

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 5 WORKFORCE INNOVATION AND OPPORTUNITY ACT ONE STOP SYSTEM AND PARTNERSHIPS

11.2.5.1 ISSUING AGENCY: New Mexico Department of Workforce Solutions (DWS)
[11.2.5.1 NMAC - N, 7/1/2018]

11.2.5.2 SCOPE: State workforce development board (state board), department of workforce solutions (DWS), chief elected officials (CEOs), local workforce development boards (local boards), local workforce system administrative entities (local administrative entities), workforce system sub-recipients and workforce system partners.
[11.2.5.2 NMAC - N, 7/1/2018]

11.2.5.3 STATUTORY AUTHORITY: Title I of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. Chapter 32, Subchapter I, and 1978 NMSA Section 50-14-1 *et seq.*
[11.2.5.3 NMAC - N, 7/1/2018]

11.2.5.4 DURATION: Permanent.
[11.2.5.4 NMAC - N, 7/1/2018]

11.2.5.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.
[11.2.5.5 NMAC - N, 7/1/2018]

11.2.5.6 OBJECTIVE: To provide guidance to local boards and one-stop partners and operators regarding required and appropriate partnering strategies within the one-stop delivery system.
[11.2.5.6 NMAC - N, 7/1/2018]

11.2.5.7 DEFINITIONS:

A. Infrastructure funding agreement (IFA) is an agreement on shared infrastructure costs negotiated among local boards, one-stop partners, and chief elected officials. IFAs are a mandatory component of the local memorandum of understanding, described in WIOA Sections 121(c), 20 CFR 678.500 and 678.755, 34 CFR 361.500 and 361.755, and 34 CFR 463.500 and 463.755. The IFA contains the infrastructure costs budget, which is an integral component of the overall one-stop operating budget.

B. Workforce connection online system is a common management information system DWS makes available to support business outreach and job seeker services. The system is utilized for all data collection, performance monitoring, and reporting of all workforce development activities.
[11.2.5.7 NMAC - N, 7/1/2018]

11.2.5.8 DESCRIPTION OF THE ONE-STOP SYSTEM: The one-stop delivery system brings together required partner agencies and organizations to collaboratively implement a seamless, customer-focused approach to delivering workforce development, education, and other related workforce development programs. Together these partners determine strategies to best meet this mission, such as through co-location, shared case management, coordinated and integrated communications and information, training and educational activities, business services, and other means.

A. Each local area is required to establish at least one comprehensive center that includes access to all of the required partners.

B. Non-comprehensive sites, or affiliate sites, where one or more of the required programs are available, are permissible, as long as clear opportunities exist for connecting partners, customers, and businesses to ensure coordination across programs.

C. Under WIOA Title I, stand-alone sites offering only Wagner-Peyser employment services-funded services, are prohibited.
[11.2.5.8 NMAC - N, 7/1/2018]

11.2.5.9 ONE-STOP PARTNERS AND PARTNER RESPONSIBILITIES: WIOA establishes goals for the integration of workforce development programs. These goals are intended to maximize the value and benefits to customers of services available to them under federally-funded workforce development programs. Planning and coordinating services among all federally-funded workforce development partners is necessary in order to achieve the level of integrated services delivery required by WIOA. This means that all federally-funded workforce development programs must work in partnership to optimize the quality of services provided. Successful integration is directly related to coordinated and joint use of resources.

A. These required partners are entities responsible for administering the following workforce development programs and activities in the local area:

- (1) Title I Programs (Adult, dislocated worker, youth, Job Corps, YouthBuild, Native American and migrant and seasonal farmworker programs);
- (2) Wagner-Peyser Act employment service program authorized under the Wagner-Peyser Act (29 USC 49, et seq), as amended;
- (3) Vocational Rehabilitation program authorized under Title I of the Rehabilitation Act of 1973 (29 USC 720, et seq), as amended by WIOA Title IV;
- (4) Adult Education and Family Literacy Act programs under Title II of WIOA.
- (5) Senior community service employment program (SCSEP) authorized under Title V of the Older Americans Act of 1965 (42 USC 3056, et seq);
- (6) Career and technical education programs at the postsecondary level, authorized under Carl D. Perkins Career and Technical Education Act of 2006(20 USC 2301, et seq.);
- (7) Trade Adjustment Assistance authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 USC 2271, et seq);
- (8) Jobs for veterans state grants programs authorized under Chapter 41 of Title 38, USC;
- (9) Employment and training activities carried out under the Community Services Block Grant (42 USC 9901, et seq);
- (10) Employment and training activities carried out by the department of housing and urban development;
- (11) Programs authorized under state unemployment compensation laws under 1978 NMSA 51-1-1, et seq (in accordance with applicable federal law);
- (12) Reentry employment opportunities (REO) (formerly known as ex-offender programs) authorized under Section 212 of the Second Chance Act of 2007 (42 USC 17532); and
- (13) Temporary assistance to needy families (TANF) authorized under the Social Security Act, unless exempted by the governor.
- (14) Other entities that carry out a workforce development program, including federal, state or local programs, and programs in the private sector, may serve as additional partners in the one-stop delivery system if the local board and chief elected officials approve the entity's participation, in accordance with 20 CFR 678.410.

B. Each required partner must provide its workforce development programs or activities through the one-stop delivery system.

C. Each local board is mandated to establish a memorandum of understanding (MOU) with each of the required one-stop partners in that local area that describes their programmatic and fiscal contributions for infrastructure, and additional costs necessary to support the one-stop delivery system.

D. WIOA and related regulations outline the requirements for federally-funded workforce development partners to contribute to infrastructure funding of the one-stop system in each local area. Partner programs and additional partners that carry out a program in the local area are required to share infrastructure costs and certain additional costs. When two or more grant recipients or contractors of a required partner program carry out a program in a local area, these entities are considered one-stop partners, and they must reach out to the local board to assist in carrying out the roles and responsibilities of the workforce connection centers, including negotiating their share of the infrastructure costs.

E. When one or more required partners is the recipient of multiple federal grant awards, each grant or contract recipient carrying out the workforce development program in that local area must contribute towards the infrastructure costs. Contributions must be based on the proportionate use and relative benefit received by those partners from the workforce connection centers. As required one-stop partners, Native American programs are strongly encouraged to contribute to infrastructure costs, but they are not required to contribute. Any agreement or contribution or non-contribution to infrastructure costs by Native American programs must be documented in the MOU carried out by the US department of housing and urban development;

[11.2.5.9 NMAC - N, 7/1/2018]

11.2.5.10 MEMORANDUM OF UNDERSTANDING (MOU): The MOU is the functional tool, as well as the visionary plan for how the local boards and one-stop partners will work together to create and execute a unified service delivery system that meets the needs of their shared customers. The following additional requirements for MOUs apply:

A. Local boards may develop a single “umbrella” MOU that addresses overarching issues for the local board, chief elected officials, and required one-stop partners as they relate to the local one-stop delivery system. Alternatively, they may choose to enter into a separate MOU with each individual partner, or group of partners;

B. Each required one-stop partner entering into the MOU development and negotiation process designates a specific individual with authority to commit financially and programmatically on behalf of the required partner. This individual may be staff from a state agency’s central, regional, or local office or a local representative providing services for a state-level entity through a contract, grant, or similar agreement.

C. MOUs must identify and detail how each required partner will contribute its proportionate share of infrastructure costs for the one-stop system.

D. The local board must report failure to execute any MOU with a required one-stop partner to DWS. If DWS cannot assist the local board to resolve the impasse, the failure to resolve the impasse will be reported to the US Secretary of Labor and the head of any other agency with responsibility for oversight of the required partner’s program.

[11.2.5.10 NMAC - N, 7/1/2018]

11.2.5.11 ONE-STOP OPERATING COSTS: WIOA requires all one-stop partners to contribute to infrastructure funding, which includes both facility and shared costs needed to maintain operation of the one-stop delivery system.

A. Contributions by required one-stop partners to the facility funding costs of a comprehensive workforce connection must be monetary.

B. Contributions by both required and other partners for shared costs may be in cash, or in a fairly evaluated in-kind contribution. However, said contributions must demonstrate the contribution impacts and benefits all partners and the overall one-stop delivery system.

C. Each local board is required to establish an MOU with each partner in that local area that includes how infrastructure funding will be allocated and contributed.

D. DWS is responsible for providing ongoing technical assistance and written guidance describing the required workforce system partners, example tables, and funding structures to aid in the overall planning and development of the infrastructure funding agreements (IFAs). DWS is also responsible for advocacy and communication with state partner organizations and agencies as needed to support local board negotiations.

E. If consensus cannot be reached when developing the IFA, local boards are required to notify DWS at least 60 days prior to the deadline set by DWS. DWS will then assume responsibility for reviewing negotiated costs and processes used to determine the IFA, providing further guidance to local boards and the partners. The funding mechanism imposed by DWS is a last resort effort. The local board and the required partners are required to continue to negotiate in good faith to avoid a funding mechanism imposed by DWS.

[11.2.5.11 NMAC - N, 7/1/2018]

11.2.5.12 ONE-STOP OPERATORS:

A. At a minimum, the one-stop operator (operator) must coordinate the service delivery of required one-stop partners. The operator works with all the required workforce development partners to coordinate effective strategies and systems necessary to build and sustain a cohesive, seamless one-stop delivery system that engages all the partners in planning, goal setting, and implementing activities. The operator is primarily responsible for organizing and facilitating partner discussions surrounding the MOU, IFA, and shared work responsibilities needed to implement and sustain a customer-centered approach focused on improving employment outcomes for job seekers and business outreach to employers. Additionally, the operator must oversee implementation and compliance of these activities to ensure effective programmatic and physical access at each of the workforce connection centers to ensure they are in compliance with WIOA regulations, and state and local policies related to nondiscrimination and equal opportunity.

B. The following requirements apply to the local board and operator:

(1) WIOA requires each local board to issue a competitive process for the selection of the operator for the local area on a regular basis.

(2) A sole source selection option is allowed, but only after an attempt to competitively procure does not result in a responsive or reasonable offer. A local board may also be selected as an operator through sole source procurement, but only with an agreement of the chief elected officials in the local area and DWS. In instances where the local board is selected as the operator, sufficient conflict of interest policies and procedures must be established by the local board and these policies and procedures must be approved by DWS.

(3) An operator may be a single public, private, or nonprofit entity, or a consortium of entities. If a consortium of entities is used, it must include a minimum of three of the required one-stop partners.

(4) Elementary schools and secondary schools are not eligible as operators, except that a non-traditional public secondary school such as a night school, adult school, or an area career and technical education school may be selected.

[11.2.5.12 NMAC - N, 7/1/2018]

11.2.5.13 ONE-STOP CERTIFICATION: Local boards must certify their workforce connection centers at least once every three years.

A. The state workforce development board, in consultation with chief elected officials and the local board must establish objective criteria and procedures for the local board to use when certifying the workforce connection centers.

B. Local boards must develop and include in their local plan, a certification policy and procedure that contains the criteria for assessing each workforce connection center and the one-stop delivery system.

C. Local board certification policies must be consistent with the criteria for assessing each local workforce connection center and one-stop delivery system. This must include an evaluation of the workforce connection centers and one-stop delivery system for effectiveness, physical and programmatic accessibility, and continuous quality improvement, as well as any additional criteria as determined by the local board.

D. Local boards must submit their certification policies to DWS for review and approval. These certification policies will be incorporated into the compliance review and audit procedures conducted by state monitors.

E. In cases where a local board is selected to act as the operator, DWS must review the assessment and make the certification determination for those workforce connection centers and the one-stop delivery system.

F. If local board certification is not completed within the timeframes set by DWS, the workforce connection centers and the one-stop system become ineligible to receive infrastructure funding from partners or the state funds for those areas that rely on state infrastructure funding.

[11.2.5.13 NMAC - N, 7/1/2018]

11.2.5.14 COMMON IDENTIFIER: In accordance with WIOA and 20 CFR, 678.900, the US Department of Labor's Employment and Training Administration, Education's Office of Career, Technical and Adult Education, Office of Special Education and Rehabilitative Services' Administration, and Health and Human Services Administration for Children and Families established the "American Job Center" network as a unifying name and brand that identifies online and in-person workforce development services as part of a single network of publicly funded services. The one-stop delivery system must use either that common identifier as its name, or use a tag line phrase, "a proud partner of the American Job Center network". As such, DWS has adopted the tag line phrase, "a proud partner of the American Job Center network". All New Mexico workforce connection centers are required to:

A. adopt the new logo and branding practices with timeframes and procedures established in accordance with state technical assistance guidance;

B. replace existing logos and incorporate the tagline phrase;

C. adhere to the logo and branding practices for all printed materials that are copied and distributed for specific events and meeting, and all related publications and handouts which include references to the workforce connection centers in New Mexico;

D. adhere to state technical assistance guidance regarding the common identifier.

[11.2.5.14 NMAC - N, 7/1/2018]

11.2.5.15 DWS RESPONSIBILITIES: DWS, under the direction of the governor and the state workforce development board, is designated as the state administrative entity responsible for the implementation and oversight of WIOA in New Mexico. DWS's responsibilities include, but are not limited to:

A. developing statewide policies and written guidance letters;

- B.** ensuring each local board develops and maintains a single umbrella or individual partner memorandum of understanding;
 - C.** ensuring each local board develops an infrastructure funding agreement with the WIOA required partners that is monitored, reviewed, and updated at least quarterly;
 - D.** reviewing and approving local board workforce development plans;
 - E.** preparing New Mexico's WIOA state plan and submitting it to the US department of labor (USDOL), as directed
 - F.** preparing an annual report in coordination with the state workforce development board on workforce system activity and performance;
 - G.** negotiating statewide performance measures with the USDOL, and subsequently negotiating local area performance measures with local boards;
 - H.** providing oversight and administration for the eligible training provider certification system;
 - I.** preparing and initiating grant agreements with each local board;
 - J.** monitoring and evaluating the one-stop delivery system to ensure compliance with state and federal policies and directives;
 - K.** providing or contracting for technical assistance and training to ensure performance measures and outcomes are met;
 - L.** ensuring the one-stop delivery system includes all required partners, and that continuous quality improvement activities are developed and implemented;
 - M.** requiring corrective action or imposing sanctions on a local board or other WIOA sub-recipient for significant inability or failure to perform as required;
 - N.** evaluating the effectiveness of the one-stop delivery system, including qualitative and quantitative program analysis of program goals, performance success indicators, outcomes, cost-efficiencies, seamless service delivery, partner contribution and collaboration, and customer satisfaction; and
 - O.** compiling and submitting data and reports on program outcomes and performance of the one-stop delivery systems as required by the USDOL, which may also include compilation of data and reports related to common performance measures and outcomes related to WIOA core partners.
- [11.2.5.15 NMAC - N, 7/1/2018]

11.2.5.16 COMMON INFORMATION AND MANAGEMENT SYSTEM: Local boards and their sub-recipients are required to use the workforce connection online system, which tracks participants and individual services and is used to track and monitor performance outcomes. Partners co-located in the comprehensive and affiliate centers, or partners engaged in shared case management and referral, may enter into data sharing agreements with DWS to support access to this system, and its related data, in accordance with the provisions of a data sharing agreement.

[11.2.5.16 NMAC - N, 7/1/2018]

HISTORY OF 11.2.5 NMAC:

History of Repealed Material:

11.2.5 NMAC, Workforce Investment Act (WIA) State Workforce Development Board, filed 6-16-2000 - Repealed effective 8-15-2012.

11.2.6 NMAC, Workforce Investment Act (WIA) One-Stop Delivery System, filed 6-16-2000 - Repealed effective 8-15-2012.

11.2.5 NMAC, Workforce Investment Act (WIA) One-Stop Delivery System, filed 8-15-2012 - Repealed effective 8-1-2018.