

MEMORANDUM No. 37

TO: Design Professionals providing services to
Kentucky's K – 12 Public Schools

FROM: Greg Dunbar, AIA, Manager
District Facilities Branch

DATE: February 20, 2017

RE: HB 3 - Repeal of Prevailing Wage Rates for Public School Projects

HB 3 has been passed by both the Kentucky House of Representatives and the Senate. This legislation was signed by Gov. Bevin on January 9, 2017 and became effective on that date. HB 3 states in part:

Section 15. The repeal of prevailing wage requirements for public works projects in this Act applies to any public works project or portion thereof for which bids have not yet been awarded as of the effective date of this Act. For bids that have been requested but not awarded prior to the effective date of this Act, the public authority may elect to request a resubmission of bids to conform to the provisions of this Act.

Section 16. Whereas immediate steps need to be undertaken to control the costs of public construction projects, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law. It repeals the statutes related to prevailing wage provisions for public works projects for which contracts have not yet been awarded.

The repeal of the state statutory prevailing wage requirements affects the requirements of the regulations under those statutes. 702 KAR 4:160 Capital Construction Process regulation includes the KDE Version of AIA Document A701 – 1997 Instructions to Bidders, in Article 9 at Sections 9.1.1. and 9.1.2, which includes state prevailing wage law statutory requirements in existence prior to January 9, 2017. Please be advised that these documents are now only in effect to the extent the documents are consistent with Section 15 of HB 3. For bids that have not yet been awarded and for bids that have been requested but not awarded, please proceed in accordance with Section 15 of the passed bill, as applicable. For projects which have not been advertised, continue to include in the project manual the KDE Version of AIA Document A701 – 1997 Instructions to Bidders, however, that document should now only be read to be amended by Section 15 of HB 3 as referenced in the attached KDE Direction.

Projects utilizing federal funds are to remain subject to the prevailing wage requirements of Davis-Bacon and Related Acts. Information on Davis-Bacon and Related Acts, their applicability, and their requirements can be found at the following websites:

<https://www.dol.gov/whd/govcontracts/dbra.htm>

<https://www.dol.gov/whd/regs/compliance/whdfs66.pdf>

For project specific questions, please contact the district assigned DFB Project Manager:

<http://education.ky.gov/districts/fac/Documents/Districts%20by%20DFB%20Project%20Manager.xls>.

Your cooperation on this matter is appreciated.

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Attachment: KDE Directions on
Kentucky Department of Education Version of
AIA Document A701 – 1997
Instructions to Bidders

KDE Directions on
Kentucky Department of Education Version of
AIA Document A701 – 1997
Instructions to Bidders
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Modify Article 9 as follows:

Delete 9.1.1.

Delete 9.1.2.