

109 KAR 16:010. Special purpose governmental entities.

RELATES TO: KRS 65A.010, 65A.020, 65A.030, 65A.040, 65A.050, 65A.090

STATUTORY AUTHORITY: KRS 65A.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65A.020(3)(a) requires the Department for Local Government to promulgate administrative regulations to develop standard forms, protocols, timeframes, and due dates for the submission of information by special purpose governmental entities. This administrative regulation establishes the format for financial disclosure by special purpose governmental entities and prescribes the protocols, timeframes, and due dates for submission of information by special purpose governmental entities.

Section 1. Definitions. (1) "Annual revenue" means all revenue, from whatever source, received by the special purpose governmental entity during the most recent fiscal period for which data is available, as reflected in the budget to actual portion of Special Purpose Governmental Entity (SPGE) Financial Disclosure Report, DLG Form SPGE 101, required by Section 4(1) of this administrative regulation.

(2) "Budget" means the estimated revenues and appropriations for a fiscal period.

(3) "DLG" is defined by KRS 65A.010(2).

(4) "Fiscal period" means the fiscal year adopted by the special purpose governmental entity for budgeting purposes.

(5) "Registry" is defined by KRS 65A.010(7).

(6) "Special purpose governmental entity" or "SPGE" is defined by KRS 65A.010(8).

Section 2. Registration with the Department for Local Government. (1) Each special purpose governmental entity in existence prior to December 31, 2013 shall, prior to December 31, 2013, complete and submit the Special Purpose Governmental Entity (SPGE) Registration and Board Reporting Form, DLG Form SPGE 100.

(a) The information shall be submitted in the same manner as required by Section 3(1) of this administrative regulation.

(b) The DLG may allow an alternative form of submission as established in Section 3(2) of this administrative regulation.

(c) This submission shall serve as the initial registration required by KRS 65A.090(1).

(2) A special purpose governmental entity established after December 31, 2013 shall complete and submit Special Purpose Governmental Entity (SPGE) Registration and Board Reporting Form, DLG Form SPGE 100, within fifteen (15) days of the establishment of the entity. The form shall be submitted as established in subsection (1) of this section.

Section 3. Electronic Submission Required; Exceptions. (1) Except as established by subsections (2) and (3) of this section, all information required to be submitted to the DLG shall be submitted electronically, using the information reporting portal on the DLG Web site at <https://kydlgweb.ky.gov/Entities/SpecDistHome.cfm>.

(2) A special purpose governmental entity may request approval from the DLG to submit required information by alternative means. The request shall be in writing and shall:

(a) State the name of the special purpose governmental entity;

(b) List all information for which an alternative means of submission is sought;

(c) Be made by the governing body of the special purpose governmental entity;

(d) Be received by the DLG at least sixty (60) days before the information to which the request relates is due;

(e) State the reason why the required information cannot be submitted using the standard

electronic submission format; and

(f) Identify the method of submission proposed.

(3)(a) Approval of an alternative submission method shall be at the discretion of the DLG. If the DLG approves an alternative submission method, the special purpose governmental entity shall submit the information in the form and format determined by the DLG and communicated to the special purpose governmental entity as part of the approval process.

(b) The DLG may withdraw approval to use an alternative reporting method at any time by providing written notice of the withdrawal of approval to the special purpose governmental entity at least thirty (30) days prior to the effective date of the withdrawal of approval.

Section 4. Requirements for Submission of Administrative and Financial Information. For each fiscal period beginning on or after July 1, 2014, each special purpose governmental entity shall annually submit information for publication on the registry as required by this section.

(1) Within fifteen (15) days following the beginning of each fiscal period, the SPGE shall submit the administrative information required by KRS 65A.020(2)(a)1, using Section I of the Special Purpose Governmental Entity (SPGE) Registration and Board Reporting Form, DLG Form SPGE 100.

(2) The SPGE shall submit the budget information required by KRS 65A.020(2)(a)2. using the Special Purpose Governmental Entity (SPGE) Financial Disclosure Report, DLG Form SPGE 101, and shall submit the budget information as required by this subsection.

(a) Each special purpose governmental entity shall submit its adopted budget to the DLG within fifteen (15) days following the beginning of the fiscal period for which the adopted budget applies.

(b) Each special purpose governmental entity shall submit a comparison of the adopted budget to actual revenues and expenditures for each fiscal period within sixty (60) days following the close of each fiscal period.

(c) The comparison of the adopted budget to actual revenues and expenditures shall be reflected on the budget to actual portion of the Special Purpose Governmental Entity (SPGE) Financial Disclosure Report, DLG Form SPGE 101.

(3) Within fifteen (15) days following the beginning of each fiscal period, each SPGE shall submit the financial information required by KRS 65A.020(2)(a)2. This information shall be submitted using the Special Purpose Governmental Entity (SPGE) Financial Disclosure Report, DLG Form SPGE 101, and shall list all taxes, fees, or charges imposed and collected by the entity, including the rates or amounts charged for the reporting period and the statutory authority for the levy of the tax, fee, or charge.

Section 5. Submission of Audits and Attestation Engagements. (1) An audit or attestation engagement required to be submitted for publication on the registry pursuant to KRS 65A.030 shall be submitted to the DLG within fifteen (15) days following receipt of the completed audit or attestation engagement by the special purpose governmental entity.

(2)(a) A special purpose governmental entity required by KRS 65A.030(1)(a)2. to contract for the provision of an attestation engagement shall ensure that it receives the attestation engagement no later than July 1, 2018, or, for an attestation engagement required by KRS 65A.030(1)(a)2. after July 1, 2018, no more than four (4) years from the date of the special purpose governmental entity's last attestation engagement.

(b) A special purpose governmental entity required by KRS 65A.030(1)(b)2. to contract for the provision of an independent audit shall ensure that it receives the independent audit no later than July 1, 2018, or, for an independent audit required by KRS 65A.030(1)(b)2. after July 1, 2018, no more than four (4) years from the date of either:

1. The entity's last independent audit; or
2. The date the entity first reported to the DLG annual receipts from all sources or annual expenditures equal to or greater than \$100,000 but less than \$500,000.

(c) A special purpose governmental entity required by KRS 65A.030(1)(c)2. to contract for the provision of an annual audit shall ensure that it receives an audit no more than one (1) year from the date it last reported to the DLG annual receipts from all sources or annual expenditures equal to or greater than \$500,000.

(3) Each submission shall be submitted to the DLG Web site as a portable document format (PDF) file.

(4) Except as established in subsection (5) of this section, an audit shall be conducted on a modified cash basis of accounting as referenced in this subsection.

(a) Revenues shall be recognized when received.

(b) Expenditures shall be recognized when paid.

(c) Capital assets and long-term debt shall be reported when material to the special purpose governmental entity.

(d) Note disclosures shall include all those required by generally accepted accounting principles to the extent those disclosures apply to the special purpose governmental entity pursuant to the modified cash basis of accounting referenced in this subsection.

(e) Cash and other liquid assets available that are held in reserve for future purposes shall be disclosed.

(5) As an alternative to the minimum requirements established in subsection (4) of this section, an audit may be conducted pursuant to generally accepted accounting principles.

Section 6. Payment of the Registration Fee. (1) Each special purpose governmental entity shall pay the annual registration fee required by KRS 65A.020(5) within fifteen (15) days after the start of each fiscal period.

(a)1. The amount paid by each special purpose governmental entity shall be based on annual revenues of the special purpose governmental entity.

2. For each fiscal period for which a registration fee is due, if the annual revenue information has not been submitted to the DLG as required by Section 4(3) of this administrative regulation, the annual revenues on which the registration fee shall be based shall be the annual revenues reported as part of the initial registration of the special purpose governmental entity pursuant to KRS 65A.090.

(b) Payment shall be made electronically, using the information reporting portal on the DLG Web site, at <https://kydlgweb.ky.gov/Entities/SpecDistHome.cfm> unless permission to pay by an alternative method has been granted pursuant to subsections (2) and (3) of this section.

(c) Payment shall be accompanied by a completed Special Purpose Governmental Entity (SPGE) Financial Disclosure Report, DLG Form SPGE 101.

(2) A special purpose governmental entity may request permission to pay the registration fee by alternative means. The request shall be made in writing and shall include the following information at least thirty (30) days before the payment is due:

(a) The name of the special purpose governmental entity;

(b) A statement of the reason why the payment cannot be submitted using the standard electronic submission format; and

(c) The method of payment proposed.

(3)(a) Approval of an alternative method of payment shall be at the discretion of the DLG. If the DLG approves an alternative payment method, the special purpose governmental entity shall submit the payment in the form and format determined by the DLG and communicated to the special purpose governmental entity as part of the approval process.

(b) The DLG may withdraw approval to use an alternative payment method at any time by providing written notice of the withdrawal of approval to the special purpose governmental entity at least thirty (30) days prior to the effective date of the withdrawal of approval.

Section 7. Failure to File Required Information or to Pay the Annual Registration Fee in a Timely Manner. A special purpose governmental entity that fails to file a report or form in the form and format and within the timeframes required by this administrative regulation, or that fails to submit payment of the annual registration fee as required by this administrative regulation, shall be subject to the provisions of KRS Chapter 65A.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) DLG Form SPGE 100, "Special Purpose Governmental Entity (SPGE) Registration and Board Reporting Form", September 2013; and

(b) DLG Form SPGE 101, "Special Purpose Governmental Entity (SPGE) Financial Disclosure Report", September 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Local Government, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or online at <https://kydlgweb.ky.gov/Entities/SpecDistHome.cfm>. (40 Ky.R. 2014; eff. 6-6-2014; Crt eff. 2-27-2020.)