

CHAPTER 225

(HB 249)

AN ACT relating to procurement authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.100 is amended to read as follows:

- (1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:
 - (a) Up to ten thousand dollars (\$10,000) per project for construction and one thousand dollars (\$1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraphs (b) and (c) of this subsection; and
 - (b) Up to ~~forty~~~~[twenty]~~ thousand dollars (~~\$40,000~~)[~~(\$20,000)~~] per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.
- (2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.
- (3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

Section 2. KRS 56.491 is amended to read as follows:

- (1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than ~~two~~~~[one]~~ hundred~~[and twenty five]~~ thousand dollars (~~\$200,000~~)[~~(\$125,000)~~] without first securing the approval of the Finance and Administration Cabinet.
- (2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may

require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Department of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.

- (3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.
- (4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed ~~two~~~~one~~ hundred~~and twenty five~~ thousand dollars ~~(\$200,000)~~~~(\$125,000)~~, shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.
- (5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed ~~two~~~~one~~ hundred~~and twenty five~~ thousand dollars ~~(\$200,000)~~~~(\$125,000)~~, may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.
- (6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.
- (7) This section shall not apply to capital outlays by the Justice Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice Cabinet shall be approved and authorized by the Finance and Administration Cabinet.

Section 3. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ~~twenty~~~~ten~~ thousand dollars ~~(\$20,000)~~~~(\$10,000)~~ without first making newspaper advertisement for bids.

- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ~~twenty~~^{ten} thousand dollars (~~\$20,000~~)[~~(\$10,000)~~], the fiscal court requirement shall prevail.
- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Purchases or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.
- (b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

Section 4. KRS 154.47-045 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS Chapter 45A, each state agency that has the responsibility for the expenditure of funds in excess of fifty thousand dollars (\$50,000) for secondary wood products to be used in state capital construction or renovation projects, including state park renovations, as determined by the secretary of Finance and Administration Cabinet, shall ~~contract with the Kentucky Wood Products Competitiveness Corporation to~~:
- (a) ***Provide the Kentucky Wood Products Competitiveness Corporation with a monthly list of proposed projects, which are in excess of fifty thousand dollars (\$50,000) in construction, or renovation of state facilities. This list shall include, but shall not be limited to:***
- 1. Name and location of the project;***
 - 2. Status of the project;***
 - 3. Scope of the work;***
 - 4. Funds allocated to the project; and***

5. *Projected time lines for the project;*
- (b) *Include in the request for proposals, language which requests that bidders contact the Kentucky Wood Products Competitiveness Corporation for suggested vendors of Kentucky secondary wood products; and*
 - (c) *Request a list of suggested vendors from the Kentucky Wood Products Competitiveness Corporation when the secondary wood products are in excess of fifty thousand dollars (\$50,000) and on multivendor commodity price contracts or are one time commodity purchases.*
- (2) *The Kentucky Wood Products Competitiveness Corporation may:*
- (a)~~[(1)]~~ *Assist in the solicitation of ~~[(Solicit)]~~ bids from Kentucky secondary wood products firms;*
 - (b)~~[(2)]~~ *—Assist firms in preparing and submitting bids;*
 - (c)~~[(3)]~~ *Assist firms to form networks for the purpose of competing for bids on state capital construction and renovation projects; and*
 - (d)~~[(4)]~~ *Assist firms in training workers, designing products, developing product lines, and otherwise as necessary to perform under state contracts.*

Approved March 29, 2000