

FILED WITH LRC
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AUG 15 2014
Donna Little
REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 School Facilities Construction Commission

3 (New Administrative Regulation)

4 750 KAR 1:030. Emergency and Targeted Investment Fund.

5 RELATES TO: 157.618

6 STATUTORY AUTHORITY: KRS 157.617; KRS 157.622; 157.618

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.617(1) authorizes the
8 School Facilities Construction Commission to promulgate administrative regulations for the
9 orderly conduct of its affairs, including assisting local school districts to meet the school
10 construction needs of the state. KRS 157.622(4) requires the commission to promulgate an
11 administrative regulation governing allocations of state funds to eligible school districts.
12 Pursuant to KRS 157.618(5), this administrative regulation establishes the application procedure
13 the SFCC will utilize in determining eligibility for funding from the emergency and targeted
14 investment fund due to an unforeseen emergency or the expectation that the facility will be
15 rendered structurally uninhabitable.

16 Section 1. Definitions. (1) "Applicant" means any local public school district that has
17 submitted an application to the authority for an offer of assistance from the emergency and
18 targeted investment fund and meets the definition of a "common school" under KRS 158.030.

19 (2) "Application" means the information submitted by an applicant to obtain an offer of
20 assistance, including the need for a specific project and financial information necessary to
21 determine eligibility for assistance from the emergency and targeted investment fund.

1 (3) "Commission" means the School Facilities Construction Commission.

2 (4) "Core academic facility" means a public elementary or secondary educational
3 institution that is under the administrative control of a principal and is not a program or part of
4 another school. "Core academic facility" shall not include district-operated schools that are
5 exclusively:

6 (a) Vocational-technical, special education, or preschool programs;

7 (b) Instructional programs operated in institutions or schools outside of the district; or

8 (c) Alternative schools designed to provide services to at-risk populations with unique
9 needs.

10 (5) "District facility plan" means the plan developed pursuant to the survey specified by
11 KRS 157.420 and by administrative regulations of the Kentucky Board of Education.

12 (6) "Available local revenues" means:

13 (a) the sum of the school building fund account balance;

14 (b) the bonding potential of the capital outlay and building funds;

15 (c) the capital outlay fund account balance; and

16 (d) any unexpended funds in accounts for projects that have been completed at the time
17 an application to receive an offer of assistance from the emergency and targeted investment fund
18 is submitted.

19 (6) "Offer of assistance" means a financial commitment from the commission to pay all
20 or a portion of the debt service on bonds issued by or on behalf of the applicant or a direct loan
21 or grant made to the applicant from the emergency and targeted investment fund.

22 Section 2. Eligible Applicants. (1) A local public school district is eligible to submit a
23 cover letter and the information requested in Section 3(2) for an offer of assistance from the

1 emergency and targeted investment fund if any of the district's core academic facilities fall
2 within KRS 157.618(3).

3 (2) Local public school districts that submit an application under section KRS
4 157.618(3)(c) or (d) must have levied a ten-cent equivalent tax for the purposes of funding major
5 construction and renovation projects and the project must be identified as a priority one (1) or
6 priority two (2) in the district facility plan.

7 Section 3. Submission Requirements. (1) The commission may accept applications for
8 offers of assistance from the emergency and targeted investment fund from local public school
9 districts throughout the commission's fiscal year.

10 (2) Applications for offers of assistance from the fund shall include:

11 (a) Information about the school facility to which the offer of assistance would be applied
12 and an explanation of any events that contributed to the facility's physical condition;

13 (b) Certification from local officials, engineers, or the commissioner of education that the
14 facility meets the criteria in KRS 157.618(3);

15 (c) A proposed timeline for bidding and awarding contracts; planning and design;
16 construction; and equipping the facility;

17 (d) A copy of a motion or resolution from the local board of education approving the
18 request for an offer of assistance from the fund;

19 (e) An estimate from a financial advisor hired by the applicant of the amount of funding
20 necessary to bring the facility to the Kentucky Department of Education's current standards; and

21 (f) Certification from the applicant that the project will adhere to the Kentucky
22 Department of Education's best practice guidelines.

23 (3) Offers of assistance shall be limited to the lesser of:

1 (a) The difference between the total cost of the project and the applicant's available local
2 revenues; or

3 (b) A dollar-amount limit determined by the commission at the commission's first regular
4 meeting held after the beginning of the commission's fiscal year that shall be applied to all
5 projects during that fiscal year.

6 (4) All information submitted as application for offers of assistance from the fund shall
7 be submitted to the School Facilities Construction Commission at 229 West Main Street, Suite
8 102, Frankfort, KY, 40601. The supporting documentation shall be accompanied with a letter
9 from the districts superintendent to the commission requesting assistance and summarizing the
10 districts facility needs.

11 Section 4. Project Execution. (1) Applicants that receive offers of assistance from the
12 emergency and targeted investment fund shall follow the process as established in Section 6,
13 Section 7, Section 8, and Section 10 of 750 KAR 1:010 concerning allowable expenditure of
14 funds, bond issuance procedures, and refinancing savings. Notwithstanding 750 KAR 1:010
15 Section 7(2), funds available for a project shall be expended for the project that is identified in
16 the application and any balance of funds remaining after completion of the project shall be
17 applied toward the associated bonds. In the event that the commission's offer of assistance takes
18 the form of a cash grant or loan, any unexpended funds shall be returned to the emergency and
19 targeted investment fund.

20 (2) Applicants may utilize alternative bond structures if the structure is approved by the
21 Executive Director of the School Facilities Construction Commission.

22 (3) If a school district receives an offer of assistance from the emergency and targeted
23 investment fund and subsequently, as a result of litigation or insurance, receives funds for the

- 1 original facility, the district shall reimburse the emergency and targeted investment fund
- 2 pursuant to KRS 157.618(4).

APPROVED:

Kristi Culpepper
Kristi Culpepper, Executive Director
School Facilities Construction Commission
Finance and Administration Cabinet

8/15/2014
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 23, 2014 from 1:00p.m. to 3:00p.m., in Room 381, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent 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, 2014. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person.

Contact Person: Kristi Culpepper, Executive Director, School Facilities Construction Commission, 229 West Main, Suite 102, Frankfort, KY 40601, (502) 564-5582 (telephone), (888) 979-6152.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 750 KAR 1:030

Contact Person: Kristi Culpepper
Phone Number: (502)564-5582

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the application process for receiving an offer of assistance from the emergency and targeted investment fund. The administrative regulation also references the Commission's other administrative regulations involving eligible uses of funds, bond issuance procedures, and refinancing.

(b) The necessity of this administrative regulation: KRS 157.618(5) requires the School Facilities Construction Commission to promulgate regulations for the emergency and targeted investment fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 157.617(1) and 157.622(4) empower the School Facilities Construction Commission to promulgate administrative regulations governing the operation of its programs. KRS 157.618(5) specifically directs the commission to promulgate regulations establishing the process to apply for and receive funds from the emergency and targeted investment fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes the application process for receiving an offer of assistance from the emergency and targeted investment fund. The administrative regulation also references the Commission's other administrative regulations involving eligible uses of funds, bond issuance procedures, and refinancing.

(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: Local public school districts with facilities that have been impacted by a catastrophic event or that is otherwise expected to be rendered structurally uninhabitable.

(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 regulation outlines an application process and process for issuing bonds to fund a project, if applicable. These activities involve professional fees that may or may not be reimbursed through a bond issue.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs will depend on the nature of the project and how financing is arranged.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Damaged or hazardous school facilities will be replaced.

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

(a) Initially: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: These activities will be incorporated into the commission's existing operating budget.

(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: No additional funding or fees are anticipated at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 750 KAR 1:030

Contact Person: Kristi Culpepper
Phone Number: (502) 564-5582

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
Local public school districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 157.617(1); 157.622(4); KRS 157.618(5).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Would only impact school districts that are applying for funding, not school districts broadly.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: