

**COURT ORDER
2017-0091**



Bilingual Incentive Pay Program Policy

On a motion made by Commissioner Dr. Elba Garcia, District 4, and seconded by Commissioner John Wiley Price, District 3, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 1/17/2017
FUNDING SOURCE: General Fund

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the attached Bilingual policy regarding the Bilingual Incentive Pay Pilot Program Chapter 82, Section 82-982 through 82-991 for inclusion in the Dallas County Code.

Done in open court January 17, 2017, by the following vote:

IN FAVOR: Honorable Clay Lewis Jenkins, County Judge
Commissioner Dr. Theresa M. Daniel, District 1
Commissioner John Wiley Price, District 3
Commissioner Dr. Elba Garcia, District 4
OPPOSED: Commissioner Mike Cantrell, District 2
ABSTAINED: None
ABSENT: None

Recommended by: Urmit Graham
Originating Department: Human Resources

COMMISSIONERS COURT BRIEFING



DATE: 1/17/2017

SUBMITTING DEPARTMENT: Human Resources

THROUGH:

SUBJECT: Bilingual Incentive Pay Program Policy

BACKGROUND:

On December 06, 2016, through Court Order 2016-1471, Commissioners Court approved a pilot program for Bilingual Incentive Pay which will run for one year effective January 1, 2017. This program will compensate employees in language skilled positions identified by the department recommended by HR and designated by the Auditor's Office, who will be called upon to utilize their additional language skills other than English on a regular basis to assist clients and constituents who need their services but are limited in communicating in the English language.

Attached is the revised Incentive Pay Program Policy that was approved without underlines and/or strikethroughs. Human Resources Department submits the Bilingual Incentive Pay Program Policy Chapter 82, Section 82-982 through 82-991 for approval and inclusion in the Dallas County Code.

OPERATIONAL IMPACT:

The policy provides clarification and guidance to Elected Official/Department Heads, manager, and employees when addressing the subject of bilingual incentive pay.

FINANCIAL IMPACT:

The estimated annual financial impact for 300 positions, if fully funded by Dallas County, is \$320,640 (300 testing on oral communication only) to \$477,960 (all testing) or \$380,000 with a combination of testing (i.e. ½ testing for each).

LEGAL IMPACT:

The Civil Section of the District Attorney's Office has reviewed the policy.

PROJECT SCHEDULE:

N/A

M/WBE PARTICIPATION:

N/A

RECOMMENDED BY:	Human Resources	PREPARED BY:	Urmit Graham
		APPROVED BY DEPT HEAD:	Urmit Graham

ADMINISTRATIVE PLAN COMPLIANCE:

The County's Administrative Plan recommends that the County become operationally a model governmental entity. The proposed bilingual incentive policy with pilot program implementation is consistent with this recommendation as it will provide additional pay to individuals required to use their bilingual skills on a "regular basis" due to business necessity; therefore, providing sound, financially responsible, and accountable governance, while assisting in maintaining Dallas County in attracting and retaining a strong, motivated workforce.

RECOMMENDATION:

Approve the attached Bilingual policy regarding the Bilingual Incentive Pay Pilot Program Chapter 82, Section 82-982 through 82-991 for inclusion in the Dallas County Code.

ARTICLE XIII. SALARY AND INCENTIVE PLANS

DIVISION 4. BILINGUAL INCENTIVE PAY PROGRAM

Sec. 82-982. Purpose.

The purpose of this policy is to provide guidelines for the bilingual incentive pay policy; hereinafter referred to as "Language Pay" for employees who will be required to use their additional language skills to perform their job; thus, adding value to County related business by providing assistance to customers on a **regular basis** while ensuring that speak, reading, and/or written communication to non-English speaking citizens and employees is accurate and clear. This policy applies to Eligible Employees Only (See Table 1 Eligibility Criteria's for Bilingual and Sign Language Pay Incentive).

Sec. 82-983. Definition.

Bilingual Employee -- the ability of a person to communicate through language proficiency (speak and or read, and write) in another language other than English.

- a) **Eligible Employees** – See Table 1 Eligibility Criteria's for Bilingual Pay Incentive Pilot Program.
- b) **Excluded Employees** – See Table 1 Eligibility Criteria's for Bilingual Pay Incentive Pilot Program.
- c) **Language Skill Assignment Pay** -- the pay rate to compensate employees for language proficiency. Language Skill Assignment Pay will only be allowed for one language skill.
- d) **Language Skills Assignment Pay Questionnaire HR 2016-02** -- form to be completed by the department that is used to describe, support, and justify the need for a language skills position for a particular area/department.
- e) **Language Skills Position** -- Number of eligible positions requested by the Elected Official /Department Head, recommended by HR, approved by Commissioners Court and designated by the Auditors' Office for a department requiring the use of these language skills (other than English) on a regular basis for which by the employee will be compensated.
- f) **Language Skills Proficiency Test Request Form HR 2016-01** -- form to be completed by the HR representative and submitted to HR Employment Division for Scheduling of proficiency testing.
- g) **Language Skills Testing** – proficiency testing administered by a Dallas County approved vendor.
- h) **Proficiency** -- the ability of a person to speak and or read, and write in a language (other than English) effectively and appropriately in a business/office environment.
- i) **Regular Basis** -- Frequently and continuously throughout the day, estimated on average to

be at least 20% (8 hours) or more of the employee's work week. The frequency of use must be due to necessity for service to the public, (i.e., not selecting to in another language when the resident or customer can speak English.)

Sec. 82-984. General Administration.

Applicability.

Eligible employees in language skill positions who demonstrate through proficiency language skills testing the necessary proficiency in a second language other than English will receive additional compensation (See Table 1 Eligibility Criteria's for Bilingual Pay Incentive Pilot Program). The language for which additional pay is requested must be one that is commonly spoken in the Dallas County area and which is necessary for Dallas County to provide services essential to its successful performance of official functions.

A. Eligibility Requirement.

1. Recommendation of a position as a Language Skills Position, by the Department after assessing the organizational/business bilingual needs of the Department in performing its official functions, the Department must determine that there is a need for bilingual skills in a particular language, for the position and submit the Language Skills Proficiency Test Request Form. The recommendation must include a **Good Faith Compliance, Certification and Recertification Form** (hereafter called the "Certification Form"), by the supervisor/manager of the department, affirming that the employee provides proficient bilingual skills services to constituents on a Regular Basis in compliance with the requirements outlined in the Language Skills policy;
2. Human Resources approval of the department's recommendation of the position as a language skills pay position based on policy criterion; and,
3. Satisfaction of the following criterion by the employee:
 - a. Position whose job responsibilities are such that proficiency of a language other than English is necessary on a regular basis and beneficial for the department in order for the department to meet their public service responsibility and perform their essential functions resulting in a positive impact on the department's delivery of service. The Department must provide the "Certification Form" affirming that the employee provides proficient bilingual skills services to constituents on a regular basis in compliance with the requirements outlined in the language skills policy.
 - b. Has direct public contact on a regular basis with residents or customers who do not speak English. Fifty percent of the job duties must require working with the public;
 - c. Use the language skill on a Regular Basis during daily work week. Language Skills Pay is not available for positions that may use language skills on an **incidental or occasional basis**. The employee must use the language skill on a Regular Basis during his/her work week;

- d. Is reasonably available to residents/customers needing assistance to translate from English to another language or from another language to English when called upon to do so; and
 - e. Demonstrate proficiency (speaking only or speaking, reading, and writing) in a foreign language other than English. The employee must take and pass a proficiency test with a minimum score of 70% in on or more areas (speaking only or speaking, reading, and writing). Passing the bilingual proficiency test does not guarantee that an employee will receive Language Pay, rather they must pass the test in order to be eligible. A department may seek a waiver of the requirement that the employee pass each area (oral/communication, read, and write) of the bilingual proficiency test, from the Commissioners Court, for good cause shown.
- 4. The maximum number of county-wide bilingual positions authorized under this program will be determined by Commissioners Court as a pilot or non-pilot project and will be based on the number of authorized active positions within the department. For example: County has 6000 authorized active position with the HR department having 20 of these positions. With a maximum allocation of 300 positions county-wide, the HR department would be authorized .99 positions or 1 position rounded to the nearest whole number.
 - 5. The department may exceed the number of positions they were allocated as long as the maximum number of positions (300 for example) is not exceeded and a business need has been established based on the language skills policy. For example, HR is allocated one position; however, based on the language skills policy is not authorized a position; therefore, one position is still available to be used by another department with a definitive need based on policy; however, does not have any allocations left.

b. Responsibilities.

- 1. The Elected Official/Department Heads (or designated representatives) are responsible for determining a definitive need for and identifying the number of language skills positions needed within their department based on the number of positions allocated by submitting the Language Skills Assignment Pay Questionnaire 2016-02 to HR with description and justification for the departments' need. The supervisor/manager will confirm via the "Certification Form" that the employee provides proficient bilingual skills services to constituents on a Regular Basis in compliance with the requirements outlined in the language skills policy. The Department's language skills position selection must be based on a good faith assessment of the bilingual business and organizational needs of the Department without preference or favoritism given to any employee and in compliance state and federal law, including non-discrimination laws."
- 2. The Human Resources Department will evaluate and validate the number of positions requested based on the number of positions allocated and make a recommendation to approve/deny, using the eligibility criteria as outlined in the policy and on the questionnaire, which is based on the function/duties of the Department (i.e. provides services directly to clients/constituents), frequency which the position

requires the use of a bilingual skills on a Regular Basis; the amount of public contact the position requires (50% or more, direct or call in combined) and whether any other employees (exempt from language pay) are able to provide the language services. The HR Department will, audit and monitor the program, and employees to ensure compliance to policy.

3. If Human Resources validate more than one request for a section, since the availability of Language Pay for eligible positions in each Department is limited, the eligible employee who scores the highest overall score in that section will qualify for the first available Language Pay position. The next highest scoring Eligible Employee, in the section, will qualify for the next available Language Pay position. If there is a tie between eligible employees for Language Pay, in a section, consideration is given to: the position the Department considers the most pressing, the frequency which the position requires bilingual skills, and the amount of public contact the position requires. If after the above there is still a tie preference is given on seniority basis. Language Pay is tied to the position, not to the employee.
4. If approved by Commissioners Court, the Auditors' Department will designate skills pay positions based on the number of approved positions per department.

Sec. 82-985. Compensation – Language Skills Assignment Pay.

1. Eligible employees meeting the eligibility requirement in this policy will receive **\$1,200 annually** for passing the speaking, reading, and writing proficiency tests administered by Dallas County's approved vendor for a foreign language other than English.
2. Eligible employees meeting the eligibility requirement in this policy will receive **\$800.00 annually** for passing the speaking proficiency tests administered by Dallas County's approved vendor, if the Department indicates that it only needs the employee to pass the speaking proficiency test when it submits the Language Skills Assignment Pay Questionnaire with a description of its needs.

Sec. 82-986. Testing Procedure.

- a. The Human Resources Department will coordinate, schedule, and/or proctor all Language Skills Testing for all County employees, including tests results and follow-up.
- b. For testing to determine eligibility for language pay and based on the number of authorized language skill position, the Elected Official/Department Head will submit the names of employees to be tested to the HR department on the Language Skills Proficiency Test Request Form (HR 2016-01).
- c. The selected employee eligible for bilingual incentive pay will complete the "Bilingual Testing Request Form" provided by Universe Technical Translation Inc. (UTT). The form will then be sent to UTT by the employee for processing and the vendor will provide the employee a link with instructions for online payment. The employee has 24 hours to cancel prior to schedule start date and time to

cancel testing. Time and date will be determined by the employee and vendor. Payment instructions and cancelation instruction are on the form.

- d. All language skills testing cost will be paid by the employee. Employees who fail to pass the initial testing will be provided one additional opportunity to test within 30 days OR the Elected Official/Department Head may elect to submit an alternate for initial testing. All subsequent testing will be at the employee's expense. Employees who do not pass after a second test must wait one year before being eligible to re-test. For the initial testing (1st test), the Elected Official/Department Head may elect to approve the reimbursement to the employee for the cost of the testing with funds from the Departments Discretionary Account (DDA) or other funding source identified provided the reimbursement meets the guidelines of the DDA, other funding source and the Auditor's department requirements.
- e. Employees will not be required to retest/requalify to continue to receive the language skills proficiency pay. The department will verify via an updated "Certification Form" that the employee continues to provide proficient bilingual skills services to constituents on a Regular Basis in accordance with the requirements outlined in the language skills policy. The "Certification Form" should be sent to the HR department no later than September 1st prior to the beginning of the next Fiscal Year (October).
- f. Testing will be scheduled during the employees normal work hours whenever possible. When operational needs necessitate scheduling the initial test time outside the employees regular work schedule, the test time will be counted as time worked.
- g. Each County department will have a point of contact to act as a representative with Human Resources to identify and communicate to Human Resources which employee(s) are designated to be tested, preferably their HR Representative.
- h. Tests may be conducted by telephone for speaking and reading tests and via fax and email for written tests. Tests conducted via telephone, fax, or email must be conducted at Dallas County Human Resources office and will be proctored by Human Resources in accordance with Paragraph a of this subsection. Tests will be recorded for quality purposes.
- i. Employees who fail to take a test at the scheduled date and time (i.e. late arrival, no show, etc.) will be required to pay cost of the missed test. Cancelation and contact information is indicated on the payment form.
- j. New tests will not be required when an employee transfers to a position requiring the same use of a skilled language based on policy guidelines, if the re-evaluation of the position was preformed within the time period mentioned in this policy (i.e. September 1st prior to the next Fiscal Year). That employee will continue to receive the incentive pay provided the employee meets the test requirement for the position. If, however, there is a break in an employee holding a Language Skills Assignment Pay position with the County for two years or more, that employee must retake the Language Skills Testing for language skills pay (cost will be paid by the employee as outlined in this policy).

Sec. 82-987. Employee Performance Responsibilities.

1. All employees accepting Language Pay will be required to utilize their bilingual and/or communication skills when requested and as needed during the course and scope of their duties.
2. Employees who fail to utilize their bilingual skills when required will be deemed ineligible to receive incentive pay.
3. Employees are required to maintain acceptable proficiency in bilingual communication skills (speak and/or read, and write) as long as they are receiving Language Pay for such skills.
4. Any employee receiving Language Pay is expected to assist other non-bilingual employees in the translation of documents and assistance with the public. Assistance may be required for other departments or areas that extend beyond the employee's normal scope of responsibilities.
5. An employee receiving Language Pay may be asked to retake the proficiency test, if issues arise with the employee's proficiency performance or other good cause shown.

Sec. 82-988. Modification/Termination.

1. An eligible employee who qualified for Language Pay will no longer receive Language Pay if: a) the employee no longer uses the language skills on a Regular Basis in the scope of employment; b) the employee is demoted, transferred, or promoted to a position that has not been designated as a skills pay position by the auditor; c) the employee is not available to interpret and/or translate when needed; or d) the Department requests that the bilingual skills pay position designation be removed from the employee's position or e) the Commissioners Court decides to discontinue Language Pay for the position
2. The Commissioners Court reserves the right to modify or terminate the bilingual incentive pay policy with or without notice.

Sec. 82-989. Non-Language Pay Employees.

Bilingual employees that work for Dallas County departments, not receiving Language Pay will not be subject to discipline for declining to use bilingual skills in the course of employment (excludes employees of elected officials). Requests can be made for their bilingual assistance in a language other than English, but the request may be declined. This provision does not apply to exempt salaried employees who are ineligible for Language Pay.

Sec. 82-990. Audit.

1. The employees in positions designated as bilingual will be reviewed annually by the Department to determine if the policy criteria for the position are still being met and to ensure that there is a continued business need for the position for the employee to continue receiving Language Pay. The HR department will accept

the supervisor/manager confirmation via "Certification Form" that the employee continues to provide proficient bilingual skills services to constituents on a regular basis in compliance with the requirements outlined in the language skills policy, unless it has a good cause basis not to accept the Certification Form. The Department must notify Human Resources within thirty (30) days if the position no longer qualifies for Language Pay. The Department can also survey clients/constituents to obtain feedback regarding services provided as a result of having a bilingual skill position for that area/section being served, to include with its updated Certification Form.

2. The Human Resources Department may periodically conduct a random sample of the Language pay positions throughout the year and screen incumbents to ensure the continued need for bilingual skills and those employees remain proficient in those skills.

Sec. 82-991. Administration.

The Human Resources Department will administer adjudication and/or clarification of this policy, including approval of the bilingual skills pay positions.

TABLE I

Eligibility Criteria's for Bilingual Incentive Pay Program

Eligible	Not Eligible
1) Full time and Part time employees eligible for benefits.	P/T employees not eligible for benefits.
2) Employees who pass speaking only or speaking, reading and writing of bilingual proficiency testing (70% or better)(speak and or write and read) as administered by our approved vendor.	Not able to pass the bilingual proficiency testing by a vendor not authorized by Dallas County Commissioners Court.
3) Employees who occupies a designated bilingual skills position as identified by the Elected Official/Department Head, recommended by the HR Department and designated by the Auditors' Office.	Employees who do not occupy a designated bilingual skills positions.
4) Employee in designated position whose job responsibilities are such that proficiency of a language other than English is necessary on a regular basis and beneficial for the department in order for the department to meet their public service responsibility and perform their essential functions resulting in a positive impact on the department's	The position doesn't add value to the department; it's not needed, beneficial or necessary. Passing the bilingual proficiency test does not guarantee that an employee will receive Language Pay, rather they must pass the test in order to be eligible.

delivery of service.	
5) Employees, whose use of their bilingual skills are required on a regular and continuous basis in the scope of their employment and which skills are necessary to provide services and essential to successful performance of official functions. "Customer Contact."	It is not available for positions that may use bilingual skills on an incidental or occasional basis in the scope of their employment ("Customer Contact") and/or employee refuses to utilize their bilingual skills when requested and as needed or when required to do so.
6) Bilingual Incentive pay will only be for one (1) foreign language.	Bilingual Incentive pay will not be offered for two or more foreign language.
7) Testing and incentive pay will depend on availability of funds.	Budget constraints do not allow incentive pay.
8) Employee who will be able to test and pass (with a score of 70% each tested area) with a 30 day waiting (study) period if approved for retesting by the Elected Official /Department Head or his/her representative. The cost for bilingual skills testing will be covered by the employee or by the department if approved by Commissioners Court.	Not approved for testing by the Elected Official/Department Head or his/her representative.
9) Non-exempt employees only, unless the majority of functions performed by this section/area are exempt in nature.	Exempt Employees, unless the majority of functions performed by this section/area are of an exempt nature (psychologist for example) and requires privacy or the constituents/clients serviced require regular use of bi-lingual skills throughout the day.
10) Employee in Non-supervisory positions only.	Supervisor, Managers and above.
11) Employee who can take and past skills test at the scheduled date and time.	Employees who fail to take a test at the scheduled date and time.
12) Positions that are needed, beneficial and/or necessary with skills demonstrated on a regular basis throughout the day.	Has been determined the position is no longer needed, beneficial or necessary. If skills are not demonstrated throughout the week (ex: 2-3 times per hour, not 2-3 times a day).
13) Employee who is designated in a bilingual skills position.	If employee is transferred or promoted to another area, not designated as a bi-lingual skills position.
14) Language Pay for eligible positions in each Department is limited to positions designated as such by the Elected Official/Department Head and recommended by the HR Department and designated by the Auditors' Office	The positions which are not listed as "high priority" will not be tested, until such time as all the "high priority" positions have either qualified or been disqualified for Language Pay and the Department is eligible for another Language Pay position.

as "high priority" will be tested first.	
15) To continue to receive the language skills proficiency pay the department will verify via memo for filing that the employee continues to provide proficient bilingual skills services to constituents on a regular basis in compliance with the requirements outlined in the language skills policy.	A department who does not provide the verification via memo for filing that the employee continues to provide proficient bilingual skills services to constituents on a regular basis in compliance with the requirements outlined in the language skills policy the employee will lose the incentive pay.
16) Employees whose job duties require them to work with the public at least Fifty percent of the time.	Employees who do not have job duties that require them to work Fifty percent of the time with the public.
17) Employees are required to maintain acceptable proficiency in bilingual communication skills for which the employee is currently receiving incentive pay for as long as they are receiving Language Pay.	Employees who are receiving bilingual pay and are not required to maintain acceptable proficiency in bilingual communication skills for which the employee is currently receiving incentive pay for as long as they are receiving Language Pay.
18) Employees who are receiving Language Pay are expected to assist other non-bilingual employees in the translation of documents and assistance with the public. Assistance may be required for other departments or areas that extend beyond the employee's normal scope of responsibilities.	Employees who are not receiving Language Pay will not be expected to assist other non-bilingual employees in the translation of documents and assistance with the public. Those employees who do not receive bilingual pay will not be required to offer assistance to other departments or areas that extend beyond the employee's normal scope of responsibilities (excludes employees of elected officials).
19) An employee receiving Language Pay may be asked to retake the proficiency test, if issues arise with the employee's proficiency performance or other good cause shown.	

Bilingual incentive pay is a customer/constituent service driven incentive plan.

(Ord. No. 2017-0091, 01-17-2017)

Secs. 82-992--82-1000. Reserved