

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Office of Kentucky Nature Preserves

4 (Amendment)

5 418 KAR 1:050. Procedures for acquisition of land.

6 RELATES TO: KRS 45.450, 146.550-146.570, 382.800-382.860

7 STATUTORY AUTHORITY: KRS 146.560(2), 146.565

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) authorizes [~~requires~~]
9 the cabinet, with approval of the board to promulgate administrative regulations for the [~~on~~]
10 acquisition of land. This administrative regulation governs the acquisition of land purchased, in
11 whole or in part, with fund money.

12 Section 1. An applicant shall attempt to acquire:

13 (1) Land at or below its fair market value; and

14 (2) Available matching funds for the purchase of land and land management from a public or
15 private entity.

16 Section 2. Transfer of Funds. An expenditure approved by the board shall be disbursed after
17 a written agreement has been signed by the grant applicant and the board, through its chair, and all
18 procedures in 418 KAR 1:040 and in the application have been followed.

19 Section 3. Deadline for Acquisition. The project site shall be acquired within two (2) years
20 of board approval of the acquisition. If the requirements of an agreed upon MOA required by 418

KAR 1:040, Section 3, have been met, then an extension shall be granted by the board upon receipt of a written request for extension.

Section 4. Verification.

(1) Within ninety (90) days of purchase, a recipient of fund money shall provide to the board, a copy of the recorded deed of conveyance for land acquired.

(2) The deed shall indicate:

(a) That it has been filed of record in the courthouse of the county where the real estate is located; and

(b) The amount of consideration paid for the real estate, in accordance with KRS 45.450.

Section 5. Deed Restriction. A state agency that has been awarded grant funds pursuant to KRS 146.570(4) shall include in all deeds conveying ownership of property to that agency, as grantee, the following language: "Grantor and grantee hereby acknowledge that a source of funding for the purchase of the property is the Kentucky Heritage Land Conservation Fund, and that as consideration for receiving said funding, Grantee, including its successors and assigns, is required to maintain the property in perpetuity in accordance with the purpose, intent and requirements of the Kentucky Heritage Land Conservation Fund set forth at KRS 146.570 and 418 KAR Chapter 1. Grantee, including its successors and assigns, further acknowledges that it is prohibited from selling, exchanging, encumbering, or disposing of any interest in the property without the prior written consent of the Kentucky Heritage Land Conservation Fund, its successors and assigns, and the Kentucky Finance and Administration Cabinet, and that the Grantee, including its successors and assigns, shall ensure that any future owner of the property agrees in writing to be bound in perpetuity to the same restrictions and terms as stated herein."

Section 6. Conservation Easements.

1 (1) A local government, state college, state university, or LTO that has been awarded grant
2 funds pursuant to KRS 146.570(4)(f) shall convey to the Commonwealth of Kentucky a conservation
3 easement in perpetuity over all land acquired, in whole or in part, with fund proceeds.

4 (a) This conveyance shall occur simultaneously with the conveyance of the property to the
5 applicant.

6 (b) The conservation easement shall meet the requirements of KRS 382.800 through 382.860
7 and ensure that lands acquired shall be maintained in perpetuity for the purposes established in KRS
8 146.560.

9 (2) Matching funds.

10 (a) No later than ninety (90) days after board approval of an application from an LTO, the
11 applicant shall deposit into a designated account the matching funds required by KRS
12 146.560(2)[(d)]. The board shall rescind a grant application submitted by an LTO if the LTO fails to
13 deposit the matching funds required by KRS 146.560(2)[(d)] prior to acquiring the property.

14 (b) An LTO shall submit to the board for prior review and approval instructions for the
15 disbursement of matching funds, and shall ensure in writing that matching funds remain dedicated
16 to the project until all disbursements have been made.

17 (c) A final report detailing each disbursement shall be provided to the board within sixty (60)
18 days of the final disbursement.

DRAFT