

Funding What Works: Incorporating Pay for Success Language in Federal Legislation

Leaders at all levels of government can and should harness the power of data and evidence to solve our nation’s greatest challenges. Over the past 10 years, policymakers from both parties have increasingly turned to evidence-based solutions to get better results and lower costs. This differs from the far too common approach where elected officials create programs and policies based on anecdote, politics, or well-intentioned ideas that may or may not be backed by evidence.

In most cases, when Congress writes legislation it authorizes a program, sets the policy for how program dollars should be spent, and then directs awards to grant applicants that promise to follow the rules. With [Pay for Success](#), a government agency enters into an agreement to pay only after a grantee delivers specified results. This approach uses evidence on the front end to select a proven intervention to tackle a specific challenge, and then uses evidence on the back end to determine if outcomes have been achieved.

How Pay for Success Works

Pay for Success is a type of performance-based contracting model that pays for public services in part or entirely based on the achievement of outcomes. Usually, contracts are made between government and service providers with strong evidence of effectiveness (or their representatives) in which impact is measured rigorously and then government makes “success payments,” or increases a provider’s market share, when outcomes are achieved within a specific timeframe. Pay for Success is also referred to as Pay for Performance or Outcomes-Based Contracting.



Under a Pay for Success model, dollars are tied to results and the value of these results for improving lives and preventing future community problems rather than based on the cost of services provided, or the number of people served. There is flexibility in the high-quality intervention used or approach taken by the provider, which allows flexibility to adopt the strategies that will be most effective.

In some cases, mission-driven private sector funders may provide up-front financing, taking on the risk that the intervention will not succeed and recovering their investment if it does. This is referred to as Pay for Success Financing or Social Impact Financing.

Bipartisan Appeal

Pay for Success has strong bipartisan support. Pay for Success is a key component of the House Republican “[Better Way to Fight Poverty](#)” agenda and has the support of conservative groups such as the [Heritage Foundation](#) and the [American Enterprise Institute](#). The Obama Administration made Pay for Success a key part of its evidence-based policy agenda, and left-leaning or progressive organizations like the [Center for American Progress](#) and [Third Way](#) have explored and supported the idea. In the U.S. Senate and U.S. House of Representatives, legislation including Pay for Success is sponsored by both Democrats and Republicans.

Benefits of Pay for Success

Paying for success has several advantages.

- Pay for Success expands the opportunity for the delivery of high-quality programs that actually deliver results, which means **more lives improved** in communities nationwide;
- Pay for Success orients government and providers to **measuring and tracking specific outcomes** and valuing active performance management to ensure achievement of metrics set;
- By allowing for longer-term payment schedules, Pay for Success supports interventions that **emphasize prevention over remediation** more so than what is typically possible within the typical one year government budget cycle;
- Pay for Success incentivizes flexibility in the intervention used giving providers the flexibility to focus on the **most effective strategies**; and
- Taxpayer dollars are spent on programs that actually improve the lives of people in need. As a result, **fewer resources are wasted on bureaucratic elements** such as compliance reviews of rules and regulations, allowing more funds to go to program delivery.

Pay for Success in Bipartisan Federal Laws

Pay for Success has been included in several bipartisan laws passed by Congress during the last five years, including:

- In 2015, Congress approved the inclusion of Pay for Success as an allowable use of federal education funds in two titles of the [Every Student Succeeds Act](#) (ESSA) as well as for the first time included a definition of Pay for Success in federal law.
- The [Workforce Innovation and Opportunity Act](#) (WIOA) includes provisions that: (1) increase the amount of WIOA funds states can set aside and distribute directly from 5-10% to 15% and permits states to invest these funds in Pay for Performance; (2) permits states to invest their own workforce development funds, as well as non-federal resources, in Pay for Performance; and (3) permits local workforce investment boards to invest up to 10% of their WIOA funds in Pay for Performance.
- The Fiscal Years 2014-2017 appropriations laws authorized the U.S. Department of Justice to invest up to \$7.5 Million of [Second Chance Act](#) funds in Pay for Success efforts.
- The Fiscal Years 2014-2016 appropriations laws authorized the Corporation for National and Community Service to invest up to 20% of Social Innovation Fund dollars in [Pay for Success](#) efforts.

Pay for Success is also the centerpiece of bipartisan legislation introduced in the last two Congresses. The [Social Impact Partnerships to Pay for Results Act](#) (H.R. 576/ S. 963) is a comprehensive Pay for Success bill that would direct \$100 to \$300 million in federal resources to states and local communities to support innovative Pay for Success arrangements.

Examples of Pay for Success Initiatives in the States

Massachusetts Juvenile Justice Initiative

Launched in 2014, the Massachusetts Juvenile Justice Pay for Success Initiative focuses on the issue of recidivism among young, male offenders in three cities in Massachusetts. Through an intervention model developed and provided by Massachusetts-based provider Roca, the objective of the initiative is to reduce incarceration and increase job readiness and employment for this population. Over the course of the initiative's seven years, these outcomes will be rigorously evaluated by a third party evaluator and the outcomes payors, the Commonwealth of Massachusetts and the U.S. Department of Labor, will pay out if contractually identified levels of outcomes are achieved.

New York Increasing Employment and Improving Public Safety Initiative

The New York Increasing Employment and Improving Public Safety Initiative was launched by New York State in 2013. The focus of this initiative is to improve employment and public safety outcomes. The provider, New York City Center for Employment Opportunity, is expanding its comprehensive, evidence-based employment intervention to serve incarcerated individuals in New York City and Rochester with the goal of increasing employment among this population by at least 5% and reducing recidivism by at least 8%. The outcome payors, who will pay out based on achievement of those outcomes, are New York State and U.S. Department of Labor.

South Carolina Nurse-Family Partnership Initiative

The State of South Carolina launched a Pay for Success initiative in 2016 to expand the Nurse-Family Partnership model statewide to support the health and development of first-time mothers and their children due in part to the fact that 27 percent of children in the state are born into poverty, and more than half to low-income mothers. The state is interested in a number of outcomes, but for payment purposes, is specifically focused on reducing preterm births, reducing in childhood hospitalizations, increasing birth spacing, and increasing the number of first-time moms served in high-poverty zip codes. Using a randomized controlled trial evaluation model, the State of South Carolina will pay out based on the payment terms outlined in the contract.

Suggested Legislative Language

The language below can be added to a mandatory or discretionary program to establish Pay for Success contract authority. This language has been adapted from language included in the Every Student Succeeds Act (P.L. 114-95), language championed by U.S. Senators Orrin Hatch (R-UT) and Michael Bennet (D-CO).

PAY FOR SUCCESS initiative. – The term 'pay for success initiative' means a performance-based grant, contract, or other agreement in which—

- (1) a commitment is made to pay for improved outcomes that result in increased public value and social benefit to the public sector, such as increased effectiveness in improving outcomes, direct cost savings or cost avoidance, or increased public revenue; and
- (2) the funding entity imposes minimal administrative requirements to allow for maximum flexibility to achieve increased public value and social benefit.

Such an initiative shall include—

- (A) a feasibility study describing how the proposed intervention is based on evidence of effectiveness;
- (B) a rigorous, third-party evaluation that uses experimental or quasi-experimental design or other research methodologies that allow for the strongest possible causal inferences to determine whether the initiative has met its proposed outcomes;
- (C) an annual, publicly available report on the progress of the initiative;

(D) a requirement that payments are made to the recipient of a grant, contract, or agreement only when agreed upon outcomes are achieved; and

(E) a bonus payment may be provided to the recipient of the grant, contract, or agreement to expand capacity to provide the proposed intervention.

FEASIBILITY STUDIES FUNDED THROUGH OTHER SOURCES. —The term described in subsection (A) shall permit an eligible entity to include information from a feasibility study developed for purposes other than the use of funding under this section.

FUNDS FOR PAY FOR SUCCESS INITIATIVES. —Funds made available to an eligible entity under this section for a fiscal year (or portion of a fiscal year) for a pay for success initiative shall remain available for expenditure by the eligible entity until expended.

FUNDING LIMITATIONS FOR PAY FOR SUCCESS INITIATIVES. —Funds made available to an eligible entity under this section for a fiscal year (or portion of a fiscal year) for a pay for success initiative shall: (i) be used for purposes of developing the feasibility study and rigorous, third-party evaluation as referenced in (A) and (B).

Conclusion

Across the nation, demand is growing for improving the effectiveness and efficiency of government services. Pay for Success is one way government has sought to leverage data, evidence, and evaluation to improve outcomes for vulnerable populations by focusing on evidence-based interventions that demonstrate results. We are encouraged by the momentum behind Pay for Success and hope Congress will continue to make it a priority in future legislation.



America Forward is the nonpartisan policy initiative of New Profit, a national nonprofit venture philanthropy fund that seeks to break down barriers between all people and opportunity in America. America Forward unites social entrepreneurs with policymakers and advances a public policy agenda that fosters innovation, rewards results, catalyzes cross-sector partnerships, and translates local impact into national change. **The America Forward Coalition** is a network of more than 70 social innovation organizations that champion innovative, effective, and efficient solutions to our country's most pressing social problems.



Results for America is helping decision makers at all levels of government harness the power of evidence and data to solve our world's great challenges. Our mission is to make investing in what works the new normal, so that when government policymakers make decisions, they start by seeking the best evidence and data available, then use what they find to get better results. We accomplish this goal by developing standards of excellence which highlight the government infrastructure necessary to be able to invest in what works, supporting policymakers committed to investing in what works, and enlisting champions committed to investing in what works.