

1 AN ACT relating to real property.

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

3 ➔Section 1. KRS 45A.045 is amended to read as follows:

4 (1) The Finance and Administration Cabinet shall serve as the central procurement and
5 contracting agency of the Commonwealth. **The cabinet shall:**

6 (a) ~~[The cabinet shall]~~Require all agencies to furnish an estimate of specific
7 needs for supplies, materials, and equipment to be purchased by competitive
8 bidding for the purpose of permitting scheduling of purchasing in large
9 volume. The cabinet shall establish and enforce schedules for purchasing
10 supplies, materials, and equipment. In addition, prior to the beginning of each
11 fiscal year all agencies shall submit to the Finance and Administration
12 Cabinet an estimate of all needs for supplies, materials, and equipment during
13 that year which will have to be required through competitive bidding; ~~]~~

14 (b) ~~[The Finance and Administration Cabinet shall]~~Have **the authority**~~[power]~~,
15 with the approval of the secretary of the Finance and Administration Cabinet,
16 to transfer between departments, to salvage, to exchange, and to condemn
17 supplies, equipment, and real property; **and**~~]~~

18 (c) ~~[The Finance and Administration Cabinet shall]~~Attempt in every practicable
19 way to ensure that state agencies are fulfilling their business needs through the
20 application of the best value criteria.

21 (2) The Finance and Administration Cabinet shall recommend regulations, rules, and
22 procedures and shall have supervision over all purchases by the various spending
23 agencies, except as otherwise provided by law, and, subject to the approval of the
24 secretary of the Finance and Administration Cabinet, shall promulgate
25 administrative regulations to govern purchasing by or for all these agencies. The
26 cabinet shall publish a manual of procedures which shall be incorporated by
27 reference as an administrative regulation **in accordance with**~~[pursuant to]~~ KRS

1 Chapter 13A. This manual shall be distributed to agencies and shall be revised upon
2 issuance of amendments to these procedures. No purchase or contract shall be
3 binding on the state or any agency thereof unless approved by the Finance and
4 Administration Cabinet or made under general administrative regulations
5 promulgated by the cabinet.

6 (3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or,
7 with the approval of the secretary, may delegate and control the purchase and
8 acquisition of the combined requirements of all spending agencies of the state,
9 including, but not limited to, interests in real property, contractual services, rentals
10 of all types, supplies, materials, equipment, and services.

11 (4) (a) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose
12 of any interest in real property of the state which is not needed, or has become
13 unsuitable for public use, or would be more suitable to the public's interest if
14 used in another manner, as determined by the secretary of the Finance and
15 Administration Cabinet.

16 (b) The determination of the secretary of the Finance and Administration Cabinet
17 shall be set forth in an order and shall be reached only after review of a
18 written request by the agency desiring to dispose of the real property. This
19 request shall describe the real property and state the reasons why the agency
20 believes the real property should be disposed.

21 (c) Before the disposal of real property, the secretary of the Finance and
22 Administration Cabinet shall determine that:

23 1. No other state agency has a purpose for the real property; and
24 2. The city, county, urban-county government, or consolidated local
25 government where the real property is located does not have an
26 ownership interest in the real property.

27 (d) All instruments required by law to be recorded which convey any interest in

1 any real property so disposed of shall be executed and signed by the secretary
2 of the Finance and Administration Cabinet and approved by the Governor.

3 (e) Unless the secretary of the Finance and Administration Cabinet deems it in
4 the best interest of the state to proceed otherwise, all interests in real property
5 shall be sold either by invitation of sealed bids or by public auction. The
6 selling price of any interest in real property shall not be less than the appraised
7 value thereof as determined by the cabinet, or the Transportation Cabinet for
8 the requirements of that cabinet.

9 (f) A state agency notifying the Finance and Administration Cabinet of its
10 intent to dispose of any interest in real property assigned to the state agency
11 shall continue to provide maintenance and security of the existing
12 structures, buildings, and land included in the real property until the sale or
13 other disposition is complete.

14 (g) In the event the Finance and Administration Cabinet receives no responsive
15 bids for real property being disposed of, either by sealed bid or by public
16 auction, the real property may be disposed of, consistent with the public
17 interest, in any manner deemed appropriate by the secretary of the Finance
18 and Administration Cabinet. A written description of the real property, the
19 method of disposal, and the amount of compensation, if any, shall be made
20 by the secretary of the Finance and Administration Cabinet.

21 (5) (a) If state-owned real property is observed to be abandoned, or it has not been
22 substantially utilized for a public use, the chief executive officer of the city,
23 county, urban-county government, or consolidated local government where
24 the real property is located may:

25 1. Receive notice inquiring about the real property from a citizen,
26 developer, or consultant as described in paragraph (d) of this
27 subsection;

- 1 2. Develop a plan for public use of the real property; and
- 2 3. Submit a written notice to the secretary of the Finance and
3 Administration Cabinet and the Capital Planning Advisory Board:
 - 4 a. Expressing interest in the use of the real property;
 - 5 b. Requesting state utilization information from the Finance and
6 Administration Cabinet on the availability of the real property
7 for disposal; and
 - 8 c. Requesting the real property to be considered for sale, trade, or
9 disposal.
- 10 (b) Within sixty (60) calendar days of receiving written notice under paragraph
11 (a) of this subsection, the secretary of Finance and Administration
12 Cabinet shall send a written response to the chief executive officer of the
13 city, county, urban-county, or consolidated government and the Capital
14 Planning Advisory Board that includes but is not limited to:
 - 15 1. The current occupancy and use of the real property;
 - 16 2. If the Finance and Administration Cabinet or other applicable state
17 agency intends to evaluate real property for disposal under subsection
18 (4) of this section or to maintain its ownership interest in the real
19 property for public use; and
 - 20 3. Provide a description of the real property, current status, available and
21 planned occupancy, utilization, restrictions of use, and a timeline for
22 full utilization of the property.
- 23 (c) If the applicable state agency determines to request disposal of the real
24 property, the state agency and Finance and Administration Cabinet shall
25 proceed in accordance with subsection (4) of this section.
- 26 (d) A citizen, developer, or consultant may notify the chief executive officer of
27 the city, county, urban-county government, or consolidated local

1 government where state-owned real property is located if he or she observes
2 that the state-owned real property is abandoned or not substantially utilized
3 for public use.

4 (6) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all
5 personal property of the state that is not needed, or has become unsuitable for
6 public use, or would be more suitable to the public's interest if used in another
7 manner, or, with the approval of the secretary, may delegate the sale, trade, or other
8 disposal of the personal property. In the event the authority is delegated, the method
9 for disposal shall be determined by the agency head, in accordance with
10 administrative regulations promulgated by the Finance and Administration Cabinet,
11 and shall be set forth in a document describing the property and stating the method
12 of disposal and the reasons why the agency believes the property should be
13 disposed of. In the event the authority is not delegated, requests to the Finance and
14 Administration Cabinet to sell, trade, or otherwise dispose of the property shall
15 describe the property and state the reasons why the agency believes the property
16 should be disposed of. The method for disposal shall be determined by the Division
17 of Surplus Properties, and approved by the secretary of the Finance and
18 Administration Cabinet or his or her designee.

19 (7){(6)} The Finance and Administration Cabinet shall exercise general supervision
20 and control over all warehouses, storerooms, and stores and of all inventories of
21 supplies, services, and construction belonging to the Commonwealth. The cabinet
22 shall promulgate administrative regulations to require agencies to take and maintain
23 inventories of plant property, buildings, structures, other fixed assets, and
24 equipment. The cabinet shall conduct periodic physical audits of inventories.

25 (8){(7)} The Finance and Administration Cabinet shall establish and maintain
26 programs for the development and use of purchasing specifications and for the
27 inspection, testing, and acceptance of supplies, services, and construction.

1 ~~(9)~~⁽⁸⁾ Nothing in this section shall prevent the Finance and Administration Cabinet
2 from negotiating with vendors who maintain a General Services Administration
3 price agreement with the United States of America or any agency thereof. No
4 contract executed under this provision shall authorize a price higher than is
5 contained in the contract between the General Services Administration and the
6 vendor affected.

7 ~~(10)~~⁽⁹⁾ Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to
8 the provisions of this code, the Finance and Administration Cabinet shall purchase
9 or otherwise acquire all real property determined to be needed for state use, upon
10 approval of the secretary of the Finance and Administration Cabinet as to the
11 determination of need and as to the action of purchase or other acquisition. The
12 amount paid for this real property shall not exceed the appraised value as
13 determined by the cabinet or the Transportation Cabinet (for such requirements of
14 that cabinet), or the value set by eminent domain procedure. Subject to the
15 provisions of this code, real property or any interest therein may be purchased,
16 leased, or otherwise acquired from any officer or employee of any agency of the
17 state upon a finding by the Finance and Administration Cabinet, based upon a
18 written application by the head of the agency requesting the purchase, and approved
19 by the secretary of the Finance and Administration Cabinet and the Governor, that
20 the employee has not either himself or herself, or through any other person,
21 influenced or attempted to influence either the agency requesting the acquisition of
22 the property or the Finance and Administration Cabinet in connection with such
23 acquisition. Whenever such an acquisition is consummated, the request and finding
24 shall be recorded and kept by the Secretary of State along with the other documents
25 recorded pursuant to the provisions of KRS Chapter 56.

26 ~~(11)~~⁽¹⁰⁾ The Finance and Administration Cabinet shall maintain records of all
27 purchases and sales made under its authority and shall make periodic summary

1 reports of all transactions to the secretary of the Finance and Administration
2 Cabinet, the Governor, and the General Assembly. The Finance and Administration
3 Cabinet shall also report trends in costs and prices, including savings realized
4 through improved practices, to the above authorities. The Finance and
5 Administration Cabinet shall also compile an annual report of state purchases by all
6 spending agencies in the state's statewide accounting and reporting system. The
7 report format shall include, but not be limited to, dollar amount, volume, type of
8 purchase, and vendor.

9 (12)~~(11)~~ For capital construction projects, subject to the provisions of this code and
10 KRS 45A.180, the procurement may be on whichever of the following alternative
11 project delivery methods, in the judgment of the secretary of the Finance and
12 Administration Cabinet after first considering the traditional design-bid-build
13 project delivery method, offers the best value to the taxpayer:

14 (a) A design-build basis; or
15 (b) A construction management-at-risk basis.

16 Proposals shall be reviewed by the engineering staff to assure quality and value, and
17 compliance with procurement procedures. All specifications shall be written to
18 promote competition. Nothing in this section shall prohibit the procurement of
19 phased bidding or construction manager-agency services.

20 (13)~~(12)~~ The Finance and Administration Cabinet shall have control and supervision
21 over all purchases of energy-consuming equipment, supplies, and related equipment
22 purchased or acquired by any agency of the state as provided in this code, and shall
23 promulgate administrative regulations to designate the manner in which an energy-
24 consuming item will be purchased so as to promote energy conservation and
25 acquisition of energy efficient products. Major energy components shall be
26 amortized on a seven (7) to ten (10) years' recovery basis and shall take into
27 consideration the projected cost of fuel. The Finance and Administration Cabinet, in

1 consultation with the Cabinet for Economic Development, shall conduct a thorough
2 economic feasibility analysis on any major energy-using component of at least three
3 million (3,000,000) BTU's per hour heat input and shall issue a certificate of
4 economic feasibility prior to the Finance and Administration Cabinet's purchasing
5 or retrofitting any such component that utilizes any fuel other than coal. The
6 economic feasibility analysis shall consist of life-cycle cost comparisons of a
7 component that would utilize coal and one(s) that would utilize any fuel other than
8 coal. For the analysis, the Finance and Administration Cabinet shall provide
9 detailed estimates of equipment purchase price, installation cost, annual operation
10 and maintenance costs, and usage patterns of energy-using components.

11 ➔Section 2. KRS 56.463 is amended to read as follows:

12 The cabinet shall have the power and duty:

- 13 (1) To determine the comparative needs and demands of the various state agencies for
14 acquiring real estate and for building projects;
- 15 (2) To purchase or otherwise acquire all real property determined to be needed for state
16 use and upon the approval of the secretary of the Finance and Administration
17 Cabinet as to the determination of need and as to the action of purchase or other
18 acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such
19 acquisitions of real property or interests therein shall be made in accordance with
20 KRS 45A.045;
- 21 (3) **(a)** To sell or otherwise dispose of all property, including any interest in real
22 property, of the state that is not needed or has become unsuitable for public
23 use or would be more suitable consistent with the public interest for some
24 other use as determined by the secretary of the Finance and Administration
25 Cabinet. All such sales or other disposition shall be made in accordance with
26 KRS 45A.045.;

27 **(b) A state agency notifying the Finance and Administration Cabinet of its**

1 *intent to dispose of any interest in real property assigned to the state agency*
2 *shall continue to provide maintenance and security of the existing*
3 *structures, buildings, and land included in the real property until the sale or*
4 *other disposition is complete in accordance with Section 1 of this Act.*

5 (4) (a) To control the use of any real property owned or otherwise held by the
6 Commonwealth, or any state agency, and to determine for what periods of
7 time and for what purposes any state agency may use the same, including the
8 agency for whose use it was initially acquired or improved, and to determine
9 what appropriate uses shall be made of such real property during periods that
10 the cabinet finds the same is not required for the purposes of any particular
11 state agency. The cabinet shall allocate to the General Assembly and the
12 Legislative Research Commission all space within the New State Capitol
13 Annex in the basement and on the first, second, third, and fourth floors,
14 excluding:

15 1. Mechanical areas, public entrances, vestibules, and restrooms; and
16 2. The following additional space, as allocated on January 1, 2023:

17 a. Areas in the basement occupied by the Kentucky State Police and
18 Facilities Security;

19 b. Areas in the basement operated as the snack bar and cafeteria, as
20 well as storage areas related to the operation of the snack bar and
21 cafeteria;

22 c. The area in the basement operated as a nurse's station;

23 d. The area in the basement used as an automated teller machine
24 (ATM);

25 e. The office space in the basement occupied by the Secretary of
26 State;

27 f. Utility spaces in the basement west wing and east wing

12 All space assigned to the legislative branch and plans, uses, furnishings, and
13 equipment therefor are subject to the specific approval of the Legislative
14 Research Commission:

15 (b) All additional space in the New State Capitol Annex, not specifically
16 allocated for use by the General Assembly and the Legislative Research
17 Commission in paragraph (a) of this subsection, shall be allocated for the use
18 of the legislative branch, with occupancy by the legislative branch to be
19 determined by the Legislative Research Commission, upon a vote of a
20 majority of the entire membership of the Legislative Research Commission;

21 (c) In order for the General Assembly and the Legislative Research Commission
22 to efficiently utilize the space provided by paragraphs (a) and (b) of this
23 subsection, the cabinet shall enter into a memorandum of understanding with
24 the Legislative Research Commission on or about February 1, 2024, and as
25 often as every two (2) years thereafter at the request of the Legislative
26 Research Commission, to establish tenancy terms, including but not limited to
27 building maintenance, repairs, renovations, and upgrades; facility security;

1 janitorial services; and applicable rental and utilities rates. The Legislative
2 Research Commission shall at any time, and upon at least sixty (60) days'
3 notice, be authorized to discontinue the cabinet's provision of janitorial
4 services for the New State Capitol Annex and to enter into a separate contract
5 for the provision of those services, with the applicable rental and utilities rates
6 to be proportionately reduced to reflect that separate contract, provided that
7 the Legislative Research Commission may also at any time, and upon at least
8 sixty (60) days' notice, elect to have the cabinet continue or reinstate the
9 provision of those janitorial services at the cabinet's expense;

10 (d) For the purposes of this subsection, real property shall include the parking
11 areas adjacent to the New State Capitol and the New State Capitol Annex, and
12 the cabinet shall allocate to the General Assembly and the Legislative
13 Research Commission all parking spaces within the Capitol campus parking
14 garage, all parking spaces in the east, south, and west parking lots of the New
15 State Capitol Annex, and all parking spaces in the west parking lot of the New
16 State Capitol, except for those spaces in the west parking lot of the New State
17 Capitol allocated, as of January 1, 2023, to the Supreme Court of Kentucky,
18 the Lieutenant Governor, the Attorney General, and the Secretary of State.
19 Any further allocation of any parking spaces allocated pursuant to this
20 paragraph shall be within the sole discretion of the Legislative Research
21 Commission or its designee; and

22 (e) To determine the housing and furnishings needs of the various state agencies
23 located in Frankfort and to establish and put into effect a permanent program
24 for housing them. Subject to paragraphs (a) and (b) of this subsection, the
25 cabinet is also authorized and directed to allocate office space and furnishings
26 in existing public buildings located in Frankfort, exclusive of the third and
27 fourth floors of the New State Capitol and the space in the New State Capitol

1 Annex allocated to the legislative branch, according to the needs of the
2 various agencies. When necessary, the cabinet is authorized to provide
3 additional office space and furnishings in Frankfort under any building
4 program the cabinet deems most advisable and economical for the state. The
5 permanent housing program shall include provisions for housing the General
6 Assembly and its related agencies, including the Legislative Research
7 Commission, and its subcommittees, the executive offices, the Supreme Court
8 and the clerk of the Supreme Court, the Department of Law and the law
9 library, in the New State Capitol, provided the General Assembly and the
10 Legislative Research Commission shall have complete control and exclusive
11 use of the third and fourth floors of the New State Capitol and shall have
12 exclusive use of the space in the New State Capitol Annex allocated to them
13 under paragraphs (a) and (b) of this subsection. If there be any additional
14 space in the Capitol, it shall be assigned to agencies whose activities are most
15 closely related to the agencies directed to be located permanently in the
16 Capitol;

17 (5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of
18 Kentucky, any real estate necessary for use by the state or by any state agency,
19 when the cabinet is unable to agree with the owner thereof on a price for such real
20 estate;

21 (6) To lease any real property, or any interest in such real property, owned by the state
22 or any agency thereof, in accordance with KRS 45A.045;

23 (7) To provide for and adopt plans and specifications as may be necessary, to provide
24 adequate public notice for and receive bids for any expenditures proposed to be
25 made, to award contracts for the purpose authorized, to supervise construction and
26 make changes and revisions in plans and specifications or in construction as may
27 become necessary, and generally to do any and all other things as may become

1 necessary or expedient in order to effectively fulfill and carry out the purposes of
2 this chapter, including the right to employ clerks, engineers, statisticians, architects,
3 or other persons required to be employed in order to fulfill the functions of the
4 Commonwealth relating to state property and buildings provided in KRS 56.450 to
5 56.550; and

6 (8) To adopt rules and promulgate administrative regulations as may be necessary to
7 govern the acquisition, control, and disposition of the real property to which this
8 section is applicable.

9 ➔Section 3. KRS 27A.210 is amended to read as follows:

10 (1) The following books and records shall be maintained by the State Law Library:
11 (a) All copies of Volumes 1 to 77 of the Kentucky Reports;
12 (b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;
13 (c) Two (2) sets of all future publications of the journals and nine (9) sets of the
14 Acts of the General Assembly; and
15 (d) Two (2) sets of the official Kentucky statute publications.
16 (2) The state law librarian shall arrange with the proper official of each state of the
17 United States and of the United States and its territories for the exchanges of the
18 statutes and the acts of the legislatures of each state and of Congress. When an
19 exchange is agreed upon, the state law librarian shall send to the officer one (1)
20 copy of the Acts of the General Assembly and one (1) set of statutes as soon as they
21 are ready for distribution.
22 (3) Copies of acts, statutes, and other materials required to be kept by the state law
23 librarian and to be made available for exchange shall be furnished to the state law
24 librarian, without charge, by the agency or official responsible for the distribution
25 of same.
26 (4) The state law librarian may arrange for the distribution or disposal of materials held
27 by the State Law Library upon concurrence of the administrative assistant to the

1 Chief Justice responsible for law library operations.

2 (5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise,
3 books and other materials the librarian deems suitable for the holdings of the State
4 Law Library.

5 (6) The state law librarian may, with the concurrence of the administrative assistant to
6 the Chief Justice responsible for law library operations, sell any surplus books in
7 the State Law Library that have a market value, collect the funds received therefor,
8 and deposit them in the ~~["state law library surplus books fund,"]~~ which is hereby
9 created in the State Treasury. The ~~["state law library surplus books fund"]~~ shall
10 not lapse. The state law librarian may reinvest the funds in other books and
11 materials that the librarian deems suitable for the holdings of the State Law Library.
12 The provisions of KRS 45A.045~~(6)~~~~(5)~~ concerning the powers and duties of the
13 Finance and Administration Cabinet shall not apply to sales made by the state law
14 librarian under this section.

15 (7) The state law librarian may, with the concurrence of the administrative assistant to
16 the Chief Justice responsible for law library operations, offer and provide technical
17 and other assistance to county law libraries and to other publicly funded law
18 libraries.

19 (8) The state law librarian may, upon the request of a county law library or other
20 publicly funded law library and with the concurrence of the administrative assistant
21 to the Chief Justice responsible for law library operations, purchase books, supplies,
22 or other materials for the library. The funds used for these purposes shall be those
23 of the county law library or other publicly funded law library.

24 (9) The state law librarian shall issue, with the concurrence of the administrative
25 assistant to the Chief Justice responsible for law library operations, regulations for
26 the operation, management, and lending policy of the State Law Library.

27 ➔Section 4. KRS 45A.050 is amended to read as follows:

- 1 (1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177,
2 and 180, all rights, powers, duties, and authority relating to the procurement of
3 supplies, services, and construction, and the management, control, warehousing,
4 sale, and disposal of supplies, services, and construction now vested in or exercised
5 by any state agency under the several statutes relating thereto, are hereby
6 transferred to the secretary of the Finance and Administration Cabinet as provided
7 in this code, subject to the provisions of subsection (2) of this section.
- 8 (2) Unless otherwise ordered by the secretary of the Finance and Administration
9 Cabinet, the acquisition of the following shall not be required through the Finance
10 and Administration Cabinet:
 - 11 (a) Works of art for museum and public display;
 - 12 (b) Published books, maps, periodicals, and technical pamphlets; and
 - 13 (c) Services of visiting speakers, professors, and performing artists.
- 14 (3) The Finance and Administration Cabinet shall include in all state agency price
15 contracts for the purchase of materials or supplies a provision that, as approved by
16 the secretary of the Finance and Administration Cabinet, any political subdivision,
17 including cities of all classes, counties, school districts, or special districts, may
18 participate in these contracts to the same extent as the Commonwealth. Any
19 political subdivision may purchase materials and supplies in accordance with a
20 contract for supplies and materials entered into by the Finance and Administration
21 Cabinet for the Commonwealth, including those contracts negotiated by the cabinet
22 with vendors who maintain a General Services Administration price agreement as
23 provided in KRS 45A.045(9)~~(8)~~. Political subdivisions of the Commonwealth
24 must comply with other provisions of the Kentucky Revised Statutes which require
25 purchase by competitive bidding, before participating in the contract, unless the
26 state contract has been let by competitive bidding, or the contract was negotiated as
27 provided in KRS 45A.045(9)~~(8)~~.

- 1 (4) The Finance and Administration Cabinet shall inform the Department for Local
2 Government, which shall then inform the appropriate purchasing agent of each
3 political subdivision interested in participating under this section, of all state agency
4 contracts in effect between the Commonwealth and vendors.
- 5 (5) The secretary of the Finance and Administration Cabinet shall promulgate
6 administrative regulations necessary for the implementation of this section and
7 necessary to provide that the Commonwealth be reimbursed for any additional
8 expenses incurred by the Commonwealth in allowing political subdivisions to
9 participate in contracts with vendors.
- 10 (6) The Finance and Administration Cabinet shall comply with all provisions relating
11 to the methods of purchasing in the Kentucky Revised Statutes. This section is not
12 intended to repeal or otherwise affect any provision of the Kentucky Revised
13 Statutes regarding purchasing methods of the Finance and Administration Cabinet.
- 14 (7) Notwithstanding any other statute to the contrary, all public agencies as defined in
15 KRS 45A.490 shall comply with the provisions for reciprocal preference for
16 resident bidders in KRS 45A.490 to 45A.494.

17 ➔Section 5. KRS 45A.300 is amended to read as follows:

- 18 (1) Any public purchasing unit may either participate in, sponsor, conduct, or
19 administer a cooperative purchasing agreement for the acquisition of any supplies,
20 services, or construction with any other public purchasing unit or foreign
21 purchasing activity, in accordance with an agreement entered into between the
22 participants. This cooperative purchasing may include[.] but is not limited to[.] joint
23 contracts between public purchasing units and access by local public purchasing
24 units to open-ended state public purchasing unit contracts.
- 25 (2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring
26 from, or using any property belonging to another public purchasing unit or foreign
27 purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.

- 1 (3) Nothing in this code shall limit or restrict any public purchasing unit from entering
- 2 into an agreement, independent of the requirements of KRS 45A.045(6){(5)} and
- 3 KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign
- 4 purchasing activity for the cooperative use of supplies or services.
- 5 (4) Any public purchasing unit may enter into an agreement for the joint or common
- 6 use of warehousing facilities or the lease or common use of capital equipment or
- 7 facilities with any other public purchasing unit or a foreign purchasing activity
- 8 subject to the terms as may be agreed upon between the parties.
- 9 (5) Nothing in this code shall limit or restrict the ability of local school districts to
- 10 acquire supplies outside of the public purchasing agreements when the supplies and
- 11 equipment meeting the same specifications as the contract items are available at a
- 12 lower price elsewhere and the purchase does not exceed two thousand five hundred
- 13 dollars (\$2,500).
- 14 (6) Nothing in this code shall limit any public purchasing unit from receiving notice of
- 15 or accepting a price reduction on supplies or equipment when the supplies or
- 16 equipment are being offered by the vendor with whom a price agreement has been
- 17 made; the supplies or equipment are being offered in accordance with all terms and
- 18 conditions that are specified in the price agreement, except those relating to price;
- 19 and the price reduction is offered to all of the participants in the price agreement.
- 20 Public purchasing units may accept special price reductions under this subsection
- 21 even if the reduced price requires the purchase of a specified quantity of units
- 22 different from the quantity stated in the original price agreement. Price reductions
- 23 under this subsection shall not be considered to permanently alter the price of the
- 24 supplies or equipment under the price agreement with the Commonwealth, except
- 25 where the price reductions are to be made permanent under the express terms of the
- 26 price agreement and where the purchasing agency which solicited the price
- 27 agreement determines that the enforcement of those terms serves the best interest of

1 the Commonwealth.

2 (7) The Finance and Administration Cabinet shall not exclude the Department of Fish
3 and Wildlife Resources from, or interfere with the department's participation in, any
4 contracts available to multiple state agencies for the procurement of goods or
5 services, including but not limited to interfering with the department's electronic
6 access to the statewide accounting system in any way.

7 ➔Section 6. KRS 45A.810 is amended to read as follows:

8 (1) (a) One (1) or more architectural services selection committees and one (1) or
9 more engineering or engineering-related services selection committees shall
10 be created in the Finance and Administration Cabinet.

11 (b) One (1) or more engineering and engineering-related services selection
12 committees shall be created in the Transportation Cabinet.

13 (c) One (1) or more engineering and engineering-related services selection
14 committees shall be created in the Department of Fish and Wildlife
15 Resources.

16 (2) Except when an emergency condition exists as defined by KRS 45A.095(1)(a),
17 when architectural, engineering, or engineering-related services are procured under
18 KRS 45A.837 and 45A.838, or when the project is constructed under KRS
19 45A.045(12){(11)}(a) or (b):

20 (a) An architectural services selection committee created in the Finance and
21 Administration Cabinet shall participate in every instance of that cabinet's
22 procuring architectural services for its own needs and the needs of other
23 agencies, and upon request from the commissioner of the Department of Fish
24 and Wildlife Resources, shall assist and participate in that department's
25 procuring of architectural services;

26 (b) An engineering and engineering-related services selection committee created
27 in the Finance and Administration Cabinet shall participate in every instance

9 (3) An architectural services selection committee created in the Finance and
10 Administration Cabinet to perform its own procurement and assist other state
11 agencies with procuring architectural services shall consist of six (6) or more
12 members selected in the manner specified within each paragraph:

13 (a) Two (2) architects. The secretary of the Finance and Administration Cabinet
14 shall appoint a pool of at least six (6) architects who are employees of the
15 cabinet. At least three (3) of the architects shall be merit employees of the
16 cabinet. The secretary, or designee, under the supervision of the Auditor of
17 Public Accounts, or designee, shall randomly select architects from the pool.
18 The first employee selected shall be placed on the selection committee. If the
19 first employee selected is a merit employee, the second employee selected
20 shall be placed on the selection committee. If the first employee selected is a
21 nonmerit employee, the selection process shall continue until a merit
22 employee is selected. That merit employee shall be placed on the selection
23 committee;

24 (b) One (1) or more additional employees of the Department for Facilities
25 Management, appointed by the commissioner of the Department for Facilities
26 Management, to serve as a nonvoting technical adviser for a given project
27 selection. Advisory members shall serve on a project-by-project basis and

1 shall have the requisite knowledge, training, or experience pertaining to the
2 professional requirements of the project;

3 (c) Two (2) merit employees of the user agency appointed by the head of that
4 agency to serve for the duration of the selection committee's participation in
5 the project for which they were appointed by the user agency;

6 (d) An individual. The Kentucky Society of Architects shall nominate nine (9)
7 individuals, and the Governor shall appoint three (3) of these individuals to
8 serve in the pool from which the secretary of the Finance and Administration
9 Cabinet, or designee, under the supervision of the Auditor of Public Accounts,
10 or designee, shall randomly select one (1) individual to serve on the
11 committee;

12 (e) One (1) or more merit employees of the Auditor of Public Accounts,
13 appointed by the Auditor, who may, at the discretion of the Auditor, serve as
14 nonvoting members of the committee. If one (1) employee is appointed, then
15 that employee may attend any committee proceedings. If more than one (1)
16 employee is appointed, then either of the employees may attend any
17 committee proceeding; and

18 (f) Upon completion of the selection process set forth in this subsection, the
19 commissioner of the Department of Facilities Management shall submit a
20 statement to the Auditor of Public Accounts attesting to full compliance with
21 the selection process for each architectural firm appointed to provide
22 architectural services. In addition, a complete record of the selection process
23 for each project shall be maintained by the department and shall be subject to
24 audit by the Auditor of Public Accounts.

25 (4) The engineering and engineering-related services selection committee created in the
26 Finance and Administration Cabinet shall consist of six (6) or more members
27 selected in the manner specified in each paragraph:

- 1 (a) Two (2) engineers. The secretary of the Finance and Administration Cabinet
2 shall appoint a pool of at least six (6) engineers who are employees of the
3 cabinet. At least three (3) of the engineers shall be merit employees of the
4 cabinet. The secretary, or designee, under the supervision of the Auditor of
5 Public Accounts, or designee, shall randomly select engineers from the pool.
6 The first employee selected shall be placed on the selection committee. If the
7 first employee selected is a merit employee, the second employee selected
8 shall be placed on the selection committee. If the first employee selected is a
9 nonmerit employee, the selection process shall continue until a merit
10 employee is selected. That merit employee shall be placed on the selection
11 committee;
- 12 (b) Two (2) merit employees of the user agency appointed by the head of that
13 agency to serve for the duration of the selection committee's participation in
14 the project for which they were appointed by the user agency;
- 15 (c) An individual. The Kentucky Society of Professional Engineers and the
16 Kentucky Consulting Engineers Council shall together nominate nine (9)
17 individuals, and the Governor shall appoint three (3) of these individuals to
18 serve in the pool from which the secretary of the Finance and Administration
19 Cabinet, or designee, under the supervision of the Auditor of Public Accounts,
20 or designee, shall randomly select one (1) individual to serve on the
21 committee;
- 22 (d) One (1) or more merit employees of the Auditor of Public Accounts,
23 appointed by the Auditor, who may, at the discretion of the Auditor, serve as
24 nonvoting members of the committee. If one (1) employee is appointed, then
25 that employee may attend any committee proceedings. If more than one (1)
26 employee is appointed, then either of the employees may attend any
27 committee proceeding;

- 1 (e) One (1) or more additional employees of the Department for Facilities
2 Management to serve as nonvoting technical adviser for a specific project
3 selection. Advisory members shall serve on a project-by-project basis and
4 shall have the requisite knowledge, training, or experience pertaining to the
5 professional requirements of the project; and
- 6 (f) Upon completion of the selection process set forth in this subsection, the
7 commissioner of the Department of Facilities Management shall submit a
8 statement to the Auditor of Public Accounts attesting to full compliance with
9 the selection process for each firm appointed to provide engineering or
10 engineering-related services. In addition, a complete record of the selection
11 process for each project shall be maintained by the department and shall be
12 subject to audit by the Auditor of Public Accounts.
- 13 (5) The engineering and engineering-related services selection committee created in the
14 Transportation Cabinet shall consist of six (6) or more members selected in the
15 manner specified in each paragraph:
 - 16 (a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a
17 pool of six (6) engineers who are employees of the cabinet. At least three (3)
18 of the engineers shall be merit employees of the cabinet. The secretary, or
19 designee, under the supervision of the Auditor of Public Accounts, or
20 designee, shall randomly select engineers from the pool. The first employee
21 selected shall be placed on the selection committee. If the first employee
22 selected is a merit employee, the second employee selected shall be placed on
23 the selection committee. If the first employee selected is a nonmerit
24 employee, the selection process shall continue until a merit employee is
25 selected. That merit employee shall be placed on the selection committee;
 - 26 (b) Two (2) engineers who are merit employees of the user division appointed by
27 the head of that division to serve for the duration of the selection committee's

1 participation in the project for which they were appointed by the user agency.

2 However, if two (2) user divisions have approximately equal responsibilities

3 or separate responsibilities for the project, each user division head shall

4 appoint one (1) member to the selection committee;

5 (c) An individual. The Kentucky Society of Professional Engineers and the

6 Kentucky Consulting Engineers Council shall together nominate nine (9)

7 individuals, and the Governor shall appoint three (3) of these individuals to

8 serve in the pool from which the secretary of the Transportation Cabinet, or

9 designee, under the supervision of the Auditor of Public Accounts, or

10 designee, shall randomly select one (1) individual to serve on the committee;

11 (d) One (1) or more merit employees of the Auditor of Public Accounts,

12 appointed by the Auditor, who may, at the discretion of the Auditor, serve as

13 nonvoting members of the committee. If one (1) employee is appointed, then

14 that employee may attend any committee proceedings. If more than one (1)

15 employee is appointed, then either of the employees may attend any

16 committee proceeding; and

17 (e) Upon completion of the selection process set forth in this subsection, the

18 commissioner of the Department of Highways shall submit a statement to the

19 Auditor of Public Accounts attesting to full compliance with the selection

20 process for each firm appointed to provide engineering or engineering-related

21 services. In addition, a complete record of the selection process for each

22 project shall be maintained by the department and shall be subject to audit by

23 the Auditor of Public Accounts.

24 (6) The engineering and engineering-related services selection committee created

25 within the Department of Fish and Wildlife Resources shall consist of six (6) or

26 more members selected as follows:

27 (a) The commissioner of the Department of Fish and Wildlife Resources shall

1 appoint five (5) members:

1. One (1) department employee in or designated to the job classification
2. of Department of Fish and Wildlife Resources Project Manager;
3. Two (2) Department of Fish and Wildlife Resources employees in the
4. Engineering and Geological series, at least one (1) of whom shall be a
5. merit employee;
6. One (1) merit employee of the Department of Fish and Wildlife
7. Resources designated by the division head for the project or by the
8. commissioner; and
9. One (1) employee of the Department of Fish and Wildlife Resources
10. who is an attorney;

11. (b) The Kentucky Society of Professional Engineers and the Kentucky Consulting
12. Engineers Council shall together nominate nine (9) individuals, and the
13. Governor shall select three (3) of these individuals to serve in a pool from
14. which the commissioner of the Department of Fish and Wildlife Resources, or
15. designee, under the supervision of the Auditor of Public Accounts, or
16. designee, shall randomly select one (1) individual to serve on the committee;

17. (c) One (1) or more merit employees of the Auditor of Public Accounts,
18. appointed by the Auditor, who may, at the discretion of the Auditor, serve as
19. nonvoting members of the committee. If one (1) employee is appointed, then
20. that employee may attend any committee proceedings. If more than one (1)
21. employee is appointed, then either of the employees may attend any
22. committee proceeding; and

23. (d) Upon completion of the selection process set forth in this subsection, the
24. commissioner of the Department of Fish and Wildlife Resources shall submit
25. a statement to the Auditor of Public Accounts attesting to full compliance
26. with the selection process for each firm appointed to provide engineering or
27. consulting services.

engineering-related services. A complete record of the selection process for each project shall be maintained by the Department of Fish and Wildlife Resources and shall be subject to audit by the Auditor of Public Accounts.

4 (7) (a) All selection committee members shall have experience which qualifies them
5 to serve on the committee.

6 (b) The same appointment procedures set out in this section apply to any user
7 agency or user division listed in subsection (3), (4), (5), or (6) of this section
8 that does not operate under a merit system.

9 (c) Any individual appointed to serve in a pool from which selection committee
10 members are drawn shall serve in the pool for an initial one (1) year term and
11 may be reappointed. He or she shall serve until his or her successor is
12 appointed and qualified. A successor or a replacement, in the case of a
13 vacancy in the pool, shall be appointed in the same manner as the initial
14 appointee. If a selection committee member, drawn from a pool, leaves a
15 selection committee, his or her replacement shall be drawn from the pool in
16 the same manner as he or she. The replacement shall have the merit or
17 nonmerit status of his or her predecessor.

18 (d) Any individual appointed by the Auditor of Public Accounts to serve on
19 selection committees shall serve an initial one (1) year term and may be
20 reappointed to succeed himself or herself. He or she shall serve until his or her
21 successor is appointed and qualified. A successor or a replacement, in the case
22 of a vacancy, shall be appointed in the same manner as the initial appointee.

23 (e) The selection committee members appointed by the head of a user agency or
24 user division shall serve on a project-by-project basis. These members shall
25 participate only in committee action related to the project for which they were
26 appointed. A replacement, in the case of a vacancy, shall be appointed in the
27 same manner as the initial appointee.

1 ➔Section 7. KRS 56.774 is amended to read as follows:

2 (1) The Energy Efficiency Program for State Government Buildings shall provide for
3 implementation of low cost/no cost energy conservation measures, engineering
4 analyses, energy efficiency measures, building improvements, and monitoring of
5 results for state-owned or state-leased buildings.

6 (2) Any engineering analysis conducted on a state-owned building shall assess the
7 energy efficiency of the building and make recommendations for improving the
8 efficient use of energy within the building. The analyses shall be performed by
9 qualified engineers, architects, or other persons trained in energy efficiency who
10 may be employees of the cabinet or employed pursuant to KRS Chapter 45A,
11 except that any engineers, architects or other persons trained in energy efficiency
12 and retained under a guaranteed energy savings performance contract, shall not be
13 subject to the provisions of KRS 45A.800 to 45A.835.

14 (3) Except as provided in subsection (5) of this section, measures to improve the energy
15 efficiency of a state-owned building, which have an aggregate simple payback
16 period of five (5) years or less, shall be implemented as general fund appropriations
17 become available. No more than five percent (5%) of the cost of energy
18 conservation measures for a building may be utilized for monitoring the results.

19 (4) If general fund appropriations are available for energy conservation improvements,
20 the cabinet shall prioritize projects among the various state-owned buildings to
21 determine which projects shall be implemented to best utilize the available funding.

22 (5) If general fund appropriations are unavailable, energy conservation measures for a
23 state-owned building may be financed by other means. These other means include
24 but are not limited to guaranteed energy savings performance contracts as defined
25 under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS
26 45A.045(11){(10)}. Guaranteed energy savings performance contracts shall not be
27 subject to the provisions of KRS 45A.800 to 45A.835. These energy conservation

1 measures shall not be limited to those that have an aggregate simple payback period
2 of five (5) years or less, but shall result in reasonable economic benefit to the
3 Commonwealth. Ownership of the energy conservation measures shall be
4 transferred to the Commonwealth upon completion of the guaranteed energy
5 savings performance contract or as otherwise agreed upon in the contract. Savings
6 from the implementation of the energy conservation measures under the guaranteed
7 energy savings performance contract shall be used to satisfy the obligations under
8 the guaranteed energy savings performance contract and to repay the cost of the
9 other means used to finance the energy conservation measures, and may be used to
10 repay expenses incurred by the cabinet to reimburse the cabinet for expenses related
11 to the guaranteed energy savings performance contract, including but not limited to
12 staff time for monitoring, overseeing, and managing the project. Notwithstanding
13 KRS 45.229, remaining savings shall remain in the state agency account and shall
14 not lapse. All savings projected under a guaranteed energy savings performance
15 contract shall be guaranteed to the Commonwealth.

16 (6) The savings in reduced expenditures that are specified as payment sources shall be
17 documented in the guaranteed energy savings performance contract. Savings shall
18 be determined by using one (1) of the measurement and verification methodologies
19 listed in the United States Department of Energy's "International Performance
20 Measurement and Verification Protocol." If specific data limitations or documented
21 unique characteristics of the project prevent use of the "International Performance
22 Measurement and Verification Protocol," an alternative method that is compatible
23 shall be adopted upon documentation and approval of the secretary of the cabinet.

24 ➔Section 8. KRS 56.782 is amended to read as follows:

25 The cabinet shall report on or before October 15, 2008, and on or before every October
26 15 thereafter to the Legislative Research Commission on progress made to maximize the
27 use of energy-efficiency measures in state government. The Legislative Research

1 Commission shall transmit the report to the appropriate interim joint committees and to
2 the General Assembly when it convenes. The report shall include but not be limited to:

3 (1) A summary of initiatives undertaken by the cabinet during the reporting period to
4 promote adoption of low cost/no cost energy-efficiency measures, including
5 employee training efforts;

6 (2) A summary of energy-efficiency measures installed and energy improvements
7 made during the reporting period;

8 (3) Energy consumption and expenditure data for facilities owned or leased by state
9 government and any documented savings made as a result of energy-efficiency
10 measures and improvements;

11 (4) Status report on the number of buildings newly constructed, renovated, or leased in
12 accordance with the high-performance building standards required under KRS
13 56.777 and the amount of savings realized based upon a life-cycle cost analysis;

14 (5) Any efforts made during the reporting period to promote acquisition of energy-
15 efficient products pursuant to KRS 45A.045(13)~~(12)~~ and the amount of savings
16 expected to be realized in the first year of operation from the purchase of ENERGY
17 STAR-qualified products pursuant to KRS 56.775;

18 (6) Any recommendations for future funding of energy improvements or other
19 measures needed to assure energy efficiency in state government; and

20 (7) Any improvements in energy efficiency planned or realized through the use of the
21 LEED rating system, the Green Globes rating system, ENERGY STAR-qualified
22 products, and guaranteed energy savings performance contracts.