POLICY RESOLUTION: SETC #2017-03
SUBJECT: State Funding Mechanism for Local Infrastructure Costs

Resolution:
It is the policy of the SETC that it shall ensure that each local Workforce Development Board (WDB) will comply with the Workforce Innovation and Opportunity Act (WIOA) of 2014 and make every effort to reach consensus with its local partners to implement a local Infrastructure Funding Agreement (IFA), as part of the One-Stop Partner Memorandum of Understanding (MOU). As required by WIOA, the SETC hereby approves the New Jersey State Funding Mechanism for Local Infrastructure Costs, and the process as described below, for use in the event that any local area in New Jersey is unable finalize its local IFA by January 1, 2018.

Purpose
The Workforce Innovation and Opportunity Act of 2014 (WIOA) requires that local Workforce Development Boards (WDBs) establish, as part of their Memorandum of Understanding (MOU), an Infrastructure Funding Agreement (IFA) for non-personnel One-Stop related costs (including rent, security, technology and utilities). The law further requires the establishment of a State Funding Mechanism (SFM) to be used ONLY if local areas are unable to finalize a local IFA by **January 1, 2018**. This policy establishes the State Funding Mechanism for New Jersey.

Background
WIOA requires that each local board, as part of its MOU with its partners, indicates how partners shall contribute to the infrastructure needs of the one-stop system as part of a Local Funding Mechanism (LFM). Contributions may be made in cash or in appropriately evaluated in-kind contributions. The MOU shall detail in the IFA how infrastructure funding shall be contributed. If a local area cannot reach consensus on a LFM, a State Funding Mechanism (SFM), as outlined in this policy, shall be utilized. As stated in WIOA, the local WDB has the responsibility for the MOU and the LFM.

This is based upon the requirements provided at:

- Title I of the Workforce Innovation and Opportunity Act (WIOA) PL 113-128, July 22, 2014; WIOA Sections 107, 111(b) and 121(c), (d), (g), and (h)
- Training and Employment Guidance Letter (TEGL) 17-16: *Infrastructure Funding of the One-Stop System*
- WIOA US Department of Labor/US Department of Education Joint Rule (81 FR 56016, August 19, 2016), Subpart E, 678.700 – 678.760; 361-70 – 361.760; 463.700 – 463.760

Discussion
WIOA requires that all one-stop partner programs appropriately contribute to infrastructure funding of the one-stop system. According to WIOA, the following programs must be considered:

Required Partners:
- Title I programs (Adult, Dislocated Worker, Youth, Job Corps, YouthBuild, Native American, and migrant seasonal farmworkers);
- Title II (WIOA) adult education and literacy activities;
- Wagner-Peyser Act (Title III of WIOA) employment services programs;
- The Vocational Rehabilitation program under the Rehabilitation Act (Title IV of WIOA);
- The Senior Community Service Employment Program authorized under Title V of the Older Americans Act;
- Trade Adjustment Assistance authorized under the Trade Act;
- State unemployment compensation (UI) programs;
- Jobs for Veterans State Grants programs authorized under chapter 41 if title 38, USC;
- Ex-offender programs authorized under section 212 of the Second Chance Act.
- Postsecondary career and technical education (CTE) programs authorized under Carl D. Perkins Career and Technical Education Act;
- Employment and Training activities under the US Department of Housing and Urban Development (HUD);
- Employment and Training activities under the Community Services Block Grant; and
- Welfare-to-Work (WFNJ) programs being utilized to serve the TANF, GA and SNAP populations

Additional Partners:
May be included in the local funding mechanism (LFM) with the approval of the local WDB and local chief elected official:
- Social Security Administration (SSA) programs;
- Small Business Administration employment and training programs;
- Client Assistance Program (CAP) under Title IV of WIOA;
- National and Community Services Act programs;
- Registered Apprenticeship Programs; and
- Other appropriate federal, state or local programs, such as employment, education or training programs operated by libraries or the private sector; also programs providing transportation and services for those with substance abuse or mental health issues;

The SFM is only applicable to **required** one-stop partners and cannot be triggered by additional one-stop partners not reaching consensus.

Definitions
WIOA law as outlined in TEGL #17-16 defines **Infrastructure Costs** as non-personnel costs that are necessary for the general operation of the one-stop center, including:
- Rental of Facilities
- Utilities and Maintenance
- Equipment
  - Assessment related products
  - Assistive technology for individuals with disabilities
- Technology to facilitate access to the one-stop center (OSCC)

    - OSCC planning and outreach activities
    - OSCC record-keeping activities
    - Electronic and other linkages that are established to seamlessly transition customers between programs.
- Common identifier costs as applicable, including signage and supplies

One-Stop Career Centers may be either:

- **Comprehensive Center**: A one-stop center that includes multiple (two or more) required partners and, in addition, where job seekers and employers may access the programs, services, and activities of all required one-stop partners.
- **Affiliate Center**: A one-stop center that includes at least two co-located required partners, but does not have access to the services of all required partners.

A stand-alone facility dedicated to any one of the required partners that does not include any other partners, and does not provide access to the services nor supports of any other partners, shall be considered a separate office and not appropriate to share in any established Infrastructure pool.

This policy specifies contribution requirements based upon the **proportional use and benefits of the system of each partner**. New Jersey recognizes that law requires co-location within a comprehensive one-stop of a limited number of partners (e.g. Title I and Title III) and their respective services. While the State recognizes that local areas may best optimize the delivery of services to customers through their own determination of where services are located, the SETC also appreciates the benefits to customers of the system from the establishment of comprehensive centers with co-located programs and encourages such approaches.

Consideration of Co-Located Partners

Co-located partners include any program that is placing staff members in the same facility that is identified as a comprehensive one-stop center by a local board, or in an affiliate center, for the purposes of providing appropriate career services or business services as defined in WIOA or the applicable legislation and/or its rules at an appropriate level. Contributions must be made by all co-located partners in either type of facility as warranted. If partners cannot reach consensus on cost contributions, they will be required to follow the process as established in the WIOA regulations for a State Funded Mechanism (SFM).

In all cases, it is encouraged that local workforce areas develop/implement a Local Funding Mechanism (LFM). According to WIOA rules, the State may only access funds from a set list of program partners and caps those contributions. A locally developed mechanism may not have such constraints. These same rules reserve the right for the State to require local areas to provide all necessary information to the State. The State also has the authority to require that a local area carry through on stalled negotiations.

Components of a Funding Mechanism

Either funding mechanism must recognize certain factors within the local workforce area. These may include:

- Staff numbers
- Financial contributions
- Space/square footage
- Utilities
- Maintenance

- General IT
- Security
- Assessment equipment/assistive equipment
- Joint phone systems
- Shared subscriptions

An annual allotment for Infrastructure should be determined in consideration of the historical use proportion for the bullet points indicated above.

Consideration of Non Co-Located Partners

LFMs should recognize all non-co-located partners as referenced in WIOA (Section 121) who do not have staff physically based at the local one-stop. Local Funding Mechanisms should indicate resources contributed by these partners to support the infrastructure of the one-stop system in the local area. These contributions should be determined by examining the number of customers receiving services at these organizations who may also be enrolled in a program at the comprehensive one-stop. The proportionate cost of these services should be counted as non-cash contributions to cover the proportionate use of the one-stop.

Process

Local Infrastructure Funding Agreements (IFAs) must be completed and included in a local MOU by January 1, 2018. It is the responsibility of the local Workforce Development Board (WDB) Director to inform the New Jersey Department of Labor and Workforce Development and the New Jersey State Employment and Training Commission by **December 1, 2017** if the local WDB believes they are at impasse locally and will require the use of the State Funding Mechanism (see attachments). Questions regarding infrastructure cost funding issues should be directed to Jerry Calamia, Director of the LWD Office of Internal Audit. Questions regarding signatories for any of the partner programs should be directed to the office of Ms. Patricia Moran, LWD Assistant Commissioner of Workforce Programming.

It is important to note that it is and shall be in any case, the responsibility of the local Workforce Development Board to obtain the information required to complete the State Funding Mechanism. Should the area choose to revert to the State Funding Mechanism, it is still the local workforce area's responsibility to provide the information necessary to complete the computation to LWD/SETC.

Local workforce areas have the primary responsibility to develop a local formula, all data required to effectuate the formula and drive agreement/consensus amongst its partners. If an area believes it cannot achieve an agreement or attain such consensus, the Local Workforce Development Board Director must inform the New Jersey Department of Labor and Workforce Development and the New Jersey State Employment and Training Commission, **in writing, by no later than the close of business on Friday, December 1, 2017.** That written notification must be sent to:

Jerry Calamia, Director
LWD Office of Internal Audit
Gerald.Calamia@dol.nj.gov

Gary Altman, Acting Executive Director
New Jersey State Employment and Training Commission
Gary.Altman@dol.nj.gov

A team representing both organizations shall review any request for use of the State Funding Mechanism and make a determination consistent with the WIOA Joint Rules Sections 678.700 through 678.760. This determination may include requiring additional information, a recommendation that the local area complete the work or the use of the State Mechanism. The simple request of the State Mechanism does not ensure its implementation nor does it absolve a local area of providing the information required to make a decision. This process includes the option to appeal a State Funding Mechanism decision, as outlined in Attachment 1.

Program Caps on Contributions:
WIOA rules, and the associated TEGL #17-16, cap the amount of contribution that may be provided by organizations under the State Funded Mechanism. Should an area request implementation of the State Funded Mechanism, these caps will be respected and the result may impact the ability of a local area to meet its infrastructure costs.

Monitoring of Implementation:
Local Workforce Development Boards are required to establish the MOUs that indicate how infrastructure costs are contributed and whether a local or state formula is being used. As part of its annual budget requirements, each local board shall indicate to the state which formula is being followed, the amount of the agreement and whether necessary steps have been taken to effectuate the effort including adjustments to the formula, funding or transfer of funds between partners.

Attachment 1: State Funding Mechanism
Attachment 2: Programmatic Statewide Caps
Attachment 3: New Jersey Determining Factors

SETC Approved: November 14, 2017

ATTACHMENT 1: STATE FUNDING MECHANISM

This reflects the steps required should a local workforce area be unable to reach consensus for a locally developed effort.

Related Definitions:

- IFA: Infrastructure Funding Agreement; part of the local one-stop partners' memorandum of understanding (MOU)
- LFM: Local Funding Mechanism (effectuated by local partners)
- SFM: State Funding Mechanism
- MPC: Maximum Potential Cap

State Formula Steps

Step 1: Notice of failure to reach consensus given to the LWD/SETC.

If the Local WDB, local one-stop partners, and CEO(s) cannot reach consensus on methods of sufficiently funding a one-stop center's infrastructure costs and the amounts to be contributed by each local partner program, **the Local WDB is required to notify the LWD and SETC by December 1, 2017**.

In subsequent years in which agreements are renewed, notification must be given by March 1st. In years during which a grant competition takes place that may impact the formula, alternative timing may be necessary.

Step 2: Local negotiation materials provided to the LWD/SETC.

In order to assist the LWD/SETC in making these calculations and determinations, **the Local WDB must provide the appropriate and relevant materials and documents** used in the negotiations under the LFM, preferably when notifying the LWD/SETC of the failure to reach consensus.

At a minimum, the Local WDB must give the LWD/SETC:

(1) the local WIOA plan;
(2) the cost allocation methodology or methodologies proposed by the partners to be used in determining the proportionate share;
(3) the proposed amounts or budget to fund infrastructure costs and the amount of partner funds included;
(4) the type of funds (cash, non-cash, and third-party in-kind contributions) available;
(5) any proposed or agreed upon one-stop center or system budget; and
(6) any partially agreed upon, proposed, or draft IFAs.

The Local WDBs shall also provide the LWD/SETC additional materials that they or the LWD/SETC find to be appropriate.

Step 3: The LWD/SETC determines one-stop center infrastructure budget(s).

The LWD/SETC must determine the infrastructure budget(s). Depending on the local delivery system structure, there may be more than one infrastructure budget, each of which is contained in a one-stop operating budget. While the LWD/SETC should take into account the one-stop center's operating budget, the LWD/SETC only has the power to determine the infrastructure budget under the SFM. The LWD/SETC must determine the infrastructure budget in one of two ways. If, as a result of an agreed upon infrastructure budget, only the individual programmatic contributions to infrastructure funding based upon proportionate use of the one-stop centers and relative benefit received are at issue, the LWD/SETC may accept the infrastructure budget, from which the LWD/SETC must calculate each partner's contribution consistent with the cost allocation methodologies contained in the Uniform Guidance.

If, however, an infrastructure budget or budgets were not agreed upon in the local negotiations, or the LWD/SETC determines that the agreed upon budget does not adequately meet the needs of the local area or does not reasonably work within the confines of the resources available to that local area in accordance with the LWD/SETC guidance on one-stop infrastructure funding, then the LWD/SETC must use the State Funding Mechanism. **This mechanism must identify the factors, as well as each factor's corresponding weight, that the LWD/SETC must use in determining the one-stop center infrastructure budget.** At a minimum, these factors should include:

(1) the number of one-stop centers in a local area (each facility should warrant separate consideration);
(2) the total population served by such centers;
(3) the services provided by such centers; and
(4) any 2 factors relating to the operations of such centers in the local area that the State WDB determines are appropriate (20 CFR 678.745, 34 CFR 361.745, and 34 CFR 463.745).

Step 4: LWD/SETC establishes cost allocation methodology. *

After an infrastructure budget has been determined, the LWD/SETC must establish a cost allocation methodology that determines the distribution of infrastructure funding costs among the local one-stop partners in accordance with the principles of proportionate use of the one-stop center and relative benefit received. This allocation methodology must be consistent with the Federal Cost Principles of the Uniform Guidance in 2 CFR part 200, all relevant Federal regulations and statutes, further regulatory guidance, and the partner programs' authorizing laws and regulations. Beyond these requirements, the determining factor can be a wide range of variables, such as number of customers served, square footage used, or a different basis that is agreed upon for determining each partner's contribution level for infrastructure costs.

** A local area may use more than one cost allocation methodology to distribute costs.*

Step 5: Partners' proportionate shares are determined.

Once a methodology is established, the LWD/SETC must use this methodology to determine each required one-stop partner's proportionate share of infrastructure funding costs. The LWD/SETC must take into account a number of factors in reaching a proportionate share determination including:

(1) the costs of administration of the one-stop delivery system for purposes not specifically related to a one-stop center for each partner (such as costs associated with maintaining the Local WDB or information technology systems);
(2) statutory requirements for each partner program;
(3) each one-stop partner's ability to fulfill such requirements; and
(4) all other applicable legal requirements.

The LWD/SETC may draw upon any proportionate share determinations made during the local negotiations, including any agreements reached at the local level by one or more partners, as well as any other materials or documents from the negotiating process.

In some instances, the LWD/SETC does not determine each one-stop partner's contribution amounts for infrastructure costs. Should there be a partner where the policy-making authority is placed in an entity or official that is independent of the authority of the Governor with respect to the funds provided for the AEFLA program, postsecondary career and technical education activities authorized under Perkins IV, the VR program, or any other partner program, the determination of the amount each of the applicable partners must contribute to assist in paying the infrastructure costs of one-stop centers must be made by the official or chief officer of the entity with such authority, in consultation with the LWD/SETC.

For other required partner programs in which grant awards are made to entities that are independent of the authority of the LWD/SETC, such as Job Corps center contractors or grant recipients of the DOL-administered national programs, the determination of the amount each of the applicable partners must contribute to assist in paying the infrastructure costs of one-stop centers continues to be made by the LWD/SETC, through the authority granted to the entities by WIOA and its implementing regulations.

Step 6: LWD/SETC calculates statewide caps.
Once the LWD/SETC has created a cost allocation methodology, the LWD/SETC then must calculate the statewide caps to determine the maximum amounts that required partner programs could be *required* to contribute toward infrastructure funding in that local area. There are no statewide caps for additional partners because the SFM does not apply to them.

The statewide caps are a statutory requirement for purposes of the SFM, even when only one local area is unable to reach consensus on an IFA through the LFM. However, the caps only restrict the infrastructure cost contributions required of one-stop partners within the local area(s) that has (or have) not reached consensus. The caps used in the application of the SFM are referred to as the applicable program caps, which must be calculated by the LWD/SETC using the five sub-steps listed below.

In the event that more than one local area in a State does not reach consensus, then the aggregate of the infrastructure funding costs that must be contributed by each required one-stop partner in all of the local areas that did not reach consensus is restricted by the applicable program cap.

For example, if three of ten local areas did not reach consensus, then the required infrastructure funding contributions of each required one-stop partner under a particular program in these three areas would be added together, the sum of which could not exceed the calculated applicable program cap.

The LWD/SETC must take five sub-steps to calculate the applicable program cap for any given program.

> **Sub-Step 1:** The LWD/SETC must apply a partner's individual applicable limiting percentage (the statutory percentages listed in WIOA sec. 121(h)(2)(d))—which is dependent on the type of program (see chart in Attachment 2)—to the total Federal funding which that program receives for the affected program year to reach the maximum potential cap (MPC). The applicable limiting percentage for a program is listed in Attachment 2 and in WIOA sec. 121(h)(2)(d), 20 CFR 678.738(c), and 34 CFR 463.738(c). Some programs will use previous years' funding to determine the cap due to internal program funding allocation or re-allotment methods

Sub-Step 2: The LWD/SETC must select a determining factor or factors that reasonably indicate the use of one-stop centers in the State. This will be the percentage of Title I-B and WFNJ funding each local area receives.

Sub-Step 3: The LWD/SETC applies the determining factor(s) to all local areas across the State, and then determines the percentage of the factor(s) that is applicable to those areas that reached consensus, or the consensus areas' factor percentage.

Sub-Step 4: The LWD/SETC then applies the consensus areas' factor percentage to the MPC to find the consensus areas' portion of the MPC

Sub-Step 5: The LWD/SETC subtracts the amount equal to the consensus local areas' portion of the MPC from the MPC. The remaining amount is the applicable program cap for use in the local areas that have not reached consensus and are subject to the SFM.

Step 7: LWD/SETC assesses the aggregate total of infrastructure contributions as it relates to the statewide cap.

Once the LWD/SETC has determined the applicable program cap for each program, as well as the proportionate share of the infrastructure costs that the LWD/SETC has determined under Step 5 would be required of each local required one-stop partner in a non-consensus area without regard to the cap, the LWD/SETC must ensure that the funds required to be contributed by each partner program in the non-consensus local area(s), in aggregate, do not exceed the applicable program cap.

If the aggregate total contributions are below the applicable program cap, then the LWD/SETC must direct the one-stop partners to contribute what was determined to be their proportionate shares. If the aggregate total contributions exceed the cap, then the LWD/SETC may either:

A. Inquire as to whether those local partner programs that have pushed the aggregate total contributions above the applicable program cap (i.e., those whose contributions would have otherwise exceeded the Statewide cap on contributions) are willing to contribute beyond the applicable program cap in accordance with their proportionate share; or

B. Allow the Local WDB, one-stop partners, and CEO(s) to:
    - Re-enter negotiations to reassess each one-stop partner's proportionate share and make adjustments and identify alternate sources of funding to make up the difference between the capped amount and the proportionate share of infrastructure funding of the one-stop partner; and
    - Reduce infrastructure costs to reflect the amount of funds available without exceeding the applicable program cap level.

Step 8: LWD/SETC adjusts proportionate shares.

The LWD/SETC must make adjustments to specific local partners' proportionate share in accordance with the amounts available under the applicable program cap for the associated program, if the Local WDB, CEO(s), and the required one-stop partners fail to reach agreement on how to address the situation in which the proportionate share exceeds the cap using the approaches described in Step 7. The aggregate total contribution of a program's local one-stop partners under the SFM may not exceed the applicable program cap.

Appeals Process

(a) If a local area and/or local board, partner program or Chief Elected Official (CEO) disagrees with the State determination of the local area infrastructure budget, the local area and/or local board may submit an appeal to the Commissioner in writing no later than 30 days after having received notice of the corrective action and/or penalty determination being appealed.

(b) All appeals submitted to the Commissioner in writing under (a) above shall state the basis for the appeal and shall include any documentary evidence that the local area and/or local board would like the Commissioner to review prior to rendering his or her decision.

(c) The Commissioner shall review the documentary evidence presented by the local area and/or local board and shall request any additional information or conduct any investigation necessary to render a decision.

(d) The Commissioner's decision shall be based on the written record and shall be rendered within 30 days after receipt of the appeal.

Basis for Appeal: A local WDB, partner program, or Chief Elected Official may appeal the State determination based on the following:

a. The determination is inconsistent with the proportionate share requirements of 20 CFR 678.735(a);
b. The determination is inconsistent with the cost contribution limitations in § 678.735(b);
c. The determination was inconsistent with the cost contributions caps as described in 20 CFR 678.738.

ATTACHMENT 2: PROGRAMMATIC STATEWIDE CAPS

Limiting Percentages for Programmatic Statewide Caps on Infrastructure Funding under the State Funding Mechanism

Program Type	Limiting Percentage
WIOA title I programs (youth, adult, or dislocated worker)	3%
Wagner-Peyser Act ES	3%
WorkFirst New Jersey (TANF, GA and SNAP E&T)	1.5%
AEFLA	1.5%
Perkins IV	1.5% of funds made available for postsecondary level programs and activities and funds used to administer postsecondary level programs and activities in the prior year
VR	
PY 2017	0.75% of Fiscal Year 2016 Federal VR funding
PY 2018	1% of Fiscal Year 2017 Federal VR funding
PY 2019	1.25% of Fiscal Year 2018 Federal VR funding
PY 2020 and subsequent years	1.5% of Fiscal Year 2019 (or applicable previous year) Federal VR funding
CSBG	1.5% of funds from the previous year spent by local CSBG-eligible entities to provide employment and training activities, plus any associated administrative costs
Other required partners including Job Corps; YouthBuild; Native American programs; MSFW (NFJP) programs; SCSEP; TAA; UC; HUD employment and training programs; and programs authorized under sec. 212 of the Second Chance Act of 2007	1.5%
Additional (non-required) partners	SFM does not apply

ATTACHMENT 3: NEW JERSEY DETERMINING FACTORS

When the State Funding Mechanism (SFM) is used, the total amount that any one partner can contribute is limited by a "determining factor." New Jersey is using the Title I-B and WorkFirst New Jersey funding formulas as the determining factor.

To reach the percentages shown below, the funding allocations for Program Year (PY) 2016 were reviewed. Each local area's allocations were averaged across the Adult, Youth, Dislocated Worker and WorkFirst New Jersey programs. The total of those allocations that each local area received was then calculated as a percentage of the statewide total allocations.

These percentages will be used to reduce the maximum contribution under the State Funding Mechanism, based on which local areas do not reach agreement.

	% of State Total
Atlantic	**5.96%**
Bergen	**4.96%**
Burlington	**4.01%**
Camden	**6.82%**
Cumberland/Salem/Cape May	**7.23%**
Essex	**10.07%**
Gloucester	**3.51%**
Greater Raritan	**2.82%**
Hudson	**7.38%**
Jersey City	**2.55%**
Mercer	**4.97%**
Middlesex	**6.52%**
Monmouth	**4.56%**
Morris/Sussex/Warren	**4.64%**
Newark	**5.04%**
Ocean	**4.12%**
Passaic	**9.30%**
Union	**5.53%**
Total	**100%**

USDOL recommends that the determining factor should reasonably indicate the use of one-stop centers in the state. The funding allocations were chosen because they already represent a proportionate need for the system based on demographic and unemployment data. New Jersey has consolidated its workforce development services, including WIOA and WFNJ (welfare-to-work) program funding; these represent significant investments and provide services to large numbers of customers at the One-Stop Career Centers in New Jersey.