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October 1, 2020

To: UCCI Membership

Re: Emergency Operations Plans and Funding

Issue:

Is a County obligated to comply with requirements for Emergency Operations Plans issued by the Illinois Emergency Management Agency in addition to those requirements found in the Illinois Emergency Management Act? Will failure to comply with the additional requirements affect accreditation or funding?

Analysis:

The area of emergency planning and operations is heavily regulated by the state. Both the Illinois Emergency Management Agency and those political subdivisions required to establish Emergency Services and Disaster Agencies must comply with the relevant statutory requirements of the Illinois Emergency Management Agency Act (“the Act”) as well as the related provisions of [TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE](#), of the Illinois Administrative Code. For Counties, Part 301, “[POLITICAL SUBDIVISION EMERGENCY SERVICES AND DISASTER AGENCIES](#)” will be particularly relevant.

Pursuant to Section 10 of the Act, “Unless multiple county emergency services and disaster agency consolidation is authorized by the Illinois Emergency Management Agency (“IEMA”) with the consent of the respective counties, **each county shall maintain an emergency services and disaster agency** (“ESDA”) that has jurisdiction over and serves the entire county, except as otherwise provided under this Act and except that in any county with a population of over 3,000,000 containing a municipality with a population of over 500,000 the jurisdiction of the county agency shall not extend to the municipality when the municipality has established its own agency.”¹ Moreover, “[e]ach ESDA shall prepare an emergency operations plan for its geographic boundaries that complies with planning, review, and approval standards promulgated by the Illinois Emergency Management Agency. The Illinois Emergency Management Agency shall determine which jurisdictions will be required to include earthquake preparedness in their local emergency operations plans.”²

¹ 20 ILCS 3305/10.

² 20 ILCS 3305/10.

Furthermore, only those “ESDAs accredited by IEMA pursuant to Section 301.510 of this Part are eligible to apply for EMA grant funds.”³ Within the criteria for accreditation, is the requirement that an ESDA “[c]omplete an EOP that meets the requirements of Subparts B and C [of Part 300 of Title 29].”⁴ Subpart B does appear to have a number of new requirements “for EOPs due for review on or after September 1, 2020”.

Notably, an emergency rule was recently adopted that provided “IEMA may, upon application or upon its own initiative, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in undue hazard to public health and safety or property.”⁵ However, not much additional detail is available regarding such requests.


Finally, IEMA is also required by statute to assist with political subdivision EOPs. Pursuant to Section 5 of the Act, “[IEMA] shall take an integral part in the development and revision of political subdivision emergency operations plans prepared under paragraph (f) of Section 10. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to the emergency services and disaster agencies. These personnel shall consult with emergency services and disaster agencies on a regular basis and shall make field examinations of the areas, circumstances, and conditions that particular political subdivision emergency operations plans are intended to apply.”⁶

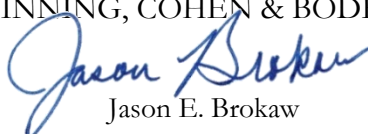
Conclusion:


It is our opinion that County ESDAs must comply with both the statutory requirements found within the Act as well as any additional requirements promulgated, or issued, by IEMA. Failure to comply with such requirements could jeopardize the ESDA’s accreditation as well as its grant funding. However, IEMA has a statutory obligation to assist with development and revision of County EOPs. Therefore, counties are encouraged to have their ESDA reach out to IEMA for assistance, and where any new requirement seems unattainable or otherwise impractical, the ESDA should inquire and/or apply for an exemption or exception from that requirement.

At the request and direction of UCCI this opinion was prepared by

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³ 29 Ill. Admin. 301.720.

⁴ 29 Ill. Admin. 301.510(b)(5).

⁵ 29 Ill. Admin. 301.115.

⁶ 20 ILCS 3305/5