

Chapter ILHR 811

PERFORMANCE-BASED CONTRACTING

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ILHR 811.01 Definitions. In this chapter:

(1) "Full performance" means meeting all of the requirements stated in the contract for receiving full payment.

(2) "Partial payment" means any amount less than full payment.

(3) "Performance-based contract" means a contract in which payment is based wholly on the delivery of some service, that is, performance by the contractor.

(4) "Program operator" means any agency, organization or individual receiving Job Training Partnership Act funds which originally came into the state of Wisconsin through the division of employment and training policy in DILHR.

(5) "Training" is the cost category required for reporting purposes, and identified at 20 CFR 629.38 (a).

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

ILHR 811.02 Partial payments. Partial payments made by program operators to their subcontractors or subgrantees for less than full performance in a performance-based contract may be charged entirely to training, if the contract meets the requirements contained in 20 CFR Part 629.38 (e) 2.

Note: *Federal requirements.* According to the requirements at 20 CFR 629.38 (e) 2, "Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:"

- (i) is for training;
- (ii) is fixed unit price; and
- (iii) (A) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement; or
- (B) in the case of youth, payment for training packages purchased competitively pursuant to section 141 (d) 3 of the Act shall include payment for the full unit price if the training results in either placement in unsubsidized employment or the attainment of an outcome specified in section 106 (b) 2 of the Act.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; **am. Register, November, 1995, No. 479, eff. 12-1-95.**

ILHR 811.03 Performance-based contracts which do not meet requirements of 20 CFR 629.38 (e) (2). Payments made by program operators to their subcontractors or subgrantees under a performance-based contract which does not meet the requirements contained in 20 CFR Part 629.38 (e) (2) is allocated or prorated among the several cost categories. This allocation is based on a reasonable estimate of the actual costs incurred in performing the contract. Where necessary detail cannot be provided to determine actual costs, such as for tuition fees, a reasonable breakdown of the single unit charge among cost categories is sufficient.

Note: 20 CFR 629.37 (c) states:

"The Governor shall issue guidelines on allowable costs for SDA and statewide programs . . ."

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.