



PROCUREMENT 101

“The Essentials”

Building Blocks



POLICIES AND PROCEDURES

ADMINISTRATIVE REGULATIONS

KENTUCKY MODEL PROCUREMENT CODE

Kentucky's Procurement Law

- **American Bar Association's (ABA) Model Procurement Code was adopted by Legislation in 1978 and became law in 1979.**
- **Kentucky was the first state to adopt this procurement code.**
- **There are currently 18 states operating under this code.**
- **KRS Chapter 45A is the statutory location of the Model Procurement Code.**

Kentucky's Procurement Law

- ABA drafted the MPC as a result of numerous public purchasing scandals across the country;**
- It's a Model Code and not a Uniform Code;**
- Highly flexible statutory framework;**
- Establishes a set of ethical standards.**

KRS 45A.010

- Purposes and Policies

- **(2) The underlying purposes and policies of this code shall be:**
 - **(a) To simplify, clarify, and modernize the law governing purchasing by the Commonwealth;**
 - **(b) To permit the continued development of purchasing policies and practices;**
 - **(c) To make as consistent as possible the purchasing laws among the various states;**
 - **(d) *To provide for increased public confidence in the procedures followed in public procurement;***
 - **(e) *To insure the fair and equitable treatment of all persons who deal with the procurement system of the Commonwealth;***
 - **(f) To provide increased economy in state procurement activities by fostering effective competition; and**
 - **(g) *To provide safeguards for the maintenance of a procurement system of quality and integrity.***

KMPC

■ **KRS 45A.050 – KRS 45A.340**

State Government

- **45A.050 – 45A.067 – Definitions, Exemptions to centralization of procurement, Finance Cabinet authority to promulgate Regulations;**
- **45A.070 – 45A.170 – Methods of awarding state contracts, Competitive Sealed Bidding, Competitive Negotiation, Small Purchases;**
- **45A.180 – 45A. 340 – Capital Construction, Bonds, Protests, Conflicts of Interest;**

■ **KRS 45A.343 – KRS 45A.460**

Local Governments

KMPC

- **KRS 45A.500 – 45A.540 - Recycled Material Content Products**
- **KRS 45A.550 – 45A. 570 - Privatization Contracts**
- **KRS 45A.600 – 45A.725 - Miscellaneous Procurement Provisions**
 - **Personal Service Contracts**

KMPC

- **KRS 45A.730 – 45A.750 – Procurement of Architectural and Engineering Services**
- **KRS 45A.800 – 45A.838 – Architectural and Engineering Services**
- **KRS 45A.840 – 45A.879 – Underwriter and Bond Counsel Services**
- **KRS 45A.990 – Penalties**

KRS 45A. 990 - Penalties

- **KRS 45A.045 – Disposal of Surplus Real and Personal Property – Class D Felony**
- **KRS 45A.325 – Collusion – Class D Felony**
- **KRS 45A.330 to 340 – Conflicts of Interest – Class B Misdemeanor**
- **KRS 45A.690 to 725 – Personal Service Contracts – Class A Misdemeanor**

Administrative Regulations

Title 200 Chapter 5

For Example:

- **306 - Competitive Sealed Bidding**
- **307 - Competitive Negotiations**
- **310 - Multiple Contracts**
- **312 - Termination of Contracts**
- **380 - Protests**

Competitive Sealed Bidding

- **KRS 45A.080 Competitive sealed bidding**
 - **(4) Bids shall be opened publicly at the time and place designated in the invitation for bids....**
- **200 KAR 5:306. Competitive sealed bidding**
 - **Section 2. The purchasing officer or other employee of the purchasing agency designated to open the bids shall determine when the time set for opening bids has arrived and shall so declare the time to those present for the bid opening. The purchasing officer or designee shall, in the presence of all persons in attendance, open all bids received as of that date and hour. If practical, the names of the bidders and the amounts of their bids may be read aloud to the persons present.**

Policies and Procedures

■ FAP 111-35-00 Competitive Sealed Bidding

- 10. Opening of Bids: At the time designated for bid opening, online and hardcopy bids shall be opened and may be read or otherwise made available to the public. No late online bid responses shall be received or considered. A hardcopy bid received after the time specified in the Solicitation shall not be considered, unless no other bids are received.**

Familiarize Yourself With the Following in the Policies and Procedures Manual:

- **FAP-111-08-00**
- **Exceptions to Sealed Bidding (By Law or Regulation)**
- **FAP-111-09-00**
- **Exceptions to Sealed Bidding (Not Practicable / Feasible)**
- **FAP-111-10-00**
- **Exceptions to Sealed Bidding (Sole Source)**

Four Basic Methods of Procurement Under KMPC (KRS 45A)

- **Competitive Sealed Bidding (KRS 45A.080)**
Conducted by FAC's Office of Procurement Services for aggregate purchase of \$20,000 or more.
- **Competitive Negotiations - RFP (KRS 45A.085)**
Large dollar amounts - Determination and Finding required.
- **Non-Competitive Negotiations (KRS 45A.095)**
Examples: Sole Source, Emergency- Determination and Finding Required.
- **Small Purchases (KRS 45A.100)** Aggregate amounts less than your agency's authorized dollar amount.
Most agencies = \$1,000 with single quote.

THE LAW

- 1.) Procurements not to exceed an aggregate amount of \$1,000 for all other purchases by state governmental bodies may be made in accordance with Small Purchase Regulations promulgated by the Secretary of the Finance and Administration Cabinet.
- 2.) Procurement requirements shall not be artificially divided so as to constitute a Small Purchase under this section.
- Ref: KRS 45A.100
- Policy: FAP-111-55-00

Definition of Aggregate:

- **Gathered together in a mass constituting a whole.**

Basic Small Purchase Procedure

TYPE OF PURCHASE	ONE QUOTE	3 OR MORE QUOTES
Construction Services	\$3000 or Less	\$3000 to \$10000
All Other Purchases	\$1000 or Less	Not Applicable

(KRS 45A.100)

Price Quotes Required for Finance Cabinet Agencies

NUMBER OF QUOTE REQUESTS REQUIRED	FOR CONSTRUCTION SERVICE COSTING	FOR ALL OTHER PURCHASES COSTING
One	Less than \$20,000	Less than \$5,000
At Least Three (3)	Less than \$40,000	Between \$5,000 & \$20,000

**The posting of a request for quotes on the VSS system will satisfy all of the above requirements.
(KRS 45A.100)**

Quotations Required for Commodity & Service Purchases

DELEGATED AGENCY Small Purchase Limit	One Quote for Purchase Less Than	At Least Three Quotes if Between	Posted to VSS if
\$3,000 Limit	\$1,000	\$1,000 & \$3,000	N/A
\$5,000 Limit	\$3,000	\$3,000 & \$5,000	N/A
\$10,000 Limit	\$4,000	\$4,000 & \$10,000	N/A
\$20,000 Limit	\$5,000	\$5,000 & \$20,000	>\$20,000

(KRS 45A.100)

Construction Services Quotes Required

Agency Construction Small Purchase Limit	One Quote Required if Less Than	At Least Three Quotes if Between
\$15,000	\$5,000	\$5,000 & \$15,000
\$20,000	\$10,000	\$10,000 & \$20,000
\$40,000	\$10,000	\$20,000 & \$40,000

(KRS 45A.100)

“Tips” When Obtaining Quotes From Vendors

- **If obtaining phone quotes - advise vendor(s) you're obtaining quotes from several vendors.**
- **For FAX quotes, have vendor fax his quote, terms, etc. to you complete with his signature.**
- **Write legible if you're obtaining quotes by fax machine.**
- **Always give a complete address for the “Ship To” location -- Don't use P.O. Box Numbers!!**
- **If possible, always make freight terms F.O.B. Destination --- not F.O.B. Factory!**

“Tips” When Obtaining Quotes From Vendors

- **Contact the manufacturer if a Brand Name is required to determine authorized dealers to promote competition.**
- **If you have a higher small purchasing authority (I.e. \$5,000 or more), consider establishing an acceptable brands list (ABL) when soliciting.**

ADVANTAGE of ABL -

Promotes Competition

DISADVANTAGE -

Requires research and hands on evaluation of products -- can be time consuming.

Specifications

- **Learn all you can about preparing specifications -- especially when the bid requires a formal solicitation (\$20,000 plus)**
- **There are various workshops and/or seminars available to you.**
 - **National Institute of Governmental Purchasing (NIGP) is an excellent source.**

**F.O.B. FACTORY
VS.
F.O.B. DESTINATION**

What's the difference?

F.O.B - *Free on Board*

Definition:

A shipping industry term which defines the point at which the buyer takes legal title to the goods.

Which is Best for State Government?

F.O.B. Destination is best and is required unless no vendor will agree.....

WHY?

First, the vendor pays the freight. Second, the buyer, i.e. the state, does not take legal title until the goods are received and inspected at the “SHIP TO” address. If the goods are damaged, the vendor, not the state, must prosecute the claim against the shipping carrier for the damage to, or even loss of, the shipment. Filing these claims is a pain you don’t want.

Submitting Specifications on eMARS Requisitions

- **General or Generic Specifications**
- **Brand Name or Approved Equal**
- **Acceptable Brands List**
- **“No Substitute” Requisition
BEWARE!!!! - Competition Killer**

Definition Of a TERM CONTRACT

Price agreements with a particular vendor to supply specific items at a specific unit price for a specific period.

Term Contracts

When Should a Term Contract be Used?

- 1. To provide a continuing need**
- 2. To expedite the normal purchasing process (i.e. obtaining quotes)**

Why are Term Contracts Established?

- 1. Convenience of User**
- 2. Variety at a Fixed Price**
- 3. Accelerates the Bid process**

GSA

- **What is the General Service Administration (GSA)?**

The procurement agency of the U.S. government

- **What is a GSA Price Agreement?**

A non-competitive negotiation between a vendor and the federal government which results in a 5 to 10 year contract.

45A.045 Authority of Cabinet

(7) Nothing in this section shall deprive the Finance & Administration Cabinet from negotiating with vendors who maintain a general service administration (GSA) price agreement with the United States of America or any agency thereof.

Terms & Acronyms to Know

RQ

Requisition

MA

Price Contract Prefix

PO

“Guaranteed” Contract Prefix

AOC

Advice of Change to amend a Price Contract

RFQ

Request for Quotation

RFB

Request for Bid

RFP

Request for Proposal

IT

Prefix to identify an IFB

D&F

Determination and Finding

45A

KY’s Model Procurement Law

200 KAR Chapter 5

Purchasing Administrative Regulation

Addendum

Official changes to RFQs, RFBs, & RFPs

BREACH

Contractor is in default of contract requirement(s)

PROTEST

Vendor formally protesting an award decision

Be Aware of Procedures Pertaining to Recycled Content in Products Purchased.

■ SOURCES:

- KRS 45A.500 to .540**
- 200 KAR 5:330**

QUESTIONS & ANSWERS SESSION



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