



KENTUCKY DEPARTMENT OF EDUCATION

300 Sower Boulevard, Frankfort, KY 40601

MEMORANDUM 57

TO: Kentucky School District Finance Officers and Facility Directors, Design Professionals, Construction Managers, and Fiscal Agents serving K-12 Public Schools

FROM: Greg Dunbar, Manager, District Facilities Branch

DATE: April 10, 2025 *Clarification August 28, 2025*

SUBJECT: Design/Build Construction Delivery Method

Design/Build is a construction delivery method in which the contractor provides the design services for a construction project. In comparison, under other construction delivery methods, the owner has a separate contract with design professionals who provide the design and independent third-party administration of the construction contract.

Local boards of education have the option of adopting Chapter 45A Kentucky Model Procurement Code (KMPC) or KRS 424.260 (Bid Law). KRS 45A.345 to 45A.460 are the sections of the KMPC available to local districts.

KRS 45A Sections 180, 181, and 182 address design/build contracts administered by the Finance and Administration Cabinet. These sections preceded KRS 45A.345 to 45A.460 (the KMPC sections adopted by local public agencies). Therefore, design/build contracts solicited individually by local boards of education or collectively through the Interlocal Cooperation act under KRS 45A Sections 180, 181, and 182 have no basis in statute and are not available to local boards of education.

Clarification: Guaranteed Energy Savings Contracts (GESCs) which are performed in compliance with KRS 45A Sections 352 and 353 (included in the range of statutes available to local boards of education) are allowable. Samples of the KDE versions of American Institute of Architects (AIA) Design/Build documents which specifically address GESCs as provided by these sections are located on the Facilities/Construction webpage.

KDE strongly recommends that local boards of education consult with its legal counsel regarding all construction contracts.

If you have any questions regarding this matter, please contact the District Facilities Branch at (502) 564-3846.