



## TRANSPORTATION CABINET

Frankfort, Kentucky 40622  
www.transportation.ky.gov/

**Steven L. Beshear**  
Governor

**Michael W. Hancock, P.E.**  
Acting Secretary

### MEMORANDUM

REVISED Construction Memo No. 07-09

**TO:** Chief District Engineers  
District TEBM's for PD&P and Engineering Support  
District Section Engineers  
Central Office Division Directors

**FROM:** Steven Criswell, P.E. Director  
Division of Construction

**DATE:** October 30, 2009

**SUBJECT:** Affidavit Requirement for Change Orders

### REVISED

**SUBJECT:** Contractor Affidavit Requirement

Construction Memorandum 07-09, Affidavit Requirement for Change Orders, issued on September 28, 2009 shall be replaced by the following requirements:

In accordance with the provisions of the Finance Administration Cabinet, the Division of Purchases is now requiring an affidavit signed by all Contractor's who perform work on construction projects let to bid through the Division of Construction Procurement. The following should be practiced to conform to these provisions:

- Projects let November 20, 2009 and forward – Prior to issuing a work order, the Cabinet will require the successful Contractor(s) to complete an affidavit as part of the Contract documents.
- Projects let August 21, 2009 to November 19, 2009 – If possible, prior to issuing a work order, the Cabinet will require the successful Contractor to complete an affidavit as part of executing the Contract documents. In instances where the Contract has already been executed and a work order has been issued, the Division of Construction Procurement will retroactively request the Contractor(s) to complete the affidavit.
- Projects let August 21, 2009 and forward – Subcontractors will be required to submit an affidavit with all subcontracts for construction projects. Subcontractors will need to submit the completed affidavit along with the subcontract request through the prime contractor to the Division of Construction for approval. Any subcontract request submitted without an affidavit will not be processed.
- Projects let prior to August 21, 2009 – An executed affidavit will not be required from the prime contractor or any subcontractor for construction projects that were let prior to August 21, 2009.



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A copy of the affidavit form is attached to this memorandum. An electronic copy of the affidavit can be found at <http://transportation.ky.gov/construction/ResCenter/ContractorAffidavit.pdf>. Subcontracts submitted to the Division of Construction must contain the original affidavit, **photocopies are not acceptable**. All affidavits must be signed and notarized. Additionally, out of state contractors must obtain an actual notary seal on the affidavit.

Please contact this office with any questions or if further clarification is needed.

Attachment (Original Construction Memo 07-09 and new Affidavit)

Cc:	M. Hancock	KAHC
	C. Knowles	C.O. Construction
	FHWA	PAIKY

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

**FOR BIDS AND CONTRACTS IN GENERAL:**

- I. Each bidder or offeror swears and affirms under penalty of perjury, that:
  - a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
  - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
  - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
  - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

**FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):**

- II. Each contractor further swears and affirms under penalty of perjury, that:
  - a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.
  - b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

Solicitation/Contract #: \_\_\_\_\_

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

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- c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Company Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me by \_\_\_\_\_  
(Affiant) (Title)

of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
(Company Name)

\_\_\_\_\_  
Notary Public

[seal of notary]

My commission expires: \_\_\_\_\_

**MEMORANDUM**

**Construction Memo No. 07-09**

**TO:** Chief District Engineers  
District TEBM's for PD&P and Engineering Support  
District Section Engineers  
Central Office Division Directors

**FROM:** Steven Criswell, P.E. Director  
Division of Construction

**DATE:** September 28, 2009

**SUBJECT:** Affidavit Requirement for Change Orders

In accordance with the provisions of the Finance Administration Cabinet, the Division of Purchases is now requiring an affidavit signed by the Prime Contractor to be on file for each construction project. The following should be practiced to conform to these provisions.

- Projects let on August 21, 2009 and thereafter will contain an affidavit with the Contract documents. Therefore, the affidavit requirement will be handled prior to the execution of the Contract. A copy of the signed affidavit will be attached to the contract header in SiteManager for Cabinet personnel to review.
- Projects let prior to August 21, 2009 will require that a signed affidavit be obtained for any change order that has not been placed into pending status prior to the date of this memorandum. Please ensure that an affidavit is attached to all change orders that meet these criteria. Change orders that are submitted without having an affidavit on file will be returned. Again, the signed affidavit will be attached into SiteManager in the contract header window. Once you have obtained a signed affidavit on a project, there is no need for additional affidavits.

A copy of the affidavit form is attached to this memorandum. An electronic copy of the affidavit can be found at <http://transportation.ky.gov/construction/ResCenter/ChangeOrderAffidavit.pdf>. The affidavit returned with the change order(s) must be the original. It must be signed and notarized. Out of state contractors are required to obtain an actual notary seal.

Please contact this office with any questions or if further clarification is needed.

Cc: M. Hancock                      KAHC  
C. Knowles                        C.O. Construction  
FHWA                                PAIKY

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

**FOR BIDS AND CONTRACTS IN GENERAL:**

- I. Each bidder or offeror swears and affirms under penalty of perjury, that:
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  - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
  - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
  - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

Solicitation/Contract #: \_\_\_\_\_ Contract ID \_\_\_\_\_

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

**PAGE 2 OF 2**

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Subscribed and sworn to before me by

\_\_\_\_\_  
(Affiant)

\_\_\_\_\_  
(Title)

of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Company Name)

\_\_\_\_\_  
Notary Public

[seal of notary]

My commission expires: \_\_\_\_\_