

EXPLANATION: SB 5 CREATES A NEW SECTION OF KRS 158 ALLOWING A BOARD PARTICIPATING IN ANY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE CHILD NUTRITION PROGRAMS TO PURCHASE KENTUCKY-GROWN AGRICULTURAL PRODUCTS. THIS BILL CONTAINS AN EMERGENCY CLAUSE AND IS EFFECTIVE AS OF MARCH 27, 2026.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

FISCAL MANAGEMENT

04.32 AP.1

Procurement

- A. Conditions, including emergencies, and procedures under which purchases may be made by means other than competitive sealed bids.

Purchasing officers are authorized to acquire goods, services, or construction through noncompetitive negotiation under the following circumstances, providing a written determination is made that competitive bidding is not feasible. If available, quotes from three (3) suppliers shall be secured if for purchases exceeding \$54,000. At least one (1) of the following conditions shall be met:

1. An emergency has been determined.

An emergency condition is a situation that creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, and equipment failures. The existence of such a condition creates an immediate and serious need to supplies, services, or construction that cannot be met through normal procurement procedures and the lack of which would seriously threaten (a) the functioning of the District; (b) the preservative or protection of property; (c) the health or safety of any person. When such conditions exist, the Superintendent and designated purchasing agents are authorized to purchase through noncompetitive negotiation.

2. The product or service to be procured is available from a single source.
3. A necessity is temporarily unavailable from the contracted supplier.

When a particular necessity is temporarily unavailable from the contract supplier and the purchasing officer makes a written determination to that effect, the purchasing officer has the authority to treat such items as a single source of services or products and has authority to proceed to procure the same by noncompetitive negotiation.

4. Contracts for services.

The District may contract for the services of licensed professionals such as attorney, physician, psychiatrist, psychologist, certified public accountant, registered nurse, or educational specialist; technicians such as plumber, electrician, carpenter, or mechanic; or an artist such as a sculptor, aesthetic painter, or musician; printers for special projects. This provision shall not apply to architects or engineers providing construction management services rather than professional architect or engineer services.

Noncompetitive negotiations for services of licensed professionals shall occur only when specialized training is required of the contractor, when a specific program or service can be delivered by only one or a few individuals, or when travel costs and time dictate constraints on the bidding process.

- ~~5. The contract is for the purchase of perishable items, as indicated in applicable federal and state law, including unprocessed locally grown or locally raised agricultural products, purchased with funds other than school nutrition service funds on a weekly or more frequent basis.~~

5. Purchase of such items with school nutrition service funds shall be done consistent with methods authorized by federal regulation (7 C.F.R. §3016.36).

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Procurement

6. The contract or purchase is for replacement parts where the need cannot be reasonably anticipated and stockpiling is not feasible.
 7. The contract is for proprietary items for resale.
 8. Items for resale include printed documents; stocks and inventories for school bookstores; candies; soft drinks, and, all other items that are sold to students and to the general public. Supplies that must be processed prior to resale such as food purchases for the lunchroom are not included as items for resale.
 9. The contract or purchase relates to an enterprise in which the buying or selling by students is a part of the educational experience.
 10. The contract or purchase is for expenditures made on authorized trips outside the boundaries of the service area of the agency.
 11. The contract or purchase is for purchase of supplies that are sold at public auction or by receiving sealed bids.
 12. The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, or unemployment insurance.
 13. The contract or purchase is for a sale of supplies at reduced prices that will afford a purchase at savings to the school district.
 14. The contract or purchase is from a state, U.S. Government, or other public agency.
 15. The contract or purchase is from a state, U.S. Government, or other public agency price contract.
 16. Specifications cannot be made sufficiently specific to permit an award on the basis of either the lowest bid price or the lowest evaluated bid price.
 17. Sealed bidding is inappropriate because the available sources of supply are limited.
 18. The bid prices received through sealed bidding are unresponsive or unreasonable.
- B. Reverse Auction
- Competitive bidding or competitive negotiation for goods and leases may include use of a reverse auction, which is to be conducted as provided in KRS 45A.365 (competitive sealed bidding) or KRS 45A.370 (competitive negotiation).
- C. Rejection of bids, consideration of alternate bids, and waiver of informalities in offers.
- The conditions for bidding shall be applicable to and incorporated in all invitations for bids. Failure to comply with such conditions shall be cause for rejection of the bid. The Board or its designee retains the right to waive any informalities in offer.
- D. Confidentiality of technical data and trade secrets information submitted by actual and prospective bidders or offerors.
- Technical data and trade secrets information submitted by actual and prospective bidders are exceptions to the open records requirements and shall be rated confidentially.

Procurement

E. Partial, progressive and multiple awards.

The District purchasing officer is authorized, when feasible, to advertise for bids as a discount from a price list or catalog. The conditions shall state that multiple awards may be made. When such multiple awards are made, purchases at the contract discount may be made from such price lists or catalogs without further negotiation. However, any changes in the price list exceeding ten percent (10%) during the period of the contract shall disqualify such items from purchase.

F. Supervision of store rooms and inventories, including determination of appropriate stock levels, and the management, transfer, sale or other disposal of government-owned property shall be the responsibility of the purchasing officer of the district.

G. Definitions and classes of contractual services and procedures for acquiring them.

The District may obtain the services of various classes of professionals, technicians, and artists by noncompetitive negotiation when specialized training is required of the contractor, when a specific program or service can be delivered by only one or a few individuals, or when travel costs and time dictate constraints on the bidding process.

H. Procedures for the verification and auditing of local public agency procurement records.

The Superintendent shall maintain sufficient records for the Board to verify all purchasing agreements and purchases made through such agreements. Financial records of all transactions related to the purchase of goods and services for the District or individual schools are subject to an annual financial audit.

I. Annual reports from those vested with purchasing authority as may be deemed advisable in order to insure that the requirements of this policy are complied with.

1. Each staff member authorized to approve purchase orders shall:
 - a. Keep a copy of all purchase orders issued.
 - b. Maintain a log to include the name of the vendor from which products or services were obtained.
 - c. Record the purpose of the product or service.
 - d. Record how the decision was made to purchase from the vendor (bid, negotiation, single source, state price contract, etc.)
 - e. List other vendors contacted and their cost for the product or service.
2. All Board policies and District procedures pertaining to procurement, whether promulgated under KRS 45A.345 to 45A.460 or otherwise, shall be maintained in the District Central Office and shall be available to the public upon request at a cost not to exceed the cost of reproduction.

J. Except as permitted by law, every invitation for bid or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished.

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EXPLANATION: HB 392 AMENDS KRS 45A.385 INCREASING THE AMOUNT FOR SMALL PURCHASE PROCEDURES.

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SUPPORT SERVICES

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Bidding of School Food Service Supplies

LIKE ITEMS IN EXCESS OF THE SMALL PURCHASE MAXIMUM \$40,000

If the total amount of purchases for like items is ~~\$40,000 or~~ more than the small purchase maximum, formal bid procedures will be utilized. Food, food products, supplies, and equipment will be bid annually ~~(during the month of June)~~ through or in accordance with a schedule determined by the local educational cooperative.

BID SPECIFICATIONS

1. The bid specifications, including delivery and storage instructions, for all lunchroom/cafeteria supplies shall be prepared by the School Food Service/School Nutrition Program Director or designee.
2. The request for bid shall be advertised in the local newspaper with the greatest circulation in the District.
3. Specifications and bid documents shall be made available all potential bidders.
4. Bids shall be opened and tabulated by the Superintendent or Director of Purchasing.
5. The bids shall be submitted to the Board of Education for action.

AGRICULTURAL PRODUCTS PERISHABLES

Federal regulatory requirements ~~Applicable federal law does not~~ provide a geographic preference bidding exception for purchases of unprocessed locally grown or locally raised agricultural products using perishable food items purchased with school nutrition food service funds. Perishables purchased using school nutrition food service funds shall be procured in accordance with applicable federal regulations 2 C.F.R. 200.320.

When purchasing Kentucky-grown agricultural products, the District may purchase up to \$15,000 using federal micro-purchase thresholds or up to \$350,000 using federal simplified acquisition thresholds.

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EMERGENCY PURCHASES

If it is necessary to make an emergency purchase in order to continue service, the purchase shall be made and a log of all such purchases shall be maintained and reviewed by the School Food Service/School Nutrition Program Director or designee.

The log of emergency purchases shall include: item name, dollar amount, vendor, and reason for emergency.

RECORDS MANAGEMENT

The following records will be maintained for a period of three (3) years plus the current year:

1. Records of all phone quotes
2. Logs of all emergency and noncompetitive purchases
3. All written quotes and bid documents
4. Comparison of all price quotes and bids with the effective dates shown
5. Price comparison showing bid or quote awarded
6. Log of approval substitutions

RELATED PROCEDURE:

04.32 AP.1