



State of Tennessee
PUBLIC CHAPTER NO. 634

HOUSE BILL NO. 2090

By Representatives Lamberth, Cochran, Gary Hicks

Substituted for: Senate Bill No. 2101

By Senators Johnson, Stevens

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 56, Part 1; Title 10, Chapter 7, Part 5 and Title 12, Chapter 3, relative to procurement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-3-201, is amended by adding the following as a new subdivision:

() "Procurement file" means the record of a solicitation, as set forth in the policies and procedures of the central procurement office and the procurement commission, and includes a copy of the following records:

- (1) All evaluated technical proposals, cost proposals, and evaluation sheets;
- (2) The solicitation and all amendments to the solicitation;
- (3) All approved rule exception requests related to the solicitation;
- (4) All conflict of interest disclosure documentation;
- (5) Evaluator attestations;
- (6) A list of all suppliers solicited to participate in the procurement;
- (7) All correspondence between respondents and this state regarding clarifications or negotiations;
- (8) All subject matter expert reports;
- (9) All decisions to bypass a response as nonresponsive or nonresponsible;
- (10) All pre-proposal conference and site visit sign-in sheets;
- (11) All cost proposal scoring guides, bid abstracts, and bid analyses; and
- (12) The protest procedures and the exact dollar amount of the protest bond required by § 12-3-514.

SECTION 2. Tennessee Code Annotated, Section 12-3-502(g), is amended by deleting the language "all data" in the first sentence and substituting "the procurement file".

SECTION 3. Tennessee Code Annotated, Section 12-3-503(a)(1), is amended by deleting the language "fifty thousand dollars (\$50,000)" and substituting "one hundred thousand dollars (\$100,000)".

SECTION 4. Tennessee Code Annotated, Section 12-3-503(b)(1), is amended by deleting the language "ten thousand dollars (\$10,000)" and substituting "twenty-five thousand dollars (\$25,000)".

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SECTION 5. Tennessee Code Annotated, Section 12-3-510, is amended by deleting the language "Notwithstanding § 12-3-502," and substituting "In accordance with § 10-7-503 and § 10-7-504,".

SECTION 6. Tennessee Code Annotated, Section 12-3-514(e), is amended by deleting the language "after a finding by the protest committee" and substituting "after a finding by the chief procurement officer or the protest committee".

SECTION 7. Tennessee Code Annotated, Section 12-3-514(e)(5), is amended by adding the language "chief procurement officer or the" before "protest committee".

SECTION 8. Tennessee Code Annotated, Section 12-3-514(h), is amended by inserting the following language immediately following the last sentence:

The protest committee shall resolve a request for consideration within sixty (60) calendar days of receipt of the request for consideration.

SECTION 9. Tennessee Code Annotated, Section 12-3-514(l), is amended by inserting the following language immediately following the last sentence:

Supplementation of the record of the protest and the protest committee and any discovery relating thereto, is expressly prohibited unless mutually agreed to by the parties.

SECTION 10. Tennessee Code Annotated, Section 12-3-514, is amended by adding the following new subsections:

()

(1) A protesting party must show by clear and convincing evidence that the facts and grounds set forth in the protest warrant either of the following actions by the chief procurement officer:

(A) The award of a contract to a protesting party; or

(B) The cancellation of a solicitation, whether in whole or in part.

(2) A protest filed pursuant to this section is not actionable if the protest is based upon the following grounds, in whole or in part:

(A) Variances in scoring, absent proof of prejudice or bias by a member of the evaluation panel;

(B) Allegations of violations of ethical standards and policies, including conflicts of interest or organizational conflicts of interest, absent proof of an actual violation or proof of an existing conflict of interest or organizational conflict of interest that has not been disclosed to and resolved by the chief procurement officer as set forth in the rules, policies, and procedures of the central procurement office and the procurement commission;

(C) An objection to a solicitation made prior to the award of a contract or intent to award a contract and based on facts known to a protesting party, unless notice is given to the central procurement office during the procurement process; or

(D) Clarifications to solicitations, as approved by the chief procurement officer.

() A protesting party lacks standing to protest the award of a contract or intent to award a contract if the protesting party failed to do any of the following:

(1) Follow the terms of the solicitation;

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(2) Submit a response or other required documents, samples, descriptive literature, or materials in the manner and by the time and date specified by the solicitation or by the solicitation coordinator;

(3) Post a protest bond in the amount and form required by the chief procurement officer; or

(4) State all the facts and grounds supporting a protest of a solicitation authorized under this chapter.

SECTION 11. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 12. This act takes effect upon becoming a law, the public welfare requiring it, and applies to all contracts and contract amendments subject to the operation of Tennessee Code Annotated, Title 12, Chapter 3, that are entered into on or after the effective date of this act.

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PASSED: March 18, 2024



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 2nd day of April 2024



BILL LEE, GOVERNOR