

**COMMONWEALTH OF KENTUCKY
COUNTY OF OHIO
ORDINANCE NO. 2026-3**

AN ORDINANCE ESTABLISHING RESPONSIBLE BIDDER REQUIREMENTS FOR COUNTY FUNDED CONSTRUCTION PROJECTS IN EXCESS OF TEN THOUSAND DOLLARS (\$10,000.00)

WHEREAS, pursuant to KRS 67.080 and KRS 424.260, the Ohio County Fiscal Court is authorized to contract for public works and to protect public funds; and

WHEREAS, the Fiscal Court finds that awarding contracts solely based on lowest price without regard to bidder responsibility may increase the risk of project failure, delay, or additional cost; and

WHEREAS, the Fiscal Court intends by this ordinance to establish objective standards of bidder responsibility without regulating wages, benefits, or collective bargaining.

NOW, THEREFORE, BE IT ORDAINED:

SECTION 1. PURPOSE AND INTENT

The purpose of this ordinance is to ensure that construction contracts funded by Ohio County are awarded to responsible bidders who possess the qualifications, experience, integrity, and financial capacity necessary to successfully perform public construction work.

SECTION 2. APPLICABILITY

This ordinance shall apply to all construction, reconstruction, renovation, repair, or improvement projects funded in whole or in part by Ohio County with an estimated total cost exceeding Ten Thousand Dollars (\$10,000.00) and subject to competitive bidding under KRS 424.260.

SECTION 3. RESPONSIBLE BIDDER DEFINED

A Responsible Bidder is a bidder who demonstrates, at the time of bid submission or upon request, that the bidder:

1. Legal Authority
 - a. It is legally authorized to do business within the Commonwealth of Kentucky.
 - b. Holds all licenses required for the work to be performed.
2. Compliance With Law
 - a. Is following applicable federal, state, and local laws, including tax, safety, and employment laws.
 - b. Has not been debarred or suspended from public contracting.

3. Financial Capability
 - a. Has adequate financial resources to complete the project.
 - b. Can obtain bonding and insurance as required by law or contract.
4. Experience and Performance
 - a. Proven experience performing work of similar type, size, and scope.
 - b. Has a history of satisfactory completion of prior projects.
5. Safety Record
 - a. Maintains a workplace safety record demonstrating compliance with applicable safety regulations.
6. Subcontractor Responsibility
 - a. Utilization of subcontractors who meet the requirements of this ordinance when applicable.

SECTION 4. DISCLOSURE REQUIREMENTS

The Fiscal Court or its designee may require bidders to submit documentation sufficient to determine responsibility, including but not limited to:

1. Proof of licensing and registration
2. Proof of insurance and bonding capability
3. References and project history
4. Disclosure of contract defaults, terminations, or litigation related to construction work within the previous five (5) years

Failure to provide requested information may result in a finding of non-responsibility.

SECTION 5. DETERMINATION OF RESPONSIBILITY

The determination of bidder responsibility shall be made by the Fiscal Court or its designated official prior to award.

The County reserves the right to:

1. Reject any bid submitted by a bidder determined to be non-responsible; and
2. Reject all bids as permitted by law.

Award shall be given to the lowest responsive and responsible bidder, consistent with KRS 424.260.

SECTION 6. ENFORCEMENT AND PENALTIES

1. False Statements

Any bidder who knowingly submits false or misleading information to establish responsibility may be:

- a. Disqualified from the bid; and/or
- b. Declared non-responsible for a period not to exceed two (2) years; and/or
- c. Referred for civil or criminal action as permitted by law.

2. Contract Remedies

A contractor found to have materially misrepresented responsibility qualifications may be subject to:

- a. Contract termination for cause;
- b. Withholding payment; and/or
- c. Disqualification of future county contracts.

SECTION 7. APPEAL PROCEDURE

A bidder determined to be non-responsible may submit a written appeal to the Fiscal Court within ten (10) calendar days of written notice.

The Fiscal Court shall review the appeal and issue a final written determination. The decision of the Fiscal Court shall be final and conclusive, subject only to remedies available under Kentucky law.

SECTION 8. WAIVER

The Fiscal Court may waive the requirements of this ordinance by majority vote upon a finding that:

1. An emergency exists, or
2. Waivers are in the best interest of Ohio County.

SECTION 9. SEVERABILITY

If any provision of this ordinance is held invalid, such invalidity shall not affect the remaining provisions.

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect and be in force after its passage and publication, in accordance with the laws of the Commonwealth of Kentucky.

Date of First Reading: March 24, 2026

Motion by: Larry Morphey

Seconded by: Bo Bennett

Vote:	McKenney	Yes
	Bullock	Absent
	Bennett	Yes
	Johnston	Yes
	Beavin	Yes
	Morphey	Yes

Date of Second Reading and Passage: _____, 2026

Motion by: _____

Seconded by: _____

Vote: _____

DAVID JOHNSTON Date
OHIO COUNTY JUDGE EXECUTIVE

ATTESTED:

SONJA DAVIS, COURT CLERK

STANDARD BID SPECIFICATION LANGUAGE

(Insert into every Ohio County construction bid packet over \$10,000)

1. Responsible Bidder Requirement

All bidders shall comply with Ohio County Fiscal Court Responsible Bidder Ordinance No.26-3.

Award of contract shall be made to the lowest responsive and responsible bidder as determined by the Ohio County Fiscal Court pursuant to KRS 424.260.

Submission of a bid constitutes acknowledgment and acceptance of all responsible bidder requirements. Failure to demonstrate responsibility may result in bid rejection.

2. Responsibility Determination

Ohio County reserves the right to investigate the responsibility of any bidder, including but not limited to:

1. Legal authority to do business in Kentucky
2. Licensing and insurance compliance
3. Financial capacity and bonding ability
4. Experience of comparable projects
5. Record of satisfactory past performance
6. The County may require additional documentation prior to award.

3. Right to Reject

Ohio County reserves the right to:

- 1.** Reject any or all bids
- 2.** Waive informalities or minor irregularities
- 3.** Reject bids from bidders determined to be non-responsible

4. REQUIRED BID FORMS

1. Bidder Responsibility Affidavit
 - a. Include an affidavit requiring the bidder to certify:
 - i. Business name and address
 - ii. Kentucky Secretary of State registration
 - iii. Required licenses held
 - iv. Confirmation of compliance with federal/state/local laws

- v. Disclosure of Contract defaults or terminations (past 5 years) and Debarment or suspension
 - vi. Acknowledgment of ordinance compliance
2. Failure to submit this affidavit renders the bid non-responsive.

5. SUBCONTRACTOR DISCLOSURE FORM (Optional but Recommended)

Require listing of major subcontractors (e.g., over 20% of project value) with a certification that they meet responsibility standards.

1. PROCUREMENT WORKFLOW ALIGNMENT
 - a. Step 1: Bid Advertisement
 - i. Advertise per KRS 424.130
 - ii. Include reference to Responsible Bidder Ordinance
 - b. Step 2: Bid Opening
 - i. Open bids publicly as usual
 - ii. Do not decide responsibility at opening
 - c. Step 3: Responsibility Review
 - i. Review low bid for:
 1. Completed affidavit
 2. Insurance and bonding ability
 3. Past performance (internal records count)
 - ii. If concerns exist, request clarification in writing
 - d. Step 4: Fiscal Court Determination
 - i. Make responsibility determination in open meeting
 - ii. Enter finding into minutes (brief, factual basis)

6. RESPONSIBILITY CHECKLIST (INTERNAL USE)

- a. Bid affidavit complete
- b. KY registration verified
- c. Insurance certificates acceptable
- d. Bonding capacity confirmed

- e. No unresolved defaults
- f. Safety or performance issues noted

7. BID SPECIFICATION/ CONTRACT CLAUSE

a. Occupational Tax Compliance

The Contractor shall comply with all applicable Ohio County and municipal occupational license tax ordinances, including the duty to withhold, report, and remit occupational license taxes for all employees performing work on the project, as required by law.

The Contractor shall be solely responsible for ensuring compliance by its subcontractors and shall require subcontractors to comply with all applicable occupational tax requirements.

Failure to comply with occupational tax obligations may result in withholding payment, termination for cause, or other remedies available to Ohio County under the contract or applicable law.

8. CERTIFIED PAYROLL CLAUSE (NON-PREVAILING WAGE)

a. Certified Payroll and Audit Rights

Where required by federal law, state law, grant conditions, or as otherwise deemed necessary by Ohio County for compliance verification, the Contractor shall submit certified payroll records for work performed on the project.

b. Certified payroll records shall include, at a minimum:

1. Employee name and classification
2. Hours worked
3. Gross wages paid
4. Applicable deductions
5. Confirmation of occupational tax withholding

Ohio County reserves the right to audit payroll records to verify compliance with applicable tax, employment, and contract requirements.

Nothing in this section shall be construed to require the payment of a prevailing wage, minimum wage beyond that required by law, or specific employee benefits.