

KENTUCKY TRANSPORTATION CABINET

Kentucky Revised Statutes
Relating to Prequalification of Contractors
November 2, 2016

Division of Construction Procurement
200 Mero Street
Frankfort, Kentucky 40622

Pursuant to KRS Sections 176.130 through 176.220, the Kentucky Transportation Cabinet determines entities which will be eligible to bid upon contracts which are let by the Transportation Cabinet for the construction or maintenance of public roads and other related projects.

KRS 176.130 – 176.220

- KRS 176.130 Certificates of Eligibility for Contractors; Application/ when necessary
- KRS 176.140 Determination of Eligibility to Bid
- KRS 176.150 Investigation of Financial Status of Applicants; Nonresidents May Obtain Certificates
- KRS 176.160 Issuance or Denial of Certificate Effect
- KRS 176.170 Rehearing; Appeal
- KRS 176.180 Limitation on Certificate; Rehearing
- KRS 176.190 Revocation of Certificate; Hearing
- KRS 176.200 Subcontractor to be Named
- KRS 176.210 Lists of Qualified Bidders May be Made Public
- KRS 176.220 Bids from Unqualified Bidders

176.130 Certificates of eligibility for contractors -- Application -- When necessary.

- (1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the department for the construction or maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the department to bid on such work.
- (2) All applications for a certificate of eligibility shall be made to the department in writing, and the department shall act upon the application within thirty (30) days after the application is filed.
- (3) A certificate of eligibility is not necessary where the department purchases equipment, material and supplies directly, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4356t-18, 4356t-25.

176.140 Determination of eligibility to bid.

- (1) The department shall determine who shall be eligible to bid upon any contract with the department for the construction or maintenance of any public road or section thereof. The department may adopt rules and regulations and make investigations and examinations to determine the financial status, experience, responsibility, business ability, previous record, sufficiency of plant and equipment, and any other pertinent facts necessary to determine the eligibility of the proposed bidder.
- (2) The department shall establish rules and regulations governing the application for the certificate of eligibility, the means and methods of obtaining information relative to the applicant, and the granting of, or refusal to grant, a certificate of eligibility, and may require a financial statement of the applicant, verified by the applicant or, in the case of a corporation, by an authorized official thereof, as often as the department deems it necessary, and at least once in every twelve (12) months.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-19.

176.150 Information required with application for certificate of eligibility.

- (1) No applicant shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all those persons to furnish any information requested from them by the department.
- (2) No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.
- (3) Certificates of eligibility shall be issued without reference to the residence of applicants and the administrative regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.
- (4) When the applicant is a foreign corporation, limited liability company, or limited partnership, the application shall be accompanied by a certificate from the Secretary of State of the jurisdiction in which it is organized certifying that it is validly existing and in good standing and a certificate from the Kentucky Secretary of State certifying that it is authorized to transact business in the Commonwealth of Kentucky.

Effective: July 15, 2010

History: Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 45, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 137, sec. 45, effective June 26, 2007. -- Amended 1992 Ky. Acts ch. 288, sec. 22, effective July 14, 1992. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4356t-20, 4356t-22, 4356t-23.

Legislative Research Commission Note (7/15/2010). 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of June 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

176.160 Issuance or denial of certificate -- Effect.

- (1) After obtaining such information as it deems necessary relative to the qualification of the applicant, the department shall determine whether or not the applicant is eligible to bid upon road contracts. The department shall promptly notify all applicants of its final action on their applications.
- (2) If the department determines that the applicant is eligible, it shall issue to him a certificate of eligibility which shall entitle the applicant to bid upon any contract with the department for the construction or maintenance of any public road or section thereof upon which bids are being asked.
- (3) If the department determines that the applicant is ineligible to bid, it shall reject the application and refuse to issue the certificate of eligibility, and the applicant shall not thereafter make application for a certificate of eligibility until he is qualified, both financially and in all other ways.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-20.

176.170 Administrative hearing -- Appeal.

- (1) Any applicant aggrieved by the decision of the department made pursuant to KRS 176.160 may, within ten (10) days after receiving notification of the decision, request in writing an administrative hearing which shall be conducted in accordance with KRS Chapter 13B.
- (2) Any applicant who is aggrieved by the final order of the department may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 59, effective July 15, 1996. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 4356t-20.

176.180 Limitation on certificate -- Rehearing.

- (1) In issuing a certificate of eligibility to any applicant, the department may limit the scope of the certificate as to the number or type of projects, or the amount of work that the contractor may bid upon.
- (2) Any applicant who is dissatisfied with the department's ruling as to the aggregate amount of work which he will be permitted to have under contract at any one (1) time, may at any time file a new application for qualification. Such new application shall be promptly considered and acted upon by the department.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-20.

176.190 Revocation of certificate -- Notice -- Hearing.

A certificate of eligibility may be revoked by the department only after a written notice is given to the qualified bidder and an opportunity given to him for an administrative hearing conducted in accordance with KRS Chapter 13B.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 60, effective July 15, 1996. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 4356t-21.

176.200 Subcontractor to be named.

Before making an award the department may require the bidder to name the subcontractor whom he intends to employ for the various divisions of the work bid upon.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-24.

176.210 Lists of qualified bidders may be made public.

The department may make public from time to time lists of qualified bidders. Such lists shall be general in character and shall not indicate the size of the contracts with respect to which the bidders have qualified.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-22.

176.220 Bids from unqualified bidders.

The department shall not consider any bid filed with it by any person not holding a certificate of eligibility. Bids from unqualified bidders which are discovered by the department before they are read, shall be returned to the bidders without being read. If the department finds subsequent to the opening of bids that facts exist which would disqualify the lowest bidder, or that such bidder is not responsible and competent, the department shall reject such bid, despite the previous qualification of the bidder. The department shall not award any contract to any bidder not qualified to bid thereon at the time the bids are opened.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-25.