

**45A.097 Governmental body's acceptance of donation and gifts and consideration of establishing commemoration, memorial, naming rights, or sponsorships.**

- (1) A governmental body may accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth. Donations and gifts shall not be from a prohibited source.
- (2) In exchange for a donation or gift, a governmental body may consider an accompanying request for a commemoration or memorial, but all such requests involving state property shall be subject to approval by the secretary.
- (3) Except as provided in KRS 45A.095(2)(d), naming rights of structures, buildings, or any other physical property owned or operated by the Commonwealth of Kentucky shall be competitively awarded pursuant to KRS Chapter 45A and subject to review and approval by the secretary. Naming rights shall not constitute an endorsement of a particular business by the Commonwealth.
- (4) Notwithstanding KRS Chapter 11A, a governmental body may accept and solicit sponsorships from persons and businesses in the following manner:
  - (a) A sponsorship shall be for a defined period of time, a specific event, or a particular governmental body purchase or need;
  - (b) A governmental body seeking to solicit a sponsorship shall advertise the sponsorship opportunity on its Web site, newsletter, or other written media for a minimum of seven (7) calendar days. A sponsorship opportunity shall describe the number of potential sponsorships available, the relative importance of price and other evaluation factors used to ensure "best value" as defined in KRS 45A.070, and the advertising or similar commercial considerations available from the Commonwealth for a particular sponsorship opportunity;
  - (c) The governmental body shall notify the Office of Material and Procurement Services in the Office of the Controller of the Finance and Administration Cabinet by providing copies of its sponsorship opportunity advertisements to the office. If the Office of Procurement Services approves or does not respond to the governmental body within one (1) business day of notification, the governmental body may proceed under this subsection;
  - (d) At the end of the advertising period for a sponsorship, all responses shall be evaluated in accordance with the evaluation factors set forth in the sponsorship opportunity;
  - (e) Written or oral discussions may be conducted with responsible bidders in accordance with KRS 45A.085(7);
  - (f) A sponsorship shall be awarded to the responsible bidder determined in writing to be most advantageous to the Commonwealth, taking into consideration the evaluation factors set forth in the sponsorship opportunity. All evaluation documentation, scoring, and summary conclusions of the award shall be made a part of the file or governmental body record;
  - (g) If insufficient eligible responses are received in response to the advertising of a sponsorship opportunity, and the purchasing officer determines in writing

that further bidding would not likely result in additional responsive proposals being received by the Commonwealth, then noncompetitive negotiations with nonprohibited sources may be used to award contracts for the remaining number of sponsorships available;

- (h) A sponsorship shall not constitute an endorsement of a particular business by the Commonwealth as the sole vendor of choice; and
  - (i) An entity that is a prohibited source may be considered for a sponsorship opportunity only if there is a written finding by the purchasing officer that:
    - 1. The entity is not lobbying or attempting to influence matters of the governmental body; and
    - 2. The sponsorship will provide:
      - a. A public benefit to the Commonwealth; or
      - b. Economic development or enhanced tourism in the Commonwealth.
- (5) An entity that is a prohibited source due to its current contractual relationship with a governmental body may provide conferences or training events for the benefit of the governmental body only:
- (a) When the entity does not have any interests that might be affected by the performance or nonperformance of the governmental body's official duties; and
  - (b) The conference or training promotes safety, economic development, or tourism in the Commonwealth, or there is otherwise a public benefit to the Commonwealth.
- (6) Governmental body employees whose official duties include acceptance or solicitation of donations, gifts, or sponsorships shall not be involved with:
- (a) The solicitation or award of contracts by the governmental body; or
  - (b) The noncompetitive negotiation of naming rights of structures, buildings, or any physical property owned or operated by the Commonwealth.

**Effective:** June 29, 2017

**History:** Created 2017 Ky. Acts ch. 175, sec. 2, effective June 29, 2017.