

**TITLE:** Proposed revisions to the *2024-2026 Asset Preservation Pool Guidelines* and *2022-2024 Asset Preservation Pool Guidelines*

**DESCRIPTION:** The Finance Committee recommends the Council approve the proposed revisions to the *2022-2024 Asset Preservation Pool Guidelines* and *2024-2026 Asset Preservation Pool Guidelines* as shown in Attachments A and B.

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### **COMMITTEE REVIEW & APPROVAL**

The Finance Committee reviewed and endorsed for final approval the proposed revisions to the *2024-2026 Asset Preservation Pool Guidelines* and *2022-2024 Asset Preservation Pool Guidelines* as shown in Attachments A and B at its November 15, 2024, meeting.

### **SUPPORTING INFORMATION**

In the *2022-2024 Budget of the Commonwealth* (22 RS, HB 1), the Kentucky General Assembly authorized \$683.5 million in General Fund supported bond funds for a Postsecondary Education Asset Preservation Pool to provide funding for individual asset preservation, renovation, and maintenance projects at Kentucky public postsecondary institutions. In 2024-2026, the General Assembly made another major investment in the renovation and renewal of existing postsecondary education facilities. The enacted *2024-2026 Budget of the Commonwealth* (24 RS, HB 6) authorized \$563.0 million in General Fund supported bond funds for a Postsecondary Education Asset Preservation Pool to provide funding “for individual asset preservation, renovation, and maintenance projects at Kentucky’s public postsecondary institutions in Education, General, and state-owned and operated residential housing facilities”.

In each biennium, the General Assembly included language in the budget bill authorizing capital projects, as defined in KRS 45.750(1)(f), funded from the Asset Preservation Pools. Per KRS 164.020(11)(a), CPE is also required to “review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions”. Furthermore, CPE, in collaboration with the Office of the State Budget Director, certifies that individual projects are eligible for Asset Preservation Pool funds. As such, on June 17, 2022, and June 21, 2024, the Council approved *the 2022-2024 Asset Preservation Pool Guidelines* and *2024-2026 Asset Preservation Pool Guidelines* (the

Guidelines), respectively, which specify the criteria institutions' capital projects must meet in order to be eligible for funding from the Asset Preservation Pools. *The 2022-2024 Asset Preservation Pool Guidelines* were revised at the June 21, 2024, Council meeting to incorporate new language, which was also included in the *2024-2026 Asset Preservation Pool Guidelines*. At each of these meetings, the Council also delegated authority to CPE staff to review and approve capital projects submitted for Asset Preservation Pool funds to expedite the reimbursement process.

As asset preservation pool projects have been planned, submitted, and reviewed for eligibility, it has become apparent to both CPE staff and campus Chief Budget Officers (CBOs) that the Guidelines could be improved by adding and removing language. Attachments A and B contain marked up versions of the Guidelines showing proposed additional language in green and proposed language to be removed in red-strikethrough. There are a number of minor clarifying revisions included in the suggested changes. The sections below highlight the major suggested changes to each set of guidelines and their rationale. Campus CBOs and CPE leadership are supportive of the suggested changes and clarifications and propose the *2022-2024 Asset Preservation Pool Guidelines* and *2024-2026 Asset Preservation Pool Guidelines* be revised as shown in Attachment A and B.

## **SUGGESTED CHANGES TO BOTH 2022-2024 AND 2024-2026 ASSET PRESERVATION POOL GUIDELINES**

- *Suggested Language:*

“For the purposes of these guidelines, “facilities” includes buildings and key building systems, such as the plumbing system, electrical system and permanently affixed power generators, mechanical and HVAC system, elevator system, escalator system, fire protection and alarm system, gas distribution system, and the security system.”

  - *Rationale:* In the Eligibility Criteria section, a list of “key building systems” has been added to improve clarity and resemble those found in the [IRS’s tangible property regulations](#) (i.e., Internal Revenue Bulletin: 2013-43) and its “Facts and Circumstance Analysis” that has aided in CPE staff’s evaluation of proposed asset preservation pool projects.
  
- *Suggested Language:*

“For the purposes of these guidelines, “campus infrastructure”, includes infrastructure, such as roads, walkways, ~~electrical grids~~ high voltage distribution systems, steam tunnels, and water chiller plants, that support current and ongoing use of eligible facilities.”

  - *Rationale:* In the Eligibility Criteria section, “campus infrastructure” has been broken out into its own bullet and defined to improve clarity. Additionally, “electrical grid” has been replaced with “high voltage distribution systems” to use appropriate nomenclature.
  
- *Suggested Language:*

“If it would be more cost effective to raze and replace rather than renovate an existing facility, then asset preservation funds may be used for demolition and reconstruction. For such a project to be considered cost effective, the cost to raze and replace may not exceed 115% of the cost required to renovate a facility. The cost of each option must be certified in writing by an independent third-party industry professional, **with the assessment dated not more than six months prior to the initial date the raze and replace request was submitted to CPE staff.**”

- *Rationale:* In the Eligibility Criteria section, additional language is proposed to provide guidance regarding the acceptable length of time between when the required assessment for a proposed raze and replace project was conducted and when the project is initially submitted to CPE staff to determine eligibility for asset preservation pool funds. This additional language will address an issue raised by a previous raze and replace request.

➤ *Suggested Language:*

~~“To qualify as an individual project, the project must be bid and awarded as a complete project and be overseen and administered by a single prime or general contractor or be completed pursuant to another delivery method as allowed by statute (KRS 45A), such as employing the construction management at-risk (CMR) method.”~~

~~“If time and cost savings can be achieved, a project or portion of a project may be overseen by an institution’s chief facilities officer. In such cases, campus facilities officers will adhere to all applicable state laws governing procurement and bidding and awarding of construction contracts.”~~

- *Rationale:* In the Project Identification section, removal of two bullets regarding how asset preservation projects are bid, awarded, overseen, and administer is suggested. This is in recognition that institutions’ capital projects must abide by the Kentucky Model Procurement Code (i.e., Kentucky Revised Statutes Chapter 45A) and that CPE is not the agency tasked with ensuring institutions comply with the procurement code. Per KRS 45A.045, the Finance and Administration Cabinet is the central procurement and contracting agency of the Commonwealth. As such, the current language is unnecessary.

➤ *Suggested Language:*

“As institutions incur expenses on eligible asset preservation, renovation, and maintenance projects, they can submit requests for reimbursement to the Council on Postsecondary Education (CPE) and Office of State Budget Director (OSBD), which will include a certification letter with expenditures listed by project. ~~CPE staff will review the requests, verify that the projects and related expenditures meet guideline requirements, and notify OSBD staff that project expenditures are eligible to be reimbursed.~~”

...

~~“CPE staff will review requests and certify to OSBD staff that project expenditures are eligible for reimbursement.”~~

- *Rationale:* In the Expenditure Certification section, removal of two sentences regarding CPE staff review of institutions’ reimbursement requests is suggested.

OSBD staff has indicated that they do not need us to review institutions' requests for reimbursement so long as we provide them with the most up to date list of each institution's certified projects. As such, OSBD staff has indicated that their preference is for them to handle reviewing reimbursement requests.

## SUGGESTED CHANGES TO THE 2024-2026 ASSET PRESERVATION POOL GUIDELINES

➤ *Suggested Language:*

"If an individual project adds a permanently affixed power generator to an eligible building or upgrades or expands the existing high voltage distribution system or steam or chilled water system to create redundancy and ensure the proper functioning of eligible facilities in the event of an outage or natural disaster, then asset preservation funds may be used to finance the project."

- *Rationale:* This additional language in the Eligibility Criteria section was suggested by officials at Murray State University. Per campus staff, "The issue of building redundancy for our electrical/high voltage infrastructure is to protect buildings and occupants in the event of a deferred maintenance or natural disaster event." Furthermore, "Redundancy will go a long way to preserving our facility assets when the need arises. Redundancy will also provide us more opportunity to maintain our current electrical yard (which is currently very difficult since it is our only campus power source), by having an alternative to providing power to the campus."

➤ *Suggested Language:*

"The process described above will be different for Kentucky State University ~~and KCTCS~~. Capital projects at these institutions are administered by the Finance Cabinet. Instead of submitting reimbursement requests to CPE and OSBD, KSU ~~and KCTCS~~ will deposit campus matching funds into project specific eMars accounts and the Finance Cabinet will expend state and campus matching funds for requested projects."

...

"Since capital projects at Kentucky State University ~~and KCTCS~~ are administered by the Finance Cabinet, the existing process will remain in place, whereby cabinet staff will report capital projects funded from the Asset Preservation Pool for these institutions to CPBOC upon request of the institution."

- *Rationale:* The language "and KCTCS" has been removed in the Expenditure Certification and Reporting sections as KCTCS staff has notified CPE staff that they have opted out of having the Finance and Administration Cabinet manage their capital construction projects for the 2024-26 Asset Preservation Pool. Per KCTCS officials:

"The Huron Study 2021-2023 indicated that KCTCS could improve its capital investment efforts by assuming the management of the Capital Project Management as enabled by KRS 164A.560. This provision of the statute authorizes the governing boards of public institutions of higher education to elect to perform financial management functions pursuant to

KRS 164A.555 through KRS 164A.630 by issuing administrative regulations. The KCTCS has issued administrative regulation which implements the provisions established in KRS 164A.580 at the Kentucky Community and Technical College System... The KCTCS has received approval of two Kentucky Administrative Regulations, 739 KAR 001.060 and 739 KAR 001.070 from the Administrative Regulation Review Subcommittee in October 2024 and is awaiting approval of these two regulations from the Education Committee. Once that approval is received the KCTCS will begin managing their own Capital Projects.”