

**MEMORANDUM No. 25**

TO: Kentucky School Architects

FROM: Greg Dunbar, Manager  
District Facilities Branch

DATE: August 7, 2012

RE: **Minimum project size which requires formal bidding**

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**What is the minimum limit which requires formal bidding - \$20K (KRS 45A.385) or \$7.5K (KRS 162.070)?**

There are two statutes which, upon first impression, appear to conflict with each other:

**45A.385 Small purchases by local public agencies.**

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed twenty thousand dollars (\$20,000) if small purchase procedures are in writing and available to the public.

**162.070 Contracts for buildings, improvements, and materials to be let on competitive bidding -- When advertisements not required.**

The contracts for the erection of new school buildings, additions and repairs to old buildings, except additions or repairs **not exceeding seven thousand five hundred dollars (\$7,500)**, shall be made by the board of education with the lowest and best responsible bidder complying with the terms of the letting, after advertisement for competitive bids pursuant to KRS Chapter 424, but the board may reject any or all bids. All necessary specifications and drawings shall be prepared for all such work. **The board shall advertise for bids on all supplies and equipment that it desires to purchase, except where the amount of the purchase does not exceed seven thousand five hundred dollars (\$7,500)**, and shall accept the bid of the lowest and best bidder taking into consideration the price and the reciprocal preference for resident bidders under KRS 45A.494, but the board may reject any and all bids.

In response to several recent inquiries, we have obtained clarification from our legal counsel that, under the rules of statutory construction, the requirements of the more specific subject-matter statute (KRS 162.070) control. Therefore, if a contract is for buildings, improvements, and materials, it has to be bid out competitively under KRS 162.070, unless it is under \$7,500 (regardless of the more generic small purchase procedure in KRS 45A.385).

If you have any questions or comments, please do not hesitate to contact me at 502-564-4326 or send an email to either myself or Tim Lucas.