

1 AN ACT relating to contract procurement and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Beginning in fiscal year 2021, and every two (2) years thereafter, the Auditor of*
6 *Public Accounts shall audit the contract procurement systems of the Department*
7 *of Highways.*

8 *(2) The audit under this section shall include statistical analysis to detect:*

9 *(a) Bid rigging;*

10 *(b) Tacit collusion;*

11 *(c) Market allocation;*

12 *(d) Market division;*

13 *(e) Complementary or cover bidding;*

14 *(f) Bid rotation;*

15 *(g) Bid suppression; and*

16 *(h) Any other scheme or practice designed to circumvent competitive bidding*
17 *processes.*

18 *(3) The Auditor of Public Accounts may contract for professional services to fulfil*
19 *the statistical analysis requirements of this section.*

20 *(4) The Department of Highways shall reimburse the Auditor of Public Accounts for*
21 *the cost of the audits required by this section, including the cost of contracted*
22 *professional services.*

23 *(5) The Auditor of Public Accounts shall submit the audit required under this section*
24 *to the Legislative Research Commission by June 30, 2021, and subsequently by*
25 *June 30th of each odd-numbered fiscal year.*

26 ➔Section 2. KRS 176.050 is amended to read as follows:

27 (1) The department shall:

- 1 (a) Investigate all problems relating to the construction and maintenance of roads
2 in the state;
- 3 (b) Examine all projects and ascertain the feasibility of all routes;
- 4 (c) Obtain information as to the proper type of road for any project;
- 5 (d) Examine all types of road materials which may be used in the construction or
6 maintenance of any road to be constructed by the department or under its
7 direction or supervision;
- 8 (e) Require the design plans for all road projects constructing a new route to
9 identify, if at all feasible, one (1) or more publicly owned sites at least four (4)
10 acres in size, along the proposed new route that will be used as waste sites
11 during the construction phase of the project but that have the potential for a
12 city, county, or other governmental entity to turn the site into an industrial
13 park upon completion of the road project, regardless of whether the site
14 currently has the infrastructure necessary to support an industrial park;
- 15 (f) Consult with all legislative bodies affected by a new road construction project
16 during the design phase for the purpose of soliciting local government
17 officials' preferences for the location of waste sites that could be turned into
18 an industrial park;
- 19 (g) From time to time, examine and have examined and audited all of its books,
20 papers and records;
- 21 (h) Cause to be made all necessary surveys in the establishment and construction
22 of the system of public highways; all necessary maps, prints, plans and
23 specifications of all work to be done on the roads; estimates of costs;
24 advertisement for bids; contracts for construction or maintenance; and all
25 necessary forms in connection therewith;
- 26 **(i) Reimburse the Auditor of Public Accounts for the cost of the audits**
27 **performed under Section 1 of this Act;**

- 1 (j) Promulgate administrative regulations under KRS Chapter 13A to set forth
 2 procedures when advertising for bids and awarding contracts for
 3 construction and maintenance. The regulations shall include measures to:
 4 1. Provide for increased public confidence in the procedures followed by
 5 the department's bidding and contracting system;
 6 2. Ensure the fair and equitable treatment of all persons who deal with
 7 the department's bidding and contracting system;
 8 3. Provide increased economy in the department's activities by fostering
 9 effective competition; and
 10 4. Provide safeguards for the maintenance of a bidding and contracting
 11 system of quality and integrity; and

12 ~~(k)(i)~~ Promulgate administrative regulations under KRS Chapter 13A for the
 13 care and maintenance of roads after they have been constructed.

14 (2) The department may publish bulletins containing useful information concerning the
 15 construction and maintenance of roads.

16 (3) An invoice or bill to be paid out of the road or bridge funds shall not be approved
 17 by the department for payment until it has been carefully examined by the
 18 department to ascertain if the bill or invoice is in every respect a proper and
 19 legitimate charge against the road or bridge funds. The commissioner may call
 20 before him any person who may have information respecting any bill or invoice.

21 ➔Section 3. KRS 176.210 is amended to read as follows:

22 (1) Subject to the limitations in subsection (2) of this section, the department may
 23 make public from time to time lists of qualified bidders. Such lists shall be general
 24 in character and shall not indicate the size of the contracts with respect to which the
 25 bidders have qualified.

26 (2) The department shall not make public the identity of an eligible bidder for a
 27 particular project prior to the bid letting on that project.