

COUNCIL ON POSTSECONDARY EDUCATION
(Amended After Comments)

13 KAR 2:140. Research consortiums.

RELATES TO: KRS 164.038, KRS 273.600

STATUTORY AUTHORITY: KRS 164.038

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.038 requires the Council on Postsecondary Education to promulgate administrative regulations to administer the provisions of the statute. KRS 164.038(6) requires the Council to include in administrative regulation the metrics to evaluate joint funding applications submitted by two (2) or more Kentucky public universities to receive funding from a consortium account. This administrative regulation establishes the process by which requests for joint funding proposals will be advertised, what proposals shall include, how proposals will be evaluated, and how funding awards will be made.

Section 1. Definitions.

(1) "Council" is defined by KRS 164.001(8).

(2) "Eligible postsecondary institution" means any public university in Kentucky.

(3) "Endowed research fund" means the endowed research fund as established by KRS 273.600.

(4) "Peer reviewer" means an individual with demonstrated research expertise who is selected to evaluate applications.

(5) "Peer review panel" means a panel of three (3) or more peer reviewers convened by Council staff to conduct the review of joint funding applications described in Section 5 of this administrative regulation.

(6) ~~+(4)~~ "Research consortium" means two (2) or more eligible postsecondary institutions to receive joint funding from a consortium account through the endowed research fund administered by the Council.

Section 2. Notice of Funding Opportunities.

(1) Once funds are available for distribution through the endowed research fund, the Council shall publish notice of availability of funding opportunities for research consortia and issue a request for joint funding applications.

(2) The notice and request for joint funding applications shall include:

(a) ~~+(1)~~ The funding period;

(b) ~~+(2)~~ The date by which to submit a joint funding application;

(c) ~~+(3)~~ The application evaluation metrics and relative weighting of each metric;

(d) ~~+(4)~~ How to submit a joint funding application; and

(e) ~~+(5)~~ The targeted date for making awards.

Section 3. Metrics to Evaluate Joint Funding Applications.

(1) The Council shall evaluate joint funding applications using the following metrics describing the research consortium's:

(a) ~~+(1)~~ Planned area of research and its impact on human quality of life advancements;

(b) ~~+(2)~~ Ability to innovate in the areas of medicine, health, or economic development;

(c) ~~+(3)~~ Ability to obtain other sources of funding to perform initial research;

(d) ~~+(4)~~ Potential to seek grant money from other sources in larger amounts;

(e) ~~+(5)~~ Potential future funding sources and amounts; and

(f) ~~+(6)~~ Implementation plan, including:

1. ~~{(a)}~~ The total proposed budget for the use of funds received through the endowed research fund for the initial five (5) year term;
2. ~~{(b)}~~ The total proposed budget for use of funds from other sources dedicated to the work of the research consortium for the initial five (5) year term; and
3. ~~{(c)}~~ Operations of the consortium, including a description of how the research consortium partners would collaborate to conduct the planned research.

Section 4. Funding Proposals.

- (1) To be eligible for funding, a joint funding application proposal shall include:
 - (a) ~~{(1)}~~ The participation in the research consortium certified by the signature of the respective chief executive officers and a designated point of contact and contact information for each participating eligible postsecondary institution;
 - (b) ~~{(2)}~~ A narrative addressing each metric set forth in Section 3 of this administrative regulation.
 - (c) ~~{(3)}~~ A response to any other funding proposal criteria as determined by the Council;
 - (d) ~~{(4)}~~ A statement of assurances that statutory requirements shall be satisfied as set forth in KRS 164.038; and
 - (e) **The names of the key personnel assigned to the proposed research consortium.**

Section 5. Evaluation Process.

- (1) **Council staff shall convene a peer review panel to conduct a review of each completed and timely submitted joint funding application.**
- (2) **A peer reviewer shall not have a conflict of interest that would impair the reviewer's impartiality for any application reviewed by the peer review panel.**
- (3) **The peer review panel shall review, score and rank each application on the extent to which the application meets the metrics set forth in Section 3 of this administrative regulation.**
- (4) **The peer review panel shall submit to the Council its ranking of the applications and a narrative to support that ranking.**
- (5) **The Council shall review the submission of the peer review panel and**
~~{(1)} {The Council shall review and rank each completed and timely submitted funding application on the extent to which the application meets the metrics set forth in Section 3 of this administrative regulation.}~~
~~{(2)} {Once the funding applications are evaluated and ranked, the Council}~~ shall select up to five (5) high-quality research consortiums to receive funding from a consortium account.
- (6) ~~{(3)}~~ Once award distributions are finalized and approved by the Council, the Council shall notify the designated points of contact of the award.

Section 6. Awards.

- (1) Upon award, the Council and research consortium partners shall enter into an agreement outlining the responsibilities of the parties, including but not limited to the estimated funding amount, the permissible uses of funds, and the reporting requirements.
- (2) Once the agreement is finalized, the Council shall disburse money from the research consortium's designated consortium account in accordance with KRS 164.038(1)(e) for a term of five (5) years.
- (3) The term of eligibility of the research consortium may be renewed for up to five (5) additional years in accordance with KRS 164.038(4).

MADISON SILVERT, Chair

TRAVIS POWELL, General Counsel

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Cassie Trueblood, **Phone:** 502.892.3696, **Email:** cassie.trueblood@ky.gov

Subject Headings: Council on Postsecondary Education, Education, Education: Higher and Postsecondary.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation establishes the process by which requests for joint funding proposals will be advertised, what proposals shall include, how proposals will be evaluated and how funding awards will be made for the endowed research fund established in KRS 164.038.

(b) The necessity of this administrative regulation:

KRS 164.038 requires the Council on Postsecondary Education to promulgate administrative regulations to administer the endowed research fund. KRS 164.038 requires the Council to set forth the requirements for joint funding applications submitted by two (2) or more Kentucky public universities to receive funding from a consortium account.

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

This administrative regulation conforms explicitly to the requirements of KRS 164.038.

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

The administrative regulation creates a process for issuing notice of funding opportunities, sets requirements for funding proposals, creates an evaluation process, and creates a process for making awards as required by KRS 164.038.

(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:

This amendment will incorporate a peer review process into the evaluation of joint funding applications. It adds definitions for peer reviewer and peer review panel, requires applications to identify key personnel, and outlines the role of the peer review panel in evaluating joint funding applications.

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

This amendment is necessary to incorporate comments received during the public comment period and adopt a peer review process in the evaluation of joint funding applications. It is also necessary to correct some numbering issues.

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

KRS 164.038 requires the Council on Postsecondary Education to promulgate administrative regulations to administer the endowed research fund. KRS 164.038 requires the Council to set forth the requirements for joint funding applications submitted by two (2) or more Kentucky public universities to receive funding from a consortium account. This amendment incorporates a peer review process for the evaluation of the joint funding applications.

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

The amendment will assist in the effective administration of the statute by incorporating a peer review process into the evaluation of the joint funding applications. The peer review panel shall review, score, and rank each application on the extent to which the application meets the established metrics. The panel will submit this information to the Council. The Council will review the submission and select up to five high-quality research consortiums to receive funding from a consortium account in accordance with KRS 164.038(2).

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, this administrative regulation implements Senate Bill 1 from the 2024 legislative session.

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

This administrative regulation affects the public postsecondary universities in the state, totaling eight entities, but none are required to participate.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

To be considered for funding, two (2) or more eligible postsecondary institutions must submit a joint funding application. Upon evaluation of the proposal and subsequent award, the Council and the participating institutions will enter into a contract in accordance with the terms set forth in this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There are no fees established by this administrative regulation. There will be some administrative costs to the public universities to create and submit a proposal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Once the partnership contract is finalized, the Council shall disburse money from the fund to a consortium account as seed money to perform initial research and to prepare proposals to seek grant money from public and private sources in larger funding amounts.

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

(a) Initially:

There will be some administrative costs to the Council to solicit and review applications and make awards, but KRS 164.038(7) provides that the council may expend up to four percent (4%) of all interest earning of the endowed research fund on the costs of managing and administering the fund.

(b) On a continuing basis:

There will be some administrative costs to the Council to solicit and review applications and make awards, but KRS 164.038(7) provides that the council may expend up to four percent (4%) of all interest earning of the endowed research fund on the costs of managing and administering the fund.

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

Awards will be made from the endowed research fund which is created by KRS 164.038 and endowed in accordance with KRS 273.600 to 273.645. The fund shall contain money received from the general fund, federal funds, and any other proceeds from contributions, gifts or grants made available for the purposes of the fund. KRS 164.038(7) provides that the Council may expend up to four percent (4%) of all interest earnings on the costs of managing and administering the endowed research fund.

(8) 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:

This administrative regulation does not assess fees.

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

This administrative regulation does not establish any fees.

(10) TIERING: Is tiering applied?

Tiering is not applicable because similarly situated entities are treated similarly under this administrative regulation.

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 164.038, KRS 273.600

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

This regulation is expressly authorized by KRS 164.038.

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

The Council on Postsecondary Education and any public university in Kentucky that chooses to submit a proposal.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:There will be some administrative costs to universities to develop and submit the application. There will be some administrative costs to the Council to solicit and review applications and make awards.

For subsequent years:Any expenditures in subsequent years are expected the covered by the endowed research fund.

2. Revenues:

For the first year:Universities selected will receive funding from a consortium account within the endowed research fund.

For subsequent years:The term of eligibility to receive funding from a consortium account is five (5) years.

3. Cost Savings:

For the first year:This regulation does not create any cost savings.

For subsequent years:This regulation does not create any cost savings.

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

None.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:Not applicable.

For subsequent years:Not applicable.

2. Revenues:

For the first year:Not applicable.

For subsequent years:Not applicable.

3. Cost Savings:

For the first year:Not applicable.

For subsequent years:Not applicable.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:Not applicable.

For subsequent years:Not applicable.

2. Revenues:

For the first year:Not applicable.

For subsequent years:Not applicable.

3. Cost Savings:

For the first year:Not applicable.

For subsequent years:Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

Duties related to this administrative regulation are generally assumed by the Council staff members as part of their many other responsibilities. KRS 164.038(7) provides that the council may expend up to four percent (4%) of all interest earning of the endowed research fund on the costs of managing and administering the fund. University participation is voluntary. Universities who are successful in their joint funding application will receive funding from a consortium account as seed money for initial research and to seek grant money.

(b) Methodology and resources used to reach this conclusion:

General analysis of the requirements of the statute and the workload of staff.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation is not anticipated to have a major economic impact, as implementation and compliance costs are minimum. Costs to the Council of managing and administering the endowed research fund can be covered by interest earnings of the fund in accordance with KRS 164.038(7). Participation by the universities is voluntary and funding will be used to bring about innovation that advances medicine, health, or economic development which will provide a positive impact on the Commonwealth.

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

General analysis.