

1 AN ACT relating to local purchasing.

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,
13 or 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, egg
19 products, fresh vegetables, and fresh fruits;
- 20 (5) The contract is for replacement parts where the need cannot be reasonably
21 anticipated and stockpiling is not feasible;
- 22 (6) The contract is for proprietary items for resale;
- 23 (7) In school districts the contract relates to an enterprise in which the buying or selling
24 by students is a part of the educational experience;
- 25 (8) The contract or purchase is for expenditures made on authorized trips outside of the
26 boundaries of the local public agency;
- 27 (9) The contract is for the purchase of supplies which are sold at public auction or by

1 receiving sealed bids;

2 (10) The contract is for group life insurance, group health and accident insurance, group
3 professional liability insurance, worker's compensation insurance, and
4 unemployment insurance;

5 (11) The contract is for a sale of supplies at reduced prices that will afford a purchase at
6 savings to the local public agency;~~[-or]~~

7 (12) The contract is with a private real estate developer and contains a requirement:

8 (a) That the developer increase the size or otherwise improve the collection
9 capacity of the sanitary sewer or storm water pipe serving the affected private
10 real estate development; and

11 (b) That the local public agency pay only the proportional cost of increasing the
12 size, or otherwise improving the collection capacity, of the sanitary sewer or
13 storm water pipe over the original collection capacity; or

14 **(13) The contract is for the purchase of used vehicles or used equipment and the**
15 **purchase price does not exceed seventy-five percent (75%) of the manufacturer's**
16 **suggested retail price for the model year for a vehicle or date of manufacture for**
17 **equipment for the same or similar vehicles or equipment.**

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

19 (1) Except where a statute specifically fixes a larger sum as the minimum for a
20 requirement of advertisement for bids, ~~a~~~~no~~ city, county, or district, or board or
21 commission of a city or county, or sheriff or county clerk, **shall not**~~may~~ make a
22 contract, lease, or other agreement for:

23 (a) Materials;

24 (b) Supplies, except **for supplies that are:**

25 **1.** Perishable foods such as meat, poultry, fish, egg products, fresh
26 vegetables, and fresh fruits; or

27 **2. Sold at public auction;**

- 1 (c) Equipment, except used vehicles and used equipment if the purchase price
2 does not exceed seventy-five percent (75%) of the manufacturer's suggested
3 retail price for the model year for a vehicle or date of manufacture for
4 equipment for the same or similar vehicles or equipment; or
- 5 (d) Contractual services other than professional;
6 involving an expenditure of more than forty thousand dollars (\$40,000) without first
7 making newspaper advertisement for bids. This subsection shall not apply to the
8 transfer of property between governmental agencies as authorized in KRS
9 82.083(4)(a).
- 10 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
11 expenditures of less than forty thousand dollars (\$40,000), the fiscal court
12 requirement shall prevail.
- 13 (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district
14 to acquire supplies and equipment outside of the bidding procedure if those
15 supplies and equipment meet the specifications of the contracts awarded by
16 the Office of Material and Procurement Services in the Office of the
17 Controller within the Finance and Administration Cabinet or a federal, local,
18 or cooperative agency and are available for purchase elsewhere at a lower
19 price. A board of education may purchase those supplies and equipment
20 without advertising for bids if, prior to making the purchases, the board of
21 education obtains certification from the district's finance or purchasing officer
22 that the items to be purchased meet the standards and specifications fixed by
23 state price contract, federal (GSA) price contract, or the bid of another school
24 district whose bid specifications allow other districts to utilize their bids, and
25 that the sales price is lower than that established by the various price contract
26 agreements or available through the bid of another school district whose bid
27 specifications would allow the district to utilize their bid.

- 1 (b) The procedures set forth in paragraph (a) of this subsection shall not be
2 available to the district for any specific item once the bidding procedure has
3 been initiated by an invitation to bid and a publication of specifications for
4 that specific item has been published. In the event that all bids are rejected,
5 the district may again avail itself of the provisions of paragraph (a) of this
6 subsection.
- 7 (4) This requirement shall not apply in an emergency if the chief executive officer of
8 the city, county, or district has duly certified that an emergency exists, and has filed
9 a copy of the certificate with the chief financial officer of the city, county, or
10 district, or if the sheriff or the county clerk has certified that an emergency exists,
11 and has filed a copy of the certificate with the clerk of the court where his necessary
12 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
13 superintendent of the board of education has duly certified that an emergency
14 exists, and has filed a copy of the certificate with the chief state school officer.
- 15 (5) The provisions of subsection (1) of this section shall not apply for the purchase of
16 wholesale electric power for resale to the ultimate customers of a municipal utility
17 organized under KRS 96.550 to 96.900.
- 18 (6) Subsection (1) of this section shall not apply to purchases for products or services
19 made pursuant to KRS 82.084.