



# THE BUYER'S FLYER

May 2020

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**Hazel Orick Gibson, MBA, CPPB | Procurement Analyst & Advisor**  
**Knoxville's Community Development Corporation**

"You may not always have a comfortable life. And you will not always be able to solve all the world's problems all at once. But don't ever underestimate the impact you can have, because history has shown us that courage can be contagious, and hope can take on a life of its own." ~Michelle Obama~

Former First Lady, Michelle Obama's words are awe inspiring and bring hope to the tired hearts and souls of so many. I am still in the very early stages of my career and have watched and learned from my brothers and sisters throughout this Pandemic. I have never been prouder of my profession. I am truly honored to stand among some of the strongest, hardest working men and women I've ever known. Thank you for sharing your knowledge, wisdom and right now, most of all your resources! This is what ETPA is about, unifying across entities. Thank you for all you do for your entities and the citizens you serve.

Our ETPA Forum is available if you have questions that our member community could help answer. If you need resources we are here for you! Go to [www.etpanews.org](http://www.etpanews.org), login, click on Forum, click Start a Thread at the top of the page and post your question. We look forward to hearing from you!

### 2020 ETPA Vendor Tradeshow

We want you to know, it is ETPA's first priority is to protect the health and safety of our members. With that in mind, ETPA's Executive Board has voted to cancel the 2020 Reverse Tradeshow. This decision was given a great deal of consideration and not taken lightly. We will come back in 2021 with a renewed energy and vigor! Get ready 2021!

This year is full of unknowns and we are walking in a space where none of us have ever been before. So, please bear with us as we navigate a most difficult year.

We look forward to seeing you all very soon!

Stay Safe & Healthy!

*Hazel*

# Member News & Announcements

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**Crystal Key, City of Bristol**, graduated from Northeast State Community College with her AAS in Business Management with a certificate in Accounting. Congratulations!!!

## Meet Olivia Nickens, the new Procurement Specialist for the City of Kingsport.



Olivia has been serving the City in Engineering for several years and prior to that served as Manager for Wal-Mart for nearly a decade. Olivia brings an accomplished skill-set to this position as she has prior purchasing/supply chain experience, p-card reconciliation experience, and contract administration/bid document preparation experience. She holds a Bachelor of Science Degree in Retail & Consumer Science from the University of Tennessee @ Knoxville.

Olivia serves as Music Librarian at her church, enjoys singing in the choir, and enjoys spending time with her family and traveling.

## 2020 ETPA Leadership Team

<b>President</b>	Hazel Gibson
<b>Vice President</b>	Jay Garrison
<b>Secretary</b>	Kris Davis
<b>Treasurer</b>	Lynn Farnham
<b>Webmaster</b>	Jolene Combs
<b>Recognition Committee Chair</b>	David Griffin
<b>Newsletter Committee Chair</b>	Nikisha Eichmann
<b>Professional Development Committee Chair</b>	Valerie Harless
<b>Membership Committee Chair</b>	Carol Maines
<b>Outreach to other Professional Associations</b>	Dustin Shearin
<b>Reverse Trade Show Chairs</b>	Heather Whitehead
<b>Nominating Committee Chair</b>	Brent Morelock
<b>Mentoring Committee Chair</b>	Tom Seagle

We are still looking for 4 positions to fill for the Leadership Team. Please contact Brent Morelock, City of Kingsport, Or Hazel Gibson, Knoxville's Community Development Corporation, if you are interested in filling these positions, we'd love to have you on the Leadership Team!

- **Professional Development Committee Co-chair**

If you are organized to a fault and enjoy 'making things happen,' this committee is for you! The Professional Development Committee Co-chair allows you to coordinate and plan all NIGP seminars sponsored by the Chapter, plan all ETPA workshops & conferences, secure facilities appropriate for ETPA meetings and develop ETPA's annual calendar of events.

- **2020 Tradeshow Co-chair**

We are seeking an energetic individual to serve as Co-chair for the Tradeshow Committee to help plan and execute a successful 2020 Tradeshow event! If you are looking for an outlet for your creative energies, this is for you!

- **Mentoring Co-chair & Mentors**

The Mentoring Committee Co-chair will serve with our current Co-chair to match mentors with new chapter members to assist in the acclimation of new members to ETPA and encourage attendance at chapter meetings and other ETPA sponsored events and classes.

- **Fundraising Committee**

The Fundraising Committee is a new committee developed to secure ETPA's sustainability well into the future. The committee will be responsible for planning specific fundraising events and activities and researching non-profit grant opportunities. The goal is for the committee to consist of 3 – 4 members and serve a term of 2 years. If you are interested in research (as in grant opportunities) or planning exciting events, this committee is for you!



JUSTIN P. WILSON  
*Comptroller*

JASON E. MUMPOWER  
*Deputy Comptroller*

## Memorandum

Date: March 20, 2020

To: Tennessee Local Government Officials, Leaders, and Legal Representatives

From: Office of the Tennessee Comptroller of the Treasury

Subject: Revised: COVID-19 Guidance

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Local governing bodies throughout Tennessee are impacted by the COVID-19 pandemic. We recognize that many of you may have questions about how to carry out your governance and operational responsibilities lawfully and effectively. This memorandum addresses recent changes related to Tennessee's open meeting requirements and addresses what all local governments should do to ensure policies are in place to respond to this situation.

### Public Meetings by Electronic Means

On March 20, 2020, Governor Bill Lee signed Executive Order No. 16 ("the Order"), which suspends the requirements of the Tennessee Open Meetings Act ("TOMA") to the extent necessary to allow any governing body subject to the requirements of TOMA to meet and conduct essential business by electronic means if the body determines meeting electronically is necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 pandemic.

The Order applies to any state, county, or municipal governing body or any other public body that may be subject to the requirements of TOMA. It allows members of the governing body to participate and vote in public meetings without being physically present to protect public health, safety, and welfare and prevent the spread of COVID-19. This is a temporary measure that expires on May 18, 2020, unless further action is taken by the Governor.

Except as specifically provided in this new executive order, the public notice provisions, meeting minute provisions, and other requirements of TOMA still apply to meetings of governing bodies being held electronically.

If a governing body seeks to conduct electronic meetings in accordance with the Order, it must make reasonable efforts to ensure that the public may access the meeting live via electronic means. In the event a governing body cannot provide live access after making reasonable efforts, the governing body must make a clear audio or video recording of the meeting and make the

recording available to the public as soon as practicable after the meeting, but no later than two business days after the meeting.

Although not specifically required in the Order, our Office recommends that members of a governing body participating by electronic means make a determination on the record that meeting electronically is necessary to protect public health, safety, and welfare in light of the coronavirus and that the governing body include this determination in the minutes of the governing body. Additionally, governing bodies are urged by the Governor to include in the notice any instructions for the public to access the meeting electronically and a copy of the meeting agenda. Accordingly, our Office also encourages governing bodies to include this information in the notice of the meeting to the extent they are able to do so.

As noted above, a governing body allowing participation by electronic means is required to make efforts to provide the public with live electronic access to the meeting and they are urged to include instructions as to how the public may electronically access the meeting in the meeting notice. This access may be provided through a call-in number if the meeting is by phone or through other online mediums such as Skype, Zoom, Facebook Live, or other available products. Attached hereto are Virtual Meeting Guidelines that you may find useful to assist with providing the public electronic access to meetings held electronically or by other means.

In addition to the notice requirements set forth above, we encourage governmental entities to include a statement that public access to the meeting will be limited. Also, we recommend that notice of the meeting still include the time, place, and date of the meeting, although there may not be public access to the physical location of the meeting. The notice should also address if there will not be a physical location for the meeting in order to protect public health, safety, and welfare.

State governing bodies holding meetings electronically pursuant to Tenn. Code Ann. § 8-44-108 are still subject to the following requirements in Tenn. Code Ann. § 8-44-108(c). Local governing bodies holding meetings electronically may also want to take these into consideration.

- The meeting should be audible to the public at the location specified in the notice of the meeting.
- Each member participating electronically or otherwise should be able to hear each other simultaneously and speak to each other during the meeting.
- Documents to be discussed at the meeting should be provided to members participating electronically prior to the meeting, to the extent doing so is practicable.
- All votes at the meeting should be by roll call vote.
- Notice of the meeting should provide a statement that the meeting will allow members to participate electronically or by other means.



Please also note that a member participating in a meeting by electronic means is deemed to be present in person at the meeting for purposes of voting but not for purposes of determining per diem eligibility. However, a member may be reimbursed expenses of such electronic communication or other means of participation.

### **Policies and Procedures During Emergencies**

Local governments have broad authority to implement alternative policies and procedures to address operating dilemmas presented by emergency situations. In response to COVID-19, our Office has received numerous questions regarding continuing operations of your local government in these difficult times. When and if an emergency declaration is made in your local government, we recommend that the governing body take immediate action to address temporary operating policies and procedures. While we recognize the situation is fluid and it will be hard to address every potential possibility, we strongly recommend taking urgent steps to implement any existing emergency operating policies and procedures or adopting such policies and procedures as necessary. When adopting emergency policies and procedures, we offer the following items to be considered:

- 1) Closing and opening government offices
- 2) Timely budget adoption ([see FY 2021 COVID-19 Budget Memo](#))
- 3) Leave policies
- 4) Payroll issues related to salaried and hourly staff
- 5) Provisions regarding routine accounting functions such as receipting, depositing, payable disbursements, and debt service payments
- 6) Continued local government operations such as collecting property taxes, deed filings, motor vehicle licenses and renewals, issuing building permits, public safety, utilities, etc.
- 7) Electronic public meetings (see section above)
- 8) Public records access (see section below)

Local governments will need to implement emergency policies and procedures that best meet the needs and operational goals of the local government. The pandemic is an unprecedented event. Therefore, it is not possible to provide detailed, emergency guidance that will address every local government.

While it is our expectation that local governments continue to comply with state statutes and policies and procedures adopted by the governing body, annual audits of local governments for the 2019-2020 fiscal year will take into account the circumstances surrounding the implementation of emergency policies and procedures that deviate from standard practice. Our goal is to continue to help you make government work better despite the challenges faced due to the Coronavirus.

### **Access to Public Records**

Although the COVID-19 pandemic may require the temporary closure of public offices and may limit access to public records, we believe the Tennessee Public Records Act ("TPRA") allows

governmental entities sufficient flexibility to comply with its requirements because it takes into account whether it is practicable for a records custodian to provide access to public records.

The TPRA provides that state, county, and municipal records must be open for inspection, during normal business hours, to any citizen of this state to the extent such records are not otherwise made confidential by state law. Tenn. Code Ann. § 10-7-503(a)(2)(A). The TPRA further provides that records custodians must promptly make public records available to the extent they are not specifically exempt from disclosure. Tenn. Code Ann. § 10-7-503(a)(2)(B). In the event it is not practicable for a records custodian to provide access promptly to public records, the custodian must, within seven business days, make the records or information available, deny the request in writing with the basis for denial, or provide the requestor with the time reasonably necessary to produce the records or information. Tenn. Code Ann. § 10-7-503(a)(2)(B)(i)-(iii).

Local government efforts to prevent the spread of COVID-19 will likely make it impracticable for records custodians to provide access promptly to public records. If circumstances surrounding a local government's response to COVID-19 make it impracticable for a records custodian to provide access promptly to public records (e.g., public buildings are closed or the majority of public employees must work from home without access to physical records), the Comptroller's Office of Open Records Counsel recommends that the records custodian, within seven business days, advise the requester of the circumstances making it impracticable to produce the records promptly and provide the time the custodian believes will be reasonably necessary to produce the records or information.

### Contacts

Our Office has a variety of staff who can assist you during this time. If you have questions, please reference the contact information below:

- Meetings and Public Records – Office of Open Records Counsel at [open.records@cot.tn.gov](mailto:open.records@cot.tn.gov)
- Policies and Procedures – Division of Local Government Audit at [LGA.web@cot.tn.gov](mailto:LGA.web@cot.tn.gov)
- Budget and Debt Obligations – Division of Local Government Finance. Visit [tncot.cc/lgf-contacts](http://tncot.cc/lgf-contacts) for the appropriate contact.

### Other Resources

The County Technical Assistance Service (CTAS) and Municipal Technical Advisory Service (MTAS) are also providing resources for local governments related to COVID-19. You can access that information by clicking the links below.

- [CTAS – COVID-19 Resources for Local Governments](#)
- [MTAS – COVID-19 Resources for Local Governments](#)



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## VIRTUAL MEETING GUIDELINES

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The keys to success for any virtual public meeting include having a clear understanding of the platform you are using and advance planning.

### Picking the Right Platform

Many options are on the market for conducting remote meetings. Some of these platforms are more familiar to a general audience – like Facebook Live and YouTube – but there are others that may give you capabilities such as seeing the participants, collaborating on documents, screen sharing, and recording the meeting. Some platforms offer a free option and others charge a monthly fee.

#### Possible Options:

- Facebook Live
- YouTube
- FreeConferenceCall.com
- Microsoft Teams
- SLACK
- Periscope
- Discord
- Livestream

### Planning the Meeting

The most important factor in having a successful virtual meeting is to have a clear meeting agenda and make sure the people involved are ready to present. It is also helpful to post or share any meeting materials beforehand, so participants are prepared.

Make sure to test your selected platform before the meeting to make sure you're familiar with how the application functions and that it is working properly.

### Etiquette for Virtual Meetings

- Introduce everyone at the beginning of the meeting.
- Make sure you designate when questions will be accepted (during or at the end of a presentation).
- Do not interrupt people while they are speaking.
- Mute your phone if you are not speaking.
- Ask people to silence cell phones.
- Make sure to eliminate as much background noise as possible.
- Common courtesy is key to a successful meeting.

### Ending the Meeting

- Make sure all deliverables and next steps are fully communicated.
  - Assign any open items or tasks to individuals or groups.
  - Declare when information is due.
  - Provide information for the next meeting.
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STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL

April 27, 2020

Opinion No. 20-07

**Governor's Emergency Management Executive Orders**

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**Question**

Because of the COVID-19 health crisis, the Governor has exercised his authority to declare a state of emergency in Tennessee and to issue a series of executive orders governing the State's emergency response to the COVID-19 pandemic. Do these executive orders serve as the exclusive regulation of the State's emergency management in response to the pandemic, and to what extent, if any, may local governmental entities take actions or issue orders that conflict with the Governor's executive orders?

**Opinion**

The General Assembly has vested the Governor with exclusive responsibility and authority to assume control over all aspects of the State's response to an emergency such as the COVID-19 pandemic. Tenn. Code Ann. § 58-2-107(a)(1). Because the executive orders that the Governor issues pursuant to that authority have the force and effect of law, Tenn. Code Ann. § 58-2-107(a)(2), the Governor's directives in response to an emergency supersede and preempt any action taken by political subdivisions of the State.

Absent an express delegation of power by the Governor, local governmental entities may not take actions that are either more restrictive or less restrictive with respect to the subjects addressed in the Governor's executive orders governing the State's emergency response to COVID-19. Such action would be at cross purposes with the Governor's orders, which are the law of the State, and would constitute an impermissible legal conflict.

Just as the Governor may exercise his authority under Tenn. Code Ann. § 58-2-107(a)(1) to delegate to a local governmental entity or to the local health department "such powers as the governor may deem prudent," the Governor may exercise his emergency powers to expressly authorize, or recognize the authority of, county health departments to take action that may otherwise be inconsistent with his executive orders. Such a delegation of authority may be revoked or modified at any time, § 58-2-107(a)(2), and, absent an express delegation or authorization by the Governor, the local health department or other local governmental entity may not take any action inconsistent with the Governor's executive orders.

### ANALYSIS

Because of the COVID-19 health crisis, the Governor has exercised his authority to declare a state of emergency in Tennessee and to issue a series of executive orders governing the State's emergency response to the COVID-19 pandemic.<sup>1</sup> The executive orders are all aimed at diminishing the spread of COVID-19 and ensuring that the State maintains the resources needed to protect the health and well-being of its citizens. Among other provisions, the orders currently require all persons in Tennessee to stay at home unless engaging in essential activity or essential services, and they place restrictions on social gatherings and business operations. Some local governmental entities have issued orders that are either more restrictive or less restrictive than the Governor's executive orders.

The Governor's power to issue these executive orders is grounded in the broad grant of authority—a responsibility and authority that the General Assembly has vested solely in the office of the governor—to assume control over all aspects of the State's response to an emergency such as the COVID-19 pandemic:

The governor is responsible for addressing the dangers presented to this state and its people by emergencies. In the event of an emergency beyond local control, the governor . . . may assume *direct operational control over all or any part of the emergency management functions within this state . . . . The governor is authorized to delegate such powers as the governor may deem prudent.*

Tenn. Code Ann. § 58-2-107(a)(1) (emphasis added). To exercise this exclusive authority “the governor may issue executive orders, proclamations, and rules and may amend or rescind them. Such executive orders, proclamations, and rules *have the force and effect of law.*” *Id.* § 58-2-107(a)(2) (emphasis added). *See also* Tenn. Code Ann. § 58-2-107(b)(1)(A) (authorizing issuance of executive orders to implement governor's authority).

An “emergency” is defined expressly to include “disease outbreaks and epidemics.” Tenn. Code Ann. § 58-2-101(7). “Emergency management” is defined broadly to cover all stages of dealing with an emergency; it “means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters.” Tenn. Code Ann. § 58-2-101(8).<sup>2</sup>

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<sup>1</sup> *See* Governor's Executive Orders Nos. 17-29 found at <https://sos.tn.gov/products/division-publications/executive-orders-governor-bill-lee> (last visited April 25, 2020).

<sup>2</sup> Specific emergency management responsibilities include, but are not limited to:

(A) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action;

(B) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies;

(C) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency;

To effectuate emergency management, the General Assembly has given the Governor a broad range of powers. The Governor has the power, among others, to: suspend laws prescribing the conduct of state business; utilize all available resources of the state government and of each political subdivision; commandeer private property; direct and compel an evacuation; control ingress and egress to and from an emergency area; control the movement of persons; control the occupancy of premises; make provisions for temporary emergency housing; and take measures concerning the conduct of civilians. Tenn. Code Ann. § 58-2-107(e).

By giving the Governor “direct operational control over all or any part of the emergency management functions within this state,” the General Assembly has vested in the Governor the exclusive authority to wield these powers to control and limit the acts of political subdivisions in an emergency. Further, when the Governor invokes his emergency management powers, all the “officers and agencies of the State *and political subdivisions . . . shall cooperate with and extend their services and facilities to the Tennessee Emergency Management Agency,*<sup>3</sup> as it may require.” Tenn. Code Ann. § 58-2-107(h) (emphasis added). In short, the General Assembly clearly intended the Governor’s emergency management powers to be exclusive and to override any action taken by political subdivisions of the State.

When, as during the occurrence of an emergency beyond local control, the General Assembly intended state law to provide exclusive regulation on a subject, local ordinances on the same subject are preempted. *See Southern Ry. v. City of Knoxville*, 223 Tenn. 90, 99-100, 442 S.W.2d 619, 622 (1968) (“The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict unless the statute limits the requirement for all cases to its own prescriptions.”).<sup>4</sup> Accordingly, the exercise of any discrete emergency management powers that the General Assembly has given to local governmental entities is limited by and subject to the emergency management powers of the Governor. Thus, orders that a political subdivision might issue pursuant to powers accorded to them by other provisions of the Tennessee Code may not be exercised in conflict with the Governor’s emergency management executive

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(D) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies;

(E) Provision of an emergency management system embodying all aspects of pre-emergency preparedness and post emergency response, recovery, and mitigation; and

(F) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

Tenn. Code Ann. § 58-2-101(8).

<sup>3</sup> TEMA’s director is subject to the direction and control of the governor. Tenn. Code Ann. § 58-2-104(c).

<sup>4</sup> *Cf. Capitol News Co., Inc. v. Metro Gov’t of Nashville and Davidson Cnty.*, 562 S.W.2d 430, 435 (Tenn. 1978) (“[W]e do not find any expression of legislative intent . . . that the state statutes shall be exclusive or pre-emptive in the field. The General Assembly has provided such pre-emption in certain instances, and could easily do so in the area here under consideration if it should see fit. In our opinion it has not. . .”).

orders, thereby preventing political subdivisions from taking an action that is either more restrictive or less restrictive as to the subjects addressed in the Governor's orders.

In particular, because the Governor's executive orders "have the force and effect of law," Tenn. Code Ann. § 58-2-107(a)(2), local governmental entities may not take actions that are either more restrictive or less restrictive than the executive orders governing the State's emergency response to COVID-19. It is well established that local governments may not adopt ordinances "which infringe the spirit of state law or are repugnant to the general policy of the state." *Capitol News Co., Inc.*, 562 S.W.2d at 434; *Manning v. City of Lebanon*, 124 S.W.3d 562, 565 (Tenn. Ct. App. 2003). Local governments cannot effectively nullify state law on the same subject by enacting ordinances that ignore applicable state laws, that grant rights that state law denies, or that deny rights that state law grants. *Shore v. Maple Lane Farms, LLC*, 411 S.W.3d 405, 426 (Tenn. 2013); *421 Corp. v. Metropolitan Gov't of Nashville and Davidson Cnty.*, 36 S.W.2d 469, 475 (Tenn. Ct. App. 2000).

In short, local governments may not act at "cross purposes" with state law on the same subject.<sup>5</sup> *See id.*; *Capitol News*, 562 S.W.2d at 434. And a local action that conflicts with the law of the State may not stand. *See Southern Ry. Co.*, 223 Tenn. at 96, 442 S.W.2d at 621 ("Municipal ordinances in conflict with and repugnant to a State law of a general character and state-wide application are universally held to be invalid.").

In this instance, the Governor has issued emergency management orders that, among other things, currently require all persons in Tennessee to stay at home unless engaging in essential activity or essential services, and place restrictions on social gatherings and business operations. These orders are set to expire on April 30, 2020.<sup>6</sup> The Governor could extend all or parts of these orders, or he could let them expire. Regardless of the choice that he might make,<sup>7</sup> political subdivisions may not take any action that undermines the executive orders. Thus, a political subdivision may not take any action that is either more restrictive or less restrictive as to the subjects addressed in the orders. Such action would be at cross purposes with the orders and, therefore, constitute an impermissible legal conflict.

Moreover, political subdivisions are without power to issue emergency management orders that conflict with the Governor's executive orders because Tenn. Code Ann. § 58-2-118(a) provides:

*Upon being authorized by the governor, TEMA, or other state department or agency, the political subdivisions of the state and other agencies designated or appointed by the governor, or in the TEMP,<sup>8</sup> are authorized and empowered to*

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<sup>5</sup> As a general matter to be sure, even when the State law is exclusive on the subject, if the local action "does not authorize anything the statute forbids nor does it forbid anything the statute requires [b]oth the statute and the ordinance can co-exist and be effective." *Southern Ry. Co.*, 223 Tenn. at 99, 442 S.W.2d at 623.

<sup>6</sup> *See* note 1, *supra*.

<sup>7</sup> "Emergency management" specifically includes recovery from emergencies and restoration of affected persons and property. *See* note 3, *supra*, and accompanying text.

<sup>8</sup> "'TEMP' means Tennessee emergency management plan." Tenn. Code Ann. § 58-2-101(25).



make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of this chapter, *but which are not inconsistent with any orders or rules adopted by an EMA<sup>9</sup> or by any state agency exercising a power delegated to it by the governor or the agency.*

As the italicized terms make clear, this statute permits political subdivisions to make orders necessary for emergency management purposes *only if* the Governor authorizes them to do so.<sup>10</sup> And even then, the orders cannot be inconsistent with any orders adopted by an EMA or by any state agency exercising a power delegated to it by the Governor or the agency.

The General Assembly has, however, authorized local health departments to adopt regulations more stringent or restrictive than those provided by state law or regulation. Tenn. Code Ann. § 68-2-601(f)(3) (authorizing adoption of regulations to “protect the general health and safety of the citizens of the county” that “shall be at least as stringent as the standard established by a state law or regulation as applicable to the same or similar subject matter”). And the Commissioner of the Department of Health, acting under statutory authority to promulgate rules to prevent the spread of disease, Tenn. Code Ann. §§ 68-1-201, 68-5-104, has given local health officers confronted with an epidemic the power—indeed, the obligation—to “[e]stablish appropriate control measures which may include examination, treatment, isolation, quarantine, exclusion, disinfection, immunization, disease surveillance, closure of establishment, education, and other measures considered appropriate by medical experts for the protection of the public’s health.” Tenn. Comp. R. & Regs. 1200-14-01-.15. Actions by local health departments under this authority have the force and effect of law in the absence of action by the Governor and when they are neither more restrictive or less restrictive than emergency orders issued by the Governor.

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<sup>9</sup> “‘EMA’ means a local emergency management agency of a political subdivision.” Tenn. Code Ann. § 58-2-101(6).

<sup>10</sup> While the plain language of the statute also provides that TEMA “or other stated department or agency” can authorize the political subdivisions to make orders, these departments and agencies all answer to the governor, who is ultimately “responsible for addressing the dangers presented to this state and its people by emergencies.” Tenn. Code Ann. § 58-2-107(a)(1).

Although this rule explicitly contemplates the closure of establishments and orders for isolation, the Governor's emergency executive orders may still preempt a local health department's more restrictive order because the Governor's authority to "assume direct operational control over all or any part of the emergency management functions within this state," Tenn. Code Ann. § 58-2-107, allows the Governor to order the Department of Health to take action contrary to the lawfully-issued orders of local health officials, in which case the conflicting local orders must yield to the Governor's orders. On the other hand, the Governor may exercise his emergency powers to expressly authorize, or recognize the authority of, county health departments to take action that may otherwise be inconsistent with his executive orders, just as the Governor may exercise his authority under § 58-2-107(a)(1) to delegate to a local governmental entity or to the local health department "such powers as the governor may deem prudent." Such a delegation of authority may be revoked or modified at any time, § 58-2-107(a)(2), and absent an express delegation or authorization by the Governor, the local health department or other local governmental entity may not take any action inconsistent with the Governor's executive orders.

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## FIND COVID-19 INFORMATION AND RESOURCES

# File a Complaint

(Language interpretation services are available upon request)

### ✓ What is the first step to filing a complaint?

### ✓ How do I file a complaint online?

### ✓ What is price gouging?

The price gouging complaints received by Consumer Affairs are all individually evaluated. Price increases are generally considered by evaluating the increases of costs to fuel, the pre-existing price agreements, and increases in costs imposed by suppliers. If it appears that price gouging may have occurred, the complaint may be reviewed and/or investigated by the Attorney General's Consumer Protection Division for potential violations of the Tennessee Consumer Protection Act. The Attorney General could seek a temporary restraining order, temporary injunction, or permanent injunction, seek civil penalties up to \$1,000 per violation, and/or negotiate and accept an assurance of voluntary compliance

The Consumer Protection Division reviews price gouging complaints under two different statutes: The first, the Price Gouging Act of 2002, only applies during periods in which the Governor has declared an abnormal economic disruption and prohibits charging "any other person a price for the following goods or services [unless the order is limited only to specific types of goods] that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business:

- (A) Consumer food items;
- (B) Repair or construction services;
- (C) Emergency supplies;
- (D) Medical supplies;
- (E) Building materials;
- (F) Gasoline;
- (G) Transportation, freight, and storage services; or
- (H) Housing."

Second, even if no abnormal economic disruption is declared, it is a violation of the Tennessee Consumer Protection Act for any person to "[u]nreasonably rais[e] prices or unreasonably restrict[] supplies of essential goods, commodities or services in direct response to a crime, act of terrorism, war, or natural disaster, regardless of whether such crime, act of terrorism, war, or natural disaster occurred in the state of Tennessee." Given the breadth of the items covered by these and other provisions, consumers are encouraged to file a complaint regarding any suspected price gouging. Doing so helps to ensure that the Division can evaluate the complaint for further appropriate action and help protect the citizens of Tennessee.

### ✓ What is the Division of Consumer Affairs unable to do?

### ✓ What is the Complaint Process?

### ✓ What if the business does not contact me in regard to my complaint?

### ✓ May I e-mail for an update on my complaint?

# Global Best Practices with Terry McKee

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**Terry McKee, CPPO, CPPB**  
**Knoxville's Community Development**  
**Corporation IT & Procurement Director**  
**The Public Housing and Redevelopment Authority for the City of**  
**Knoxville and County of Knox**

## **Use of Cooperative Contracts for Public Procurement**

### **Standard:**

After conducting extensive due diligence and market research, public procurement should, where permissible by law or regulation, consider the use of cooperative contracts, in order to lower prices, lower administrative costs, increase competition, and obtain more favorable terms and conditions. When using cooperative contracts attention should be given to ensuring legal compliance, open competition, and effective/ efficient use of time and resources.

### **Key points:**

- The entity wishing to use a cooperative arrangement must use due diligence to ensure:
  - That all of their local legal and procedural requirements are met (advertising, outreach, preferences, restrictions, et cetera)
  - Conduct market research to determine if the costs are reasonable
  - Analyze the product or service specifications, price, terms and conditions and other factors
  - Ensure that locally required terms and conditions are incorporated into the contract (payment, p-cards, prompt payment discounts, et cetera)
  - Incorporate or remove additional terms and conditions by developing an addendum or purchase order that is signed by both procurement and the supplier
- Obtain the necessary contract documents for your file including:
  - The solicitation documents
  - The bid tabulation or evaluation with the reason for award
  - A copy of the winning proposal/ bid
  - A copy of all insurance/ bond certificates required by the contract
  - A Memo of Understanding or a record of why you chose to use this cooperative contract



- Cooperative contract administration
  - Keep the lead agency informed of any problems with the supplier
  - Keep the lead agency informed of any specification adherence problems, issues, et cetera
  - Do not bargain against the contract's fixed pricing (unless the award so allows)
  - Ensure that invoices match the contract prices

**Take Away:**

Professional usage of cooperative contracts, whether a statewide contract, a national cooperative or another entity's bid, requires analysis, planning and thought. There are many, many cooperative opportunities now and professionals must carefully evaluate them before joining one. A professional procurement official has an obligation to perform proper due diligence and not just blindly use a cooperative opportunity. Not all opportunities are in your entity's best interest. For instance, if you are planning to buy, all at one time, a railroad car of copy paper, your cost may be better than a using a cooperative with no specific quantity expectation. The procurement professional should leverage their expertise to evaluate the usefulness of a potential contract.

# Treasurer's Report: January – December 2020

Lynn Farnham, CPPO, CPPB | Roane County

## TREASURER'S REPORT January - December 2020

January	Beginning Balance	24,724.96	May	Beginning Balance	23,711.08	Sep	Beginning Balance	
	Revenue	1,925.00		Revenue	475.00		Revenue/Adjustment	
	Expenses	(513.65)		Expenses	(105.83)		Expenses	
	Ending Balance	26,136.31		As of 5/21/2020	24,080.25		Ending Balance	
February	Beginning Balance	26,136.31	June	Beginning Balance		Oct	Beginning Balance	
	Revenue	2,441.00		Revenue			Revenue	
	Expenses	(1,685.36)		Expenses			Expenses	
	Ending Balance	26,891.95		Ending Balance			Ending Balance	
March	Beginning Balance	26,891.95	July	Beginning Balance		Nov	Beginning Balance	
	Revenue	440.00		Revenue			Revenue	
	Expenses	(2,642.85)		Expenses			Expenses	
	Balance 3/12/2020	24,689.10		Ending Balance			Ending Balance	
April	Beginning Balance	24,689.10	Aug	Beginning Balance		Dec	Beginning Balance	
	Revenue	25.00		Revenue			Revenue	
	Expenses	(1,003.02)		Expenses			Expenses	
	Ending Balance	23,711.08		Ending Balance			Ending Balance	

### BALANCES OF FUNDS AS OF 05/21/2020

General Fund	1,429.59
Business Matching	5,000.00
Fall Conference	2,908.55
Scholarship*	13,000.00
Diversity Expo	1,742.11
<b>TOTAL</b>	<b>24,080.25</b>

### Membership Information for 2019

NIGP & Chapter Members	79
Chapter Only Members	45
Student Members	2
Retired Members	24
<b>TOTAL MEMBERS</b>	<b>150</b>

### 2020 AGENCY MEMBERS

Blount County	City of Kinsport	Metro Knoxville Airport Authority
Bristol TN E-911	City of Kinsport Schools	Morristown Housing Authority
Chattanooga Housing	City of Knoxville	Public Building Authority
City of Alcoa	City of Oak Ridge	Roane County
City of Bristol	Hamilton County	Roane State Community College
City of Chattanooga	Hamilton County DOE	Rutherford County
City of Clarksville	Johnson County	Rutherford County BOE
City of Cleveland	KCDC	Sullivan County
City of Decatur, AL	Knox County	Union County
City of Elizabethton	Knox County Sheriff	University of TN - Knoxville
City of Johnson City	Knoxville Utilities Board	UTK Facilities
	Loudon County	

\*A transfer was made from the scholarship fund of \$2666.30 to give the General Fund a positive balance.

# Calendar of Events

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**Get ready for 2020, here we go!**

**June 4<sup>th</sup>**

**2<sup>nd</sup> Quarterly Meeting (Zoom)**

**August 13<sup>th</sup>**

**3<sup>rd</sup> Quarterly Meeting (Zoom)**

**August 23<sup>rd</sup> – 26<sup>th</sup>**

**NIGP Forum & Expo, Chicago, IL**

**October 28<sup>th</sup> – 30<sup>th</sup>**

**Fall Professional Development Conference, Pigeon Forge**



<b>June</b>	<b>July</b>	<b>August</b>
Daniel Kembel – 20 <sup>th</sup> Knoxville Utilities Board	Carrie Cook – 4 <sup>th</sup> Union County	Jeff Green – 8 <sup>th</sup> Morristown Housing Authority
David Griffin – 23 <sup>rd</sup> Public Building Authority	Paul Jones – 13 <sup>th</sup> Federal	April Norris – 11 <sup>th</sup> City of Bristol
	Katie McCroskey – 14 <sup>th</sup> Sevier County Schools	Serena Warren – 12 <sup>th</sup> Johnson County BOE
	Debbie Chadwick – 20 <sup>th</sup> Chattanooga Housing Authority	James Gallup – 16 <sup>th</sup> UTK
	Kevin Bartenfield – 26 <sup>th</sup> Hamilton County Dept of Edu.	Laura Brink – 17 <sup>th</sup> Rutherford County
		Grace Medley – 18 <sup>th</sup> UT MPPA Student



## June 4, 2020—2<sup>nd</sup> Quarterly Meeting

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Date: June 4, 2020

Time: 3:00 p.m.

Location: Zoom

Educational Topic: ETPA Membership Meeting

Speaker: Abhijit Verekar with Avero Advisors

Registration: Join Zoom Meeting  
<https://zoom.us/j/95522890434?pwd=R2JGRmpFYWt2cTV3K2Nma1pIQWF1Zz09>  
Meeting ID: 955 2289 0434  
Password: 683809  
One tap mobile  
+13017158592,,95522890434#,,1#,683809# US (Germantown)  
+13126266799,,95522890434#,,1#,683809# US (Chicago)

Dial by your location

+1 301 715 8592 US (Germantown)  
+1 312 626 6799 US (Chicago)  
+1 646 876 9923 US (New York)  
+1 408 638 0968 US (San Jose)  
+1 669 900 6833 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 587 328 1099 Canada  
+1 647 374 4685 Canada  
+1 647 558 0588 Canada  
+1 778 907 2071 Canada  
+1 438 809 7799 Canada

Meeting ID: 955 2289 0434

Password: 683809

Find your local number: <https://zoom.us/j/95522890434?pwd=R2JGRmpFYWt2cTV3K2Nma1pIQWF1Zz09>



# Snapshots – 2020 1<sup>st</sup> Quarter Meeting

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Don't forget you can view these and *many more* pictures on [ETPA's Facebook page](#)!



# Snapshots – 2020 1<sup>st</sup> Quarter Meeting/Town Hall Meeting

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