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Advance CTE

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WIOA Final Regulations: **Sharing of One-Stop Infrastructure Costs**

In the summer of 2014, the Workforce Innovation and Opportunity Act (WIOA) was passed by Congress and later enacted into law. Since that time the U.S. Departments of Labor (USDOL), Education (USDE), and Health and Human Services (HHS) have worked with states, local communities, and other stakeholders, including Advance CTE, to issue final regulations for the implementation of this law. On April 16, 2015 the Departments issued a Notice of Proposed Rulemaking (NPRM) to formally start this effort. Advance CTE, along with many other stakeholders, provided substantial feedback on this proposal.

On June 30, 2016 the Departments issued a “pre-release” of the *final version* of these regulations which will be formally published on the Federal Register sometime in July 2016 (at the time of this writing these rules have not yet been published). Nevertheless, these regulations go into effect 30 days after this formal publication date. Notably, some aspects of these rules, including the sharing of infrastructure costs among local one-Stop partner programs, will not go into effect until Program Year (PY) 2017—starting on July 1, 2017.

While there are a number of issues of significance to state Career Technical Education (CTE) Leaders in these final rules, such as those relating to state WIOA planning, this document will focus on regulations governing the sharing of “infrastructure costs” within the one-stop system and among local one-stop partner programs with a particular emphasis on the role postsecondary CTE must play in this process.

As this document shows, the rules governing infrastructure cost sharing are incredibly complex. In acknowledgement of this, the Departments have communicated that they will release additional non-regulatory guidance to help states and local areas navigate these new requirements at a future date. Given that we do not know when this will occur, Advance CTE has developed this document as a way to begin the discussion for unpacking and understanding these regulations as currently written. As new information becomes available, aspects of this document may evolve with new federal guidance.

Please note that all citations below [relate to this version of the final regulations](#) unless otherwise noted.

Background and Context: What is the One-Stop System?

Since 1998, the federal workforce development system has supported a customer-focused one-stop system of delivery for workforce development services. The logic behind the one-stop system has always been to enhance and increase coordination among various employment, education, and training programs in a local area to support a seamless service delivery network that is easily accessible for both individuals and employers. In each of these local areas there must be at least one one-stop center to achieve these goals—a single location for accessing these services.¹ Subpart A of 20 CFR 678 provides a much more detailed description of this system and eligibility requirements for one-stop centers.

¹ Please note that there can be more than one one-stop center in a given local workforce development area.

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Since that time, and along with 12 other partner programs, *postsecondary* CTE programs authorized under the Carl D. Perkins Act (Perkins) have been required partners of this system.² WIOA reaffirmed this partnership and the important role postsecondary CTE programs play in effective service delivery within the one-stop system. These final regulations establish that CTE programs at the postsecondary level, funded by the Perkins Act, are required partners of this system.³

The roles and responsibilities of one-stop partner programs, as described in 20 CFR 687.420, are varied and in brief include: providing access to its programs or activities, providing representation (as required by law) on state or local workforce development boards (WDBs), and entering into a Memorandum of Understanding (MOU) that describes the operations of the one-stop system, such as how service delivery will be achieved, *along with an agreement on the general upkeep of the system itself*.

It is this last requirement that is the core subject of this document. Included as part of the maintenance of the one-stop system is the equitable sharing of the costs of ‘infrastructure’ among the one-stop partner programs for the one-stop system. While more information on this topic is available further into this document, infrastructure costs are essentially all the non-personnel costs associated with day-to-day operations of a one-stop center.

Option 1: The Memorandum of Understanding (MOU)

In each local workforce area designated by the state, there must be a local one-stop center. There are 12 required one-stop partner programs, including postsecondary Perkins-funded programs, that must work together to support this center as described above.⁴ To support this collaborative effort, a Memorandum of Understanding (MOU), must be negotiated and agreed to between the Local WDB, each of the local one-stop partners, and the chief local elected officials for each local area.

Please note that WIOA, along with these final regulations, require all local areas to first attempt to come to agreement on a comprehensive MOU. It is expected that all of these actors will enter into these negotiations in good faith. Should negotiations on an MOU not reach consensus, a secondary option known as the “state funding mechanism” and described in greater detail further into this document, is triggered.

Who Acts as the Local One-Stop Partner for Perkins?

For the purposes of Perkins programs, the entity that serves as the one-stop partner program in a local area is the local Perkins eligible recipient or consortium of recipients at the postsecondary level.⁵

While the Perkins-specific terminology “eligible institution” could be used here, the intent is made clear in the regulations—postsecondary institutions *receiving Perkins funding* must act as the local one-stop partner in each local area. As part of these negotiations, local programs may request assistance from the state Perkins eligible agency in fulfilling the obligations of negotiating an MOU.⁶ Should no such

² The full list of required partner programs can be found in 20 CFR 678.400.

³ 20 CFR 678.400(b)(6).

⁴ 20 CFR 678.420.

⁵ 20 CFR 678.415(e).

⁶ The regulations do not make clear what type of assistance a state may provide to a local Perkins recipient. As such it appears that providing assistance is at the discretion of the state eligible agency, should they be willing to help during the course of these negotiations.

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institution exist in a given local workforce area, the rules do not require Perkins programs' participation in that local area's one-stop system.

Governor's Guidance

Prior to local negotiations of an MOU, the Governor of the state must issue guidance for local areas to use to inform this negotiation process.⁷ Specifically this guidance should provide strategies for locals to use when determining one-stop partners' contributions to a one-stop system. These determinations must be based on their proportionate use of the system and the relative benefit received. This guidance must also help local entities in determining "equitable and stable" methods of funding for the one-stop system based on these factors. Descriptions for the appropriate roles of the one-stop partners in this identification process, as well as methodological approaches needed to calculate these costs, must also be included in this guidance. Finally should no consensus be reached in a local area, a specific timeline for notifying the state of an impasse must be included.⁸

How Must MOUs be Negotiated?

Individual MOUs may be negotiated with each local one-stop partner or, more commonly, an umbrella MOU may be developed between all local one-stop partners, local chief elected officials, and the Local WDB.⁹ The regulations, much like WIOA, emphasize that these negotiations should be conducted in good-faith and be reflective of the collaborative vision for the one-stop system articulated in the law. Although local Perkins eligible institutions are the entities entering into these negotiations, they may also request assistance from the state Perkins eligible agency during this process.¹⁰

The local entities mentioned above must negotiate an MOU that includes the required contents listed out below. If a consensus on the sharing of infrastructure costs is not reached, the Governor, as well as the relevant state agency overseeing the local one-stop partner, must be notified immediately. This notification must include a detailed description of the negotiations up to that point and that negotiations have reached an impasse. In these instances the "state funding mechanism" described further in this document is used to resolve these disagreements.

What are the Required Contents of an MOU?

Each local MOU can incorporate additional features or agreements between these entities, but at a minimum an MOU must include:¹¹

- 1.) A description of the services to be provided through the one-stop system and how they will be coordinated and delivered;
- 2.) Agreement on funding the services and operating costs of the system including the funding of infrastructure costs;
- 3.) The methods that will be used for referring individuals between partner programs for appropriate activities and services;
- 4.) The methods that will be used to ensure individuals with barriers to employment can access the system;

⁷ 20 CFR 678.705.

⁸ 20 CFR 678.705(b)(3). An additional timeline must also be included for the purposes of hearing a local one-stop partner's appeal of a designated contribution consistent with 20 CFR 678.750.

⁹ 20 CFR 678.505.

¹⁰ 20 CFR 678.510(a). The regulations do not elaborate on what this assistance would look like. It is however clear that providing such assistance to local institutions is wholly up to the State Perkins eligible agency's discretion.

¹¹ 20 CFR 678.500(b).

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- 5.) The length of time the MOU will cover; and
- 6.) An assurance that the MOU will be reviewed and / or renewed once every 3 years.

When the MOU is fully agreed to it must include the signatures of the local WDB, all included one-stop partners, and the chief elected officials in that area. It must also contain the period of time the MOU covers, which must be updated at least once every 3 years, requiring new signatures from these entities at that time.

Importantly, each state's WIOA plan must incorporate a process for one-stop partners to appeal their required infrastructure contribution. This appeal can only be based on the grounds that their required contribution under an MOU violates its proportionate use and relative benefit of the one-stop system or the cap limitations on how much a particular program may contribute to the costs of infrastructure.¹² In these instances the Governor of the state must resolve this appeal promptly and the resulting decision must be incorporated into the final MOU agreement for the local area.¹³

What are Infrastructure Costs?

As noted above, the MOU must contain another set of information related specifically to the funding of infrastructure costs. The costs of infrastructure are defined as the "nonpersonnel costs that are necessary for the general operation of the one-stop center" which includes: expenses such as the rental of facilities, utilities and maintenance, equipment, facilitating technology to improve access to the center itself, and the newly required common identifier for all one-stop centers.¹⁴

How Must Infrastructure Costs be Incorporated into an MOU?

As mentioned above, the MOU must include information related to the sharing of these infrastructure costs among the required local one-stop partners. At a minimum, this portion of the MOU must incorporate the following information:¹⁵

- 1.) The period of time covered by the infrastructure funding agreement (which may be different than the period of the whole MOU);
- 2.) Identification of all the one-stop partners, chief elected officials, and Local WDBs, participating in the arrangement;
- 3.) Identification of an *infrastructure and shared services budget* that must be used for the periodic reconciliation of the partner programs' contributions as compared to the actual costs incurred;¹⁶
- 4.) The steps the Local WDB, chief elected officials, and one-stop partners took to reach consensus *or* an assurance that the guidance from the state funding process was followed;¹⁷
- 5.) A description of the process that will be used during the period covered by the agreement to resolve issues when consensus cannot be reached; and
- 6.) How the agreement will be modified and reviewed periodically to ensure equitable benefit among all the one-stop partners.

¹² 20 CFR 678.750.

¹³ 678.500(e).

¹⁴ 20 CFR 678.700.

¹⁵ 20 CFR 678.755.

¹⁶ This budget must also be used to ensure that an equitable allocation methodology was developed and takes into account the partners' proportionate use of the one-stop system as well as the relative benefit received.

¹⁷ This is a reference to the "state funding mechanism" which is described later in this document.

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How are Infrastructure Costs Funded Under an MOU?

As mentioned elsewhere, an MOU is the option of first resort for funding the costs of local one-stop infrastructure. Using the guidance issued by the Governor and referenced earlier, the Local WDB, chief elected officials, and one-stop partners must agree to contribution amounts and related methods for calculating these contributions for the funding of the one-stop's infrastructure costs.

Once a funding mechanism has been agreed to, it must be funded through cash, in-kind, or other sorts of fairly evaluated non-cash contributions.¹⁸ The contributions negotiated under this framework must reflect the one-stop partner program's proportionate use of the one-stop system and the relative benefits it receives.¹⁹ Additionally these contributions must be periodically reviewed and reconciled with the actual costs incurred for the purposes of funding infrastructure and adjusted accordingly.²⁰ This reconciliation would be done using the budget developed as part of the MOU.

Throughout the negotiation process, the Local WDB and chief elected officials will ensure that the guidance issued by the Governor, outlining how these negotiations should take place, is adhered to. Essentially the Local WDB and chief elected officials must act as a referee, enforcing the rules of the game laid down by the Governor, while working with all the one-stop partners to achieve censuses and mediate disagreements and conflicts when and if they arise. In addition to this, they must also provide technical assistance to all one-stop partners to ensure all parties at the negotiating table fully understand all of the elements contained in the MOU.

What Funds Are Used to Pay for Infrastructure Costs Under an MOU?

For the purposes of Perkins, the funds eligible institutions may use to pay for infrastructure costs under an MOU include the *local funds* an eligible institution uses for administrative expenses, non-Federal cash resources, in-kind or third-party contributions, and may also include other funds the state makes available.²¹ No matter what funding source is used, it is ultimately the local one-stop partner, who for these purposes is the local postsecondary Perkins grant recipient, who must contribute to the costs of infrastructure.

While local postsecondary Perkins grant recipients have flexibility in determining the source of funding for this purpose, the regulations state that the contribution can come from funds available for local administrative expenses, non-Federal resources that are cash, in-kind, or third-party contributions, and may include other funds made available by the state. The regulations in 20 CFR 678.720(c)(1) through (4) detail specific examples of allowable cash, in-kind, and third party contributions. No matter how these contributions are made by the local one-stop partner program, they must be regularly reconciled with the actual infrastructure costs incurred using the budget agreed to in the MOU to ensure the contributions are not over-contributing or under-contributing to these costs.²²

What is the Cap for Local Partner Program Infrastructure Contributions Under an MOU?

There are no specific caps on the amount a local one-stop partner may contribute for this purpose, so long as it does not exceed the amount available for administration under the authorizing statute.

¹⁸ 20 CFR 678.715(a)(1).

¹⁹ 20 CFR 678.715(a)(3) and 678.755(b). These costs must also be made in accordance to the requirements of the "Omni Circular" or the Uniform Administrative requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR part 200.

²⁰ 20 CFR 678.715(a)(4). This must, again, be done in accordance to the one-stop partner program's proportionate use of the one-stop system and the relative benefits it receives.

²¹ 20 CFR 678.720(a).

²² 20 CFR 678.720(c)(5).

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Since local Perkins eligible institutions are allowed to set-aside up to five percent of their Perkins grant for administration, the voluntary contribution cap for Perkins under an MOU is also up to five percent of the overall Perkins grant for that recipient. Nevertheless, and as with the rest of these requirements under the MOU, contributions must be based on proportionate use and relative benefit of the one-stop centers, taking into account the total cost of the one-stop infrastructure as well as all available funding options available to the area.²³

Option 2: The State Funding Mechanism

As mentioned elsewhere in this document, when consensus is not reached on a local MOU the “state funding mechanism” is triggered. It is important to note that WIOA, along with these regulations, require each local area to first attempt to come to an agreement on an MOU and, only after failing to reach consensus, is this state funding mechanism triggered.

Fundamentally the state funding mechanism is a statewide requirement developed by the Governor, in lieu of a locally-developed one under an MOU, which compels a one-stop partner to contribute a specific amount to the costs of infrastructure in a local area. The contribution requirements for the various one-stop partner programs can vary considerably and each have specific rules detailing how much a program is required to contribute under this mechanism. Lastly, the mechanism only applies to those local areas where an MOU was *not* reached, only to those partner programs not otherwise incorporated into a local agreement, and only applies for that specific program year.²⁴

What Funds are used in the State Funding Mechanism for Perkins?

For the purposes of Perkins, infrastructure cost contributions *must* be paid from administrative funds made available to local postsecondary Perkins grant recipients or consortia of recipients—the allowable five percent set-aside each local Perkins grant recipient may use for the purposes of administration consistent with Sec. 135(d) of current Perkins law.²⁵ These contributions *may* also be paid from funds made available by the state or other non-Federal resources that are cash, in-kind, or third party contributions (please note that this is simply an option and is at the discretion of the state).

Although there are a few ways that a local Perkins postsecondary recipient’s contribution can be determined, funding for this purpose must ultimately come from this part of the *local* Perkins grant allocation.²⁶

Who Determines Partner Contributions Under the State Funding Mechanism?

Broadly speaking, the Governor determines one-stop partner contributions under the state funding mechanism after consultation with the chief elected officials, local WDBs and the state WDB.²⁷ However, in instances where “policymaking authority” for a one-stop partner program is independent of the Governor, the official or chief officer with such authority takes on these responsibilities.²⁸

²³ 20 CFR 678.720(b).

²⁴ 20 CFR 678.730(a).

²⁵ 20 CFR 678.740(d).

²⁶ This is a significant change from the original regulatory proposal from the Departments in 2014 where state Perkins administrative funds were initially implicated in this state funding mechanism.

²⁷ 20 CFR 678.730(b).

²⁸ 20 CFR 678.730(c)(2).

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In these instances and for the purposes of Perkins, the chief officer of the Perkins eligible agency would fill the role and responsibilities of the Governor in determining the contributions to be made by postsecondary CTE eligible institutions in those areas where no MOU is reached.²⁹ Neither the regulations, nor WIOA itself, clearly define how to go about distinguishing where policymaking authority resides within the state for this purpose.³⁰

In light of this special rule, please note that in the instances where policymaking authority is determined to be independent of the Governor, the roles and responsibilities of the Governor described below are conferred to the state Perkins eligible agency, for the purposes of Perkins's participation in the one-stop system, unless otherwise specifically noted.

What is the Process for Triggering the State Funding Mechanism?

When no MOU is reached in a local area, the Local WDB must notify the Governor and provide the Governor details and all related materials from the negotiations.³¹ At that time, the Governor can choose to either accept the initially proposed budget for the one-stop center included in these materials (which includes a proposal for the sharing of infrastructure costs in the local area) or create an alternative budget based on a formula prescribed by the state WDB.³²

How are one-stop Partner Programs' Proportionate Contributions Determined?

After a budget has been selected, the Governor must then create a cost allocation methodology to determine how much each one-stop partner program owes in those areas where no MOU has been reached.³³ Please note that the regulations stipulate that this methodology must be consistent with the "Omni Circular" — found in 2 CFR part 200 which was updated in late 2014. This methodology must take into consideration a number of factors including:³⁴

- 1.) the existing costs of administration for the partner program which are unrelated to the operation of the one-stop centers;
- 2.) the statutory requirements for the partner program;³⁵
- 3.) a partner program's proportionate use of the one-stop system;
- 4.) the ability of the partner program to meet those requirements; and

²⁹ Ibid.

³⁰ Due to lack of clarity here, Advance CTE assumes that this is ultimately an internal state decision that must be made between the Governor and individual partner programs.

³¹ 20 CFR 678.731(a).

³² 20 CFR 678.731(b)(2). The first budget referenced here is the same budget that must be developed during the initial MOU negotiation. This is the budget that would be used to periodically reconcile partner programs' contributions with the actual costs incurred and is described in greater detail under the subheading, "How Must Infrastructure Costs be Incorporated Into an MOU?" An alternative budget, developed using a formula prescribed by the State WDB, is described in more detail in 20 CFR 678.745.

³³ 20 CFR 678.731(b)(3) and 678.736.

³⁴ 20 CFR 678.736 and 678.737(b)(2).

³⁵ Interestingly, the Departments note that Perkins' supplement-not-supplant requirements (Sec. 311(a) of current law) cannot be violated when a local recipient contributes funding for this purpose under a local MOU in 20 CFR 678.720(a). However, the regulations here do not reference this specifically. Nevertheless, Perkins' current supplement-not-supplant requirements would fall under this piece of the criteria that the Governor must take into consideration when developing a cost allocation methodology. This is important to note because it is possible, depending on how one-stop infrastructure costs were funded previously, that a redirection of Perkins funding under this mechanism could violate Sec. 311(a) of Perkins. However, on page 473 of the hyperlinked document the Departments believe that this would not be an issue. Advance CTE remains hopeful that the additional guidance from the Departments will address this outstanding issue.

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- 5.) all other applicable legal requirements.

The Governor may also take into consideration other agreements reached at the local level that would be included in the negotiation materials provided when an MOU reached the initial impasse.³⁶

This methodology is then used by the Governor to determine each partner program's proportionate share of infrastructure costs in each of the local one-stop areas where no MOU has been reached.

Once the proportionate shares for each one-stop partner program are determined by the Governor, these contribution levels, in the aggregate, must then be compared to a statewide cap, which is also established by the Governor.³⁷ Each one-stop partner program has its own statewide contribution cap for this purpose. In brief, the cap is the maximum aggregate amount *all* local one-stop partner programs may contribute to the costs of infrastructure.

How are Contribution Caps Determined in the State Funding Mechanism?

As mentioned above, the Governor (or the state Perkins eligible agency, whatever the case may be), must calculate statewide caps on the aggregate amount one-stop partner programs will be required to contribute to the costs for local one-stop infrastructure funding in those local areas where no MOU has been reached.³⁸

There are four interrelated steps that the Governor must take in order to establish these statewide caps for partner program infrastructure contributions.³⁹

At present it is difficult to fully ascertain the Departments' intent on this portion of the regulations as many aspects of these rules remain unclear. Further, the Departments have signaled that they plan to issue further non-regulatory guidance ahead of PY 2017 (July 1, 2017) when all of these infrastructure cost sharing requirements will go into effect. In light of this, the below description is how Advance CTE currently understands these rules for the purposes of determining Perkins postsecondary recipient contribution caps using the state funding mechanism:

- 1.) The Governor establishes a maximum potential cap amount for *all* Perkins postsecondary recipients.⁴⁰ This cap is determined based on how much funding the state dedicates to postsecondary Perkins programs in accordance with Sec. 132 of the Perkins Act and the amount of funds used by the state under Sec. 112(a)(3) of the Perkins Act during the previous year to administer postsecondary level programs and activities.⁴¹ The sum of both of these figures would then be multiplied by 1.5 percent (the statutory cap from WIOA) and the result of this is then the "cap" on all of Perkins' contributions for infrastructure costs for the entire state.⁴²
- 2.) The Governor would then select criteria or a set of factors that "reasonably indicates the use of the one-stop centers in the state."⁴³ The example the Departments provide for this is the total

³⁶ Ibid.

³⁷ 20 CFR 678.731(b)(4).

³⁸ 20 CFR 678.731(b)(5).

³⁹ These steps are discussed in some detail in the Department's preamble on pages 466 to 470 in the pre-publication document hyperlinked at the beginning of this brief.

⁴⁰ 20 CFR 678.738(a)(1)

⁴¹ 20 CFR 678.738(c)(2).

⁴² Ibid.

⁴³ 20 CFR 678.738(a)(2).

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population residing in these areas which could then be reasonably used to indicate how much the one-stop centers would be used in each local area.

- 3.) Using that criteria or set of factors, the Governor determines the percentage of local areas that successfully came to an MOU. This is the percentage of local areas that will be taken *out* of the statewide cap calculation.⁴⁴ The Departments continue to use a total population example to illustrate this point here—if 70 percent of the state’s population resides in areas where an MOU was reached, then 70 percent is taken out of consideration for the purposes of establishing the statewide cap. This is an acknowledgment that the state funding mechanism contribution cap should be based upon funding *only* from those local areas where no MOU agreement has been reached and applied *only* in those areas.
- 4.) Finally the Governor, using the example in step three, would subtract the proportion of local areas that have successfully reached an MOU from the overall cap amount established in the step one.⁴⁵ This calculation results in the final partner program’s statewide cap.

Importantly, the Governor must use this contribution cap to ensure that the sum total required of *all* local one-stop partners (for that particular program) in each local area where no MOU exists does not exceed this maximum cap. For instance, if the statewide cap is set at \$60,000 for Perkins, the sum total of all contributions for local one-stop infrastructure made by *all* local postsecondary Perkins recipients in areas without an MOU cannot exceed \$60,000. So long as these contributions stay within this cap, the Governor then directs the partner programs, in each of the local areas where no MOU exists, to contribute funding for this purpose in accordance to the Governor’s cost allocation methodology (described in greater detail under the above subheading “*How are one-stop Partner Programs’ Proportionate Contributions Determined?*”).⁴⁶

As a reminder, this funding must come from the local postsecondary Perkins grant recipient’s administrative portion of its grant in accordance with Sec. 135(d) of current Perkins law.⁴⁷ This is described in further detail above under the subheading “*What Funds are used in the State Funding Mechanism for Perkins?*”

Developing the Statewide Contribution Cap

Here are a few examples of how this contribution cap calculation can be made using the Perkins information from the fictional state “XYZ” below.

State XYZ Perkins Information

Total Perkins Allocation: \$23,902,660

Postsecondary (Sec. 132) Within State Allocation: \$3,054,383 (15% of the total allocation)

State Administration Usage: Full 5 percent or \$1,180,034 total

Local Workforce Development Areas: 15

⁴⁴ 20 CFR 678.738(a)(3).

⁴⁵ 20 CFR 678.738(a)(4).

⁴⁶ The section further on titled “What Happens if Local Contributions Exceed the Statewide Cap” details what must take place in instances where local contributions are found to be greater than this statewide cap.

⁴⁷ More information on this is available under the subheading earlier titled “*What Funds are Used in the State Funding Mechanism for Perkins?*”

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Key assumption: One Perkins postsecondary grant recipient exists in each of the 15 local workforce development areas. This is important to remember because if no postsecondary Perkins recipient exists in a local area, then these regulations do not apply.

The Governor's Calculations:

State Admin (\$1,180,034) + Postsecondary allocation (\$3,054,383) = \$4,234,417

This total should then be multiplied by the 1.5% statutorily required cap in accordance with 20 CFR 678.738(c)(2):

$\$4,234,417 * .015 = \$63,516$

At this stage, \$63,516 is the statewide cap for *all* Perkins programs. If no consensus was reached in each of the state's 15 local workforce areas, the aggregate amount of *all* contributions coming from Perkins postsecondary recipients could not be larger than this amount. To put this another way, if the one-stop infrastructure costs were distributed equally among 15 different postsecondary Perkins grant recipients in each of these local areas, they would each pay \$4,234.40 for the costs of local one-stop center infrastructure ($\$65,516 / 15 = \$4,234.40$). These contributions would of course be distributed differently among the local Perkins postsecondary recipients in accordance to the Governor's cost allocation methodology.⁴⁸ Nevertheless, the total aggregate contribution from Perkins for this purpose cannot exceed \$63,516.

Now let's say state XYZ only had 10 of its local areas successfully reach agreement on an MOU for the sharing of infrastructure costs. The five areas where no MOU agreement was reached represent 20 percent of the state XYZ's population. Using the Department's suggested measure of total population as a factor to indicate the proportionate usage of the one-stop system in these areas, we can factor out 80 percent of the statewide contribution cap (\$63,516 at the moment):⁴⁹

$\$63,516 * .8 = \$50,812.80$

The result of \$50,812.80 above represents the amount that must be taken out of the statewide contribution cap calculation. This is because \$50,812.80 is the figure that represents the amounts that, ostensibly, already have been paid for the costs of local one-stop infrastructure in local areas where an MOU was already reached. As such the new statewide cap would be this amount subtracted from the original cap for all postsecondary Perkins programs in the state:

$\$63,516 - \$50,812.80 = \$12,703.20$

So in this new hypothetical scenario where five local workforce areas, representing 20 percent of the population—which is also being used as the criteria to determine proportionate usage of the one-stop system—the new statewide contribution cap for Perkins would be \$12,703.20

⁴⁸ This methodology is described in greater detail earlier in this document under the subheading, "*How are one-stop Partner Programs' Proportionate Contributions Determined?*"

⁴⁹ Please note that the factor of total population to indicate proportionate usage of the one-stop system is simply an example provided by the Departments. States can choose a different factor or set of criteria to make this determination. The most important part is that whatever factor or set of factors a state uses, it must possible to objectively and uniformly apply it across the state for the partner programs to determine proportionate usage.

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If that cap was distributed equally among the remaining 5 programs, each local postsecondary Perkins recipient would be obligated to contribute \$2,540.64 for the costs of one-stop infrastructure in their respective local areas. As with the first scenario, these would likely be distributed differently among the recipients on a variety of factors at the Governor's (or Perkins eligible agency's) discretion in accordance with the established cost allocation methodology. The key takeaway is that the sum total of all of these contributions may not exceed \$12,703.20.

What Happens if the Partner Programs' Contributions Exceed the Statewide Cap?

As mentioned, the Governor must then ensure that the funds contributed by a local one-stop partner program for the costs of infrastructure under this state funding mechanism do not, in the aggregate, exceed the statewide cap set for the program as determined by the above calculations.⁵⁰ These contributions levels are the same as those initially established by the Governor and described in detail earlier under the subheading "*How are one-stop Partner Programs' Proportionate Contributions Determined?*"

However, if the contributions established by the Governor under the cost allocation methodology described above exceed the statewide cap there are two options for recourse:

- A.) The Governor can ask the local one-stop partner programs to collectively and voluntarily contribute more than the allowable capped amount;⁵¹ *or*
- B.) The Governor can direct the local WDBs, local chief elected officials, and one-stop partners to re-enter into negotiations to: reduce infrastructure costs in the *local budget* to reflect a necessary contribution amount that would not exceed the statewide cap; reassess the proportionate share of each one-stop partner; or identify alternative means for financing one-stop infrastructure funding.⁵²

If no consensus can be reached after option B above, the Governor must then step in and reassess the proportionate shares of each one-stop partner program so that the sum total for all local partners for each program is less than that program's cap amount.⁵³ Following this reassessment, the local one-stop partner must then contribute the revised amount towards the costs of funding infrastructure.⁵⁴

⁵⁰ 20 CFR 678.738(b)(1) and 678.731(b)(6).

⁵¹ 20 CFR 678.731(b)(6)(i).

⁵² The budget being referenced here is the same budget that must be developed during the initial MOU negotiations which is used to estimate the costs of one-stop infrastructure in the local area as well as to periodically reconcile partner program contributions with actual costs incurred.

⁵³ 20 CFR 678.731(b)(7).

⁵⁴ Ibid.