



Onsite Sewage Treatment and Disposal Systems Program Transfer Process

Recommendations Report

**Submitted in Response to Requirements
of the
Florida Clean Waterways Act**

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INTRODUCTION

Requirements of the Florida Clean Waterways Act Pertaining to the Onsite Sewage Treatment and Disposal Systems Program

The 2020 Florida Legislature passed the Clean Waterways Act (the Act). Section 2 of the Act calls for the Florida Department of Health (DOH) and the Florida Department of Environmental Protection (DEP) to submit recommendations by December 31, 2020 to the Governor, the President of the Senate and the Speaker of the House regarding all aspects of the transfer of the Onsite Sewage Treatment and Disposal Systems (OSTDS) program from DOH to DEP. This report presents the recommendations called for in Section 2 of the Act.

Among other provisions, the Act further specifies that:

- DOH and DEP enter into an interagency agreement by June 30, 2021 based on this report, that must address all aspects of interagency cooperation on OSTDS for a period of at least 5 years
- County Health Departments (CHDs) have a continuing role in the permitting, inspection, data management and tracking of OSTDS, under the direction of DEP
- Effective July 1, 2021, the OSTDS program will transfer from DOH to DEP as a Type Two transfer as defined in section 20.06(2), Florida Statutes

The OSTDS Joint Transfer Team Process

To develop recommendations informed by expertise and experience with the implementation of the OSTDS program and with the issues raised by the transfer, DOH and DEP established a Joint Transfer Team to develop the recommendations in this report. The Joint Transfer Team included more than 50 participants, at many levels of both agencies, with roles either in the implementation of the program now or after the July 1, 2021 transfer.

The Joint Transfer Team met six times from September to December of 2020 to identify issues and develop solutions. Drafting groups and other subgroups of Joint Transfer Team members held more than 12 additional meetings to consider specific issues and prepare potential approaches for the Joint Transfer Team to consider.

These recommendations have been reviewed by the Joint Transfer Team at its December 2020 meeting.

Current Integrated Structure of the OSTDS Program

DOH is an integrated State agency comprised of the State Health Office, with headquarters located in Tallahassee, and CHDs located in each of Florida's sixty-seven (67) counties. Section 381.001, Florida Statutes, grants DOH responsibility for the State's public health system, with public health services to be provided through the 67 CHDs in partnership with county governments. Sections 381.0064 - .0068 and Chapter 489, Part III, Florida Statutes (F.S.), grant DOH responsibility to implement a statewide onsite sewage program that regulates Onsite Sewage Treatment and Disposal Systems (OSTDS).

Within the State Health Office, County Health Systems (CHS) has supervisory authority for all employees at CHDs. The Environmental Health (EH) program at the State Health Office provides CHDs with programmatic support and some direct services but does not have supervisory authority over CHD employees performing EH program functions.

OSTDS is part of the EH services provided by DOH at both the state and county levels. At the state level, State Health Office employees provide OSTDS services including: rulemaking, programmatic guidance to CHDs, licensing of septic tank contractors and businesses, approval of OSTDS components, research, public and local government training, technical support, variances, local CHD program evaluations and OSTDS training for the Certified Environmental Health Professional (CEHP) certification. State Health Office employees outside of the OSTDS program also manage two functions that support broader EH services important to OSTDS: a centralized EH database that houses all EH services data including OSTDS and the administration of the CEHP certification program for OSTDS and food sanitation programs established by section 381.0101, F.S. Organizationally, the certification program is not housed in, nor exclusive to, the OSTDS program.

DOH administers public health programs locally through CHDs. CHD employees are state DOH employees. The relationship between county governments and CHDs is established by Section 154.01, F.S. and includes EH services (including OSTDS), Communicable Disease services and Primary Care services. To provide these services, DOH enters annual contracts with each county government.¹ CHD EH employees administer OSTDS together with other EH services. Specific CHD OSTD functions include permitting, inspection and tracking of OSTDS through the centralized EH database that is maintained at the State Health Office. Counties may establish additional local OSTDS services through the annual contract with DOH or by an agreement directly with the CHD.

Pursuant to sections 154.06 and 381.0066, F.S., fees are established for OSTDS services provided and the total fees assessed are expected by statute to be sufficient to meet the cost of administering the program. Currently, however, OSTDS fees are not sufficient to fund the OSTDS program. Fees are deposited into a DOH trust fund. All funds collected may only be expended for the purpose of providing health services and for facilities within the county served by the CHD. Fees collected by CHDs pursuant to department rules must be deposited with the Chief Financial Officer and credited to the County Health Department Trust Fund. Fees collected by CHDs for public health services shall be allocated to the state and the county based upon the pro rata share of funding for each such service. The board of county commissioners, if it has so contracted, must provide for the transmittal of funds collected for its pro rata share of public health services rendered under the provisions of this section to the State Treasury for credit to the County Health Department Trust Fund, but in any event the proceeds from such fees may only be used to fund CHD services. Local government fees and other local funding provisions are provided through ordinances or resolutions, with corresponding fee schedules and included in the annual contracts between DOH and the county governments for operation of the CHDs.

Per the General Appropriations Act, FY 2020-2021 Budget, the DOH OSTDS appropriations are mainly disbursed from the Administrative Trust Fund and the County Health Department Trust Fund.

¹ Annual contracts run on a local government fiscal year basis. Current contracts will expire on September 30, 2021.

KEY CONSIDERATIONS SHAPING THE RECOMMENDATIONS

Two key considerations shaped the recommendations in this report. This section presents the central components of those considerations.

Funding and Revenue

The Clean Waterways Act transferred responsibility for the OSTDS program to DEP, together with program fees authorized by statute. Currently, these fees are not sufficient to fully fund the OSTDS program. In addition to the program fees, the OSTDS program currently relies on DOH General Revenue (GR) and local government funding to maintain current levels of service.

Funding from local governments is voluntary, usually provided in return for specific services over and above statewide requirements, embedded in the broader relationship and contract between each CHD and its host county. These contracts must be renewed each year. Continuation and transfer to DEP of this funding after the expiration of current contracts was not addressed by the Act and will require DEP to engage separately with each county.

Transfer of the program without provision for either continuing the DOH GR and local government funding or replacing them with equivalent funding would create the possibility of a significant shortfall in funding for the post-transfer OSTDS program.

Additional detail is provided below:

- Although section 381.0066, F.S., stipulates that state fees must be sufficient to meet the cost of administering the OSTDS program, state fees are not currently sufficient to fund the program.
- The OSTDS program is currently funded from three sources: 1) statewide program fees; 2) local government fees and local government general appropriations; and 3) non-categorical GR support appropriated by the legislature to DOH and allocated by DOH to CHDs.
- Over the five fiscal years prior to the Act (July 1st, 2014 to June 30, 2019) approximately:
 - 60% of program costs have been covered by statewide program fees established by rule within the authority granted by section 381.066, F.S.
 - 28% of program costs have been covered by local government fees and other local funding contributions
 - 12% of program costs have been covered by non-categorical GR support DOH provides to CHDs
- These three funding sources are combined in different proportions by different CHDs each fiscal year. Not all CHDs receive local government appropriations or use DOH GR funds to support OSTDS.
- All three funding sources are currently needed to support OSTDS. Equivalent funding will be needed after the transfer.
- To support or enhance OSTDS levels-of-service within their jurisdiction, local governments (principally counties) provide fees and funding to support their OSTDS services. Pursuant to the

current annual contracts with DOH these funds are not used outside of the contributing local government's jurisdiction.

- Local government fees and other appropriations are provided through ordinances and/or resolutions referencing the CHDs, with corresponding fee schedules and through the annual contracts with DOH for operation of the CHDs. For DEP to receive the fees which currently support local OSTDS services, these ordinances, resolutions and fee schedules would likely need to be amended or modified to reference DEP. For DEP to receive local appropriations after expiration of the current annual contracts on September 30, 2021 would require DEP to contract separately with each county. An amendment to section 154.06, F.S., may also be required.
- Post-transfer staffing and organizational models that might adversely affect local OSTDS levels-of-service (such as greater regionalization of OSTDS services) may affect the rationale for local government willingness to continue fees and other funding support.
- Any model for providing OSTDS services on July 1, 2021 must ensure all funding sources currently supporting OSTDS – local fees and local appropriations, DOH GR and statewide program fees – can be used as they are now to support OSTDS activity, or that equivalent funding is provided through combined agency and legislative action.

Staffing and Structure

As the OSTDS program is currently structured, local OSTDS services (permitting, inspections, data management and tracking of onsite sewage treatment and disposals systems) are performed by CHD EH employees who in many counties also, and sometimes primarily, have responsibilities for other EH services. These services are performed by state employees located in virtually every county, allowing for short OSTDS response time and minimizing the cost to the public of accessing services.

Transfer of these positions to DEP without provision for allowing them to continue to work on other CHD EH programs², or for replacing the staffing they provide for those programs could significantly disrupt the ability of many CHDs to continue to successfully maintain other statutorily-required EH programs, which include 17 additional environmental health functions as provided in section 381.006, F.S. These functions are: drinking water; environmental health surveillance; toxicology and hazard assessment; determinations of safe levels of contaminants in water, air, or food; human toxicological health risk assessments; technical assistance to DEP and other agencies on actions to ameliorate exposure to toxic agents; monitoring and reporting the body burden of toxic agents; sanitary nuisance; migrant labor; public sanitation of facilities; biohazardous waste control; animal disease control; food-borne disease; mosquito and pest control; radiation control; public swimming and bathing facilities; mobile home parks, lodging parks, RV parks and recreational camps; sanitary facilities; group-care facilities; and food service for domestic violence centers. Other statutory functions that local CHD employees perform include the regulation, inspection and enforcement of food service establishments, as well as body piercing and tattoo establishments.

Additional detail is provided below:

² Legislative authorization for DOH to delegate programmatic responsibilities statutorily assigned to it would likely be required to allow DEP employees to perform work for non-OSTDS EH programs.

County Health Department Staffing and Structure Considerations

- County elected officials, local businesses, the construction industry and the public generally prefer that OSTDS services be provided locally, in a manner as accessible to users of those services as possible.
- The Clean Waterways Act vests responsibility for successful operation of the OSTDS program with DEP. To successfully fulfill this responsibility, DEP will need to provide OSTDS services at the county level as CHDs do now, or use a regional model that does not unduly increase the distance the public needs to travel to access services, or the distance that employees need to travel to deliver them.
- To provide services at either the county level or using a regional model, DEP will need either DEP employees transferred from DOH, or the ability to provide program-specific direction to DOH employees performing the OSTDS program services at the county level and to ensure acceptable levels of CHD performance in delivering these services.
- EH employees who currently perform OSTDS services at the county level also perform services for a variety of other EH programs and keep a daily record of time dedicated to each program. For the fiscal year from July 1, 2018 to June 30, 2019, of the 639 CHD employees who performed some OSTDS program services, these records indicate that:
 - 30% spent less than 10% of their time on OSTDS
 - About 40% spent between 10% and 85% of their time on OSTDS
 - About 30% spent above 85% of their time on OSTDS. ³

For the five-year period from July 1, 2014 to June 30, 2019, the DOH CHD employees coding time to the OSTDS program represented a workload, on average, of 239 FTEs. Administrative overhead functions supporting local OSTDS services are not captured in the 239 FTEs and are estimated to comprise an additional 59 FTEs. These numbers fluctuate from year-to-year in response to variations in demand.

- Almost all facilities, vehicles and equipment used by the OSTDS program at CHDs are property of the county within which a CHD is located, consistent with section 154.01(4), F.S.
- Any post-July 1, 2021 OSTDS program structure should ensure that:
 - DEP can provide oversight of county-level OSTDS services related to the statewide OSTDS program, whether performed by DEP or DOH employees and;
 - CHDs retain a workforce with sufficient staffing, skills, and expertise to carry out the non-OSTDS EH services.

State Health Office Staffing and Structure Considerations

- OSTDS program employees at the State Health Office function as a unit to perform a variety of interrelated OSTDS functions previously discussed. Any model for the post-July 1, 2021 program office should ensure that the skills of transferred employees can be utilized in ways that continue

³ *Supplemental Data on OSTDS for SB 712 Version 2, FDOH July 24, 2020*

to support all needed program functions.

- The EH database is a centralized database that records data for nearly all EH services at DOH and is maintained by State Health Office employees who are not part of the OSTDS program. The State Health Office is working with an external vendor who is currently migrating the database to new system software and is under contract to host the new database for five years. OSTDS data in the database cannot be quickly or easily migrated to or replicated in a DEP system. On July 1, 2021, the database must remain accessible to employees providing OSTDS services (whether at DOH or DEP) and to DOH employees working on other EH programs.
- The Clean Waterways Act removed OSTDS evaluations from the definition of “primary environmental health program” found in section 381.0101, F.S., that required persons performing those evaluations to be CEHPs. Certification is currently required for DOH employees working in the program (Note: Currently verification that a person has been certified to perform OSTDS and food protection work and has met continuing education requirements for renewal of that certification is performed by a clerical position outside the OSTDS program).
- There is also a private workforce of people (not DOH or CHD employees) with CEHP certification who perform OSTDS site evaluations. Private site evaluators play an important role in all counties whose CHDs do not, for staffing or other reasons, provide site evaluations. Any model for providing OSTDS services on July 1, 2021, must clearly establish if private site evaluators will continue to exist or when they will cease to exist; and the training and, as applicable, certification requirements for employees of either agency working in the OSTDS program.

Conclusions and Desired Outcomes

Based on the above considerations, both DOH and DEP believe that a successful post-transfer OSTDS program must ensure that on July 1, 2021, and for a period thereafter, the following objectives should be met:

- Funding currently supporting the OSTDS program continues, until a new funding model that provides adequate alternative funding is implemented
- DEP has access to the employees and other resources it will need to provide direction and oversight of the OSTDS program
- DOH CHDs continue to have access to the staffing, skills, and resources they will need to continue providing services for the DOH EH programs at the county level
- The OSTDS program continues to provide services as physically close as possible to the county/local level, maximizing accessibility to users and minimizing employee time and other resources dedicated to travel
- A process is in place to develop and implement a permanent structure for the program including:
 - a sustainable funding model consistent with DEP’s statutory responsibility for the program
 - provisions that either:
 - offer a new staffing model that gives DEP sufficient employees to directly provide OSTDS services as close to the county level as possible, while allowing DOH to implement a CHD EH staffing model that is not dependent on the employees or positions currently performing OSTDS services; or
 - continues the transitional arrangements, if agreed-upon by both agencies

Both agencies believe that the most efficient and effective way to achieve these outcomes is an approach that establishes a transitional program structure to take effect on July 1, 2021, for the five-year Interagency Agreement period, while laying out a path to a permanent program structure in the longer term. The transitional program structure should:

- Transfer OSTDS State Health Office employees and functions to DEP
- Provide for county-level OSTDS services to be performed by the same individuals, in the same or similar locations, doing the same or similar mix of OSTDS program and non-OSTDS DOH program services as is currently the case whether they are DEP or DOH employees⁴
- Ensure the OSTDS services are performed under DEP direction⁵

RECOMMENDATIONS

This section presents recommendations to implement a transfer consistent with the conclusions and desired outcomes described in the previous section.

The approach taken in these recommendations is not the only way to achieve these outcomes. The Joint Transfer Team developed and evaluated four approaches, described in the *Alternative Scenarios Considered* section of this report, and concluded that Scenarios A and B could result in a post-transfer program consistent with the desired outcomes. The Joint Transfer Team eventually concluded that an approach modelled closely on Scenario B would minimize the complexity, uncertainty (particularly funding uncertainty) and disruption potentially accompanying the transfer, while addressing the key considerations for a successful program on July 1, 2021.

The most detailed recommendations in this section focus on aspects of the transfer essential to ensuring that the post-transfer configuration of the OSTDS program is consistent with the conclusions and desired outcomes described above. Other recommendations identify provisions needed in the Interagency Agreement. Additional guidance needed to implement the transfer of the OSTDS program are found in this report under *Summary of Provisions for the Interagency Agreement*.

DOH and DEP believe that the transitional OSTDS program structure proposed in the recommendations is responsive to the requirements of the Act. Both agencies acknowledge that the structure would make each agency dependent upon the other for successful implementation of aspects of its mission during the transition period. Both agencies are willing to undertake the cooperation and commitments necessary to ensure the success of the proposed transitional structure. Both agencies believe models for the cooperation and commitment needed for successful implementation of the transitional structure exist in the form of DEP programs currently delegated directly to counties across the state and to CHDs. Regular coordination

⁴ As noted above, legislative authorization to allow DOH to delegate programmatic responsibilities would likely be required to allow DEP employees to perform work for non-OSTDS EH programs.

⁵ Components of DEP direction must include programmatic guidance and a mechanism to ensure accountability. These components may be established by interagency agreement or by statutory delegation.

and shared objectives help these blended-relationship programs achieve success.

Staffing and Structure Recommendations

State Health Office

Recommendation 1 – Transfer of State Health Office to DEP

On July 1, 2021, the following should transfer from DOH to DEP

- All 12 FTE positions in the State Health Office dedicated to the OSTDS program located currently in both Tallahassee and Orlando
- 2 FTEs to provide legal and administrative support
- Facilities, vehicle and equipment of the State Health Office

Recommendation 2 – OSTDS Data in Environmental Health Database to Remain at DOH

On July 1, 2021, DOH State Health Office should retain maintenance responsibility for OSTDS records in the EH database and provide access to the OSTDS portions of the database for DEP employees involved in the OSTDS program.

Recommendation 3 – Interagency Cooperation to Continue Training and Certification

On July 1, 2021, DOH and DEP should cooperate to ensure that, at a minimum, the appropriate education and training regarding the public health and environmental aspects of OSTDS is available to DEP employees, DOH employees and private site evaluators.

Recommendation 4 – Provisions of the Interagency Agreement Needed to Implement Recommendations 1, 2 and 3

To implement the State Health Office recommendations, the Interagency Agreement should address:

- DEP reimbursement of DOH for maintenance of the database and DEP licenses for access to the database
- Sharing of contracts, venues, and employees for education, training and/or certification
- Enforcement of OSTDS statutes and rules
- Methodology for the State Health Office audit and program evaluation of CHD OSTDS implementation
- Responsibilities for administration of the Interagency Agreement at DOH and DEP

County Health Departments

Recommendation 5 – County-Level Provision of OSTDS Services

On July 1, 2021, and for an agreed-upon period thereafter, DOH CHD employees currently performing OSTDS functions at CHDs should remain DOH employees. These employees should remain in their current or similar locations and continue to perform the same or similar range of functions they currently perform, using facilities, vehicles, and equipment made available through CHD contracts with the counties as is currently the case. All OSTDS functions performed by these employees should be performed under the direction of DEP.

Recommendation 6 – Provisions of the Interagency Agreement Needed to Implement Recommendation 5

To implement the county-level service provision recommendations, the Interagency Agreement should include, for an agreed-upon period:

- Terms under which DEP will direct implementation of the OSTDS program, including:
 - guidelines and procedures whereby DEP will provide direction of OSTDS services provided by DOH CHD employees at the county level
 - collaborative procedures both agencies will follow to remedy underperformance by any CHD in providing OSTDS services
 - collaborative procedures both agencies will follow to ensure enforcement of the statutes and rules governing the OSTDS program
 - Provisions to ensure that DOH and CHDs dedicate resources to OSTDS services sufficient to maintain levels of service equivalent to, or higher than, those in place during fiscal year 2019/2020
 - Description of how CHDs will continue to use local fees and local appropriations to support OSTDS services

Funding Recommendations

The funding recommendations are intended to allow CHDs to continue to fund local delivery of the OSTDS services, under the direction of DEP and for an agreed-upon period, by drawing on all sources of revenue currently available to the program.

Recommendation 7 – Statewide Program Fees

On July 1, 2021, the authority to collect state program fees will belong to DEP. Through the Interagency Agreement and for an agreed-upon period, CHDs should collect state program fees on behalf of DEP, retain a percentage of state fees to support local OSTDS functions and transfer a percentage of state fees, less the cost of the Environmental Health Database, to DEP on a regular schedule to support functions transferred from the State Health Office.

Recommendation 8 – DOH Appropriation and Revenue Support

On July 1, 2021, DOH will continue to provide sufficient FTE salary appropriations to fund the necessary effort for OSTDS services in each county.

Recommendation 9 – Provisions of the Interagency Agreement Needed to Implement Recommendations 7 and 8

To implement the funding recommendations, the Interagency Agreement should for an agreed-upon period:

- Describe how DEP and DOH will work in concert during the Interagency Agreement period to maximize permit fee coverage of the program as directed by statute.
- Authorize CHDs to collect statewide program fees on behalf of DEP
- Stipulate the percentage of state fees CHDs will retain to support local OSTDS services and the percentage they will transfer to DEP to support functions transferred from the State Health Office
- Describe the type, timing and DEP trust fund destinations of funding transfers, recognizing that state fees are collected either for on-demand service or for renewal of permits, licenses or registrations on set schedules and generate an irregular cash flow
- Describe DOH commitments to maintain agreed-upon CHD OSTDS levels-of-service
- Outline a process to collaborate in developing and communicating information to CHDs regarding OSTDS program structure during the agreed-upon transitional period

[Process to Develop Permanent OSTDS Program Structure at DEP](#)

Recommendation 10 – Assessment

DOH and DEP should establish a process to:

- Evaluate the level of service provided by the transitional OSTDS structure
- Evaluate the efficacy of the terms of the Interagency Agreement, including provisions for guidance and oversight and procedures for responding to any underperformance in CHD implementation of OSTDS services and for ensuring enforcement
- Identify total funding needs of the OSTDS program at DEP and potential mechanisms to generate that funding, including potential roles and mechanisms for local funding
- Identify and evaluate alternative staffing models for the OSTDS program at DEP
- Identify and evaluate alternative approaches to providing the facilities, vehicles and equipment needed for the OSTDS program at DEP
- Identify whether any aspects of the transitional structure should remain in place

Recommendation 11 – Progress reports to the Legislature and Executive Office of the Governor (EOG)

DOH and DEP should deliver periodic progress reports to the legislature and EOG describing:

- Interim results of on-going evaluations
- Progress towards development of a permanent staffing structure for the OSTDS program at DEP
- Progress toward identification of sustainable funding resources sufficient to fund the permanent structure

Recommendation 12 – Final Report to the Legislature and EOG

DOH and DEP should deliver a final report to the legislature and EOG no later than June 30, 2025, recommending:

- A permanent staffing structure for the OSTDS program at DEP
- Sustainable funding sources sufficient to fund the permanent structure

Recommendation 13 – Provisions of the Interagency Agreement Needed to Implement Recommendations 10, 11 and 12

To implement recommendations regarding a process to develop a permanent OSTDS program structure at DEP, the Interagency Agreement should:

- Describe how DEP and DOH will utilize the five-year Interagency Agreement period to analyze and implement all opportunities to maximize self-sufficiency of the OSTDS program as directed by statute, including seeking legislative action should that be necessary
- Establish an interagency workgroup to meet quarterly to monitor progress and identify and resolve issues arising from the implementation of the recommendations in this report and oversee the evaluation processes called for in Recommendation 11
- Ensure that evaluations conducted during the Interagency Agreement period include input from local governments and users of OSTDS services
- Establish objectives, timeliness and methodology for the evaluation processes
- Establish dates for progress reports to the legislature

ALTERNATIVE SCENARIOS CONSIDERED

The Joint Transfer Team considered four conceptual scenarios before agreeing on the recommendations in this report.

All of the scenarios included:

- Transfer of the State Health Office OSTDS program, together with associated program employees and FTEs, support FTEs and assets, from DOH to DEP
- Identical provisions addressing maintenance of and access to OSTDS information in the DOH EH database
- Identical provisions addressing training and certification

Three characteristics differed by scenario:

- Whether CHD FTEs (including support FTEs) and associated employees providing local OSTDS services would transfer on July 1, 2021, from DOH to DEP
- Whether employees currently performing OSTDS services and other EH functions at CHDs would continue to perform their current mix of duties, or only OSTDS services on July 1, 2021

- Whether OSTDS services continue to be provided as close as possible to the county level, or at a small-scale or large-scale regional level

Other important differences between the scenarios flowed from which of these characteristics the scenario incorporated. These differences involved:

- Funding and revenue
- DEP direction and supervision of local OSTDS services
- Use of local resources, such as facilities, vehicles and equipment

The descriptions below focus on the distinguishing characteristics of each scenario and the principal points of the analysis that led the Joint Transfer Team to accept or reject it as the preferred starting point for recommendations.

Scenario A

Distinguishing Characteristics

- A number of CHD positions, personnel and FTEs equivalent to the average number of hours dedicated by CHD personnel to OSTDS over the last three fiscal years transfer to DEP. From July 2016 - June 2019, 250 program position FTEs would represent the average of hours dedicated to OSTDS by over 600 employees. Not included within that figure is the administrative overhead needed to support the program, which would also need to transfer.
- CHD EH employees that transfer to DEP continue to perform, by interagency agreement, their current mix of OSTDS and non-OSTDS responsibilities.⁶
- CHD employees that transfer to DEP continue to be located in the counties where they currently perform their duties.

Discussion

Scenario A provides a straightforward approach to ensuring DEP can provide direction of the OSTDS program at the local level, because the individuals providing the service are DEP employees. This is complicated by the fact that of the more than 600 DOH employees currently working in the program, less than half would become actual DEP employees. The alignment of supervisory and support employees transferred to DEP with the program employees would also need to be worked out to ensure a DEP line of supervision.

Scenario A maintains all OSTDS employees that transfer to DEP in their current counties, so that those employees in mid-sized and smaller counties (which may devote less than one FTE to OSTDS or which rely heavily on the expertise of employees currently performing OSTDS functions to successfully implement other EH programs) can continue to perform non-OSTDS EH Services, per Interagency Agreement and

⁶ As noted earlier, this would likely require legislative authorization for DOH to delegate program responsibilities to DEP.

legislative authorization to delegate agency programmatic responsibility, in order not to disrupt other EH services.

Maintaining transferred employees in their current locations also ensures that services continue to be provided as close to the county-level as is currently the case. It should also be possible for them to continue to use county owned facilities, vehicles and equipment, either through interagency agreement between DEP and DOH or DEP agreements with individual counties.

Under Scenario A more than 600 DOH CHD and DEP employees (the total currently devoting and coding some percentage of their time to OSTDS) and an unspecified number of employees providing administrative overhead would be performing work for *both* agencies, per the Interagency Agreement. This may require transfer of funds in both directions between both agencies, to ensure that all employees in this situation, whether they are DEP or DOH employees, are appropriately paid for time they devote to the programs of both agencies. If funds are transferred, these transfers will need to account for weekly variations in time spent on specific programs, in order to maintain a flexible and variable level of OSTDS work per employee in each county (as is the case now). While possible, this system of transfers would be complex and resource-intensive for both agencies to implement. Alternatively, the agencies may be able to agree on less frequent transfers of amounts sufficient to ensure that that both agencies can pay all employees working on OSTDS, without reference to the time dedicated by each employee to each program.

Funding for OSTDS in this scenario would continue to rely on the three revenue sources currently in place: statewide program fees; DOH GR support to CHDs; and local fees and other local revenue support. Several options exist for ensuring CHDs continue to have access to state program fees and DOH GR support. Transferring FTEs to DEP creates some uncertainty regarding two funding related issues.

The first is whether fee ordinances and annual contracts must be amended or modified to reference DEP as a recipient of the funds. Both agencies believe that this may be possible, if needed, before July 1, 2021, although it may be logistically challenging to do so in all counties where this consideration applies.

The second is whether Scenario A would affect county willingness to continue local funding (fees and/or appropriations), because that support might no longer flow to entities (the CHDs) partly under county control. While Joint Transfer Team members disagreed about this with regard to Scenario A, some believed the change would introduce at least a degree of uncertainty about whether local funding would continue at its current level in all counties that currently provide it.⁷

Scenario B

Distinguishing Characteristics

- CHD EH employees currently performing OSTDS functions remain DOH employees on July 1, 2021.
- By interagency agreement CHD EH employees currently performing OSTDS services continue performing those functions after July 1, 2021, under DEP direction, while also continuing to perform

⁷ Many Joint Transfer Team members believed the uncertainty would be significantly less in Scenario A than in Scenarios C and D because Scenario A would more consistently maintain service provision at the local level than Scenarios C and D.

other DOH EH program services under DOH direction and supervision.

- CHD EH employees currently performing OSTDS services continue to be located in the counties where they currently perform their duties.

Discussion

Scenario B ensures DEP can provide direction of the OSTDS program at the local level through provisions of the Interagency Agreement.

Since Scenario B maintains CHD EH employees who currently perform OSTDS services in their current locations performing OSTDS and non-OSTDS services, CHD provision of other EH services are not disrupted. Maintaining employees in their current locations also ensures that services continue to be provided as close to the county level as is currently the case. No additional agreements would be needed to continue OSTDS use of county-owned facilities, vehicles and equipment.

Under Scenario B the more than 600 DOH CHD employees performing some OSTDS work (the total currently devoting some percentage of their time to OSTDS) and the supervisory and administrative employees would continue to be paid by DOH. The need for transfer of funds in both directions between both agencies, to ensure that all employees are appropriately paid for time they devote to OSTDS and various EH services does not arise.

Funding for OSTDS services in this scenario would continue to rely on the three funding sources currently in place: statewide program fees; DOH non-categorical GR support to CHDs; and local fees and other local appropriations. Several options exist for ensuring CHDs continue to have access to statewide program fees and DOH GR support to pay employees performing OSTDS functions. Since no CHD positions or FTEs transfer to and need to be directly funded by DEP, questions relating to the continuation of local fees and other local funding support are much less likely to arise than under any of the other scenarios.

Scenario C

Distinguishing Characteristics

- A number of CHD positions, employees and FTEs equivalent to the average number of hours dedicated by CHD employees to OSTDS over the last three fiscal years transfer to DEP. From July 2016 - June 2019, 250 program position FTEs would represent the average of hours dedicated to OSTDS by over 600 employees. Not included within that figure is the administrative overhead needed to support the program, which would also need to transfer.
- CHD EH employees that transfer to DEP perform only OSTDS services.
- CHD employees that transfer to DEP would continue to be located primarily in the counties. However, a greater degree of regionalization of service provision than is currently the case would occur.

Discussion

Scenario C was initially conceived as intermediate between the other two scenarios that involve transfer of

FTEs. In Scenario A, FTEs transfer to DEP but continue to perform their current mix of work in their current locations. In Scenario D, FTEs transfer and work only on OSTDS from DEP offices and from a limited number of delegated county offices. In Scenario C, FTEs transfer and work primarily or exclusively on OSTDS and may, depending on how currently fractional OSTDS FTEs in smaller counties are consolidated into whole FTEs by the transfer, provide services on a two, three or four county regional basis, albeit from offices located whenever possible in one of the counties served by those FTEs. The administrative and supervisory support positions transferred would also need to be regionalized.

Like Scenario A, Scenario C also provides a straightforward approach to ensuring DEP can provide direction of the OSTDS program at the local level, because the individuals providing the service are DEP employees. Moreover, since only DEP OSTDS employees would be performing OSTDS services, DEP could exercise direction of program services at the local level directly, rather than through the Interagency Agreement. The role of the CHD would be to serve as a host location for the DEP employees.

Scenario C entails an increase in regionalization of local service provision. Because many counties currently dedicate less than one FTE to OSTDS, having post-transfer DEP OSTDS employees perform only or primarily OSTDS work will entail creating full-time OSTDS positions and FTEs in some counties that do not currently have them and having those employees provide OSTDS services to surrounding (primarily smaller) counties that would no longer have DOH CHD employees providing OSTDS services. The shift of employees who currently perform services for multiple EH programs at CHDs to performing only or primarily OSTDS functions under DEP may also leave many mid-sized counties without the range of skills and expertise needed to effectively implement some non-OSTDS EH programs. It may be possible to couple Scenario C with interagency agreement provisions that allow DEP and DOH CHD employees to provide services to OSTDS and EH programs in some of the two, three or four county regional clusters.

Funding for OSTDS in this scenario would continue to rely on the three funding sources currently in place: state program fees; DOH non-categorical GR support to CHDs; and local fees and other local revenue support. State program fees would transfer to DEP. Options exist to ensure that DOH GR support at CHDs continues at its current level.

Fee ordinances, resolutions, and fee schedules would need to be amended or modified to reference DEP as a recipient of the funds. Future annual contracts for local appropriations would need to be between counties and DEP. Both agencies believe that these changes may be possible, if needed, before July 1, 2021, although it may be logistically challenging to do so in all counties where these considerations apply. Additionally, provisions would have to be made to ensure that DEP employees have access to appropriate facilities, vehicles and equipment, either through agreements with individual counties for use of county-owned assets, or by providing equivalent replacements.

Transferring FTEs to DEP and assigning them only to OSTDS may create a greater degree of uncertainty regarding the continuation of local fees and local appropriations than either Scenario A or Scenario B. Because only DEP employees would provide OSTDS services, this scenario would weaken the current relationship, established in section 154.001 F.S., between OSTDS and CHDs. This could increase the likelihood that local governments would perceive local fees and support for OSTDS as using local funds to support a state agency program. Moreover, local governments provide local fees and other local funding support for OSTDS to increase OSTDS levels of service within their jurisdictions. Regionalization dilutes the link between local fees and local appropriations for OSTDS and enhanced local levels of service. Both

weakening the link between OSTDS and CHDs and increasing the regionalization of OSTDS service provision could affect the willingness of some counties currently providing local fees or other local funding support for OSTDS to continue to do so.

Scenario D

Distinguishing Characteristics

- A number of CHD positions, employees and FTEs equivalent to the average number of hours dedicated by CHD employees to OSTDS over the last three fiscal years transfer to DEP.
- CHD EH employees that transfer to DEP continue to perform only OSTDS services.
- Extensive regionalization of service provision – a larger number of the CHD employees transferred to DEP would be performing OSTDS services for multiple counties than in Scenario C and be based in DEP-offices. Some counties would be served directly by DEP regional offices.

Discussion

Scenario D differs from Scenario C in the degree of regionalization of OSTDS services. Some service provision is assigned to DEP regional offices, in addition to regionalization of service by groups of counties. The discussion under Scenario C applies to Scenario D as well, with the addition that the greater degree of regionalization intensifies the concerns related to the continuation of local fee and other local funding support.

SUMMARY OF ISSUES FOR INTERAGENCY AGREEMENT

Provisions to Support Staffing and Structure Recommendations

State Health Office

- DEP reimbursement of DOH for maintenance of the database and DEP licenses for access to the database
- Sharing of contracts, venues and employees for training and/or certification
- Enforcement of OSTDS statutes and rules
- Methodology for the State Health Office audit and evaluation of CHD OSTDS implementation
- Responsibilities for administration of the Interagency Agreement at DOH and DEP

County Health Departments

- Terms under which DEP will direct implementation of the OSTDS program, including:
 - guidelines and procedures whereby DEP will provide direction of OSTDS services provided by DOH CHD employees at the county level

- collaborative procedures both agencies will follow to remedy underperformance by any CHD in providing OSTDS services
 - collaborative procedures both agencies will follow to ensure enforcement of the statutes and rules governing the OSTDS program
- Provisions to ensure that DOH and CHDs dedicate resources to OSTDS services sufficient to maintain levels of effort equivalent to, or higher than, those in place during fiscal year 2019/2020
- Description of how CHDs will continue to use local fees and local appropriations to support OSTDS services

Provisions to Support Funding Recommendations

- Describe how DEP and DOH will work in concert over the Interagency Agreement period to maximize permit fee coverage of the program as directed by statute
- Authorize CHDs to collect statewide program fees on behalf of DEP
- Identify trust funds to be used in collecting and disbursing the fees
- Stipulate the percentage of state fees CHDs will retain to support local OSTDS services and the percentage they will transfer to DEP to support functions transferred from the State Health Office
- Describe the type, timing, and DEP trust fund destinations of funding transfers, recognizing that state fees are collected either for on-demand service or for renewal of permits, licenses or registrations on set schedules and generate an irregular cash flow
- Describe DOH commitments to maintain agreed-upon CHD OSTDS levels-of-service
- Outline a process to collaborate in developing and communicating information to CHDs regarding OSTDS program structure during the agreed-upon transitional period

Provisions to Support Process to Develop Permanent OSTDS Program Structure at DEP

- Describe how DEP and DOH will utilize the five-year Interagency Agreement period to analyze and implement all opportunities to maximize self-sufficiency of the OSTDS program as directed by statute, including seeking legislative action should that be necessary
- Establish an interagency workgroup to meet quarterly to monitor progress and identify and resolve issues arising from the implementation of the recommendations in this report and oversee the evaluation processes called for in Recommendation 11
- Ensure that evaluations conducted during the Interagency Agreement period include input from local governments and users of OSTDS services
- Establish objectives, timelines, and methodology for the evaluation processes
- Establish dates for progress reports to the legislature and/or the EOG