



# Single-Bid Asphalt Contracts Update

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## Legislative Oversight And Investigations Committee

August 15, 2024

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## Asphalt Contracts Awarded, January 2018 To July 2023, In Millions

Year	Contracts	Total Award	Total Engineer's Estimate
2018	468	\$575.0	\$608.1
2019	467	608.8	623.8
2020	239	328.3	359.4
2021	536	684.8	715.2
2022	505	827.8	836.9
2023*	324	545.2	547.4
<b>Total</b>	<b>2,539</b>	<b>\$3,569.9</b>	<b>\$3,690.8</b>

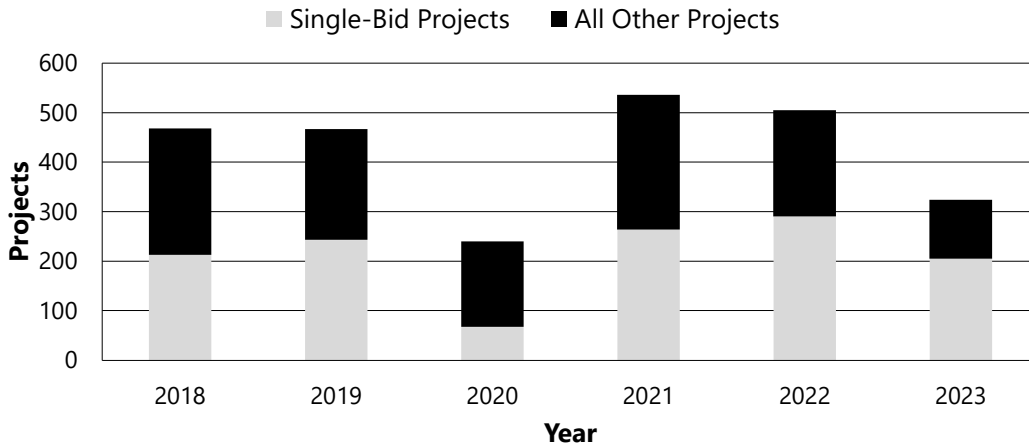
\*January 2023 to July 2023

Source: Staff analysis of data from Kentucky Transportation Cabinet.

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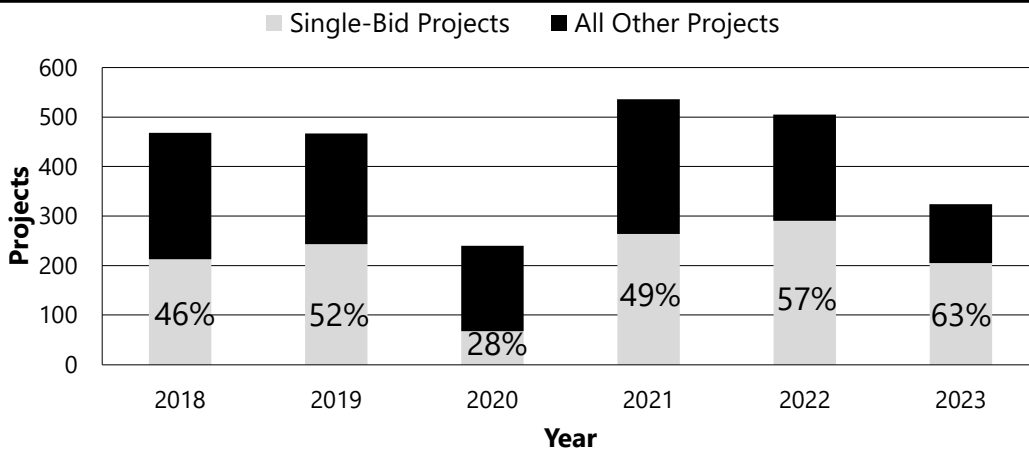
## Awarded Single-Bid Projects By Year, January 2018 To July 2023



Source: Staff analysis of Kentucky Transportation Cabinet letting data.



## Awarded Single-Bid Projects By Year, January 2018 To July 2023



Source: Staff analysis of Kentucky Transportation Cabinet letting data.

## Ratio of Awarded Amount to Engineer's Estimate, By Number Of Bidders



Bidders	2018	2019	2020	2021	2022	2023	2018 To 2023
1	100.1%	100.9%	97.5%	101.2%	101.3%	99.4%	100.5%
2	88.6	93.9	88.2	88.7	98.9	101.4	93.5
All bidders	94.6%	97.6%	91.4%	95.8%	98.9%	99.6%	96.7%

Source: Staff analysis of Kentucky Transportation Cabinet letting data.

- Generally, single-bid contracts were more expensive but the difference between single-bid and two-bid contracts decreased starting in 2022

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## How Competitive Is The Kentucky Asphalt Market?



- Prevalence of single-bid asphalt contracts could be attributed to the market
- Limited competition could be attributed to
  - Asphalt production limitations
  - Limited number of producers
  - Locations of asphalt plants in the state

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## **Recommendation 3.1**

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The Kentucky Transportation Cabinet should monitor single-bid asphalt contracts in central Kentucky, where there are multiple potential contractors for the region. If the pattern continues, the cabinet should contact nonbidding contractors to determine if there is a structural reason why they do not submit bids.

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## **How Do Kentucky's Policies Compare To Federal Guidance And Other States' Policies?**

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- The Federal Highway Administration (FHWA) provides best practices and recommendations to State Transportation Agencies interested in improving their bid review and evaluation process
- Kentucky generally follows guidelines, with a few exceptions

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## Eligible Bidders Lists

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- KYTC publishes a list of registered bidders for all projects in a monthly letting before bidding closes
- FHWA recommends keeping eligible bidders/plan holders lists confidential to create a more competitive environment for potential bidders

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## Recommendation 3.2

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The Kentucky Transportation Cabinet should transition to keeping plan holder lists confidential or waiting until there are at least three potential bidders on a project before releasing identities of plan holders. The cabinet should provide an option for subcontractors to indicate interest in the project, so primary contractors can identify potential subcontractors.

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## Engineer's Estimate

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- Kentucky's engineer's estimate appears to use a method suggested by federal guidance
  - LOIC staff could not verify the actual methods used
  - KYTC staff did not want to release information because it could undermine the process

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## Recommendation 3.3

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The Kentucky Transportation Cabinet should ensure it has an internal process to verify its engineer's estimate, to ensure that the estimate accurately represents project costs.

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## **Bid Analysis and Awards**

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- Kentucky complies with federal guidance on the evaluation of bids
- Kentucky does not have written procedures for justifying the award of contracts or the rejection of bids

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## **Recommendation 3.4**

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The Kentucky Transportation Cabinet should develop written guidance for justifying the award or rejection of a bid. These should include when the cabinet can make exceptions to the guidance and how that should be documented.

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## Unit Bid Prices When All Bids Are Rejected

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- KYTC posted unit bid prices even when all bids are rejected
- Can undermine competitiveness if rebid
  - Competitors can tacitly collude or readjust bids

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## Recommendation 3.5

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The Kentucky Transportation Cabinet should cease posting unit bid prices when it rejects all bids on a project, unless it can determine it is in the cabinet's best interest to post the prices.

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## Checking For Bid Rigging

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- Federal guidelines recommend checking for bid rigging
  - Recommends a period of five years
- Guidelines provide criteria
- A 2017 survey said a majority of states used a module within AASHTOWare Project Software

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## Recommendation 3.6

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The Kentucky Transportation Cabinet should use procurement software to detect potential collusion. The cabinet should have a policy to provide evidence to authorities if collusion is suspected.

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## Cabinet Response

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- Transportation Cabinet agreed with five of the report's six recommendations
  - Disagreed with recommendation that written guidance should be developed justifying award or rejection of a bid

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## Quality Assessments

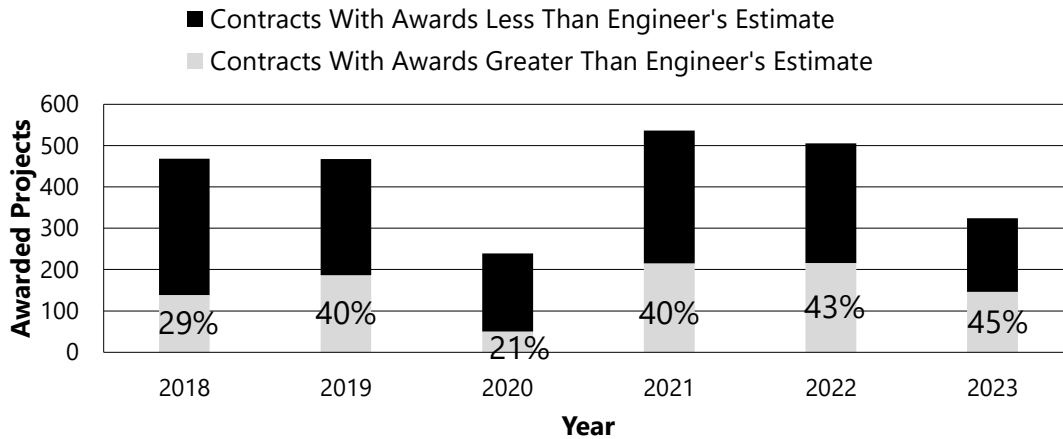
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- Quality Assurance Program
  - Ensures that materials and workmanship conform with plans and specifications
- Post Construction Review Program
- See page 12 of the report

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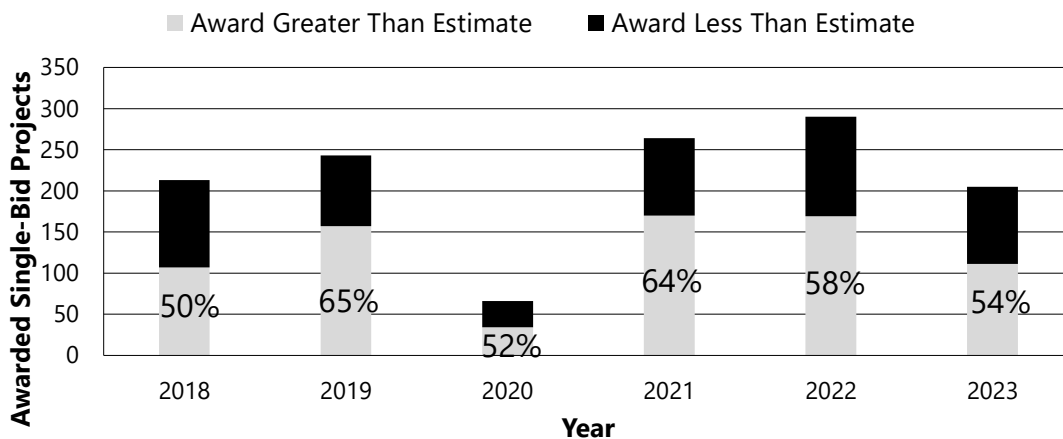
## Awarded Asphalt Projects Over Engineer's Estimates, By Year



Source: Staff analysis of Kentucky Transportation Cabinet letting data.



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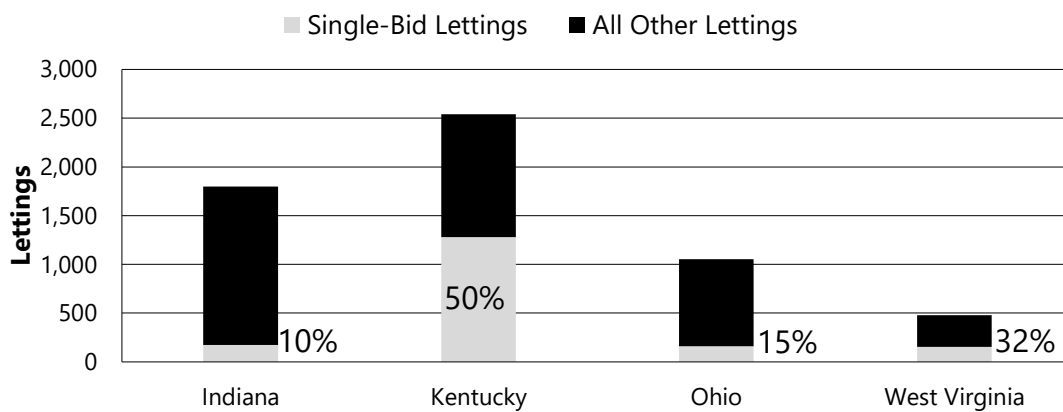


## Other States Analysis

- Three states provided asphalt contract data:
  - Indiana
  - Ohio
  - West Virginia
- Results should be interpreted with caution

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## Other States Analysis Single-Bid Asphalt Projects January 2018 To July 2023



Source: Staff analysis of data from Kentucky Transportation Cabinet, Indiana Department of Transportation, Ohio Department of Transportation, and West Virginia Department of Transportation.. 24

## Ratio Of Awarded Amount To Engineer's Estimate, By Number Of Bidders, January 2018 To July 2023



Number Of Bidders	Indiana	Kentucky	Ohio
1	104.9%	100.5%	107.3%
2	95.7	93.5	102.2
3	92.9	93.2	98.2
Average (All Bidders)	95.1%	96.7%	99.9%

Source: Staff analysis of data from Kentucky Transportation Cabinet, Indiana Department of Transportation, and Ohio Department of Transportation.

- See page 4 of handout for full table

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Source: Staff analysis of data from Kentucky Transportation Cabinet, Indiana Department of Transportation, and Ohio Department of Transportation.

- See page 4 of handout for full table

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# Questions



Source: Staff tour of H.G. Mays worksite.