

**STATEMENT OF EMERGENCY
902 KAR 8:170E**

This emergency administrative regulation is being promulgated to establish the budgeting process for a local health department as required by 2020 Ky. Acts Ch. 21, Section 2. This process includes an attestation from the local health department that core and foundational public health programs will be implemented, maintained, or assured by a local health department in accordance with 2020 Ky. Act Ch. 21. It also includes the requirement for a description of the local public health priorities that will be funded through local tax dollars or unrestricted funds to be submitted to the commissioner of the department for review and approval. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to implement the provisions of House Bill 129, Section 2(7) which requires the promulgation of administrative regulations within sixty (60) days to establish the process and procedures to ensure core public health programs, foundational public health programs, and local public health priorities are identified and facilitated by one (1) or more agencies in the Commonwealth. House Bill 129 contained an emergency clause and became effective March 17, 2020. The Department for Public Health is delayed in meeting the sixty (60) day timeline for promulgating the required administrative regulation due to the declared public health emergency in response to the COVID-19 outbreak and the department response efforts. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC FRIEDLANDER, Acting Secretary

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Emergency Amendment)**

902 KAR 8:170E. Local health department financial management requirements.

EFFECTIVE: July 10, 2020

RELATES TO: KRS 41.240(4), 45A.690, 211.180(1), 212.025, 212.120, 212.245(3), (4), 212.890, 424.110-424.150, Ky. Acts Ch. 21, 2 C.F.R. Part 200

STATUTORY AUTHORITY: KRS 194A.050(1), 211.170(1), (2), (3), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet; or to comply with federal law. KRS 211.170(1), (2), (3), and (6) require the cabinet to establish policies and standards of operation; supervise financial, personnel, program, administrative and other functions; and allocate, modify, or cancel allotments of state funds for Kentucky's local health departments. This administrative regulation establishes minimum fiscal and financial management requirements for Kentucky's county and district local health departments and for all other classes of local health departments, except if a specific Kentucky revised statute requires a more stringent minimum requirement.

Section 1. Definitions. (1) "Agency" is defined by 2020 Ky. Acts ch. 21, sec. 1(1).
(2) "Core public health program" is defined by 2020 Ky. Acts ch. 21, sec. 1(4).

(3) "Department" is defined by 2020 Ky. Acts ch. 21, sec. 1(5).

(4) "Fee-for-service program" means a program in which service fees, excluding program administration fees, are greater than fifty (50) percent of funding.

(5) "Foundational public health program" is defined by 2020 Ky. Acts ch. 21, sec. 1(6).

(6) "Local public health priorities" is defined by 2020 Ky. Acts ch. 21, sec. 1(9).

(7)[(2)] "Local support" means local health department financial support:

(a) Including:

1. Unrestricted receipts from a local government agency or special district;
2. Receipts from the public health taxing district;
3. Nonfederal receipts from a contract with a board of education; and
4. An unrestricted donation from another source; and

(b) Excluding funds from the Unrestricted and Restricted fund balances.

(8) "Personal service contract" is defined by KRS 45A.690(1)(g).

(9)[(3)] "Public health department director" means:

(a) The administrative or health officer of a county or district health department;

(b) The administrative assistant of a county health department that does not have a health officer;

(c) The director of a district health department that does not have a health officer;

(d) The district director of health of an independent district department of health; or

(e) The commissioner of an urban-county department of health or of a health department serving a county with a city of the first class.

(10)[(4)] "Restricted fund" means the portion of a local health department's total fund balance that is limited by the Department for Public Health for a specific program's expenses or other items of expense.

(11)[(5)] "Unrestricted fund balance" means the portion of a local health department's total fund balance that is not limited by the Department for Public Health for a specific program's expenses or other items of expense.

Section 2. Budgeting Requirements. (1) Each local health department shall prepare a fiscal year budget in accordance with annual budgeting guidance provided by the Department for Public Health.

(2) The local health department budget narrative shall include an attestation that core and foundational public health programs will be implemented, maintained, or assured in accordance with 2020 Ky. Acts ch. 21.

(3) A description of the local public health priorities, supported by a local needs assessment in accordance with 2020 Ky. Acts ch. 21, sec. 3, to be funded by local tax or unrestricted funds shall be submitted to the Department for Public Health, Office of the Commissioner, for review and approval.

(4) Each local health department shall have a balanced budget in which receipts at least equal expenditures and shall operate within its approved budgets.

(5)[(3)] Each local health department annual budget shall be approved by both the governing local board of health and the Department for Public Health.

(6)[(4)](a) Each local health department shall be responsible for making budget changes necessitated by:

1. Changes in financial status;
2. Changes in project status; or
3. The addition or deletion of a new project.

(b) Changes shall:

1. Be subject to review and approval by the Department for Public Health; and

2. Require a corresponding change in plans if required by the Department for Public Health.

~~(7)~~~~(5)~~ Actual capital expenditures of local health departments for furniture and equipment, data processing equipment, land, buildings, and vehicles shall not exceed the approved budgeted amount without prior approval by the appropriate governing board of health.

~~(8)~~~~(6)~~ Actual use of a local health department's unrestricted fund balance in excess of the amount included in the approved budget shall be approved by the governing board of health and shall be used solely for the operation and maintenance of local health departments.

~~(9)~~~~(7)~~ An actual deficit in a local health department's financial operations for the fiscal year wherein cash expenditures and payroll related liabilities exceed available cash receipts, including approved use of the unrestricted fund balance, shall not be allowable.

~~(10)~~~~(8)~~(a) The Department for Public Health shall notify the local health department in writing if it determines that:

1. A local health department is receiving fewer receipts than are budgeted;
2. A local health department is making expenditures in excess of the approved budget; or,
3. A deficit condition is probable at the end of the fiscal year.

(b) Within fifteen (15) working days of receipt of the notification, the local health department shall inform the Department for Public Health in writing of the reasons that the determination may be in error.

(c) If the reasons and corrective actions listed by the local health department are not sufficient to prevent a deficit condition from occurring at the end of the fiscal year, the Department for Public Health shall direct the local health department to:

1. Institute a hiring freeze on employees;
2. Institute a freeze on meritorious, promotional, or other salary increments;
3. Institute a reduction in contractual and other expenditure categories; or
4. Take other action necessary to correct the deficit situation.

Section 3. Use of Receipts. (1) A local health department may, with the approval of the Department for Public Health, transfer funds from a restricted to an unrestricted account.

(2) Receipts from any source shall be used:

(a) In accordance with laws, policies, administrative regulations, and contracts governing the use of the receipts; and

~~(b)~~~~[-Receipts shall be used]~~ Only for the operation and maintenance of the health department for necessary, reasonable, and proper purposes that protect and improve the health of the people of the Commonwealth.

(3) The minimum acceptable level of local support shall be determined annually by the Commissioner of the Department for Public Health.

(4) The state allotment to a local health department shall be adjusted in the following circumstances:

(a) The local health department decreases its budgeted amount of local support below the minimum acceptable level. The state allotment shall be decreased by the same percentage in the year of the decrease.

(b) The local health department receives less local financial support than the required level. The state allotment shall be decreased by the percentage that the actual local support was deficient. The decrease shall apply to the fiscal year following the shortage.

(c) The local health department accumulates an unrestricted fund balance, as of June 30 of a fiscal year, in excess of ~~[thirty (30) percent of that year's expenditures for non-fee programs plus]~~ forty (40) percent of that year's expenditures ~~[for fee-for-service programs]~~, or \$100,000, whichever is greater. The local health department shall submit, to the Department for Public

Health, a written plan of use for the amount of the excess. If approved, the funds shall be placed into a local restricted fund to be used solely as approved.

(5) Fees.

(a)1. A request from a local health department to change patient fees to either a sliding or nominal fee basis shall be sent to the Department for Public Health for approval.

2. A request shall include documentation of the proposed full amount of the fee, the estimated annual cost of the service, and the estimated net fee income for the service.

3. Charges for medical supplies and equipment may be requested as a percentage of the acquisition cost of the supply or equipment item or may be requested as charges for individual items.

(b) Patient fees charged to self-pay patients shall be on a sliding fee basis approved by the Department for Public Health and be based on the level of income matched with the level of poverty, utilizing the federal poverty guidelines as published annually by the U.S.[Federal] Department of Health and Human Services, according to the following scale:

1. Above 250 percent of poverty, fee shall be assessed at full charge of service;

2. From 101 to 250 percent of poverty, fee shall be based on a schedule of discounts; and

3. Below 101 percent of poverty, there shall be no fee except as specified in paragraph (c) of this subsection.

(c) A [~~nominal~~] fee up to five (5) dollars may[shall] be charged for communicable disease services specified by the Department for Public Health.

(d) The inability to pay the assessed fee shall not be a barrier to services.

(e) A charge shall not be made to school age children at a school-based clinic if requested by the local health department and authorized by the Department for Public Health.

(f) A policy of a local health department that may result in referral of services due to non-payment of fees shall be approved by the Department for Public Health.

(g)1. A local health department shall bill third-party payors for covered services provided to individuals.

2. If a third-party governmental payor is billed for services rendered to an eligible patient, the regulations of the third-party payor shall be followed for the part of the fee charged directly to the patient.

3. A patient's health insurance carrier shall be billed at 100 percent of charges. A balance not covered by the health insurance carrier shall be charged to the patient, except that the amount charged shall not exceed the amount that a patient without health insurance coverage would be charged, using standard discounts as applied to total charges for services rendered.

(h) A fee, regardless of the source of the fee or the funding of the project, shall be applied to the project that generates the fee, in accordance with income procedures of 2 C.F.R. 200.307(e). A third-party cost reimbursement payment and an interim payment shall be recorded in the same project where the costs were recorded, in proportion to the expenditures of each project that were reimbursed by the third party.

(6) A matching requirement for any source of receipts shall be the sole responsibility of each local health department.

(7) The following policies shall be applied in closing receipt accounts for the local health department fiscal year, July 1 to June 30:

(a) Receipts earned and received during a fiscal year shall be recorded as a receipt of that fiscal year; and

(b) Receipts earned in one (1) fiscal year and received after June 30 of that fiscal year shall be recorded as new fiscal year receipts.

Section 4. Expenditure Policies. Policies and procedures required by 2 C.F.R. 200 Subpart E shall be followed by local health departments for expenditures in projects, regardless of the source of funds for the project. The following policies concerning allowable expenditures and their proper documentation shall be followed by local health departments:

(1) Salaries, wages, benefits, and personnel payments.

(a) Salaries and wages for only those positions specified in administrative regulations for local health departments, 902 KAR 8:060 through 902 KAR 8:090, and 902 KAR 8:140, shall be allowable. The positions and related expenditures shall be included in the approved budget or approved budget revisions of the local health department. Other salary, wage, or bonus payments shall not be allowable, unless specifically approved by the Department for Public Health. Uniform pay dates shall be determined annually by the Department for Public Health.

(b) Expenditures shall be authorized for payment of employer paid fringe benefits required or allowed by policies of the Department for Public Health.

1. Required benefits shall be payments of the single-coverage amount for health insurance and life insurance that are part of the state-negotiated plans.

2. Additional allowed benefits shall be determined by the public health department director and approved by the governing board of health.

3. A part-time employee or a personal services contract employee working less than 100 hours per month shall not be eligible for employer-paid fringe benefits.

4. A payment to or on behalf of an employee for another direct or fringe benefit or other reason shall not be made unless:

a. Specifically allowed by this administrative regulation;

b. Approved by the Department for Public Health; and

c. A disbursement for services of a contract employee or independent contractor shall be made in accordance with the terms of the written contract. A contract payment shall not be made without proper written documentation demonstrating that services have been rendered.

(2) Capital expenditures.

(a) Capital expenditures are allowable for necessary capital equipment, land, and buildings.

1. The equipment in this category shall cost more than \$5,000 and have an expected useful life of one (1) year or more.

2. The same purchasing policies apply to capital items as apply to noncapital purchases.

3. Before purchasing land or buildings or contracting for the construction or remodeling of a building, the local health department shall notify[contact] the Department for Public Health [~~for approval~~].

(b) A local health department shall pay a vendor within thirty (30) working days of the receipt of the service or goods, or within thirty (30) working days of the receipt of the invoice or bill from the vendor, whichever is later, unless the local health department and the vendor have agreed in writing to a longer period of time.

(c) A local health department shall not donate anything of value to any individual or entity, unless approved by the Department for Public Health.

Section 5. Travel Policies. (1) The public health department director shall insure that travel expenses are economical.

(2) A person who travels on official local health department business shall state on the expense voucher the purpose of each trip and shall maintain records to support claims.

(a) A local health department may provide an employee with a credit card to cover travel expenses.

(b) Due care shall be taken to assure that use of a local health department credit card is not abused.

(c) A local health department shall not provide an employee with cash to pay travel expenses. The public health department director responsible for insuring that travel reimbursement conforms to this policy shall disallow, reduce, or strike from an expense voucher any claim contrary to this administrative regulation, and may require written justification for an amount claimed.

(3) With the exceptions cited in this policy, reimbursement shall not be claimed for expenses of a person other than an employee, or other person in the official service of the local health department. Only necessary expenses of official travel shall be reimbursed.

(4) Each day's vicinity travel shall be listed on a separate line on the expense voucher. The employee's supervisor or the public health department director shall monitor vicinity mileage claimed by an employee on travel status.

(5) A travel voucher shall be signed and dated by the employee submitting the claim and by an employee designated in accordance with the local health department's internal control procedures. The public health department director's travel voucher shall be signed by one (1) or more board of health members designated at a board of health meeting to perform the function.

(6) The official work station of an employee shall be:

(a) The street address of the local health department facility;

(b) For a local health department with more than one (1) facility, the facility in which the employee most often works;

(c) Established not for an employee's purposes, but in the best interest of the local health department; and

(d) Designated for a valid purpose.

(7) A standard travel expense voucher or another voucher approved by the Department for Public Health shall be used to claim reimbursement for travel expenses.

(a) Each travel expense voucher shall show the claimant's identifying number, name, address, and official workstation. The travel voucher may be typed, prepared by computer, or legibly prepared in ink.

(b) Receipts shall be submitted with~~[stapled to]~~ the travel voucher.

(c) If leave interrupts official travel, the travel voucher shall show the dates of leave.

(8) A travel expense shall not be reimbursed unless the travel was authorized in advance by the public health department director or designee.

(9) A local health department employee traveling on local health department business shall use the most economical, standard transportation available and the most direct and usually traveled routes. Expenses added by use of other transportation or routes shall be assumed by the employee.

(10) Local health department-owned vehicles and gasoline credit cards shall be used for local health department business travel if available and feasible.

(a) Mileage payment shall not be claimed by an individual when local health department vehicles are used.

(b) Routine personal use of a local health department vehicle, including commuting use, shall not be an allowable public expenditure.

(c) An assignment of a vehicle to an employee who takes the vehicle home shall be minimal and limited to direct service personnel providing:

1. On-call direct services, or a majority of services in the field; or

2. Substantial direct services on the way to or from the employee's workstation.

(d) If a vehicle is assigned under paragraph (c) of this subsection, some personal commuting mileage may be unavoidable. A local health department shall develop a written policy to address the unavoidable personal mileage. The policy shall conform to current federal and

state tax requirements for income and travel and shall be forwarded to the Department for Public Health for review and approval.

(11) Mileage claims for use of privately-owned vehicles shall be disallowed if a local health department vehicle was available and feasible.

(12) An employee on official travel status whose private or agency automobile breaks down may continue in travel status as approved by the public health department director.

(13) An employee on official travel status may be continued on travel status, as approved by the public health department director, if the employee becomes incapacitated due to illness or injury that qualifies as official sick leave. Medical expenses shall not be reimbursable travel costs.

(14) On nonworking days, an employee on official travel status shall forfeit official travel status once the employee returns to his official work station or domicile.

(15) Reimbursement shall not be paid for travel between the employee's residence and official workstation, unless requested to report to work while off duty.

(16) Commercial airline travel shall be coach or tourist class. Additional expense for first-class travel shall not be reimbursed.

(17) Mileage for each in-state trip shall be based on the Department of Transportation's official mileage map or on the Finance and Administration Cabinet's mileage chart if available. Out-of-state mileage shall be based on mileage maps. If point of origin is the claimant's residence, mileage and time shall be paid between the residence and travel destination, or between the work station and travel destination, whichever is shorter.

(18) The cost of renting a car or other special conveyance in lieu of ordinary transportation shall be allowed only with acceptable written justification to the public health department director. Privately-owned aircraft may be used only when it is to the advantage of the local health department as evidenced by a reduction in both travel costs and travel time.

(19) Lodging costs shall be the most economical available.

(a) Facilities providing special government rates or commercial rates shall be used where feasible.

(b) State-owned facilities or local health departments shall be used for meeting rooms and lodging if available, practical, and economical.

(20) A claimant who attaches the hotel's or motel's preprinted, receipted bill shall be reimbursed for the claimant's actual cost of lodging, subject to the following provisions:

(a) Reimbursement at a Kentucky state park shall be at the park's actual rate.

(b) The local health department shall not pay for lodging located within forty (40) miles of a claimant's residence or work station without approval of the public health department director.

(c) Lodging accommodations shared with another person or persons, not a local health department employee, shall be reimbursed at the rate for a single room. Lodging accommodations shared with other local health department employees shall be reimbursed on a pro rata basis.

(21) Mileage reimbursement for official use of privately-owned vehicles shall be at the mileage reimbursement rate determined by the Department for Public Health.

(22) With receipts, actual commercial transportation costs shall be reimbursed.

(23) Reimbursement for use of privately-owned aircraft shall not exceed the cost of air coach fare or the privately-owned vehicle rate, whichever is less.

(24) A claimant using camping vehicles for lodging shall be reimbursed for actual expense plus parking or camping charges. A receipt for parking or camping charges shall be submitted.

(25) Actual parking, bridge, and toll charges shall be reimbursable. Toll receipts shall not be required for in-state travel by a two (2) axle vehicle.

(26) Reasonable expenses shall be allowed for baggage handling, for delivery to or from a common carrier or lodging, and for storage. Charges for overweight baggage shall be allowed if the excess was for official business.

(27) Registration fees required for admittance to meetings shall be allowed. An employee shall not claim meal expenses for meals included in the registration fee. A notation shall be made on the travel voucher that the registration fee included the cost of meals. Reimbursement for registration fees and other job-related training may be claimed as "other expenses" on the travel voucher and charged to the appropriate expenditure accounts. Receipts for job-related fees shall be attached to the travel voucher.

(28) Telephone and fax costs for necessary official business shall be reimbursable.

(29) If justified, other necessary miscellaneous expenses associated with official travel may be allowed by the public health department director. Receipts shall be attached to the travel voucher.

(30) Receipts shall be required for travel expenses over ten (10) dollars except for subsistence expense items.

(31) Subsistence shall include amounts determined to have been spent for meals, taxes, and tips. To be eligible for subsistence for breakfast or lunch while traveling in Kentucky, a claimant's authorized work shall require overnight accommodations at a destination more than forty (40) miles from both work station and home and shall also require absence from the work station and home during mealtime. The claimant shall attach to ~~the~~[his] travel voucher, either [his] lodging receipts or other credible documentation sufficient for audit.

(32) Local health department employees assigned to attend a function of an organization not under their control may be reimbursed for actual meal costs charged or arranged for by the organization. Receipts for meals shall be attached to the travel voucher.

(33) The local health department may pay for subsistence and related expenses at staff meetings not to exceed four (4) meals per year for an employee. The subsistence expense shall not exceed the department's standard meal reimbursement amount. Travel status shall not be required for staff meeting meals.

(34) Other allowable travel expense reimbursements shall consist of the following:

(a) Expenditures for the actual and reasonable cost of meals provided for district and county board of health members for official board functions, and for meals of guests invited to participate in the official business conducted at these functions;

(b) Travel expenditures of board of health members attending official board of health functions, in accordance with travel policy provisions;

(c) Travel expenditures incurred by board members other than the chairperson if approved by the chairperson or the full board;

(d) Travel expenditures incurred by the chairperson if approved by the vice-chairperson or the full board;

(e) Expenditures for meals and transportation expenses of local health department advisory committee members attending official local health department functions; and

(f) Travel expenses of a person applying for a position that will designate the applicant as the public health department director for the department, or as the medical director subject to the limits applicable to local health department employees, but no more than one (1) round trip for each applicant.

(35) Expenditures shall be authorized for employee morale and welfare items, as defined in 2 C.F.R. 200.437, in an amount not to exceed twenty-five (25) dollars per employee per fiscal year. Receipts shall be kept for all expenditures.

(36) Expenditures shall be allowed for other items necessary for the maintenance and operation of the local health department, if the expenditure is made in accordance with statutes and administrative policies.

(a) The Department for Public Health may require a local health department to provide adequate justification for any expenditure made by the local health department.

(b) If the justification is determined to be inadequate, appropriate corrective action shall be taken by the Department for Public Health.

Section 6. Purchasing Policies. (1) Each local health department shall develop and follow formal procedures for authorizing purchases made on behalf of the local health department.

(a) These procedures shall be outlined in the local health department's written internal control procedures.

(b) Written purchase orders (service authorizations for independent contractors) and receiving reports or service verifications shall be used except for utility bills and purchase orders not in conformance with standard business practice.

(2) A local health department shall use the following minimum procedures in accordance with 2 C.F.R. 200.322 for purchasing and advertisement for bids:

(a) If an expenditure for a single type of good or service not covered by contract policies is more than \$40,000 in a fiscal year, advertisements for bids shall be made in accordance with KRS 424.110-424.150. The Department for Public Health may be contacted for assistance in determining whether an expenditure is for a single type of good or service. The local health department shall:

1. Record, in writing, and maintain for department review:

a. Price quotations received; and

b. Reasons and basis for selecting and placing the order, if the lowest price was not selected; and

2. Select the lowest or best bid.

(b) If the expenditure for a single type of good or service is \$3,000 but not greater than \$40,000 in a fiscal year, the local health department shall:

1. Obtain three (3) or more price quotations from qualified sources of supply, if available, in the department's normal trade area; and

2. Record, in writing, and maintain for department review:

a. Price quotations received; and

b. Reason and basis for selecting and placing.

(c) If a single type of good or service purchased is less than \$3,000, to the extent practicable, the local health department shall distribute purchases equitably among qualified suppliers. Purchases may be awarded without soliciting competitive quotations.

(d) The requirements for competitive bidding shall not apply to a purchase made under the provisions of a state price contract.

(e) A physician who is the health officer for more than one (1) local health department may purchase supplies and services or technical services on a cooperative purchasing basis, in accordance with the purchasing administrative regulations for local health departments.

(f) A local health department shall not enter into a lease or purchase agreement for nonprofessional services with a local health department employee or a business entity in which a local health department employee owns or controls more than five (5) percent interest, except if determined to be in the best interest of the public and approved in writing by the Department for Public Health.

Section 7. Contracting for Services. (1) A local health department may contract for a core public health program.

(2) A local health department contracting for a core public health program shall evaluate the ability of the contracting agency to provide the program in accordance with applicable state statutes and administrative regulations.

(3) The contract for a core public health program shall include:

(a) A method for ongoing, comprehensive performance evaluation of the contracted vendor;

(b) Established performance criteria and standards to evaluate the contracted vendor; and

(c) An assurance the local health department will continue core public health programs in accordance with 2020 Ky. Acts ch. 21, sec. 2, should the contracted vendor no longer be able to operate the program, as funds allow.

Section 8. Personal Service Contracts. (1) A local health department shall not contract with a provider who is disbarred or suspended by a federal funding agency or by a Kentucky licensure board.

(2) This policy applies to personal service[services] contracts for services of a professional or technical nature not available through the local health department merit system.

(3) Services of a professional or technical nature shall be contracted for in writing in accordance with this policy except:

(a) Nonprofessional emergency repair services of skilled tradesmen shall not require written contracts. Nonemergency services of skilled tradesmen shall be procured in accordance with purchasing policies.

(b) Administrative or management services, financial management services, data processing services, or consulting services, or studies shall not be contracted for if these services can be provided to the local health department by the Department for Public Health.

(4) Allowable services.

(a) The service [~~desired~~] to be contracted for shall be an essential service that is necessary for carrying out public health services.

(b) A local health department may[~~shall not~~] use a personal service[services] contract to substitute for establishing a position in the local health department, with Department for Public Health approval.]

~~(c) A local health department shall not contract for personal services with an individual who works 1,200 hours or more in a year, except with Department for Public Health approval.]~~

(5) A provider shall not be paid more than the standard hourly rate determined by the Personnel Cabinet. In determining acceptable rates of reimbursement, consideration shall be given to:

(a) The type of service to be provided;

(b) The availability of providers;

(c) The duration of services to be performed;

(d) Rates being paid to regular employees for similar services; and

(e) Comparable rates being paid in the area and other parts of the state for similar services.

(6) A personal service contract shall not be entered into with a provider when a conflict of interest, real or apparent, exists.

(a) Conflicts of interest fall into the following categories:

1. Constitutional;

2. Statutory;

3. Common-law; and

4. Department for Public Health policies.

(b) A personal service contract shall not be entered into with a local health department employee or local board of health member, unless authorized in writing by the Department for Public Health, and except for medical or professional services under \$10,000.

(c) A county board of health member who is not a member of the district board of health shall not incur a conflict of interest if the district health department contracts for the county board of health member's services.

(d) A contract exceeding \$5,000 in a fiscal year shall not be entered into with a professional service corporation that has employees or governing board members as constituents, unless authorized in writing by Department for Public Health.

(7) In drafting a personal service contract, a determination shall be made concerning whether the provider of the service is an "independent contractor".

(a) If it is determined that the individual is not an independent contractor, the local health department shall withhold applicable federal, state, and local taxes and Social Security (FICA), and shall use a standard local health department personal service~~services~~ contract.

(b) If it is determined that the provider is an independent contractor, a standard local health department independent contract shall be used.

(8) A personal service contract:

(a) Shall not exceed one (1) year in duration and shall not contain a clause that indicates the contract is automatically renewable at the end of the fiscal year;

(b) Shall expire on or before June 30 of each fiscal year unless approved by the Department for Public Health; and

(c) May be extended into the new fiscal year by filing a formal contract extension, approved by the Department for Public Health.

(9) Either party shall have the right to terminate a personal service contract at any time upon notice to the other party.

(a) A local health department may add a clause to a contract requiring up to a ninety (90) day notice prior to termination.

(b) Confirmation of termination shall be in writing and a copy of the notice of termination shall be provided to the Department for Public Health.

(10) All local health department personal service contracts and amendments are subject to review by the Department for Public Health.

(a) If the Department for Public Health questions the legality, propriety, necessity, rate of compensation, or description of services, in a personal service contract, the department shall notify the local health department of its concerns.

(b) A personal service contract for which clarification is requested by the Department for Public Health shall be put on hold until a review has been completed.

(11) A personal service contract may be modified at any time, and a proposed change shall be accomplished by formal contract amendment.

Section 9[8]. Disposition of Assets, Surplus, or Excess Property. (1) If one (1) or more counties withdraw from a district health department, the following policies shall apply to the disposition of surplus receipts, assets, and liabilities:

(a) Program restricted surplus receipts or supplies, inventories, or equipment shall be retained by the district health department except in the case of complete dissolution of the district. If the district is dissolved, program restricted surplus receipts and items shall be equitably distributed to the county or counties proportionate to their taxing district or fiscal court participation in the district;

(b) Unrestricted receipts, supplies, and inventories shall be divided among district and withdrawing county boards of health proportionate to the ratio of local taxing district support provided by each county in the year preceding the withdrawal;

(c) Deficits shall be charged to the district and withdrawing county boards of health according to the ratio of local taxing district or fiscal court support provided by each party in the year preceding the withdrawal;

(d) Equipment purchased by withdrawing county boards of health prior to the organization of the district shall be returned to the board ~~that~~~~[which]~~ originally purchased the equipment;

(e) Equipment purchased during the operation of the district shall be divided among the district and the withdrawing boards of health according to the ratio of local taxing district or fiscal court support provided by the withdrawing county boards of health to the total local taxing district or fiscal court support of the district in the year preceding the withdrawal:

1. The net inventoried book value of the equipment shall be used in determining the distribution.

2. The Department for Public Health shall approve the final disposition of equipment.

(f) Buildings owned by the district board of health shall remain the property of the district health department. If total dissolution of a district health department occurs, buildings owned by the district shall be sold according to the policies of the Department for Public Health and the proceeds shall be added to the surplus receipts of the district to be divided according to the procedures listed in this subsection; and

(g) The Department for Public Health shall approve the disposition of assets and liabilities.

(2) A local health department may sell or dispose of any real or personal property including intangible property ~~that~~~~[which]~~ is not needed or has become unsuitable for use.

(3) The funding source shall be contacted for the exact requirements. Property purchased with restricted funds may have disposal requirements in addition to or instead of the following requirements:

(a) A written determination as to need or suitability of any property of the local health department shall be made, and shall fully describe the property, its intended use at the time of acquisition, and the reasons why it is in the public interest to dispose of the item;

(b) Surplus or excess property may be transferred, with or without compensation, to another governmental agency, or it may be sold at public auction or by sealed bids. The highest bid shall be accepted. Other methods of disposition of surplus or excess property shall not be allowable;

(c) If a local health department receives no bids for surplus or excess property, either at public auction or by sealed bid, or reasonably determines that the aggregate value of the item is less than \$500, the property may be disposed of, consistent with the public interest, in any manner determined appropriate by the local health department. A written description of the property, the method of disposal, and the amount of compensation, if any, shall be made; and

(d) Any compensation resulting from the disposal of surplus or excess property shall be deposited in the local health department's bank account. If the property was purchased with restricted funds, appropriate accounting of the compensation received shall be made as required by 2 C.F.R. Part 200 Subpart E.

Section 10[9]. Bank Accounts and Investments. (1) Fidelity bonding shall be obtained on local health department employees and board of health members who handle funds of the local health department.

(a) An individual who makes deposits or signs checks or other instruments on local health department checking or investment accounts or certificates shall be bonded.

(b) Employees or board members shall be bonded in an amount sufficient to cover the total amount of funds to which they have access at any one (1) time.

(2) Local health departments may invest and reinvest money subject to their control and jurisdiction in the following investments:

(a) Obligations of the United States and of its agencies and instrumentalities. These investments may be accomplished through repurchase agreements reached with national or state banks chartered in Kentucky, and bonds or certificates of indebtedness of the state of Kentucky and of its agencies and instrumentalities;

(b) A savings and loan association insured by an agency of the government of the United States up to the amount so insured; and

(c) Interest-bearing deposits, or other authorized insurance instruments, in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts if the bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to uninsured deposits.

(3) A local health department may hold funds in its local bank account in a federally-insured bank at the minimum level necessary for efficient operations.

(4) Local health department funds shall not be transferred to a public health taxing district account or to an account not reported in the local health department financial statements.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: July 1, 2020

FILED WITH LRC: July 10, 2020 at 3 p.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Julie Brooks or Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum fiscal and financial management requirements for Kentucky's county and district local health departments and for all other classes of local health departments.

(b) The necessity of this administrative regulation: This administrative regulation ensures consistent fiscal and financial management practices for all local health departments. As a recipient of federal funding, local health departments are required to have fiscal and financial management policies in compliance with the applicable federal Office of Management and Budget (OMB) code of federal regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) authorizes the cabinet to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.170(1), (2), (3), and (6) authorize the cabinet to establish policies governing the activities and practices of local health departments, establish standards of operation, and allocate, modify or cancel allotments of state funds to local health departments pursuant to KRS 212.120.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures consistent practices in the local

health departments by providing fiscal and financial management policies, and standards of operation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation adds definitions for core and foundational public health programs, adds the definition for local health priorities, outlines the requirements for a local health department to attest that core and foundational public health programs will be implemented before local health priorities are funded and implemented, removes the requirement for a paper copy of receipts related to travel reimbursement be submitted with the travel voucher, adds a section on contracting for services and delineates this type of contracting from personal service contracting.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to address the changes in service delivery models for local health departments through public health transformation to insure continued solvency of all local health departments. Without significant changes to the service delivery model for local health departments, a third of the departments would be insolvent within twelve (12) months. This would lead to a catastrophic failure of the public health system in Kentucky. Public health transformation is a way to address the financial crisis while ensuring foundational public health services continue. Other changes in the amendment to this administrative regulation are necessary to address outdated and inefficient requirements.

(c) How the amendment conforms to the content of the authorizing statutes: House Bill 129, codified under Ky Acts ch. 21, requires the department to promulgate administrative regulations to establish the process and procedures to ensure that core public health programs, foundational public health programs, and local health priorities are identified and facilitated by one (1) or more agencies in the Commonwealth. The amendment to this administrative regulation outlines the contracting process for local health departments entering into contracts for services.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will ensure all local health departments are following consistent processes and procedures when contracting for services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all local health departments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: All local health departments will need to be aware of the need to conduct a local needs assessment to determine local health priorities. If another agency or service delivery program is able to provide the same service to the community the local health department may decide to not provide the service, instead referring individuals to the other agency or service. Local health departments will need to be aware of the contracting requirements in this administrative regulation to ensure compliance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): It is difficult to determine what the costs of compliance will be for local health departments. Some local health departments may have increased costs associated with contracting for services, while others may have decreased costs

by eliminating duplicative programs. A costs analysis indicates that fourteen (14) of the sixty-one (61) health departments may have a loss in funding for foundational services.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By identifying local health priorities, local health departments will be better able to meet the needs of the community.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The initial change service delivery methods is estimated to result in an increase of \$8,476,000 the first year.

(b) On a continuing basis: Because this is a new method of providing services it is difficult to determine what the ongoing costs associated with these changes will be. It is estimated the total costs will be \$35,118,000 annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Local health departments are funded by a mix of state general fund dollars, federal funding, local tax funding, and local environmental fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: There are no fees associated with this administrative regulation. An increase in funding is not needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. There are no fees established in this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied as this amendment affects all regulated entities equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local health departments, district health departments, Local Health Budget Branch within the Division of Administration and Financial Management.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194.050(1), 211.170(1), (2), (3), (6), Ky Acts ch. 21, and 2 C.F.R. Part 200.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? It is estimated the changes in service delivery for local health departments may result in an \$8,476,000 increase in costs this first year.

(d) How much will it cost to administer this program for subsequent years? The ongoing costs associated with this program is \$35,118,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Office of Management and Budget Super Circular, 2 C.F.R. 200 Subparts E and F.

(2) State compliance standards. This administrative regulation adopts the fiscal and financial management provisions for the receipt of federal funds.

(3) Minimum or uniform standards contained in the federal mandate. Under uniform guidance provisions, the federal mandate requires states to adopt the OMB fiscal and financial management requirements contained in the Super Circular.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter, or additional responsibilities or requirements.