

200 KAR 5:340. Privatization evaluation process.

RELATES TO: KRS 45A.550-45A.554

STATUTORY AUTHORITY: KRS 45A.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.552 requires the Finance and Administration Cabinet to develop an objective and systematic process for evaluating the information required to be submitted by state agencies for use in determining whether to approve privatization of a government service. This administrative regulation establishes the process for evaluating information when determining whether to approve a request for privatization.

Section 1. Request to Privatize.

(1) An agency desiring to enter into a privatization contract, as defined in KRS 45A.550, shall submit a Request to Privatize, signed by the agency head, and accompanied by the written documentation described in KRS 45A.551(2) and (3), to the Secretary of the Finance and Administration Cabinet.

(2) The secretary shall:

(a) Appoint an ad hoc committee to review the request;

1. The committee shall consist of:

a. Two (2) employees from the Personnel Cabinet; and

b. Four (4) employees from the Finance and Administration Cabinet.

2. The committee:

a. Shall verify the accuracy and completeness of the information submitted by the agency;

b. Shall develop a method and benchmarks for evaluating a request, document the method and benchmarks in writing, and attach the document to the committee's recommendation to the secretary;

c. May request a meeting with the agency to discuss or clarify the information submitted;

d. Shall score the request based on the information submitted pursuant to KRS 45A.551(2) and (3) and the method and benchmarks established by the committee; and

e. Shall issue a written recommendation to the secretary, including data compiled by the committee, within thirty (30) days of submission of the request to the secretary.

(b) Issue a written determination approving or rejecting the Request to Privatize, within ten (10) days from receipt of the committee's recommendation, and forward a copy of the secretary's determination and the committee's recommendation to the Government Contract Review Committee.

Section 2. Basis of Determination.

(1) The secretary shall base the determination to approve or reject a Request to Privatize on the following factors:

(a) The agency analysis provided pursuant to KRS 45A.551(2) and (3);

(b) The committee's recommendation; and

(c) The effect of privatization upon:

1. Continuation of funds currently available;

2. Other programs and responsibilities;

3. The exercise of discretion in applying governmental authority;

4. The making of value judgments in decisions affecting the government;

5. Quality of services; and

6. Overall cost.

- (2) If the information submitted by the agency is insufficient, the committee or the secretary shall request additional information or clarification from the requesting agency.
- (3) If the information demonstrates that it would be in the best interest of the Commonwealth to privatize the service, the secretary shall approve the Request to Privatize.

Section 3. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Request to Privatize" 9/1999; and
 - (b) "Cost Benefit Analysis" 9/1999.
- (2) This material may be inspected, copied, or obtained at the Finance and Administration Cabinet, Office of the Secretary, Room 383 Capitol Annex, Frankfort, Kentucky, 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(25 Ky.R. 2709; Am. 26 Ky.R. 717; 1403; eff. 11-16-99; Crt eff. 2-12-2020.)