

**45.237 Definitions for KRS 45.237 to 45.239 -- Establishment of internal controls and preaudit procedures for state agencies -- Collection of improper payments -- Referral of certified debts by agency or local government to Department of Revenue -- Information to be provided to State Treasurer.**

- (1) As used in KRS 45.237 to 45.239:
  - (a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;
  - (b) "Cabinet" means the Finance and Administration Cabinet;
  - (c) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;
  - (d) "Debt" means:
    1. For agencies, a sum certain which has been certified as due and owing;
    2. For local governments, a sum certain which has been certified as due and owing, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes; and
    3. For the Court of Justice, a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to KRS 23A.205(3) or 24A.175(4) has expired;
  - (e) "Department" means the Department of Revenue;
  - (f) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and
  - (g) "Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth.
- (2) The cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall focus first on programs or activities that expend the most federal and general fund dollars. The cabinet shall develop preaudit procedures that meet the unique needs of each agency.
- (3) In establishing these systems of internal control and preaudit policies and procedures, the cabinet shall:
  - (a) Consult with each agency within the executive branch to ascertain its unique fraud risks;
  - (b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;
  - (c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices

submitted for payment, applications submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;

- (d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and
  - (e) Consult with the state Auditor of Public Accounts, the Commonwealth Office of Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.
- (4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the department.
  - (5) A local government may, after making reasonable efforts to collect its debts, by ordinance, resolution, or otherwise pursuant to law, certify its debts that have been due and owing for more than ninety (90) days to the department for collection. The department may, by administrative regulation promulgated in accordance with KRS Chapter 13A, prescribe the form and format of, and the information required in, referrals by a local government, which may be required to be made electronically.
  - (6) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the department shall be allocated to the fund from which the improper payment was expended.
  - (7) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the department to the Legislative Research Commission. These summaries shall include but not be limited to:
    - (a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;
    - (b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and
    - (c) The aggregate amount of certified debts that the agency referred to the department.
  - (8) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).
  - (9) Each local government shall, where feasible, provide information about each debt that is certified pursuant to this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 88, sec. 3, effective June 25, 2013. -- Amended 2005 Ky. Acts ch. 85, sec. 61, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 192, sec. 1, effective April 21, 2004.