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Outcomes-Based Contracting in Tutoring: Insights and Recommendations

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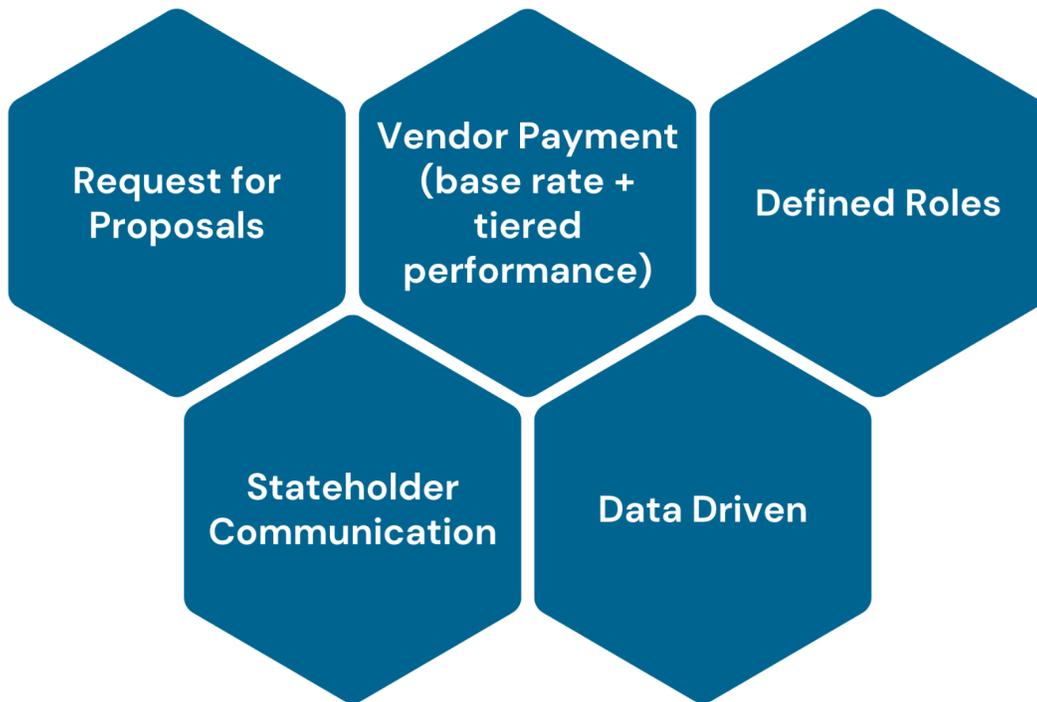studentsupportaccelerator.org

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Introduction

Contracting relationships between public school districts and vendors are a common feature of education provision in the United States. Contracted services in schools can range from broad, essential functions such as school meals, bussing, and janitorial services to more specialized services such as the analysis of student data, curriculum mapping, and professional development for staff members. The strength of these contracting relationships depends on vendors providing consistent services and on payment between vendors and districts. Providers are paid with public funds, and communities may expect clear oversight of contracts and transparency about their effects on valued outcomes. Transparency also can help districts make decisions about whether or not to continue contracts with providers.

Outcomes-based contracting (OBC) aims to ensure vendor performance and efficacy by building expectations for transparency and effectiveness directly into legal agreements. An OBC contract includes a portion of payment contingent to the provider based on the attainment of agreed-upon success metrics set forth by the buyer, in this case, the school district (Corbett et al., 2023). While OBC, also referred to as Pay for Success funding model, has been used in other areas of the social sector, such as in permanent support housing (Walsh et. al., 2020), workforce development (Andreason, 2016), and vaccine availability (Snyder et.al., 2011), the model is quite new in the public education sector.

Hallmarks of OBC for Tutoring

Request for Proposals

Vendor Payment (base rate + tiered performance)

Defined Roles

Stateholder Communication

Data Driven

Characteristics of OBC for Tutoring

- Requests for proposals set desired outcome and ask vendors to identify how they would meet the goal rather than focusing on the lowest price
- Districts pay a base rate (typically significantly lower than the usual rate) and vendors earn additional funds by meeting tiered outcome goals
- Roles and expected outcomes are clearly defined prior to programming, smoothing implementation
- Frequent communication partnership between the district and the vendor during programming eases programming challenges, spurs innovation, and leads to continuous improvement
- Data drives communication and payment of vendors

Recently, the Southern Education Foundation (SEF) supported a multi-year pilot program for contracts between school districts and tutoring providers (Outcomes Based Contracting, 2022). The goal of the program was to leverage pandemic funding to effectively increase student achievement through high-impact tutoring programs. It included professional development focused on developing an outcomes-based contract, continuous support with implementation, and a cohort of peers taking on similar tasks from which to learn (Outcomes Based Contracting, 2022).

For this study, we sought out the perspectives of both districts and providers who attended informational sessions and/or participated in the pilot program in order to better understand OBC's potential for education systems, both its strengths and its pitfalls.

Data and Methods

We conducted virtual interviews over Zoom with ten school districts and seven tutor providers. Interviews lasted thirty to forty-five minutes. We asked districts and tutoring providers about their interest in and perceptions of OBC broadly, the process of constructing OBC requests for proposals, writing and enforcing contracts, and their partner relationship. We transcribed the audio recordings of these interviews verbatim. Three researchers read and independently coded the transcripts. We then met to converge on overall findings concerning: (1) the alignment with theory and practice, (2) district perspectives on the potential and challenges of OBC implementation, (3) vendor perspectives on the desirability and feasibility of OBC contracts, and (4) the potentials and limitations to expanding OBC. We structure the findings section to follow these thematic groupings.

Findings

The interview findings offer a range of perspectives, both from those who have engaged in OBC and from those who opted not to.

Alignment with Theory and Practice

OBC contracts differ from traditional contracts between districts and providers because the contracts themselves specify how districts and providers will share responsibility in meeting the outlined goals, what outcomes the districts are expecting, the data that will be used to measure those outcomes, and how payment will be commensurate with the outcomes achieved. Once the contracts are set, they can provide incentives for effective implementation. Our interviews provide evidence that the OBC process did, in fact, achieve these goals in many cases.

OBC contracts are not easy to create. Respondents were motivated to get through the initial difficulties of RFP and contract construction because they believed that the terms of the new OBC contracts induced a paradigm shift in how districts and providers acted. The providers we spoke with indicated that OBC contracts increased their desire and ability for data tracking. Providers used progress

monitoring data to support meeting learning targets associated with districts' payment structures and could readily work with district partners to troubleshoot implementation issues

> "... because of the metrics and accountability component, it feels like it truly is an extension of the school…, like really embedded in making sure that they have the data necessary to make the changes they need to on our end. And we have the feedback back that we need…we understand what things we need to improve on, it just very much feels like we're part of the school."

District leaders and providers also noted that districts engaged more with program implementation under an OBC contract. One district describes their joint role in pursuing academic goals outlined in the contract:

> "Unlike other contracts that we prepare, this one involves skin in the game on the part of the district. We agree to do some things as well. And so there truly is in the contract a list of items that the district will do and a list of items that the vendor will do. And that's a bit unusual."

One of the primary responsibilities of the districts in OBC contracts with tutoring providers is to meet and reflect on tutoring data with the providers on a regular basis. These meetings served as productive spaces of joint problem solving, as one vendor describes: it is "truly a collaboration around the needs of the schools and the district and the particular project at hand." As a result of these regular meetings, the issues identified during implementation (i.e. difficulties logging on for tutoring sessions) could often be quickly resolved by the tutoring provider, minimizing lags in students' instructional time. For example, a district describes the troubleshooting services they received from a provider:

> "But I think we were successful because we stay connected all the time. All the time. The day one student said they couldn't understand their tutor, I was on the phone with them. Like nothing waited. Yeah, the real quick turnaround too…. We have a lot of district partners and that's not something I hear often enough. I feel like it's quick turnaround time to resolve issues."

Partnership meetings also helped to build strong relationships between districts and providers. Relationships were particularly fruitful when the district and the provider had designated point people to build rapport and trust. One provider describes the dynamics and the productivity of their weekly meetings while identifying the importance of a project manager:

> " ... the vendor district relationship has been amazing. Like every conversation is focused on the work. We have a project manager that spends a portion of the time just focused on this contract to ensure fidelity and accountability measures on the district's part and the fidelity and accountability measures on the vendor's relationship. The vendor has incentives for students and we do lots of celebrations in our weekly call."

Ultimately, the OBC contracts do increase accountability on the vendor's end relative to traditional contracts, but this increased accountability does not mean that they bore the sole burden of reaching the goals outlined in the contract. Districts also have to uphold their end of the agreement. One provider describes how they look at districts as partners under these arrangements:

> "...we've become joint problem solvers...it's not left up to the vendor only to solve the problem. I think our partner is a true partner in trying to find the solution on their end, trying to build capacity with the staff…So it's truly a collaboration around the needs of the schools and the district and the particular project at hand."

Our interviews provide evidence that OBC can achieve its theoretical promise of specifying outcomes, including how payment is commensurate with those outcomes, and detailing shared responsibilities for meeting outcomes between both parties.

District Perspectives on the Potential and Challenges of OBC Implementation

District personnel recognized the potential benefits of OBC, while also noting the difficulties of OBC, especially the difficulty with contract development.

District officials expressed the importance of internal capacity for successfully implementing OBC. As one example, they needed the ability to coordinate across district departments, such as legal, purchasing, and programmatic departments, for the creation of an RFP. In addition, they needed the ability to be specific about the student groups served and the outcomes they wanted to achieve. This specificity resulted in very targeted services. One district describes how they singled out eighth graders who were not on track to be high school ready:

> "What is it that's keeping you up at night, what specific group? Mine were those students that were not achieving and contributing in high school, that weren't ready for Algebra I, which we know base-10 numeration and algebraic thinking are the cursors of our high performing countries, right? Those kids by eighth grade, they are all algebra ready."

District personnel also underscored the importance of outside support to supplement their internal capacities. In particular, they reported that high levels of support from the SEF was essential for their OBC processes, particularly during the RFP stage and when completing a contract after selecting a tutoring vendor. District leaders may be able to build internal capacity once they have experience with OBC. A participating district leader describes the necessary support and knowledge provided:

> "So making sure that you have your metrics outlined, the target group outlined, how many kids you're servicing, when you're going to have the data ready for them to be able, meaning the vendor to be able to start having the meetings with your people, your program people on your end, all of that, those things are critical. Those things came with guidance from the Southern Education Foundation. So the OBC project people were terrific and we couldn't have done it without their work because we didn't know what to include in a RFP like this, it's different."

Another district leader noted the guidance necessary when developing an RFP for OBC in particular:

> "[SEF representative] has been tremendous in providing us support from a leadership standpoint of: How do you get the message across? What information would be helpful to share? Well, I mean, they kind of walk you through that.."

District personnel appreciated the opportunity to collaborate with the vendors at all stages of program implementation, such as meeting regularly to troubleshoot as issues would arise or using check-ins to engage in data dives for progress monitoring. From some districts, OBCs have fundamentally changed their perspectives about what contracting relationships can be:

> "I mean, I have never had an easier experience with a vendor. They are responsive… dedicated… committed to student learning... And I can offer that in comparison to another high-impact tutoring project that I was working on that was through a state grant was like nightmarish. Just like constant issue..., not taking a responsibility. And so [the OBC provider] just makes absolutely everything easy. And they're just constantly, continuously refining their processes, the way they do things."

According to district officials, the successful implementation of OBCs requires substantial district capacity and coordination among district personnel and between the district and the vendor, as well as high levels of commitment from both the district and the tutoring vendor in order to be successful. Therefore, even with the reported benefits of OBC, districts should be cautious about entering into OBC contracts if they do not have buy-in, outside supports or the capacity to work across departments internally, as well as collaboratively with tutoring providers.
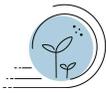
Vendor Perspectives on the Desirability and Feasibility of OBC Contracts

Tutoring providers differed in their assessment of OBC. While some identified the benefits of getting to showcase the positive effects they were confident they provided and, similar to the district respondents, expressed the benefits of closer collaboration, others reported the difficulties of the contracting process and of acquiring additional financial risk. These concerns may be greater for smaller, non-profit providers without the ability to distribute this risk across a broader portfolio.

Tutoring providers who fully supported OBC tended to express confidence in the efficacy of their services and ability to set achievable goals with their respective district partner/s. They reported that OBC increased data tracking and, as a result, they were able to show the efficacy of their services. For example, one vendor noted that in one contract they hit 178 out of 185 targets. This type of data tracking was meaningful because it allowed the vendor to make an argument for why they should continue to be chosen among a vast marketplace of tutoring providers.

Providers also reported that the ability to work closely with districts and schools to understand goals supported ongoing communication and focus for all stakeholders involved. Similar to the districts, tutoring providers enjoyed the increased engagement that animated their partnerships. One provider describes the shift to shared accountability:

> "It's like a two-way accountability street now built into the contract where, all right, there's criteria, parameters that the schools need to live up to in order for the outcomes to be considered for bonuses, incentives, and any things like that. And so I think the accountability piece is huge."

Tutoring providers who expressed hesitancy for engaging in OBCs with partner districts had concerns about the risk they had to take given that implementation challenges were outside of their control. While some of the implementation challenges that the district can control - such as making sure students show up to tutoring sessions - can be built into the contracts as district responsibility, some may not be. One hesitant vendor explains how internal school conditions can lead to breakdowns in implementation beyond their control:

> "So yeah, scheduling conflicts… everything as goofy as… scheduled field trips or your testing…or when the computer lab is being used by the fun fair. So there's all those things. There's internal technology and internet. Access challenges that are outside of our locus of control. So there's all these things that at the district level could impact our outcomes and then therefore our payment. So we do feel like we have an outsized share of the risk because we have to set up this program and assume all those fixed costs and setup costs."

Some of the concerns that providers have about engaging in OBC could be overcome by the OBC process. For example, one challenge to high quality implementation is student attendance. A provider noted:

> "And what we found is if we don't have the school's cooperation in getting the students there at their tutoring sessions, and there are many reasons why they may fall short on that, then there's not a lot we can do about it."

However, OBC contracts can release the provider from the responsibility for students if the district does not get the students to the tutoring (either in person or online). Thus, some provider hesitancy may be relieved by a clearer understanding of what can be included in the contract.

Nonetheless, some provider concerns are more difficult to overcome. Tutoring providers noted that the measurement of tutoring effects are imperfect and, as a result, OBC increases their risk. If they are a large firm, then this increased risk for one program site may not substantially affect their bottom line, but for smaller programs or programs working only in one area it does. While we do not have input from the full range of tutoring providers, the interviews point to the potential for OBC to skew the market towards specific types of vendors and away from others, not only based on their ability to deliver quality programs but also based on their ability to absorb risk.

The Potential and Limitations to Expanding OBC

District and vendor respondents provided perspectives on the ability of OBC to scale in the tutoring market. They identified most frequently three requirements for successful scaling: *skills and competencies* needed for a successful OBC process, *contract requirements* to consider before developing an RFP for OBC, and *engagement of district officials* as champions to motivate the implementation of both the OBC process and implementation of the contracted activities, more broadly.

OBC is not easy and both districts and providers need to develop an understanding of how to create effective contracts or receive direct help in the contracting process. Currently, OBC is rare in education, and the districts participating in OBC for tutoring developed their initial competencies for OBC from training with the SEF.

> "I will say I had support from the OBC cohort [SEF]. So I had some coaching, but it also felt like it was so new to procurement, it was so new to me. And I like it, it was like mind-blowingly hard because like the rate card, which … Southern Education Foundation has created, made it easier. But when you're first learning that rate card, it's like, it was like rockets… I got to be almost … best friends with the procurement specialist who I was working with. Southern Education Foundation keeps revising the rate card to make it more user-friendly and straightforward."

The support provided by the SEF pilot program was integral to how districts perceived the success of OBC implementation. In order for this model to be implemented broadly, expertise would need to be gained at scale, likely with the help of outside technical support.

The specifics of contract requirements, especially the ways in which vendor performance is assessed, are central to effective contracting and affect the scalability of OBC. For instance, OBC contracts contain inherent risks for vendors which can be exacerbated by measurement error in measuring effectiveness that might result in their impact being underestimated by chance. Smaller vendors may face particular difficulties taking on potential risks, and, as a result, may not choose to participate with districts that cannot collect reliable data to measure effectiveness. Additionally, the OBC contracts we observed operated within a time frame of a single school year. In reality, developing and refining the systems needed for successful implementation can take more than one year. One vendor describes this concern: "the timeline or the time frame in which schools have to ramp up or to really meet these criteria necessary in an OBC framework. It's just not realistic, especially when we think about feasibility for like year one, even year two of implementation." Overall, the details of the OBC contract matter, and districts and providers need the skills and knowledge to recognize and agree on the contract terms and to collect the data needed to effectively measure the outcomes that give OBC its name.

The complexity of OBC means that district officials need to be fully engaged with and bought into the process in order to pull it off effectively. The district officials we spoke to were all "champions" of OBC in their individual contexts. They were overwhelmingly positive about their experiences but also were more likely to be intrinsically motivated to make these contracts work, as expressed by this district member in particular

> "So as far as a hierarchy is concerned, so when you bring it up to say, hey, this might be a good idea, you hope that you get, I don't know what you call them, like, champions, I think might be the word, help you in elevating that work to fruition, right? Because a good idea can only go forward if you have somebody championing that work and also in a position where they get to say, yes, let's move forward, because it's very easy for them to say no, and you're done."

OBC was not imposed on the districts; district leaders self-selected into pilot participation. Expanding OBC might require a large supply of champions in districts across the country who would be motivated to gain the necessary skills and knowledge to implement this framework with fidelity. They would also need to devote a significant amount of time to aligning the necessary stakeholders within their districts around new processes with OBC and the intended goals of the OBC contract. Given that this is such a new model of service procurement, it remains to be seen if this model will have broader popularity within the educational landscape.

Conclusion

This exploratory study of OBC between school districts and tutoring providers provides promising evidence that the OBC framework can work as intended in practice. Districts and vendors reported increased engagement throughout the course of their contract that was productive in helping them achieve mutually agreed upon goals. District leaders also reported that the OBC contract helped them to make more informed decisions about whether or not to renew contracts. Taken together, these data points suggest that OBC can alter the productivity within education contracting and ease burdens of oversight.

The potential of OBC comes with possible downsides as well. The contracting process is complicated and requires knowledge, skills, time, and willingness to buy into the process. Some districts will not have the capacity to enter into OBC unless substantial outside support is available. Some providers will also not have the capacity to manage the risks to revenue, not only because they are not as effective in every implementation as they would want to be, but also because the metrics used to measure effectiveness will, invariably, be imperfect measures of their effect. Moreover, questions about how to best structure OBC processes and contracts remain unanswered questions, particularly across provider type, district context and at scale.

Continued and more systematic assessment of the OBC model as it expands may provide insights into how to best leverage its potential. We have found evidence of OBCs ability to strengthen partnerships between school districts and vendors which can lead to more effective provision of essential services to students in need.

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