

#### **45.600 Reporting compliance or breach.**

- (1) Any party not otherwise exempted by KRS 45.590 and intending to submit a bid on any contract covered by the provisions of KRS 45.560 to 45.640 shall within a time frame set by the contracting agency in the bid documents submit to the contracting agency upon being declared the successful bidder:
  - (a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by KRS 45.560 to 45.640 upon being designated the successful bidder.
  - (b) A breakdown of the bidding party's existing workforce, indicating the race, ethnicity, gender, and equal employment opportunity job category of each employee.
  - (c) A breakdown of subcontracts valued at five hundred thousand dollars (\$500,000) or more, indicating specific items of work on the contract for which the contractor has submitted or intends to submit a bid to the Commonwealth of Kentucky.

The reports shall be submitted in a manner as shall be prescribed by the cabinet and on forms devised by the cabinet and supplied by the contracting agency.

- (2) Within ten (10) days after the receipt of the reports, the cabinet shall determine whether the bidding party's workforce is reflective of the percentage of available minorities and women in the area from which the bidding party's employees are drawn. If a determination is made that the bidding party's workforce is reflective of the percentage of available minorities and women in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by KRS 45.560 to 45.640 without filing additional data for a period of one (1) year.
- (3) If it is determined by the cabinet that the bidding party's workforce reflects an underutilization of minorities or women, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the cabinet, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities or women throughout the contractors' workforce. The cabinet shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of KRS 45.560 to 45.640.
- (4) If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under KRS 45.560 to 45.640 and shall constitute a material breach of the contract.
- (5) If the cabinet determines that the submitted affirmative action program does not fulfill the provisions of KRS 45.560 to 45.640, the bidding party and contracting agency shall be so notified, and no certification shall be granted.
- (6) If the bidding party's workforce is not reflective of the percentage of minorities or women in the drawing area and the bidding party has complied with all other affirmative action requirements in KRS 45.560 to 45.640, the bidding party may certify by verified affidavit that the bidding party has made every reasonable effort to comply with said percentage requirements, and the bidding party shall

thereafter be entitled to all the benefits of KRS 45.560 to 45.640.

**Effective:** July 15, 2010

**History:** Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 174, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 137, sec. 174, effective June 26, 2007. -- Created 1978 Ky. Acts ch. 130, sec. 6, effective June 17, 1978.

**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."