

**DEPARTMENT OF HUMAN SERVICES
2008-2009 INTERGOVERNMENTAL AGREEMENT
FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

Enforcement of Oregon Indoor Clean Air Act. This section is for the purpose of providing for the enforcement of laws by LPHA relating to smoking and enforcement of the Oregon Indoor Clean Air Act (for the purposes of this Section, the term “LPHA” will also refer to local government entities e.g. certain Oregon counties that agree to engage in this activity.)

- 1. Authority.** Pursuant to ORS 190.110, LPHA may agree to perform certain duties and responsibilities related to enforcement of the Oregon Indoor Clean Air Act, ORS 433.835 through 433.875 and ORS 433.990(D) (hereafter “Act”) as set forth below.
- 2. LPHA Responsibilities.** LPHA shall assume the following enforcement functions:
 - a.** Maintain records of all complaints received using the complaint tracking system provided by Department’s Tobacco Prevention and Education Program (TPEP).
 - b.** Comply with the requirements set forth in OAR 333-015-0070 to 333-015-0085 using Department enforcement procedures.
 - c.** Respond to and investigate all complaints received concerning noncompliance with the Act or rules adopted under the Act.
 - d.** Work with noncompliant sites to participate in the development of a remediation plan for each site found to be out of compliance after an inspection by the LPHA.
 - e.** Conduct a second inspection of all previously inspected sites to determine if remediation has been completed within the deadline specified in the remediation plan.
 - f.** Notify TPEP within five business days of a site’s failure to complete remediation, or a site’s refusal to allow an inspection or refusal to participate in development of a remediation plan. See Section 3.c. “Department Responsibilities.”
 - g.** For each non-compliant site, within five business days of the second inspection, send the following to TPEP: intake form, copy of initial response letter, remediation form, and all other documentation pertaining to the case.
 - h.** LPHA shall assume the costs of the enforcement activities described in this section. In accordance with an approved Community-based work plan as prescribed in OAR 333.010.0330(3)(b), LPHA may use Ballot Measure 44 funds for these enforcement activities.

- i. If a local government has local laws or ordinances that prohibit smoking in any areas listed in ORS 433.845, the local government is responsible to enforce those laws or ordinances using local enforcement procedures. In this event, all costs of enforcement will be the responsibility of the local government. Ballot Measure 44 funds may apply; see Section 2.h. above.

3. Department Responsibilities. Department shall:

- a. Provide an electronic records maintenance system to be used in enforcement, including forms used for intake tracking, complaints, and site visit/remediation plan, and templates to be used for letters to workplaces and/or public places.
- b. Provide technical assistance to LPHA.
- c. Upon notification of a failed remediation plan, a site's refusal to allow a site visit, or a site's refusal to develop a remediation plan, review the documentation submitted by the LPHA and issue citations to non-compliant sites as appropriate.
- d. If requested by a site, conduct contested case hearings in accordance with the Administrative Procedures Act, ORS 183.411 to 183.470.
- e. Issue final orders for all such case hearings.
- f. Pursue, within the guidelines provided in the Act and OAR 333.015.0070 – 333.015-0085, cases of repeat offenders to assure compliance with the Act.