

**164A.585 Contracting for capital construction projects -- Items considered equal to specifications may be furnished.**

- (1) Subject to authorization by the General Assembly and KRS 164A.580, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.
- (2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Department of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.
- (3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.
  - (a) The governing board shall ensure that every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished.
  - (b) The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards.
  - (c) An item shall be considered equal to the item named or described if, in the opinion of the governing board and the design professional responsible for the specifications:
    1. It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;
    2. It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and
    3. It conforms substantially to the detailed requirements for the item in the specifications.

- (4) A capital construction project, the total cost of completion of which will not exceed two hundred fifty thousand dollars (\$250,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 225, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 72, sec. 2, effective June 25, 2009. -- Amended 2008 Ky. Acts ch. 47, sec. 6, effective July 15, 2008. -- Amended 2006 Ky. Acts ch. 93, sec. 1, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 98, sec. 18, effective June 24, 2003. -- Amended 1986 Ky. Acts ch. 338, sec. 2, effective July 15, 1986. -- Created 1982 Ky. Acts ch. 391, sec. 9, effective July 15, 1982.