LOCAL GOVERNMENT ECONOMIC DEVELOPMENT FUND

I. OVERVIEW OF THE LOCAL GOVERNMENT ECONOMIC DEVELOPMENT PROGRAM

A. Purpose of the Program

KRS 42.4588 establishes the Local Government Economic Development Program (LGEDP) to provide grants of coal severance and processing tax revenues to coal-producing counties. Grants are made from this program, commonly referred to as the Local Government Economic Development Fund (LGEDF), to assist eligible counties in diversifying their local economies beyond coal production and meet other community development needs.

Created in 1992, the program provides LGEDF grants to help make communities attractive to new manufacturing and service industries, as well as to help eligible existing businesses expand. Traditionally, emphasis has been placed on identifying and implementing economic development and/or industrial development projects that will produce the most and best jobs for the least expenditure of funds.

Between the years of 1999 and 2006 and 2008 through 2012 special line-items were placed in the Commonwealth's biennial budgets to be funded by the coal severance revenue. These expenditures were on a variety of activities.

The Commonwealth's Budgets for the years of 2005 through 2014 included language that amended the program's structure. This expanded set of eligible activities known as the "Parameters for County Flexibility" allows for coal severance funds accessed under the LGEDF Grant program to be spent for:

- Public health and safety,
- Economic development,
- Public infrastructure,
- Information technology development and access; and
- Public water and wastewater.

B. Allocation of Coal Severance Tax Receipts Paid into the LGEDF

The LGEDF serves as the repository for a portion of coal severance and processing tax receipts transferred from the general fund. These taxes are collected and added to the LGEDF on a quarterly basis. The state budget enacted by the 2012 General Assembly for the 2013 - 2014 biennium provides that 35% of total coal severance and processing tax receipts will be allocated to the LGEDF. An additional 15% is transferred to the Local Government Economic Assistance Fund (LGEAF), a separate and distinct tax-sharing program for cities and counties administered by DLG.

The state budget authorized certain funds to be set aside for specific projects in fiscal years 2013 and 2014. Funds for these projects are made available from coal severance funds prior to the authorized allocation being placed into the LGEDF. Those specific projects and the amount of funding are as follows:

	Fiscal Year 2013	Fiscal Year 2014
Off the Tops		
Osteopathic Scholarship Fund	$ 872,500.00	$ 872,500.00
Trover Clinic	$ 1,000,000.00	$ 1,000,000.00
Total "Off the Top" Deductions	$ 1,872,500.00	$ 1,872,500.00

per quarter	$ 468,125.00	$ 468,125.00
Off the Middles		
Department for Local Government (DLG)	$ 669,700.00	$ 669,700.00
Kentucky Infrastructure Authority (KIA)	$ 370,000.00	$ 370,000.00
Read to Achieve	$ 3,000,000.00	$ 3,000,000.00
School Facility Construction Commission	$ 4,617,900.00	$ 4,617,900.00
Mining Engineering Scholarships	$ 300,000.00	$ 300,000.00
Mine Safety and Licensing	$ 7,552,000.00	$ 7,552,000.00
Save the Children		$ 500,000.00
School Technology in Coal Counties	$ 2,500,000.00	$ 2,500,000.00
Robinson Scholars Program - UK	$ 1,000,000.00	$ 1,000,000.00
WSRDF-CP 2002-2004	$ 4,091,400.00	$ 4,091,400.00
IEDF-CP 2004-2006*	$ 694,200.00	$ 694,200.00
IEDF-CP 2006-2008*	$ 8,562,300.00	$ 8,562,300.00
IEDF-CP 2008-2010*	$ 7,538,000.00	$ 7,538,000.00
Total "Off the Middle" Deductions	$ 40,895,500.00	$ 41,395,500.00
per quarter	$ 10,223,875.00	$ 10,348,875.00
From the Multi-County Fund		
PSC - Utility Rate Study	$ 200,000.00	
Leslie County Veterans' Cemetery	$ 2,000,000.00	
Mine Safety, Licensing and Mapping Application	$ 972,000.00	
12 Regional Industrial Parks - Marketing and Maintenance	$ 200,000.00	$ 200,000.00
Energy Research and Development Pool	$ 3,500,000.00	$ 3,500,000.00
Operation Unite	$ 2,000,000.00	$ 2,000,000.00
Lexington Downtown Redevelopment Project	$ 1,250,000.00	$ 1,250,000.00
IEDF-CP 2004-2006*	$ 5,778,500.00	$ 5,778,500.00
Drug Courts	$ 1,800,000.00	$ 1,800,000.00
Total Multi-County Appropriations	$ 17,700,500.00	$ 14,528,500.00
per quarter	$ 4,425,125.00	$ 3,632,125.00
HB 406 Part V Expendable Trust (Interest)	$ 600,000.00	$ 600,000.00
TOTAL PER FISCAL YEAR	$ 61,068,500.00	$ 58,396,500.00

II. ALLOCATION OF FUNDS TO COAL-PRODUCING COUNTIES

A. County Accounts

Coal severance tax receipts, which are transferred into the LGEDF, are allocated quarterly among participating counties according to a formula specified by KRS 42.4592.

The allocation formula provides that one-third of program funds be reserved for projects benefiting two or more counties. These funds are known as "multi-county" funds which reside in a "multi-county" account and are administered and managed by the Office of State Grants. Another one-third of funds are allocated among the participating counties on the basis of severance taxes paid in by a county relative to the total severance taxes paid in by all participating counties. The final one-third of funds is allocated among participating counties on the basis of three criteria, weighted equally, as described below:

- the respective county's employment in mining as a percentage of its total employment;
- the respective county's earnings from mining as a percentage of its total earnings; and
- the respective county's surplus labor rate (a concept similar to unemployment) as published by the Kentucky Department for Employment Services.

Funds are allocated through the LGEDP to any coal-producing county that has generated coal severance and processing taxes in the first quarter of the current year or each of the four previous years. These counties will receive periodic allocations of program funds to accounts in their name.

LGED funds allocated to counties reside in individual state maintained accounts known as "single-county" accounts, one for each participating county. Funds may accumulate without penalty, and without lapsing, until such time as projects are approved.

III. Types of LGEDF Awards

The LGEDF Program consists of two types of awards:

- HB 265 "Line-item" awards
- "Grant" awards

Please note per HB 265, line-item projects circumvent statute; therefore, line-item projects will take precedence over grants.

IV. Line-Item Awards

A. Line-Item Projects Defined

HB 265 authorizes numerous projects, known as "line-items," to be funded from single county LGEDF accounts. All LGEDF line-item projects will be administered by the Office of State Grants. A specific award recipient, and funding amount, is identified in HB 265 for each project. All line-item awards will be made in compliance with HB 265. Authorization for HB 265 coal severance projects will lapse unless a Memorandum of Agreement (MOA) is executed by the end of the biennium or the project is reauthorized in the next budget.

The Kentucky Infrastructure Authority will administer the water and sewer line-item projects which appear in HB 265 as "coal severance projects" on behalf of and in partnership with the Office of State Grants. Contact John Covington, Executive Director of KIA, (502) 573-0260.

B. Funding Availability

HB 265 states that the amounts appropriated for the line-item projects are based on estimates. Actual award amounts are contingent on the actual revenue received. The execution of a Memorandum of Agreement (MOA) for a project will occur only when uncommitted funds in the appropriate single county LGEDF account are sufficient to pay for the project. Generally, the total amount of projects authorized from a single county account exceeds the amount of LGEDF funds currently available. Therefore, each county is required to prioritize the various projects per fiscal year, through a resolution passed by the fiscal court. As funds become available projects will proceed in the order established by this resolution.

C. Project Duplication

Per HB 265, line-item projects are authorized under the condition that the project was not previously awarded as an LGEDF grant with a Memorandum of Agreement fully executed.

D. Extraordinary Circumstance or Emergency Situation

Per KRS 42.4588 (14)(d), the Commissioner of DLG may, upon written request by a designated entity identifying an extraordinary circumstance or emergency situation, approve the reallocation of funds appropriated for a specific project to the extent necessary to address the particular extraordinary circumstance or emergency situation. A request of this nature will be subjected to rigorous scrutiny by the Commissioner of DLG and any approvals must be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue.

E. Accessing and Administration of Appropriated Line-Item Funds

1. Project Scope and Budget Form

To initiate a project, the recipient of the line-item must submit the following documentation to DLG:

a. Completed **Project Scope and Budget Form**
b. Authorizing Resolution signed by the recipient

* In addition to the above, the County's Priority Resolution must be on file with DLG.

2. Memorandum of Agreement (MOA)

Only after the above documentation has been received by DLG and sufficient funds are available will a Memorandum of Agreement (MOA) be prepared outlining the specific terms of the award including the legal requirements for disbursement and accounting of funds. The MOA will be forwarded to the line-item recipient for signature. Once signed by the recipient, the MOA needs to be returned to DLG for signature and further processing. No funds shall be released for a particular project until all participating parties have signed the agreement AND the contract has been submitted to the Government Contract Review Committee. When this process is complete, a copy of the fully executed agreement will be sent to the recipient. At that time, the recipient may begin incurring project costs. It is strongly recommended that no funds be expended until the recipient has received a copy of the fully executed MOA from DLG.

Failure to comply with the MOA may result in the withholding of funds and additional actions to enforce the terms and conditions of the agreement. In addition, funds already disbursed may be required to be returned to the respective LGEDF account. Each project will be governed by its own agreement outlining specific and unique terms.

3. Disbursement of Funds

To receive funds, the recipient will complete a Request for Disbursement (RFD) form accompanied by relevant financial documentation including but not limited to quotes, cost estimates, receipts, invoices, cancelled checks and/or bank statements. RFDs may be submitted before the recipient has expended funds. In cases in which funds are released on an operating budget, only one fourth of the total award will be released at a time. RFDs can also be submitted as costs are encumbered. RFDs must request at least $250 to be processed. After the request form is received, it will be reviewed by staff for accuracy and completeness. Please be aware that failure to comply with the Quarterly Reporting requirements outlined below will delay of the release of project funds.

4. Quarterly Report Submission

Pursuant to the MOA, the recipient is required to submit quarterly progress reports beginning with the quarter in which the MOA was executed **regardless of whether funds have been drawn**. The recipient is required to submit a separate report for each individual project. The recipient is required to attach any pending financial documentation to this report. This financial documentation includes but is not limited to invoices, receipts, cancelled checks and/or bank statements not previously submitted with a Request for Disbursement. Failure to submit or fully complete the required report will place the recipient in noncompliance status at which time **DLG will cease releasing additional funds until the appropriate documentation has been submitted.** If reporting noncompliance issues continue, DLG reserves the right to withhold the release of funds for other LGEDF projects. Quarterly reports shall be postmarked no later than the 30th day following the end of a quarter. The following schedule applies throughout the period of the project:

First Quarter: July-September must be postmarked no later than October 30th
Second Quarter: October–December must be postmarked no later than January 30th
Third Quarter: January–March must be postmarked no later than April 30th
Fourth Quarter: April-June must be postmarked no later than July 30th

5. Project Monitoring

DLG staff will monitor project activities to assure compliance with the MOA and related scope of work. DLG reserves the right to conduct site monitoring visits on all projects during the course of the project. Monitoring questions, issues or program discrepancies identified by field staff during a monitoring visit will be directed to Office of State Grants Coal Development Branch Manager for additional review and action.

6. Project Close-out

Line-Item recipients shall be required to submit a completion report to DLG. This report indicates completion of the project. The completion report should be submitted when all funds have been expended and the project is complete. Once the report is received by DLG, staff will contact the recipient to schedule a time to conduct a Completion Inspection which may include a site visit to assure project completion, appropriate expenditure of funds and legal compliance.

7. Audit Requirements

All LGEDF projects are subject to an independent annual audit conducted in accordance with generally accepted auditing principles, Government Auditing Standards, issued by the Comptroller General of the United States, the provisions of Office of Management and Budget Circular A-133, "Audits of State and Local Governments," if applicable, and the Audit Guide for Fiscal Court Audits, issued by the Kentucky Auditor of Public Accounts. The audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to DLG no later than 18 months after the end of each fiscal year in which LGED funds were received.

8. Procurement

All procurement must follow KRS 45A or KRS 424.260, as well as local procurement guidelines.

V. Grant Awards

PLEASE NOTE: Per HB 265, line-item projects circumvent statute; therefore, line-item projects will take precedence over grants. Grant applications will only be accepted after all line-item projects identified for each fiscal year in HB 265 have been funded and if there are sufficient reserves in a county's single county account to cover the cost of the additional project(s).

A. Eligible Grantees

KRS 42.4588(4) states that applications for grants from funds provided for in KRS 42.4592 (1)(a) and (b) shall be made by the fiscal court of one or more counties with accounts in the LGEDF program.

KRS 42.4588(5) provides for the award of LGEDF grants for projects located in non-coal-producing counties under certain circumstances. Applications must be submitted by the fiscal court(s) of one or more counties that have accounts in the LGEDF program. And there must be a reasonable expectation of a benefit for the residents of those counties.

B. Categories of Grants

1. **Single County Development (LGEDF) Projects**: Projects located in and benefiting individual counties and using only funds from a county's individual account.

2. **Joint County Development (LGEDF) Projects**: Projects benefiting two or more coal-producing counties which use funds from the individual accounts of the participating counties.

3. **Regional Industrial Park / Business Park Projects** (NOTE: This does not relate to the HB 265 "Regional Industrial Parks Line-Item."): Projects of economic benefit to three or more counties, at least two of which are coal-producing counties. Regional industrial park projects are, in general, funded from the multi-county account.

   In addition, application can be made on behalf of a regional industrial park or its authority by one of its participating county(s) from their respective single county account.

   All counties participating in a regional industrial authority and LGEDF-assisted regional industrial/business park must enter into an inter-local agreement approved by each fiscal court. After an inter-local agreement has been executed to form a regional authority, counties will name authority members, who in turn will incorporate the entity by filing articles of incorporation and authority bylaws. Economic benefits expected to be realized from a project (i.e. tax revenues) will be outlined within the inter-local agreement.

C. Eligible Grant Activities

Pursuant to HB 265, the 2013-2014 biennial budget of the Commonwealth, LGEDF grants may continue to be made from this program to support nonrecurring investments in:

- public health and safety;
- economic development, including industrial development;
- public infrastructure;
- information technology development and access; and
- public water and wastewater development.

D. Ineligible Grant Activities

LGEDF grants may not be used:

- for any recurring investments/expenses or working capital;
- for industrial development projects that redistribute jobs within Kentucky;
- for projects that present unfair competition for established Kentucky firms;
- to underwrite general governmental activities;
- to finance LGEDF project administration or economic development marketing efforts, except as authorized under KRS 42.4588 for the Regional Industrial Park Program; nor
- for any activity or use that does not comply with the "public use" of state funds.

E. Funding Availability

Grants may be awarded to a coal-producing county based upon the applicant having a project eligible for funding and having funds available in the county's single county coal severance account AFTER all of the HB 265 line-items have been funded. Funding for a project will not be released until unobligated funds in the appropriate LGEDF account are sufficient to pay for the project. These funding parameters are set forth in KRS 42.4588.

F. Non-Assignment of Grant Funds

Grant proceeds may only be used for eligible activities. Grantees (or their designated administering agencies) cannot assign, mortgage nor convey any portion of grant proceeds to any person or entity without the express written consent of the Commissioner of DLG.

G. Recapture of Grant Funds

When grant proceeds or income are earned from a single-county LGEDF project, the county or authority is required to maintain and account for all these funds in a "project proceeds account," a separate, interest-bearing account established by the county or authority. Annually, with each 4th quarterly report (June 30), LGEDF grantees having recaptured funds must complete the Project Proceeds Report Form and return the report and total receipts which remain in their project proceeds account. No expenditure may be made from these accounts without the written approval of the Commissioner of DLG.

At any time if the balance of a county's project proceeds account exceeds $100,000, the entire balance, including interest, must be returned to DLG within 10 days of reaching that amount. If a sale of property and/or facility occurs, the recaptured funds from that sale must be returned to DLG within 30 days after closing. In cases where property and/or facilities are leased, the agreement between the "grantee" and their respective "lessee" shall reflect language assuring the lease payments are paid directly to DLG unless otherwise approved by DLG. DLG will redeposit all recaptured funds into the respective single county account and those funds will become available for eligible activities within the LGEDF program.

The policy above will apply to all single county projects, including those covered by an existing MOA.

H. Industrial Development Projects set forth by KRS 42.4588

Grants from the LGEDF may be used for industrial development purposes. In general, the term "industrial development projects" refers to the development of a specific site for manufacturing or service activities that meet the criteria set forth in this section. An industrial development project includes the acquisition of any real estate and the construction, acquisition and installation of improvements and facilities necessary and useful for the improvement of the real estate for conveyance or lease to industrial firms and approved non-industrial firms. In some cases LGED funding may be used as a result of an industrial development project, for workforce training activities.

I. Public Health and Safety, "other" Economic Development, Public Infrastructure, Information Technology Development and Access, and Public Water and Wastewater

Grants from the LGEDF may be used for public health and safety, "other" economic development, public infrastructure, information technology development and access and public water and wastewater development purposes. However, to afford counties the most flexibility in project development, these expanded categories will not be specifically defined. Instead, an effort will be made to allow counties to substantiate and justify the proposed nonrecurring expenditures as an eligible project under these categories. Any project that falls under or directly addresses health and public safety, economic development, public infrastructure, information technology development and access or public water and wastewater development are eligible to submit applications for review.

J. Accessing and Administration of LGEDF Grants

1. Project Scope and Budget Form

To initiate a project, a County Fiscal Court must submit the following documentation to DLG:

a. Completed **Project Scope and Budget Form**
b. Authorizing Resolution signed by the recipient

*Water and Wastewater LGEDF Projects – Please include the WX/SX number on the Project Scope and Budget form. The applicant can apply for an SX or WX number through their local Area Development District via the WRIS system and the Area Water Management Council.

2. Application Review

Only after the above documentation has been received by DLG and sufficient funds are available to cover the cost of the project, will an application be accepted for consideration.

The Commissioner of DLG is responsible for final approval of all LGEDF grants following the review and preliminary recommendation by the Office of State Grants, Coal Development Branch. In order for a project to be funded, a determination must be made regarding project eligibility, funding availability, project need, reasonability of costs and overall project effectiveness.

3. Memorandum of Agreement (MOA)

Upon approval of an application, a Memorandum of Agreement (MOA) will be prepared outlining the specific terms of the award including the legal requirements for disbursement and accounting of funds. The MOA will be forwarded to the grant recipient for signature. Once signed by the recipient, the MOA needs to be returned to DLG for signature and further processing. No funds shall be released for a particular project until such time as all participating parties have signed the agreement AND until the Secretary of the Finance and Administration Cabinet or his/her authorized designee has approved the contract and the contract has been submitted to the Government Contract Review Committee. Once this process is complete, a copy of the fully executed agreement will be sent to the recipient. **At such time, the recipient may begin incurring project costs.**

Failure to comply with the MOA may result in the withholding of funds and additional actions to enforce the terms and conditions of the agreement. In addition, funds already disbursed may be required to be returned to the respective LGEDF account. Each project will be governed by its own agreement outlining its own specific and unique terms.

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7. Project Close-out

The grant recipient shall be required to submit a completion report to DLG. This report indicates completion of the project and desire to close the project. The completion report should be submitted when all funds have been expended and the project is complete. When the report is received by DLG, staff will contact the recipient to schedule a time to conduct a Completion Inspection which may include a site visit to assure project completion, appropriate expenditure of funds and legal compliance.

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9. Procurement

All procurement must follow KRS 45A or KRS 424.260, as well as local procurement guidelines.

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