

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2014-0018

Sponsored by: **County Executive FitzGerald/Department of Health and Human Services and Councilmember Miller**

**An Ordinance** enacting Chapter 715 of the Cuyahoga County Code to establish a Social Impact Financing Fund for the purpose of funding contracts to improve outcomes and lower costs for contracted government services in Cuyahoga County, and declaring the necessity that this Ordinance become immediately effective.

WHEREAS, Article VIII, Section 8.01 of the Cuyahoga County Charter mandates that “There shall be a Department of Health and Human Services, which shall administer all programs and activities for which the County has or has assumed responsibility for the protection and enhancement of the health, education and well-being of County residents and that are not assigned by general law to other boards, agencies or officials, and shall coordinate its activities and cooperate with such other boards, agencies and officers in order to avoid duplication of services and activities”; and,

WHEREAS, the County Executive/Department of Health and Human Services has proposed the establishment of a Social Impact Financing Fund for the purpose of funding contracts to improve outcomes and lower costs for contracted government services in Cuyahoga County, hereinafter referred to as “pay for success contracts”; and,

WHEREAS, the Social Impact Financing Fund shall fund health and human services to meet the principal goal of improving the welfare of county residents, including outcomes consistent with the implementation of evidence based interventions to address significant social problems and the coordination of social service systems to reduce their duplication of services and improve program effectiveness; and,

WHEREAS, the County Executive/Department of Health and Human Services has proposed that the Social Impact Financing Fund should fund specific programs to substantially improve the lives of vulnerable residents of the county, including but not limited to children and families, senior citizens, victims of violence and trauma, the homeless, and those living with mental health and substance abuse problems; and,

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a County entity.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1.** Chapter 715 of the Cuyahoga County Code is hereby enacted to read as follows:

**Chapter 715: Social Impact Financing Fund**

**Section 715.01 Fund Established**

There is hereby established the Cuyahoga County Social Impact Financing Fund for the purpose of leveraging private investment in Cuyahoga County's social service system. The Fund is to be subsidized through the County's Health and Human Services Levy proceeds.

**Section 715.02 Fund Uses**

The Social Impact Financing Fund may only be used to match non-county funds invested in Cuyahoga County's social service system as follows:

- (A) Private investment funds will be used to fund social services that are expected to prevent clients' ongoing need for services, lead to County budget savings, and improved outcomes; and
- (B) Success payments will be made from the Social Impact Financing Fund to service providers or convening entities to repay the private investment. The pay-for-success contracts will provide the terms for the success payments.

**Section 715.03 Contracts funded through Social Impact Financing Fund**

The Executive, through the appropriate county departments, may negotiate and enter into pay for success contracts as follows:

- (A) Each such contract shall generally comply with the following guidelines:
  - (1) Since pay-for-success contracts are a performance-based contracting strategy, they must include the requirement that a substantial portion of the government's payment is conditioned on the achievement of specific outcomes based on defined performance targets:
    - (a) Cuyahoga County will make success payments to service providers from the Social Impact Financing Fund following the service providers' successful provision of services and achievement of the proposed outcomes. The provision of services may be through direct work with the target population or subcontracts;

- (b) Service delivery will utilize evidence based and/or informed interventions that have been evaluated to achieve positive outcomes; and
  - (c) The County will establish precise performance targets that the service providers must meet to receive any County success payment for services. County data will be used to validate the achievement of performance targets.
- (2) The contracts must include an objective process by which an independent evaluator will determine whether the performance targets have been achieved:
- (a) The independent evaluator will be a college, university, or other objective entity that has the appropriate research and evaluation background, skills and capacity to analyze the identified county data;
  - (b) The independent evaluator will not have a stake in the achievement of the performance targets or outcomes; and
  - (c) The independent evaluator must not have conflicts of interest with the service providers or County.
  - (d) The contracts must include a calculation of the amount and timing of payments that would be earned by the service provider during each year of the agreement if performance targets are achieved as determined by the independent evaluator:
  - (e) The value of the payments will be based upon the cashable savings to the County and/or targeted outcomes achieved from the service delivery;
  - (f) For multi-year projects, the independent evaluator will evaluate change within the target population on an ongoing basis; and
  - (g) The evaluator will present ongoing findings to the County and services providers. The County and service providers will identify corrective actions to address under-performance of the project or an expedited wind-down of the services.
- (B) All contracts entered pursuant to this Chapter shall be subject to the approval of the appropriate contracting approval authority under Chapter

501 of the County Code. The request for approval from the appropriate contracting approval authority shall include the following:

- (1) The rate of the County's match of non-county funds; and
  - (2) A determination by the Director of Health and Human Services and the Fiscal Officer that, in their reasonable judgment, the contract will result in significant performance improvements and budgetary savings across all impacted agencies if the performance targets are achieved.
- (C) All contracts entered pursuant to this Chapter shall be subject to the approval of the Director of Law or his or her designee before being executed by the County Executive.
- (D) Contracts entered pursuant to this Chapter whose duration extends beyond the County's budget cycle shall be subject to the County's annual appropriation process. For any contracts entered pursuant to this Chapter, the Fiscal Officer shall annually encumber the portion of the contract funds through the next year of the contract. The County's payment obligations shall be determined in the contracts themselves, as approved by the Director of Law and the appropriate contracting approval authority under Chapter 501, and nothing in this Chapter may be interpreted to automatically obligate the County to pay under the contract in the event that the performance targets are not achieved.

**Section 715.04 Administration of Social Impact Financing Fund and Reporting to County Council**

- (A) The Fiscal Officer shall administer the Social Impact Financing Fund and ensure that all funds appropriated as described in this Chapter are deposited into the Fund and shall make payments from the Fund in accordance with the terms and conditions of the contracts.
- (B) The Social Impact Financing Fund shall not exceed \$5,000,000.
- (C) The Fiscal Officer shall provide an annual status report on all contracts entered pursuant to this Chapter to County Council no later than May 1<sup>st</sup> of each year.

**SECTION 2.** It is necessary that this Ordinance become immediately effective for the usual daily operation of the County and the reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its

passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

**SECTION 3.** It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Miller, seconded by Mr. Germana, the foregoing Ordinance was duly enacted.

Yeas: Miller, Brady, Germana, Conwell, Jones, Hairston and Simon

Nays: Greenspan, Gallagher, Schron and Connally

  
County Council President

7-23-14  
Date

  
County Executive

7/28/14  
Date

  
Clerk of Council

7/22/2014  
Date

First Reading/Referred to Committee: June 24, 2014

Committee(s) Assigned: Finance & Budgeting

Committee Report/Second Reading: July 8, 2014

[Clerk's Note: Legislation did not receive the affirmative vote of at least eight members of Council; therefore, it is not effective immediately.]

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July 22, 2014