

Administrative Preparedness Authorities: Suggested Steps for Health Departments



Abstract

The National Association of County and City Health Officials (NACCHO) examined existing and potential authorities that may provide local and state health departments with the capability to expedite administrative preparedness processes during an emergency. This report:

- Identifies broad emergency declaration authorities under which health departments may expedite administrative processes and procedures.
- Examines other authorities health departments may use to authorize streamlined procurement and personnel actions.
- Acknowledges factors impeding administrative preparedness that are beyond the control of health departments, but must be accounted for when planning for emergencies.

NACCHO recommends that health departments use the following steps to assess their administrative preparedness authorities:

1. Understand what administrative barriers exist in their jurisdictions that may impact their ability to respond rapidly and effectively to emergencies.
2. Consider what authorities already exist, or that they would like to implement, that may be used to accelerate, modify, streamline, and accountably manage fiscal and administrative practices and procedures.
3. Know which individuals or entities have the power to exercise these authorities.
4. Be in a position to make decisions quickly about which administrative preparedness authorities to exert, based on the previous steps and the specific circumstances of the incident.
5. Act on these decisions.

Background

The lack of administrative preparedness within health departments delays the acquisition of goods and services, hiring or assignment of personnel, disposition of emergency funds, and legal determinations needed to implement health protective measures. This report describes the authorities available to health departments and provides a strategy to build or improve administrative preparedness capacity and capability. The following pages examine existing authorities available under local, state, and federal declarations and other authorities influencing health departments' administrative preparedness. NACCHO developed steps for health departments to consider while assessing their current administrative preparedness capacity and planning for additional administrative preparedness capabilities.

While this report targets administrative preparedness for emergency response, thoughtful consideration of the suggested steps may also improve efficiencies in the day-to-day business of health departments. By addressing these administrative barriers and challenges, health departments may improve their overall capacity and capability to prepare for and respond to emergencies.

Declarations

The most comprehensive of all administrative preparedness authorities is the authority to declare an emergency, disaster, or public health emergency. Health officials frequently cite the availability of these declarations as a critical factor impacting administrative preparedness. A variety of statutory and regulatory authorities govern the normal administrative procedures and practices followed within local, state, and federal governmental agencies daily. Under a declaration, some of these requirements may be waived or become less stringent, or additional authorities may be instituted as a result of the declaration. According to data collected by the Centers for Disease Control and Prevention (CDC) as part of the 2011 Public Health Emergency Preparedness

“We try to make sure that the [declaration] language that the governor signs includes very specific pieces to invoke the waiving of personnel policies and procedures, time and attendance requirements, scheduling, contracting; all those things are part of it so that when he signs it, he invokes all those acts allowing us to set aside any law or regulations to protect the life and property of our citizens.”²

(PHEP) funding opportunity announcement, special authorities available due to the presence of an official emergency declaration was the most common expedited administrative process reported available by grantees, with 79 percent of applicants responding that these authorities were available.¹ Appendix A, Declarations Providing Administrative Preparedness Authorities, provides an overview of the authorities available under various types of declarations at all levels of government.

Regardless of which jurisdictional level makes the declaration, local and state health officials recognize the need to ensure that the declaration includes numerous details and explicit language allowing expedited administrative processes and procedures. Having templates or other pre-written documents ready prior to the emergency allows thorough consideration of likely administrative processes that will need to be modified, streamlined, or accelerated under the stress of an emergency response.

Federal Declarations

The broadest authority at the federal level is a disaster declaration by the President. The Stafford Act enables the President to declare a “major disaster or emergency” allowing federal assistance when a response overwhelms the capacity of state and local governments.³ Under a Stafford declaration, the President can direct federal agencies to use their available authorities and resources to support state and local response and recovery efforts. This includes allowing federal agencies to do the following:

- “Modify or waive . . . such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.”³
- “Appoint and fix the compensation of such temporary personnel as may be necessary.”³

- “Employ experts and consultants.”³
- “Incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities.”³

The National Emergencies Act is another mechanism that allows the President to authorize actions in an emergency. It requires the President to declare a “national emergency” and specify which special or extraordinary powers or authorities will be exercised during that emergency.⁴

More specific to the public health community is the Public Health Service Act, which allows the Secretary of the Department of Health and Human Services (HHS) to declare a “public health emergency.” Among the authorities available to the Secretary are the following:

- Take appropriate actions in response to the emergency, including making grants [and] entering into contracts.⁵
- Access ‘no year’ funds appropriated to the Public Health Emergency Fund.⁵
- Grant extensions or waive sanctions relating to submission of data or reports.⁵
- Make temporary (up to one year or the duration of the emergency) appointments of personnel.⁵

State Declarations

Similar declaration authorities exist at the state level. Declarations of “emergency” in 39 states or “disaster” in 42 states enable a wide range of actions.⁶ Such declarations are typically proclaimed by the governor, though some states also give this power to other state officials, such as the emergency management agency director.⁷ Additionally, 26 states define “public health emergency,” opening up a greater range of conditions under which governments can act to protect the public’s health.⁶ Public health emergencies are generally declared by the state health agency director. An environmental scan completed following the H1N1 pandemic response revealed wide variability in state law and application, noting, “States’ approaches vary according to their unique laws and approaches to managing emergency responses.”⁸ This variability was found in the scope of waivers issued under declarations, the circumstances that trigger their availability, conditions for their use, and which personnel have the power to implement them.⁸

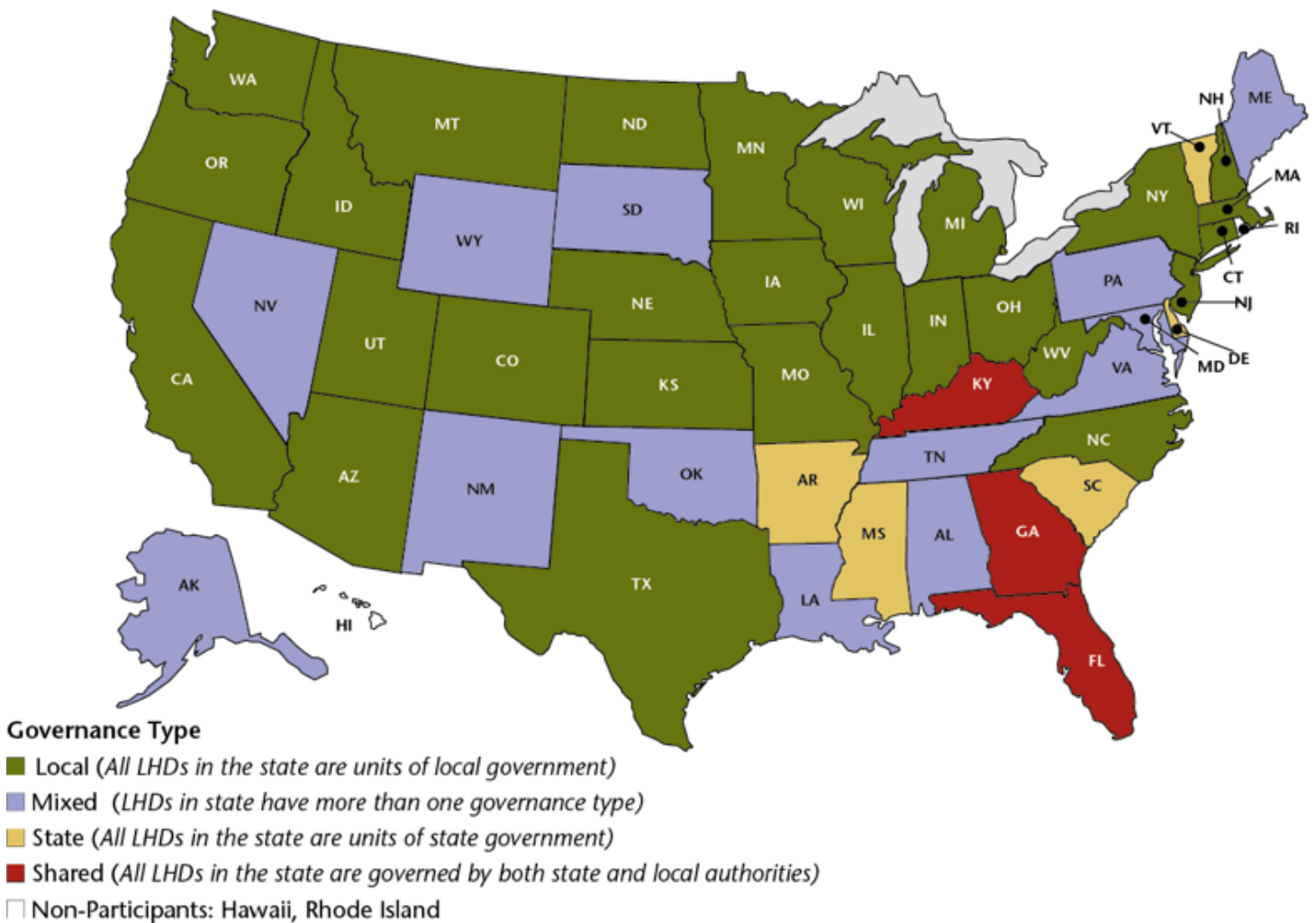
Local Declarations

At the local level, the authority to make a declaration can vary greatly. This authority may be held by the city council, board of supervisors, mayor, health official, or other similar entities named by local statute or regulation. There is also wide variance in what special or additional powers are authorized under such declarations.

Governance

A state’s public health governance structure affects both the breadth and authority of a declaration and the administrative barriers and challenges faced by state and local health departments. The type of governance generally falls into one of four categories, as illustrated in Figure 1.

LHD Governance Type, by State (Map)



Source: 2010 Profile of National Health Departments

FIGURE 1. GOVERNANCE TYPE OF HEALTH DEPARTMENTS ACROSS THE UNITED STATES⁹

The majority of local health departments operate within a local, or decentralized, governance structure. This type of governance structure tends to have administrative challenges caused by the need for each local health department or local government to declare its own emergency and determine what types of administrative policies and procedures may be modified or waived to enable an expedited response within the jurisdiction. However, a local governance structure enables an overwhelmed community to make a local declaration to address emergency needs that do not have a wide geographic impact.

Local health departments operating under a state, or centralized, governance structure benefit from being able to follow the administrative preparedness procedures authorized under a state-level declaration rather than having to enact individual local declarations. This has the potential to both reduce the burden on each local jurisdiction and reduce the variability in powers available to multiple jurisdictions within a region. This not only enables a more rapid response, but also limits conflicting actions by neighboring jurisdictions.

H1N1 RESPONSE AS AN EXAMPLE

The response to H1N1 provided a snapshot of the impact of declarations on the administrative preparedness capabilities of health departments. While the various declarations under H1N1 provided additional authorities that made the responses of health departments easier, the inconsistent application and timing of those declarations also revealed challenges that should be considered in planning efforts. Quotes from interviews with local and state health officials illustrate these issues:

- “During H1N1 our state health department commissioner signed a public health emergency declaration. That does not carry a lot of weight, it is not a governor’s declaration, but what it did was made it clear that the health department was activating to respond to H1N1 and what we requested from the governor’s administration were waivers of some of the process requirements.”²
- “When we get a state declaration many of the restrictions we have during normal processes are relieved. We can hire, we can spend funds as necessary, but the challenge is . . . leading up to that on a smaller scale that didn’t hit a state declaration.”²
- “Local home rule policies in some states resulted in many jurisdictions making decisions that differed from statewide guidance and the actions of neighboring jurisdictions,

requiring considerable coordination and communication activities by the state health agency.”¹⁰

- “The lack of a declaration of emergency (or a delay in its issuance) at the state or local level impeded their agencies’ H1N1 response even though the federal government had issued a declaration.”¹¹
- “Confusion exists around legislative and executive order powers due to the orders’ varying lengths and stipulations. There also seems to be confusion around emergency declarations and the difference between grants.”¹²

Health Department Use of Authorities

Local, state, and federal governments use a variety of authorities that provide enhanced administrative preparedness capabilities, particularly those related to procurement and personnel actions.

Procurement

Complex procurement processes are frequently an obstacle to rapid public health emergency response. Government procurement involves a broad range of activities, including identifying the need for goods and services, determining specifications for those resources, identifying suppliers with the ability to meet those specifications, negotiating purchase price, and administering signed contracts with suppliers. Each step presents a potential obstacle to the timely acquisition and use of resources needed for an effective response and has the potential to redirect time and attention away from response activities and to burdensome administrative tasks related to monitoring, tracking, and reporting on contracts. Different procurement policies and processes are in place at the local, state, and federal jurisdictional level, further adding to the complexity of procurement activities.

Local and state health officials frequently cite the time needed to complete the procurement process as a challenge. The length of time required varies from jurisdiction to jurisdiction, but is commonly measured in weeks or months rather than hours or days. NACCHO found that a two- to three-month turnaround time was typical for executing contracts.

To assess their current procurement policies and procedures and identify which strategies best meet their needs, health departments should do the following:

- Increase awareness among their partners of how the procurement process may be altered by a declaration. As the

Association of State and Territorial Health Officials (ASTHO) found during stakeholder group interviews, “A better understanding of disaster declarations and the role they can play in suspending procurement rules would also benefit the CFOs [chief fiscal officers].”¹²

- Encourage authorized officials to include specific language in declarations that provide the power to expedite procurement processes. As described by the National Association of State Procurement Officials (NASPO), “many—not all—of the procurement process issues evaporate in the early response phases after the emergency is declared. Sourcing rules largely change as available procurement authority is exercised to permit procurements based on urgency.”¹³
- Collaborate with their legal counsel and procurement partners to develop templates or pre-scripted language to be inserted in written declarations.
- Develop and implement other strategies to alleviate some administrative procurement burdens in the absence of a declaration. The NACCHO report *Administrative Preparedness: Emergency Procurement Strategies for Health Departments*, provides additional details.

EXAMPLES OF AUTHORITIES RELATED TO PROCUREMENT

- At the federal level, the Office of Federal Procurement Policy Act authorizes emergency procurement to support contingency operations or to defend against or recover from chemical, biological, radiological, and nuclear attacks against the United States. This allows heads of federal government agencies to procure needed goods at increased thresholds and under simplified acquisition procedures.¹⁴
- Under federal public health emergencies declared by the Secretary of HHS, state, local, tribal, and territorial governments are “authorized to access all Federal Supply Schedules for the purchase of products and services when expending federal grant funds in response.”¹⁵
- NASPO found that “thirty-three state central procurement offices have established state term contracts for commodities and services that might be needed in an emergency.”¹⁶
- In West Virginia, the state spending unit can authorize purchases in the open market during an emergency of specific commodities for immediate delivery, without filing a requisition or estimate.¹⁷

- North Carolina has a statute allowing the state to obtain in the open market any necessary supplies, materials, equipment, printing, or services for immediate delivery to any department, institution, or agency of state government.¹⁸

Personnel Actions

Health departments rely on highly trained and dedicated personnel who are available to respond quickly when an emergency strikes. However, in recent years, thousands of seasoned public health professionals have lost their jobs and entire preparedness programs have been eliminated or scaled back across the country. Local health departments have lost nearly 40,000 employees since 2008; more than 5,000 positions were eliminated in the second half of 2011 alone.¹⁹ State health departments have seen similar reductions in their workforce. As a result, many health departments are short-staffed daily.

During emergencies, short-staffing becomes a critical challenge. Health departments quickly reach surge capacity and have an imminent need for increased staffing. Yet, meeting this need for additional staff is equally challenging. Numerous administrative hurdles—including lengthy hiring processes, hiring freezes, furloughs, overtime restrictions, contracting requirements, and collective bargaining agreements—present obstacles to health departments attempting to increase personnel capacity rapidly in response to an emergency. Additionally, the response to public health emergencies often requires the expertise of personnel with unique skill sets, who may not be readily available in the numbers needed to respond effectively.

To exercise authorities that may reduce some of these personnel challenges during emergencies, health departments should do the following:

- Work with authorized officials and human resources staff to develop expedited hiring processes that are authorized

“When you start to have to deal with the bidding process in researching different vendors, and trying to make sure that you are spending [funds] wisely . . . the time is just insane that you need to really involve in that process.”²

through emergency clauses in personnel regulations or waived through specific language in emergency declarations.

- Avoid lengthy hiring processes by bringing in contractors and temporary or term-limited staff, when appropriate. For instance, a jurisdiction's personnel regulations may enable temporary personnel appointments for a certain period of time following an emergency to meet response and recovery needs.
- Determine whether they can rapidly increase personnel capacity by increasing the work hours of existing employees.
- Consider including emergency work requirements in job descriptions, such as requiring employees to be on call during emergencies or work extended hours.
- Use the availability of overtime pay as an incentive to encourage employees to work during emergencies, if possible.

EXAMPLES OF AUTHORITIES RELATED TO PERSONNEL

- Nevada has a statute allowing local governments to suspend collective bargaining agreements for the duration of an emergency to carry out their mission.
- The collective bargaining agreement between Pacific County, Washington, and its employees allows the Director of Public Works to make temporary personnel appointments for up to five months during a state of disaster or emergency.
- The Emergency Management Assistance Compact allows personnel to be deployed across state lines to provide assistance to a requesting state during an emergency.
- The Pandemic and All-Hazards Preparedness Reauthorization Act includes a provision enabling state and local governments to temporarily reassign HHS-funded state and local personnel during a public health emergency.²⁰

“Understanding how to work with staff during public health emergencies within the restrictions of local and state labor agreements is essential. Some LHDs may need assistance in negotiating and contracting for flexibility during emergencies. Labor agreements have a profound impact on local emergency response.”¹¹

Considerations for Health Departments

Specific examples of authorities used by health departments to improve their administrative preparedness capabilities are included in Appendix B, Other Administrative Preparedness Authorities. In some instances, the authorities available to improve administrative preparedness are limited or not easily implemented. Being aware of these limitations ahead of time, and identifying potential workarounds are important administrative preparedness activities. Additionally, what works for one jurisdiction may further complicate the situation in another. NACCHO encourages health departments to be creative in exploring alternatives to their administrative barriers by considering the following:

- Solidify relationships with essential partners within their department or jurisdiction. These partners include procurement officials, human resource directors, budget officers, legal counsel, and staff to their mayor, governor, or other executive officer.
- Work with their jurisdiction's legal counsel to understand what types of declarations are available and how they may be used to enhance administrative preparedness capabilities during an emergency.
- Educate staff and partners about available authorities and encourage creative thinking to overcome remaining challenges.
- Develop administrative preparedness plans that identify all authorities that may be available during an emergency.
- Draft pre-scripted templates and language that may be inserted in declarations.
- Advocate for specific language in a declaration that provides the capability to expedite administrative processes and procedures.
- Ensure that similar emergency proclamations are issued at all levels of government to take full advantage of the flexibilities offered in waiving various administrative processes and procedures.

Challenges Based on External Authorities

NACCHO recognizes that there are numerous administrative barriers and challenges that cannot be addressed through declarations or other emergency authorities that impact a health department's administrative preparedness capability. These administrative processes and policies are beyond the internal control of an individual health department. The

needed authority may rest with an individual outside of the health department, such as a mayor, governor, or legislative body. Or, it may exist at a different level of government than where the emergency is occurring. In some cases, there may be no administrative preparedness authority available at all that is appropriate for the specific circumstances of the emergency. However, NACCHO believes there is value in not only identifying available administrative preparedness authorities, but also acknowledging those for which no solution currently exists. The following sections highlight the most commonly noted administrative barriers outside the authority of health departments.

Restrictions on the Use of Funds

Often, funding received by health departments is designated for very specific purposes, which creates challenges due to the limitations of categorical funding streams. For instance, all state health departments receive funding from HHS for both general public health preparedness under PHEP and large-scale bioterrorist event planning under the Cities Readiness Initiative. Although both funding streams come from HHS and are used for public health preparedness purposes, health departments are limited by the specified parameters under which each of them can be used. As another example, the Public Health Emergency Response (PHER) funds appropriated to state health departments for their H1N1 response were released in phases, with each phase targeted toward a specific category.²¹ This forced health departments to make planning decisions based on funding categories rather than their perceived community needs.

Timing of Receipt of Funds

A common problem for health departments, particularly at the local level, is the delay in receiving funds. Every year state and local health departments receive PHEP and Hospital Preparedness Program funds to improve their preparedness for emergencies on an ongoing basis. The administration and distribution of funds from the federal to the state to the local level is a lengthy process that reduces the time available to complete deliverables within the fiscal year. During an emergency, local health departments are challenged to initiate and organize their response activities when there is uncertainty about when funding may be awarded at the federal level or redistributed at the state level.

“There is sometimes a delay in getting the contract. I know the grant year starts in August for us, but I don’t think we’ve ever had the contract in August. Sometimes, it’s September, October, November before we receive the contract.”²²

Accepting and Allocating Funds

Health departments may lack authorities related to the acceptance and allocation of funds. Some state and local health departments are required to receive approval from an outside legislative or executive authority before accepting funds. This can be a significant administrative hurdle during an emergency when an outside authority must be convened before emergency funds can even be accepted. This causes subsequent delays to further allocation and spending of funds. Other types of approvals may be required to accept funds greater than a set amount or to receive funds through reimbursement after they have been allocated. These external approvals may hinder an emergency response.

Steps to Improve Administrative Preparedness

It is not possible to characterize all of the potential authorities available to improve administrative preparedness. The following steps are intended to assist health departments in determining what is and is not feasible in their specific jurisdictions. NACCHO suggests that individual health departments and their partners consider these steps when seeking improvements in their administrative preparedness capability:

1

Identify Administrative Barriers

Commonly identified administrative barriers that may delay or negatively impact emergency response include the following:

- Inability to accelerate, modify, or streamline administrative policies and procedures in the absence of an emergency declaration.
- Competitive bidding requirements to procure goods and services.
- Time requirements for posting of job and contracting opportunity announcements.
- Set-asides giving preferential consideration to small, minority, or women-owned businesses when issuing contracts.
- Agency hiring freezes.
- Collective bargaining agreement restrictions.
- Agency overtime policies.
- Rigid personnel classification systems.
- Categorical funding sources.

2

Establish Authorities

A variety of authorities exist or may be considered for adoption by government agencies at all levels to accelerate, modify, streamline, and accountably manage fiscal and administrative procedures and practices during emergency responses. These include the following:

- Declaring an emergency, disaster, or public health emergency.
- Entering into sole source contracts.
- Reducing the amount of time available for potential contractors to submit bids.
- Waiving procurement set-asides intended to increase diversity.
- Hiring temporary/limited term workers.
- Using contractors or volunteers to meet personnel needs.
- Negotiating exceptions to collective bargaining agreements.
- Including emergency clauses in contracts and collective bargaining agreements.

3

Verify Authority Figure

The individual or entity with the power to authorize modified administrative policies and procedures varies by jurisdiction and by level of government. Such entities include the following:

- Governor.
- State legislature.
- State or local emergency management agency director.
- State or local health official.
- Mayor or county executive.
- City council.
- Board of health.
- Agency managers.
- Incident commander.

4

Determine Appropriateness and Availability

The determination of which authorities to exercise depends on factors such as the following:

- The existence of the authority in current statute, regulation, or common practice.
- The ability to rapidly enact new authorities.
- The willingness of individuals or entities to exercise their available authorities.
- The circumstances of the incident.

5

Act

Enacting these authorities may require documentation to justify why the actions were necessary and appropriate.

Conclusion

The contents of this report are intended to improve the understanding of health departments about the administrative preparedness authorities that may be available to them. NACCHO offers suggested steps to assist health departments in determining which authorities may be most useful for application in their jurisdiction. To determine if appropriate authorities already exist, health departments first need to assess their current administrative preparedness capabilities.

Administrative preparedness authorities cannot be implemented in a vacuum. Health department officials should partner with other appropriate officials in their jurisdiction to establish or develop emergency authorities. Administrative preparedness must also be addressed at all levels of government in order to achieve a more efficient and effective response capacity and capability throughout the public health enterprise.

While NACCHO encourages health departments to investigate and apply authorities to improve their

administrative preparedness capability whenever possible, it must be with the understanding that not all authorities are appropriate for all situations. The extensive number of policies and procedures that health departments are required to comply with may be burdensome and time-consuming. However, they also ensure fairness and provide oversight and accountability to the decisions and actions of health departments. As health departments consider implementing existing authorities or developing new ones to streamline, modify, and accelerate normal administrative practices during an emergency, they need to do so while maintaining accountability for how funds are spent and decisions are made.

Acknowledgments

This report was supported by Contract Number HHS0100201250005A from the Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the sponsor. NACCHO is grateful for this support.

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References

1. National Association of County and City Health Officials. (2012). Managing Administrative Preparedness Burdens on State and Local Health Departments. Webinar retrieved from <http://www.naccho.org/topics/emergency/webinars/webinar4ap/>.
2. Harvard School of Public Health. (2012). Health Department Barriers to the Administration of Emergency Preparedness Funds Granted by the Department of Health and Human Services (HHS). Unpublished report.
3. Federal Emergency Management Agency. (2007). Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended, and Related Authorities. 42 U.S.C. 5121 et seq. Retrieved from http://www.fema.gov/pdf/about/stafford_act.pdf.
4. National Emergencies Act. 50 U.S.C. § 1601. Retrieved from <http://www.gpo.gov/fdsys/pkg/statute-90/pdf/statute-90-pg1255.pdf>.
5. U.S. Department of Health and Human Services Office of the Assistant Secretary for Preparedness and Response (2010). Public Health Emergency Declaration. Retrieved from <http://www.phe.gov/preparedness/legal/pages/phedeclaration.aspx>.
6. The Center for Law and the Public's Health. (2007). Legal and Regulatory Issues Concerning Volunteer Health Professionals and Emergencies. Retrieved from <http://www.publichealthlaw.net/research/pdf/esar%20vhp%20toolkit.pdf>.
7. Association of State and Territorial Health Officials. (2012). Emergency Declarations and Authorities Fact Sheet. Retrieved from http://www.astho.org/uploadedfiles/programs/preparedness/public_health_emergency_law/emergency_authority_and_immunity_toolkit/04-emergdecauthorities%20FS%20final%203-12.pdf.
8. Association of State and Territorial Health Officials. (2010). Environmental Scan of H1N1 Reviews and After-Action Reports. Retrieved from <http://www.astho.org/programs/infectious-disease/h1n1/app-4-policy-barriers/>.
9. National Association of County and City Health Officials. (2011). 2010 National Profile of Local Health Departments. Retrieved from http://www.naccho.org/topics/infrastructure/profile/resources/2010report/upload/2010_profile_main_report-web.pdf.
10. Association of State and Territorial Health Officials. (2010). ASTHO Survey of State Health Agency Staff on H1N1 Response Policy and Legal Issues. Retrieved from <http://www.astho.org/programs/infectious-disease/h1n1/app-3-policy-barriers/>.
11. National Association of County and City Health Officials. (2010). NACCHO H1N1 Policy Workshop Report. Retrieved from <http://www.naccho.org/topics/h1n1/upload/naccho-workshop-report-in-template-with-chart.pdf>.
12. Association of State and Territorial Health Officials. (2012). 2012 Administrative Preparedness White Paper. Unpublished paper.
13. National Association of State Procurement Officials. (2008). Emergency Preparedness for State Procurement Officials. Retrieved from http://www.naspo.org/documents/emergency_preparedness_ep__final_compressed.pdf.
14. The Office of Federal Procurement Policy Act. 41 U.S.C. § 428a. Retrieved from <http://codes.lp.findlaw.com/uscode/41/7/428a>.

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March 2013



15. General Services Administration. (2010). Federal Grantee Access to Schedules in Response to Public Health Emergencies. Retrieved from http://www.gsa.gov/graphics/fas/10_00168_phe_508.pdf.
16. National Association of State Procurement Officials. (2012). 2011-2012 NASPO Survey of State Procurement Practices: Summary Report. Retrieved from http://www.naspo.org/survey/documents/zip/final-summaryreport2011-12survey_updates_1-8-13.pdf.
17. West Virginia Code §5A-3-15.
18. North Carolina § 143 57.
19. National Association of County and City Health Officials. (2012). Local Health Department Job Losses and Program Cuts: Findings from the January 2012 Survey. Retrieved from <http://www.naccho.org/topics/infrastructure/lhdbudget/upload/research-brief-final.pdf>.
20. Pandemic and All-Hazards Preparedness Reauthorization Act of 2013. 42 U.S.C. 247(e). Retrieved from <http://www.gpo.gov/fdsys/pkg/bills-113hr307enr/pdf/bills-113hr307enr.pdf>.
21. Centers for Disease Control and Prevention. (2011). Public Health Emergency Response (PHER) Grant (2009-2010). Retrieved from <http://www.cdc.gov/phpr/pher.htm>.

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The mission of the National Association of County and City Health Officials (NACCHO) is to be a leader, partner, catalyst, and voice for local health departments.

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APPENDIX A: DECLARATIONS PROVIDING ADMINISTRATIVE PREPAREDNESS AUTHORITIES

Authority	Who (can allow use of authority)	When (triggers)	What (is allowed)	How (is it implemented)	Citation
FEDERAL					
Major Disaster or Emergency - Stafford Act	President	<p>"All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity & magnitude that effective response is beyond the capabilities of the State & the affected local governments & that federal assistance is necessary."</p> <p>"The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists"</p> <p>"The President may exercise any authority . . . with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which . . . the United States exercises exclusive or preeminent responsibility& authority.</p>	<ul style="list-style-type: none"> -Direct any Federal agency to utilize its authorities & the resources granted to it under Federal law in support of State and local assistance response and recovery efforts -Coordinate all disaster relief assistance provided by Federal agencies, private organizations, and State & local governments -Provide technical & advisory assistance to affected State & local governments -Assist State & local governments in the distribution of medicine, food & other consumable supplies and emergency assistance -Provide accelerated Federal assistance & Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage 	<p>"As part of such request, and as a prerequisite to emergency assistance under the Act, the Governor shall take appropriate action under State law & direct execution of the State's emergency plan. The Governor shall furnish information describing the State & local efforts & resources which have been or will be used to alleviate the emergency, and will define the types & extent of Federal aid required."</p> <p>-for certain emergencies involving Federal primary responsibility – "In determining whether or not such an emergency exists, the President shall consult the Governor of any affected state."</p>	<p>http://www.fema.gov/pdf/about/stafford_act.pdf</p>
Emergency - National Emergencies Act	President	-a general declaration of emergency made by the President	-Emergency authorities specified under federal law	<p>"When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless & until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register & transmitted to the Congress."</p>	<p>http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1255.pdf</p>

APPENDIX A: DECLARATIONS PROVIDING ADMINISTRATIVE PREPAREDNESS AUTHORITIES, CONT.

Authority	Who (can allow use of authority)	When (triggers)	What (is allowed)	How (is it implemented)	Citation
Public Health Emergency - Public Health Service Act	Secretary of DHHS	-" (1) a disease or disorders presents a public health emergency; or (2) a public health emergency, including significant outbreaks or infectious diseases or bioterrorist attacks, otherwise exists"	-"take such action as may be appropriate to respond to the public health emergency, including making grants, providing awards for expenses, and entering into contracts & conducting & supporting investigations into the cause, treatment, or prevention of a disease or disorder" -Use Public Health Emergency Fund to "supplement and not supplant other Federal, State, & local public funds provided for activities" -"In any case in which the Secretary determines that . . . individual of public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required any under any law administered by the Secretary . . . grant such extensions of such deadlines as the circumstances reasonably require, & may waive . . . any sanctions otherwise applicable to such failure to comply"	-"after consultation with such public health officials as may be necessary" -"terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary"	http://codes.lp.findlaw.com/uscode/42/6A/11/B/247d
STATE & LOCAL					
Emergency/ Disaster Declaration	Governor; Emergency Management Agency Director; County Executive; Mayor	Varies by Jurisdiction			
Public Health Emergency	State/ Local Health Officer				

APPENDIX B: OTHER ADMINISTRATIVE PREPAREDNESS AUTHORITIES, CONT.

Examples of Other Authorities That May Impact Administrative Preparedness					
Authority	Who (can allow use of authority)	What (is allowed)	When (triggers)	How (is it implemented)	Citation
Mutual Aid					
State and Province Emergency Management Assistance MOU (International)	legally designated official who is assigned responsibility for emergency management (NOTE: Mutual aid agreements between U.S. states & Canadian provinces require Congressional ratification.)	* possibility of mutual assistance among the participating jurisdictions in managing any emergency or disaster * provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including civil emergency preparedness exercises, testing, or other training activities using equipment & personnel simulating performance of any aspect of the giving and receiving of aid	* the affected jurisdiction or jurisdictions ask for assistance	The authorized representative of a participating jurisdiction may request assistance of another participating jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 15 days of the verbal request. Requests must include: description of ESF & mission; the amount & type of resource needed & for how long; the stage place & time along with contact info	U.S. Public Law 112-282 http://legiscan.com/US/text/SJR44/id/673190
Twin Cities Public Health & Environmental Health Mutual Aid Agreement (Local-Minnesota)	Director of Public Health, Director of Environmental Health, or equivalent	public health or environmental health personnel, equipment, supplies and/or services	Whenever, in the opinion of the Requesting Official, there is a need for assistance from other parties, the Requesting Official may call upon the Responding Official of any other party to furnish assistance. The Requesting Party, within a reasonable period of time, shall provide the Responding Party/ies with a written confirmation of the need for assistance including details regarding requested resources, timelines/schedules and location(s) for assistance.	Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the Responding Party and the availability of resources. Once assistance has been authorized, the Responding Party, within a reasonable period of time, shall provide the Requesting Party with a written confirmation of assistance including details regarding the personnel and resources to be provided and when they will be available.	http://www.minneapolis.mn.gov/www/groups/public/@council/documents/webcontent/convert_275208.pdf

APPENDIX B: OTHER ADMINISTRATIVE PREPAREDNESS AUTHORITIES, CONT.

Authority	Who (can allow use of authority)	What (is allowed)	When (triggers)	How (is it implemented)	Citation
Emergency Purchase Authorization					
Emergency Purchase in Open Market (West Virginia)	Purchasing Director or Designee	* may authorize state spending unit to purchase in the open market, without filing requisition or estimate, specific commodities for immediate delivery	* to meet bona fide emergencies arising from unforeseen causes	* A report of any such purchase, together with a record of the competitive bids upon which it was based, shall be submitted at once to the director by the head of the state spending unit concerned, together with a full account of the circumstances of the emergency: Provided, That the director may waive the need for the record of competitive bids. Such report shall be entered on a record and shall be open to public inspection.	* West Virginia Code §5A-3-15
Emergency Contracts (New Jersey)	Agency Head or Designee	* may negotiate or award a contract without public advertising for bids & bidding	* when an emergency affecting the public health, safety or welfare requires immediate delivery of goods or performance of services	* Official in charge of the agency or individual authorized to act in place of that official notifies purchasing agent or designated representative of governing body of need for a contract, the nature of the emergency, the time of its occurrence, & the need for invoking.	* New Jersey 40A:11-6
Purchases of Articles in Certain Emergencies (North Carolina)	Secretary of Administration	* obtain in the open market any necessary supplies, materials, equipment, printing or services for immediate delivery to any department, institution or agency of state government.	* in case of emergency or pressing need arising from unforeseen causes	A report on the circumstances of such emergency or need and the transactions thereunder shall be made a matter of record promptly thereafter. If the expenditure exceeds ten thousand dollars (\$10,000), the report shall also be made promptly thereafter to the Division of Purchase and Contract.	* North Carolina § 143-57
Emergency Procurement (Mississippi)	Chief Procurement Officer; head of purchasing agency; designee	"limited to those supplies, services, or construction items necessary to meet the emergency"	"any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or caused by any inherent defect due to defective construction, or when the immediate preservation of order or public health is necessary by reason of unforeseen emergency, or when the restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used & useful in the generation, production or distribution of electricity, water or natural gas or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens"	* a written determination of the basis for the emergency & for the selection of the particular contractor shall be included in the contract file* notification of the Office of Purchasing, Travel & Fleet Management certification must be submitted on letterhead & signed by executive head or his/her designee	Mississippi Procurement Manual http://www.dfa.state.ms.us/Purchasing/ProcurementManual/chapter3.pdf

APPENDIX B: OTHER ADMINISTRATIVE PREPAREDNESS AUTHORITIES, CONT.

Authority	Who (can allow use of authority)	What (is allowed)	When (triggers)	How (is it implemented)	Citation
Simplified Procurement Processes					
Office of Federal Procurement Policy Act (Federal)	Head of federal agency	* increased procurement thresholds * Increased limitation on use of simplified acquisition procedures	* in support of a contingency operation * to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States	The authorities provided in this section apply with respect to any procurement of property or services by or for an executive agency that, as determined by the head of such executive agency,	http://codes.lp.findlaw.com/uscode/41/7/428a
Emergency Equipment Rental Agreement (Model Template)	Incident command staff or government representative or contracting officer	* contractor furnished requested equipment if willing & able at time of order	* at request of the government	The applicable federal acquisition regulation clauses and terms and conditions will be incorporated as an attachment and will be a part of this agreement.	General Clauses to Emergency Equipment Rental Agreement Form http://www.nwcc.gov/teams/ibpwt/forms/test-forms/2006-test-form-general-clauses.pdf
Collective Bargaining Agreement					
Collective Bargaining Agreement by and between Pacific County, WA and Local 367 (Local-Washington)	Director Public Works or Designee	* allows temporary appointment to county employment	* during a state of disaster or emergency	* cannot exceed 5 months within any 12 month period	http://www.co.pacific.wa.us/pdf%20files/367%20CBA.pdf
Simplified Personnel Policies					
Relations Between Governments & Public Employees (State-Nevada)	Local government	* take whatever actions necessary to carry out its responsibilities in situations of emergency, including the suspension of collective bargaining agreement for duration of emergency	* in situation of emergency	Not specified	Nevada NRS 288.150 http://www.leg.state.nv.us/NRS/NRS-288.html

APPENDIX B: OTHER ADMINISTRATIVE PREPAREDNESS AUTHORITIES, CONT.

Authority	Who (can allow use of authority)	What (is allowed)	When (triggers)	How (is it implemented)	Citation
Cost Reimbursement					
Sandy Recovery Improvement Act of 2013 (Federal)	President	* reimburse State, tribal, or local government for costs relating to: -- basic pay & benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures if the work is not typically performed by the employees & the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals OR - overtime & hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures	* during major disaster or emergency declared by the President	Not specified	http://www.gpo.gov/fdsys/pkg/PLAW-113publ2/pdf/PLAW-113publ2.pdf