**State Protest Committee Meeting No. 18**

**Summary of Decision and Minutes**

**Protest of RFP # 33701-10042**

**Call Center and Customer Support Services**

The Department of Labor and Workforce Development (“DLWD”) issued RFP # 33701-10042 for Call Center and Customer Support Services (“the RFP”) on April 14, 2022. The State completed the evaluations and provided its Notice of Intent to Award the contract to VACO, LLC (“VACO”) on June 15, 2022. On June 21, 2022, Conversion Calls (“CC”) filed a protest of that determination with Chief Procurement Officer Michael Perry (“CPO”). CC did not file a bond with its protest.

On June 27, 2022, the CPO issued his written decision denying CC’s protest because CC had not filed a protest bond with its protest as required by Tenn. Code Ann. § 12-3-514. CC filed a Notice of Appeal of the CPO’s decision to the State Protest Committee (“Committee”) on June 29, 2022. Position Statements were submitted by CC, the CPO, and DLWD.

The Committee convened on November 15, 2022, to hear CC’s appeal. The Committee was comprised of the following members: Eugene Neubert, Deputy Commissioner of the Department of Finance and Administration (“F&A”), as designee of F&A Commissioner Jim Bryson; Rick Dubray, Deputy Treasurer, Support Services with the Department of Treasury, as designee of State Treasurer David Lillard; and Tom Chester, Deputy Commissioner and Chief of Staff with the Department of General Services (“DGS”), as designee of DGS Commissioner Christi Branscom.

The CPO, the DLWD, and VACO appeared for the hearing. CC did not appear for the hearing.

The issue for determination by the Committee was whether the CPO’s decision to deny the June 29, 2022, protest submitted by CC because CC did not file a protest bond as required by Tenn. Code Ann. § 12-3-514 was in error.

After discussion and argument by counsel for the CPO and DLWD, the Committee unanimously upheld the decision of the CPO denying CC’s appeal based on the written position statements from the parties and oral presentations by counsel for the CPO and DLWD, as follows:

1. The Committee found no merit in the allegations that the CPO improperly denied CC’s appeal due to their failure to file a protest bond. The Committee observed that Tenn. Code Ann. § 12-3-514 requires a protest bond to be submitted contemporaneously with the filing of a protest, and that Tenn. Code Ann. § 12-3-514(g) permits certain specific types of businesses to seek an exemption from the protest bond requirement when the estimated maximum liability, estimated maximum revenue, or lowest evaluated cost proposal is less than one million dollars. However, the Committee further noted that the maximum liability and the lowest evaluated cost proposal in this procurement each exceeded one million dollars, such that an exemption from the protest bond requirement could not be provided by the CPO or the Committee pursuant to statute. The Committee ultimately concluded that, because a protest bond must be submitted with a protest, and because CC was not statutorily entitled to an exemption from the bond requirement, the CPO properly denied CC’s protest for failing to submit a protest bond.
2. Upon proper motion and second, the Committee unanimously voted to deny the protest and uphold the previous decision of the CPO.