

State Language Changes For Discussion

Sales and Use Tax

TBR CURRENT LANGUAGE:

Sales and Use Tax. The Contractor shall be registered or have received an exemption from the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

NEW STATE LANGUAGE:

Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in T.C.A. 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

Click-Wrap Agreements Language

NEW STATE LANGUAGE

Click-Wrap Agreements. The Vendor agrees that click-wrap agreements shall not be binding upon the State, any State Agency, or any State Employee. No State Employee has the actual or apparent authority to enter into click-wrap agreements on behalf of the State without the approval of the Central Procurement Office and the Office of Information Resources. No State employee has the authority to modify, amend, or supplement this Purchase Order through a click-wrap agreement. This Purchase Order can only be modified, amended, or supplemented under these terms through an amendment, reduced to writing, and approved in accordance with the Central procurement Office's rules, policies, and procedures.

POSSIBLE TBR LANGUAGE

Click-Wrap Agreements. The Vendor/Contractor agrees that click-wrap agreements shall not be binding upon the Institution. No employee has the actual or apparent authority to enter into click-wrap agreements on behalf of the Institution without the approval of the Institution's Procurement and/or Contracts Office. No employee has the authority to modify, amend, or supplement this Purchase Order/Contract through a click-wrap agreement. This Purchase Order/Contract can only be modified, amended, or supplemented under these terms through an amendment, reduced to writing, and approved in accordance with the Institution's and TBR's rules, policies, and procedures.

Bid Protests – Information to Respondents

PROTEST PROCEDURES AND PROTEST BOND REQUIREMENTS

The Open File Period for this solicitation begins on **DATE** and ends on **DATE**. Any protest of this solicitation is due by 4:30 p.m. CST on **DATE** to the Central Procurement Office at the address listed below:

Michael F. Perry Chief Procurement Officer-and- Paul Krivacka
Director of Category Management and Chief Legal Counsel Central Procurement Office
Dept. of General Services WRS Tower, 3rd Floor 312 Rosa L. Parks Ave.
Nashville, TN. 37243-1102
Tele: (615) 741-1035
Fax: (615) 741-0684

Any respondent who has submitted a response to **[insert information identifying the solicitation]** and who claims to be aggrieved in connection with the solicitation, award, or proposed award of a contract may submit a protest to the Chief Procurement Officer. Under Tenn. Code Ann. § 12-3-514, any protest of this solicitation must:

- Be submitted in writing;
- Be submitted within seven (7) calendar days after the day on which the notice of award or notice of intent to award is issued, whichever occurs first;
- Include and describe all grounds for the protest; and
- Include a protest bond payable to the State in the amount identified below *unless* the protest bond exemption under Tenn. Code Ann. § 12-3-514(g) applies and the protesting party provides a written exemption petition.

As established by Tenn. Comp. R. & Regs. 0690-03-01-.12(2), the following are the sole grounds for a protest:

- The contract award was arbitrary, capricious, an abuse of discretion, or exceeded the authority of the awarding entity;
- The procurement process violated a constitutional, statutory, or regulatory provision;
- The awarding entity failed to adhere to the rules of the procurement as set forth in the solicitation and this failure materially affected the contract award;
- The procurement process involved responses that were collusive, submitted in bad faith, or not arrived at independently through open competition; and
- The contract award resulted from a technical or mathematical error during the evaluation process.

The amount of the protest bond shall be:

- Five percent (5%) of the lowest bid or cost proposal evaluated;
- Five percent (5%) of the maximum liability or the estimated maximum liability provided in the solicitation;
- Five percent (5%) of the estimated maximum revenue, if the solicitation, award, or proposed award is for a contract in which the State receives revenue; or
- For no-cost contracts, an amount determined by the Chief Procurement Officer.

The protest bond amount required for this solicitation is **number** dollars (\$ #).

Upon the Chief Procurement Officer's receipt of a protest and protest bond, a stay of the solicitation, proposed award, or award will go into effect until the protest is resolved in accordance with Tenn. Code Ann. § 12-3-514.

