

**STATE OF KANSAS  
911 COORDINATING COUNCIL  
NOTICE OF HEARING ON PROPOSED ADMINISTRATIVE REGULATIONS**

A public hearing will be conducted at 10:00 a.m. on January 17, 2012, in the Landon State Office Building, 900 SW Jackson, Room 106, Topeka, Kansas to consider the adoption of K.A.R. 132-2-1 and 132-4-1, rules and regulations of the 911 Coordinating Council (Council), on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the adoption of K.A.R. 132-2-1 and 132-4-1. All interested parties may submit written comments prior to the hearing to the Governor's Grants Program, 900 SW Jackson, Room 304 North, Topeka, Kansas 66612 or at Jennifer.Cook@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of K.A.R. 132-2-1 and 132-4-1 during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request K.A.R. 132-2-1 and 132-4-1 and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Mary Greb-Hall, at (785) 296-2701 (or TTY 1-800-766-3777). The northwest entrance to the Landon State Office Building is accessible. Handicapped parking is located near the northwest entrance.

Summaries of K.A.R. 132-2-1 and 132-4-1 and the respective economic impacts follow.

K.A.R. 132-2-1 establishes prerequisites for the selection of the local collection point

administrator (LCPA) and establishes criteria for extending the LCPA contract as authorized pursuant to the Kansas 911 Act (Act) (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto).

In order to be selected, a LCPA candidate shall at a minimum (1) have the ability to comply with all contract requirements established by the secretary of administration; (2) have at least three years of experience in public sector financial administration and accounting; (3) secure and manage accounts and services at a federally insured financial institution with a physical presence in Kansas; and (4) have the ability to provide appropriate staffing to the Council to meet the Council's obligations under the Act.

The LCPA is selected by the Council with the advice and consent of the Legislative Coordinating Council through a competitive procurement process. The initial LCPA contract will be two years, but a third year may be added by the Council if (1) the Council determines the LCPA has successfully fulfilled its contractual and legal responsibilities for at least 12 months; (2) the annual audit of the 911 fee receipts and disbursements by the LCPA demonstrates appropriate recordkeeping and administration of monies; and (3) the contract extension can control cost increases for services or reduce risks of disruption of essential LCPA services.

K.A.R. 132-4-1 establishes a regulation that authorizes the Council to assess monetary penalties against providers that fail to comply with the provisions of the Act (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto). Under the terms of the regulation, a provider can be deemed to be in delinquent status if it (1) failed to submit the provider's contact information on or before January 1, 2012, in the form and containing the information required by the Council to the Council or the Council's designee; (2) has not previously provided service in Kansas and fails to submit the provider's contact information within three months of first offering services in

Kansas, in the form and containing the information required by the Council to the Council or the Council's designee; or (3) fails to notify the Council or the Council's designee within 30 days of any change in the provider's contact information; or (4) fails to submit 911 fees and the return in the form required by the LCPA to the LCPA on or before the 30<sup>th</sup> of each calendar month following a return for the preceding month.

The penalty of \$500 a day or 10% of the 911 fees due from a delinquent provider for the corresponding month, whichever is greater, is to be assessed by written order of the Council or the Council's designee against any provider that is determined to be in delinquent status. Written notice of the penalty assessment, the violation, and the right to a hearing is to be issued by the Council.

The regulation requires any monetary penalties to be remitted to the Council or the Council's designee.

The Council or a duly authorized agent of the Council is required to administer the processes for determining and assessing penalties and hearing any appeals of the penalties in accordance with the provisions of the Kansas Administrative Procedures Act (KAPA).

With the adoption of K.A.R. 132-2-1, the economic impact on the Council is minimal as the LCPA contract is funded by an administrative fee not to exceed 1.5% of 911 fees collected from service users.

The economic impact on providers is minimal or nonexistent as the LCPA contract is funded with an administration fee not to exceed 1.5% of 911 fees collected from service users. The 911 fees statutorily required to be collected by providers from service users will not be effected by the implementation or the extension of the LCPA contract.

The economic impact on PSAPs is existent in that the LCPA contract is funded with an

administration fee not to exceed 1.5% of 911 fees collected from service users. Therefore, the money used to fund the LCPA contract is potentially money that PSAPs may have otherwise received. However, LCPA services are necessary to facilitate the distribution of the 911 fees to PSAPs collected from providers.

The economic impact on subscriber rates will be minimal or nonexistent. The LCPA contract is funded with an administration fee not to exceed 1.5% of 911 fees collected from service users. Providers are statutorily required to collect the 911 fees from service users. Providers' statutory obligation will not change dependent upon the terms or length of the LCPA contract. Therefore, subscriber rates should not be affected.

With the adoption of K.A.R. 132-4-1, the economic impact on the Council is minimal, the penalties collected by the Council will be deposited by the LCPA into the 911 State Grant Fund.

The economic impact on any provider that does not accurately and timely remit data and fees as required by the Act could be significant depending on the severity and length of the provider's delinquency. K.A.R. 132-4-1 imposes penalties of \$500.00 per day or 10% of the 911 fees due from the delinquent provider for the corresponding month, whichever is greater. The economic impact on providers that fully comply with the data and fee remittance requirement is minimal or nonexistent.

The economic impact on PSAPs is potentially positive as any penalties collected will be deposited into the 911 State Grant Fund. All PSAPs are eligible to apply for funding from the 911 State Grant Fund.

The economic impact on subscriber rates could potentially be negative. If a provider is consistently determined to be delinquent and therefore is subject to civil penalties, a provider

may find it necessary to increase subscriber rates to compensate for losses sustained by assessed civil penalties.

With the adoption of K.A.R. 132-2-1 and 132-4-1, the economic impact on other state agencies is minimal or nonexistent. The Council is the only state agency involved with the LCPA contract and the assessment of civil penalties.

Copies of K.A.R. 132-2-1 and 132-4-1, and the associated economic impact statement may be obtained from the Governor's Grants Program, 900 SW Jackson, Room 304 North, Topeka, Kansas 66612 or (785) 291-3205. K.A.R. 132-2-1 and 132-4-1 and the economic impact statement may be viewed at <https://governor.ks.gov/serving-kansans/grants-program/boards-and-councils>.

**Article 4: Penalties**

**K.A.R. 132-4-1. Delinquent status; penalties.** (a)(1) A provider shall be deemed to be in delinquent status by the 911 coordinating council or the council's designee under any of the following conditions:

(A) The provider fails to submit the provider's contact information, pursuant to L. 2011, ch. 84, sec. 3 (j) and amendments thereto, on or before January 1, 2012, in the form and containing the information required by the 911 coordinating council to the 911 coordinating council or the council's designee.

(B) The provider has not previously provided service in this state and fails to submit the provider's contact information, pursuant to L. 2011, ch. 84, sec. 3 (j) and amendments thereto, within three months of first offering services in this state, in the form and containing the information required by the 911 coordinating council to the 911 coordinating council or the council's designee.

(C) The provider fails to notify the 911 coordinating council or the council's designee within 30 days of any change in the provider's contact information.

(2) A provider shall be deemed to be in delinquent status by the 911 coordinating council or the council's designee if the provider fails to submit 911 fees and the return in the form required by the LCPA, pursuant to L. 2011, ch. 84, sec. 9 and amendments thereto, to the LCPA on or before the 30<sup>th</sup> day of each calendar month following a return for the preceding month.

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(b)(1) If the 911 coordinating council or the council's designee determines that a provider is in delinquent status, a penalty shall be assessed against the provider by written order of the 911 coordinating council or the council's designee.

The penalty for failing to comply with the requirement to submit the provider's contact information shall be \$500.00 per day or 10 percent of the 911 fees due from the delinquent provider to the LCPA for the corresponding month, whichever is greater. The penalty for failing to submit 911 fees and the return shall be \$500.00 per day or 10 percent of the 911 fees due from the delinquent provider to the LCPA for the corresponding month, whichever is greater.

(2) Written notification of the penalty assessment, the violation, and the provider's right to appeal to the 911 coordinating council or the council's designee shall be issued to the provider by the 911 coordinating council or the council's designee. Each penalty payment shall be remitted directly to the 911 coordinating council or the council's designee.

(c) Any provider that is assessed a penalty may request a hearing, pursuant to L. 2011, ch. 84, sec. 3 (l) and amendments thereto. The request for hearing shall specify the reason or reasons the provider denies being in violation of the submission requirements, pursuant to L. 2011, ch. 84, sec. 3 and amendments thereto. (Authorized by L. 2011, ch. 84, sec. 3; implementing L. 2011, ch. 84, secs. 3 and 9; effective P-\_\_\_\_\_. )

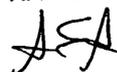
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Article 2: Local Collection Point Administrator Requirements

**K.A.R. 132-2-1. LCPA; prerequisites; selection; contract.** (a) Each qualified person selected to provide the services of the local collection point administrator (LCPA) pursuant to the Kansas 911 act (“act”), L. 2011, ch. 84, secs. 1 through 19 and sec. 25 and amendments thereto, shall at a minimum meet the following requirements:

(1) Have the ability to comply with all contract requirements established by the secretary of administration;

(2) have at least three years of experience in public sector financial administration and accounting;

(3) secure and manage accounts and services at a federally insured financial institution with a physical presence in Kansas and ensure the required collateralization of 911 funds in bank accounts;

(4) establish and maintain a physical office in Kansas; and

(5) have the ability to provide appropriate staffing to the 911 coordinating council (“council”) to meet the council’s obligations under the act.

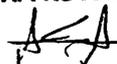
(b) Each LCPA shall be selected by the council with the advice and consent of the legislative coordinating council through a competitive procurement process administered by the Kansas department of administration. The competitive process shall begin at least six months before the expiration of the contract with the current LCPA, unless both the council and the legislative coordinating council concur before then that the contract with the LCPA should be extended for an additional contract term, as allowed by the act.

(c)(1) The initial contract with the selected person shall be for a two-year period. A

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yearly performance review of the LCPA shall be conducted by the council. The council's findings shall be reported to the legislative coordinating council.

(2) The term of a contract with the LCPA may be increased to three years by the council if the council determines the following:

(A) The LCPA has successfully fulfilled its contractual and legal responsibilities for at least 12 months.

(B) The annual audit of the 911 fee receipts and disbursements by the LCPA demonstrates appropriate recordkeeping and administration of monies.

(C) The contract extension can control cost increases for services or reduce risks of disruption of essential LCPA services. (Authorized by L. 2011, ch. 84, sec. 3; implementing L. 2011, ch. 84, secs. 3 and 6; effective P-\_\_\_\_\_.)

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911 COORDINATING COUNCIL

ECONOMIC IMPACT STATEMENT

K.A.R. 132-2-1

I. Summary of Proposed Regulation, including its Purpose.

K.A.R. 132-2-1 establishes prerequisites for the selection of the local collection point administrator (LCPA) and establishes criteria for extending the LCPA contract as authorized pursuant to

the Kansas 911 Act (Act) (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto).

In order to be selected, a LCPA candidate shall at a minimum (1) have the ability to comply with all contract requirements established by the secretary of administration; (2) have at least three years of experience in public sector financial administration and accounting; (3) secure and manage accounts and services at a federally insured financial institution with a physical presence in Kansas; and (4) have the ability to provide appropriate staffing to the council to meet the council's obligations under the Act.

The LCPA is selected through a competitive procurement process by the 911 Coordinating Council (Council), with the advice and consent of the Legislative Coordinating Council. The initial LCPA contract will be two years but a third year may be added by the Council if (1) the Council determines the LCPA has successfully fulfilled its contractual and legal responsibilities for at least 12 months; (2) the annual audit of the 911 fee receipts and disbursements by the LCPA demonstrates appropriate recordkeeping and administration of monies; and (3) the contract extension can control cost increases for services or reduce risks of disruption of essential LCPA services.

II. Reason or Reasons the Proposed Regulation Is Required, Including Whether or Not the

## Regulation Is Mandated by Federal Law.

The adoption of rules and regulations addressing LCPA contract terms is required by the Kansas 911 Act (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto). This regulation is not mandated by federal law; therefore, the regulation does not exceed the requirements of federal law.

### III. Anticipated Economic Impact upon the 911 Coordinating Council.

The economic impact on the Council is minimal. The expenses of the Council, including the LCPA contract, are funded by an administrative fee not to exceed 1.5% of the total receipts from service providers and the Department of Revenue. It is anticipated that the 1.5% administrative set aside will be more than sufficient to cover the expenses of the Council including the LCPA contract.

### IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Business or Individuals.

The economic impact of other governmental agencies and upon private business or individuals is minimal or nonexistent. The council is the only governmental agency involved with the LCPA contract. The only involvement for private business is telecommunications providers. Providers are required to collect and remit 911 fees however, that requirement does not change based on the LCPA contract. The only involvement for individuals is individual service users are required to pay a 911 fee however, that requirement does not change based on the LCPA contract.

### V. Anticipated Economic Impact upon Providers.

The economic impact on providers is minimal or nonexistent as the LCPA contract is funded with an administration fee not to exceed 1.5% of 911 fees collected from service users.

The 911 fees statutorily required to be collected by providers from service users will not be affected by the implementation or the extension of the LCPA contract.

VI. Anticipated Economic Impact upon PSAPs.

With the adoption of K.A.R. 132-2-1 the economic impact on PSAPs is existent in that the LCPA contract is funded with an administration fee not to exceed 1.5% of 911 fees collected from service users. Therefore, the money used to fund the LCPA contract is potentially money that PSAPs may have otherwise received. However, LCPA services are necessary to facilitate the distribution of the 911 fees to PSAPs collected from providers.

VII. Anticipated Economic Impact upon Subscriber Rates.

The economic impact on subscriber rates will be minimal or nonexistent. The LCPA contract is funded with an administration fee not to exceed 1.5% of 911 fees collected from service users. Providers are statutorily required to collect the 911 fees from service users. Providers' statutory obligation will not change dependent upon the terms or length of the LCPA contract. Therefore, subscriber rates should not be affected.

911 COORDINATING COUNCIL

ECONOMIC IMPACT STATEMENT

K.A.R. 132-4-1

I. Summary of Proposed Regulation, including its Purpose.

K.A.R. 132-4-1 establishes a regulation that authorizes the 911 Coordinating Council (Council) to assess civil penalties against providers that fail to comply with the provisions of the Kansas 911 Act (Act) (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto).

Under the terms of the regulation, a provider can be deemed to be in delinquent status if it (1) failed to submit the provider's contact information on or before January 1, 2012, in the form and containing the information required by the Council to the Council or the Council's designee; (2) has not previously provided service in Kansas and fails to submit the provider's contact information within three months of first offering services in Kansas, in the form and containing the information required by the Council to the Council or the Council's designee; or (3) fails to notify the Council or the Council's designee within 30 days of any change in the provider's contact information; or (4) fails to submit 911 fees and the return in the form required by the LCPA to the LCPA on or before the 30<sup>th</sup> of each calendar month following a return for the preceding month.

The penalty of \$500 a day or 10% of the 911 fees due from a delinquent provider for the corresponding month, whichever is greater, is to be assessed by written order of the Council or the Council's designee against any provider that is determined to be in delinquent status.

Written notice of the penalty assessment, the violation, and the right to a hearing is to be issued by the Council.

The regulation requires any civil penalties to be remitted to the Council or the Council's

designee.

The Council or a duly authorized agent of the council is required to administer the processes for determining and assessing penalties and hearing any appeals of the penalties in accordance with the provisions of the Kansas Administrative Procedures Act (KAPA).

**II. Reason or Reasons the Proposed Regulation Is Required, Including Whether or Not the Regulation Is Mandated by Federal Law.**

The adoption of rules and regulations addressing civil penalties is authorized by the Kansas 911 Act (L. 2011, ch. 84, secs. 1-19 and 25 and amendments thereto). This regulation is not mandated by federal law and therefore, the regulation does not exceed the requirements of federal law.

**III. Anticipated Economic Impact upon the 911 Coordinating Council.**

The economic impact on the Council is minimal. The penalties collected by the Council will be deposited by the LCPA into the 911 State Grant Fund. The expenses related to the Council are paid from the 911 State Grant Fund, however the administrative set aside is capped at 1.5% of the total receipts from service providers and the Department of Revenue. It is not anticipated that deposits from civil penalties will significantly increase the 1.5% administrative set aside.

**IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Business or Individuals.**

The economic impact of other state agencies is minimal or nonexistent. The Council is the only state agency involved with the determination, assessment, collection, and distribution of civil penalties.

**V. Anticipated Economic Impact upon Providers.**

The economic impact on any provider that does not accurately and timely remit data and fees as required by the Act could be significant depending on the severity and length of the provider's delinquency. K.A.R. 132-4-1 imposes penalties of \$500.00 per day or 10% of the 911 fees due from the delinquent provider for the corresponding month, whichever is greater. The economic impact on providers that fully comply with the data and fee remittance requirement is minimal or nonexistent.

VI. Anticipated Economic Impact upon PSAPs.

The economic impact on PSAPs is potentially positive as any penalties collected will be deposited into the 911 State Grant Fund. The 911 State Grant Fund is open to PSAPs through a competitive application process.

VII. Anticipated Economic Impact upon Subscriber Rates.

The economic impact on subscriber rates could potentially be negative. If a provider is consistently determined to be delinquent and therefore is subject to civil penalties a provider may find it necessary to increase subscriber rates to compensate for losses sustained by assessed civil penalties.