

1 AN ACT relating to local procurement.

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

3 ➔Section 1. KRS 45A.385 is amended to read as follows:

4 The local public agency may use small purchase procedures for any contract for which a
5 determination is made that the aggregate amount of the contract does not exceed ***thirty***
6 ***thousand***~~[twenty thousand]~~ dollars ***(\$30,000)***~~[(20,000)]~~ if small purchase procedures are
7 in writing and available to the public.

8 ➔Section 2. KRS 45A.430 is amended to read as follows:

9 (1) Bidder security shall be required for all competitive sealed bidding for construction
10 contracts when the price is estimated by the local public agency to exceed ***one***
11 ***hundred thousand***~~[twenty five thousand]~~ dollars ***(\$100,000)***~~[(25,000)]~~. Bidder's
12 security shall be a bond provided by a surety company authorized to do business in
13 this Commonwealth, or the equivalent in cash, in a form satisfactory to the local
14 public agency. Nothing herein prevents the requirement of such bonds on
15 construction contracts under ***one hundred thousand***~~[twenty five thousand]~~ dollars
16 ***(\$100,000)***~~[(25,000)]~~ when the circumstances warrant.

17 (2) Bidder's security shall be in an amount equal to at least five percent (5%) of the
18 amount of the bid.

19 (3) When the invitation for bids requires that bidder security be provided,
20 noncompliance requires that the bid be rejected, provided, however, that the local
21 public agency may set forth by regulation exceptions to this requirement in the
22 event of substantial compliance.

23 (4) After the bids are opened, they shall be irrevocable for the period specified in the
24 invitation for bids, provided that, if a bidder is permitted to withdraw his bid before
25 award because of a mistake in the bid as allowed by law or regulation, no action
26 shall be had against the bidder or the bidder's security.

27 ➔Section 3. KRS 45A.435 is amended to read as follows:

- 1 (1) When a construction contract is awarded in an amount in excess of one hundred
2 thousand~~[twenty five thousand]~~ dollars (\$100,000)~~[(25,000)]~~, the following bonds
3 shall be furnished to the local public agency, and shall become binding on the
4 parties upon the award of the contract:
- 5 (a) A performance bond satisfactory to the local public agency executed by a
6 surety company authorized to do business in this Commonwealth, or
7 otherwise supplied, satisfactory to the local public agency, in an amount equal
8 to one hundred percent (100%) of the contract price as it may be increased;
9 and
- 10 (b) A payment bond satisfactory to the local public agency, executed by a surety
11 company authorized to do business in this Commonwealth, or otherwise
12 supplied, satisfactory to the local public agency, for the protection of all
13 persons supplying labor and material to the contractor or his subcontractors
14 for the performance of the work provided for in the contract. The bond shall
15 be in an amount equal to one hundred percent (100%) of the original contract
16 price.
- 17 (2) Nothing in this section shall be construed to limit the authority of the local public
18 agency to require a performance bond or other security in addition to those bonds,
19 or in circumstances other than specified in subsection (1) of this section, including,
20 but not limited to, bonds for the payment of taxes and unemployment insurance
21 premiums.
- 22 ➔Section 4. KRS 424.260 is amended to read as follows:
- 23 (1) Except where a statute specifically fixes a larger sum as the minimum for a
24 requirement of advertisement for bids, no city, county, or district, or board or
25 commission of a city or county, or sheriff or county clerk, may make a contract,
26 lease, or other agreement for materials, supplies except perishable meat, fish, and
27 vegetables, equipment, or for contractual services other than professional, involving

1 an expenditure of more than thirty thousand~~[twenty thousand]~~ dollars
2 (\$30,000)~~[\$20,000]~~ without first making newspaper advertisement for bids. This
3 subsection shall not apply to the transfer of property between governmental
4 agencies as authorized in KRS 82.083(4)(a).

5 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
6 expenditures of less than thirty thousand~~[twenty thousand]~~ dollars
7 (\$30,000)~~[\$20,000]~~, the fiscal court requirement shall prevail.

8 (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district
9 to acquire supplies and equipment outside of the bidding procedure if those
10 supplies and equipment meet the specifications of the contracts awarded by
11 the Office of Material and Procurement Services in the Office of the
12 Controller within the Finance and Administration Cabinet or a federal, local,
13 or cooperative agency and are available for purchase elsewhere at a lower
14 price. A board of education may purchase those supplies and equipment
15 without advertising for bids if, prior to making the purchases, the board of
16 education obtains certification from the district's finance or purchasing officer
17 that the items to be purchased meet the standards and specifications fixed by
18 state price contract, federal (GSA) price contract, or the bid of another school
19 district whose bid specifications allow other districts to utilize their bids, and
20 that the sales price is lower than that established by the various price contract
21 agreements or available through the bid of another school district whose bid
22 specifications would allow the district to utilize their bid.

23 (b) The procedures set forth in paragraph (a) of this subsection shall not be
24 available to the district for any specific item once the bidding procedure has
25 been initiated by an invitation to bid and a publication of specifications for
26 that specific item has been published. In the event that all bids are rejected, the
27 district may again avail itself of the provisions of paragraph (a) of this

1 subsection.

- 2 (4) This requirement shall not apply in an emergency if the chief executive officer of
3 the city, county, or district has duly certified that an emergency exists, and has filed
4 a copy of the certificate with the chief financial officer of the city, county, or
5 district, or if the sheriff or the county clerk has certified that an emergency exists,
6 and has filed a copy of the certificate with the clerk of the court where his necessary
7 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
8 superintendent of the board of education has duly certified that an emergency exists,
9 and has filed a copy of the certificate with the chief state school officer.
- 10 (5) The provisions of subsection (1) of this section shall not apply for the purchase of
11 wholesale electric power for resale to the ultimate customers of a municipal utility
12 organized under KRS 96.550 to 96.900.