

**164A.575 Purchasing -- Inventories -- Sales of surplus property -- Bidding procedures -- Kentucky-grown agricultural products -- Reports -- Reciprocal preference for resident bidders -- Reverse auctions.**

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
  - (a) Contractual services where no competition exists;
  - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
  - (c) Instructional materials available from only one (1) source;
  - (d) Where rates are fixed by law or ordinance;
  - (e) Library books;
  - (f) Commercial items that are purchased for resale;
  - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
  - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
  - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and

state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9)
  - (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in KRS 45A.030.
  - (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Best value shall be determined in accordance with KRS 45A.070. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with KRS 45A.180 and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.
- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the

vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

- (13) (a) All governing boards that purchase agricultural products, as defined by KRS 45A.630, shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
  - (b) If purchasing agricultural products, a governing board shall encourage the purchase of Kentucky-grown agricultural products in accordance with KRS 45A.645. If a governing board purchases agricultural products through a contract with a vendor or food service provider, the contract shall require that if Kentucky-grown agricultural products are purchased, the products shall be purchased in accordance with KRS 45A.645. Only contracts entered into or renewed after July 15, 2008, shall be required to comply with the provisions of this subsection.
  - (c) All governing boards that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
- (14) Governing boards shall apply the reciprocal resident bidder preference described in KRS 45A.494 prior to the award of any contract.
  - (15) Governing boards may authorize the use of reverse auctions as defined in KRS 45A.070 for the procurement of goods and leases.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 63, sec. 12, effective July 15, 2010; and ch. 162, sec. 21, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 37, sec. 2, effective June 25, 2009. -- Amended 2008 Ky. Acts ch. 37, sec. 1, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 29, sec. 7, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 56, sec. 1, effective June 24, 2003; and ch. 98, sec. 16, effective June 24, 2003. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 140, effective May 30, 1997. -- Amended 1990 Ky. Acts ch. 496, sec. 50, effective July 13, 1990. -- Created 1982 Ky. Acts ch. 391, sec. 6, effective July 15, 1982.

**Legislative Research Commission Note** (7/15/2010). This section was amended by 2010 Ky. Acts chs. 63 and 162, which do not appear to be in conflict and have been codified together.