

OFFICE OF ATTORNEY GENERAL
Opioid Abatement Advisory Commission
(Amendment)

40 KAR 9:010. General application procedure.

RELATES TO: KRS 15.291, 15.293

STATUTORY AUTHORITY: KRS 15.291(6), 15.293

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.291(6) requires the Kentucky Opioid Abatement Advisory Commission (the "commission" or "KYOAAC") to promulgate administrative regulations to administer funds received by the commission. 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" is defined by KRS 14A.1-070(7).
- (2) "Governmental agency" is defined by KRS 65.940(5).
- (3) "Member" means a commission member as established in KRS 15.291(2), whether voting or non-voting.

Section 2. Eligible Applicants. An entity or governmental agency shall be eligible for opioid abatement funding if the entity or governmental agency:

- (1) Submits an application through the online KYOAAC Grant Portal, which shall be available at or linked to from~~at~~ <https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-Advisory-Commission-.aspx>;
- (2) Complies with the requirements established in this administrative regulation;
- (3) Meets the criteria in KRS 15.291(5); and
- (4) Is not debarred or suspended from contracting with the Commonwealth.

Section 3. Application.

- (1) To submit an application using the KYOAAC Grant Portal, 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 and distribute funds at least once per year~~on a continuous basis~~.
- (2) If the commission requests supplementation of an application, or otherwise inquires 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 Failure to do so shall result in the application being deemed withdrawn.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 a successful~~an~~ application in whole or in part, if the funding does not exceed the sum requested in the application.
- (4) In awarding funds, the commission shall consider:
 - (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 established 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 established 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 similar services;
 - (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 aligns with the funding priorities set annually and published by the commission~~[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, 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; 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 regular financial reports through the KYOACC grant portal as required by contract~~[notarized quarterly certifications to the commission due by:]~~

~~[(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 shall be required until the recipient exhausts all funds received from the commission and until the recipient has submitted a certification stating that all funds have been exhausted.]~~

~~[(4)] [Separate certifications shall be 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 40 KAR Chapter 9;

(b) Failure to meet grant reporting~~[certification submission]~~ deadlines; and

(c) Failure to expend funds in conformity with the enumerated purposes established 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 if further action is necessary to ensure compliance with opioid-related agreements.

Section 7. Commission Appointments. The term of a member appointed pursuant to KRS 15.291(3)(b) shall begin upon the commission's first meeting after the member's

appointment.

Section 8. Incorporation by Reference.

- (1) ~~[(The following material is incorporated by reference:)]~~
~~[(a)]~~ "KYOAC Grant Portal," available at or linked to from
https://ag.ky.gov/Priorities/Tackling-the-Drug-Epidemic/Pages/Opioid-Abatement-
Advisory-Commission-.aspx, is incorporated by reference; ~~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.

RUSSELL COLEMAN, Attorney General

CHRISTOPHER EVANS, Executive Director

APPROVED BY AGENCY: February 13, 2025

FILED WITH LRC: February 14, 2025 at 8:51 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 28, 2025 at 10:00 a.m. Eastern time, at the 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 was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2025. 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: Jessica Bowman, Executive Advisor, Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 696-5362, fax (502) 564-2894, email jb Bowman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jessie L. Halladay

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes and updates procedures for administering opioid abatement funding in Kentucky through the Kentucky Opioid Abatement Advisory Commission (KYOAAC).

(b) The necessity of this administrative regulation:

KRS 15.291(6) requires the commission to “promulgate administrative regulations to administer funds received by the commission.”

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 15.291(6) requires that the commission “establish the application procedure for funding requests, the duties required of the commission, the duties required of those that receive commission funds, and other related issues.”

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation establishes standards concerning applicant eligibility, application submission, review of applications, and grant recipient duties. This regulation also establishes standard for commission appointments.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amended regulation should improve upon the efficiency of the current application process and the current compliance requirements for awardees.

(b) The necessity of the amendment to this administrative regulation:

This amendment is needed to improve efficiency by reducing administrative burden, eliminating redundancies, improving resource allocation.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 15.291(6) and KRS 15.293 “the Kentucky Opioid Abatement Advisory Commission (the “commission” or “KYOAAC”) to promulgate administrative regulations to administer funds received by the commission. 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.”

(d) How the amendment will assist in the effective administration of the statutes:

The amendment should simplify application, reporting, and compliance requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The total number is unknown, but all those entities applying for and those awarded grant funding from the commission will be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the

change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The responsibilities of the entities: applicants must comply with eligibility requirements in KRS 15.291(5) and comply with criteria and standards when applying for funding. Those entities awarded funding must maintain compliance and submit regular financial reports. Currently grantees submit a form that will no longer be needed due to these changes, so will reduce some burden upon grantees and create efficiencies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The entities should not see additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The entities should collectively see increased efficiencies with respect to application, compliance and reporting.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The office may bear administrative costs in implementing this regulation, which are expected to be minimal and easily absorbed by the office. The system used for grant applications and reporting, Intelligrants, will be covered by Commission Trust Fund dollars approved by a vote of the Commission in January 2025.

(b) On a continuing basis:

Commission dollars will cover the cost of maintaining the grant system.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Commission funds have been approved for the ongoing system costs.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

None are believed to be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No fees are established.

(9) TIERING: Is tiering applied?

Tiering was not applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 15.291(6), 15.29.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Kentucky Opioid Abatement Advisory Commission is the promulgating agency and is an affected agency.

(a) Estimate the following for the first year:

Expenditures:Commission funds have been approved for the initial system costs.

Revenues:The regulation should not result in any net revenues.

Cost Savings:There should be cost savings in the form of human resource efficiency which are difficult to estimate.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Commission funds have been approved for the ongoing system costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

None

(a) Estimate the following for the first year:

Expenditures:This administrative regulation should not cause expenditures by local entities for the first year.

Revenues:Local entities should receive no revenues from this administrative regulation for the first year.

Cost Savings:Local entities should receive no cost savings from this administrative regulation for the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

This administrative regulation should not generate any expenditures, revenues, or cost savings for local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

There should be no additional regulated entities affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation should not cause any additional regulated entities to have any expenditures for the first year.

Revenues:No additional regulated entities should receive any revenues from this administrative regulation for the first year.

Cost Savings:No additional regulated entities should receive any cost savings from this administrative regulation for the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

This administrative regulation should not cause any additional entities to have expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This regulation should reduce overall costs for applicants and the commission because it: 1.) provides more cost-effective methods of application, application review by the commission, and reporting by entities awarded funding via modern technological means; 2.) provides improved guidance for applicants and awardees; 3.) eases undue reporting; and 4.) leaves compliance monitoring with the agency. For these reasons, the administrative regulation is not expected to have any significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact:

The office used a quantitative methodology analysis and consulted with staff resources in determining the fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

The administrative regulation is not expected to have a major economic impact.

(b) The methodology and resources used to reach this conclusion:

The office used a quantitative methodology analysis and consulted with staff resources in determining that the administrative regulation would have no overall negative or adverse major economic impact.