

1 AN ACT relating to local government procurement.

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

3 ➔Section 1. KRS 45A.380 is amended to read as follows:

4 A local public agency may contract or purchase through noncompetitive negotiation only  
5 when a written determination is made that competition is not feasible and it is further  
6 determined in writing by a designee of the local public agency that:

- 7 (1) An emergency exists which will cause public harm as a result of the delay in  
8 competitive procedures;
- 9 (2) There is a single source within a reasonable geographical area of the product or  
10 service to be procured;
- 11 (3) The contract is for the services of a licensed professional, such as attorney,  
12 physician, psychiatrist, psychologist, certified public accountant, registered nurse, or  
13 educational specialist; a technician such as a plumber, electrician, carpenter, or  
14 mechanic; or an artist such as a sculptor, aesthetic painter, or musician, provided,  
15 however, that this provision shall not apply to architects or engineers providing  
16 construction management services rather than professional architect or engineer  
17 services;
- 18 (4) The contract is for the purchase of perishable foods, such as meat, fish, poultry,  
19 egg products, fresh vegetables, and fresh fruits~~[items purchased on a weekly or~~  
20 ~~more frequent basis, such as fresh fruits, vegetables, fish or meat];~~
- 21 (5) The contract is for replacement parts where the need cannot be reasonably  
22 anticipated and stockpiling is not feasible;
- 23 (6) The contract is for proprietary items for resale;
- 24 (7) In school districts the contract relates to an enterprise in which the buying or selling  
25 by students is a part of the educational experience;
- 26 (8) The contract or purchase is for expenditures made on authorized trips outside of the  
27 boundaries of the local public agency;

- 1 (9) The contract is for the purchase of supplies which are sold at public auction or by  
2 receiving sealed bids;
- 3 (10) The contract is for group life insurance, group health and accident insurance, group  
4 professional liability insurance, worker's compensation insurance, and  
5 unemployment insurance;
- 6 (11) The contract is for a sale of supplies at reduced prices that will afford a purchase at  
7 savings to the local public agency; or
- 8 (12) The contract is with a private real estate developer and contains a requirement:
- 9 (a) That the developer increase the size or otherwise improve the collection  
10 capacity of the sanitary sewer or storm water pipe serving the affected private  
11 real estate development; and
- 12 (b) That the local public agency pay only the proportional cost of increasing the  
13 size, or otherwise improving the collection capacity, of the sanitary sewer or  
14 storm water pipe over the original collection capacity.

15 ➔Section 2. KRS 424.260 is amended to read as follows:

- 16 (1) Except where a statute specifically fixes a larger sum as the minimum for a  
17 requirement of advertisement for bids, no city, county, or district, or board or  
18 commission of a city or county, or sheriff or county clerk, may make a contract,  
19 lease, or other agreement for:
- 20 (a) Materials;~~;~~
- 21 (b) Supplies, except perishable foods such as meat, poultry, fish, egg products,  
22 fresh vegetables, and fresh fruits; ~~and vegetables;~~
- 23 (c) Equipment;~~;~~ or ~~for~~
- 24 (d) Contractual services other than professional;~~;~~
- 25 involving an expenditure of more than thirty thousand dollars (\$30,000) without  
26 first making newspaper advertisement for bids. This subsection shall not apply to  
27 the transfer of property between governmental agencies as authorized in KRS

1 82.083(4)(a).

2 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on  
3 expenditures of less than thirty thousand dollars (\$30,000), the fiscal court  
4 requirement shall prevail.

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

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

26 (4) This requirement shall not apply in an emergency if the chief executive officer of  
27 the city, county, or district has duly certified that an emergency exists, and has filed

1 a copy of the certificate with the chief financial officer of the city, county, or  
2 district, or if the sheriff or the county clerk has certified that an emergency exists,  
3 and has filed a copy of the certificate with the clerk of the court where his necessary  
4 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the  
5 superintendent of the board of education has duly certified that an emergency exists,  
6 and has filed a copy of the certificate with the chief state school officer.

7 (5) The provisions of subsection (1) of this section shall not apply for the purchase of  
8 wholesale electric power for resale to the ultimate customers of a municipal utility  
9 organized under KRS 96.550 to 96.900.

10 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO  
11 READ AS FOLLOWS:

12 *No contract shall be awarded, extended, or renewed to a bidder or contractor under*  
13 *this chapter if the bidder or contractor procured an original, subsequent, or similar*  
14 *contract while employing an executive agency lobbyist who was convicted of a crime*  
15 *related to the original, subsequent, or similar contract within five (5) years of the*  
16 *conviction of the lobbyist.*

17 ➔Section 4. KRS 45A.340 is amended to read as follows:

18 (1) No officer or employee of the General Assembly, or officer or employee of an  
19 agency as defined in KRS 45A.335, shall knowingly receive or agree to receive,  
20 directly or indirectly, compensation for any services to be rendered, either by  
21 himself or another, in negotiations with the state or an agency for the purchase by  
22 the state or an agency of an interest in real property. This section shall not apply to  
23 appearances before any court, except that negotiations shall be prohibited as  
24 aforesaid at any time.

25 (2) No officer or employee of an agency or member of a state board or commission,  
26 may be in any manner interested, either directly or indirectly, in his own name or in  
27 the name of any other person, association, trust, or corporation, in any contract for

1 the performance of any work in the making or letting or administration of which  
2 such officer or employee may be called upon to act or vote. No such officer or  
3 employee may represent, either as agent or otherwise, any person, association, trust,  
4 or corporation, with respect to any application or bid for any contract or work in  
5 regard to which such officer or employee may be called upon to act or vote. Nor  
6 may any such officer or employee take, solicit, or receive, either directly or  
7 indirectly, any money or other thing of value as a gift or bribe or means of  
8 influencing his vote or action in his official character. Any contract made and  
9 procured in violation hereof is void. For the purposes of this section the holding of  
10 less than five percent (5%) of the stock of a corporation is not considered an  
11 interest.

12 (3) No officer or employee of the General Assembly or officer or employee of any  
13 agency shall, for compensation, appear before an agency as an expert witness.

14 (4) No officer or employee of the General Assembly, or officer or employee of any  
15 agency, shall act as officer or agent for the Commonwealth or any agency in the  
16 transaction of any business with himself, or with any corporation, company,  
17 association, or firm in which he or his spouse has any interest greater than five  
18 percent (5%) of the total value thereof.

19 (5) No officer or employee of an agency or appointee shall knowingly himself or by his  
20 partners or through any corporation which he controls or in which he owns or  
21 controls more than ten percent (10%) of the stock, or by any other person for his use  
22 or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part,  
23 any contract, agreement, sale, or purchase of the value of twenty-five dollars (\$25)  
24 or more, made, entered into, awarded or granted by any agency, unless said contract,  
25 agreement, sale or purchase:

26 (a) Was made or let after public notice and competitive bidding; or

27 (b) Results from the sale of a craft item to a state park if the employee is an

1 interim state park employee designated as a craftsperson under KRS 148.257.

2 (6) No officer, employee, or appointee of an agency, including persons who serve  
3 without salary or other payment for their services, shall knowingly receive or agree  
4 to receive, directly or indirectly, compensation for any services rendered or to be  
5 rendered, either by himself or another, in any cause, proceeding, application, or  
6 other matter which is before said agency or before the department of state  
7 government in which said agency functions.

8 (7) No member of a board of trustees or regents shall have an interest in any contract  
9 with a state university unless such contract shall have been subjected to competitive  
10 bidding in compliance with KRS Chapter 45A, unless such trustee or regent shall  
11 have been the lowest bidder and unless such trustee or regent shall have first  
12 notified in writing the remaining members of the board, and to the newspaper  
13 having the largest circulation in the county in which the state university is located,  
14 of his intention to bid on such contract.

15 **(8) No officer, employee, or appointee of an agency, including persons who serve**  
16 **without salary or other payment for their services, may participate in the**  
17 **procurement of a contract under this chapter that relates to his or her prior**  
18 **employment until at least one (1) year has passed since his or her termination**  
19 **with that employer.**

20 ➔Section 5. Section 3 of this Act shall be applied retroactively to all contracts  
21 entered into since January 1, 2017. No contract existing as of the effective date of this Act  
22 shall be voided under Section 3 of this Act.