

# KENTUCKY PROCUREMENT CODE

**Fiscal Year End: June 30**

1. **Pre-qualifications:** Not required, but available.
  - a. **KRS 45A.400** → Suppliers may be prequalified as responsible prospective contractors for particular types of supplies, services, and construction. No supplier shall be prequalified as a responsible prospective contractor until the supplier provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include, but shall not be limited to, such prequalified prospective contractors. Prequalification shall not foreclose a written determination:
    - i. (1) Between the time of bid opening or receipt of offers in the making of an award that a prequalified prospective contractor is not responsible; or
    - ii. (2) That a prospective contractor who is not prequalified at the time of bid opening or receipt of offers is responsible.
2. **Auto-drop:** None.
3. **Life Cycle Costing (LCC):** Evaluations based on LCC are acceptable if LCC is stated in the IFB as a basis for evaluating the "best value".
  - a. **KRS 45A.070.1** → "Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and the reciprocal preference for a resident bidder required under KRS 45A.494 that have been communicated to the offerors as set forth in the invitation for bids.
  - b. **KRS 45A.080.5** → The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value
  - c. **KRS 45A.365.2** → The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.
4. **Piggybacking:** Allowed.
  - a. **KRS 45A.300.1** → Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.
5. **Recycle Preferences:** None specified – adhere to guidelines of federal and local regarding minimum amount of recycled material purchased

- a. **KRS 45A.520** → Every state agency shall when purchasing goods, supplies, equipment, materials, and printing require a minimum recycled material content for those goods, supplies, equipment, materials, and printing. The recycled material content shall be established by administrative regulations to be promulgated by the Finance and Administration Cabinet by September 1, 1991. For those products which the United States Environmental Protection Agency has established minimum recycled content procurement guidelines promulgated pursuant to the Resource Conservation and Recovery Act of 1976, as amended, the Finance and Administration Cabinet shall adopt, at a minimum, the recycled material content standards equal to those established by the United States Environmental Protection Agency.

<http://lrc.ky.gov/KRS/045A00/520.PDF>

6. **Minority/Small/Disadvantaged Business Enterprise preferences:** Contracts may be set aside for SBE/MBE participation only.

- a. **KRS 45A.675.1** → The cabinet shall designate as small or small minority business set aside state contracts of goods, equipment, construction, or services requested to be purchased by or for any agency whenever there is a reasonable expectation that bids can be obtained from at least three (3) small or small minority businesses capable of furnishing the desired property or services at a fair and reasonable price. Such designation should be made prior to the public notice for bids, and the notice shall designate this invitation as a small or small minority business set aside

7. **Cooperative Purchasing**

**National IPA**

The City of Tucson, AZ has awarded a national cooperative purchasing agreement available to agencies through National Intergovernmental Purchasing Alliance (National IPA). Visit the National IPA website for state specific information

<http://www.nationalipa.org/statutes.html>

**National Joint Powers Alliance (NJPA)**

NJPA currently supports over 100 national contracts for products and services that are available to local governmental agencies and other not for profit entities. Additional information can be found by visiting NJPA's State Procurement Resources web site.

<http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority/>

\*\*\* **Kentucky Revised Statutes:**

<http://lrc.ky.gov/KRS/045A00/CHAPTER.HTM>