## Memorandum of Understanding Extension

**PRESENTER NAME:** Eleni Papadakis  
**BOARD MEETING DATE:** 3/8/2017

**ISSUE/SITUATION:**  
Be concise - 1 or 2 sentences that get to the heart of the situation, problem or opportunity being addressed.

**THE ISSUE/OPPORTUNITY IS:**  
Governors can now grant up to an additional six months for local workforce development councils (LWDCs) to negotiate WorkSource cost-sharing agreements among at least 16 partner programs. The Board is asked to make a recommendation to Gov. Inslee regarding this allowance. LWDCs and administrative state agencies alike are in support of this extension.

**TAP STRATEGIC PRIORITY:**  
Which TAP strategic priority or priorities does this recommendation support? Can you tie to specific goals and objectives in TAP? Briefly describe these connections. If the connection is unclear, describe why this is of consequence to the Workforce Board and/or workforce system.

**SUPPORTS TAP STRATEGIC PRIORITY:**  
All of them. Cost-sharing among all WorkSource partners is necessary to advance all aspects of new service models envisioned in TAP.

**POTENTIAL IMPACT:**  
Effect on people, businesses, communities. What is better or different from other existing strategies?

**IT IS SIGNIFICANT BECAUSE:** *see above*

**OPTIMAL NEXT STEPS:**  
What do you really want to happen as a result of this discussion with the Workforce Board?

**MY IDEAL OUTCOME OF THIS DISCUSSION IS:**  
Board agrees to recommend that Gov. Inslee allow the extension. Motion will be included in the consent agenda for the March 23, 2017 special board meeting.

**BACKGROUND:**  
Short history of how this recommendation came to be. What has been tried, to what result? What evidence exists to support this recommendation?

**RELEVANT BACKGROUND INFORMATION:**  
See attached brief. Brief is in two parts. First section provides a summary and FAQ section provides technical details.
**STAKEHOLDER ENGAGEMENT, PROS AND CONS:**
Which stakeholders have been engaged in the development of this recommendation? What are the pros and cons of this recommendation? According to whom (which stakeholder groups)? Are there viable alternatives to consider?

- **STAKEHOLDERS HAVE PROVIDED INPUT AND THEY THINK:**
  WDCs and state agencies that administer mandatory WorkSource programs all agree that an extension would be beneficial.

**FINANCIAL ANALYSIS AND IMPACT:**
What will it cost to enact this recommendation? What resources will be used? Are new resources required? How much? Where will existing or new resources come from? Are there savings to be gained from this investment? Over what period? Are there other returns on investment to consider?

- **THE COST AND RESOURCE NEEDS OF THIS RECOMMENDATION ARE:**
  None.

**RECOMMENDATION AND NEXT STEPS:**
What specific result do you want from the Board? Is this recommendation for discussion or action? If for discussion, will action be required at a later date? What next steps are expected after this discussion?

- **THE RECOMMENDATION AND/OR REQUESTED ACTION IS:**
  Discussion for this Board meeting and direction from Board to draft the recommendation to the Governor to allow the extension granted by federal WIOA oversight agencies. Action will be taken at March 23 special Board meeting, preferably as part of the consent agenda.
Federal Extension Allowable for Finance Component of Local Memorandum of Understanding

For Discussion (for Board Action on March 23, 2017)

The Board is asked to make a recommendation to Governor Inslee to allow up to an additional six months for negotiation of local finance agreements among all partners in a WorkSource Center. There are 13 mandatory WorkSource partners in addition to the four core WIOA programs. Most local workforce development councils (LWDCs) local plans include additional non-mandatory partners they are working to integrate into their service delivery system.

Under WIOA, each LWDC must have a Memorandum of Understanding (MOU) in place by June 30, 2017, articulating how services will be provided and coordinated among all program partners, mandatory and non-mandatory. A completed MOU would ordinarily include an operating budget for each WorkSource Center or affiliate site, and all cost-sharing agreements negotiated to support that budget. This financial section is called the Infrastructure Funding Agreement (IFA).

WIOA’s federal oversight agencies, US Departments of Labor, Education, and Health and Human Services have determined that the complexities of WIOA have been an impediment to negotiating IFAs. While the programmatic or service delivery aspects of the MOU must still be finalized by June 30, 2017, federal agencies are allowing governors to grant up to an additional six months to negotiate the IFA component of MOUs. Later in this document, you will find the FAQs distributed by the US Department of Labor to describe this allowance.

Board staff conferred with LWDCs and state agencies that administer the majority of mandatory WorkSource program partners. The consensus among all parties is that additional time for financial negotiations would be beneficial, and would not impede progress in the negotiation process. Most LWDCs have not yet finalized the programmatic aspects of their local MOUs with all partners, and would like those discussion to go forward unhindered, as much as possible, by how much each organization will contribute. They would like the agreed upon optimal service strategy to be the basis of the operating budget, for which cost sharing will then be negotiated among all partners.

One additional point for consideration is the date by which IFA negotiations are determined to be successful. There is a requirement in WIOA that the Governor must intervene when IFA negotiations are unsuccessful. The Governor’s intervention will include mediation and an appeals process. The MOU workgroup of the Integrated Service Delivery TAP Implementation Committee is developing Governor’s intervention policy, referred to in the FAQs as the State Funding Mechanism (SFM), and will recommend the IFA negotiation deadline for the MOU extension policy that the Board will consider for action at the March 23, 2017 special board meeting.
1. What is the deadline for entering into a Memorandum of Understanding between the Local Workforce Development Board and one-stop partners?

In order to have a Memorandum of Understanding (MOU) in place for Program Year (PY) 2017, which begins on July 1, 2017, the Local Workforce Development Board (Local WDB) and one-stop partners must enter into a MOU that aligns with the requirements of WIOA—except for the final infrastructure funding agreement (IFA)—by June 30, 2017.

2. What is the deadline for finalizing infrastructure funding agreements for Program Year 2017?

The U.S. Department of Labor is using the transition authority of WIOA sec. 503(b) to provide an extension for the implementation date of the final IFAs for PY 2017. With this extension, final IFAs must be in place no later than January 1, 2018. However, Governors have the discretion to require local areas to enter into final IFAs at any time between July 1, 2017, and January 1, 2018. During the extension period, local areas may use the funding agreement they used for PY 2016, with any such modifications as the partners may agree to, to fund infrastructure costs in the local area. During the extension period, the regulations at 20 CFR 678.715(c) and 678.510(b) providing for a six month interim IFA shall not apply. This extension does not change the deadline of July 1, 2017, for the rest of the MOU.

While one required component of a MOU is the IFA, the Departments realize additional time is needed for local areas to negotiate and reach consensus on the one-stop partners’ contributions for infrastructure costs for PY 2017. Also, States may need additional time to develop and implement the State Funding Mechanism (SFM) that is to be applied to those local areas that are unable to reach a consensus agreement on infrastructure costs in the IFA. In order to implement the SFM, the Governor must be notified of all the local areas in the State that are not able to reach consensus in order to calculate the caps on infrastructure spending applicable to each partner program (20 CFR 678.730(b)(3), 34 CFR 361.730(b)(3), and 34 CFR 463.730(b)(3)). The statewide caps used in the SFM are the aggregate amounts available for each partner program for all local areas in the State that could not reach consensus with respect to funding the one-stop system’s infrastructure costs (20 CFR 678.731(b)(5)-(6) and 678.738, 34 CFR 361.731(b)(5)-(6) and 361.738, and 34 CFR 463.731(b)(5)-(6) and 463.738). They are not separate caps for the program in each local area. Therefore, the expectation is that the Governor will establish the notification deadline for local areas unable to reach consensus sufficiently in advance of when the IFA needs to be finalized so the SFM may be implemented, including calculating and applying the statewide caps, if necessary.

3. What are the required elements of an infrastructure funding agreement?

The jointly-administered regulations at 20 CFR 678.755, 34 CFR 361.755, and 34 CFR 463.755 require IFAs to include the following:

a. The period of time in which the IFA is effective (which may be a different time period than the duration of the MOU);
b. Identification of the infrastructure costs budget, which is a component of the overall one-stop operating budget;

c. Identification of all one-stop partners, chief elected officials (CEOs), and the Local WDB participating in the IFA;

d. A description of the periodic modification and review process to ensure equitable benefit among one-stop partners;

e. Information on the steps the Local WDB, CEOs, and one-stop partners used to reach consensus or the assurance that the local area followed the SFM process; and

f. A description of the process to be used among partners to resolve issues related to infrastructure funding during the MOU duration period when consensus cannot be reached.

The Departments also consider it essential that the IFA include the signatures of individuals with authority to bind the signatories to the IFA, including all one-stop partners, CEO, and Local WDB participating in the IFA.

4. How does the infrastructure funding agreement relate to the overall one-stop operating budget?

The IFA contains the infrastructure costs budget, which is one of several integral components of the one-stop operating budget. The other components of the one-stop operating budget are considered “additional costs,” which must include applicable career services, and may include shared operating costs and shared services. While each of these components covers different cost categories, an operating budget would be incomplete if any of these were omitted because funding infrastructure costs, as well as additional costs, are necessary to maintain a fully functioning and successful local one-stop delivery system. Therefore, the Departments strongly recommend that the Local WDBs, one-stop partners, and CEOs negotiate the IFA and additional cost funding together when developing the operating budget for the local one-stop system. The overall one-stop operating budget must be included in the MOU.

Although the local one-stop operating budget contains several different cost components, only failure to reach consensus among the required partners in a local area with respect to the infrastructure cost funding will trigger the implementation of the SFM. This means the SFM will not be triggered due to a failure by the required partners to reach consensus on additional cost funding or by a failure of any additional partners to join the consensus regarding the terms of the IFA. When implementing the SFM to determine partner contributions to cover the one-stop center’s infrastructure costs component, the Governor should consider the local area’s infrastructure cost needs in light of the additional costs included in the local one-stop operating budget (e.g., applicable career services costs, shared operating costs, and the cost of shared services). This should be done while making the determinations necessary to complete the IFA according to 20 CFR 678.730 – 678.745, 34 CFR 361.730 – 361.745, and 34 CFR 463.730 – 463.745, and should ensure that the infrastructure costs are sufficient to support the services
that the one-stop center will provide. However, it is important to note that the Governor’s
determinations under the SFM pertain only to the infrastructure costs, and not to any of the additional
cost components. The Governor’s consideration of these other components of the overall local one-stop
operating budget is simply to provide a context for the Governor when determining infrastructure costs
under the SFM.

Further information about this guidance from US Department of Labor can be found at