

**State Protest Committee
Summary of Decision July 31, 2019
Protest of Solicitation No. 32110-18104
SWC #387 Managed Service Provider for
Statewide Contingent Workforce Services**

The Central Procurement Office issued Solicitation No. 32110-18104, SWC #387 Managed Service Provider for Statewide Contingent Workforce Services (“the RFP”) on November 27, 2018. The State completed the evaluations on April 25, 2019, and the State provided its Notice of Intent to Award the contract to uWork.com, Inc., d/b/a Covendis Technologies. On May 16, GuideSoft, Inc., d/b/a Knowledge Services (“Knowledge Services”) filed a protest of that determination with Chief Procurement Officer Michael Perry and a bond in the amount of \$71,250 asserting that this amount represented 5% of the lowest evaluated Cost Proposal as set forth in Tenn. Code Ann. § 12-3-514(d)(1). On May 23, 2019, the Chief Procurement Officer issued his decision denying Knowledge Services’ protest finding that the Protest Procedures expressly stated and required a bond amount of \$9,500,000, and by filing a bond in the amount of \$71,250, Knowledge Services did not comply with the protest bond requirements of Tenn. Code Ann., § 12-3-514(d)(2). Knowledge Services appealed Chief Procurement Officer Perry’s decision to the State Protest Committee on May 30, 2019.

The State Protest Committee convened on July 31, 2019 to hear Knowledge Service’s appeal. The issue before the Committee was as follows:

1. Does a protest bond amount chosen by a protesting party which is less than the bond amount of \$9,500,000 specified by the Chief Procurement Officer perfect a protest and comply with Tenn. Code Ann. § 12-3-514 or does the Chief Procurement Officer have the statutory authority to determine the appropriate amount of the protest bond based on the applicable provisions of Tenn. Code Ann. § 12-3-514 and the type of contract being procured?

The State Protest Committee unanimously upheld the decision of the Chief Procurement Officer denying the appeal of Knowledge Services based on the papers submitted by the parties and the testimony at the hearing as follows:

- (1) The Chief Procurement Officer has the statutory authority to determine what the protest bond should be pursuant to Tenn. Code Ann. § 12-3-514(e) that states the protest bond shall be in form and substance acceptable to the state;
- (2) The Chief Procurement Officer determines the amount of the bond, not the protesting party, based upon the type of contract being procured pursuant to Tenn. Code Ann. § 12-3-514(d) that describes the four types of contracts that are procured by his office;

(3) A protest bond in form and substance acceptable to the State is a jurisdictional requirement to proceed with a protest;

(4) The Chief Procurement Officer has applied the terms of the statute in a consistent and fair manner since 2015 when Tenn. Code Ann. § 12-3-514 was revised to describe the bond requirement and the types of contracts that can be procured consistent with the policies and procedures of his office; and

(5) The State Protest Committee also found that no sanctions were warranted, and the protest bond should be returned.