

1 AN ACT relating to public contracts.

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

3 ➔ SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section unless the context requires otherwise:

6 (a) "Foundation construction" means any necessary building and construction
7 materials:

8 1. Manufactured in the United States; and

9 2. Permanently incorporated as improvement to real property;

10 (b) "Governmental body" has the same meaning as in KRS 45A.030 and
11 includes a governmental body of a city, county, special district, or school
12 district;

13 (c) "Manufactured in the United States" means any iron, steel, or aluminum
14 product for which all manufacturing has taken place in the United States,
15 except metallurgical processes involving the refinement of steel additives,
16 regardless of the origin of a the subcomponents of foundational
17 construction materials;

18 (d) "Public works" has the same meaning as in KRS 45A.487; and

19 (e) "United States" means the United States of America and includes all
20 territory, continental or insular, subject to the jurisdiction of the United
21 States.

22 (2) Notwithstanding any other provision of law to the contrary, each contract for the
23 foundation construction or maintenance of foundation construction for a public
24 building or public works made by a governmental body after August 1, 2026,
25 shall contain a provision that the iron, steel, or aluminum used or supplied as a
26 primary component in the performance of the contract and any subcontract shall
27 be manufactured in the United States, subject to the provisions of this section.

1 (3) Subsection (2) of this section shall not apply if the purchasing agent of the
2 governmental body issues a waiver of the requirements of that subsection in
3 accordance with the following:

4 (a) A request for a waiver shall be filed with the purchasing agent of the
5 governmental body at least thirty (30) days before the bid or proposal
6 opening;

7 (b) The governmental body shall provide notice and an opportunity for public
8 comment on the request at least twenty (20) days before the bids or
9 proposals for the contract are opened. The notice shall:

10 1. Include all information available to the purchasing agent of the
11 governmental body;

12 2. Identify which provision of paragraph (c) of this subsection the waiver
13 request asserts; and

14 3. Be provided to parties interested in the contract by electronic means,
15 including on the official website of the governmental body;

16 (c) In determining whether to issue a waiver, the purchasing agent of the
17 governmental body shall consider whether:

18 1. The application of subsection (2) of this section would be inconsistent
19 with the public interest;

20 2. The iron, steel, or aluminum to be used or supplied in the
21 performance of the contract are not manufactured in the United States
22 in sufficient and reasonably available quantities or of a satisfactory
23 quality; or

24 3. The inclusion of iron, steel, or aluminum to be used or supplied in the
25 performance of the contract will increase the cost of the overall
26 contract by more than ten percent (10%); and

27 (d) The purchasing agent of the governmental body shall issue a decision on

1 the waiver request no later than seven (7) days before the date set for
2 opening of the bids or proposal. The notification of this decision shall:

3 1. Immediately be sent to the person requesting the waiver, all persons
4 who submitted comments, and all persons who indicated interest in
5 bidding or submitting requests for proposals on the subject contract;
6 and

7 2. Immediately be published on the official website of the governmental
8 body and, if issued, a detailed justification for the waiver that
9 addresses the public comments received under paragraph (b) of this
10 subsection.

11 (4) A person shall be debarred under KRS 45A.035(2)(b) or 45A.360(1)(b) from
12 receiving any contract or subcontract with a governmental body if the person has
13 been found by a court or federal or state agency to have intentionally:

14 (a) Affixed a label bearing a "Made in America" inscription, or any inscription
15 with the same meaning, to any iron, steel, or aluminum used in projects to
16 which this section applies, that was sold in or shipped to the United States
17 and not manufactured in the United States; or

18 (b) Represented that any iron, steel, or aluminum used in projects to which this
19 section applies was manufactured in the United States when it was not
20 manufactured in the United States.

21 ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO
22 READ AS FOLLOWS:

23 All contracts made after August 1, 2026, by a state agency for the foundation
24 construction or maintenance of foundation construction for a state property or
25 building, building project, or industrial development project, shall comply with the
26 provisions set forth in Section 1 of this Act.

27 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO

1 READ AS FOLLOWS:

2 All contracts made after August 1, 2026, by a city, county, special district, or local
3 school district for the foundation construction or maintenance of foundation
4 construction for a public building or public works shall comply with the provisions set
5 forth in Section 1 of this Act.

6 ➔Section 4. KRS 45A.343 is amended to read as follows:

7 (1) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No
8 other statutes governing purchasing shall apply to a local public agency upon
9 adoption of these provisions.

10 (2) After July 15, 1994, any contract entered into by a local public agency, whether
11 under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor
12 and all subcontractors performing work under the contract to:

13 (a) Reveal any final determination of a violation by the contractor or
14 subcontractor within the previous five (5) year period pursuant to KRS
15 Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or
16 subcontractor; and

17 (b) Be in continuous compliance with the provisions of KRS Chapters 136, 139,
18 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor for
19 the duration of the contract.

20 (3) A contractor's failure to reveal a final determination of a violation by the contractor
21 of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these
22 statutes for the duration of the contract shall be grounds for the local public
23 agency's:

24 (a) Cancellation of the contract; and

25 (b) Disqualification of the contractor from eligibility for future contracts awarded
26 by the local public agency for a period of two (2) years.

27 (4) A subcontractor's failure to reveal a final determination of a violation by the

1 subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply
2 with these statutes for the duration of the contract shall be grounds for the local
3 public agency's disqualification of the subcontractor from eligibility for future
4 contracts for a period of two (2) years.

5 **(5) A local public agency shall follow the requirements of Sections 1 and 3 of this Act**
6 **regarding a contract for foundation construction or maintenance of foundation**
7 **construction for a public building or public works.**

8 ➔Section 5. KRS 45A.352 is amended to read as follows:

9 (1) A local public agency may enter into a guaranteed energy savings contract for
10 innovative solutions for energy conservation measures. The local public agency
11 shall submit a request for proposals. The request for proposals for competitive
12 procurement of guaranteed energy savings contracts shall include the following:

13 (a) The name and address of the governmental unit;

14 (b) The name, address, title, and phone number of a contact person;

15 (c) Notice indicating that the local public agency is requesting qualified providers
16 to propose energy conservation measures through a guaranteed energy savings
17 contract;

18 (d) The following evaluation criteria for assessing the proposals:

19 1. Construction management capabilities;

20 2. Technical approach to facilities included;

21 3. Financial attributes, as defined by total cost of contract and guaranteed
22 savings and provider's financial strength demonstrating ability to fulfill
23 the guarantee term; and

24 4. Provider's capability, personnel, track record, and demonstrated ability
25 to accomplish the contract;

26 (e) The date, time, and place where proposals must be received;

27 (f) Any other stipulations and clarifications the local public agency may require;

1 and

2 (g) An overview prepared by the local public agency stating goals or objectives
3 specific to facility needs to be considered by the qualified providers who are
4 responding to the request. Detailed scope of construction is not required.

5 (2) Respondents to the request for proposal shall provide the following:

6 (a) A detailed list of the proposed energy conservation measures and the
7 guaranteed savings which shall be supported with calculations. Any
8 guaranteed energy and operational savings shall be determined by using one
9 of the measurement and verification methodologies listed in the United States
10 Department of Energy's "Measurement and Verification Guideline for Federal
11 Energy Projects" or in the "North American Energy Measurement and
12 Verification Protocol." If due to existing data limitations or the
13 nonconformance of specific project characteristics, none of the methods listed
14 in either the United States Department of Energy's "Measurement and
15 Verification Guideline for Federal Energy Projects" or in the "North
16 American Energy Measurement and Verification Protocol" is sufficient for
17 measuring guaranteed savings, the qualified provider shall develop an
18 alternate method that is compatible with one (1) of the two (2);
19 (b) The estimated cost of the proposed energy conservation measures including
20 engineering, construction, commissioning, measurement and verification,
21 annual reconciliation statements, and required on-going services; and
22 (c) Proposed method and costs of financing.

23 (3) The value for total cost of the contract minus the calculated savings from the energy
24 conservation measures listed in the qualified provider's proposal, shall be within
25 fifteen percent (15%) of the value for the total cost of the contract minus the
26 calculated savings after the final contract has been negotiated. If the difference
27 between the proposed and the final contract is not within fifteen percent (15%) and

1 the local public agency and the qualified provider are unable to renegotiate the final
2 contract to reconcile the difference between the proposed and final contract values,
3 then the local public agency may:

4 (a) Stop negotiations with the current qualified provider; and
5 (b) Select an alternate provider.

6 (4) The local public agency may, as a component of the request for proposal, solicit and
7 negotiate additional maintenance services for the affected proposed energy
8 conservation measures. Additional services shall be subject to budget
9 appropriations on an annual basis and may be discontinued at any time over the
10 guarantee period with no negative impact to the guaranteed savings contract.

11 (5) The local public agency shall utilize the request for proposal process to enter into a
12 guaranteed energy savings contract. The local public agency may, at its discretion,
13 utilize a request for qualifications, provided that the local public agency solicits
14 qualification statements from multiple potentially qualified providers. The local
15 public agency shall use the qualification statements to select no fewer than two (2)
16 providers and each provider shall then be subject to the request-for-proposal
17 requirement provided in subsections (1) to (4) of this section.

18 (6) The local public agency shall select the provider best qualified to meet its needs.
19 The local public agency shall provide public notice of the meeting at which it
20 proposes to award a guaranteed energy savings contract, the name of the parties to
21 the proposed contract, and the purpose of the contract. The public notice shall be
22 made at least ten (10) days prior to the meeting. After reviewing the proposals, a
23 local public agency may enter into a guaranteed energy savings contract with a
24 qualified provider if it finds that the amount it would spend on the energy
25 conservation measures recommended in the proposal would not exceed the amount
26 to be saved in either energy or operational costs plus capital cost avoidance within
27 the term of the contract from the date of installation, if the recommendations in the

1 proposal are followed.

2 (7) The guaranteed energy savings contract shall include a written guarantee of the
3 qualified provider that either the energy or operational costs savings plus capital
4 cost avoidance will meet or exceed the costs of the energy conservation measures
5 within the term of the contract. The qualified provider shall, on an annual basis,
6 reimburse the local public agency for any shortfall in guaranteed energy savings
7 projected in the contract. A qualified provider shall provide a sufficient bond to the
8 local public agency for the installation and the faithful performance of all the
9 measures included in the contract. The guaranteed energy savings contract may
10 provide for payments over a period of time, not to exceed the term of the contract.

11 (8) The qualified provider shall provide the local public agency with an annual
12 reconciliation statement. The statement shall disclose any shortfalls or surplus
13 between guaranteed energy and operational savings specified in the guaranteed
14 energy savings contract and actual energy and operational savings incurred during a
15 given guarantee year. The guarantee year shall consist of a twelve (12) month term
16 commencing from the time that the energy conservation measures became fully
17 operational. The qualified provider shall pay the local public agency any short fall
18 in the guaranteed energy and operation savings within thirty (30) days after the total
19 year savings have been determined. If there is a surplus in the actual guaranteed
20 energy and operational savings in a given year, that surplus savings may be carried
21 forward and applied against any possible savings shortfall in the following
22 guarantee year, except that the surplus carried forward is limited to a period not to
23 exceed one (1) year. If the qualified provider pays the local public agency for a
24 short fall in energy or operational savings incurred during a given guarantee year
25 and there is a surplus in energy or operational savings in future guarantee years, the
26 qualified provider shall bill the local public agency for an amount not to exceed the
27 amount of the short fall in the given guarantee year.

- 1 (9) The use of capital cost avoidance shall be subject to the following restrictions:
 - 2 (a) The amount expended shall not exceed fifty percent (50%) of the project cost;
3 and
 - 4 (b) Capital cost avoidance shall be restricted to payment for permanent equipment
5 replacement as follows:
 - 6 1. Storm windows or doors, multiglazed windows or doors, additional
7 glazing, and reduction in glass area;
 - 8 2. Replacement of heating, ventilating, or air conditioning major
9 components or systems;
 - 10 3. New lighting fixtures where required to achieve Illuminating
11 Engineering Society of North America (IES) standards, provided the
12 existing light fixtures shall have been determined to be obsolete and
13 incapable of achieving IES standards; and
 - 14 4. Life safety system replacements or upgrades which shall have been
15 determined to be necessary to conform with existing state and local
16 codes and standards.
- 17 (10) The commissioner of education shall review, and approve or disapprove projects
18 from local school districts relating to energy conservation measures under a
19 guaranteed energy savings contract, on the basis of the following guidelines:
 - 20 (a) The project design's compliance with technical, health, and safety standards as
21 required by administrative regulation;
 - 22 (b) The availability of general funds, capital outlay allotments under KRS
23 157.420 or local and state funds from the Facilities Support Program of
24 Kentucky as provided by KRS 157.440, for projects that will use capital cost
25 avoidance;
 - 26 (c) The appropriate use of capital outlay allotments under KRS 157.420, local
27 and state funds from the Facilities Support Program of Kentucky as provided

1 by KRS 157.440, for projects using capital cost avoidance, based on the
2 project's compliance with the district's approved facility plan;

3 (d) The funding capability of the school district; and

4 (e) The financing mechanism and proper financing documentation.

5 (11) The request for proposal as provided in subsections (1) to (4) of this section shall be
6 deemed to satisfy the requirements set out in **subsection (1) of Section 7 of this**
7 **Act**~~KRS 162.070~~, and shall not be subject to an award determination based on the
8 lowest competitive bid or a separate bidding process for each energy conservation
9 measure listed in the proposal.

10 (12) A guaranteed energy savings contract that does not involve construction or the
11 installation of physical improvements shall not require the approval of the
12 commissioner of education and shall not be subject to other requirements of this
13 section.

14 ➔ Section 6. KRS 65.027 is amended to read as follows:

15 (1) As used in this section, "local government" means city, county, urban-county,
16 consolidated local government, charter county, unified local government, or special
17 district.

18 (2) For all contracts awarded by a local government, the local government shall apply
19 the reciprocal preference for resident bidders described in KRS 45A.494.

20 (3) **Sections 1 and 3 of this Act shall apply to all contracts awarded by a local**
21 **government for foundation construction or maintenance of foundation**
22 **construction for a public building or public works.**

23 ➔ Section 7. KRS 162.070 is amended to read as follows:

24 (1) The contracts for the erection of new school buildings, additions and repairs to old
25 buildings, except additions or repairs not exceeding seven thousand five hundred
26 dollars (\$7,500), shall be made by the board of education with the lowest and best
27 responsible bidder complying with the terms of the letting, after advertisement for

1 competitive bids pursuant to KRS Chapter 424, but the board may reject any or all
2 bids. All necessary specifications and drawings shall be prepared for all such work.
3 The board shall advertise for bids on all supplies and equipment that it desires to
4 purchase, except where the amount of the purchase does not exceed seven thousand
5 five hundred dollars (\$7,500), and shall accept the bid of the lowest and best bidder
6 taking into consideration the price and the reciprocal preference for resident bidders
7 under KRS 45A.494, but the board may reject any and all bids.

8 (2) *Sections 1, 2, and 3 of this Act shall apply to all contracts for foundation*
9 *construction or foundation construction maintenance for a school building or*
10 *other public works.*

11 ➔ Section 8. KRS 164A.575 is amended to read as follows:

12 (1) The governing boards of each institution may elect to purchase interest in real
13 property, contractual services, rentals of all types, supplies, materials, equipment,
14 printing, and services, except that competitive bids may not be required for:
15 (a) Contractual services where no competition exists;
16 (b) Food, clothing, equipment, supplies, or other materials to be used in
17 laboratory and experimental studies;
18 (c) Instructional materials available from only one (1) source;
19 (d) Where rates are fixed by law or ordinance;
20 (e) Library books;
21 (f) Commercial items that are purchased for resale;
22 (g) Professional, technical, scientific, or artistic services, but contracts shall be
23 submitted in accordance with KRS 45A.690 to 45A.725;
24 (h) All other commodities, equipment, and services which, in the reasonable
25 discretion of the board, are available from only one (1) source; and
26 (i) Interests in real property.
27 (2) Nothing in this section shall deprive the boards from negotiating with vendors who

1 maintain a General Services Administration price agreement with the United States
2 of America or any agency thereof, provided, however, that no contract executed
3 under this provision shall authorize a price higher than is contained in the contract
4 between General Services Administration and the vendor affected.

5 (3) The governing board shall require the institution to take and maintain inventories of
6 plant and equipment.

7 (4) The governing board shall establish procedures to identify items of common
8 general usage among all departments to foster volume purchasing. It shall establish
9 and enforce schedules for purchasing supplies, materials, and equipment.

10 (5) The governing board shall have power to salvage, to exchange, and to condemn
11 supplies, equipment, and real property.

12 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the
13 governing board may purchase or otherwise acquire all real property determined to
14 be needed for the institution's use. The amount paid shall not exceed the fair market
15 value as determined by a qualified appraiser or the value set by the eminent domain
16 procedure. Any real property acquired under this section shall be in name of the
17 Commonwealth for the use and benefit of the institution.

18 (7) (a) Notwithstanding KRS 56.806, the governing board may renegotiate the cost
19 of a lease after the expiration of the lease term and any renewal terms
20 provided in the lease prior to any renewal not provided for in the terms of the
21 lease.

22 (b) Except when a lease incorporates a lease-purchase under KRS 56.806, the
23 governing board shall reserve the right to cancel a lease upon at least thirty
24 (30) days' written notice.

25 (c) Notwithstanding KRS 56.823(2) and (3), any lease renewals, except automatic
26 renewals permitted under KRS 56.803, 56.805(2), and 56.806(1), for which
27 the annual rental cost will exceed two hundred thousand dollars (\$200,000)

1 shall be reported to the Capital Projects and Bond Oversight Committee in the
2 same format as set out in KRS 56.823(2).

3 (d) Notwithstanding KRS 56.813, a public college or university may pay for
4 improvements to leased property costing in excess of ten thousand dollars
5 (\$10,000) but less than one million dollars (\$1,000,000) in a lump sum upon
6 approval of its board using non-general fund appropriations and without
7 incurring debt.

8 (8) The governing board shall sell or otherwise dispose of all real or personal property
9 of the institution which is not needed or has become unsuitable for public use, or
10 would be more suitable consistent with the public interest for some other use, as
11 determined by the board. The determination of the board shall be set forth in an
12 order, and shall be reached only after review of a written request by the institution
13 desiring to dispose of the property. Such request shall describe the property and
14 state the reasons why the institution believes disposal should be effected. All
15 instruments required by law to be recorded which convey any interest in any such
16 real property so disposed of shall be executed and signed by the appropriate officer
17 of the board. Unless the board deems it in the best interest of the institution to
18 proceed otherwise, all such real or personal property shall be sold either by
19 invitation of sealed bids or by public auction; provided, however, that the selling
20 price of any interest in real property shall not be less than the fair market value
21 thereof as determined by the Finance and Administration Cabinet or the
22 Transportation Cabinet for such requirements of that department.

23 (9) Real property or any interest therein may, subject to the provisions of KRS Chapter
24 45A, be purchased, leased, or otherwise acquired from any officer or employee of
25 any board of the institution, based upon a written application by the grantor or
26 lessor approved by the board, that the employee has not either himself or herself, or
27 through any other person, influenced or attempted to influence either the board

1 requesting the purchase of the property. In any case in which such an acquisition is
2 consummated, the said request and finding shall be recorded and kept by the
3 Secretary of State along with the other documents recorded pursuant to the
4 provisions of KRS Chapter 56.

5 (10) (a) As used in this section, "construction manager-agency," "construction
6 management-at-risk," "design-bid-build," "design-build," and "construction
7 manager-general contractor" shall have the same meaning as in KRS
8 45A.030.

9 (b) For capital construction projects, the procurement may be on a total design-
10 bid-build basis, a design-build basis, construction manager-general contractor
11 basis, or construction management-at-risk basis, whichever in the judgment of
12 the board offers the best value to the taxpayer. Best value shall be determined
13 in accordance with KRS 45A.070. Proposals shall be reviewed by the
14 institution's engineering staff to assure quality and value, and compliance with
15 procurement procedures. All specifications shall be written to promote
16 competition. Services for projects delivered on the design-build basis,
17 construction manager-general contractor basis, or construction management-
18 at-risk basis shall be procured in accordance with KRS 45A.180, KRS
19 45A.183, and the regulations promulgated in accordance with KRS 45A.180.
20 Nothing in this section shall prohibit the procurement of construction
21 manager-agency services.

22 (c) Notwithstanding KRS 45A.185, for all capital construction projects, bidder
23 security for competitive sealed bidding for construction contracts shall only be
24 required when the price is estimated to exceed one million dollars
25 (\$1,000,000).

26 (11) The governing board shall attempt in every practicable way to insure the
27 institution's supplying its real needs at the lowest possible cost. To accomplish this

1 the board may enter into cooperative agreements with other public or private
2 institutions of education or health care.

3 (12) The governing board shall have control and supervision over all purchases of
4 energy consuming equipment, supplies, and related equipment purchased or
5 acquired by the institution, and shall designate by regulation the manner in which
6 an energy consuming item will be purchased so as to promote energy conservation
7 and acquisition of energy efficient products.

8 (13) The governing board may negotiate directly for the purchase of contractual
9 services, supplies, materials, or equipment in bona fide emergencies regardless of
10 estimated costs. The existence of the emergency must be fully explained, in writing,
11 by the vice president responsible for business affairs and such explanation must be
12 approved by the institution president. The letter and approval shall be filed with the
13 record of all such purchases. Where practical, standard specifications shall be
14 followed in making emergency purchases. A good faith effort shall be made to
15 effect a competitively established price for emergency purchases.

16 (14) (a) All governing boards that purchase agricultural products, as defined by KRS
17 45A.630, shall, on or before January 1 of each year, provide a report to the
18 Legislative Research Commission and to the Department of Agriculture
19 describing the types, quantities, and costs of each product purchased. The
20 report shall be completed on a form provided by the department.

21 (b) If purchasing agricultural products, a governing board shall encourage the
22 purchase of Kentucky-grown agricultural products in accordance with KRS
23 45A.645. If a governing board purchases agricultural products through a
24 contract with a vendor or food service provider, the contract shall require that
25 if Kentucky-grown agricultural products are purchased, the products shall be
26 purchased in accordance with KRS 45A.645. Only contracts entered into or
27 renewed after July 15, 2008, shall be required to comply with the provisions

1 of this subsection.

2 (c) All governing boards that purchase Kentucky-grown agricultural products
3 shall, on or before January 1 of each year, provide a report to the Legislative
4 Research Commission and to the Department of Agriculture describing the
5 types, quantities, and costs of each product purchased. The report shall be
6 completed on a form provided by the department.

7 (15) Notwithstanding KRS 45.760, the governing board may authorize a capital
8 construction project or a major item of equipment even though it is not specifically
9 listed in any branch budget bill, subject to the following conditions and procedures:
10 (a) The full cost shall be funded solely by non-general fund appropriations;
11 (b) Moneys specifically budgeted and appropriated by the General Assembly for
12 another purpose shall not be allotted or reallocated for expenditure on the
13 project or major item of equipment. Moneys utilized shall not jeopardize any
14 existing program and shall not require the use of any current general funds
15 specifically dedicated to existing programs; and
16 (c) The institution's president, or designee, shall submit the project or major item
17 of equipment to the Capital Projects and Bond Oversight Committee for
18 review as provided by KRS 45.800.

19 (16) Governing boards shall apply the reciprocal resident bidder preference described in
20 KRS 45A.494 prior to the award of any contract.

21 (17) Governing boards may authorize the use of reverse auctions as defined in KRS
22 45A.070 for the procurement of goods and leases.

23 **(18) Sections 1 and 3 of this Act shall apply to all contracts issued by a governing**
24 **board for foundation construction and maintenance of foundation construction**
25 **for a public building or other public works.**

26 ➔ Section 9. KRS 176.070 is amended to read as follows:

27 (1) **Sections 1, 2, and 3 of this Act shall apply to all contracts issued by the**

1 **department.**

2 **(2)** After surveys, plans, specifications and estimates have been completed for any road
3 or section thereof, and the type and character of the road has been determined, and
4 the right-of-way obtained, the bureau shall advertise by publication pursuant to
5 KRS Chapter 424, for bids on the work, and may contract for the purchase of all
6 materials necessary for the construction and maintenance of roads.

7 **(3){(2)}** Before advertising for bids for the construction or reconstruction of any
8 highway, the department may determine the type of improvement desired, and may
9 advertise and receive bids for only the types determined. The advertisement shall
10 make it generally known that the work is to be done, and shall state the place where
11 the bidders may examine the plans and specifications.

12 ➔Section 10. KRS 176.080 is amended to read as follows:

13 **(1)** **Sections 1, 2, and 3 of this Act shall apply to all contracts issued by the**
14 **department.**

15 **(2)** Each bidder shall accompany his **or her** bid with a bond or certified check payable
16 to the State Treasurer for a reasonable sum, fixed by the department, guaranteeing
17 that he **or she** will enter into a contract with the department for doing the work if
18 the work is awarded to him **or her**.

19 **(3){(2)}** Bids shall be opened publicly at the time and place designated in the
20 invitation for bids. At the time the bids are opened, the department shall announce
21 the department's engineer's estimate and make it a part of the department's records
22 pertaining to the letting of any highway construction project contract for which bids
23 were received. Each bid, together with the name of the bidder and the department's
24 engineer's estimate, shall be recorded and open to public inspection.

25 **(4){(3)}** The contract shall be awarded to the lowest and best bidder. The department
26 may require bonds from any contractor to secure the performance of any contract or
27 may require security by any other means it deems advisable.

1 ~~(5)(4)~~ The department may reject any bid when it finds it for the best interest of the
2 state to do so. When all bids are rejected, the department shall advertise for new
3 bids as in the first place.

4 ➔Section 11. KRS 424.260 is amended to read as follows:

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

9 (a) Materials;

10 (b) Supplies, except perishable foods such as meat, poultry, fish, egg products,
11 fresh vegetables, and fresh fruits;

12 (c) Equipment; or

13 (d) Contractual services other than professional;

14 involving an expenditure of more than forty thousand dollars (\$40,000) without first
15 making newspaper advertisement for bids. The advertisement for bids shall

16 include notice that Sections 1 and 3 of this Act apply to all contracts involving
17 foundation construction or maintenance of foundation construction for a public
18 building or other public works. This subsection shall not apply to the transfer of

19 property between governmental agencies as authorized in KRS 82.083(4)(a).

20 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
21 expenditures of less than forty thousand dollars (\$40,000), the fiscal court
22 requirement shall prevail.

23 (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district
24 to acquire supplies and equipment outside of the bidding procedure if those
25 supplies and equipment meet the specifications of the contracts awarded by
26 the Office of Material and Procurement Services in the Office of the
27 Controller within the Finance and Administration Cabinet or a federal, local,

1 or cooperative agency and are available for purchase elsewhere at a lower
2 price. A board of education may purchase those supplies and equipment
3 without advertising for bids if, prior to making the purchases, the board of
4 education obtains certification from the district's finance or purchasing officer
5 that the items to be purchased meet the standards and specifications fixed by
6 state price contract, federal (GSA) price contract, or the bid of another school
7 district whose bid specifications allow other districts to utilize their bids, and
8 that the sales price is lower than that established by the various price contract
9 agreements or available through the bid of another school district whose bid
10 specifications would allow the district to utilize their bid.

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

17 (4) This requirement shall not apply in an emergency if the chief executive officer of
18 the city, county, or district has duly certified that an emergency exists, and has filed
19 a copy of the certificate with the chief financial officer of the city, county, or
20 district, or if the sheriff or the county clerk has certified that an emergency exists,
21 and has filed a copy of the certificate with the clerk of the court where his or her
22 necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
23 superintendent of the board of education has duly certified that an emergency
24 exists, and has filed a copy of the certificate with the chief state school officer.

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

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

3 ➔Section 12. Sections 1 to 3 of this Act may be cited as the Kentucky Buy
4 American Act.