

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (New Administrative Regulation)

3 13 KAR 6:020. Aviation equipment grants.

4 RELATES TO: KRS 164.7011, 164.7013, 164.7017

5 STATUTORY AUTHORITY: KRS 164.7013, 164.7017

6 NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7013(8) requires the Council on
7 Postsecondary Education to promulgate administrative regulations to administer the Kentucky aerospace,
8 aviation, and defense investment fund. KRS 164.7017 requires the Council to set forth the requirements
9 for partnership proposals between aviation programs and aviation industry partners to provide aviation or
10 aviation equipment grants for a public high school vocational program or public postsecondary education
11 institution to maintain, acquire, or lease aviation or aviation equipment.

12 Section 1. Definitions.

13 (1) "Advisory committee" is defined by KRS 164.7011(1).

14 (2) "Aviation" is defined by KRS 164.7011(2).

15 (3) "Aviation industry partner" is defined by KRS 164.7011(3).

16 (4) "Aviation program" is defined by KRS 164.7011(4).

17 (5) "Council" is defined by KRS 164.001(8).

18 (6) "Dedicated money" is defined by KRS 164.7011(6).

19 (7) "Eligible aviation credential" is defined by KRS 164.7011(7).

20 (8) "Fund" is defined by KRS 164.7011(8).

1 (9) Match” means general fund appropriation monies from the fund provided to the institution subject
2 to funds availability, based on at least a dollar-for-dollar contribution from the aviation industry partner
3 pursuant to KRS 164.7017(2)(a).

4 (10) "Public aviation program" is defined by KRS 164.7011(12).

5 Section 2. Notice of Funding Opportunities.

6 (1) Each year that general fund appropriations are available for distribution through the fund, the
7 Council shall publish notice of availability of funding opportunities for partnerships and issue a request for
8 partnership proposals.

9 (2) The notice and request for partnership proposals shall include:

10 (a) The funding period;

11 (b) The date by which to submit a partnership proposal;

12 (c) The dollar amount of available matching funds;

13 (d) The partnership proposal evaluation criteria and relative weighting of each criterion;

14 (e) How to submit a partnership proposal; and

15 (f) The targeted date for making awards.

16 Section 3. Partnership Proposals. To be eligible for funding, a partnership proposal shall include:

17 (1) The participating aviation industry partners and aviation programs certified by the signature of
18 their respective chief executive officers and a designated point of contact and contact information for each
19 partner;

20 (2) Certification that the public aviation program meets the definition in KRS 164.7011(12);

21 (3) The total proposed budget for the program, which includes the aviation industry partner
22 contribution and the amount of aerospace, aviation, and defense investment funds requested for match in
23 accordance with requirements set forth by the Council;

1 (4) A narrative explaining how the partnership would meet the criteria for prioritization set forth in
2 KRS 164.7017(3)(a);

3 (5) A response to any other partnership proposal criteria as determined by the advisory committee; and

4 (6) The amount of the aviation industry partner's contribution certified by its chief financial officer
5 and supported by appropriate documentation.

6 Section 4. Evaluation Process. The advisory committee shall review and rank each timely submitted
7 and complete proposal based on its published evaluation criteria, which shall include the priorities set forth
8 in KRS 164.7017(3)(a) and any other objective criteria developed by the advisory committee.

9 Section 5. Partnership Awards.

10 (1) Upon award, the Council, the aviation industry partner, and aviation program shall enter into a
11 partnership contract in accordance with the terms set forth in KRS 164.7017(2).

12 (2) Once the partnership contract is finalized, the Council shall disburse from the fund monies
13 deposited by the aviation industry partner and the matching funds appropriated by the General Assembly
14 to the aviation program.

15 Section 6. Responsibilities of the Aviation Program. After an award is made and a partnership contract
16 is finalized, the aviation program shall:

17 (1) Submit proof that the entire amount of the aviation equipment grant is invested in accordance with
18 KRS 164.7017(4); and

19 (2) Meet any reporting requirements set forth in the partnership contract.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 21, 2023 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Second Floor, Frankfort, Kentucky, 40601 in Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled.

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. A transcript of the public 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 until September 30, 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: Sterling Crayton
Attorney
Council on Postsecondary Education
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Phone: 502.573.1555
Email: sterling.crayton@ky.gov

Date

Madison Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

Date

Sterling Crayton, Attorney
Council on Postsecondary Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation 13 KAR 6:020. Aviation equipment grants.

Contact person: Sterling Crayton
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(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the Kentucky Aviation Equipment Grants, established in KRS 164.7017, designed to increase investment in public aviation programs and strengthen the pipeline of aviation professionals in Kentucky.

The necessity of this administrative regulation: KRS 164.7013(8) requires the Council on Postsecondary Education to promulgate regulations to administer the programs related to the Kentucky aerospace, aviation, and defense investment fund. KRS 164.7017 requires the Council to set forth the requirements for partnership proposals between public aviation programs and aviation industry partners to provide equipment grants for public aviation programs to maintain, acquire, or lease aviation equipment.

- (b) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.
- (c) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation creates a process for issuing notice of funding opportunities, sets requirements for partnership proposals, creates an evaluation process, and a process for making awards as required by the statutes.

(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: N/A.
(b) The necessity of the amendment to this administrative regulation: N/A.
(c) How the amendment conforms to the content of the authorizing statutes: N/A.
(d) How the amendment will assist in the effective administration of the statutes: N/A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Council on Postsecondary Education; any public aviation program which are members of Kentucky's public postsecondary education system or a public high school vocational programs that offer eligible aviation credentials; and aviation industry partners, which are grantors that the Council determines customarily employs individuals with an eligible aviation or aerospace credential in a relevant aviation role in the usual course of the grantor's business. The number of entities affected could be dozens, if not hundreds, but none are required to participate.

- (4) Provide an analysis of how the entities referenced in paragraph (3) of this subsection will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:
- (a) A detailed explanation of the actions the entities referenced in paragraph (3) of this subsection will be required to undertake in order to comply with the proposed administrative regulation: To be eligible for funding, an aviation industry partner and public aviation program shall submit a partnership proposal. Upon proposal evaluation and subsequent award, the Council, the aviation industry partner, and public aviation program shall enter into a partnership contract in accordance with the terms set forth in relevant statutes and this regulation.
 - (b) An estimate of the costs imposed on entities referenced in paragraph (3) of this subsection in order to comply with the proposed administrative regulation: The cost imposed on entities will not exceed the amount designated as their aviation industry partner contribution. There will be some administrative cost in creating and submitting a proposal.
 - (c) The benefits that may accrue to the entities referenced in paragraph (3) of this subsection as a result of compliance: Once the partnership contract is finalized, the Council shall disburse from the fund moneys deposited by the aviation industry partner and the matching funds appropriated by the General Assembly to the public aviation program. This will allow the public aviation program to maintain, acquire, or lease aviation or aviation equipment as outlined in the partnership agreement.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: approximately \$150,000 once funding is received for awards to be made.
 - (b) On a continuing basis: Same as above.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? CPE staff are currently funded from appropriations made by the General Assembly in the 2022-2024 budget. Moving forward, a portion of the general fund appropriations made to the aerospace, aviation, and defense investment fund may be used for administration pursuant to KRS 164.7013(7).
- (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: This regulation does not assess fees. Funding is allocated for administration per the legislation.
- (8) State whether this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.
- (9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applicable because similarly situated entities are treated similarly under this administrative regulation. However, upon advice of the advising committee, the Council may create separate pools of funding to meet geographic aviation and/or institutional needs.

FISCAL IMPACT STATEMENT

Administrative Regulation 13 KAR 6:020. Aviation equipment grants.

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

KRS 164.7011, KRS 164.7013, KRS 164.7017

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

The Council on Postsecondary Education and any public aviation program, which would include members of Kentucky's public postsecondary education system or a public high school vocational program that issues eligible aviation credentials.

(a) Estimate the following for the first year:

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

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

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

Any public aviation program, which would include members of Kentucky's public postsecondary education system or a public high school vocational program that issues eligible aviation credentials.

(a) Estimate the following for the first year:

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

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

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

None.

(a) Estimate the following for the first year: N/A.

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

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

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There will be additional costs of administration of approximately \$150,000.

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

(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): This regulation is not anticipated to have negative impact on any regulated entities. Participation is voluntary and this regulation establishes a program that will assist in fulfilling workforce needs and provide high wage employment which should provide a major positive economic impact to the Commonwealth.

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