



Commonwealth of Kentucky

SOLICITATION

TITLE: Executive Search Firm - to select a president

DATE ISSUED

2008-05-14

SOLICITATION CLOSSES

Date: 2008-06-04

Time: 16:30:00

SOLICITATION NO.

RFP 415 0800001286

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CPE
Jennifer Jackson

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Please see the Terms and Conditions
For Information on where to submit
Your Bid/Proposal.

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Name:
Address:
City, State Zip Code:
Phone #:
Email Address:
Contact Name:
Contact Email:
Vendor Customer (VC) #:

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Name:
Address:
City, State Zip Code:
Phone #:
Email Address:
Contact Name:
Contact Email:
Vendor Customer (VC) #:

FOR INFORMATION CALL:

Jennifer Jackson

ONLINE BIDDING PROHIBITED

Yes

OWNERSHIP TYPE:

☐ Sole Proprietorship ☐ Partnership ☐ Corporation

SIGNATURE OF AUTHORIZED AGENT IS REQUIRED UNLESS RESPONSE IS SUBMITTED ELECTRONICALLY

FAILURE TO SIGN SHALL RENDER THE BID INVALID.

Signature X _____ FEIN# _____ DATE _____

All offers subject to all terms and conditions contained in this solicitation.

Line Items

Line Group: Default

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Cost	Line Total Or Contract Amt
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1 Executive search for a chief executive officer (president)

Comm Code	Comm Description	Manufacturer	Model #	Man Part #
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96130 Employment Agency/Search Firm/Temporary Employment Services

Extended Description

This Request for Proposal solicits proposals to establish a personal services contract with an executive search firm to assist the Council on Postsecondary Education in selecting a chief executive officer (president) as required by KRS 164.013(1).

B I L T O	435834	S H I P T O	
	COUNCIL ON POSTSECONDARY ED		
	1024 CAPITAL CENTER DR STE 320		
	FRANKFORT KY 40601 US		

Evaluation Criteria			
The following criteria will be used when determining the award of this solicitation			
Code	Criteria Description	Points	Vendor Response (DO NOT LIST PRICES IN THIS SECTION. UNIT PRICES AND TOTAL PRICES MUST BE FILLED IN ADJACENT TO THEIR LINE ITEMS.)

	Level 1- Expertise of the firm based upon references	10
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	Level 1 -- Potential of firm to identify recruitable, strong candidates ...	40
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	Level -- 2 Oral presentation by finalists	75
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	Level 1- Specific services offered	20
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	Level 1 The experience and expertise of designated personnel	10
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	Level 2 -- The cost of services.	45
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Personal Service Contract Terms and Conditions

Whereas, the state agency has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and whereas, the second party is available and qualified to perform such function, and whereas, for the hereinbefore-stated reasons, the state agency desires to avail itself of the services of the second party.

Invoices for fees:

The contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government.

Travel expenses, if authorized:

The contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of the contract.

Other expenses, if authorized herein:

The contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of the contract.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by state government.

I. Invoicing for fee: the contractor's fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method described in the specifications of the contract.

II. Invoicing for travel expenses: the contractor must follow instructions described in the specifications of the contract. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and any other miscellaneous expenses.

III. Invoicing for miscellaneous expenses: the contractor must follow Instructions prescribed in the specifications of the contract. Expenses submitted shall be documented by original or certified copies.

Effective date:

This agreement is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Government Contract Review Committee.

Payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after Government Contract Review Committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

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Social Security: (check one)

_____ the parties are cognizant that the state is not liable for social security contributions pursuant to 42 U.S. Code, Section 418, relative to the compensation of the second party for this contract.

_____ the parties are cognizant that the state is liable for social security contributions pursuant to 42 U.S. Code, Section 418, relative to the compensation of the second party for this contract

Cancellation:

The state agency shall have the right to terminate and cancel this agreement at any time not to exceed thirty (30) days' written notice served on the contractor by registered or certified mail.

Purchasing and specifications:

The contractor certifies that he will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he" is construed to mean "they" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he" is construed to mean any person with an interest therein.

Conflict-of-interest laws and principles:

The contractor certifies that he is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract will not be violating either any conflict of interest statute (KRS45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

Choice of law and forum.

All questions as to the execution, validity, interpretation, construction and performance of this agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

Discrimination:

(because of race, religion, color, national origin, sex, age, or disability) prohibited. This section applies only to contracts utilizing federal funds, in whole or in part.

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, age or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices

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setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of Section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Campaign finance.

The contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

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Certification.

The state agency certifies that it is in compliance with the provisions of KRS 45A.695.

"access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract". The contractor, as defined in KRS 45A.030(7), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records, or other evidence provided to the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

Violation of tax and employment laws.

KRS 45A.485 requires the contractor to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the contractor shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the contractor shall be in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

Contractor must check one:

- ☐ The contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.
- ☐ The contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). A list of such determination(s) is attached

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CAMPAIGN FINANCE LAW COMPLIANCE

REQUIRED AFFIDAVIT FOR BIDDERS OR OFFERORS

- A. In accordance with the provisions of KRS 45A.110 and KRS 45A.115, each bidder or offeror shall swear or affirm under penalty of perjury that:
- (1) neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and
 - (2) the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
- B. I also hereby swear and affirm under penalty of perjury that the entity bidding is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state; is duly registered with the Kentucky Secretary of State to the extent required by Kentucky law; and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.
- C. I hereby swear and affirm under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.**

I have fully informed myself regarding the accuracy of the statements made above.

SIGNATURE

Printed Name

Title

Date

Company Name _____

Address _____

Subscribed and sworn to before me by _____, _____
(Affiant) (Title)

of _____ this ____ day of _____, 20____.
(Company Name)

Notary Public

[seal of notary]

My commission expires: _____

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**Request for Proposal
for an Executive Search Firm to Select a President
for the Kentucky Council on Postsecondary Education**

Section I - Purpose

This Request for Proposal solicits proposals to establish a personal services contract with an executive search firm to assist the Council on Postsecondary Education in selecting a chief executive officer (president). The successful firm will be awarded a personal services contract in accordance with the Commonwealth's Finance and Administration Cabinet's established procedures.

Section II - Background

The Postsecondary Education Improvement Act of 1997 reformed Kentucky's postsecondary education system. The act linked postsecondary education and its reform with "development of a society with a standard of living and quality of life that meets or exceeds the national average." A new Council on Postsecondary Education was created through *Kentucky Revised Statutes (KRS) 164.011* to coordinate this reform effort. In addition to The Postsecondary Education Improvement Act of 1997, The Adult Education Act of 2000, and the Kentucky Innovation Act of 2000, added significant responsibilities to the Council.

The Council has the authority to: develop and implement a strategic agenda for the postsecondary education system, recommend biennial budget appropriations to the Governor and the General Assembly for Kentucky's public institutions, approve or disapprove academic programs at the public postsecondary education institutions, approve capital construction projects at the public postsecondary institutions valued at \$600,000 or larger, establish an accountability system for measuring progress toward reform goals, operate the Kentucky Virtual Campus and the Kentucky Virtual Library, and administer a \$90.0 + million budget including the Strategic Investment and Initiative Trust Funds.

The Council also is responsible for: operating local adult education and literacy programs in each of 120 counties; and, coordinating new economy initiatives with the Department for Commercialization and Innovation in the Economic Development Cabinet.

Kentucky's system of public postsecondary education is composed of eight public universities (six comprehensive and two research), the Kentucky Community and Technical College System (16 districts), and the Kentucky Virtual Campus. Twenty-one independent colleges and universities, licensed by the Council, also provide postsecondary education opportunities to Kentuckians.

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The Council is a 16-member board with 13 lay members appointed by the Governor for six-year terms. There is a student and a faculty representative each appointed by the Governor from a list of three nominees given to the Governor by the respective governance groups composed of institutional representatives. The Commissioner of Education is the sixteenth member; he is an ex-officio non-voting member of the Council. The Council appoints the president who is the chief executive officer, and the Council president employs the remainder of the staff, and manages the day-to-day operation of the Council.

KRS 164.013 describes the desirable qualities the Council president shall have and details the duties and responsibilities of the president and the Council. The primary duties and responsibilities statute is *KRS 164.020*. Attachment A presents these two statutes and other relevant sections of the Kentucky Revised Statutes.

Section III - Proposal Requirements

Interested vendors should submit:

1. A brief history of their firm.
2. A list of key personnel of the firm who will be directly involved in working with the search committee. This information should provide a brief resume, including years employed by the executive search firm and specific search processes that the individual has been involved with that have resulted in successful employment within postsecondary education.
3. The firm should submit the following concerning current and past clients:
 - A. A list of current and past clients of the firm in searches for university and/or system presidencies including: name, title, phone/fax numbers of references for at least five recent comparable client institutions where searches have been completed.
 - B. A list of clients that the firm will not recruit from as a result of prior agreements.
4. As part of the proposal, the firm should submit the following:
 - A. A detailed list of services that will be provided by the search firm.
 - B. A detailed list of steps in the search for the president
 - C. **Cost of services including hourly rates, if applicable, commensurate with the detailed list of services.**

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Section IV - Criteria for Selection of the Firm

The following approach and criteria will be used to evaluate proposals:

Level 1 Review – 80 points

1. The experience and expertise of designated personnel –10 points.
2. Expertise of the firm based upon references of the executive search firm –10 points.
3. Specific services offered – 20 points.
4. Potential of firm to identify recruitable, strong candidates with relevant experience and to conduct thorough and exhaustive background inquiries and reference checks, including a review of clients whom the firm will not recruit from because of prior agreements – 40 points.

The three firms with the highest number of points after the level 1 review will become the finalists and move to a level 2 review. If, however, there is a two-point or less spread between the firm scoring third and other firms whose scores rank them lower than third, the firms within two points of the third highest scoring firm, also will be considered finalists and will be reviewed at level 2.

Level 2 Review: Finalists – 120 points

The level 2 review will evaluate the strength of the oral presentation and the cost of services. The oral presentation will have a point value of 75—cost of services has a point value of 45 points.

The lowest cost firm will receive 45 points; other firms will be assigned points based on this cost formula. The vendor with the lowest price receives the maximum score. The vendor with the next lowest Price receives points by dividing the lowest Price by the next lowest price and multiplying that percentage by the available points. For example, 45 points is allocated to the lowest Price criteria for this procurement, vendor “A” bids \$3.00 as the lowest vendor and receives the maximum 45 points ($\$3.00 / \$3.00 = 1.00 \times 45 = 45$). Assume vendor “B” is the next lowest vendor at \$4.00, then “B” receives 33.75 points ($\$3.00 / \$4.00 = .75 \times 45 = 33.75$).

At the end of the level 2 review, the points assigned in level 1 will be added to those assigned in level 2, both the cost of services and oral presentation, and the vendor with the highest combined score will be awarded a contract.

Section V - Proposed Price Schedule

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The cost of service proposals for those executive search firms deemed acceptable for award will be considered during the second level of review (see below - Section VI-7).

Section VI - General

1. The Council intends to appoint a president no later than the end of December 15, 2008.
2. Proposals should be mailed or hand delivered to:

Jennifer Jackson
Director, Administrative Services
Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, Kentucky 40601
 - A. Proposers should submit one original and nine copies of their proposals (*excluding Cost Proposals*) or evaluations. Electronic copies of proposals will not be accepted.
 - B. Outer envelope should be marked in the lower left-hand corner - **CPE – Presidential Search Firm RFP.**
 - C. One copy of the Cost Proposal should be submitted in a separate envelope marked in the lower left hand corner - **CPE - Cost Proposal.**
 - D. The proposal should include a cover sheet signed by an official of the firm who has the authority to bind the vendor to the terms of the proposal as submitted.
 - E. The Campaign Finance form must be signed and enclosed.
3. Proposals must be received in the Council offices no later than 4:30 p.m. (ET), June 4, 2008. It is the responsibility of the vendor to see that the proposal is received.
4. Any contract resulting from the RFP shall be a personal service contract pursuant to *KRS 45A.695*.
5. Any contract resulting from this RFP shall be governed by all provisions of *KRS Chapter 45A* and Finance and Administration Cabinet's Manual of Policy and Procedures, both available online at:

<http://eprocurement.ky.gov>.
6. The Commonwealth of Kentucky reserves the right to reject any and all proposals and

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bears no responsibility for any costs of preparing any proposal.

7. Review of proposals will begin immediately, and continue until a selection is made. There will be two levels of review in this RFP process. The first level will involve the review and technical scoring of proposals submitted in response to this RFP by a work group established by the presidential search committee. Once this process is completed, it is anticipated that a short list of executive search firms will be invited to participate in a second level of review involving the search committee members. This second phase will involve an oral presentation to the search committee and will consider the cost proposals submitted. The Council will award a contract based on the results of the second level of review.
8. Questions pertaining to the RFP should be directed to:

Jennifer Jackson
Council on Postsecondary Education
Fax: 502-573-1535
Email: jennifer.jackson@ky.gov

Questions should be submitted by e-mail using this address: jennifer.jackson@ky.gov or at the FAX number listed above. All questions must be received by 4:30 p.m. May 21, 2008, to be considered. All responses will be addressed through Q&A amendment that is posted as an amendment to RFP on state e-procurement website by 1 p.m., May 28, 2008.
9. The Commonwealth of Kentucky has extended the EEO compliance review process to include personal service contracts valued at \$250,000 or larger. If the cost proposal submitted exceeds this amount, the vendor must comply with the EEO provisions. The provisions and forms required to comply with the Kentucky Equal Opportunity Employment Act, KRS 45.560—45.640, can be found at <http://finance.ky.gov/business> and then by selecting equal opportunity.
10. All vendors must complete a campaign finance law compliance form. An electronic copy of the form is attached to this RFP.

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Attachment A

KEY STATUTES

164.003 Legislative findings and goals for achievement by 2020.

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly trained workforce;

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average; and

(c) The positive advancement of the welfare of the citizens of the Commonwealth through the transmission of knowledge can only be achieved by the incorporation of ethical standards, the historic American moral principles promoted by the nation's Founding Fathers, into Kentucky public instruction, state educational training, and personal development of its teachers, students, and people, and affirms President George Washington's statement in his September 19, 1796, farewell address: "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable."

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally recognized metropolitan research university at the University of Louisville;

(d) Regional universities, with at least one (1) nationally recognized program of distinction or one

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(1) nationally recognized applied research program, working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that assures, in conjunction with other postsecondary institutions, access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of providers that delivers educational services to all adult citizens in quantities and of a quality that is comparable to the national average or above and significantly elevates the level of education of the adults of the Commonwealth.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

(6) The Commonwealth further recognizes that Kentucky's independent institutions offer rich and diverse postsecondary education choices throughout the state. Kentucky's people are best served by a broad array of postsecondary education providers. This vital component of the system will be a full partner in the greater system of postsecondary education.

164.011 Council on Postsecondary Education – Membership – Terms – Persons who shall serve in advisory capacity.

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(1) There is hereby created and established a Council on Postsecondary Education in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the commissioner of education, a faculty member, a student member, and thirteen (13) citizen members appointed by the Governor. The citizen members shall be confirmed by the Senate and the House of Representatives under KRS 11.160, and the commissioner of education shall serve as a nonvoting ex officio member. Citizen council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in KRS 164.005. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

(2) By no later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in KRS 164.005. On making appointments to the council, the Governor shall assure broad geographical and political representation; assure equal representation of the two (2) sexes, inasmuch as possible; assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration; and assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the council, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than three (3) voting members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the

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ability to serve.

(3) One (1) member shall be a full-time faculty member employed at a state institution of postsecondary education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary education institutions.

(4) One (1) member shall be enrolled as a full-time student at a state institution of postsecondary education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education and the two (2) student members to the Kentucky Community and Technical College System shall elect by majority vote three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(5) In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments.

(6) Each citizen member shall serve a term of six (6) years, except the initial appointments shall be as follows:

- (a) Two (2) appointments shall expire December 31, 1997;
- (b) Three (3) appointments shall expire December 31, 1998;
- (c) Two (2) appointments shall expire December 31, 1999;
- (d) Two (2) appointments shall expire December 31, 2000;
- (e) Two (2) appointments shall expire December 31, 2001; and
- (f) Two (2) appointments shall expire December 31, 2002.

(7) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

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(8) The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council.

The vice chair shall serve as chair in the absence of the chair.

(9) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(10) A quorum shall be a majority of the appointive membership of the council.

(11) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(12) New appointees to the council shall not serve more than two (2) consecutive terms.

Appointees after May 30, 1997, who previously served on the Council of Higher Education may serve two (2) additional full consecutive terms.

164.013 President of council – Transfer of personnel positions.

(1) The Council on Postsecondary Education shall set the qualifications for the position of president of the council. Except for the first president appointed under subsection

(2) of this section, the council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong

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communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established in KRS 164.003(2).

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.

(8) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. All personnel positions of the Council on Higher Education, as of May 30, 1997, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to May 30, 1997, may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.

(9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out

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policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.

(11) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

164.020 Powers and duties of council.

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic,

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service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education

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and Literacy. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, 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. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the

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requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

- (a) Consistency with the institution's mission and the strategic agenda;
- (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
- (c) Elimination of unnecessary duplication of programs within and among institutions; and
- (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient

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program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made

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available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education

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system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under KRS 164.041; and

(35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

164.0203 Strategic agenda – Strategic implementation plan – Benchmarks –

Review of goals and plan.

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(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;
2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and
3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

- (a) A mission statement;
- (b) Goals;
- (c) Principles;
- (d) Strategies and objectives;
- (e) Benchmarks; and
- (f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be

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limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.