

1 AN ACT relating to local public agency transactions.

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

3 ➔Section 1. KRS 45A.345 is amended to read as follows:

4 As used in KRS 45A.343 to 45A.460, unless the context indicates otherwise:

5 (1) "Aggregate amount" means the total dollar amount during a fiscal year of items of a
6 like nature, function, and use the need for which can reasonably be determined at
7 the beginning of the fiscal year. Items the need for which could not reasonably be
8 established in advance or which were unavailable because of a failure of delivery
9 need not be included in the aggregate amount;[.]

10 (2) **"Best value" means a procurement in which the decision is based on the primary**
11 **objective of meeting the specific business requirements and best interests of the**
12 **local public agency, including but not limited to the economic efficiency of**
13 **procurement. These decisions shall be based on objective and quantifiable**
14 **criteria that shall include price and that have been communicated to the offerors**
15 **as set forth in the invitation for bids;**

16 **(3)** "Capital cost avoidance" means moneys expended by a local public agency to pay
17 for an energy conservation measure identified as a permanent equipment
18 replacement and whose cost has been discounted by any additional energy and
19 operation savings generated from other energy conservation measures identified in
20 the guaranteed energy savings contract, except that for school districts capital cost
21 avoidance shall also mean moneys expended by the district from one (1) or more of
22 the following sources:

23 (a) General fund;

24 (b) Capital outlay allotment under KRS 157.420; and

25 (c) State and local funds from the Facilities Support Program of Kentucky under
26 KRS 157.440;[.]

27 **(4)**[~~(3)~~] "Chief executive officer" means the mayor, county judge/executive,

1 superintendent of schools, or the principal administrative officer of a local public
2 agency, or the person designated by the chief executive officer or legislative body
3 of the local public agency to perform the procurement function;[.]

4 ~~(5)~~~~(4)~~ "Construction" means the process of building, altering, repairing, or
5 improving any public structure or building, or other public improvements of any
6 kind to any public real property. It does not include the routine operation, routine
7 repair, or routine maintenance of existing structures, buildings, or real property;[.]

8 ~~(6)~~~~(5)~~ "Contract" means all types of local public agency agreements, including
9 grants and orders, for the purchase or disposal of supplies, services, construction, or
10 any other item. It includes awards and notices of award; contracts of a fixed-price,
11 cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of
12 job or task orders; leases; letter contracts; and purchase orders. It also includes
13 supplemental agreements with respect to any of the foregoing. It does not include
14 labor contracts with employees of local public agencies;[.]

15 ~~(7)~~~~(6)~~ "Document" means any physical embodiment of information or ideas,
16 regardless of form or characteristic, including electronic versions thereof;[.]

17 **(8) "Economic efficiency" means the dollar amount of a bid after bid price**
18 **adjustments are made pursuant to objective measurable criteria, set forth in the**
19 **invitation for bids, which affect the economy and effectiveness in the operation or**
20 **use of the product, such as reliability, maintainability, useful life, residual value,**
21 **and time of delivery, performance, or completion;**

22 ~~(9)~~~~(7)~~ "Established catalogue price" means the price included in the most current
23 catalogue, price list, schedule, or other form that:

- 24 (a) Is regularly maintained by the manufacturer or vendor of an item;[and]
25 (b) Is either published or otherwise available for inspection by customers; and
26 (c) States prices at which sales are currently or were last made to a significant number
27 of buyers constituting the general buying public for that item;[.]

1 ~~(8) "Evaluated bid price" means the dollar amount of a bid after bid price adjustments~~
2 ~~are made pursuant to objective measurable criteria, set forth in the invitation for~~
3 ~~bids, which affect the economy and effectiveness in the operation or use of the~~
4 ~~product, such as reliability, maintainability, useful life, residual value, and time of~~
5 ~~delivery, performance, or completion.]~~

6 ~~(10)~~~~(9)~~ "Invitation for bids" means all documents, whether attached or incorporated
7 by reference, utilized for soliciting bids in accordance with the procedures set forth
8 in KRS 45A.365~~;~~~~[-]~~

9 ~~(11)~~~~(10)~~ "The legislative body or governing board" means a council, commission, or
10 other legislative body of a city, consolidated local government, or urban-county; a
11 county fiscal court; board of education of a county or independent school district;
12 board of directors of an area development district or special district; or board of any
13 other local public agency~~;~~~~[-]~~

14 ~~(12)~~~~(11)~~ "Local public agency" means a city, county, urban-county, consolidated local
15 government, school district, special district, or an agency formed by a combination
16 of such agencies under KRS Chapter 79, or any department, board, commission,
17 authority, office, or other sub-unit of a political subdivision which shall include the
18 offices of the county clerk, county sheriff, county attorney, coroner, and jailer~~;~~~~[-]~~

19 ~~(13)~~~~(12)~~ "May" means permissive. However, the words "no person may . . ." mean that
20 no person is required, authorized, or permitted to do the act prescribed~~;~~~~[-]~~

21 ~~(14)~~~~(13)~~ "Negotiation" means contracting by either the method set forth in KRS
22 45A.370, 45A.375, or 45A.380~~;~~~~[-]~~

23 ~~(15)~~~~(14)~~ "Noncompetitive negotiation" means informal negotiation with one (1) or
24 more vendor, contractor, or individual without advertisement or notice~~;~~~~[-]~~

25 ~~(16)~~~~(15)~~ "Objective measurable criteria" means sufficient information in the invitation
26 to bid as to weight and method of evaluation so that the evaluation may be
27 determined with reasonable mathematical certainty. Criteria which are otherwise

1 subjective, such as taste and appearance, may be established when appropriate;[{-}]

2 (17)[{-16-}] "Person" means any business, individual, union, committee, club, or other
3 organization or group of individuals;[{-}]

4 (18)[{-17-}] "Procurement" means the purchasing, buying, renting, leasing, or otherwise
5 obtaining any supplies, services, or construction. It also includes all functions that
6 pertain to the obtaining of any public procurement, including description of
7 requirements, selection, and solicitation of sources, preparation and award of
8 contract, and all phases of contract administration;[{-}]

9 (19)[{-18-}] "Request for proposals" means all documents, whether attached or
10 incorporated by reference, utilized for soliciting proposals in accordance with the
11 procedures set forth in KRS 45A.370, 45A.375, 45A.380, or 45A.385;[{-}]

12 (20)[{-19-}] "Responsible bidder or offeror" means a person who has the capability in all
13 respects to perform fully the contract requirements, and the integrity and reliability
14 which will assure good faith performance;[{-}]

15 (21)[{-20-}] "Responsive bidder" means a person who has submitted a bid under KRS
16 45A.365 which conforms in all material respects to the invitation for bids, so that
17 all bidders may stand on equal footing with respect to the method and timeliness of
18 submission and as to the substance of any resulting contract;[{-}]

19 (22)[{-21-}] "Reverse auction" means a real-time, structured bidding process, usually
20 lasting less than one (1) hour, and taking place at a previously scheduled time and
21 Internet location, during which multiple bidders, anonymous to each other, submit
22 revised, lower bids to provide the solicited good or leased space;[{-}]

23 (23)[{-22-}] "Services" means the rendering, by a contractor, of its time and effort rather
24 than the furnishing of a specific end product other than reports which are merely
25 incidental to the required performance of service. It does not include labor contracts
26 with employees of local public agencies;[{-}]

27 (24)[{-23-}] "Shall" means imperative;[{-}]

1 ~~(25)~~~~(24)~~ "Specifications" means any description of a physical or functional
2 characteristic of a supply, service, or construction item. It may include a description
3 of any requirement for inspecting, testing, or preparing a supply, service, or
4 construction item for delivery;~~[-]~~

5 ~~(26)~~~~(25)~~ "Supplemental agreement" means any contract modification which is
6 accomplished by the mutual action of the parties;~~[-]~~

7 ~~(27)~~~~(26)~~ "Supplies" means all property, including but not limited to leases on real
8 property, printing, and insurance, except land or a permanent interest in land;~~[-]~~

9 ~~(28)~~~~(27)~~ "Energy conservation measure" means a training program or facility alteration
10 designed to reduce energy consumption or operating costs, and may include one (1)
11 or more of the following:

- 12 (a) Insulation of the building structure or systems within the building;
- 13 (b) Storm windows or doors, caulking or weatherstripping, multiglazed windows
14 or doors, heat absorbing or heat reflective glazed and coated window or door
15 systems, additional glazing, reductions in glass area, or other window and
16 door system modifications that reduce energy consumption;
- 17 (c) Automated or computerized energy control systems;
- 18 (d) Heating, ventilating, or air conditioning system modifications or
19 replacements;
- 20 (e) Replacement or modification of lighting fixtures to increase the energy
21 efficiency of the lighting system without increasing the overall illumination of
22 a facility, unless an increase in illumination is necessary to conform to the
23 applicable state or local building code for the lighting system after the
24 proposed modifications are made;
- 25 (f) Energy recovery systems;
- 26 (g) Cogeneration systems that produce steam or forms of energy such as heat, as
27 well as electricity, for use primarily within a building or complex of

1 buildings;

2 (h) Energy, water, or wastewater conservation measures that provide long-term
3 operating cost reductions or billable revenue increases;

4 (i) Any life safety measures that provide long-term operating cost reductions;

5 (j) Water and wastewater conservation measures, including plumbing fixtures
6 and infrastructure;

7 (k) Equipment upgrades that improve the accuracy of billable revenue generating
8 systems; or

9 (l) Automated, electronic, or remotely controlled systems or measures that
10 reduce direct personnel costs;[-]

11 ~~(29)~~~~(28)~~ "Guaranteed energy savings contract" means a contract for the evaluation and
12 recommendation of energy, water, and wastewater conservation measures and for
13 implementation of one (1) or more of those measures. The contract shall provide
14 that all payments, except obligations on termination of the contract before its
15 expiration, are to be made over time and the savings are guaranteed to the extent
16 necessary to make payments for the cost of the design, installation, and
17 maintenance of energy, water, and wastewater conservation measures; and[-]

18 ~~(30)~~~~(29)~~ "Qualified provider" means a person or business experienced in the design,
19 implementation, and installation of energy, water, and wastewater conservation
20 measures and is determined to be qualified by the local public agency. The qualified
21 provider shall be responsible for and shall provide the local public agency with the
22 following information regarding guaranteed energy, water, and wastewater savings
23 contracts:

24 (a) Project design and specifications;

25 (b) Construction management;

26 (c) Construction;

27 (d) Commissioning;

- 1 (e) On-going services as required;
- 2 (f) Measurement and verification of savings for guaranteed energy, water, and
- 3 wastewater savings contracts; and
- 4 (g) Annual reconciliation statements as provided in KRS 45A.352(8).

5 ➔Section 2. KRS 45A.365 is amended to read as follows:

- 6 (1) All contracts or purchases shall be awarded by competitive sealed bidding, which
- 7 may include the use of a reverse auction, except as otherwise provided by KRS
- 8 45A.370 to 45A.385 and for the purchase of wholesale electric power by municipal
- 9 utilities as provided in KRS 96.901(1).
- 10 (2) The invitation for bids shall state that the award shall be made on the basis of the
- 11 lowest bid price or the best value~~[lowest evaluated] bid [price]~~. If the latter is used,
- 12 the objective and quantifiable~~[measurable]~~ criteria to be utilized shall be set forth
- 13 in the invitation for bids~~[- The invitation for bids shall include the reciprocal~~
- 14 ~~preference for resident bidders described in KRS 45A.494]~~.
- 15 (3) Adequate public notice of the invitation for bids and any reverse auction shall be
- 16 given prior to the date set forth for the opening of bids. The notice may include
- 17 posting on the internet or publication in a newspaper of general circulation in the
- 18 local jurisdiction at least seven (7) days before the date set for the opening of the
- 19 bids and any reverse auction. Nothing in this section shall prohibit additional notice,
- 20 posting, or publication, nor shall additional notification, posting, or publication
- 21 extend the required notice period. The public notice shall include the time and place
- 22 the bids will be opened and the time and place where the specifications may be
- 23 obtained.
- 24 (4) The bids shall be opened publicly or entered through a reverse auction at the time
- 25 and place designated in the invitation for bids. Each written or reverse auction bid,
- 26 together with the name of the bidder, shall be recorded and be open to public
- 27 inspection. Electronic bid opening and posting of the required information for

1 public viewing shall satisfy the requirements of this subsection.

2 (5) A contract shall be awarded with reasonable promptness by written notice to the
3 responsive and responsible bidder whose bid is either the lowest bid price or the
4 best value~~[lowest evaluated]~~ bid~~[price after the application of any reciprocal~~
5 ~~preference for resident bidders required by KRS 45A.494]~~.

6 (6) The local public agency may allow the withdrawal of a bid where there is a patent
7 error on the face of the bid document, or where the bidder presents sufficient
8 evidence, substantiated by bid worksheets, that the bid was based upon an error in
9 the formulation of the bid price.

10 ➔Section 3. KRS 45A.370 is amended to read as follows:

11 (1) A local public agency may contract or purchase through competitive negotiation,
12 which may include a reverse auction, upon a written finding that:

13 (a) Specifications cannot be made sufficiently specific to permit award on the
14 basis of either the lowest bid price or the best value~~[lowest evaluated]~~ bid~~[~~
15 ~~price]~~, including~~[,]~~ but not limited to~~[,]~~ contracts for experimental or
16 developmental research work, or highly complex equipment which requires
17 technical discussions, and other nonstandard supplies, services, or
18 construction; or

19 (b) Sealed bidding is inappropriate because the available sources of supply are
20 limited, the time and place of performance cannot be determined in advance,
21 the price is regulated by law, or a fixed price contract is not applicable; or

22 (c) The bid prices received through sealed bidding are unresponsive or
23 unreasonable as to all or part of the requirements, or are identical or appear to
24 have been the result of collusion; provided each responsible bidder is notified
25 of the intention to negotiate and is given a reasonable opportunity to
26 negotiate, and the negotiated price is lower than the lowest rejected bid by any
27 responsible bidder.

- 1 (2) Proposals shall be solicited through public notice pursuant to KRS 45A.365(3) or
2 any other means which can be demonstrated to notify an adequate number of
3 qualified sources to permit reasonable competition consistent with the nature and
4 requirement of the procurement. The request for proposals shall indicate the factors
5 to be considered in the evaluation, ~~including the reciprocal preference for resident~~
6 ~~bidders required by KRS 45A.494, and~~ the relative importance of each factor, and
7 the procedures to be followed if a reverse auction is used in the procurement.
- 8 (3) Written or oral discussions shall be conducted with all responsible offerors who
9 submit proposals determined in writing to be reasonably susceptible of being
10 selected for award. Discussions shall not disclose any information derived from
11 proposals submitted by competing offerors. Discussions need not be conducted:
- 12 (a) With respect to prices, where such prices are fixed by law, regulation, or
13 reverse auction, except that consideration shall be given to competitive terms
14 and conditions; ~~or~~
- 15 (b) Where time of delivery or performance will not permit discussions; or
- 16 (c) Where it can be clearly demonstrated and documented from the existence of
17 adequate competition or accurate prior cost experience with that particular
18 supply, service, or construction item that acceptance of an initial offer without
19 discussion would result in fair and reasonable prices and the request for
20 proposal notifies all offerors of the possibility that award may be made on the
21 basis of initial offers.
- 22 (4) If discussions pertaining to the revision of the specifications or quantities are held
23 with any potential offeror, all other potential offerors shall be afforded an
24 opportunity to take part in such discussions. A request for proposals based on
25 revised specifications or quantities shall be issued as promptly as possible, shall
26 provide for an expeditious response to the revised requirements and shall be
27 awarded upon the basis of the lowest bid price or **best value** ~~lowest evaluated~~ bid

1 ~~{price after application of the reciprocal preference for resident bidders required by~~
2 ~~KRS 45A.494}~~ submitted by any responsive and responsible offeror. No discussion
3 shall be conducted with offerors after submission of revised proposals except for a
4 compelling reason as determined in writing by the local public agency. The request
5 for proposals shall state that an award is to be made without discussion except as
6 herein provided.

- 7 (5) Award shall be made to the responsible offeror whose proposal is determined in
8 writing to be the most advantageous to the local public agency based upon the
9 evaluation factors set forth in the request for proposals~~[and the reciprocal~~
10 ~~preference for resident bidders required by KRS 45A.494]~~.

11 ➔Section 4. KRS 45A.375 is amended to read as follows:

- 12 (1) In the event that all bids submitted pursuant to competitive sealed bidding under
13 KRS 45A.365 result in bid prices in excess of the funds available for the purchase,
14 and the local public agency determines in writing:

- 15 (a) That there are no additional funds then available from any source so as to
16 permit an award to the lowest responsive and responsible bidder; and
17 (b) The best interest of the local public agency will not permit the delay attendant
18 to a resolicitation under revised specifications or revised quantities under
19 competitive sealed bidding as provided in KRS 45A.365; then a negotiated
20 award may be made as set forth in subsections (2) or (3) of this section.

- 21 (2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS
22 45A.370 shall be conducted with the three (3), or ~~{two (2) if there are only two~~
23 ~~(2), {}}~~ bidders determined in writing by the local public agency to be the lowest
24 responsive and responsible bidders to the competitive sealed bid invitation~~[after~~
25 ~~application of the reciprocal preference for resident bidders required in KRS~~
26 ~~45A.494]~~. Such competitive negotiations shall be conducted under the following
27 restrictions:

- 1 (a) If discussions pertaining to the revision of the specifications or quantities are
2 held with any potential offeror, all other potential offerors shall be afforded an
3 opportunity to take part in such discussions; and
- 4 (b) A request for proposals, based upon revised specifications or quantities, shall
5 be issued as promptly as possible, shall provide for an expeditious response to
6 the revised requirements, and shall be awarded upon the basis of the lowest
7 bid price or ***best value***~~[lowest evaluated]~~ bid ~~[price]~~ submitted by any
8 responsive and responsible offeror~~[after application of the reciprocal~~
9 ~~preference for resident bidders required in KRS 45A.494]~~. No discussion shall
10 be conducted with offerors after submission of proposals except for a
11 compelling reason as determined in writing by the local public agency. The
12 request for proposals shall state that award is to be made without discussions
13 except as herein provided.
- 14 (3) Where, after competitive sealed bidding, it is determined in writing that there is
15 only one (1) responsive and responsible bidder, a noncompetitive negotiated award
16 may be made with such bidder in accordance with KRS 45A.380.
- 17 (4) Where, after invitation for bids has been made in accordance with KRS 45A.365
18 and no bids have been received from responsive and responsible bidders, the local
19 public agency may proceed to acquire the supplies, services, or construction by
20 noncompetitive negotiations in accordance with KRS 45A.380.
- 21 ➔Section 5. KRS 45A.385 is amended to read as follows:
- 22 **(1)** The local public agency may use small purchase procedures for any contract for
23 which a determination is made that the aggregate amount of the contract does not
24 exceed ***sixty thousand dollars (\$60,000)***~~[forty thousand dollars (\$40,000)]~~ if small
25 purchase procedures are in writing and available to the public.
- 26 **(2)** ***Beginning in calendar year 2030, the small purchase maximum amount set out in***
27 ***subsection (1) of this section shall be increased by ten thousand dollars (\$10,000)***

1 every five (5) years effective on January 1 of each year. The Finance and
2 Administration Cabinet shall, through a technical advice memorandum or other
3 official means of communication, announce the small purchase maximum
4 amount in effect for the current year, and shall also prominently post that
5 information on its website.

6 ➔Section 6. KRS 45A.420 is amended to read as follows:

7 (1) Any local public agency may enter into an agreement for cooperative purchasing
8 with any other local public agency. When the contracting local public agency
9 contracts for supplies, services or construction pursuant to KRS 45A.365, 45A.370,
10 45A.375, or 45A.380, all other parties to the agreement shall be deemed to have
11 complied with the provisions of those sections.

12 (2) Nothing in KRS 45A.345 to 45A.990 shall deprive a local public agency from
13 negotiating with vendors for supplies where such supplies are the subject of a price
14 agreement with the Commonwealth of Kentucky provided, however, that no
15 contract executed under this section would authorize a price higher than is
16 contained in the price agreement with the Commonwealth of Kentucky for such
17 specific supplies.

18 (3) For agreements that do not establish a fixed unit price, a local public agency may
19 make purchases using an established discount, quote, formula, or other pricing
20 method as established by the Commonwealth in the agreement. A local public
21 agency shall retain records documenting its compliance with the procedures
22 required in the applicable agreement.

23 (4) [(3)] Nothing in KRS 45A.345 to 45A.990 shall deprive a local school district from
24 acquiring supplies outside of price agreements with the Commonwealth of
25 Kentucky if the supplies meet the same specifications as the contract items and the
26 supplies are purchased at a lower price than is contained in the price agreement with
27 the Commonwealth of Kentucky for such specific supplies and the purchase does

1 not exceed two thousand five hundred dollars (\$2,500).

2 ➔Section 7. KRS 82.083 is amended to read as follows:

3 (1) As used in this section, "independent appraisal" means an appraisal made by:

4 (a) An individual or organization not affiliated with the city or its officers or
5 employees, using a generally accepted national or professional standard; or

6 (b) A city's officers or employees using:

7 1. A nationally published valuation of property based on the most recent
8 edition of the publication; ~~or~~

9 2. *For personal property with no applicable nationally published*
10 *valuation standard, a generally accepted method to determine a good-*
11 *faith estimate of the value of the personal property.*

12 (2) A city may sell or otherwise dispose of any of its real or personal property.

13 (3) Before selling or otherwise disposing of any real or personal property that has any
14 value, the city shall make a written determination setting forth and fully describing:

15 (a) The real or personal property;

16 (b) Its intended use at the time of acquisition;

17 (c) The reasons why it is in the public interest to dispose of it;~~and~~

18 (d) *The method used to estimate value when the property is personal property*
19 *appraised under subsection (1)(b)2. of this section; and*

20 *(e)* The method of disposition to be used.

21 (4) Real or personal property may be:

22 (a) Transferred, with or without compensation, to another governmental agency;

23 (b) Transferred, with or without compensation, for economic development
24 purposes, which shall include but not be limited to real property transfers for
25 the elimination of blight;

26 (c) Sold at public auction following publication of the auction in accordance with
27 KRS 424.130(1)(b);

- 1 (d) Sold by electronic auction following publication of the auction, including the
2 uniform resource link (URL) for the site of the electronic auction, in
3 accordance with KRS 424.130(1)(b);
- 4 (e) Sold by sealed bids in accordance with the procedure for sealed bids under
5 KRS 45A.365(3) and (4);
- 6 (f) Traded towards the purchase of the same or similar type of property, if the
7 trade-in value received equals or exceeds the actual fair market value of the
8 property as determined using an independent appraisal as defined in
9 subsection (1) of this section;
- 10 (g) Sold for its appraised fair market value or a greater amount if the property is
11 valued at ten thousand dollars (\$10,000) or less in an independent appraisal.
12 Property sold under this paragraph may not be sold to a city officer or
13 employee or family member of a city officer or employee as defined in the
14 city's ethics ordinance adopted under KRS 65.003;
- 15 (h) Notwithstanding subsection (3) of this section, sold for scrap or disposed of as
16 garbage in a manner consistent with the public interest if the property has no
17 value, or is of negligible value as determined by an independent appraisal;
- 18 (i) Sold by the Finance and Administration Cabinet under an agreement with the
19 city; or
- 20 (j) Notwithstanding subsection (3) of this section, when the property is an animal
21 used in service by the city, given to the animal's primary handler or trainer,
22 without the payment of compensation, when the animal is retired or is no
23 longer capable of performing service to the city.
- 24 (5) If a city receives no bids for the real or personal property, either at public or
25 electronic auction or by sealed bid, the property may be disposed of, consistent with
26 the public interest, in any manner deemed appropriate by the city. In those
27 instances, a written description of the property, the method of disposal, and the

1 amount of compensation, if any, shall be made.

2 (6) Any compensation resulting from the disposal of this real or personal property shall
3 be transferred to the general fund of the city.

4 ➔Section 8. KRS 82.084 is amended to read as follows:

5 KRS 45A.345 to 45A.460 and 424.260 shall not apply to city governments, urban-county
6 governments, consolidated local governments, or air boards identified in and operating
7 under the provisions of KRS 183.142(1) for the purchase of:

8 (1) Products or services when there is a single source of the product or service to be
9 procured within a reasonable geographic area;

10 (2) Products needed as replacement parts for personal property or equipment where the
11 need cannot be reasonably anticipated and maintaining an inventory of replacement
12 parts is not feasible;~~and~~

13 (3) Vehicles and equipment installed on vehicles that are used exclusively for law
14 enforcement purposes, if the purchaser obtains at least three (3) quotes prior to
15 making the purchase and retains records documenting the quotes; and

16 (4) Products or services that are provided by:

17 (a) Entities recognized by the Office of Vocational Rehabilitation under KRS
18 Chapter 163 that operate programs for the rehabilitation of individuals who
19 are blind or visually impaired;

20 (b) Agencies for individuals with severe disabilities as described in KRS
21 45A.465;

22 (c) A qualified veterans' workshop providing job and employment-skill training
23 to veterans where such a workshop is operated by the United States
24 Department of Veterans Affairs;

25 (d) Nonprofit organizations, employment services organizations, or other private
26 business organizations with established operations within the jurisdiction of
27 the city, urban-county government, or consolidated local government with the

1 main mission or business purpose of serving individuals with disabilities by
2 offering transitional or supported employment services or other rehabilitative
3 programs and services, including but not limited to serving individuals with
4 severe mental or physical disabilities or those recovering from substance
5 abuse disorders; or

6 (e) Nonprofit community service organizations operating within the jurisdiction
7 of the city, urban-county government, or consolidated local government when
8 there is a determination in the official record of the legislative body that the
9 purchase of the products or services would serve a mutual benefit to the
10 government and the organization by:

- 11 1. Furthering the purposes of the organization;
- 12 2. Providing a service or product needed by the government;
- 13 3. Advancing a specific public purpose; and
- 14 4. Serving the best interest of the public.

15 If two (2) or more organizations meet the qualifications set out in this
16 paragraph, then the government shall award the contract to one (1) of the
17 qualifying organizations using the selection criteria of its adopted competitive
18 bidding process.

19 ➔Section 9. KRS 424.260 is amended to read as follows:

20 (1) Except where a statute specifically fixes a larger sum as the minimum for a
21 requirement of advertisement for bids, no city, county, or district, or board or
22 commission of a city or county, or sheriff or county clerk, may make a contract,
23 lease, or other agreement for:

- 24 (a) Materials;
- 25 (b) Supplies, except perishable foods such as meat, poultry, fish, egg products,
26 fresh vegetables, and fresh fruits;
- 27 (c) Equipment; or

1 (d) Contractual services other than professional;
2 involving an expenditure of more than sixty thousand dollars (\$60,000)~~forty~~
3 ~~thousand dollars (\$40,000)~~ without first making newspaper advertisement for bids.
4 This subsection shall not apply to the transfer of property between governmental
5 agencies as authorized in KRS 82.083(4)(a).

6 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
7 expenditures of less than sixty thousand dollars (\$60,000)~~forty thousand dollars~~
8 ~~(\$40,000)~~, the fiscal court requirement shall prevail.

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

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

1 the district may again avail itself of the provisions of paragraph (a) of this
2 subsection.

3 (4) This requirement shall not apply in an emergency if the chief executive officer of
4 the city, county, or district has duly certified that an emergency exists, and has filed
5 a copy of the certificate with the chief financial officer of the city, county, or
6 district, or if the sheriff or the county clerk has certified that an emergency exists,
7 and has filed a copy of the certificate with the clerk of the court where his necessary
8 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
9 superintendent of the board of education has duly certified that an emergency
10 exists, and has filed a copy of the certificate with the chief state school officer.

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

14 (6) Subsection (1) of this section shall not apply to purchases for products or services
15 made pursuant to KRS 82.084.

16 **(7) Beginning in calendar year 2030, the small purchase maximum amount set out in**
17 **subsections (1) and (2) of this section shall be increased by ten thousand dollars**
18 **(\$10,000) every five (5) years effective on January 1 of each year. The Finance**
19 **and Administration Cabinet shall, through a technical advice memorandum or**
20 **other official means of communication, announce the small purchase maximum**
21 **amount in effect for the current year, and shall also prominently post that**
22 **information on its website.**

23 ➔Section 10. KRS 157.420 is amended to read as follows:

24 Public school funds made available to the credit of each district during any year shall be
25 received, held, and expended by the district board, subject to the provisions of law and
26 administrative regulations of the Kentucky Board of Education. The following
27 restrictions shall govern the expenditure of funds from the public school fund:

- 1 (1) The salary paid any rank of teachers shall be at least equivalent to the amount set
2 forth in the biennial budget schedule for each rank and experience for a term of one
3 hundred eighty-five (185) days for full-time service during the regular school year.
- 4 (2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall
5 not approve any working budget or salary schedule for local boards of education for
6 any school year unless the one hundred eighty-five (185) day salary schedule for
7 certified staff has been adjusted over the previous year's salary schedule by a
8 percentage increase at least equal to the cost-of-living adjustment that is provided
9 state government workers under the biennial budget. The base funding level in the
10 program for support education excellence in Kentucky as defined in KRS 157.320
11 shall be increased by the statewide dollar value of the annual required cost-of-living
12 percentage adjustment that shall be estimated on the sum of the previous year's
13 statewide teachers' salaries.
- 14 (3) A district that compensates its teachers or employees for unused sick leave at the
15 time of retirement, pursuant to KRS 161.155, may create an escrow account to
16 maintain the amount of funds necessary to pay teachers or employees who qualify
17 for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of
18 the maximum liability for the current year to be determined according to the
19 number of staff employed by the district on September 15. Interest generated by the
20 account shall be calculated as part of the total amount. The funds shall not be used
21 for any purpose other than compensation for unused sick leave at the time of
22 retirement and shall not be considered as part of the general fund balance in
23 determining available local revenue for purposes of KRS 157.620.
- 24 (4) (a) The per pupil capital outlay allotment for each district from the public school
25 fund and from local sources shall be kept in a separate account and may be
26 used by the district only for capital outlay projects approved by the
27 commissioner of education in accordance with requirements of law, and based

1 on a survey made in accordance with administrative regulations of the
2 Kentucky Board of Education. These funds shall be used for the following
3 capital outlay purposes:

- 4 1. For direct payment of construction costs;
- 5 2. For debt service on voted and funding bonds;
- 6 3. For payment or lease-rental agreements under which the board
7 eventually will acquire ownership of a school plant;
- 8 4. For the retirement of any deficit resulting from overexpenditure for
9 capital construction, if such deficit resulted from an emergency declared
10 by the Kentucky Board of Education under KRS 160.550; and
- 11 5. As a reserve fund for the above-named purposes, to be carried forward
12 in ensuing budgets.

13 (b) A district may submit a request to the commissioner of education to use funds
14 from the per pupil capital outlay allotment to purchase land for a new school
15 or to modify an existing school if the project is included on the district facility
16 plan for completion within eight (8) years. The land shall not be included in
17 the calculation of the school district's unmet need. The commissioner may
18 grant or deny the district's request at his or her discretion.

19 (c) A district which has experienced an increase in adjusted average daily
20 attendance, as defined by administrative regulation, of twenty percent (20%)
21 or more over a five (5) year period may submit a request to the commissioner
22 of education to use capital outlay funds for the operation of a new school for
23 the first two (2) years following its opening. The commissioner may grant or
24 deny the district's request at his or her discretion.

25 (d) A local school district may submit a request to the commissioner of education
26 to use capital outlay funds for maintenance expenditures or for the purchase of
27 property insurance without forfeiting the district's participation in the School

1 Facilities Construction Commission program. Maintenance requests may
2 include other priorities that are not considered major renovations, such as
3 repair, renovation, or system upgrades that are necessary to maintain the
4 integrity of an existing school facility.

5 (5) The district may contribute capital outlay funds for energy conservation measures
6 under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and
7 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall
8 be based on the following:

- 9 (a) The energy conservation measures shall include facility alteration;
- 10 (b) The energy conservation measures shall be identified in the district's approved
11 facility plan;
- 12 (c) The current facility systems are consuming excess maintenance and operating
13 costs;
- 14 (d) The savings generated by the energy conservation measures are guaranteed;
- 15 (e) The capital outlay funds contributed to the energy conservation measures shall
16 be defined as capital cost avoidance as defined~~[provided]~~ in KRS 45A.345(2)
17 and shall be subject to the restrictions on usage as specified in KRS
18 45A.352(9); and
- 19 (f) The equipment that is replaced shall have exceeded its useful life as
20 determined by a life-cycle cost analysis.

21 (6) If any district has a special levy for capital outlay or debt service that is equal to the
22 capital outlay allotment or a proportionate fraction thereof, and spends the proceeds
23 of that levy for the above-named purposes, the commissioner of education under
24 administrative regulations of the Kentucky Board of Education, may authorize the
25 district to use all or a proportionate fraction of its capital outlay allotment for
26 current expenses. However, a district which uses capital outlay funds for current
27 expenses shall not be eligible to participate in the School Facilities Construction

1 Commission funds, except when the current expenditures are approved by the
2 commissioner of education under subsection (4)(b) or (c) of this section.

3 (7) If a survey shows that a school district has no capital outlay needs as shown in
4 subsection (4)(a)1., 2., 3., and 4. of this section, upon approval of the commissioner
5 of education, these funds may be used for school plant maintenance, repair,
6 insurance on buildings, replacement of equipment, purchase of school buses, and
7 the purchase of modern technological equipment, including telecommunications
8 hardware, televisions, computers, and other technological hardware to be utilized
9 for educational purposes only.

10 (8) In surveying the schools, the Department of Education shall designate each school
11 facility as a permanent, functional, or transitional center.

12 (a) "Permanent center" means a center which meets the program standards
13 approved by the Kentucky Board of Education, is located so that students are
14 not subjected to an excessive amount of time being transported to the site, and
15 has established an attendance area which will maintain enrollment at capacity
16 but will also avoid overcrowding.

17 (b) "Functional center" means a center which does not meet all the criteria
18 established for a permanent facility, but is adequate to meet accreditation
19 program standards to insure no substantial academic or building deficiency.
20 The facility plan shall include additions and renovations necessary to meet
21 current accreditation standards for which federal, state, and local funds may
22 be used.

23 (c) "Transitional center" means a center which the local board of education has
24 determined shall no longer be designated permanent or functional. The center
25 shall be destined to be closed and shall not be eligible for new construction,
26 additions, or major renovation. However, the board of education shall
27 maintain any operating transitional center to provide a safe and healthy

1 environment for students.

2 (9) Beginning in fiscal year 2011-2012, the Kentucky Department of Education shall
3 standardize the process for evaluating the overall quality and condition of all school
4 buildings across the state. The evaluation process shall:

5 (a) Result in consistent categorization of buildings for local planning purposes
6 and for the distribution of state general fund moneys designated for capital
7 construction;

8 (b) Be based on measurable, objective criteria;

9 (c) Include numerical scoring with weights to recognize building components and
10 characteristics that address:

11 1. Life safety issues;

12 2. Compliance with state and federal codes;

13 3. Compliance with requirements under the Americans with Disabilities
14 Act;

15 4. Community spaces;

16 5. Instructional areas;

17 6. Mechanical, electrical, plumbing, and other technology systems;

18 7. Site and exterior building conditions;

19 8. Age of the buildings;

20 9. Feasibility of building additions or major renovations;

21 10. The districts' facility capacities;

22 11. Current use of temporary facilities; and

23 12. Projected enrollment growth; and

24 (d) Use of a third-party evaluator that utilizes an already established software-
25 based system to perform the first, base-line evaluation.

26 (10) The Kentucky Board of Education shall promulgate an administrative regulation
27 upon recommendation of the Kentucky Department of Education and the School

1 Facilities Construction Commission to implement subsection (9) of this section.

2 (11) If a local school board authorized elementary, middle, or secondary education
3 classes in a facility of a historical settlement school on January 1, 1994, the board
4 shall continue to use the facilities provided by the settlement school if the facilities
5 meet health and safety standards for education facilities as required by
6 administrative regulations. The local school board and the governing body of the
7 settlement school shall enter into a cooperative agreement that delineates the role,
8 responsibilities, and financial obligations for each party.

9 (12) Notwithstanding ~~the provisions of~~ subsections (4) and (6) of this section, a local
10 district that has requested a mid-year adjustment in the support education
11 excellence in Kentucky funding under KRS 157.360(16) may request permission
12 from the commissioner of education to use capital outlay funds for the purchase of
13 school buses or to use the capital outlay funds for increased operational expenses
14 for the first three (3) years following the increased growth in the district without
15 forfeiture of the district's participation in the School Facilities Construction
16 Commission Program. The commissioner may grant or deny the district's request.

17 ➔Section 11. KRS 157.440 is amended to read as follows:

18 (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school
19 years beginning after July 1, 1990, the board of education of each school
20 district may levy an equivalent tax rate as defined in subsection (9)(a) of KRS
21 160.470 which will produce up to fifteen percent (15%) of those revenues
22 guaranteed by the program to support education excellence in Kentucky. The
23 levy for the 1990-91 school year shall be made no later than October 1, 1989,
24 and no later than October 1, 1990, for the 1991-92 school year, and by
25 October 1 of each odd-numbered year thereafter. Effective with the 1990-91
26 school year, revenue generated by this levy shall be equalized at one hundred
27 fifty percent (150%) of the statewide average per pupil assessment.

1 (b) To participate in the Facilities Support Program of Kentucky, the board of
2 education of each school district shall commit at least an equivalent tax rate of
3 five cents (\$0.05) to debt service, new facilities, or major renovations of
4 existing school facilities, or the purchase of land if approved by the
5 commissioner of education as provided in KRS 157.420(4)(b). The five cents
6 (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS
7 160.470(9) and any levy pursuant to paragraph (a) of this subsection. The levy
8 shall be made no later than October 1 of each odd-numbered year. Eligibility
9 for equalization funds for the biennium shall be based on the district funds
10 committed to debt service on that date. The five cents (\$0.05) shall be
11 equalized at one hundred fifty percent (150%) of the statewide average per
12 pupil assessment. The equalization funds shall be committed to debt service to
13 the greatest extent possible, but any excess equalization funds not needed for
14 debt service shall be deposited to a restricted building fund account. The
15 funds may be escrowed for future debt service or used to address categorical
16 priorities listed in the approved facilities plan pursuant to KRS 157.420.

17 (c) The board of education of each school district may contribute the levy
18 equivalent tax rate of five cents (\$0.05) and equalization funds for energy
19 conservation measures under guaranteed energy savings contracts pursuant to
20 KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under
21 KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:

- 22 1. Energy conservation measures shall include facility alteration;
- 23 2. Energy conservation measures shall be identified in the district's
24 approved facility plan pursuant to KRS 157.420;
- 25 3. The current facility systems are consuming excess maintenance and
26 operating costs;
- 27 4. The savings generated by the energy conservation measures are

1 guaranteed;

2 5. The levy equivalent tax rate of five cents (\$0.05) and equalization funds
3 contributed to the energy conservation measures shall be defined as
4 capital cost avoidance as defined~~provided~~ in KRS 45A.345~~[(2)]~~ and
5 shall be subject to the restrictions on usage as specified in KRS
6 45A.352(9); and

7 6. The equipment that is replaced has exceeded its useful life as
8 determined by a life cycle cost analysis.

9 (d) The rate levied by a district board of education under the provisions of this
10 subsection shall not be subject to the public hearing provisions of KRS
11 160.470(7) or to the recall provisions of KRS 160.470(8).

12 (e) A school district which is at or above the equivalent tax rates permitted under
13 the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts
14 ch. 476, shall not be required to levy an equivalent tax rate which is lower
15 than the rate levied during the 1989-90 school year.

16 (2) (a) A district may exceed the maximum provided by subsection (1) of KRS
17 160.470 provided that, upon request of the board of education of the district,
18 the county board of elections shall submit to the qualified voters of the
19 district, in the manner of submitting and voting as prescribed in paragraph (b)
20 of this subsection, the question whether a rate which would produce revenues
21 in excess of the maximum provided by subsection (1) of KRS 160.470 shall
22 be levied. The rate that may be levied under this section may produce revenue
23 up to no more than thirty percent (30%) of the revenue guaranteed by the
24 program to support education excellence in Kentucky plus the revenue
25 produced by the tax authorized by this section. Revenue produced by this levy
26 shall not be equalized with state funds. If a majority of those voting on the
27 question favor the increased rate, the tax levying authority shall, when the

1 next tax rate for the district is fixed, levy a rate not to exceed the rate
2 authorized by the voters.

3 (b) The election shall be held not less than fifteen (15) or more than thirty (30)
4 days from the time the request of the board is filed with the county clerk, and
5 reasonable notice of the election shall be given. The election shall be
6 conducted and carried out in the school district in all respects as required by
7 the general election laws and shall be held by the same officers as required by
8 the general election laws. The expense of the election shall be borne by the
9 school district.

10 (3) For the 1966 tax year and for all subsequent years for levies which were approved
11 prior to December 8, 1965, no district board of education shall levy a tax at a rate
12 under the provisions of this section which exceeds the compensating tax rate as
13 defined in KRS 132.010, except as provided in subsection (4) of this section and
14 except that a rate which has been approved by the voters under this section but
15 which was not levied by the district board of education in 1965 may be levied after
16 it has been reduced to the compensating tax rate as defined in KRS 132.010, and
17 except that in any school district where the rate levied in 1965 was less than the
18 maximum rate which had been approved by the voters, the compensating tax rate
19 shall be computed and may be levied as though the maximum approved rate had
20 been levied in 1965 and the amount of revenue which would have been produced
21 from such maximum levy had been derived therefrom.

22 (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax
23 rate shall be set lower than that necessary to provide such funds as are required to
24 meet principal and interest payments on outstanding bonded indebtedness and
25 payments of rentals in connection with any outstanding school revenue bonds
26 issued under the provisions of KRS Chapter 162.

27 (5) The chief state school officer shall certify the compensating tax rate to the levying

1 authorities.

2 ➔Section 12. The following KRS section is repealed:

3 65.027 Reciprocal preference to be given to resident bidders by local governments.