



County of El Dorado

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Legislation Details (With Text)

File #: 08-1771 **Version:** 2
Type: Agreement **Status:** Approved
File created: 11/24/2008 **In control:** Board of Supervisors
On agenda: 5/19/2009 **Final action:** 5/19/2009
Title: Health Services Department returning to the Board with previously approved Agreement EPO 08-10, Public Health Preparedness funding from the State, requesting ratification of same, without addendum.

FUNDING: California Department of Public Health

Sponsors:

Indexes:

Code sections:

Attachments: 1. Blue Sheet EPO 08-10 Preparedness Funding, 2. Addendum to EPO 08-10 Preparedness Funding Agmt, 3. Attachment 20 EPO 08-10, 4. Exhibit D(F) EPO 08-10, 5. Exhibit E EPO 08-10, 6. A - EPO 08-10

Date	Ver.	Action By	Action	Result
5/19/2009	2	Board Of Supervisors	Approved	Pass
12/16/2008	1	Board Of Supervisors	Approved	Pass

Health Services Department returning to the Board with previously approved Agreement EPO 08-10, Public Health Preparedness funding from the State, requesting ratification of same, without addendum.

FUNDING: California Department of Public Health

BUDGET SUMMARY:		
Total Estimated Cost		\$629,848
Funding		
Budgeted	\$629,848	
New Funding	\$	
Savings	\$	
Other	\$	
Total Funding Available	\$629,848	
Change To Net County Cost		\$0

Fiscal Impact/Change to Net County Cost: No change to net County cost.

Background: December 16, 2008, the Health Services Department recommended the Board Chairman be authorized to sign Agreement EPO 08-10 which provides State funding for a variety of

Public Health Preparedness Program activities. The Agreement was accompanied by an addendum drafted in collaboration with County Counsel. Health Services Department and County Counsel developed the addendum because language in the State's Budget Contingency Clause did not clearly state that the County would be paid for services rendered if the Agreement was terminated by the State. At the time this addendum was presented to the Board the State had not yet established a FY 2008-09 budget and the risk of funds being reduced or deleted was significant. However, since that time the State has finalized a budget for FY 2008-09, has appropriated sufficient funds for the Agreement, and the term of the Agreement expires at varying times - the earliest being June 30, 2009 and the latest being August 9, 2009. At this time, the risk presented by the "Budget Contingency Clause" is reduced given that the funds have been appropriated.

The addendum documented the County's concern over the State's "Budget Contingency Clause" and in essence created a "counter offer" that read: *"... should the State terminate this Agreement pursuant to Exhibit B, §2 "Budget Contingency Clause" Contractor shall be entitled to payment in accordance with Exhibit C, §3 "Cancellation/Termination."* Exhibit C allows for all activities in accordance with the Agreement prior to the notice of cancellation/termination to be paid by the State. The State's Budget Contingency Clause read as follows:

"Budget Contingency Clause:

- A. It is mutually agreed that if the Budget Act and/or other state statute of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, CDPH shall have no liability to pay any funds whatsoever to LDH and/or Local HPP Entity or to furnish any other considerations under this Agreement and LHD or Local HPP Entity shall not be obligated to perform any provisions of this Agreement except as to periods for which funding has been provided.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, CDPH shall have the option to either cancel this Agreement with no liability occurring to CDPH, or offer an Agreement amendment to LDH and/or Local HPP Entity to reflect the reduced amount."

CDPH signed the Agreement EPO 08-10, but returned the addendum unsigned, and despite repeated requests from Health Services since that time, has not signed said addendum.

At this time County Counsel has advised that County's submission of the signed Agreement along with the addendum constitutes a "counter offer" and State's refusal to sign the addendum makes it contingent upon the County to determine whether or not to accept the original Agreement language.

Reason for Recommendation: In light of the State having established a budget for FY 2008-09; appropriating sufficient funds for this Agreement; and the term of the Agreement ending between June 30, 2009 and August 9, 2009, Health Services Department is recommending the Board ratify the original Agreement EPO 08-10 without the addendum so the Department may submit invoices for services performed.

Action to be taken following Board approval:

Department to retain minutes of board item 08-1771, version 2, ratifying original signature on Agreement EPO 08-10 with permanent Agreement file copy.

Contact: Kathy Lang

Concurrences: County Counsel