

200 KAR 5:302. Delegation of authority.

RELATES TO: KRS 45A.045(3), 45A.675

STATUTORY AUTHORITY: KRS 45A.035(2)(a), 45A.045(3), (5), 45A.100(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.035(2)(a) requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations relating to conditions and procedures for delegations of purchasing authority. KRS 45A.045(5) requires the secretary of the cabinet to promulgate administrative regulations establishing the method of disposal for personal property of the state, if disposal has been delegated to a state agency. KRS 45A.100(3) requires the secretary of the cabinet to promulgate administrative regulations concerning the granting or revocation of delegations of small purchasing authority by the cabinet. This administrative regulation establishes requirements that will provide uniformity for all delegations of authority by the Finance and Administration Cabinet and ensure the competency of the agency receiving the delegated authority in the proposed delegated area of purchasing. In addition, this administrative regulation establishes the requirements for the Secretary of the Finance and Administration Cabinet to waive the small purchase authority limitations pursuant to KRS 45A.100.

Section 1. Delegation of Purchasing Authority Other than for Small Purchases. (1) A secretary's order may delegate Finance and Administration Cabinet purchasing authority pursuant to KRS 45A.045(3). A government agency requesting a delegation from the Finance and Administration Cabinet under KRS 45A.045(3) shall submit to the secretary proof of competency in the proposed delegated area, demonstrated by staff experience and training and the resources available to the agency to perform the purchase delegation.

(2) The secretary's order shall specify the authority the agency shall receive, the purpose for which the delegation is given, and the period of time for which the delegation is valid.

(3) An agency receiving delegation shall comply with the provisions of KRS Chapter 45A and all other purchasing statutes, administrative regulations, policies and procedures of the Finance and Administration Cabinet.

(4) An agency holding a delegation shall certify annually to the secretary by July 1, that it is in compliance with all purchasing laws, administrative regulations and policies.

(5) A delegation of purchasing authority by the secretary shall remain in force according to the original terms unless modified, or until rescinded by the secretary.

(6) A delegation of purchasing authority for an agency's individual requirements, or to authorize procurement activities by an agency for preestablished and limited periods of time may be granted by the Commissioner of the Department for Administration or the Commissioner for the Department for Facilities Management, or their designees, as appropriate, setting forth the type of procurement activity or function and fixing the limits and restrictions on the exercise of the delegation and its duration. A delegation granted under this section shall not be extended or renewed except with the approval of the Secretary of the Finance and Administration Cabinet.

Section 2. Small Purchase Authority Delegation Exceeding an Agency's Statutory Small Purchase Limit Under KRS 45A.100. (1) The Secretary of the Finance and Administration Cabinet may delegate purchasing authority that exceeds the agency's small purchase limit set out in KRS 45A.100 by secretary's order. The order shall set forth the type of procurement activity or function delegated and any limitations or restrictions on the exercise of the authority.

(2) An agency request for small purchase delegation above the limits established in KRS 45A.100 shall be submitted to the secretary, approved by the head of the agency submitting the request, and shall contain the following information:

(a) Total dollars spent each of the two (2) preceding fiscal years under the agency's existing

small purchase authority;

(b) Number of small purchase transactions represented by those dollar figures for each fiscal year;

(c) A description of the agency's organizational structure, which shall demonstrate that the delegation is appropriate to the agency's size and procurement needs;

(d) A description of the agency's internal controls, which shall ensure adequate safeguarding of assets and the separation of purchasing, accounting, and receiving functions;

(e) Documentation that the agency has prepared and implemented a plan to identify and utilize small business and small minority business suppliers and the agency's future goals in this respect;

(f) An action plan showing how the agency plans to reach its goals;

(g) Acknowledgment that the agency is aware of, and in compliance with, the provisions of KRS 45A.500 and 200 KAR 5:330 relating to recycled material content products;

(h) Every record of control weakness or noncompliance relating to procurement practices issued to the agency by the Auditor of Public Accounts, internal auditors, or the Finance and Administration Cabinet Division of Administrative Policy and Audit, for each of the past two (2) fiscal years, the agency's response to the finding, and any corrective measure taken; and

(i) A list of the agency's procurement personnel, below the level of branch manager, to whom the agency will give authority for purchases at the requested higher small purchase limits and their professional purchasing certification or training.

(3) An agency shall set a minimum goal of five (5) percent utilization of small business and small minority business suppliers.

(4) An agency shall report its progress toward meeting its utilization goal upon the secretary's request.

(5) Procurement personnel of an agency granted delegated purchasing authority shall, within one (1) year after the granting of the delegation or within one (1) year of employment in government in a procurement position, whichever is sooner, have completed a course in purchasing offered by the Finance and Administration Cabinet's Division of Material and Procurement Services and Division of Contracting and Administration, or the introductory course in purchasing offered by the National Institute of Governmental Purchasing, or an equivalent course offered by the National Association of Purchasing Management.

(6) An agency requesting delegated purchasing authority shall utilize each on-line function of the state's procurement system that has been offered to the agency.

(7) The Division of Material and Procurement Services and the Division of Contracting and Administration may request periodic procurement audits by the Division of Administrative Policy and Audit of the agencies to which small purchase delegation above the limits established in KRS 45A.100 has been granted. Such audits shall investigate an agency's compliance with the provisions of KRS Chapter 45A, purchasing administrative regulations and the Finance and Administration Cabinet Manual of Policies and Procedures. If an agency demonstrates deficiencies in procurement expertise or practice, the division shall recommend that the secretary revoke or amend any delegations granted under this administrative regulation. Authority shall not be extended or renewed except with the approval of the secretary.

Section 3. Delegation of Authority to Declare and Dispose of Surplus Personal Property. (1) A secretary's order may delegate Finance and Administration Cabinet authority pursuant to KRS 45A.045(5).

(2) A delegation shall only be granted to the agency head.

(3) An agency head requesting delegation of authority to declare and dispose of surplus personal property from the Finance and Administration Cabinet under KRS 45A.045(5) shall submit a request to the Secretary of the Finance and Administration Cabinet.

- (4) The request shall assure that:
- (a) Only property surplus to the agency's need shall be declared surplus and disposed of;
 - (b) No employee of the Commonwealth shall personally benefit from the disposal of surplus property; and
 - (c) Disposition shall be in accordance with applicable federal and state laws and regulations, including the executive branch code of ethics and Finance and Administration Cabinet manual of policies and procedures established in 200 KAR 5:021. (23 Ky.R. 1468; Am. 1924; eff. 11-11-96; 24 Ky.R. 927; eff. 12-15-97; 30 Ky.R. 668; 1460; eff. 1-5-2004; Crt eff. 2-12-2020.)