

Performance-Based Contracts in WIOA

Outcomes-based contracts, also known as fixed-price performance-based contracts, help focus government and providers on what really matters — delivering results for the people they serve. By contrast, traditional cost-reimbursement contracts pay the same amount for the services provided, regardless of whether they actually help people gain skills, get jobs, or earn higher wages. Performance-based contracts help to build evidence and improve programs in an ongoing way. Providers are afforded the flexibility to serve participants in customizable ways, less hindered by prescriptive cost-reimbursement contract terms. Government partners build more muscle around managing contracts with real-time data while having the assurance of making full payment only if priority outcomes are met.

While the public workforce system continues to await additional guidance from the U.S. Department of Labor on the use of WIOA Pay-for-Performance, we should continue to leverage performance-based contracts that have been allowed through WIA and WIOA for decades.

U.S. DOL Performance-based Contract Guidance

DOL's [WIOA Final Rule](#) clarified that WIOA Pay-for-Performance contracting is just one type of a performance-based contract: "Performance-based contracts are still an available option for local areas and there is no limit on the use of funds for typical performance-based contracts, as defined in the Federal Acquisition Regulations (FAR), [[Subpart 37.6 - Performance-Based Acquisition](#)]. Contracts that are not executed under the WIOA Pay-For-Performance contracting authority may continue to include performance incentives, either positive or negative or both, in compliance with the Federal Acquisition Regulations. However, funds used for performance-based contracts that do not qualify as Pay-For-Performance contracts do not remain available until expended under WIOA sec. 189(g)(2)(D). The Department does encourage local areas to refocus these traditional performance-based contracts to place an emphasis on the contractor achieving outcomes like participants obtaining and retaining good jobs, rather than outputs like the number of people served.

However, as described in the NPRM, a WIOA Pay-for-Performance contracting strategy is only one specific type of a performance-based contract strategy. Neither WIOA nor the Final Rule is meant to foreclose NFJP providers, title II providers, or any other providers from pursuing performance-based contracts or strategies as they are generally understood, and they are encouraged to do so."

State and Local Examples

California

The [San Diego Workforce Partnership](#) will issue a [performance-based RFP](#) in October 2020 for approximately \$3.9 million for one entity to provide county-wide WIOA Youth services through a career center model and four additional entities to provide services to specific populations that have increased need.

California

[San Francisco's Office of Economic and Workforce Development](#) restructured its contracts for WIOA-funded American Job Centers to offer a 10% performance-based payment to encourage the placement of individuals with barriers to employment into jobs paying above the minimum wage. The agency is now considering adding performance incentives to other provider contracts. The language in the [RFP](#) explains that the agency "will provide a base cost-reimbursement amount for start-up, operating expenses, training and supportive services. 90% of the grant budget will be offered as the base reimbursement amount. The remaining 10% of the grant amount will be set aside for performance-based grant achievements.

Post-procurement, OEWD will negotiate with the grantee the detailed amounts allocated for each of the performance-based grant achievements and the performance metrics that will trigger the incentive payments."

Ohio

In August 2020, the [Workforce Development Board of Central Ohio](#) released [performance-based RFPs](#) for their one-stop center operator and their main career services provider that combine cost-reimbursement with performance payments for priority outcomes.

Pennsylvania

In October 2020, [Partner4Work](#) issued this [Request for Proposals \(RFP\)](#) to identify training programs that will provide a specific pathway for Allegheny County job seekers ages 18+ to gain industry-recognized credentials and gain employment. To incentivize credential attainment, "Payment will be made 50% on enrollment into a training program and 50% when documentation of a credential earned is provided to Partner4Work."

Tennessee

The [Memphis Workforce Investment Network](#) used WIOA funds to award an outcomes-based contract for transitional jobs services to the [Center for Employment Opportunities](#) (CEO), which offers an evidence-based model for reentry employment. The 2018 contract, based on an RFP issued in 2017, pays for meeting each of three specific thresholds: (1) participant enrolled, entered into the system, and confirmed to be eligible (payment: 40% of the \$10,000 per participant cost, up to a total of \$1,000,000); (2) participant completed transitional employment (40%); and (3) participant successfully placed in unsubsidized employment, as proven with two pay stubs (20%). The contractor is required to invoice on a monthly basis for participants meeting the thresholds. Memphis and CEO will then be able to track outcomes for these participants for at least four quarters using WIOA data and better understand the link between the outcomes payments and longer-term impacts.

Texas

The [Texas Workforce Commission defined/prioritized evidence](#) for the first time in its history in July 2020. In November 2020, the first grant announcement under this system (using the TX Governor's WIOA set-aside funds) prioritized evidence of effectiveness when awarding the \$1.5 million in training grants for the 2020 Building and Construction Trades program.