



## COUNTY ADMINISTRATOR'S OFFICE

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C.H. HUCKELBERRY  
County Administrator

September 1, 2020

Craig Sullivan, Executive Director  
County Supervisors Association of Arizona  
1905 W. Washington, Suite 100  
Phoenix, Arizona 85009

Re: **Proposed Intergovernmental Agreement with the State of Arizona through the Arizona Department of Health Services**

Dear Mr. Sullivan:

I have reviewed the proposed Intergovernmental Agreement (IGA) with the Arizona Department of Health Services (ADHS) related to the Governor's Executive Orders and enforcement of same through the County's public health agency.

### **Broad Requests for Assistance – Education, Enforcement or Both**

We understand the proposed scope has been changed from "all standing Arizona Governor's Executive Orders that must comply with measures to help mitigate the spread of COVID-19." to three executive orders 2020-43, 2020-47, 2020-52 and one emergency measure 2020-02. It is likely these will cover most of the complaints we will be asked to investigate for potential non-compliance. While education is the desired action, it may be necessary to take or recommend other enforcement action, which is contemplated in Section 3.2.

Section 3.2 simply says, "determine compliance...through compliant inspections and investigations." This section of the IGA is a regulatory requirement, not an educational requirement; hence, signals more vigorous documentation and analysis.

### **Pima County has been Enforcing Public Health Standards and Requirements**

Counties, in particular Pima County, have already been in this mode of operation. Pima County adopted a Proclamation regulating the operation of restaurants, bars, gyms and public pools on March 19, 2020 and modified this Proclamation on July 7, 2020 to conform with the Governor's Executive Order related to limitation of occupancy. Our Proclamation is

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adopted primarily as an educational tool with at least two opportunities to make corrective action through an educational process. Finding a third violation would tend to indicate complete disregard for public health measures designed to reduce the spread of COVID-19. After a third violation, we list the business as noncompliant to advise the public regarding the probability of increased exposure to COVID-19 when visiting these particular establishments.

In addition, when the Proclamation was revised, we included more public health regulatory tools, including the provision that a public health official can declare a business, establishment or location to be an imminent public health hazard and to have it closed.

The scope of services proposed by the State needs to include this tiered regulatory approach as our experience has been that most businesses want to comply; however, there are a few who openly disregard meaningful public health standards. The scope of service for county health departments should acknowledge this and indicate that, upon multiple violations, the county health department based on the authority of the State may close a business as an imminent public health threat.

#### **Additional Support from ADHS Needed**

Under the scope of services for the ADHS at least one, perhaps two new sections should be included.

- 1) Section 3.6 should read, "The ADHS shall actively support county health departments in enforcement of the Arizona Governor's Executive Orders regarding measures to help mitigate the spread of COVID-19. This active support shall including funding, public statements regarding the importance of county public health agencies as well as technical and testing assistance associated with COVID-19 testing, including active viral PCR testing, saliva testing, antigen testing and antibody or serology testing. "
- 2) A Section 3.7 should be added to state: "Upon notification from a county health department that a particular business or establishment is noncompliant and has failed to take corrective action after educational assistance and continues to disregard public health standards, the ADHS shall notify any State agency or regulatory body who holds, issues or monitors any State license or permit to operate and shall take appropriate and necessary steps to suspend or revoke the permit or license of the establishment."

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### **Funding is not Adequate**

Regarding funding, the funding available is grossly inadequate and there is confusion within the scope of service. Section 3.3 indicates staff and transportation resources but does not mention reimbursement for transportation costs until under Section 4.1.3.2.3, which indicates it shall be in accordance with State of Arizona policy guidelines. What is the reimbursement rate for operating motor vehicles to transport staff to and from field inspections associated with these activities? In addition, the \$50,000 contained in the IGA as reimbursement for these services is grossly inadequate.

To believe these services could be provided for the proposed reimbursement indicates a lack of understanding of the necessary response. The County began enforcing its Proclamation that covered restaurants, bars, gyms, and public pools upon adoption on March 19, 2020.

During the last quarter, the Pima County Health Department processed approximately 1,338 actionable complaints and performed 1,538 assessments related to the previously mentioned Proclamation and Resolution. This includes 1,030 actions related to the nearly 7,800 facilities permitted by our Health Department. This does not include 200 complaints that were deemed not actionable or invalid, but that required an initial review and determination by County Staff.

In total, this work has required 1,738 hours of Pima County staff time valued at approximately \$52,140. This does not include IT, fleet, supplies, or other related expenses, which would be included in a sustained effort.

Notably, 340 of the assessments were related to non-permitted facilities. Enforcement of the Governor's Executive Orders pertaining in non-permitted facility actions is expected to significantly increase the number of staff responses required from the current baseline. Moreover, these operators (gyms, movie theatres) are entities that have never previously interacted with the Health Department. As such they will require a substantial amount of education and on-boarding at least during the first year.

Permitted bars and restaurant complaints and enforcement actions are expected to also grow substantially with the enforcement of the Governor Executive Orders. Fortunately, in Pima County the existing process for addressing these complaints has already been developed and will only need to be augmented to meet the increased demand.

To adequately respond to these public complaints, each requires opening an investigative file, an appropriate staff as well as management review, a field review and action to meet with and discuss the complaint with a particular business. Given the expansive nature of the Proclamation to enforce specific Arizona Governor Executive Orders, such will, in our opinion, more than double the amount of complaints to be investigated and acted upon.

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Our estimate is that at full implementation 10 additional staff will be needed by the Health Department to conduct the education and enforcement activity covered by the relevant executive orders. The total cost of this program is estimated to be \$639,143 per year.

Budget Area	QTY	Expense	Total
<i>Wages and ERE</i>			
Environmental Health Tech	4	\$ 40,379.04	\$ 161,516.16
Environmental Health Spec I	4	\$ 56,328.48	\$ 225,313.92
Environmental Health Spec II	1	\$ 61,832.16	\$ 61,832.16
Admin Supp Specialist	1	\$ 45,377.28	\$ 45,377.28
<i>Operating Supplies</i>			
Office supplies	120	\$ 25.00	\$ 3,000.00
Mobile phone service	120	\$ 35.00	\$ 4,200.00
Mobile computers	11	\$ 1,500.00	\$ 16,500.00
<i>Other Operating Expenses</i>			
Monthly fleet expense	120	\$ 600.00	\$ 72,000.00
Indirect Costs			\$ 49,403.95
Estimated expense			<b>\$639,143.47</b>

### **Mask Standards Should be Included in the IGA**

Another major omission of the IGA is that it is silent regarding enforcement of public mask standards and/or requirements. A number of counties have adopted these measures as they have been acknowledged to be the most cost effective method of preventing the spread of COVID-19. Where a county has adopted a public mask standard, actions to educate individuals and businesses about the importance of wearing a mask should be included in the IGA. Since our adoption of a mask resolution on June 19, we have received over 817 complaints relating to masks. Most of these complaints deal with businesses not requiring individuals to wear a mask in public places within those businesses. It has been our experience that once identified and once a business is knowledgeable of public complaints lodged against them, they comply and do their best to require the wearing of masks in public common areas. I strongly suggest this option be included where a county has adopted a mask requirement and appropriate funding be allocated for this purpose given the proven public health benefits of wearing a mask in public as has been strongly suggested by the Governor, the Director of ADHS and the public advertising from ADHS.

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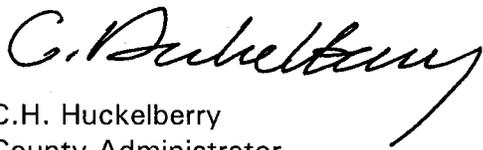
**Summary**

In summary, the proposed IGA by ADHS requires significant consideration by the management of county organizations. The proposed IGA lacks additions that would balance the responsibilities and obligations among the parties.

I would venture that most county public health agencies would accept these responsibilities as they are the most appropriate way of minimizing the spread of COVID-19. However, the State should offer their authority to assist in the regulation of significantly noncompliant businesses while at the same time financially supporting the counties in the necessary public resource expenditures that will be needed to carry out the obligations of the IGA.

Please distribute this communication to all other Counties for their information as well as the ADHS.

Sincerely,



C.H. Huckelberry  
County Administrator

- c: The Honorable Chairman and Members, Pima County Board of Supervisors  
Jan Leshar, Chief Deputy County Administrator  
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,  
Health and Community Services  
Terry Cullen, MD, MS, Public Health Director, Pima County Health Department  
Michael Racy, Racy Associates, Inc.