

DEPARTMENT OF LAW
Kentucky Opioid Abatement Advisory Commission
(New Administrative Regulation)

40 KAR 9:010. General application procedure.

RELATES TO: KRS 15.291, KRS 15.293

STATUTORY AUTHORITY: KRS 15.291, KRS 15.293

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.291 and 15.293 require the Kentucky Opioid Abatement Advisory Commission (the "Commission") to promulgate administrative regulations to administer funds received by the Commission. Therefore, this administrative regulation establishes the application procedure for funding requests under KRS 15.291 and 15.293, the duties required of the Commission, the duties required of those that receive Commission funds, and other related issues.

Section 1. Definitions.

- (1) "Entity" has the same meaning as its definition in KRS 14A.1-070.
- (2) "Governmental agency" has the same meaning as its definition in KRS 65.940.
- (3) "Member(s)" refers to any of the Commission members contemplated by KRS 15.291(2), whether voting or non-voting.

Section 2. Eligible Applicants. Any entity or governmental agency that submits an application that conforms with the requirements herein; that meets the criteria in KRS 15.291(5); and that is not debarred or suspended from contracting with the Commonwealth shall be an eligible entity or governmental agency.

Section 3. Application.

- (1) To apply for funding, the entity or governmental agency shall submit an application using the "OAC Grant Portal," available at <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>. To apply, an applicant shall be required to become an approved state vendor.
- (2) Non-conforming or incomplete applications shall not be considered.

Section 4. Review of Applications.

- (1) The Commission shall review applications on a continuous basis.
- (2) Should the Commission request supplementation of an application, or otherwise inquire about an application, the point of contact shall acknowledge receipt within seven (7) calendar days and subsequently respond to the Commission in a timely manner. Failure to do so shall result in the application being deemed withdrawn.
- (3) Contingent upon available funding, the Commission shall fund an application in whole or in part, provided the funding does not exceed the sum requested in the application.
- (4) In awarding funds, the Commission shall consider the following factors:
 - (a) Compliance with applicable law;
 - (b) The entity or governmental agency's record and responsibility in utilizing effectively any funds received previously from the Commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as described in KRS 15.293(4);
 - (c) The geographic reach of the application;
 - (d) Amounts received by an entity or governmental agency from the Commission or from the counties, consolidated local governments, urban county governments, and cities of the Commonwealth, as described in KRS 15.293(4);
 - (e) The utility and effectiveness of any part of the application;
 - (f) The extent to which Kentucky residents are served by the application;

- (g) The extent to which prior allocations from the Commission have served similar purposes;
- (h) The extent to which the application proposes to serve a portion of the population that otherwise would not receive such service;
- (i) The extent to which the application proposes to incorporate relevant partnerships that are likely to increase the efficiency and effectiveness of programming;
- (j) The extent to which the application proposes, among other things, to educate the public about opioid misuse and opioid use disorder, reduce the occurrence of opioid misuse and opioid use disorder, promote resistance to opioid misuse and opioid use disorder, promote the effective treatment of opioid use disorder, and/or combat the effects of opioid misuse, including co-occurring mental health issues;
- (k) The extent to which the application activities align with accepted evidence-based practices; and/or
- (l) The sufficiency of records to validate the requested amounts.

Section 5. Recipients' Duties.

- (1) Entities and governmental agencies that receive funding shall submit quarterly certifications to the Commission due on the following dates of the calendar year:
 - (a) March 31;
 - (b) June 30;
 - (c) September 30; and
 - (d) December 31.
- (2) Entities and governmental agencies shall submit certifications using the KYOACC Certification Form.
- (3) Certifications are required until the recipient exhausts all funds received from the Commission and until the recipient has submitted a certification stating that all such funds have been exhausted.
- (4) Separate certifications are required for each funding award.

Section 6. Noncompliance.

- (1) Noncompliance shall include:
 - (a) Materially falsified information in any certifications filed pursuant to or required by KRS 15.291, KRS 15.293, or related regulations;
 - (b) Failure to meet certification submission deadlines; and
 - (c) Failure to expend funds in conformity with the enumerated purposes set forth in KRS 15.291, pursuant to KRS 15.293(5).
- (2) The Commission shall require entities or governmental agencies to reimburse the Commission for any funds expended in a noncompliant manner.
- (3) The Commission shall require noncompliant entities or governmental agencies to forfeit any remaining funds received from the Commission.
- (4) The Commission shall bar noncompliant entities or governmental agencies from receiving funds from the Commission.
- (5) The Commission shall report noncompliance to the Department of Law for appropriation determination as to whether further action is necessary to ensure compliance with opioid-related agreements.

Section 7. Commission Appointments. The terms of members appointed pursuant to KRS 15.291(3)(b) shall begin upon the Commission's first meeting.

Section 8. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "OAAC Grant Portal," available at <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>; and
 - (b) KYOACC Certification Form, December 2022.

(2) This material shall be inspected, copied, or obtained, subject to copyright law, at the Office of the Attorney General Capital Complex East, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DANIEL CAMERON, Attorney General
W. BRYAN HUBBARD, Executive Director

APPROVED BY AGENCY: December 21, 2022

FILED WITH LRC: January 6, 2023 at 10:26 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 21, 2023, at 1:00 p.m. Eastern Time at 1024 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing shall be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you shall submit written comments on the proposed administrative regulation. Written comments shall be accepted through midnight on March 28, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Alison Chavies, Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601-3449, phone 502-696-5638, fax 502-564-2894, email alison.chavies@ky.gov.