

**45A.415 Specifications -- Items considered equal may be furnished -- Proprietary products.**

- (1) The local public agency shall use specifications which assure the maximum practicable competition to meet the agency's needs.
- (2) Local public agencies shall ensure that every invitation for bids or request for proposals provides 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 owner 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.
- (3) A specification which describes a product which is proprietary to one (1) company may be used only when no other kind of specification is reasonably available to describe requirements.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 47, sec. 3, effective July 15, 2008. -- Created 1978 Ky. Acts ch. 110, sec. 84, effective January 1, 1980.