Applicable Career Center Services operating budget. However, any non-personnel costs not necessary for the general operation of a center are not to be included in infrastructure costs.
- Infrastructure Costs – A subset of non-personnel costs for:
  - Rental of facilities;
  - Utilities and maintenance;
  - Equipment (including assessment-related products and assistive technology for individuals with disabilities); and
  - Technology to facilitate access to the center, including the center's planning and outreach activities.

Note – LWDBs may consider common identifier costs as infrastructure costs.

Cost Allocation Principles – Costs must be: allowable; reasonable; and allocable (consistent with Federal cost principles contained in the Uniform Administrative Guidance at 2 CFR §200 Subparts E and F).

- Allowable – A cost must be necessary and reasonable for proper and efficient administration of the program.
- Reasonable – A cost cannot exceed that which would be incurred by a prudent person under the same circumstances.
- Allocable – The cost is chargeable or assignable to a program, and benefits two or more partners in proportions that:
  - Can be determined without undue effort or cost – in which case the cost must be allocated based on proportionate use and relative benefit received.
    - Proportionate Use – Partner programs provide their cost share proportionate to the use of the Career Center (i.e., by customers in the program at the Career Center; by the amount of square footage occupied by the partner program in the center; or by another allocation basis consistent with the Uniform Administrative Guidance).
    - Relative Benefit Received – The benefit to the partner and its respective program(s) in the center.
  - Cannot be determined because of the interrelationships involved – in which case the costs may be allocated on any reasonable basis.

**TABLE 3: APPLICABLE CAREER SERVICES**

Required Programs	Adult	DW	Youth	Adult Ed	WP	ACCES-VR	NYS CB	SCSEP	TAA	UI	Vets E&T	CTE	INAP	MSFW	CSBG E&T	HUD E&T	2 <sup>nd</sup> Chance	Job Corps	Youth Build	TANF E&T	
<b>Basic Career Services</b>																					
Eligibility for Title I services	x	x	x		X				x		x										
Outreach, intake, system orientation	x	x	x	x		x	x	x	x		x	x		x	x						x
Initial assessment	x	x	x	x	X	x	x	x	x		x	x			x						x
Labor exchange services	x	x	x		X			x	x		x			x	x						x
Referrals to programs	x	x	x	x	X	x	x	x	x		x	x		x	x						x
Labor market information	x	x	x		X	x	x	x	x		x										
Performance on local workforce system	x	x	x		X																
Performance & program cost of Eligible Providers	x	x							x		x										
Referrals to supportive services	x	x	x	x	X	x	x	x	x		x	x		x	x						x
UI information and assistance	x	x	x		X				x	x	x										
Financial aid information	x	x	x	x		x	x		x		x	x			x						
<b>Individualized and Follow-Up Career Services</b>																					
Comprehensive assessment	x	x	x	x	X	x	x	x	x		x	x									x
Individual employment plan	x	x	x		X	x	x	x	x		x			x							x
Career planning & counseling	x	x	x	x	X	x	x	x	x		x	x			x						x
Short-term pre-vocational services	x	x	x			x	x				x	x			x						x
Internships and work experiences	x	x	x			x	x	x	x			x			x						x
Out of area job search and relocation assistance	x	x	x		X	x	x		x												
Financial literacy services	x	x	x	x		x	x								x						x
English language acquisition and integrated education	x	x	x	x					x			x			x						
Workforce preparation	x	x	x	x					x			x			x						x
Follow-up services	x	x	x	x				x			x			x							x