

**Workforce Investment Act Policy**

**To:** All Delegate Agencies, One-Stops and Sector Centers

**From:**

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**Subject:** Cost plus Fixed Fee Policy

**Date:** September 17, 2012

**Purpose:**

The purpose of this letter is to update and clarify the policy for the determination and payment of a fixed fee to for-profit (commercial) organizations holding a Chicago-Cook Workforce Partnership (The Partnership) Workforce Investment Act (WIA) cost-plus-fixed-fee contract.

**References:**

Federal Acquisition Regulations @ 48 CFR Part 15.404-4, 48 CFR Part 31.103 and 48 CFR Part 31.20

**Background:**

The Partnership is releasing this policy to improve efficiency, accountability, and to keep department policy in line with the U.S. Department of Labor (DOL) and Illinois Department of Commerce and Economic Opportunity (DCEO) requirements.

**Policy:**

In general, in accordance with applicable requirements, The Partnership will use a structured approach by linking the payment of a fixed fee to a for-profit delegate agency based on negotiated year-end performance benchmarks achieved by that individual delegate agency during the program year.

Specifically, the payment of a fixed fee will be a three (3) step process including:

1. The negotiation with each delegate agency seeking a fixed fee of eligible levels on the benchmarks upon which the fixed fee will be based at the beginning of the program year, and
2. The analysis of the delegate agency's budgeted costs to determine costs allowability, reasonableness and necessity, and
3. The determination of the amount of the fixed fee earned based on year-end performance for that delegate agency's grant agreement.

- The percentage of a fixed fee that each delegate agency is allowed for each WIA program will be negotiated with the initial budget submitted at the beginning of the program year.
- The negotiated fixed fee level will range **from four percent (4%) to a maximum of seven percent (7%) of expenditures**, excluding “pass-through” funds, such as those paid out by the delegate agency for supportive services, paid work experience, On-the-Job Training, customized/incumbent worker training or subcontracts for training. The fixed fee level may vary for each WIA program based on the following criteria:
  - Contractor effort, which measures the complexity of the work and the resources required of the prospective contractor for contract performance.
  - Contractor cost risk, which measures the degree of cost responsibility that the contractor will assume.
  - Federal socioeconomic programs, which measures the degree to which the contractor has demonstrated ongoing support for programs of particular interest such as improving services to hard-to serve populations.
  - Contractor investments, which measures the degree to which the contractor has reinvested past profits to improve its effectiveness and cost efficient operation and develop service capacity in their WIA programs in Cook County.
  - Past accomplishments, which measures the degree the contractor has consistently and efficiently achieved past contract goals.
- For each WIA program type (for instance, “Workforce Center” or “Affiliate”), The Partnership will determine the performance benchmarks that will be used in the determination and calculation of the fixed fee. These will be standard across all delegate agencies performing substantially the same scope of services. The set of benchmarks will be drawn from among the measures The Partnership uses in selection of delegate agencies, renewal of grant agreements, and other standard purposes for which The Partnership measures delegate agency performance.
- During the negotiation at the start of each grant agreement year, The Partnership will negotiate the threshold and the fixed fee levels, on these benchmarks, with each for-profit delegate agency.
  - For-profit delegate agencies may choose to seek the fixed fee or not, but must make this determination each year during the grant agreement negotiation period.
  - The benchmarks will be the same for like programs.
  - Each benchmark will be given a weight in relation to the other benchmarks, determined by The Partnership, in calculating the fixed fee level and amount of fixed fee that can be earned in relation to that benchmark.
- The intent behind the payment of a fixed fee is to promote more efficient and effective contract performance and not merely reward average or historical levels of efficiency. As such, the negotiated level for each performance benchmark used to determine and pay a fixed

fee will include a consideration of the delegate agency's scope of services and program components. A higher fixed fee may be requested for delegate agencies committing to offer a broader scope or higher quality service than other delegate agencies offering the same program.

- For-profit organizations may allocate funds to the fixed fee line item based on a "negotiated eligible" amount equaling between four percent (4%) but no more than seven percent (7%) of their projected expenditures excluding "pass-through" costs such as those paid out by the delegate agency for supportive services, paid work experience, customized/incumbent worker training or subcontracts for training in their WIA budget. However, the amount that will actually be paid by The Partnership will depend on actual grant-agreement-end performance, not to exceed an amount totaling the negotiated percentage of total vouchered expenditures excluding "pass-through" costs such as those paid out by the delegate agency for supportive services, paid work experience, customized/incumbent worker training or subcontracts for training.
- The fixed-fee-related performance benchmarks, their weight and the total budgeted fixed fee amount will be listed in a Fixed Fee Benchmarks letter that The Partnership will send to the for-profit delegate agency at the beginning of the grant agreement. This letter will serve as an addendum to the budget. The fixed fee line item amounts will be included in the budgets submitted by the delegate agency and approved by The Partnership.
- Performance will be measured and the fixed fee paid separately for each program and funding stream a delegate agency may operate. Thus, for a delegate agency with two separate grant agreements (programs), each having the Adult and Dislocated Worker funding streams, four separate fixed fee line items will be included in that delegate agency's four separate budgets.
- In order to be eligible for any fixed fee, the for-profit delegate agency must meet the threshold performance level on all performance benchmarks for that WIA grant agreement that were agreed upon in the Fixed Fee Benchmarks letter. Failure on any one benchmark means forfeiture of eligibility for fixed fee on all benchmarks under that grant agreement.
- The fixed fee will be paid at the end of the grant agreement period. The fixed fee should be requested on a separate voucher, so that the process of gathering performance data will not delay payment of vouchers for normal program expenditures. Fixed fee vouchers must be submitted in June (due July 15<sup>th</sup>). Performance rates will be generated from the IWDS system 30 days following the end of the grant agreement period. All program data including the exit of all eligible customers (both positive and negative exits) must be entered into IWDS 30 days following the end of the grant agreement or the fixed fee will be forfeited.
- Upon receipt of the fixed fee voucher and generation of the necessary data from the IWDS system and the delegate agency's program reporting, the Partnership will calculate the fixed fee level on each of the negotiated performance benchmarks. As noted above, the fixed fee may be from 0% (if any negotiated benchmark was not met) up to 7% (if a benchmark was exceeded by the requisite level and all benchmarks were met).

- The nature of the benchmark will determine the scale of gradations of the fixed fee available for it. Some benchmarks, as seen in the table, may have several gradations while others may pay the full 7% level for performance over the threshold level.
- All regular monthly vouchers must be current by the time the fixed fee voucher is submitted, in order that The Partnership can calculate the correct fixed fee payout. The Partnership will make calculations as of 30 days following the end of the contract period, based on all program performance and vouchered expenditures submitted on that date. If vouchers are not current, the fixed fee may be forfeited or calculated based only on expenditures vouchered to date.
- Budget Revisions: At any time during the grant agreement period, or at the end of the grant agreement period, in the event that the delegate agency will not be able to earn the entire fixed fee amount, the delegate agency may request a budget revision to reallocate funds from the Fixed Fee line item. However, these funds may only be transferred to the Supportive Service, paid Work Experience, Customized/Incumbent Worker Training or Professional and Technical Services (for subcontracts for training) line items. Whenever a budget revision is made, for any reason throughout the grant agreement period, the delegate agency's available fixed-fee amounts and fixed fee benchmark form will be recalculated accordingly to reflect the new budget amounts and categories.
- The Partnership will provide further guidance as needed in relation to this policy via procedural instructions and training by Program staff.

**Action Required:**

This information should be disseminated to delegate agency staff responsible for maintaining performance data and to staff responsible for budgeting, vouchering and accounting.

**Inquiries:**

Questions regarding any aspect of this policy should be directed to the Chicago Cook Workforce Partnership's Chief Executive Officer.

**Effective Date:**

Immediately upon approval by Workforce Investment Board.