Lamb, **Chair**
Evans, Vice Chair
Akers
Bledsoe
F. Brown
J. Brown
Gibbs
Henson
Moloney
Scutchfield

A G E N D A
General Government & Social Services Committee
May 5, 2015
1:00 P.M.

"Social services, community development and general government committee, to which shall be referred matters relating to the department of social services and its divisions, and any related partner agencies; the division of community development, related partner agencies, and other matters relating to community development; and matters relating to the general administration of government, the department of law, the department of general services, each department's respective divisions, and any related partner agencies." Council Rules & Procedures, Section 2.102 (2) Effective January 1, 2015. Adopted by Urban County Council September 25, 2014

2015 Meeting Schedule

February 3	May 5	September 1
March 10	June 2	October 6
April 7	July 7	November 3

General Government & Social Services Committee

April 7, 2015

Summary and Motions

Acting Chair Akers called the meeting to order at 1:00 p.m. All committee members were present: Akers, Bledsoe, F. Brown, Evans, Gibbs, Henson, Lamb, Moloney and Scutchfield. Vice-Mayor Kay and CMs J. Brown and Steve Kay were also in attendance.

I. Election of Committee Chair/Appointment of Vice Chair

Akers opened the floor for nominations for Chair of the General Government and Social Services Committee. Moloney nominated Lamb, and she accepted the nomination. Lamb asked Akers if she would serve as Vice Chair, and Akers declined. Lamb offered the role of Vice Chair to Evans and Evans accepted.

A motion was made by Moloney to nominate Lamb to the position of Chair, seconded by F. Brown. Motion passed without dissent.

A motion was made by F. Brown to close nominations, seconded by Evans. Motion passed without dissent.

A motion was made by Evans to accept Lamb as Chair, seconded by Henson. Motion passed without dissent.

II. Approval of Committee Summary

A motion was made by Scutchfield to approve the March 10, 215 Special General Government & Social Services Committee Meeting Summary, seconded by Gibbs. Motion passed without dissent.

III. SAFE Parks Position

Henson provided an introduction and a brief history of the item. Henson expressed the need for more volunteers and activities to enhance the safety of our parks.

Chris Cooperrider, Enterprise Deputy Director of Parks and Recreation, presented a summary of the Neighborhood Task Force's goals. Brian Rogers, Deputy Director of Parks and Recreation, presented the SAFE Parks program, and explained that this program will be offered at Opportunity Parks. Rogers defined Opportunity Parks as parks identified by Council and Parks that are perceived as not being family friendly, and have opportunities for improvements.

Rogers stated that Wolf Run Park has been identified as an Opportunity Park, and the FY16 budget requests improvements to the park to help ensure the success of the program. He presented several of the pilot programs being offered at Opportunity Parks, including fitness programs and the development of activity boards to identify additional opportunities. He stated that the taskforce has recommended a SAFE Parks Program Supervisor in the FY16 budget.

Moloney thanked Henson for her work on this project and inquired if funding for the position is

included in the proposed budget. Moloney questioned if the department has reached out to UK to establish a relationship for this effort. Rogers replied the funding is included in the FY16 budget request, and confirmed that they are coordinating with UK. Rogers stated they would like for the proposed position to enhance volunteer efforts, and the University has been very responsive in that regard.

Bledsoe stated that the proposed position is in alignment with the Parks Master Plan, and emphasized the importance of local parks meeting the needs of the neighborhoods they serve. Bledsoe gave her support for a policy wherein the department can work with other organizations and non-profits to coordinate efforts to enhance existing programming. Bledsoe inquired if the proposed position would work to achieve those relationships. Rogers affirmed that it would.

Evans requested background information to address the need for the position, asking if there has previously been someone assigned to those responsibilities. Rogers stated Parks has maintained relationships for 50 years with various neighborhood associations, noting that in some parks the structures are owned by those associations and the programming and rental of those structures are the neighborhood's responsibility. Rogers stated in those cases Parks only maintains a superficial relationship with the associations. Rogers stated the position would allow the opportunity to reach out and make connections with the neighborhood associations and third parties, which has not been possible due to time and staffing constraints.

In response to a question from Stinnett, Rogers replied that in the recent past Parks staff attempted to reestablish individual park managers, but the effort did not result in significant increases in park attendance. Rogers stated the proposed position will work with neighborhoods to determine and establish the parameters for the types of activities and programs each neighborhood wants, and can work collaboratively to advertise those programs within the community. He stated this component was missing from previous efforts.

Stinnett asked if the proposed included additional security for parks. Cooperrider stated they have an existing security component called Parks Patrol that addresses safety and patrol in parks. Stinnett inquired about the number of current security positions. Cooperrider replied that there is only one coordinator position and that they engage the Division of Police for additional support. Stinnett asked if there is an adequate budget for those services, to which Cooperrider replied that there is.

F. Brown inquired if the position has a job description and budget, and who the position reports to. Cooperrider stated the position requested in the budget has a title of Program Supervisor. Cooperrider stated the new Program Supervisor will report directly to him, the Enterprise Deputy Director. F. Brown asked how many parks would be impacted by the position. Cooperrider stated there are 11 in the pilot program with 7 of those having neighborhood buildings. F. Brown inquired if they are in the Capital Improvement Program. Cooperrider stated they are currently working on some CIP projects, and that this position would provide a greater focus in this area. F. Brown asked if they are addressing every council district and Cooperrider answered the pilot program does not, but they are willing to in the future.

Henson thanked everyone for their conversation and stated she feels this is extremely important to Lexington's parks and for neighborhood parks in particular.

Moloney stated he felt there should be a motion to create the program.

A motion was made by Henson to support the creation of a SAFE Parks position in the FY16 budget, seconded by Scutchfield. Motion passed without dissent.

Henson asked to recognize the efforts of new Council Member James Brown, and his father who were both present at the meeting, thanking them for their work to ensure the success of the pilot program.

IV. Proposed Department Reorganization – Security to Department of Public Safety

Vice Mayor Kay introduced Jamshid Baradaran, Director of Facilities & Fleet Management. Baradaran presented the proposed department reorganization of Security to the Department of Public Safety. Baradaran stated that over the past 24 months they have intensified efforts to examine their resources and identify areas where they can increase efficiencies. Baradaran further noted they have incorporated new policies and procedures supportive of this effort.

F. Brown inquired if the budget for FY16 would cover the new Administrative Officer position, which would manage Security, to which Baradaran replied that the position was funded in the budget. F. Brown also inquired if security officers carry firearms. Baradaran stated they do not, and stated that they rely on police for any additional assistance. Baradaran stated they have had conversations with former Commissioner Mason and now Commissioner Bastin about the reorganization. Baradaran stated that the proposed FY16 budget was developed with the full participation of the Commissioner.

In response to a question from F. Brown, CAO Hamilton stated her support for the reorganization.

Evans asked if the uniforms and equipment they will need are included in the budget. Baradaran stated they are included in the budget proposal. Evans inquired if their role would be to "observe and report". Baradaran stated the first year would be a transitional period wherein they will assess the short term changes and a long term mission for Security. Baradaran stated that Security will not assume the role of a public safety officer, but he envisions their primary role would change over time. Commissioner Bastin stated that changes will be incremental, and that the goal is for a smooth transition. Bastin noted they will strive for continual improvement and would welcome Council input in the process.

Moloney stated his support for the reorganization. Moloney inquired if light duty police officers could fill in some of the open security positions. Bastin replied they have not had those conversations but they will certainly explore the most appropriate staffing needs and will try to find resources from within when appropriate.

Commissioner Reed stated his support for the move and noted Commissioner Bastin's expertise and his relationship with the Police Department. Reed stated Bastin is in a better position to access the security needs than General Services has been, and he believes these are important issues for the new Council to revisit.

Henson stated her support for the move.

A motion was made by Scutchfield to move to Council the Proposed Department Reorganization of Security to the Department of Public Safety, seconded by Bledsoe. Motion passed without dissent.

V. Proposed Department Reorganization – Office of the Chief Information Officer

Aldona Valicenti, Chief Information Officer, presented the proposed department reorganization of the Office of the Chief Information Officer. Valicenti noted that the reorganization of her department and its transition has been occurring in phases, and that this is the next step in incremental improvements to the organization. She stated that a new Department of Information Technology would be created, which would include the Divisions of Enterprise Solutions and Computer Services.

In response to a question from F. Brown, CAO Hamilton stated her support for the reorganization. F. Brown inquired if the move would require additional staff. Valicenti stated that it did not and that the reorganization would not have an associated budgetary impact. Valicenti stated they would assess their support structure. F. Brown asked if they would raise salaries to attract IT employees. Valicenti stated that there are challenges related to salary at the higher experience levels, and further stated that those positions are so specialized they may not be needed at all times, but on a temporary basis. F. Brown stated his support for the move.

Kay expressed his support and inquired about the structure of the proposed Department of Information Technology, including who would be the head of the department. Valicenti stated the current office of the CIO would change in name to the Department of Information Technology, which would merge the Division of Enterprise Solutions and Computer Services, and that the Chief Information Officer would be the head of the department.

A motion was made by F. Brown to move to Council the Proposed Department Reorganization of the Office of the Chief Information Officer, seconded by Henson. Motion passed without dissent.

VI. Items In Committee

A motion was made by Henson to remove the SAFE Parks Position referral item from Committee, seconded by Akers. Motion passed without dissent.

A motion was made by Gibbs to remove the Proposed Reorganization of Security to the Department of Public Safety from Committee, seconded by Bledsoe. Motion passed without dissent.

A motion was made by Gibbs to remove the Proposed Reorganization of the Office of the Chief Information Officer, seconded by Scutchfield. Motion passed without dissent.

A motion was made by F. Brown to adjourn, seconded by Scutchfield. Motion passed without dissent.

The meeting adjourned at 2:19 p.m.

DS 4.9.2015

Emergency Medical Transport Assistance Program

May 5, 2015

General Government & Social Services Committee

Department of Social Services

Division of Adult & Tenant Services

Emergency Medical Transport Assistance

- **Identify the Need**
  - To mitigate the threat of low-income residents declining or refusing EMS transport service due to financial limitations or inability to pay.

- **Proposal Objective**
  - To offer financial assistance for costs associated with emergency medical transport of low-income residents.

Agenda

- To reintroduce the EMS delivery system in Lexington – Fayette.
- To distinguish the EMS functions of "*dispatch*" and "*transport*".
- To identify local market providers in medical transport field.
- To assess the financial impact of medical billing & EMS fees.
- To propose establishing the Emergency Medical Transport Assistance program addendum for Adult & Tenant Services.

Basic Reintroduction to EMS

- The Lexington Division of Fire and Emergency Services (LDFES) is a combination department, which provides Fire Suppression, Special Operations, Hazardous Material Mitigation and Emergency Medical Services (EMS).

- All 542 Lexington Firefighters are Emergency Medical Technicians (EMTs).
  - 230 Lexington Firefighters are also certified as Paramedics.

- Lexington's EMS handles all emergency runs in Fayette County, with response to all 911 calls requesting medical assistance.

- All dispatched medical emergencies are responded to by a system of 11 front line units that are staffed 24 hours/day. In addition, 3 surge units are deployed into service when emergency calls outnumber resources.

EMS - Dispatch and Transport

- In calendar year 2014, Lexington's Emergency Medical Services responded to 36,638 dispatched runs, with 31,963 patients transported.

- Calendar year 2015 's year-to-date comparison with CY 2014 shows an 13% increase in dispatched runs, and an 11% increase in patient transports.

- Legally, if a patient requests transport to a hospital it **must be provided** to them. Patients also have the **right to decline** transport after they have been informed of their right to transport, and are found to be alert & oriented.

- ***Implied Consent*** laws allow EMS personnel to transport patients that are unconscious or incoherent to a hospital. EMS personnel must act in the best interests of the patient and treat the patient in a matter that any reasonable person in the same situation would act like.

Other Medical Transport Services

- There are 2 private ambulance providers that are licensed to operate in Fayette County.
  - American Medical Response (AMR) and Rural Metro.

- Rural Metro and AMR's main operational responsibilities are geared toward the convalescent runs in Fayette County. These operators concentrate on patient transports (to and from the home) that require an ambulance.

- In addition, Lexington EMS will do emergent transfers of patients in one facility needing to go to another for critical interventions not available at that facility.

Lexington EMS and Medical Billing

- Ambulance crews in Lexington **do not** determine the patient's billing level for medical transport costs. Their only concern is to deliver care to the patient. The billing level is determined by a third-party billing company, which reviews & analyzes the patient care data report, transmitted on the scene by EMS personnel.

- Patients are billed at 4 different rates, determined by the level of care:

Basic Life Support	**$ 733**
Advanced Life Support 1	**$ 845**
Advanced Life Support 2	**$1,015**
Inter-facility Transfer	**$1,128**

- There is also a mileage charge of $12.50/mile.

Lexington EMS and Medical Billing

	FY2015 YTD (as of 3/15)	FYE 2014	FYE 2013	FYE 2012
Average Billings (per transport)	$847	$832	$830	$804
# Transports	21,168	25,275	24,422	24,690
EMS Revenue (Millions)	$5.5	$6.9	$6.7	$7.0
EMS Receivable (Millions)	$6.6	$7.1	$6.6	$6.8

Emergency Medical Transport Assistance

- ***Proposal***
  - To design & implement a financial assistance program consistent with comparable social service programs.

- ***Who qualifies?***
  - Fayette County residents whose household income falls at or below 150% of Federal Poverty Guidelines.

Income Eligibility Requirements

Family Size	Annual Income at 150% of Federal Poverty Guidelines
1	$17,655
2	$23,895
3	$30,135
4	$36,375
5	$42,615
6	$48,855
7	$55,095
8	$61,335

EMTA Program Guidelines

- Persons who can demonstrate inability to pay costs associated with emergency transport fees.

- Sets the cap for assistance at $400 per transport occurrence. Retroactive services and/or outstanding fees are not eligible.

- As Medicare and Medicaid patients are an affected population for this proposed program, the LFUCG Dept. of Law requested and received legal guidance from the US Dept. of Health & Human Services, Office of Inspector General.

EMTA Program Administration

- Clients can access financial assistance once within a twenty-four (24) month period
  - Adult and Tenant Services will assign clients a case worker to manage the underlying issue causing this need.
- Clients with other social service needs
  - Adult and Tenant Services works with all clients to complete a comprehensive financial assessment to assist with other basic needs.
- Uninsured Clients
  - Adult and Tenant Services partners onsite with the Community Action Council to help enroll clients in the *Kynect* Health Insurance Exchange.

LFUCG Financial Assistance Programs

- Comparable programs administered by the Division of Adult & Tenant Services:

Program	FY 2015 Funding	Balance (as of 4/17/05)
EFA – Utilities & Rent	$200,000	$62,444
Sewer User Fee	$119,747	$69,280
Landfill User Fee	$10,000	$3,346
Rezoning & Development	$251,817	$240,650
Housing Relocation (Condemnation)	$25,000	$0.00

Recommendations

- Establish the Emergency Medical Transport Assistance (EMTA) program via adoption of Council Resolution.
- Authorize the Division of Adult & Tenant Services to create an *Addendum* to the existing Emergency Financial Assistance (EFA) Program Guidelines.
- The Division will analyze program activity & project financial impact in anticipation of FY 2017 budget.

Questions & Comments

Lexington-Fayette Urban County Government
DEPARTMENT OF LAW

Jim Gray
Mayor

Janet M. Graham
Commissioner

TO: Commissioner Chris Ford
Councilmember Peggy Henson

FROM: Department of Law

DATE: April 23, 2015

RE: Emergency Medical Transport Assistance Program

This memorandum is in response to your request for a legal opinion regarding the authority to operate a Medical Transport Assistance Program through the Department of Social Services' Division of Adult and Tenant Services.

Background

In the fall of 2014, Councilmember Henson inquired into what assistance could be provided to Lexington-Fayette County citizens, especially senior citizens that are unable or find it difficult to pay the fees associated with emergency ambulance transportation. Originally, it was suggested that the Division of Fire and Emergency Service ("Fire") waive fees for LFUCG provided trips for all senior citizens who reside in Lexington-Fayette County. Fire requested a legal opinion from the Law Department; the Law Department advised that such a waiver would violate the Federal anti-kickback statute of the Social Security Act. The Law Department's research showed that any waiver or reduction of fees could not be based on patient-specific factors, in this case – age and residency, rather it must be a uniform waiver or reduction of fees.

Based on the above, the Department of Social Services, through its' Division of Adult and Tenant Services (the "Division"), suggested the creation of a program to potentially address the problem. The Division sought to create an Ambulance Fee Assistance Program (the "Program"). The Program would be similar to other assistance programs currently administered by the Division. Specifically, the Program would be designed to pay for all of the remaining out-of-pocket fees, i.e. co-pays and deductibles, associated with an emergency ambulance transport for certain low-income Lexington-Fayette County residents. In order to qualify for Program assistance, an applicant would submit a form requesting reimbursement for out-of-pocket fees to the Division. LFUCG would pay for all of the out-of-pocket fees up to twice in a 12-month period if the applicant

met the Program criteria: (1) he or she is a resident of Lexington-Fayette County; and (2) his or her income is at or below 150% of the Poverty Guidelines.

Taking into consideration the full program details, the Law Department elected to request an opinion from United States Department of Health and Human Services' Office of Inspector General ("OIG"). Specifically, the request was: 1) whether a payment from one governmental entity to another would be considered a waiver; and 2) if so, would this waiver violate the Federal anti-kickback statute.

Conclusion

Based on the facts submitted, the OIG responded to our request with the following legal guidance:

1) OIG Advisory Opinion No. 12-16 (November 5, 2012) (attachment A)
2) US Department Health and Human Services, OIG Special Advisory Bulletin entitled *Offering Gifts and Other Inducements to Beneficiaries (August 2002)*. (attachment B)

After careful review of the provided guidance, the Program is legally permitted but must be administered within the prescribed waiver exceptions provided by 42 CFR 1001.952. Specifically, the Division must do the following:

1) Notify potential clients of the availability of assistance after services are rendered, the availability of potential assistance must not be advertised or be offered as an inducement to receive services;
2) Make a good faith review of potential clients' financial need; and
3) Make all determinations of financial assistance based on objective criteria.

In review of both the above articles, in conjunction with the description of the Program to be created by the Division, it is the Law Department's opinion that the Program does not violate the Federal anti-kickback statute.

If you have any questions, please let me know.

Melissa Moore Murphy, Attorney Senior

cc: Jim Gray, Mayor
Sally Hamilton, CAO

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DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20201

[*We redact certain identifying information and certain potentially privileged, confidential, or proprietary information associated with the individual or entity, unless otherwise approved by the requestor.*]

Issued: October 26, 2012

Posted: November 5, 2012

[Name and address redacted]

Re: OIG Advisory Opinion No. 12-16

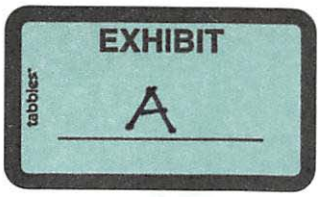
Ladies and Gentlemen:

We are writing in response to your request for an advisory opinion regarding a proposal to waive cost-sharing amounts on a non-routine, unadvertised basis for insured patients, including Federal health care program beneficiaries, based on individualized determinations of financial need (the "Proposed Arrangement"). Specifically, you have inquired whether the Proposed Arrangement would constitute grounds for the imposition of sanctions under the civil monetary penalty provision prohibiting inducements to beneficiaries, section 1128A(a)(5) of the Social Security Act (the "Act"), or under the exclusion authority at section 1128(b)(7) of the Act, or the civil monetary penalty provision at section 1128A(a)(7) of the Act, as those sections relate to the commission of acts described in section 1128B(b) of the Act, the Federal anti-kickback statute.

You have certified that all of the information provided in your request, including all supplemental submissions, is true and correct and constitutes a complete description of the relevant facts and agreements among the parties.

In issuing this opinion, we have relied solely on the facts and information presented to us. We have not undertaken an independent investigation of such information. This opinion is limited to the facts presented. If material facts have not been disclosed or have been misrepresented, this opinion is without force and effect.

Based on the facts certified in your request for an advisory opinion and supplemental submissions, we conclude that: (i) the Proposed Arrangement would not constitute



grounds for the imposition of civil monetary penalties under section 1128A(a)(5) of the Act; and (ii) although the Proposed Arrangement could potentially generate prohibited remuneration under the anti-kickback statute if the requisite intent to induce or reward referrals of Federal health care program business were present, the Office of Inspector General ("OIG") would not impose administrative sanctions on [name redacted] under sections 1128(b)(7) or 1128A(a)(7) of the Act (as those sections relate to the commission of acts described in section 1128B(b) of the Act) in connection with the Proposed Arrangement. This opinion is limited to the Proposed Arrangement and, therefore, we express no opinion about any ancillary agreements or arrangements disclosed or referenced in your request for an advisory opinion or supplemental submissions.

This opinion may not be relied on by any persons other than [name redacted], the requestor of this opinion, and is further qualified as set out in Part IV below and in 42 C.F.R. Part 1008.

I. FACTUAL BACKGROUND

[Name redacted] (the "Requestor") is a not-for-profit corporation that provides emergency-only ambulance services throughout the [city redacted] metropolitan area. It is a volunteer ambulance organization founded to address the special needs of observant Jewish communities, but which provides care to all patients who request its services. Knowledge of the Requestor's services is generally spread through word of mouth in the communities it serves. The Requestor currently relies on charitable donations to meet its operating costs and does not charge patients for its services. Due to recent economic constraints, however, the Requestor seeks to accept reimbursement from third-party payors, including Medicare and Medicaid.

Under the Proposed Arrangement, the Requestor would continue its historical, charitable practice of treating and transporting uninsured patients free of charge. For insured patients, the Requestor[1] would bill all third-party payors, including Medicare and Medicaid, as well as any applicable supplemental or secondary insurance, for emergency transport services rendered. The Requestor would not routinely waive coinsurance or deductible amounts. However, the Requestor would waive or reduce coinsurance or deductible amounts, if it determines in good faith that the transported patient is in financial need. The Requestor would make all financial eligibility determinations using objective criteria. Any decision to reduce or waive a patient's cost-sharing obligations

[1] For ease of reference, our use of the term "Requestor" throughout this opinion may also include any billing agent used by the Requestor, as applicable. We have not been asked to opine on, and we are not opining on, the relationship between the Requestor and any billing agent used by the Requestor.

would be made on a case-by-case basis and would be based only on the patient's specific financial situation.

Under the Proposed Arrangement, the Requestor would not advertise waivers of cost-sharing amounts for its emergency transport services. The Requestor would inform an insured patient of a potential waiver only after the Requestor has finished rendering services to the patient, and the patient indicates that he or she is unable to pay.

In shifting from a business model relying entirely on charitable contributions to fund all operations to one that accepts reimbursement from all third-party payors, including Medicare and Medicaid, the Requestor certifies that it would comply with all Federal fraud and abuse laws, as well as applicable Medicare and Medicaid coverage rules for emergency ambulance transports.

II. LEGAL ANALYSIS

A. Law

The anti-kickback statute makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any remuneration to induce or reward referrals of items or services reimbursable by a Federal health care program. See section 1128B(b) of the Act. Where remuneration is paid purposefully to induce or reward referrals of items or services payable by a Federal health care program, the anti-kickback statute is violated. By its terms, the statute ascribes criminal liability to parties on both sides of an impermissible "kickback" transaction. For purposes of the anti-kickback statute, "remuneration" includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind.

The statute has been interpreted to cover any arrangement where one purpose of the remuneration was to obtain money for the referral of services or to induce further referrals. See, e.g., United States v. Borrasi, 639 F.3d 774 (7th Cir. 2011); United States v. McClatchey, 217 F.3d 823 (10th Cir. 2000); United States v. Davis, 132 F.3d 1092 (5th Cir. 1998); United States v. Kats, 871 F.2d 105 (9th Cir. 1989); United States v. Greber, 760 F.2d 68 (3d Cir. 1985), cert. denied, 474 U.S. 988 (1985). Violation of the statute constitutes a felony punishable by a maximum fine of $25,000, imprisonment up to five years, or both. Conviction will also lead to automatic exclusion from Federal health care programs, including Medicare and Medicaid. Where a party commits an act described in section 1128B(b) of the Act, the OIG may initiate administrative proceedings to impose civil monetary penalties on such party under section 1128A(a)(7) of the Act. The OIG may also initiate administrative proceedings to exclude such party from the Federal health care programs under section 1128(b)(7) of the Act.

Section 1128A(a)(5) of the Act (the "CMP") provides for the imposition of civil

monetary penalties against any person who offers or transfers remuneration to a Medicare or state health care program (including Medicaid) beneficiary that the benefactor knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of any item or service for which payment may be made, in whole or in part, by Medicare or a state health care program (including Medicaid). The OIG may also initiate administrative proceedings to exclude such party from the Federal health care programs. Section 1128A(i)(6) of the Act defines "remuneration" for purposes of section 1128A(a)(5) as including "the waiver of coinsurance and deductible amounts (or any part thereof)." The CMP contains certain exceptions from the definition of remuneration. Waivers of cost-sharing amounts are excepted if:

> (i) the waiver is not offered as part of any advertisement or solicitation;
> (ii) the person [making the waiver] does not routinely waive coinsurance or deductible amounts; and
> (iii) the person [making the waiver]—
>
> > (I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need; or
> > (II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts.

Section 1128A(i)(6) of the Act. Subsections (i), (ii), and at least one prong of subsection (iii) must be satisfied for the exception to apply.

B. Analysis

The Proposed Arrangement implicates the CMP and the anti-kickback statute because the Requestor would waive cost-sharing amounts for emergency ambulance transports for certain patients, including Federal health care program beneficiaries. However, if the Requestor's Proposed Arrangement satisfies all of the criteria of the CMP's exception for waivers of cost-sharing amounts, it would not involve prohibited remuneration within the meaning of section 1128A(a)(5) of the Act. For the following reasons, we conclude that it satisfies all of the criteria.

First, the Requestor certified that it would not offer the waiver as part of any advertisement or solicitation under the Proposed Arrangement. The Requestor would inform a patient of the waiver only after the Requestor has finished rendering services to the patient, and the patient indicates that he or she is unable to pay. Second, waivers of cost-sharing amounts under the Proposed Arrangement would not be made routinely; rather, they would be contingent on the insured patient's inability to pay amounts owed, which the Requestor would determine on a case-by-case basis. Third, the Requestor would make all financial eligibility determinations using objective criteria. Patients would not be eligible for cost-sharing waivers unless they meet the Requestor's financial

need eligibility criteria. The Requestor has certified that it would make these individualized determinations of financial need in good faith.

Accordingly, the Proposed Arrangement satisfies all of the criteria of the exception for waivers of cost-sharing amounts and would not constitute prohibited remuneration under Section 1128A(a)(5) of the Act. In light of the same safeguards set forth above, we also conclude that we would not subject the Requestor to administrative sanctions under the anti-kickback statute in connection with the remuneration provided to financially-needy, insured patients under the Proposed Arrangement.

III. CONCLUSION

Based on the facts certified in your request for an advisory opinion and supplemental submissions, we conclude that: (i) the Proposed Arrangement would not constitute grounds for the imposition of civil monetary penalties under section 1128A(a)(5) of the Act; and (ii) although the Proposed Arrangement could potentially generate prohibited remuneration under the anti-kickback statute if the requisite intent to induce or reward referrals of Federal health care program business were present, the OIG would not impose administrative sanctions on [name redacted] under sections 1128(b)(7) or 1128A(a)(7) of the Act (as those sections relate to the commission of acts described in section 1128B(b) of the Act) in connection with the Proposed Arrangement. This opinion is limited to the Proposed Arrangement and, therefore, we express no opinion about any ancillary agreements or arrangements disclosed or referenced in your request for an advisory opinion or supplemental submissions.

IV. LIMITATIONS

The limitations applicable to this opinion include the following:

- This advisory opinion is issued only to [name redacted], the requestor of this opinion. This advisory opinion has no application to, and cannot be relied upon by, any other individual or entity.

- This advisory opinion may not be introduced into evidence by a person or entity other than [name redacted] to prove that the person or entity did not violate the provisions of sections 1128, 1128A, or 1128B of the Act or any other law.

- This advisory opinion is applicable only to the statutory provisions specifically noted above. No opinion is expressed or implied herein with respect to the application of any other Federal, state, or local statute, rule, regulation, ordinance, or other law that may be applicable to the Proposed Arrangement, including, without limitation, the physician self-referral law,

section 1877 of the Act (or that provision's application to the Medicaid program at section 1903(s) of the Act).

- This advisory opinion will not bind or obligate any agency other than the U.S. Department of Health and Human Services.

- This advisory opinion is limited in scope to the specific arrangement described in this letter and has no applicability to other arrangements, even those which appear similar in nature or scope.

- No opinion is expressed herein regarding the liability of any party under the False Claims Act or other legal authorities for any improper billing, claims submission, cost reporting, or related conduct.

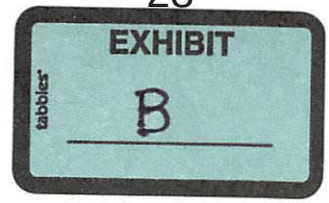
This opinion is also subject to any additional limitations set forth at 42 C.F.R. Part 1008.

The OIG will not proceed against [name redacted] with respect to any action that is part of the Proposed Arrangement taken in good faith reliance upon this advisory opinion, as long as all of the material facts have been fully, completely, and accurately presented, and the Proposed Arrangement in practice comports with the information provided. The OIG reserves the right to reconsider the questions and issues raised in this advisory opinion and, where the public interest requires, to rescind, modify, or terminate this opinion. In the event that this advisory opinion is modified or terminated, the OIG will not proceed against [name redacted] with respect to any action that is part of the Proposed Arrangement taken in good faith reliance upon this advisory opinion, where all of the relevant facts were fully, completely, and accurately presented and where such action was promptly discontinued upon notification of the modification or termination of this advisory opinion. An advisory opinion may be rescinded only if the relevant and material facts have not been fully, completely, and accurately disclosed to the OIG.

Sincerely,

/Gregory E. Demske/

Gregory E. Demske
Chief Counsel to the Inspector General



OFFICE OF INSPECTOR GENERAL

SPECIAL ADVISORY BULLETIN

OFFERING GIFTS AND OTHER INDUCEMENTS TO BENEFICIARIES

August 2002

Introduction

Under section 1128A(a)(5) of the Social Security Act (the Act), enacted as part of Health Insurance Portability and Accountability Act of 1996 (HIPAA), a person who offers or transfers to a Medicare or Medicaid beneficiary any remuneration that the person knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of Medicare or Medicaid payable items or services may be liable for civil money penalties (CMPs) of up to $10,000 for each wrongful act. For purposes of section 1128A(a)(5) of the Act, the statute defines "remuneration" to include, without limitation, waivers of copayments and deductible amounts (or any part thereof) and transfers of items or services for free or for other than fair market value. (See section 1128A(i)(6) of the Act.) The statute and implementing regulations contain a limited number of exceptions. (See section 1128A(i)(6) of the Act; 42 CFR 1003.101.)

Offering valuable gifts to beneficiaries to influence their choice of a Medicare or Medicaid provider[1] raises quality and cost concerns. Providers may have an economic incentive to offset the additional costs attributable to the giveaway by providing unnecessary services or by substituting cheaper or lower quality services. The use of giveaways to attract business also favors large providers with greater financial resources for such activities, disadvantaging smaller providers and businesses.

The Office of Inspector General (OIG) is responsible for enforcing section 1128A(a)(5) through administrative remedies. Given the broad language of the prohibition and the number of marketing practices potentially affected, this Bulletin is intended to alert the health care industry as to the scope of acceptable practices. To that end, this Bulletin

[1]For convenience, in this Special Advisory Bulletin, the term "provider" includes practitioners and suppliers, as defined in 42 CFR 400.202.

provides bright-line guidance that will protect the Medicare and Medicaid programs, encourage compliance, and level the playing field among providers. In particular, the OIG will apply the prohibition according to the following principles:

- First, the OIG has interpreted the prohibition to permit Medicare or Medicaid providers to offer beneficiaries inexpensive gifts (other than cash or cash equivalents) or services without violating the statute. For enforcement purposes, inexpensive gifts or services are those that have a retail value of no more than $10 individually, and no more than $50 in the aggregate annually per patient.

- Second, providers may offer beneficiaries more expensive items or services that fit within one of the five statutory exceptions: waivers of cost-sharing amounts based on financial need; properly disclosed copayment differentials in health plans; incentives to promote the delivery of certain preventive care services; any practice permitted under the federal anti-kickback statute pursuant to 42 CFR 1001.952; or waivers of hospital outpatient copayments in excess of the minimum copayment amounts.

- Third, the OIG is considering several additional regulatory exceptions. The OIG may solicit public comments on additional exceptions for complimentary local transportation and for free goods in connection with participation in certain clinical studies.

- Fourth, the OIG will continue to entertain requests for advisory opinions related to the prohibition on inducements to beneficiaries. However, as discussed below, given the difficulty in drawing principled distinctions between categories of beneficiaries or types of inducements, favorable opinions have been, and are expected to be, limited to situations involving conduct that is very close to an existing statutory or regulatory exception.

In sum, unless a provider's practices fit within an exception (as implemented by regulations) or are the subject of a favorable advisory opinion covering a provider's own activity, any gifts or free services to beneficiaries should not exceed the $10 per item and $50 annual limits.[2]

In addition, valuable services or other remuneration can be furnished to financially needy beneficiaries by an independent entity, such as a patient advocacy group, even if the benefits are funded by providers, so long as the independent entity makes an independent determination of need and the beneficiary's receipt of the remuneration does not depend, directly or indirectly, on the beneficiary's use of any particular provider. An example of

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[2]The OIG will review these limits periodically and may adjust them for inflation if appropriate.

such an arrangement is the American Kidney Fund's program to assist needy patients with end stage renal disease with funds donated by dialysis providers, including paying for their supplemental medical insurance premiums. (See, e.g., OIG Advisory Opinion No. 97-1 and No. 02-1.)

Elements of the Prohibition

Remuneration. Section 1128A(a)(5) of the Act prohibits the offering or transfer of "remuneration". The term "remuneration" has a well-established meaning in the context of various health care fraud and abuse statutes. Generally, it has been interpreted broadly to include "anything of value." The definition of "remuneration" for purposes of section 1128A(a)(5) – which includes waivers of coinsurance and deductible amounts, and transfers of items or services for free or for other than fair market value – affirms this broad reading. (See section 1128A(i)(6).) The use of the term "remuneration" implicitly recognizes that virtually any good or service has a monetary value.[3]

The definition of "remuneration" in section 1128A(i)(6) contains five specific exceptions:

- Non-routine, unadvertised waivers of copayments or deductible amounts based on individualized determinations of financial need or exhaustion of reasonable collection efforts. Paying the premiums for a beneficiary's Medicare Part B or supplemental insurance is not protected by this exception.

- Properly disclosed differentials in a health insurance plan's copayments or deductibles. This exception covers incentives that are part of a health plan design, such as lower plan copayments for using preferred providers, mail order pharmacies, or generic drugs. Waivers of Medicare or Medicaid copayments are not protected by this exception.

- Incentives to promote the delivery of preventive care. Preventive care is defined in 42 CFR 1003.101 to mean items and services that (i) are covered by Medicare or Medicaid and (ii) are either pre-natal or post-natal well-baby services or are services described in the Guide to Clinical Preventive Services published by the U.S. Preventive Services Task Force (available online at http://odphp.osphs.dhhs.gov/pubs/guidecps). Such incentives may not be in the form of cash or cash equivalents and may not be disproportionate to the value of the preventive care provided. (See 42 CFR 1003.101; 65 FR 24400 and 24409.)

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[3] Some services, such as companionship provided by volunteers, have psychological, rather than monetary value. (See, e.g., OIG Advisory Opinion No. 00-3.)

- Any practice permitted under an anti-kickback statute safe harbor at 42 CFR 1001.952.[4]

- Waivers of copayment amounts in excess of the minimum copayment amounts under the Medicare hospital outpatient fee schedule.

(See section 1128A(i)(6) of the Act; 42 CFR 1003.101.)

In addition, in the Conference Committee report accompanying the enactment of section 1128A(a)(5), Congress expressed its intent that inexpensive gifts of nominal value be permitted. (See Joint Explanatory Statement of the Committee of Conference, section 231 of HIPAA, Public Law 104-191.) Accordingly, the OIG interprets the prohibition to exclude offers of inexpensive items or services, and no specific exception for such items or services is required. (See 65 FR 24400 and 24410.) The OIG has interpreted inexpensive to mean a retail value of no more than $10 per item or $50 in the aggregate per patient on an annual basis. Id. at 24411.

Inducement. Section 1128A(a)(5) of the Act bars the offering of remuneration to Medicare or Medicaid beneficiaries where the person offering the remuneration knows or should know that the remuneration is likely to influence the beneficiary to order or receive items or services from a particular provider. The "should know" standard is met if a provider acts with deliberate ignorance or reckless disregard. No proof of specific intent is required. (See 42 CFR 1003.101.)

The "inducement" element of the offense is met by any offer of valuable (i.e., not inexpensive) goods and services as part of a marketing or promotional activity, regardless of whether the marketing or promotional activity is active or passive. For example, even if a provider does not directly advertise or promote the availability of a benefit to beneficiaries, there may be indirect marketing or promotional efforts or informal channels of information dissemination, such as "word of mouth" promotion by practitioners or patient support groups. In addition, the OIG considers the provision of free goods or services to existing customers who have an ongoing relationship with a provider likely to influence those customers' future purchases.

Beneficiaries. Section 1128A(a)(5) of the Act bars inducements offered to Medicare and Medicaid beneficiaries, regardless of the beneficiary's medical condition. The OIG is aware that some specialty providers offer valuable gifts to beneficiaries with specific chronic conditions. In many cases, these complimentary goods or services have therapeutic, as well as financial, benefits for patients. While the OIG is mindful of the

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[4] For example, anti-kickback statute safe harbors exist for warranties; discounts; employee compensation; waivers of certain beneficiary coinsurance and deductible amounts; and increased coverage, reduced cost-sharing amounts, or reduced premium amounts offered by health plans. See 42 CFR 1001.952(g), (h), (i), and (k).

hardships that chronic medical conditions can cause for beneficiaries, there is no meaningful basis under the statute for exempting valuable gifts based on a beneficiary's medical condition or the condition's severity. Moreover, providers have a greater incentive to offer gifts to chronically ill beneficiaries who are likely to generate substantially more business than other beneficiaries.

Similarly, there is no meaningful statutory basis for a broad exemption based on the financial need of a category of patients. The statute specifically applies the prohibition to the Medicaid program – a program that is available only to financially needy persons. The inclusion of Medicaid within the prohibition demonstrates Congress' conclusion that categorical financial need is not a sufficient basis for permitting valuable gifts. This conclusion is supported by the statute's specific exception for non-routine waivers of copayments and deductibles based on individual financial need. If Congress intended a broad exception for financially needy persons, it is unlikely that it would have expressly included the Medicaid program within the prohibition and then created such a narrow exception.

Provider, Practitioner, or Supplier. Section 1128A(a)(5) of the Act applies to incentives to select particular providers, practitioners, or suppliers. As noted in the regulations, the OIG has interpreted this element to exclude health plans that offer incentives to Medicare and Medicaid beneficiaries to enroll in a plan. (See 65 FR 24400 and 24407.) However, incentives provided to influence an already enrolled beneficiary to select a particular provider, practitioner, or supplier within the plan are subject to the statutory proscription (other than copayment differentials that are part of a health plan design). Id. In addition, the OIG does not believe that drug manufacturers are "providers, practitioners, or suppliers" for the limited purposes of section 1128A(a)(5), unless the drug manufacturers also own or operate, directly or indirectly, pharmacies, pharmacy benefits management companies, or other entities that file claims for payment under the Medicare or Medicaid programs.

Additional Regulatory Considerations

Congress has authorized the OIG to create regulatory exceptions to section 1128A(a)(5) of the Act and to issue advisory opinions to protect acceptable arrangements. (See sections 1128A(i)(6)(B) and 1128D(b)(2)(A) of the Act.) While the OIG has considered numerous arrangements involving the provision of various free goods and services to beneficiaries, for the following reasons the OIG has concluded that any additional exceptions will likely be few in number and narrow in scope:

- Any exception will create the activity that the statute prohibits – namely, competing for business by giving remuneration to Medicare and Medicaid beneficiaries. Moreover, competition will not only result in providers matching a competitor's offer, but inevitably will trigger ever more valuable

offers.

- Since virtually all free goods and services have a corresponding monetary value, there is no principled basis under the statute for distinguishing between the kinds of goods or services offered or the types of beneficiaries to whom the goods or services are offered. Attempting to draw such distinctions would necessarily result in arbitrary standards and would undermine the entire prohibition. Congress has provided no further statutory guidance on the bases for distinguishing and evaluating potential exceptions.

Despite these serious concerns, the OIG is considering soliciting public comment on the possibility of regulatory "safe harbor" exceptions under section 1128A(a)(5) for two kinds of arrangements:

- **Complimentary local transportation.** The OIG is considering proposing a new exception for complimentary local transportation offered to beneficiaries residing in the provider's primary catchment area. The proposal would permit some complimentary local transportation of greater than nominal value. However, the exception would not cover luxury or specialized transportation, including limousines or ambulances (but would permit vans specially outfitted to transport wheelchairs). The proposed exception may include transportation to the office or facility of a provider other than the donor; however, such arrangements may implicate the anti-kickback statute insofar as they confer a benefit on a provider that is a potential referral source for the party providing the transportation.

- **Government-sponsored clinical trials.** The OIG may propose a new exception for free goods and services (possibly including waivers of copayments) in connection with certain clinical trials that are principally sponsored by the National Institutes of Health or another component of the Department of Health and Human Services.

The OIG is reviewing its pending proposal (65 FR 25460) to permit certain dialysis providers to purchase Medicare supplemental insurance for financially needy persons in the light of the principles established in this Bulletin.

While the OIG does not expect at this time to propose any additional regulatory exceptions related to unadvertised waivers of copayments and deductibles, the OIG recognizes that such waivers occur in a wide variety of circumstances, some of which do not present a significant risk of fraud and abuse. The OIG encourages the industry to bring these situations to our attention through the advisory opinion process. Instructions for requesting an OIG advisory opinion are available on the OIG website at http://oig.hhs.gov/fraud/advisoryopinions.html

Finally, the OIG reiterates that nothing in section 1128A(a)(5) prevents an independent entity, such as a patient advocacy group, from providing free or other valuable services or remuneration to financially needy beneficiaries, even if the benefits are funded by providers, so long as the independent entity makes an independent determination of need and the beneficiary's receipt of the remuneration does not depend, directly or indirectly, on the beneficiary's use of any particular provider. The OIG has approved several such arrangements through the advisory opinion process, including the American Kidney Fund's program to assist needy patients with end stage renal disease with funds donated by dialysis providers. (See, e.g., OIG Advisory Opinion No. 97-1 and No. 02-1.)

Conclusion

Congress has broadly prohibited offering remuneration to Medicare and Medicaid beneficiaries, subject to limited, well-defined exceptions. To the extent that providers have programs in place that do not meet any exception, the OIG, in exercising its enforcement discretion, will take into consideration whether the providers terminate prohibited programs expeditiously following publication of this Bulletin.

The Office of Inspector General (OIG) was established at the Department of Health and Human Services by Congress in 1976 to identify and eliminate fraud, abuse, and waste in the Department's programs and to promote efficiency and economy in departmental operations. The OIG carries out this mission through a nationwide program of audits, investigations, and inspections.

The Fraud and Abuse Control Program, established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), authorized the OIG to provide guidance to the health care industry to prevent fraud and abuse and to promote the highest level of ethical and lawful conduct. To further these goals, the OIG issues Special Advisory Bulletins about industry practices or arrangements that potentially implicate the fraud and abuse authorities subject to enforcement by the OIG.

RESOLUTION NO. _____-2015

A RESOLUTION AUTHORIZING THE DEPARTMENT OF SOCIAL SERVICES TO CREATE AND ADMINISTER AN EMERGENCY MEDICAL TRANSPORTATION ASSISTANCE PROGRAM TO ASSIST INDIVIDUALS WHO ARE INCOME-ELIGIBLE WITH PAYING THE COST OF EMERGENCT MEDICAL TRANSPORTATION SERVICES.

WHEREAS, many Lexington-Fayette County citizens find it difficult or are unable to pay the fees associated with emergency ambulance transportation ; and

WHEREAS, because many Lexington-Fayette County citizens perceive that they are unable to pay for the cost of emergency medical transport, many make the decision to refuse emergency medical transport that is offered; and

WHEREAS, the Department of Social Services' Adult and Tenant Services currently provides limited financial assistance for other program areas to certain income-eligible Lexington-Fayette County citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Department of Social Services is hereby authorized to create and administer an Emergency Medical Transportation Assistance Program. The Program shall be designed to assist individuals who are income-eligible with paying for the cost of emergency medical transportation services. The Department shall develop the application and procedures necessary for the administration of the program.

Section 2– That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

_____
MAYOR

ATTEST:

_____
CLERK OF URBAN COUNTY COUNCIL

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DATE: February 24, 2015

TO: Council Member Chris Ford, Chair & Members of the
General Government & Social Services Committee

FROM: Council Member Shevawn Akers, 2nd District

RE: Inclusion of Veterans in Disadvantaged Business Enterprise Program

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Existing LFUCG Policy

- The Lexington-Fayette Urban County Government (LFUCG) passed Resolution No. 167-91 in April 1991, adopting an Administrative Plan for Implementation of DBE 10% Minimum Goal for Construction Contracts and Professional Services (Plan).

- The Plan set a goal that not less than ten percent (10%) of the total value of purchasing contracts be subcontracted to Disadvantaged Business Enterprises (DBE), which are defined by the Plan as "majority owned and controlled by an individual or combination or individuals who are disadvanged…", and are further defined as follows:

    1. Disadvantaged Individual – Any legal resident of the United States having ethnic origin in the Black racial groups of Africa or any legal resident of the USA who is a member of an economic, religious, ethnic, cultural, racial, or national origin group which has a history of nonparticipation in government contracts.

    2. Disadvantaged Individual – May also be a handicapped person…with a physical or mental disability.

    3. Disadvantaged Individual – May also be a female resident of the United States.

According to the LFUCG MBE website, current certification defines minority & women-owned businesses as:

- 51% or more owned, controlled, operated & managed by a minority or woman with U.S. or permanent citizenship;
- Current minority categories include:
    - African-American
    - Hispanic-American
    - Asian-American/Pacific Islander
    - Native-American/ Native Alaskan
    - Non-Minority Female

Definitions

Veteran, as defined in 38 CFR §74.1, as amended, is a person who is presently serving or who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard also qualify.

Veteran-owned business (VOB), as specified in 38 CFR §74.I, as amended, is a business that is not less than 51% owned by one or more veterans, or in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and, the management and daily business operations of which are controlled by one or more veterans.

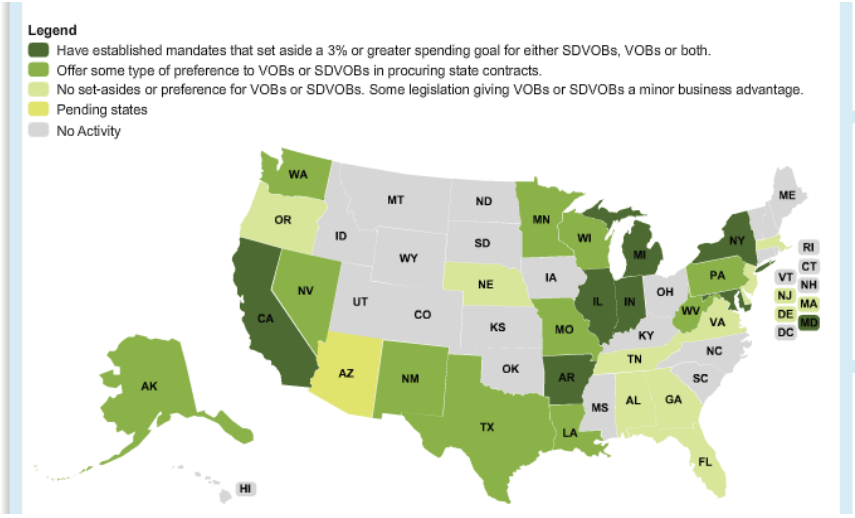
According to the Kentucky Department of Veteran Affairs, there are…

- **339,000** veterans in Kentucky;
- **162,000** veterans in the state workforce;
- **19,995** veterans in Fayette County (as of 2013); and
- **254** veteran-owned businesses registered in Ky. and **20** registered in Fayette

County. *(http://www.veteranownedbusiness.com/ky)*

Federal and State Actions

A number of federal and state programs have been implemented to provide for veterans preference through the government purchasing/procurement process.



1. In 1989, California was among the first states to pass legislation requiring that three percent (3%) of state government contracts be awarded to small businesses owned by disabled American military veterans.

2. The federal government passed the **Veterans Entrepreneurship and Small Business Development Act of 1999**, requiring that 3% of federal contracts be awarded to disabled military veterans.

3. Since that time, **more than half the states** have adopted policies providing preference for veteran-owned businesses.

4. **Kentucky is currently considering a bipartisan bill, HB 497, that would provide preference for veteran-owned businesses.**

HB 497 (BR 1396) - D. Schamore, R. Webber, J. DuPlessis, D. Floyd, J. Greer, T. Moore

AN ACT relating to disabled veteran-owned businesses.

Create a new section of KRS Chapter 42 to provide for a disabled veteran-owned business certification program; define "disabled veteran" and "disabled veteran owned business"; require the Office of Equal Employment Opportunity and Contract Compliance to establish guidelines for the certification program and application process through the promulgation of administrative regulations

Examples of Municipal Legislation & Policy

The following municipalities have enacted legislation that provides preference through purchasing and procurement requirements:

MUNICIPALITY	PREFERENCE	DATE OF LEGISLATION
Indianapolis, IN	3%	2008
Albuquerque, NM	5%	2013
Pembroke Pines, FL	2.5%	
San Antonio, TX	5%	2013
County of Los Angeles	8%	2013
Prince George's County, MD	10% (in-county); 5% (outside county)	

Sample language for revised Resolution…

WHEREAS, the Lexington-Fayette Urban County Government (LFUCG) desires to honor the extraordinary service rendered to the United States by current service members and veterans who served in the active service of the Nation's military, naval or air service, including reserve components thereof, and of the National Guard; and

WHEREAS, LFUCG wishes to acknowledge this honor by giving a preference to businesses owned and controlled by veterans in the award of certain contracts;

THEREFORE, the Urban County Council hereby amends Resolution No. 167-91 to include current service members and veterans of the Armed Forces in its definition of a Disadvantaged Individual.

DRAFT 04-14-15

RESOLUTION NO. _____ - 2015

A RESOLUTION ADOPTING A THREE PERCENT (3%) MINIMUM GOAL FOR CERTIFIED VETERAN-OWNED SMALL BUSINESSES AND SERVICE DISABLED VETERAN-OWNED BUSINESSES FOR CERTAIN OF THOSE LEXINGTON-FAYETTE URBAN COUNTY CONTRACTS RELATED TO CONSTRUCTION AND/OR PROFESSIONAL SERVICES, AND AUTHORIZING THE DIVISION OF PURCHASING TO ADOPT AND IMPLEMENT GUIDELINES AND/OR POLICIES CONSISTENT WITH THE PROVISIONS AND INTENT OF THIS RESOLUTION BY NO LATER THAN JULY 1, 2015.

WHEREAS, the Lexington-Fayette Urban County Government desires to honor the extraordinary service rendered to the United States of America, the Commonwealth of Kentucky, and the Lexington-Fayette Urban County Government by those veterans who have served in the Nation's military, naval or air service, including reserve components thereof, and of the National Guard; and

WHEREAS, the Urban County Council has determined that it should encourage the retention of veteran-owned small businesses and service disabled veteran-owned businesses in performing certain contracts with the Lexington-Fayette Urban County; and

WHEREAS, the Urban County Council wishes to establish goals with respect to these businesses consistent with those found in federal law or regulation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Lexington-Fayette Urban County Government be and hereby adopts a three percent (3%) minimum goal for certified Veteran-Owned Small Businesses and certified Service Disabled Veteran-Owned Businesses for certain of those Urban County Government contracts related to Construction and/or Professional Services, and further provides for the following related thereto:

a. That the terms Veteran-Owned Small Business and Service Disabled Veteran-Owned Business shall be defined and interpreted consistent with federal law or regulation as it may be amended from time-to-time.

b. That the Division of Purchasing is authorized to adopt and implement guidelines and/or policies consistent with the provisions and intent of this Resolution which shall include, but are not necessarily limited to, including these goals in the advertisements for bids or requests for proposals and the

qualifications of bidders or respondents, requiring good faith efforts, providing assistance to qualified contractors or respondents, and creating a certification process for those businesses qualifying pursuant to this Resolution.

c. That all construction-related contracts funded by the Urban County Government that are required to be formally bid pursuant to law are to include a process under which these goals and the appropriate aspects of the guidelines or policies are addressed.

d. That all professional service contracts funded by the Urban County Government in an amount exceeding $25,000 are to include a process under which these goals and the appropriate aspects of the guidelines or policies are addressed.

e. That the guidelines or policies related to these goals shall be adopted and implemented by the Division of Purchasing by no later than July 1, 2015.

Section 2 - That it is the intent of the Urban County Government that these goals are in addition to those goals adopted under the Administrative Plan for Implementation of a ten percent (10%) goal for Disadvantaged Business Enterprises as provided in Resolution No. 167-91, and that Resolution No. 167-91 is in no way amended or modified as a result of this Resolution.

Section 3 - If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

_____
MAYOR

ATTEST:

_____

DRAFT 04-14-15

CLERK OF URBAN COUNTY COUNCIL

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Office of Susan Lamb
4th District Councilmember

Lexington-Fayette Urban County Council

Memorandum

To: General Government & Social Services Committee Members

From: Susan Lamb

Cc:

Date: April 9, 2015

Subject: Appointment – Ethics Ordinance Review Subcommittee

I hereby appoint Councilmember Amanda Bledsoe to the Ethics Ordinance Review Subcommittee. Councilmember Bledsoe will fill the vacated seat of former Councilmember Chris Ford.

Therefore, the revised subcommittee includes the following members:

Councilmember Angela Evans – Chair
Councilmember Amanda Bledsoe
Councilmember Susan Lamb
Councilmember Richard Moloney
Councilmember Jennifer Scutchfield

As a reminder, the subcommittee is tasked with the following foci:

- Modifying the Nominating Process for Ethics Commission members
- Expanding the Financial Disclosure requirements for LFUCG Boards & Commissions
- Policy impacting Domestic Partnerships, including nepotism & disclosure
- Misconduct, Compliant Processes, Hearing Procedures, etc.
- Lobbyist Registration/Transparency

The Ethics Ordinance Review Subcommittee is supported by the resources and assistance of stakeholders, including the Council Clerks' Office, Council Core Staff, the Department of Law, the Ethics Commission, the 4th and 6th District Council Offices, and additional LFUCG staff as requested by the body.

The subcommittee shall bring forth interim reports and updates at least every 60 days to the General Government and Social Services Committee.

Bluegrass International Community Center Update

May 5, 2015

General Government & Social Services Committee

Department of Social Services

Office of Multicultural Affairs

Update

Mission

To support the city and it's residents, individually and collectively, to thrive in today's **global** environment through the deliberate encouragement of civic **engagement**, mutual understanding, and economic & artistic diversity.

Emerging Local Demographics

- Over 50,000 foreign-born residents in Lexington
- Approximately 1 of every 6 residents

Center Location: 1306 Versailles Road

Community Partnerships

Long-Term Goal

Continued input & support from international and local leaders in business, the arts, and academia:

- Meet individual & community needs from literacy to assistance with international commerce and business
- Assessment & provision of multilingual services, and referrals for housing, health, legal aid, citizenship classes, career, business and job opportunities

Immediate Goal

- Creation of a Mayor's International Affairs Advisory Commission

Mayor's International Affairs Advisory Commission

The Body

The Commission, consisting of individuals with experience and expertise in international affairs in both the public and private sectors

The Purpose

To provide information and advice to the Mayor and Urban County Council concerning issues affecting foreign-born residents of Lexington – Fayette County as well as international issues that affect the community-at-large

Mayor's International Affairs Advisory Commission

- 23 Members
  - 10 Foreign Born Residents

    Africa, Asia, Europe, the Americas & the Middle East

  - 5 Community – at – large members
  - 2 Council Members
  - 6 Ex- Officio Members

    Mayor, CAO, Commissioners & Multicultural Coordinator

Duties – International Affairs Commission

- **Promote** cultural understanding, education, civic engagement and cooperation
- **Provide** international expertise, advocacy and resources for the benefit of the greater community
- **Lend** vision, guidance and support to the ***Lexington Global Engagement Center***
- **Assess** the availability, accessibility, & effectiveness of services to foreign-born residents in Lexington

Duties – International Affairs Commission

- **Foster** international community relationships and inclusion of immigrants & minorities
- **Review** and make recommendations to government pertaining to the commission's duties & purpose
- **Seek** resources & community partnerships to support commission initiatives & programs
- **Provide** technical assistance to programs and projects impacting international affairs, services & persons

Duties – International Affairs Commission

- **Engage** local, state, national and international leaders and institutions to network and build mutual respect and understanding among the many nations represented in Lexington – Fayette County

- **Share** resources, disseminate information, and promote opportunities for services to address the needs of international persons

Recommendations

- Create the Mayor's International Affairs Advisory Commission via adoption of Council Ordinance.

- Council endorsement of the Dept. of Social Services' recommendation to rename the proposed Bluegrass International Community Center & identify the facility as the *Lexington Global Engagement Center.*

- Council support of Mayor's FY 16 Proposed Budget appropriation for the Office of Multicultural Affairs.

Questions & Comments

ORDINANCE NO. _____

AN ORDINANCE CREATING ARTICLE XXXXVII IN CHAPTER 2 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO CREATE THE MAYOR'S INTERNATIONAL AFFAIRS ADVISORY COMMISSION.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Article XXXXVII of Chapter 2 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 2-495. Created.

(a) A commission is hereby created which shall be known as the "Mayor's International Affairs Advisory Commission".

(b) The Commission, consisting of individuals with experience and expertise in international affairs in both the public and private sectors, is established for the purpose of providing information and advice to the Mayor and the Urban County Council concerning issues affecting foreign-born residents of Lexington-Fayette County as well as international issues that affect the community-at-large.

Sec. 2-496. Membership.

The commission shall consist of twenty-three (23) members, seventeen (17) of which shall be

appointed by the Mayor, subject to confirmation by a majority of the council. The seventeen (17) appointed members shall consist of two (2) members from the Lexington-Fayette Urban County Council; Ten (10) members shall be selected from Lexington-Fayette County foreign-born residents who shall be from and represent the following international geographic areas: two (2) representatives from Africa; two (2) representatives from Asia; two (2) representatives from Europe; two (2) representatives from the Americas; and two (2) representatives from the Middle East.

Five (5) members shall be from the community-at-large, from academia or other organizations which specialize in or have specific interests or competencies in global business, immigration, refugees, or international affairs.

Six (6) members shall be the following urban county government officers: the chief administrative officer or designee, the commissioner of social services or designee, the commissioner of general services or designee, the commissioner of public safety or designee, the chief development officer or designee and the Multicultural Affairs Coordinator. The six (6) members from the urban county government shall be

non-voting ex-officio members.

Sec. 2-497. Terms of office.

The members of the commission, other than ex-officio members, shall serve a term of four (4) years from the date of appointment, provided the terms of those originally appointed shall be staggered in the following manner: Eight (8) members shall be appointed for two (2) years and nine (9) members shall be appointed for four (4) years. Vacancies shall be filled for the unexpired term in the manner prescribed for the original appointment. Members of the commission may only serve two (2) consecutive terms. Members of the commission who have served two (2) consecutive full terms shall not be able to succeed themselves until the lapse of twelve (12) months from the end of said term. The membership of the two (2) urban county council members and the other ex-officio members shall be deemed to have terminated upon their leaving office as members of the urban county council or as officers of the urban county government.

Sec. 2-498. Quorum.

A majority of the voting members of the commission shall constitute a quorum for transaction of

business at any meeting of the commission. The acts of the majority of those present at any regular or special meeting of the commission shall be the acts of the commission.

Sec. 2-499. General Powers.

The commission may enter into contracts, expend such funds as may become available to it, and adopt bylaws, rules and regulations as are necessary to carry out its duties and purposes set forth in this article. The commission shall not acquire any interest in real property without the expressed prior consent of the mayor and the urban county council.

Sec. 2-500. Duties.

The commission shall, as permitted by law:

(1) Promote cultural understanding, education, civic engagement and cooperation;

(2) Provide international expertise, advocacy and resources for the benefit of the greater community;

(3) Lend vision, guidance, and support to the Lexington Global Engagement Center;

(4) Assess the availability, accessibility, and effectiveness of services appropriate to enhance and provide the necessary quality of life of foreign-born

residents utilizing input from departments and divisions of the urban county government and the private sector;

(5) Foster international community relationships and inclusion to aid the integration and adaptation of immigrants and minorities into American culture and society being inclusive of local cultures and the community-at-large;

(6) Review and make recommendations on all aspects of the urban county budget pertaining to the duties and purpose of the commission;

(7) Apply for, receive and disburse funds and contracts with any state, federal, public or private agency for the purpose of carrying out its duties as set forth herein, utilizing staff made available to or employed by it;

(8) Review, provide technical assistance, recommend, stimulate and/or endorse projects, opportunities and programs in both the public and private sector which have a bearing on international affairs, services or persons;

(9) Engage local, state, national and international leaders and institutions to network and build mutual respect and understanding among the many nations

represented in the Lexington-Fayette county community;

(10) Solicit and receive contributions, prepare surveys and studies, conduct conferences, sponsor educational/promotional programs related to services and needs of international persons, and engage in other activities appropriate to the goals of the Commission.

Sec. 2-501. Reports; no power to operate programs.

The commission shall regularly report to the mayor and the urban county council. The commission shall not have the power to directly operate any program.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

_____
MAYOR

ATTEST:

_____
CLERK OF URBAN COUNTY COUNCIL

General Government Social Services Committee Referrals

Referral Item:		Referred By:	Date Referred:	Status:
1	Workforce Investment & Training	Henson	Nov. 2012	Ongoing -- March 2015
2	Aquatics Program Design	Scutchfield	July 2014	February 2015; update after completed
3	Parks Foundation	Scutchfield	July 2014	Sept. 2014
4	**Review of Ethics Ordinance**	**Evans**	**Oct. 2014**	**February 2015; May 2015; in subcommittee**
5	**Bluegrass International Center**	**Lamb**	**Jan. 2015**	**February 2015; May 2015; update after completed**
6	**EMS Service Fees**	**Henson**	**Jan. 2015**	**May 2015**
7	**Inclusion of Veterans as Disadvantaged Business Enterprises (DBE)**	**Akers**	**Feb. 2015**	**March 2015; May 2015**
8	Masterson Station Park Master Plan Update	Akers	Feb. 2015	
Current as of April 22, 2015				