

AGREEMENT
Between
PACIFIC MOUNTAIN WORKFORCE CONSORTIUM
And
PACIFIC MOUNTAIN WORKFORCE DEVELOPMENT COUNCIL

The Pacific Mountain Workforce Consortium of Grays Harbor, Lewis, Mason, Pacific, and Thurston Counties, formed under RCW 39.34 Interlocal Cooperation Act, is responsible for delivery of workforce development programs as outlined in the Interlocal Agreement of 2016. These workforce development activities will be funded in part, by the Workforce Innovation and Opportunity Act of 2014 (WIOA) or subsequent federal employment and training legislation.

The Consortium intends that the Pacific Mountain Workforce Development Council (“the Council”), a 501(c)(3) not-for-profit corporation of the State of Washington, shall be certified by the Governor of the State of Washington as the local workforce development council for the Consortium and shall be designated by this Agreement as the local grant recipient and fiscal agent for Workforce Innovation and Opportunity Act funds, acting on behalf of the five Counties, in accordance with Section 107 of the Act. Should the Council become decertified for any reason, this agreement will terminate immediately.

The Consortium retains the right in its sole discretion to withdraw the designation of the Pacific Mountain Workforce Development Council as the local grant recipient and fiscal agent if the Consortium determines that a breach of this designation has occurred and the Consortium has exercised due process to resolve the matter formally by following Section E: Disputes. Upon such withdrawal, the Consortium shall assume all duties of the Pacific Workforce Development Council as the WIOA compliant local grant recipient and fiscal agent and until such time as it designates another entity to act on behalf of the Consortium, and the Consortium shall indemnify and hold harmless the Pacific Mountain Workforce Development Council for the Consortium’s negligent acts or omissions after the effective date of withdrawal.

The Council membership includes at least three appointed representatives from each of the Counties and regional representatives appointed by the Consortium and follows the provisions of the Workforce Innovation and Opportunity Act and any successor legislation.

Should the Council become decertified or designation be withdrawn under this agreement, all assets will become the property of the Consortium unless the parties agree otherwise. Assets to be transferred are identified in Attachment A.

This Agreement between the Pacific Mountain Workforce Consortium and the Pacific Mountain Workforce Development Council shall take effect January 1, 2017 and remain in effect until one of the parties terminates pursuant to the provisions of Section F below.

The Consortium of the five-Counties designates the Pacific Workforce Development Council as the local grant recipient and fiscal agent for Workforce Innovation and Opportunity Act funds in accordance with Section 117(d)(3)(B) of the Act, acting on behalf of the five-Counties. The

Consortium Board shall carry out the responsibilities of the role of Chief Elected Official according to the Act.

The parties agree as follows:

A. The Pacific Mountain Workforce Development Council will:

1. Develop policies of the Pacific Mountain Workforce Development Council to include, at a minimum, definition of “conflict of interest” and prohibition of such perceived or actual conflicts, based on standards set forth by the Internal Revenue Service; assure that any contract awards or personnel actions do not create any appearance or actual conflict of interest for any member of the Council. Conflict of interest is defined as actual or appearance of any situation in which an individual or corporation (either private or governmental) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.
2. Perform all functions assigned by Workforce Innovation and Opportunity Act to the local grant recipient and fiscal agent and implement the Strategic Plan. The Council will report at least twice each year to the Consortium Board on progress in carrying out these duties.
3. Maintain accounting systems for grant awards pursuant to the Act and other funds intended to be used for workforce development programs;
4. Obtain commercial liability insurance, errors and omissions coverage, and other insurance coverage appropriate to the organization that is acceptable to the Consortium Board;
5. Employ staff pursuant to Council Personnel Rules and any applicable bargaining unit contracts to deliver programs of Workforce Development activities. Staff will deliver programs on behalf of the Council according to the Strategic Plan and budget;
6. Assure that funds and programs are allocated in accordance to the rules established by the U.S. Department of Labor and approved by the Governor of the State of Washington.
7. Negotiate and award contracts in accordance with federal and state contracting requirements to implement workforce development programs and the strategic plans and policies. Manage contracts and grants and report to funding sources as required.
8. Assist the Governor in the development of a statewide employment statistics system.
9. Comply with all requirements of funding sources per Contracts. Make records available upon request.
10. Conduct and document oversight activities of local programs and monitor program operations and performance at least yearly. Oversight and monitoring documentation will

be available for inspection by County representatives' party to the Interlocal Agreement upon notice by the County representatives(s);

11. Coordinate the workforce activities carried out within the five-county area with economic development strategies of the area;
12. Develop strong linkages with employers across the five-County area. Linkages may be supported through activities including connecting, brokering, and coaching activities specific to employer groups or geographic areas.
13. Maintain appropriate and necessary committees and task forces to carry out the policy level oversight of the Council's work to ensure involvement and leadership by business and the community.
14. Establish expectation and protocol for County specific representatives and others as appropriate to semi-annually meet with their County Commissions to update them on activities and accomplishments of the Council.

B. The Pacific Mountain Workforce Consortium will:

1. Appoint one County Commissioner and alternate member to a Consortium Board;
2. Designate the Consortium Board to act as Chief Elected Official;
3. Appoint Workforce Development Council members, at least three representatives from each County, a majority to be representative of private business;
4. Appoint the Consortium Board Chair to serve and be recognized as a non-voting member of the Executive-Finance Committee. The purpose of the Executive-Finance Committee is to oversee implementation of operational activities, develop financial policies and budgets of PacMtn WDC.
5. Continue to assume the federally required fiduciary liability for Workforce Innovation and Opportunity Act funds.

C. The Workforce Development Council AND the Pacific Mountain Workforce Consortium will together:

1. Develop a Strategic Plan pursuant to criteria established by US Department of Labor, Washington State Workforce Training and Education Coordinating Board, and the Employment Security Department.

2. Conduct an annual, joint meeting of the Consortium and Council for the purposes of reporting, updating, and coordinating regional activities; Annual reports will include, at a minimum:
 - a. Strategic and operational plan accomplishments and updates;
 - b. Review of performance by one-stop operator, youth, employment and training programs;
 - c. Financial report;
 - d. Audit report;
 - e. Program evaluation;
 - f. Program goals and policies;
 - g. Program performance related to state and local performance measures.
3. Every four years develop and approve a Strategic Plan. This plan will direct budget and staffing decisions to carry out the purpose and intent of the PacMtn WDC:
 - a. The Strategic Plan will include goals, policies and performance measures for workforce development programs in the five-County region.
 - b. This plan will be submitted to the Consortium Board no later than July 1 of each year.
 - c. This plan will:
 - i. Designate one-stop operators;
 - ii. Identify eligible providers of youth activities;
 - iii. Identify eligible training providers for adult and dislocated workers;
 - iv. Other details as necessary to carry out the Strategic Plan.
4. Develop a preliminary budget, no later than July 1 of each year, in accordance with the Operational Plan, for purposes of carrying out the duties of the Council. Adoption of final budget will occur no later than December 31st. Assure that all revenues and expenditures are tracked and audited each year and such records are available for inspection upon request. Budget revenues and expenditures will be tracked according to the Budget Accounting and Reporting Systems (BARS).

D. Indemnification and Insurance:

1. The Consortium assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by or on behalf of the PMWDC, any of its employees, or any other person or entity by reason of this designation, except as set forth herein regarding withdrawal of designation. The PMWDC shall protect, defend, indemnify, and save harmless the Counties of Grays Harbor, Lewis, Mason, Pacific, and Thurston and any of their officers, agents, and employees from and against any and all claims, cost, or losses whatsoever occurring or resulting from: (1) the PMWDC's failure to pay any such compensation, wages, benefits, or taxes, or (2) the supplying to the PMWDC of work, services, materials, or supplies by any council employees or other suppliers in connection with or support of the performance under this designation, except as set forth herein regarding withdrawal of designation.
2. The PMWDC is financially responsible for and, following an audit exception, shall repay the Consortium all amounts indicated therein that the Consortium is required to pay due to

negligence, intentional act, or failure, for any reason, of the PMWDC, its officers, employees, agents, or representatives to comply with the conditions of this Agreement, the WIA or any rules or regulation promulgated there under. This duty to repay the Consortium shall not be diminished or extinguished by the expiration or prior termination of this Agreement.

3. The PMWDC shall protect, defend, indemnify, and save harmless the Consortium, the Counties, and their respective officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of, or in any way resulting from, any negligent acts or omissions of the PMWDC or any of its officers, employees, or agents under this designation, except as set forth herein regarding withdrawal of designation. The PMWDC, after mutual negotiation with the Consortium will consider entering into a separate agreement that waives, as respects the Consortium and the Counties only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the Consortium or Counties incur any judgment, award, or cost, including attorneys' fees to enforce the provisions of this article, and all such fees, expenses, and costs shall be recoverable from the PMWDC.
4. Claims shall include, but not be limited to, assertions that use of transfer of software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.
5. The PMWDC shall procure and maintain for the duration of this designation, insurance against claims for injuries to persons or damages to property that may arise from, or in connection with, the performance of work by the PMWDC or any of its agents, representatives and employees. The Consortium shall be named as an additional insured on all policies. The PMWDC shall also require each of its subcontracts (except governmental entities such as the City, County and State) to procure and maintain similar liability insurance and to provide to the PMWDC separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with this insurance requirement. The cost of such insurance shall be paid by the PMWDC or subcontractor. The PMWDC's insurance coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the consortium.
6. The PMWDC shall furnish the Consortium with certificates of insurance and endorsements to demonstrate the acquisition and maintenance by the PMWDC and its subcontractors of the insurance coverage required under this Designation.
7. Nothing in this agreement relieves any party to this agreement from the liability imposed by the Washington Innovation and Opportunity Act Section 107 and 20 CFR 667.705 (c) as now or hereafter written.

E. Disputes:

1. Disputes which may arise under this Agreement shall, to the extent possible, be resolved through informal negotiation.
2. Should informal negotiations fail, a Corrective Action Plan shall be written. The Plan will be reviewed regularly for progress on resolution of the dispute.
3. Disputes which cannot be resolved after corrective action shall be resolved through binding arbitration pursuant to procedures specified in the Workforce Investment Act regulations, if applicable, or pursuant to procedures established under the Arbitration Association of American. The principals who shall be part of the dispute resolution are the Chairperson of the Workforce Development Council, or designee, the Chairperson of the Consortium Board, or designee, and a third party, neutral arbitrator, mutually agreed to by the other two principals.

F. Termination:

1. Any Party may terminate this agreement by giving written notice to the other party to this Agreement of its intention to so terminate, provided that no termination shall be effective except at the expiration of one complete calendar year following the calendar year during which notice is received and an entity has been confirmed by the Governor and State Workforce Board to carry out the aforementioned responsibilities.

Pacific Mountain Workforce Development Council



September 22, 2016

WDC Board Council Chairperson

Date

Consortium Board



September 22, 2016

Elected Official Chairperson

Date