

**162.065 Administrative regulations for use by local school boards when constructing schools using construction managers -- Items considered equal to specifications may be furnished.**

The State Board of Education shall promulgate administrative regulations for use by local school boards when constructing school buildings using construction managers. A construction manager is an experienced and qualified construction contracting organization that is paid a fee for its professional management and supervision services. The regulations shall include, but not be limited to:

- (1) A standard "Request for Proposal" form, including appropriate criteria for use by local school boards to ensure only qualified construction managers are considered:
  - (a) A list of successfully completed projects or a demonstrated capability to perform projects of a similar type;
  - (b) A descriptive detail of projects showing the experience and the ability to perform budget estimating, value engineering, and scheduling; and
  - (c) A list of experienced and qualified personnel with a track record of achieved quality and the capability to provide bidder solicitation;
- (2) Adequate public notice of the invitation for proposals shall be given a sufficient time prior to the date set for the opening of proposals;
- (3) A requirement for bids, when requested by a construction manager, be submitted to the architect or owner and opened in public;
- (4) A requirement that all bids for school construction projects be advertised in newspapers with the largest local circulation;
- (5) A sample fee schedule for construction manager services shall be developed by recommendation of a diversified committee consisting of Department of Education personnel, architects, and construction managers for the guidance of local school boards;
- (6) A requirement that established qualifications-based selection procedures be implemented by local boards when selecting firms to provide architectural and engineering services; and
- (7) A requirement that specifications in every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished. The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the local board and the design professional responsible for the specifications:
  - (a) It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;
  - (b) It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and

- (c) It conforms substantially to the detailed requirements for the item in the specifications.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 47, sec. 5, effective July 15, 2008. -- Created 1992 Ky. Acts ch. 379, sec. 1, effective July 14, 1992.