

Education and Workforce Development Cabinet

Kentucky Board of Education

Department of Education

(Amendment)

702 KAR 4:160. Capital construction process.

RELATES TO: KRS Chapter 45A, KRS 156.074, 156.076, 156.496, 156.670, 157.420(4), 157.450, 157.455, 160.160, 160.476, 162.070, 322.010, 323.010, 323A.010, 371.405(7), 371.410, 424.260

STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060, 162.065, 322.360, 323.033

NECESSITY, FUNCTION and CONFORMITY: KRS 156.070 establishes the general powers and duties of the Kentucky Board of Education. KRS 156.160 authorizes the Kentucky Board of Education to promulgate administrative regulations establishing standards that school districts shall meet in operational performance, including construction of public school buildings and the use of uniform forms. KRS 162.060 requires that the chief state school officer shall examine or cause to be examined all plans and specifications for public school buildings in accordance with administrative regulations promulgated by the Kentucky Board of Education. KRS 162.065 requires the Kentucky Board of Education to prescribe administrative regulations governing construction managers. KRS 322.360 and 323.033 requires a school district, when engaged in the construction of any public work involving architecture or engineering, to utilize an architect or engineer to directly supervise the preparation of plans and specifications, estimates, and the

execution of construction. This administrative regulation prescribes the procedures and criteria for the construction of public school buildings.

Section 1. Definitions. (1) "AIA" means the American Institute of Architects.

(2) "Board" means the local board of education.

(3) "Change event" means a contiguous and similar action regarding a change order.

(4) "Construction documents" means the written and graphic documents prepared or assembled for communicating the project design for construction and for administering the construction contract, and consists of bidding requirements, contract forms, contract conditions, contract modifications, addenda, specifications, drawings, and record documents.

(5) "Construction manager" or "CM" means a qualified and experienced contracting organization which provides the services of construction management and possesses a general trades workforce, staff and equipment, financial base, insurance coverage, bonding capability, a minimum of three (3) years of construction management experience on projects of \$2,000,000 or more, and the ability to provide the services required.

(6) "Contractor" means an individual, corporation, estate, trust, partnership, limited liability company, association, joint venture, or any other legal entity performing construction and having a contract with a board.

(7) "Design Professional" means a person licensed in the Commonwealth of Kentucky under KRS Chapter 322, 323, or 323A, which includes architects, engineers, and landscape architects providing services within their respective practice areas.

(8) "Emergency" means a situation which creates a threat or impending threat to public health, welfare, or safety that may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, theft, explosion, power failure, energy

shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar unforeseen events, and results in the loss of use of the physical facilities.

(9) "Fixed equipment" means furnishings or equipment that are secured to the wall, floor, or ceiling to operate or function in the manner intended by the product manufacturer, and may include bleachers, student lockers, casework with sinks, or plumbing fixtures.

(10) "Guaranteed Energy Savings Contract" or "GES" means a delivery method defined in KRS 45A.345 and KRS 45A.352.

(11) "KBE" means the Kentucky Board of Education.

(12) "Major renovation" means a project at a permanent center including three (3) or more building systems and an estimated cost of twenty (20) percent of the current replacement cost of the building, or portion thereof, and the building or building systems shall be a minimum of twenty (20) years old or twenty (20) years shall have passed since its last major renovation with the exception of:

(a) The restructuring of an open space school for conventional classrooms; or

(b) The replacement of one of the following single building systems that is within fifteen (15) years of its original installation, or if required by a change in regulation or code:

1. Heating, ventilation, and air conditioning systems and controls;

2. Systems to provide full use of a facility by the physically handicapped and to bring a facility into compliance with state and federal law;

3. Life safety and security systems; or

4. Roofing systems, flashings, and accessories.

(13) "Minor project" means a project for expansion of a permanent center to include a maximum of four (4) classrooms, campus enlargement, renovation of buildings and building systems with a

budget of less than \$25,000, or construction of support space at permanent centers, or renovation not defined as major renovation.

(14) "Owner" means the local board of education or financing corporation established for the purpose of financing school construction.

(15) "Qualified provider" means a person or business as defined in KRS 45A.345 and KRS 45A.352.

(16) "Record documents" means a set of reproducible paper drawings or electronic digital files revised to indicate significant changes in the work during construction, including addenda, change orders, and construction change directives.

(17) "Superintendent" means the superintendent of the local school district or an authorized designee of the superintendent selected to represent the board regarding construction issues.

Section 2. Construction Project Application. (1) The board shall submit an application on the BG-1 Project Application Form (BG-1 Form), to the Department of Education for approval of a proposed construction project.

(2) An application shall be submitted for each project that is:

(a) Funded by Support Education Excellence in Kentucky (SEEK) capital outlay, Facility Support Program of Kentucky (FSPK) funds as provided by KRS 157.620, School Facilities Construction Commission (SFCC) funds, or building funds as provided by KRS 160.476;

(b) Proposing construction of a new building, addition, or alteration of an existing building that requires design by a design professional for a building or building system;

(c) Proposing a Guaranteed Energy Savings Contract;

(d) A minor project; or

(e) A major renovation.

(3)(a) If SFCC funds are included in the financing plan, projects shall be selected in prioritized order from the District Facility Plan created pursuant to 702 KAR 4:180.

(b) If restricted funds other than SFCC are included in the financing plan, the board may select any project in any priority used to determine district need.

(c) Projects not used to determine district need may only be funded as defined by the General Assembly.

(4) The BG-1 Form shall be approved by the board.

(5) The Department of Education shall take action on the BG-1 Form within thirty (30) calendar days of receipt.

(6) If an emergency occurs, impacting an activity for which a BG-1 Form is required:

(a) The superintendent shall:

1. Proceed with corrective actions, as needed;

2. Notify the Department of Education of the emergency and request approval to continue with the plans and corrective action;

3. Advise the board to declare an emergency in accordance with the district's officially adopted procurement method under KRS 424.260 or KRS 45A.380; and

4. Submit to the Department of Education:

a. BG-1 Form; and

b. The board order declaring the emergency.

(b) The Department of Education shall process the emergency BG-1 Form request within seven calendar days of receipt.

Section 3. Local Board Oversight Responsibilities. (1) Site acquisition for new sites shall be done in compliance with 702 KAR 4:050.

(2) Easements, property leases, property lease purchases, or property leases with an option to purchase by a board for fixed equipment, capital construction, or alterations to existing buildings and building systems shall require the submittal of plans and specifications and lease documents to the Department of Education for review and approval for compliance with the requirements in 702 KAR 4:090.

(3) Construction files and records shall be maintained by the superintendent, organized and accessible for review. Construction files and records shall include:

(a) Board orders;

(b) Proposals (bids);

~~(c) KDE Material Supplier Authorization, 2012 form, if owner direct purchase orders are used;~~

(c) Contracts, construction documents, and record documents;

(d) Copy of each certificate of required liability insurance for the design professional, the design professional's consultants, and CM or qualified provider of GESC services, if used;

(e) Correspondence; and

(f) Financial documents.

(4) The board shall provide oversight of the design professional services in the following manner:

(a) The design professional's proposed contract shall be reviewed by the board's attorney for compliance with the law;

(b) The board shall submit to the Department of Education the proposed board-approved design professional contract for approval; and

(c) The board shall submit to the Department of Education for review:

1 1. Copy of each KDE Non-Collusion Affidavit for the design professional and the design  
2 professional's consultants;

3 2. Copy of each required certificate of liability insurance; and

4 3. Copy of the signed design professional contract.

5 (5) The board shall provide oversight of the CM services in the following manner:

6 (a) The CM's proposed contract shall be reviewed by the board's attorney for compliance with  
7 the law;

8 (b) The board shall submit to the Kentucky Department of Education the proposed board-  
9 approved CM contract for approval; and

10 (c) The board shall submit to the Kentucky Department of Education for review:

11 1. Copy of the CM's KDE Non-Collusion Affidavit;

12 2. Copy of each required certificate of liability insurance;

13 3. Copy of the performance and payment bond; and

14 4. Copy of the signed CM contract.

15 (6) The board shall provide oversight of the qualified provider of GESC services in the following  
16 manner:

17 (a) The qualified provider's proposed contract shall be reviewed by the board's attorney for  
18 compliance with the law;

19 (b) The board shall submit to the Kentucky Department of Education the proposed board-  
20 approved GESC contract for approval; and

21 (c) The board shall submit to the Kentucky Department of Education for review:

22 1. Copy of the qualified provider's KDE Non-Collusion Affidavit;

23 2. Copy of each required certificate of liability insurance;

1 3. Copy of the performance and payment bond; and

2 4. Copy of the signed GESC contract.

3 (7) The board shall prepare an educational specification which complies with 702 KAR 4:170,

4 Facility Programming and Construction Criteria and 702 KAR 4:180, Implementation Guidelines

5 – Kentucky School Facilities Planning Manual.

6 (8) During the design phases of a new school building project, areas shall comply with the Model

7 Program Space established in 702 KAR 4:180.

8 (9) If the design professional for General Contractor delivery projects or the design professional

9 and CM for CM delivery projects determine additional funding is justified or a reduction of

10 physical scope of the project is needed and the board concurs, the board shall forward a revised

11 board-approved BG-1 Form to the Kentucky Department of Education for approval.

12 (10) During the bidding phase of the construction project, the board shall:

13 (a) Conduct the bid process in accordance with the district's officially adopted procurement

14 method under KRS 424.260 or KRS Chapter 45A;

15 (b) Prior to advertising, receive written approval from the Kentucky Department of Education of

16 the bidding documents;

17 (c) Hold possession of bidding documents;

18 (d) Approve and submit the successful bidders' documents to the Kentucky Department of

19 Education for review and approval of each proposed contract and the financial plan; and

20 (e) Submit a revised board-approved BG-1 Form for funding changes after bidding; and

21 (f) Have in its possession prior to signing the construction contract:

22 1. Unsigned contractor's performance and payment bond;

23 2. Certificates of required insurance;



1 3. Property insurance policy including insurance written on a builder's risk "all-risk" or  
2 equivalent policy in the amount of the initial Total Construction Cost, plus value of subsequent  
3 contract modifications and the cost of materials supplied and installed by others, comprising total  
4 value for the entire project at the site on a replacement cost basis without optional deductibles;

5 4. Written approval to sign the owner contractor agreement(s) from the Kentucky Department of  
6 Education; and

7 5. Bids accepted for the bond sale.

8 (11) The board shall provide oversight of construction administration and construction contract  
9 closeout and submit a revised board-approved BG-1 Form if construction contingency is  
10 exceeded.

11 (12) If a lien is filed with a court and the board is given notice of the lien, the board shall:

12 (a) Notify the board attorney;

13 (b) Notify the Kentucky Department of Education; and

14 (c) Proceed in accordance with the contract documents.

15 Section 4. Architectural Services. (1) The board shall advertise for architectural services utilizing  
16 the Kentucky Department of Education Request for Proposals (RFP) process or shall evaluate  
17 and select a minimum of three (3) architectural firms who have submitted a letter of interest.

18 However, advertisement and evaluation of three (3) firms shall not be required if:

19 (a) The total construction cost of the project is estimated at less than \$1,000,000; or

20 (b) The project is the continuation of phased construction at the same site.

21 (2) The board and design professional shall negotiate a contract for services required.

22 (3) A letter of agreement stating services, terms, and conditions that have been approved by the  
23 board shall be acceptable for projects with an estimated construction cost of less than \$50,000.

1 (4) The design professional shall:

2 (a) Provide professional liability insurance;

3 (b) Complete a KDE Non-Collusion Affidavit;

4 (c) Provide construction documents and cost estimates, as required by contract;

5 (d) If requesting reimbursements or additional service fees, provide a detailed listing of each

6 charge on the payment request; and

7 (e) Request payment of the construction phase fee at the same proportionate percentage as the

8 construction's completion.

9 (5) The board-approved design professional's contract shall be reviewed and approved by the

10 Kentucky Department of Education based on the following criteria:

11 (a) Compliance of fee to KDE Architect/Engineer ~~Maximum~~ Fee Guidelines for Basic Services;

12 (b) Review of required certificates of liability insurance;

13 (c) Compliance with applicable laws for modifications to the contract; and

14 (d) Discrepancies related to the scope of work and anticipated cost approved on the BG-1 Form.

15 (6) The design professional shall prepare and provide documents and services required by

16 contract, laws, and industry standards as prescribed by the AIA. The Kentucky Department of

17 Education may request clarification on documentation which does not comply.

18 Section 5. Construction Management Services. (1) A CM shall not be employed on a project

19 estimated at less than \$2,000,000 for construction cost. The Kentucky Department of Education

20 may approve exceptions as follows:

21 (a) If the project is a phase of a phased project and the CM is to be employed on all subsequent

22 phases; or

23 (b) If the project's complexity or fiscal soundness requires it.

(2) The board shall advertise for CM services utilizing the Kentucky Department of Education RFP process or shall evaluate and select a minimum of three (3) CM firms who have submitted a letter of interest.

(3) The CM shall:

(a) Provide a 100 percent performance and payment bond prior to the construction contracts being signed by the board in the amount of the CM fee and in compliance with KRS 45A.435;

(b) Provide professional liability insurance;

(c) Provide construction cost estimates in conjunction with the design professional's design at the end of Schematic Design, Design Development, and Construction Documents certifying compliance with the project budget;

(d) Complete a KDE Non-Collusion Affidavit;

(e) Request approval by the owner's representative for reimbursement or additional service fee prior to the service being rendered or expenditure being made;

(f) If requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request; and

(g) Request payment of the construction phase fee at the same proportionate percentage as the construction's completion.

(4) The board-approved CM contract shall be reviewed and approved by the Kentucky Department of Education based on the following criteria:

(a) Compliance of fee to KDE Construction Manager ~~Maximum~~ Fee Guidelines for Basic Services;

(b) Review of required certificates of liability insurance;

(c) Review of the performance and payment bond;

1 (d) Compliance with applicable laws for modifications to the contract; and

2 (e) Discrepancies related to the scope of work and anticipated cost approved on the BG-1 Form.

3 (5) The CM shall provide all documents and services required by contract, laws, and industry  
4 standards as prescribed by the AIA. The Kentucky Department of Education may request  
5 clarification on documentation which does not comply.

6 Section 6. Project Documents for General Construction and Construction Management. (1) After  
7 written approval of the BG-1 Form by the Kentucky Department of Education, the Kentucky  
8 Department of Education shall notify the board of required submissions for the project.

9 (a) The design professional shall prepare schematic design phase documents of the proposed  
10 construction from written educational program specifications which are in general compliance  
11 with 702 KAR 4:170 and 702 KAR 4:180.

12 (b) The board-approved schematic design phase documents and a copy of the educational  
13 program specifications shall be submitted by the board to the Kentucky Department of Education  
14 for review and approval.

15 (c) The Kentucky Department of Education shall review and approve the schematic design phase  
16 documents based on:

17 1. The schematic design phase documents and a copy of the educational program specifications,  
18 approved by board order;

19 2. Site plan demonstrating compliance with 702 KAR 4:170;

20 3. Proposed floor elevation is a minimum of one (1) foot above the 100-year flood plain  
21 elevation for new construction and no state funds are proposed for renovation below the 100-year  
22 flood plain elevation;

23 4. Floor plans demonstrating:

- a. the number, type, and size of the planned spaces, including support spaces;
  - b. the educational program specifications;
  - c. maximum gross areas are in compliance with 702 KAR 4:170 and 702 KAR 4:180:
    - (i) An elementary school limited to 115 percent of the Total Gross Area of the Model Program Space; or
    - (ii) A middle or high school limited to 120 percent of the Total Gross Area of the Model Program Space; and
  - d. building efficiency is the percent of net program area to gross building area, meets or exceeds the guidelines of 702 KAR 4:180;
5. Functional aspects demonstrating: the distribution of functions, program space educational suitability, and the appropriateness for the needs of the facility;
6. Budget documenting: the estimated construction cost (gross building area multiplied by the cost per square foot, plus site development costs) in relation to the BG-1 Form Total Construction Cost. If the estimated construction cost exceeds the BG-1 Form Total Construction Cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board.
- (2) After written approval of the schematic design phase documents is received from the Kentucky Department of Education, the design professional shall prepare the design development documents.
- (a) The board shall submit to the Kentucky Department of Education for review and approval:
1. Board-approved design development documents;
  2. BG-2 Outline Specifications and Energy Design Criteria (BG-2 Form); and
  3. BG-3 Statement of Probable Cost (BG-3 Form).

1 (b) The board shall submit to the Kentucky Department of Education a copy of the signed letter  
2 of transmittal sent to the Kentucky Transportation Cabinet or other agency having jurisdiction  
3 regarding entrance and right-of-way improvements.

4 (c) The Kentucky Department of Education shall review and approve design development  
5 documents that incorporate all previous schematic design review comments, based on:

6 1. Site plan: proper siting of the building with respect to vehicular and pedestrian circulation,  
7 separation of bus loading area, student play areas, athletic fields, utility construction, and site  
8 drainage, with details appropriately developed;

9 2. Floor plan: number, type, and size of the planned spaces consistent with the approved  
10 schematic plan(s);

11 3. Enlarged plans and details: appropriate to describe the design intention;

12 4. Budget: the Total Project Cost on the BG-3 Form is within the approved BG-1 Form Total  
13 Project Cost budget; if the BG-3 Form Total Project Cost exceeds the BG-1 Form Total Project  
14 Cost, an increase in the budget or a decrease in the physical scope of the project shall be  
15 approved by the board; and

16 5. BG-2 Form: properly completed and conforms to the educational program specifications.

17 (3) After written approval of design development documents is received from the Kentucky  
18 Department of Education, the completed construction documents shall be prepared by the design  
19 professional and, if utilized, CM, for bidding.

20 (a) The board shall submit to the Kentucky Department of Education:

21 1. Board-approved completed drawings and project manual; and

22 2. Proof of submission of completed bidding documents to other agencies having jurisdiction;

23 and

3. Entrance and right of way improvements approved by the Kentucky Transportation Cabinet or other agencies having jurisdiction.

(b) The Kentucky Department of Education shall review and approve the completed construction documents based on:

1. Compliance with state laws regarding the seal, signature, and date of the documents by design professionals;

2. Documents are of sufficient detail and complexity that they may be used:

a. To obtain a building permit;

b. As instruments in the competitive bidding process; and

c. By contractors to construct the project;

3. BG-3 Form Total Project Cost is less than or equal to one hundred ten (110) percent of the approved BG-1 Form Total Project Cost;

4. Documents appropriate to industry standards for general construction or construction management, including the KDE Form of Proposal; and

5. Letter of transmittal to state and local agencies having jurisdiction over issues related to construction projects, including:

a. Department of Housing, Buildings and Construction;

(i.) Division of Building Codes Enforcement; and

(ii.) Division of Plumbing.

b. Division of Water;

c. Division of Air Quality;

d. Local health department; and

e. Local building inspector.

(4) The board shall receive written approval of the completed construction documents and authorization to advertise from the Kentucky Department of Education prior to advertisement for bids.

Section 7. Guaranteed Energy Savings Contracts. (1) The board shall submit to the Kentucky Department of Education a letter of intent to issue an RFP for a GESC.

(2) The Kentucky Department of Education shall notify the board of required submissions for the GESC project.

(3) The board shall advertise for qualified providers to propose energy conservation measures through an RFP process in compliance with KRS 45A.352(1) and (5) for a GESC.

(4) The qualified provider shall:

(a) Complete a KDE Non-Collusion Affidavit;

(b) Provide each required certificate of liability insurance; and

(c) Provide 100 percent performance and payment bond in compliance with KRS 45A.435.

(5) The board shall submit to the Kentucky Department of Education:

(a) Board-approved proposal from the selected provider; and

(b) BG-1 Form.

(6) The Kentucky Department of Education shall review and approve the project based on compliance with KRS 45A.352(9) and (10).

(7) After written approval is received from the Kentucky Department of Education, the qualified provider shall incorporate review comments and prepare the project scope documents. The board shall submit to the Kentucky Department of Education for review and approval:

(a) Board-approved project scope documents;

(b) BG-2 Form; and



1 (c) Proposed contract.

2 (8) After written approval is received from the Kentucky Department of Education, the qualified  
3 provider shall incorporate review comments and complete the project documents, including  
4 drawings and specifications. The board shall submit to the Kentucky Department of Education:

5 (a) Board-approved project documents, including final drawings and specifications;

6 (b) Proposed board-approved contract with financing documentation;

7 (c) Confirmation that the proposed contract complies with KRS 45A.352(3); and

8 (d) Revised BG-1 Form to conform to the proposed contract and financing.

9 (9) The Kentucky Department of Education shall review and provide written approval of the  
10 proposed GESC based on:

11 (a) Financing documentation; and

12 (b) KRS 45A.352(9) and (10).

13 Section 8. Construction Bids, Contracts, and Bond Sales. (1) Negotiation of the bid price shall  
14 not be allowed, except in accordance with KRS 45A.375 for those districts under the Model  
15 Procurement Code.

16 (2) The board shall submit to the Kentucky Department of Education for review and approval:

17 (a) Each proposed contract;

18 (b) A completed KDE Purchase Order Summary Form, if owner direct purchase orders are  
19 utilized;

20 (c) The revised financial page of the BG-1 Form to coincide with the proposed project costs;

21 (d) Preliminary official statement;

22 (e) Notice of revenue bond sale;

23 (f) Official terms and conditions; and

1 (g) Plans of financing.

2 (3) The board shall submit to the Kentucky Department of Education for review and approval the  
3 following documentation for projects that are bid:

4 (a) Each bid tabulation;

5 (b) Bid security;

6 (c) KDE Form of Proposal form for each successful bidder;

7 (d) Written recommendation of the design professional and CM, if utilized, regarding the  
8 awarding of the contract; and

9 (e) Written rationale for the additional cost if the accepted bid exceeds the BG-3 Form by 10% or  
10 more.

11 (4) If a bond sale is pending, then the above documents shall be submitted to the Kentucky  
12 Department of Education a minimum of ten (10) working days prior to the scheduled bond sale  
13 date.

14 (5)(a) Discrepancies between the proposed contract and bidding documents shall be remedied  
15 prior to approval.

16 (b) Approval of the proposed contract by the Kentucky Department of Education shall not  
17 indicate the contract is the best or the most reasonable.

18 (6) If the submitted documents are not in an approvable form at least five (5) working days  
19 before the scheduled bond sale, the sale date shall be postponed.

20 (7) The board shall contract with a fiscal agent to assist in meeting all reporting, filing, and  
21 selling requirements for securing the financial approval of the Kentucky Department of  
22 Education when school revenue bonds are proposed for sale.

1 (8) The Kentucky Department of Education shall issue the written approval for the financing  
2 plan, authorize the bond sale, and prepare the approval letter for the chief state school officer or a  
3 designee.

4 (9) The board shall submit to the Kentucky Department of Education:

5 (a) A copy of each signed contract and purchase order;

6 (b) Each contractor's insurance certificate required by law and by contract to hold the board safe  
7 from loss until the project is completed or an occupancy permit is received by the board; and

8 (c) A copy of each 100 percent performance and payment bond in compliance with KRS  
9 45A.435.

10 Section 9. Contract Change Orders. (1) Board-approved changes in the contract scope of work  
11 shall be submitted using industry standard forms, including the KDE Change Order  
12 Supplemental Information Form to ensure the cumulative cost of the contract and all change  
13 orders are within the approved budget.

14 (2) Board-approved change orders under \$25,000 per change event and within the construction  
15 contingency amount shall be submitted to the Kentucky Department of Education.

16 (3) Board-approved change orders which equal or exceed \$25,000 per change event and within  
17 the construction contingency amount shall be submitted, prior to execution, to the Kentucky  
18 Department of Education for review and approval.

19 (4) The Kentucky Department of Education may approve a change order only if the change order  
20 amount is less than the available construction contingency amount on the BG-1 Form and is in  
21 accordance with Sections 9 (1) and (3) of this administrative regulation.

22 Section 10. Construction Contract Retainage and Payments. (1)(a) Retainage is governed by  
23 KRS 371.410(1); and

1 (b) Payments are governed by KRS 371.405(7).

2 (2) The investment earnings resulting from an agreement entered into by a board involving the  
3 construction account, including the construction contract retainage for an approved project, shall  
4 be invested in a manner that additional income from the investment shall accrue only to the  
5 construction account.

6 Section 11. Construction Dispute Resolution. (1) Owners shall utilize the construction dispute  
7 resolution processes defined in the signed contracts and amendments for the project.

8 Section 12. Construction Contract Closeout Process. (1) The applicable design professional, CM,  
9 or qualified provider shall furnish the board a completed BG-4 Contract Closeout Form and  
10 record documents, with applicable information requesting approval of:

11 (a) each contract, including change orders; and

12 (b) a reconciliation of the summary of all purchase orders, if utilized, including change orders,  
13 for each contract.

14 (2) If the board agrees the construction contract is complete and all accounts are reconciled, it  
15 shall approve the BG-4 Form and forward it to the Kentucky Department of Education for  
16 review and approval.

17 (3) When all construction contracts are complete, if the board agrees the project is complete, it  
18 shall approve the BG-5 Project Closeout Form and forward it to the Kentucky Department of  
19 Education for review and approval.

20 Section 13. Penalties for Malfeasance or Nonfeasance. (1) A determination by the board or the  
21 Kentucky Department of Education of malfeasance or nonfeasance shall be forwarded to the  
22 chief state school officer.

1 (2) The chief state school officer may make a recommendation to the KBE to determine that the  
2 offending firm is ineligible to provide professional services on school construction projects for a  
3 period not to exceed five (5) years.

4 (3) The KBE may prescribe alternative penalties.

5 (4) If the principals of the offending firm become associated with another firm during the penalty  
6 period, upon recommendation by the chief state school officer, the KBE may determine that the  
7 penalty invoked shall also apply to that firm.

8 Section 14. Incorporation By Reference. (1) The following material is incorporated by reference:

9 (a) BG-1 Form, Project Application Form, 2012;

10 (b) BG-2 Form, 2012, Outline Specifications and Energy Design Criteria;

11 (c) BG-3 Form, 2012, Statement of Probable Construction Cost;

12 (d) BG-4 Form, 2012, ~~Contract Project~~ Closeout Form;

13 (e) BG-5 Form, 2012, Project Closeout Form;

14 (f) KDE Architect/Engineer ~~Maximum~~ Fee Guidelines for Basic Services, 2012;

15 (g) KDE Change Order Supplemental Information Form, 2012;

16 (h) KDE Construction Manager ~~Maximum~~ Fee Guidelines for Basic Services, 2012;

17 (i) KDE Form of Proposal, 2012;

18 ~~(i) KDE Material Supplier Authorization, 2012;~~

19 (j) KDE Non-Collusion Affidavit, 2012;

20 (k) KDE Purchase Order, 2012;

21 (l) KDE Purchase Order Summary Form, 2012;

22 (m) Request for Proposals for Architectural/Engineering Services Template, 2012;

23 (n) Request for Proposals for Construction Management Services Template, 2012; and

- 1 (o) Request for Proposals for Guaranteed Energy Savings Contracts Template, 2012.
- 2 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
- 3 the Kentucky Department of Education, 500 Mero Street, Frankfort, Kentucky 40601, Monday
- 4 through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

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(Date)

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Terry Holliday  
Commissioner of Education

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(Date)

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David Karem, Chairperson  
Kentucky Board of Education

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held on January 23, 2013, at 10:00 a.m. eastern time in the State Board Room, 1<sup>st</sup> Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 30, 2013. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin C. Brown, General Counsel, Office of Guiding Support Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502/564-4474, fax 502/564-9321.



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 702 KAR 4:160

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards that school districts shall meet in operational performance, including construction of public school buildings and the use of uniform forms.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 156.070, 156.160, 162.060, 162.065, 322.360 and 323.033 that set forth the Kentucky Board of Education's responsibility to establish standards that districts shall meet in operational performance and execution of school construction.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specifics for the school construction process required in KRS 156.070, 156.160, 162.060, 162.065, 322.360 and 323.033.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specifics for the school construction process required in KRS 156.070, 156.160, 162.060, 162.065, 322.360 and 323.033.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides an update to streamline the school construction process by aligning KDE's business processes with the current construction environment and by revamping KDE's role of guidance and oversight. The School Facilities Work Group Report, issued on August 5, 2011, documented

recommendations for improving the school construction process. The KDE construction forms were revised in conjunction with the regulation revision.

In addition to improving the overall construction process, KDE included a section in the regulation for the Guaranteed Energy Savings Contract delivery method. Local board oversight activities were identified along with required submissions for KDE to provide oversight.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish standards that districts shall meet in operational performance and execution of school construction and align standards and incorporate recommendations from the School Facilities Work Group.

(c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statutes by establishing standards that districts shall meet in operational performance and execution of school construction.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides specifics for the school construction process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All school districts in Kentucky and supporting staff in the Kentucky Department of Education, design consultants, and contractors.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The proposed amendment will provide a comprehensive set of uniform construction documents for use by school districts, design consultants, and contractors.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts, design consultants, and contractors will abide by the standards and requirements set forth.

Kentucky Department of Education staff will continue to review all construction projects for compliance with the amendments to this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky school districts will have the guidance establishing standards that districts shall meet in operational performance and execution of school construction. Department of Education staff will have updated regulations that support and incorporate the standards and recommendations from the School Facilities Work Group.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The proposed amendment does not result in additional costs.

(b) On a continuing basis: The proposed amendment does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 4:160  
Contact Person: Kevin C. Brown  
Phone number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All school districts and the Kentucky Department of Education are impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation provides specifics for the school construction process required in KRS 156.070, 156.160, 162.060, 162.065, 322.360 and 323.033.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation does not directly affect expenditures or revenues.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated with this administrative regulation in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated with this administrative regulation in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation amendment does not result in additional costs in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation amendment does not result in additional costs in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation amendment does not have a fiscal impact.

Revenues (+/-): not applicable  
Expenditures (+/-): not applicable  
Other Explanation: not applicable

## Summary Page - Incorporation by Reference

702 KAR 4:160. Capital construction process.

(1) The following documents are incorporated by reference:

- (a) BG-1 Form, Project Application Form, 2012;
  - (b) BG-2 Form, 2012, Outline Specifications and Energy Design Criteria;
  - (c) BG-3 Form, 2012, Statement of Probable Construction Cost;
  - (d) BG-4 Form, 2012, Contract Closeout Form;
  - (e) BG-5 Form, 2012, Project Closeout Form;
  - (f) KDE Architect/Engineer Fee Guidelines for Basic Services, 2012;
  - (g) KDE Change Order Supplemental Information Form, 2012;
  - (h) KDE Construction Manager Fee Guidelines for Basic Services, 2012;
  - (i) KDE Form of Proposal, 2012;
  - (j) KDE Non-Collusion Affidavit, 2012;
  - (k) KDE Purchase Order, 2012;
  - (l) KDE Purchase Order Summary Form, 2012;
  - (m) Request for Proposals for Architectural/Engineering Services Template, 2012;
  - (n) Request for Proposals for Construction Management Services Template, 2012; and
  - (o) Request for Proposals for Guaranteed Energy Savings Contracts Template, 2012.
- (2) These documents are forms to assist school districts with procedures and criteria for the construction of public school buildings.

1 ~~[RELATES TO: KRS 156.160(1)(f) and (m), 157.420(4), 162.060, 162.065, 162.070,~~  
2 ~~160.160, 322.360(1)]~~

3 ~~—STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.420, 162.060, 162.065~~

4 ~~—NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky~~  
5 ~~Board of Education (KBE) to promulgate administrative regulations establishing standards that~~  
6 ~~school districts shall meet in operational performance, including construction of public school~~  
7 ~~buildings and the use of uniform forms. KRS 157.420 requires each school district's capital~~  
8 ~~outlay to be utilized in accordance with the district's facility plan. KRS 162.060 requires~~  
9 ~~approval of all school building plans and specifications by the chief state school officer. KRS~~  
10 ~~162.065 requires the KBE to prescribe administrative regulations governing construction~~  
11 ~~managers. KRS 162.070 requires school construction contracts to be awarded to the lowest and~~  
12 ~~best responsible bidder. KRS 322.360 requires a school district, when engaged in the~~  
13 ~~construction of any public work involving engineering, to utilize an architect or engineer to~~  
14 ~~directly supervise the preparation of plans and specifications, estimates, and the execution of~~  
15 ~~construction. KRS 323.033 requires the services of an architect for new buildings and additions~~  
16 ~~or alterations to existing buildings classified as educational use group, including the~~  
17 ~~administration of construction contracts. This administrative regulation establishes the~~  
18 ~~procedures and criteria for the construction of public school buildings.~~

19 ~~—Section 1. Definitions. (1) "AIA" means the American Institute of Architects.~~

20 ~~—(2) "Architect" means any design professional licensed in the Commonwealth of Kentucky~~  
21 ~~under KRS Chapter 322, 323, or 323A, which includes architects, engineers, and landscape~~  
22 ~~architects.~~

23 ~~—(3) "Board" means the local board of education.~~

~~—(4) "Construction manager" or "CM" means a qualified and experienced contracting organization which provides the services of construction management and possesses a general trades workforce, staff and equipment, financial base, insurance coverage, bonding capability, a minimum of three (3) years' construction management experience on projects of \$2,000,000 or more, and the ability to provide the services required.~~

~~—(5) "Contract documents" means the owner contractor agreement, conditions of the contract (general, supplementary, and other conditions), purchase orders, drawings, specifications, addenda issued prior to execution of the owner contractor agreement, other documents listed in the owner contractor agreement, and modifications issued after the execution of the agreement.~~

~~—(6) "Division" means the Division of Facilities Management, Kentucky Department of Education (KDE).~~

~~—(7) "Emergency" means the loss of use of physical facilities resulting from an unforeseen occurrence which requires prompt action.~~

~~—(8) "Fixed equipment" means furnishings or equipment that:~~

~~—(a) Are secured to the wall, floor, or ceiling to operate or function in the manner intended by the product manufacturer; and~~

~~—(b) May include bleachers, student lockers, casework with sinks, or plumbing fixtures.~~

~~—(9) "KERA" means Kentucky Education Reform Act.~~

~~—(10) "Moveable equipment" means any furnishings or equipment not considered fixed equipment.~~

~~—(11) "Owner" means the local board of education or financing corporation established for the purpose of financing school construction.~~



~~—(12) "Record drawings" means a set of reproducible drawings revised to indicate significant changes in the work during construction, including addenda, change orders, and construction change directives.~~

~~—(13) "Superintendent" means the superintendent of the local school district or the employee the superintendent has selected to represent the board regarding construction issues.~~

~~—Section 2. Construction Project Application. (1) The board shall submit an application on Form BG-1, Project Application Form, to the division for approval of a proposed construction project.~~

~~—(2) An application shall be submitted for any project that is:~~

~~—(a) Funded by Support Education Excellence in Kentucky (SEEK) capital outlay, Facility Support Program of Kentucky (FSPK) funds as provided by KRS 157.620, School Facilities Construction Commission (SFCC) funds, or building funds as provided by KRS 160.476; or~~

~~—(b) Proposing construction of a new building, addition, or alteration of an existing building that requires design by an architect for a building or building system.~~

~~—(3) To initiate a project listed in its facility plan or a minor project permitted in subsection (8) of this section, a vote by the board approving the project shall be required.~~

~~—(4)(a) If SFCC funds are included in the financing plan, projects shall be selected in prioritized order.~~

~~—(b) If SFCC funding is not included in the financing plan, the board may select a project on its facility plan without regard to priority number.~~

~~—(5) The Form BG-1 shall be accompanied by:~~

~~—(a) A copy of the board's action, either by official board minutes or an unofficial excerpt signed by the board secretary verifying authenticity, approving the application; and~~

~~—(b) A narrative justification of the construction project selection, including its priority over other projects relative to district goals and maximization of funding and benefits to students.~~

~~—(6) Within sixty (60) days of receiving the completed application documents, the Form BG-1 shall be approved by the division, if justified pursuant to the following criteria:~~

~~—(a) The proposed project is on the facility plan or conforms to the minor project criteria established in subsection (8) of this section;~~

~~—(b) The SFCC funding does not exceed the SFCC maximum budget established for the project;~~

~~—(c) The application has original signatures;~~

~~—(d) A board order was issued; and~~

~~—(e) The narrative justification was submitted as required by subsection (5)(b) of this section.~~

~~—(7) The Division of District Operations, KDE, may give tentative approval based on a review of the board's ability to support the financing plan for the proposed construction budget.~~

~~—(8) The board may submit a Form BG-1 for minor projects not listed in the facility plan if the project meets the following criteria:~~

~~—(a) Expansion of a permanent center or functional center to include a maximum of four (4) classrooms if documentation to support the request is provided for either student population growth or curriculum changes;~~

~~—(b) Campus enlargement, minor renovation of buildings and building systems, or construction of an additional support space at permanent or functional centers if its need can be documented and justified; or~~

~~—(c) Projects to comply with statutes and administrative regulations of other agencies having jurisdiction.~~

~~—(9) If action is not taken by the board within one (1) year from the date of Form BG-1 approval, the approval shall no longer be effective.~~

~~—(10) If the division considers the architect, CM, or board to be nonresponsive or causing undue delays in the design schedule, it may request the chief state school officer to revoke the Form BG-1 approval.~~

~~—(11) If an emergency requiring the submission of a Form BG-1 occurs:~~

~~—(a) The emergency shall be declared in accordance with KRS 424.260 or 45A.380, whichever is applicable; and~~

~~—(b) The board shall:~~

~~—1. Notify the division and request approval to proceed with the plans and corrective action;~~

~~—2. Submit to the division:~~

~~—a. Form BG-1;~~

~~—b. Copy of the board order declaring the emergency; and~~

~~—c. Copy of the written determination as required by KRS 45A.380 for those districts that have adopted the Model Procurement Code.~~

~~—Section 3. Local Board Oversight Responsibilities. (1) Construction files and records shall be maintained by the superintendent in the central office and organized and accessible for review. Construction files and records shall include:~~

~~—(a) Board actions;~~

~~—(b) Proposals (bids);~~

~~—(c) Contracts, contract documents and record drawings;~~

~~—(d) Correspondence; and~~

~~—(e) Financial documents.~~

~~—(2) During the design phases of a new school building project, the maximum gross area shall be limited using the Model Program Space established in 702 KAR 4:180, to:~~

~~—(a) For an elementary school, 110 percent of the Total Gross Area of the Model Program Space; or~~

~~—(b) For a middle or high school, 115 percent of the Total Gross Area of the Model Program Space.~~

~~—(3) If the architect or the CM determines additional funding is justified or a reduction of physical scope of the project is needed, the local board may approve the action if it believes it is justified and forward it to the division.~~

~~—(4) During the planning and bidding phase of the construction project, the board shall:~~

~~—(a) Review bidding documents for compliance with statutes and administrative regulations, with particular attention to sales and use tax exemption when purchasing materials direct;~~

~~—(b) Comply with all submission requirements resulting from the review of bidding documents by the division;~~

~~—(c) Not advertise before receipt of written approval from the division;~~

~~—(d) Advertise in the newspaper having the largest circulation in the school district the following number of days prior to the date established to receive bids:~~

~~1. \$1,000,000 or less project, a minimum of seven (7) days and a maximum of twenty one (21) days; or~~

~~2. A project in excess of \$1,000,000, a minimum of twenty one (21) days;~~

~~—(e) Hold the bid opening:~~

~~1. In a location accessible to the public;~~

~~2. Between 10 a.m. and 3 p.m. (local time); and~~

~~—3. Monday through Friday, excluding holidays;~~

~~—(f) Accept the architect's and CM's evaluation of the bids and approve or reject their recommendations, giving consideration during the review process to businesses owned by minorities and women;~~

~~—(g) Ensure the CM completes the KDE Non-Collusion Affidavit;~~

~~—(h) Hold possession of original bidding documents;~~

~~—(i) Approve and submit the successful bidders' documents to the division for review and approval of each proposed contract and the financial plan; and~~

~~—(j) Have in its possession prior to executing the construction contract:~~

~~—1. Contractor's performance and payment bond;~~

~~—2. Certificate of required insurance;~~

~~—3. Property insurance policy;~~

~~—4. Written approval from the division; and~~

~~—5. Bids accepted for the bond sale, if applicable.~~

~~—(5) During the construction administration of the project, the board shall:~~

~~—(a) Name the superintendent or his or her representative, known as the owner's representative, to speak on behalf of the board as owner in the contract documents and set the parameters of that responsibility;~~

~~—(b) Seek the superintendent's recommendation relative to proposed board actions;~~

~~—(c) Approve all expenditures from the construction account;~~

~~—(d) Seek SFCC approval of expenditures as applicable;~~

~~—(e) At least once per month receive and review written on-site observation and progress reports provided by the architect;~~

- ~~—(f) Review the need for changes to the contract;~~
- ~~—(g) Assign partial or full responsibility to the proper party if additional costs are due to an oversight or omission;~~
- ~~—(h) Monitor the administration of the project by its architect and CM to ensure no prepayment is made for their services;~~
- ~~—(i) After notifying the division, hire a professional services firm experienced in architectural, engineering, accounting, or construction management services to provide an audit of the construction project if the board suspects nonfeasance or malfeasance;~~
- ~~—(j) Secure all required inspections and close out documents for submittal to the appropriate agencies;~~
- ~~—(k) Receive a certificate of occupancy from the Department of Housing, Buildings, and Construction or local building code authority having expanded jurisdiction prior to occupying the facility;~~
- ~~—(l) Retain a minimum five (5) percent retainage of the construction contract until substantial completion of the work as defined in AIA Document A201-2007, General Conditions of the Contract for Construction, and the KDE Amendment to AIA A201-2007;~~
- ~~—(m) Require the superintendent or the owner's representative to participate in the year-end inspection and report results of the inspection to the board;~~
- ~~—(n) Contact the contractor's bonding company each month if the contractor is more than two (2) weeks behind schedule or is not performing in accordance with the contract; and~~
- ~~—(o) Not hire additional architectural services outside the architect's contract without approval from the division.~~

1 ~~—(6) If federal funds or federal agencies are involved, the board may request approval from the~~  
2 ~~chief state school officer to waive or condense procedures to expedite the construction design~~  
3 ~~process.~~

4 ~~—(7) If a lien is filed with a court and the board is given notice of the lien, the board shall stop~~  
5 ~~partial payments on the contract in the amount of the lien and contact the division. Payments~~  
6 ~~shall begin after:~~

7 ~~—(a) The lien has been released;~~

8 ~~—(b) The division has approved a payment schedule which provides for retaining the lien~~  
9 ~~amount being contested; or~~

10 ~~—(c) The division has approved a payment schedule after a surety bond has been provided to~~  
11 ~~pay the lien.~~

12 ~~—Section 4. Architectural Services. (1)(a) The board and architect shall negotiate a contract for~~  
13 ~~services required.~~

14 ~~—(b) The board shall either advertise for architectural services or select a minimum of three (3)~~  
15 ~~architectural firms that shall be evaluated through the request for proposal (RFP) process, giving~~  
16 ~~consideration during the review process to businesses owned by minorities and women.~~

17 ~~—(c) Advertisement or RFP evaluation of three (3) firms shall not be required if:~~

18 ~~—1. The total construction cost of the project is estimated at less than \$1,000,000;~~

19 ~~—2. The project is the continuation of phased construction at the same site.~~

20 ~~—(2) The architectural services shall be negotiated using the following documents:~~

21 ~~—(a) Request for Proposals for Architectural/Engineering Services; if utilized;~~

22 ~~—(b)1. AIA Document B101-2007, Standard Form of Agreement Between Owner and~~  
23 ~~Architect, with the KDE Amendment to AIA B101-2007; or~~

~~2. AIA B141/Cma, Standard Form of Agreement Between Owner and Architect,  
Construction Manager Adviser Edition, with the KDE Amendment to AIA B141/Cma 1992;  
(c) KDE Non Collusion Affidavit; and  
(d) Architect/Engineer Fee Guidelines as a percentage of the cost of construction, or a lump  
sum fee.  
(3) A letter of agreement stating services, terms, and conditions that have been approved by  
the board shall be acceptable in lieu of the AIA B101 2007 for projects with an estimated  
construction cost of less than \$50,000.  
(4) The division shall review and approve the proposed architect's contract based on the  
following criteria:  
(a) Copy of the board action approving the terms of the proposed contract;  
(b) Scope and fee conforms to Form BG-1; and  
(c) Submittal of required forms.  
(5) The division shall advise the board of:  
(a) Apparent deficiencies in completion of the contract;  
(b) Discrepancies related to the scope of work and anticipated cost approved on the Form  
BG-1;  
(c) Compliance of fee to fee schedule; and  
(d) Concerns regarding modifications to the contract.  
(6) The architect shall:  
(a) Provide on site visitation and shall report on the construction project to the board;~~



1 ~~—(b) Certify, to the best of his ability, professional judgment, and with due diligence, that all~~  
2 ~~phases of the project have been completed in conformance with the approved plans and~~  
3 ~~specifications and any authorized changes by signing the BG-4 Project Closeout Form;~~

4 ~~—(c) Provide professional liability insurance in the following minimum amounts:~~

5 ~~—1. If the project is \$1,000,000 or less, \$500,000 per claim and \$1,000,000 aggregate per~~  
6 ~~annum; or~~

7 ~~—2. If the project exceeds \$1,000,000, per claim and \$2,000,000 aggregate per annum;~~

8 ~~—(d) Require his consultants to retain professional liability insurance in the minimum amount~~  
9 ~~of \$250,000 aggregate, except structural design and mechanical-electrical-plumbing consultants~~  
10 ~~shall carry a minimum amount of \$1,000,000 aggregate for projects \$1,000,000 or less, and~~  
11 ~~\$2,000,000 aggregate for projects exceeding \$1,000,000;~~

12 ~~—(e) Provide copies of certificates of insurance to the division;~~

13 ~~—(f) Assist in preparing the bid advertisement for the board;~~

14 ~~—(g) List projects estimated in excess of \$1,000,000 with a minimum of two (2) Kentucky~~  
15 ~~construction reporting services;~~

16 ~~—(h) Submit to the board a written report that includes a status of the project, dates and times~~  
17 ~~architect was on site, conditions of the job, problems, delays, and concerns at least monthly after~~  
18 ~~construction begins;~~

19 ~~—(i) Request payment of construction administration phase fee at the same proportionate~~  
20 ~~percentage as the construction's completion;~~

21 ~~—(j) Request approval by the owner's representative for any reimbursement or additional~~  
22 ~~service prior to the service being rendered or expenditure being made;~~

~~—(k) If requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;~~

~~—(l) Request additional payment for construction time or services extending beyond the scheduled completion date, if the additional costs were incurred through no fault of the architectural firm and are documented due to the delay of the contractor, subcontractors, material suppliers, or vendors;~~

~~—(m) Utilize his consultants listed on the contract form for design, construction administration and observation of the work;~~

~~—(n) Pay his consultants the same percentage proportion of their fee as he has received from the board;~~

~~—(o) Pay his consultants eighty (80) percent of the architect's fee based on the construction cost of the consultant's work. If the architect's fee is a lump sum, the consultant shall receive the same proportionate amount;~~

~~—(p) If a joint venture, list on the contract form the prime architectural firm accountable to the board and provide the board with a copy of the joint venture contract indicating each party's responsibilities and fees; and~~

~~—(q) Provide independent contract administration over construction contracts awarded to the project's CM.~~

~~—(7) The board shall provide oversight of the architectural services in the following manner:~~

~~—(a) The architect's proposed contract shall be reviewed by the board's attorney for compliance with the law; and~~

~~—(b) The board shall submit to the division for approval:~~

~~—1. The proposed architect contract;~~

~~2. A copy of the board order approving the contract;~~

~~3. A narrative of the selection and evaluation process;~~

~~4. A copy of each certificate of required liability insurance; and~~

~~5. A copy of each KDE Non-Collusion Affidavit.~~

~~Section 5. Construction Management Services. (1) A CM shall not be employed on any project estimated at less than \$2,000,000 or without the approval of the division if the number of work categories negate the need for full-time, on-site supervision for projects in excess of \$2,000,000. The division may approve exceptions as follows:~~

~~(a) If the project is a phase of a phased project and the CM is to be employed on all subsequent phases; or~~

~~(b) If the project's complexity or fiscal soundness requires it.~~

~~(2) In hiring a CM, the board shall either advertise for CM services or select a minimum of three (3) construction management firms that shall be evaluated through the RFP process. Advertisement or RFP evaluation of three (3) firms shall not be required if the project is the continuation of phased construction at the same site.~~

~~(3) The board shall negotiate a contract using the following:~~

~~(a) Request for Proposals for Construction Management Services, if utilized;~~

~~(b) AIA Document B801/Cma Standard Form of Agreement Between Owner and Construction Manager, and the KDE Amendment to AIA B801/Cma 1992; or~~

~~(c) KDE Construction Manager Fee Guidelines;~~

~~(d) KDE Non-Collusion Affidavit;~~

~~(e) Projected number of months construction;~~

~~(f) On-site services fee per month; and~~

~~—(g) Fee scale for additional construction cost and months.~~

~~—(4) The number of months in the CM contract for the construction phase shall not be altered unless:~~

~~—(a) There is a change in the scope of the work; and~~

~~—(b) The owner, architect, and CM agree to the revised number of months during the evaluation of construction bids.~~

~~—(5) The preconstruction phase payment shall be a maximum of ten (10) percent of the total proposed fee.~~

~~—(6) The CM shall:~~

~~—(a) Provide a 100 percent performance and payment bond prior to the construction contracts being executed by the board in the amount of the CM fee from an insurance firm authorized to do business in Kentucky and listed in and written within the terms and limits established in 31 C.F.R. 223;~~

~~—(b) Provide professional liability insurance in the following minimum amounts:~~

~~—1. Projects of \$10,000,000 or less, insurance in the amount of \$500,000; or~~

~~—2. For projects in excess of \$10,000,000, insurance in the amount of \$1,000,000;~~

~~—(c) Develop bid packaging to ensure at least five (5) known potential bidders are notified on each bid package;~~

~~—(d) Not transport any bidder's proposal to the bid opening;~~

~~—(e) Complete a KDE Non-Collusion Affidavit relative to both the superintendent and local board members and the apparent low bidders;~~

~~—(f) Request approval by the owner's representative for any reimbursement or additional service fee prior to the service being rendered or expenditure being made;~~

~~—(g) If requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;~~

~~—(h) Request additional payment for construction time or services extending beyond the scheduled completion date, by the additional costs were incurred through no fault of the construction management firm and are documented due to the delay of a contractor, material supplier, or vendor; and~~

~~—(i) Request payment of the construction phase fee at the same proportionate percentage as the construction's completion.~~

~~—(7) The board shall provide oversight of the CM services by:~~

~~—(a) Retaining an attorney to:~~

~~—1. Review the contract as negotiated to ensure compliance with the law;~~

~~—2. Request modifications to the contract as needed; and~~

~~—3. Sign the contract form attesting to review;~~

~~—(b) Taking action approving the contract terms and conditions; and~~

~~—(c) Forwarding to the division for review and approval:~~

~~—1. A copy of proposed contract;~~

~~—2. The board order;~~

~~—3. A narrative of the selection and evaluation process;~~

~~—4. The certificate of required liability insurance; and~~

~~—5. The KDE Non-Collusion Affidavit.~~

~~—(8) The CM contract shall be reviewed and approved by the division based on the following criteria:~~

~~—(a) A copy of board order of approval;~~

~~—(b) The fee is based on a lump sum amount or fee guideline established in the document titled Construction Manager Fee Guidelines;~~

~~—(c) Any modifications to the contract comply with applicable laws; and~~

~~—(d) Submission of required forms is made in a timely fashion.~~

~~Section 6. Plans and Specifications. (1) After approval of the Form BG-1 application by the division, the division shall provide a procedural checklist to the board that indicates required submissions for the project.~~

~~—(a) The architect shall prepare schematic plans of the proposed construction from written educational program specifications supplied by the board.~~

~~—(b) The schematic plans and a copy of the educational program specifications, approved by board action with a copy of the minutes, shall be submitted by the board to the division for review and approval.~~

~~—(c) The division shall review and approve the schematic plan submittal based on:~~

~~—1. Site plan: proper siting of the building footprint provides appropriate access, vehicular and pedestrian circulation, separation of bus loading area from other vehicular traffic, parking, service, play and athletic areas, utility connections and drainage;~~

~~—2. Floor plan: number, type, and size of the planned spaces, including support spaces, agree with the programmed spaces listed on the Form BG-1, the educational specifications, and are in compliance with 702 KAR 4:180 and 702 KAR 4:170;~~

~~—3. Functional aspects: review of the distribution of functions, or program space and the appropriateness for the needs of the facility;~~

~~—4. Compliance with the Model Program Space requirements established in 702 KAR 4:180, with the maximum gross area of:~~

~~— a. An elementary school limited to 110 percent of the Total Gross Area of the Model Program Space; or~~

~~— b. A middle or high school limited to 115 percent of the Total Gross Area of the Model Program Space;~~

~~— 5. Building efficiency: review of the percent of net program area to gross building area to meet or exceed the guidelines of 702 KAR 4:180; and~~

~~— 6. Budget: review of the estimated construction cost (gross area multiplied by the cost per square foot, plus site development costs) in relation to the Form BG-1 Total Construction Cost.~~

~~If the estimated construction cost exceeds the Form BG-1 Total Construction Cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board.~~

~~— (2) After written approval of the schematic plans is received from the division, the architect shall prepare the design development plans.~~

~~— (a) The board shall submit to the division for review and approval:~~

~~— 1. Design development plans;~~

~~— 2. Board order approving plans;~~

~~— 3. BG-2, Outline Specification; and~~

~~— 4. BG-3, Statement of Probably Cost.~~

~~— (b) The division shall review and approve design development plans submittals based on:~~

~~— 1. Site plan: proper siting of the building with respect to vehicular and pedestrian circulation, separation of bus loading area, student play areas, athletic fields, utility construction and site drainage, with details appropriately developed;~~

~~— 2. Floor plan: number, type, and size of the planned spaces consistent with the schematic plan;~~

- ~~—3. Enlarged plans and details: appropriate to describe the design intention;~~
- ~~—4. Compliance with the Model Program Space requirements established in 702 KAR 4:180, with the maximum gross area of:~~
- ~~—a. An elementary school limited to 110 percent of the Total Gross Area of the Model Program Space; or~~
- ~~—b. A middle or high school limited to 115 percent of the Total Gross Area of the Model Program Space;~~
- ~~—5. Building efficiency: the percent of net program area to gross building area meets or exceeds the guidelines of 702 KAR 4:180;~~
- ~~—6. Budget: the Grand Total Cost on the Statement of Probable Cost, Form BG-3, is within the approved Form BG-1 Total Estimated Cost budget. If the Grand Total Cost exceeds the BG-1 Total Estimated Cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board;~~
- ~~—7. Form BG-2, Outline Specifications form is properly completed and conforms to the educational program specifications; and~~
- ~~—8. Design development plans incorporate all previous schematic design review comments.~~
- ~~—(3) After written approval of design development plans is received from the division, the completed plans and specifications and project manual shall be prepared by the architect and, if applicable, CM, for bidding.~~
- ~~—(a) The board shall submit to the division for review and approval:~~
- ~~—1. Completed plans and specifications and project manual;~~
- ~~—2. Board order approving plans and specifications;~~
- ~~—3. Revised BG-3, Statement of Probably Cost; and~~



~~1 — 4. Proof of submission of completed plans to other agencies having jurisdiction.~~

~~2 — (b) The division shall review and approve the completed plans and specifications and project~~

~~3 manual submittals based on:~~

~~4 — 1. Compliance with 702 KAR 4:170, with special concern to reduce change orders during~~

~~5 construction;~~

~~6 — 2. Compliance with state law regarding the seal, signature, and date of the documents by~~

~~7 architects and engineers;~~

~~8 — 3. Documents are of sufficient detail and complexity that they may be used:~~

~~9 — a. To obtain a building permit;~~

~~10 — b. As instruments in the competitive bidding process; and~~

~~11 — c. By a general contractor to construct the project;~~

~~12 — 4. BG-3 Grand Total Cost does not exceed by ten (10) percent the approved Form BG-1~~

~~13 Total Estimated Cost budget;~~

~~14 — 5. Deed, certificate of title insurance to the property, deed of easements for all utilities, and~~

~~15 proof of road and utility access for the project are filed with the division;~~

~~16 — 6. Proposed floor elevation is a minimum of one (1) foot above the 100 year flood plain~~

~~17 elevation for new construction and no state funds are proposed for renovation below the 100 year~~

~~18 flood plain elevation;~~

~~19 — 7. Construction documents include the following forms to the extent applicable with KDE~~

~~20 amendments appropriate for general construction or construction management:~~

~~21 — a. AIA Document A201-2007, General Conditions of the Contract for Construction;~~

~~22 — b. KDE Amendment to AIA A201-2007;~~

~~—c. AIA Document A201/CMa, General Conditions of the Contract for Construction, 1992 Construction Manager Adviser Edition;~~

~~—d. KDE Amendment to AIA A201/CMa 1992;~~

~~—e. AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor;~~

~~—f. KDE Amendment to AIA A101-2007;~~

~~—g. AIA Document A101/CMa, Standard Form of Agreement Between Owner and Contractor, 1992 Construction Manager Adviser edition;~~

~~—h. KDE Amendment to AIA A101/CMa 1992;~~

~~—i. AIA Document A701-1997, Instructions to Bidders;~~

~~—j. KDE Amendment to AIA A701-1997;~~

~~—k. KDE Form of Proposal;~~

~~—l. AIA Document A310, Bid Bond;~~

~~—m. AIA Document A312, Performance Bond and Payment Bond;~~

~~—n. KDE Amendment to AIA A312-1984;~~

~~—o. AIA G702-1992, Application and Certification for Payment;~~

~~—p. AIA Document G702/CMa, Application and Certificate for Payment, 1992 Construction Manager Adviser edition;~~

~~—q. AIA Document G701-2000, Change Order;~~

~~—r. KDE Change Order Supplemental Information Form;~~

~~—s. AIA Document G701/CMa, Change Order, 1992 Construction Manager Adviser edition;~~

~~—t. AIA Document G704-2000, Certificate of Substantial Completion;~~

~~—u. AIA Document G704/CMa, Certificate of Substantial Completion, 1992 Construction Manager Adviser edition;~~

~~v. AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims;~~  
~~w. AIA Document G706A, Contractor's Affidavit of Release of Liens;~~  
~~x. AIA Document G707, Consent of Surety to Final Payment; and~~  
~~y. AIA Document G707A, Consent of Surety to Reduction in or Partial Release of Retainage;~~  
~~8. A 100 percent performance and payment bond shall be required for any contract in excess of \$25,000 and on all contracts using the CM process from an insurance firm authorized to do business in Kentucky. The insurance firm shall be listed in and the performance and payment bond shall be written within the terms and limits established by the United States Department of the Treasury, Financial Management Service, and available at <http://fms.treas.gov/e570/e570.htm>;~~  
~~9. A contractor shall carry all insurance required by law and by contract to hold the board safe from loss until the project is completed or an occupancy permit is received by the board. Unless otherwise provided in the bidding documents, the board shall purchase and maintain property insurance written on a builder's risk "all-risk" or equivalent policy in the amount of the initial Total Construction Cost, plus value of subsequent contract modifications and the cost of materials supplied and installed by others, comprising total value for the entire project at the site on a replacement cost basis without optional deductibles; and~~  
~~10. Notification of other state and local agencies having jurisdiction, including:~~  
~~a. Department of Housing, Buildings and Construction;~~  
~~b. Division of Building Codes Enforcement;~~  
~~c. Division of Plumbing;~~  
~~d. Division of Water;~~  
~~e. Division of Air Quality;~~

~~—f. Local health department; and~~

~~—g. Local building inspector.~~

~~—(4) The board shall receive written approval of the construction bidding documents and authorization to bid from the division prior to advertisement for bids.~~

~~—(5) Performance specification procedures may be used by the board for proposed capital construction projects. The proposed performance specifications as prepared by the board shall be approved in writing by the division prior to advertisement for bids.~~

~~—(6) Leases, lease purchases, or leases with an option to purchase by a board for fixed equipment, capital construction, or alterations to existing buildings and building systems shall require the submittal of plans and specifications and lease documents to the division for review and approval.~~

~~—Section 7. Construction Bidding, Bond Sale, and Contracting. (1) A minimum of ten (10) working days prior to the scheduled bond sale date, the board shall submit to KDE for review and approval:~~

~~—(a) To the division:~~

~~—1. Each bid tabulation;~~

~~—2. Bid security;~~

~~—3. The proposal form for each successful bidder;~~

~~—4. Each proposed contract or purchase order (unsigned);~~

~~—5. The revised financial form (Form BG-1, page 3) to coincide with the proposed construction costs; and~~

~~—6. The architect's written recommendation regarding the awarding of the contract; and~~

~~—(b) To the Division of District Operations, KDE:~~

~~1. Preliminary official statement;~~

~~2. Notice of bond sale;~~

~~3. Official terms and conditions; and~~

~~4. Plans of financing.~~

~~(2) If the submitted documents are not in an approvable form at least five (5) working days before the scheduled bond sale, the sale date shall be postponed.~~

~~(3) The board shall contract with a fiscal agent to assist in meeting all reporting, filing, and selling requirements for securing the financial approval of KDE when school revenue bonds are proposed for sale.~~

~~(4)(a) Bids for school revenue bond sales shall be received in Frankfort, Kentucky, at:~~

~~1. Kentucky Department of Education, Office of District Support Services, 15th Floor, Capital Plaza Tower; or~~

~~2. SFCC, 229 W. Main St., Suite 102, Frankfort, Kentucky 40601, if SFCC funds are involved.~~

~~(b) A KDE or SFCC staff member shall be present to receive the bids.~~

~~(c) Bids shall be delivered by mail, in person, by telephone, electronically or by facsimile (fax) machine. If the apparent winning bid is telephoned, the bid shall be reaffirmed by fax within thirty (30) minutes after the bid opening.~~

~~(5) The division shall approve a proposed construction contract based on:~~

~~(a) Submission of tabulation of bids, form of proposal, bid security and proposed contract;~~

~~(b) The board order indicating that the low bid was accepted or written justification if other than the low bid is proposed;~~

~~(c) The proposed construction contract is within approved budget; and~~

~~—(d) The form of proposal is completed in accordance with the instructions to bidders.~~

~~—(6)(a) Any discrepancies between the proposed contract and bidding documents shall be remedied prior to approval.~~

~~—(b) The board's desire to waive irregularities and informalities as to a bid shall be reviewed and final judgment made by the division prior to approval of the contract and financing plan.~~

~~—(c) Approval of the proposed contract by the division shall not indicate the contract is the best or the most reasonable.~~

~~—(7) The Division of District Operations, KDE, shall issue the final approval for the financing plan, authorize the bond sale, and prepare the approval letter for the chief state school officer or his or her designee.~~

~~—(8) A negotiation of the bid price shall not be allowed, except in accordance with KRS 45A.375 for those districts under the Model Procurement Code.~~

~~—(9) Construction account expenditures that are subject to bidding shall be approved by the division, except for expenditures for moveable equipment.~~

~~—(10) The board shall submit to the division:~~

~~—(a) A copy of each executed contract and purchase order;~~

~~—(b) Each insurance certificate and a copy of the property insurance policy; and~~

~~—(c) A copy of each 100 percent performance and payment bond.~~

~~Section 8. Contract Change Orders. (1)(a) All change orders shall be submitted to the division, and shall be accompanied with the following:~~

~~—1. Copy of local board action approving the change order;~~

~~—2. Properly completed KDE Change Order Supplemental Information Form; and~~

~~3. Cost breakdown which separates labor, material, profit and overhead. If unit prices are utilized, this cost breakdown shall not be necessary.~~

~~(b) Changes in the contract which do not substantially alter the nature of the contract, or may be regarded as incidental to or which relate to an integral part of the original contract and specifications, may be approved by the division.~~

~~(c) A copy of any change order using the forms AIA Document G701 2000 or AIA Document G701/CMA issued in connection with the project shall be signed by the appropriate parties as a recommendation and shall be subject to approval by the board.~~

~~(2) Any additive or deductive change order proposal in excess of \$7,500 shall be subject to approval by the division prior to execution.~~

~~(3) Approval of proposed change orders over \$7,500 shall be based upon:~~

~~(a) Completed supplemental information form, board order, and cost breakdown;~~

~~(b) Cost calculated according to contract unit prices or alternative method with documentation provided to support cost;~~

~~(c) The change order scope and cost are considered within the norm based upon the information submitted; and~~

~~(d) Cumulative cost of contract and all change orders are within the approved budget.~~

~~(4) The division approval shall not indicate the change order cost is the best cost or the requested change order is the most appropriate action.~~

~~Section 9. Construction Contract Retainage. (1)(a) The board shall retain ten (10) percent from each application for payment up to fifty (50) percent completion of the work. If the work is on schedule and satisfactory, and upon written request of the contractor together with written~~

1 consent of surety and the recommendation of the architect, the board shall approve a reduction in  
2 retainage to five (5) percent of the current contract sum.

3 —(b) No part of the five (5) percent retainage shall be paid until after substantial completion of  
4 the work, as defined in AIA A201-2007, General Conditions of the Contract for Construction,  
5 and the KDE Amendment to AIA A201-2007.

6 —(c) After substantial completion of the work, if reasons for reduction of the retainage are  
7 certified in writing by the architect, a reduction to a lump sum amount less than the five (5)  
8 percent retainage shall be approved by the board. The minimum lump sum retainage shall be  
9 twice the estimated cost to correct the deficient or incomplete work.

10 —(2) The investment earnings resulting from any agreement entered into by a board involving  
11 the construction account, including the construction contract retainage for an approved project,  
12 shall be invested in such a manner that any additional income from the investment shall accrue  
13 only to the board.

14 —Section 10. Construction Dispute Resolution. (1) Unresolved claims between parties arising  
15 out of or relating to any contract subject to this administrative regulation shall not utilize  
16 arbitration or the American Arbitration Association unless agreed to by all parties.

17 —(2) Prior to the initiation of legal proceedings, unresolved claims arising out of or relating to  
18 any contract shall be subject to mediation, which shall be in accordance with the Construction  
19 Industry Mediation Procedures of the American Arbitration Association in effect on the date of  
20 the contract and, if the parties fail to resolve their disputes through mediation, to binding dispute  
21 resolution.

22 —(3) Mediation may be initiated by written request filed by any party.



~~Section 11. Construction Contract Closeout Process. (1) The architect shall furnish the board a completed BG-4, Project Closeout Form, with applicable information requesting final approval.~~

~~(2) If the board agrees the construction contract is complete, it shall approve the BG #4 and forward it to the division for review and approval.~~

~~Section 12. Penalties for Malfeasance or Nonfeasance. (1) A determination by the board or the division of malfeasance or nonfeasance by the architect or CM shall be forwarded to the chief state school officer.~~

~~(2) The chief state school officer may make a recommendation to the KBE to determine that the offending firm is ineligible to provide professional services on school construction projects for a period not to exceed five (5) years.~~

~~(3) The KBE may prescribe alternative penalties.~~

~~(4) If the principals of the offending firm become associated with another firm during the penalty period, upon recommendation by the chief state school officer, the KBE may determine that the penalty invoked shall also apply to that firm.~~

~~Section 13. Incorporation By Reference. (1) The following material is incorporated by reference:~~

~~(a) BG-1, Project Application Form, 2008;~~

~~(b) Non Collusion Affidavit, December 2008;~~

~~(c) Request for Proposals for Architectural/Engineering Services, May 1993;~~

~~(d) Architect/Engineer Fee Guidelines, May 1993;~~

~~(e) AIA Document B101-2007, Standard Form of Agreement Between Owner and Architect;~~

~~(f) KDE Amendment to AIA B101-2007, December 2008;~~

- 1     ~~—(g) AIA Document B141/CMa, Standard Form of Agreement Between Owner and Architect,~~  
2     ~~1992 Construction Manager Adviser Edition;~~
- 3     ~~—(h) KDE Amendment to AIA B141/CMa 1992, May 1993;~~
- 4     ~~—(i) Request for Proposals for Construction Management Services, May 1993;~~
- 5     ~~—(j) AIA Document B801/CMa, Standard Form of Agreement Between Owner and~~  
6     ~~Construction Manager, 1992 edition;~~
- 7     ~~—(k) KDE Amendment to AIA B801/CMa 1992, May 1993;~~
- 8     ~~—(l) AIA Document A201-2007, General Conditions of the Contract for Construction;~~
- 9     ~~—(m) KDE Amendment to AIA A201-2007, December 2008;~~
- 10    ~~—(n) AIA Document A201/CMa, General Conditions of the Contract for Construction, 1992~~  
11    ~~Construction Manager Adviser Edition;~~
- 12    ~~—(o) KDE Amendment to AIA A201/CMa 1992, May 1993;~~
- 13    ~~—(p) AIA Document A101-2007, Standard Form of Agreement Between Owner and~~  
14    ~~Contractor;~~
- 15    ~~—(q) KDE Amendment to AIA A101-2007, December 2008;~~
- 16    ~~—(r) AIA Document A101/CMa, Standard Form of Agreement Between Owner and~~  
17    ~~Contractor, 1992 Construction Manager Adviser edition;~~
- 18    ~~—(s) KDE Amendment to AIA A101/CMa 1992, May 1993;~~
- 19    ~~—(t) AIA Document A701-1997, Instructions to Bidders;~~
- 20    ~~—(u) KDE Amendment to AIA A701-1997, April 2000;~~
- 21    ~~—(v) KDE Form of Proposal, April 2000;~~
- 22    ~~—(w) AIA Document A310, Bid Bond, 1970;~~
- 23    ~~—(x) AIA Document A312, Performance Bond and Payment Bond, 1984;~~

1     ~~—(y) KDE Amendment to AIA A312 1984, May 1993;~~  
2     ~~—(z) KDE Purchase Order, May 1993;~~  
3     ~~—(aa) KDE Material Supplier Authorization, May 1993;~~  
4     ~~—(bb) AIA Document G702/CMa, Application and Certificate for Payment, 1992 Construction~~  
5     ~~Manager Adviser edition;~~  
6     ~~—(cc) KDE Change Order Supplemental Information Form, April 2000;~~  
7     ~~—(dd) AIA Document G701 2000, Change Order;~~  
8     ~~—(ee) AIA Document G701/CMa, Change Order, 1992 Construction Manager Adviser edition;~~  
9     ~~—(ff) AIA Document G704 2000, Certificate of Substantial Completion;~~  
10    ~~—(gg) AIA Document G704/CMa, Certificate of Substantial Completion, 1992 Construction~~  
11    ~~Manager Adviser edition;~~  
12    ~~—(hh) AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims, 1994;~~  
13    ~~—(ii) AIA Document G706A, Contractor's Affidavit of Release of Liens, 1994;~~  
14    ~~—(jj) AIA Document G707, Consent of Surety to Final Payment, 1994;~~  
15    ~~—(kk) AIA Document G707A, Consent of Surety to Reduction in or Partial Release of~~  
16    ~~Retainage, 1994.~~  
17    ~~—(ll) KDE CM Fee Guideline, May 1993;~~  
18    ~~—(mm) BG #2, 2008, Outline Specifications;~~  
19    ~~—(nn) BG #3, 2008, Statement of Probable Construction Cost;~~  
20    ~~—(oo) AIA G702-1992, Application and Certificate for Payment; and~~  
21    ~~—(pp) BG #4, 2008, Project Closeout Form.~~  
22    ~~—(2) This material may be inspected, copied, or obtained, subject to applicable copyright law,~~  
23    ~~at the Division of Facilities Management, Department of Education, 15th Floor, Capital Plaza~~

1 ~~Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30~~  
2 ~~p.m.~~  
3 ~~—(3) The AIA documents may be purchased from the American Institute of Architects by~~  
4 ~~calling 1-800-365-2724.]~~