

#### **45A.030 Definitions for code.**

As used in this code, unless the context requires otherwise:

- (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;
- (2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;
- (3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 175B, 176, 177, and 180;
- (4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;
- (5) "Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a contract that is qualifications-based;
- (6) "Construction management-at-risk" means a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (7) "Construction manager-general contractor" means a project delivery method in which the purchasing officer enters into a single contract with an offeror to provide preconstruction and construction services. During the preconstruction phase, the successful offeror provides design consulting services. During the construction phase, the successful offeror acts as general contractor by:
  - (a) Contracting with subcontractors; and
  - (b) Providing for management and construction at a fixed price with a completion deadline;
- (8) "Contract" means all types of state agreements, including grants and orders, for the acquisition, purchase, or disposal of supplies, services, construction, or any other item. It includes: awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, contingency fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; public-private partnership agreements; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;
- (9) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It

includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;

- (10) "Contractor" means any person having a contract with a governmental body;
- (11) "Data" means recorded information, regardless of form or characteristic;
- (12) "Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185;
- (13) "Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (14) "Designee" means a duly authorized representative of a person holding a superior position;
- (15) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;
- (16) "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;
- (17) "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;
- (18) "Meeting" means all gatherings of every kind, including video teleconferences;
- (19) "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;
- (20) "Person" means any business, individual, organization, or group of individuals;
- (21) "Private partner" means any entity that is a partner in a public-private partnership other than:
  - (a) The Commonwealth of Kentucky, or any agency or department thereof;
  - (b) The federal government;
  - (c) Any other state government; or
  - (d) Any agency of a state, federal, or local government;
- (22) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;
- (23) "Public-private partnership" means a project delivery method for construction or financing of capital projects, as defined in KRS 45.750, or procurement of services, pursuant to a written public-private partnership agreement entered into pursuant to

KRS 45A.077 and administrative regulations promulgated thereunder, between:

- (a) At least one (1) private partner; and
  - (b) The Commonwealth of Kentucky, or any agency or department thereof;
- (24) "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;
- (25) "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;
- (26) "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;
- (27) "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;
- (28) "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;
- (29) "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;
- (30) "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;
- (31) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and
- (32) "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 87, sec. 4, effective July 14, 2018. -- Amended 2016 Ky. Acts ch. 67, sec. 1, effective April 8, 2016. -- Amended 2015 Ky. Acts ch. 105, sec. 9, effective June 24, 2015. -- Amended 2003 Ky. Acts ch. 98, sec. 1, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 120, sec. 9, effective July 15, 1998; and ch. 486, sec. 1, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 406, sec. 9, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 250, sec. 5, effective April 9, 1980. -- Created 1978 Ky. Acts ch. 110, sec. 7, effective January 1, 1979.

**Legislative Research Commission Note** (4/8/2016). 2016 Ky. Acts ch. 67, sec. 16 provided that the amendments made to this statute and KRS 45A.075 and the creation

of KRS 45A.077 in that Act shall apply only to a project for which the procurement process is initiated on or after the effective date of that Act, which was April 8, 2016, either through the initial invitation for bids, request for proposals, or otherwise.

**Legislative Research Commission Note (7/15/98).** This section was amended by 1998 Ky. Acts chs. 120 and 486. Where these acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 486, which was last enacted by the General Assembly, prevails under KRS 446.250.