



LEGAL ISSUES  
RELATING TO COUNTY GOVERNMENT

# THINK DIFFERENTLY

## Innovation Grants Encourage Rethinking Local Government Services

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In 1997, Apple launched a new slogan: “Think Different.” It worked. In the almost 30 years since, Apple has transformed from a company on the brink of bankruptcy to one of the largest and most influential companies in the world.

For years, local governments have faced two related challenges: the reality of increased costs of goods and services, particularly since 2020; and very limited ways to increase revenue to pay for the increased costs of goods and services.

2023 Wisconsin Act 12 began to address the revenue-side challenge facing local governments by: (1) repealing the personal property tax and creating a replacement payment structure for local governments as part of the broader state aid system; (2) creating the supplemental shared revenue program; (3) creating special sales and use tax authority for Milwaukee County and the city of Milwaukee; and (4) creating the Innovation Grant Program.<sup>1</sup>

This article provides an overview of the Innovation Grant Program that reflects formal and informal guidance from the Wisconsin Department of Revenue. It is an update to the related September 2025 Legal Issues column.

Additional information regarding Act 12 generally and the grant program specifically, including a recording of a December 2025 webinar with the Department of Revenue, can be found at [wicounties.org](http://wicounties.org) under “Past Event Materials.”

### ► An introduction to the Innovation Grant Program

The Innovation Grant Program creates a direct financial

incentive for counties and other local governments to think differently about how to provide services. The state has made \$300 million available for the program.

Innovation Grant applications must be submitted by a county or municipal clerk to the Department of Revenue by March 31, 2026.<sup>2</sup> Grants are to be used to implement “innovation plans” that completely transfer certain specified services from a county or municipality to another county or municipality or a nonprofit organization or private entity.<sup>3</sup> The plan must include an “agreement or contract” that meets certain specified criteria.<sup>4</sup>

There are 14 categories of eligible services or duties. The Department of Revenue must give priority to public safety (including law enforcement but not including jails), fire protection, and emergency services.<sup>5</sup> However, plans can also include, courts; jails; training; communications; information technology; administration, including staffing, payroll, and human resources; public works; economic development and tourism; public health; housing, planning, and zoning; and parks and recreation.<sup>6</sup>

### ► Requirements of the agreement or contract

To receive an Innovation Grant, there must be an “agreement or contract” that meets certain specified requirements. First, the contract must have been entered into on or after Nov. 13, 2024, and specify the service or duty to be transferred. This must be a service or duty the county or municipality provided in the year immediately

preceding the year that the service or duty is transferred under the contract.<sup>7</sup> The service or duty must be transferred for at least three years.

The contract must include the county or municipality's cost of performing the service or duty in the year immediately preceding the transfer (the "prior cost of performance"). Additionally, if the contract transfers the service or duty to a county or municipality (as opposed to a nonprofit organization or private entity), the contract must include the cost of performing the transferred service or duty in the first year after the transfer. The total cost of performing the service includes the associated wages, fringe benefits, training, and equipment.<sup>8</sup>

Special calculations apply to determine the cost of performance for services involving volunteer firefighters or emergency medical practitioners.<sup>9</sup> The Department of Revenue has provided guidance on its website regarding these calculations.

If the contract transfers public safety, fire protection, or emergency services, the contract must include a stipulation that the service or duty being transferred will maintain the appropriate level of services.

Finally, the contract must specify the amount that the county or municipality will pay to the entity to which the service or duty is transferred and the allocation of grant money between the parties to the contract for the entire term of the contract.

## ► Selection criteria

The Department of Revenue will allocate points in seven categories when evaluating applications:

- Service categories (with priority given to public safety, fire protection, or emergency services)
- Service transfer between local governments
- Improved service and/or accessibility
- Long-term duration of service transfer
- Process improvements that enhance the service method or delivery
- Increased collaboration with multiple local government participants
- Use of Innovation Planning Grant funds

## ► How much is an Innovation Grant?

The amount of an Innovation Grant depends on four factors: the prior cost of performance; when the recipient receives their first grant payment; the term of the contract transferring the service or duty; and whether there are any issues or complications with the grant during the term of the grant.

The starting point is that an Innovation Grant payment is 25% of the prior cost of performance. This payment will be allocated as provided in the contract. The state will not make a direct distribution of grant funds to a nonprofit or private entity.

A grant recipient can receive up to five payments. The first will be paid during the fiscal year ending June 30, 2026. The final will be paid during the fiscal year ending June 30, 2030. Therefore, if a county's Innovation Grant is approved as part of the initial application cycle, they would be eligible for up to five payments (i.e., up to 125% of the prior cost of performance).

The number of grant payments corresponds to the length of the contract transferring the service or duty. In other words, a contract transferring a specified service or duty for three years would result in three grant payments.

There are certain events that can cause a grant payment to be less than expected. First, no county or municipality may receive more than \$10 million per year. Second, no grant payment will be made if the cost of performing the service or duty in the previous year exceeds 115% of the prior cost of performance.

### As an example:

In December 2025, County A and County B entered into a contract pursuant to which County A will transfer certain IT services to County B for five years, beginning Jan. 1, 2026. The cost for County A to perform the IT services in 2025 was \$10,000. Pursuant to the contract, County A will pay County B \$8,000, which is County B's actual costs to perform the IT services. The contract states that County A will receive the entire Innovation Grant.

Assuming County A and County B apply for an Innovation Grant prior to the March 31, 2026 deadline and are awarded a grant, County A would expect five payments of \$2,500 each

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(25% of the prior cost of performance). County A will receive the grant payments as long as County B's actual costs to perform the services are less than \$11,500 (115% of the prior cost of performance) and County A would not receive more than \$10 million in Innovation Grants in a given year. If, however, in 2028, County B's costs to perform the services are more than \$11,500, County A would not receive a grant payment in 2029. However, County A could still receive a grant payment in 2030 as long as County B's costs to perform the services in 2029 are less than \$11,500.

### ► Reporting and compliance

The Innovation Grant Program has three main reporting and compliance items. First, each participating county and municipality is instructed to maintain "detailed records" for at least four years after receiving its first grant payment. Second, grant recipients must certify to the Department of Revenue every year following the initial grant payment that the cost of performing the services is less than 115% of the prior cost of performance. Third, each year the Department of Revenue is statutorily required to audit at least 10% of the grants for which at least 24 months have passed since the first distribution.

### ► Practical considerations

As counties consider whether pursuing an Innovation Grant is in their best interest, there are numerous practical considerations.

Counties should consider how transferring services or duties (or how agreeing to perform services or duties previously performed by a different county or municipality) will work. This will require counties to think differently. The contracts governing the transfer of services or duties should be carefully drafted, with clear expectations about the level of services expected. While the Innovation Grant Program requires services or duties to be completely transferred to another entity, the Department of Revenue appears receptive to services or duties being jointly provided by two entities in limited circumstances.<sup>10</sup>

Counties should also consider how inflation could impact

future grant payments. As originally drafted, the Innovation Grant Program required that savings result from the transfer of services. In 2025, that requirement was removed and replaced with the requirement that the cost of performing the service or duty not exceed 115% of the prior cost of performance. This limit is not indexed for inflation. Thus, in later years of the contract, inflationary pressures may make it difficult to stay below 115% of the prior cost of the performance, which means a county could miss one or more Innovation Grant payments simply due to inflation.

Additionally, counties should consider how the Innovation Grant funds will be used. The use of the funds is unrestricted; however, the Department of Revenue recommends avoiding the use of funds in a way that would result in a reduction of the county's levy limit.

### ► Conclusion

Counties are encouraged to work closely with their corporation counsel to ensure the required documentation satisfies the statutory and regulatory requirements and appropriately protects the county's interests.

If you have any questions surrounding this article, please do not hesitate to contact the WCA or the authors. ■

*Attolles Law, s.c. works on behalf of Wisconsin counties, school districts, and other public entities across the state of Wisconsin. Its president & CEO, Andy Phillips, has served as outside general counsel for the Wisconsin Counties Association for more than 20 years.*

1. The Innovation Grant Program was created by Act 12. Several beneficial changes were made in 2025 Wisconsin Act 15 [see the September 2025 Legal Issues column].
2. Applications are filed online through the MyDORGov electronic filing system for local governments. The Department of Revenue has indicated that if funds remain after the initial grants are awarded, it expects to have a second application cycle. However, there is no guarantee that there will be a second application cycle.
3. Wis. Stat. § 79.038(1).
4. Wis. Stat. § 79.038(1)(a).
5. Wis. Stat. § 79.038(1)(e).
6. Wis. Stat. § 79.038(1)(b)1.
7. In other words, if a county provided certain services in 2025, those services would be eligible for an Innovation Grant in 2026. If a county did not provide certain services in 2025, those services are not eligible for an Innovation Grant in 2026. The Department of Revenue has indicated that providing the service or duty through a contractor is sufficient.
8. Wis. Stat. § 79.038(b)(2).
9. Wis. Stat. § 79.038(b)(3).
10. Specifically, the Department of Revenue's FAQs indicate that a joint merged service is allowable. The department suggests two possible structures: (1) "to have a joint merger that creates a new entity or districts;" or (2) "a joint merger with an existing entity or district."