

CHAPTER 509**(HB 887)**

AN ACT relating to state purchasing.

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

Section 1. KRS 45A.080 is amended to read as follows:

- (1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:
 - (a) Whether specifications can be prepared that permit award on the basis of best value; and
 - (b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.
- (2) The invitation for bids shall state that awards shall be made on the basis of best value. ***In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.***
- (3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.
- (4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.
- (5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.
- (6) Correction or withdrawal of bids shall be allowed only to the extent permitted by regulations issued by the secretary.

Approved April 21, 2000

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