

**State Protest Committee Meeting No. 23**  
**Minutes and Summary of Decision**  
**March 23, 2026**

The State Protest Committee ("Committee") met on March 23, 2026, to hear the appeal of Jesse W. Foreman dba Trophy Pond Management ("TPM") concerning Invitation to Bid ("ITB") # 32801-13754, issued by the Tennessee Wildlife Resources Agency ("TWRA") for Lake Renovation and Remediation Services.

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, Jr.; and
- Andy T. Kidd, Commissioner, Department of General Services.

**Agenda Item #1.** Approval of updated Minutes from Meeting Number 21, which took place August 29, 2023, for the protest concerning RFP # 31865-00635 for Closed Loop Referral System.

Upon proper motion and second, the Committee unanimously voted to approve the minutes from Meeting Number 21 as revised.

**Agenda Item #2.** Approval of Minutes from Meeting Number 22, which took place September 27, 2023, for the protest concerning RFP # 32901-31311 for Employee Drug and Alcohol Testing.

Upon proper motion and second, the Committee unanimously voted to approve the minutes from Meeting Number 22 as presented.

**Agenda Item #3.** Tennessee Code Annotated § 8-44-112 (effective July 1, 2023) requires a period of time to be made available at public meetings for public comment. The requirement applies to all public meetings when action items (voting items) appear on the agenda and requires that the public be provided a reasonable opportunity to comment on "matters that are germane to the items on the agenda for the meeting."

As no members of the public presented themselves to make any comments, no action was required on this agenda item.

**Agenda Item #4.** Consideration of a protest appeal by TPM, challenging the protest decision of Chief Procurement Officer Michael Perry to uphold the intended award of a State contract to Aqua Services, Inc. ("Aqua"), pursuant to ITB # 32801-13754, issued by TWRA for Lake Renovation and Remediation Services.

TWRA issued ITB # 32801-13754 for Lake Renovation and Remediation Services on October 31, 2025. The State completed the evaluations and, on December 8, 2025, provided its Notice of Intent to Award the contract to Aqua. On December 15, 2025, TPM filed a protest of that determination with the Chief Procurement Officer.

On February 12, 2026, the Chief Procurement Officer issued his written decision denying the protest by TPM. TPM filed a Notice of Appeal of the Chief Procurement Officer's decision to the Committee on February 19, 2026. Position statements were submitted by TPM, Aqua, TWRA, and the Central Procurement Office ("CPO").

The protesting party TPM, the intended awardee Aqua, TWRA, and the CPO appeared for the meeting.

The issue for determination by the Committee was:

1. Whether it was arbitrary, capricious, an abuse of discretion, or exceeded the authority of the CPO, or was contrary to applicable law, regulations, or the terms of the ITB, for the State to award the contract to Aqua and bypass TPM's response to the ITB as nonresponsive because TPM failed to attend either of the site visits identified as "mandatory" within the ITB's Specifications and Terms and Conditions prior to submitting its response.

After discussion and argument by Aqua and counsel for TPM, TWRA, and the CPO, the Committee unanimously upheld the decision of the Chief Procurement Officer denying TPM's appeal based on the written position statements from the parties and oral presentations by Aqua and counsel for TPM, TWRA, and the CPO, as follows:

As an initial matter, the Committee noted that it would not consider Aqua's arguments to the extent that such arguments were not related to the substance of the issues raised in TPM's position statement and were beyond the scope of TPM's appeal.

The Committee found no merit to the argument that TPM's response was improperly bypassed as nonresponsive to the ITB because TPM failed to attend either of the site visits identified as "mandatory" within the ITB's Specifications and Terms and Conditions ("T&Cs"). The Committee reviewed the plain language of the ITB Specifications and noted that Section B provided that "[s]ite visits are mandatory for site assessment, lake volume estimation, and determination of fish disposal if needed for bidding purposes." The Committee additionally reviewed the plain language of the ITB's T&Cs and noted that Section 1.2, entitled "Mandatory Site Visit," provided that "the Central Procurement Office will hold mandatory site visit for this solicitation at the dates, times, and locations specified..." The Committee further reasoned that, even if ambiguity or uncertainty existed about the meaning of the term "mandatory," Section 1.4 of the T&Cs permitted prospective respondents with questions or comments concerning the ITB to provide them in writing to the solicitation coordinator. The Committee pointed out, though, that the technical record contained no evidence that TPM had availed itself of this opportunity to ask questions or make comments or to seek clarification of the meaning of the term "mandatory" or the consequences for not attending the site visits. The Committee found that TPM failed to seek clarification of the meaning of the term "mandatory," as permitted in the T&Cs, and instead determined on its own what the consequence would be for not attending the site visits. The Committee declined to adopt TPM's argument that the mandatory site visit requirement of the ITB was intended to be a risk shifting device. Accordingly, the Committee determined that TPM had not demonstrated by clear and convincing evidence that the decision to bypass TPM's response to the ITB and award the contract to Aqua was arbitrary, capricious, an abuse of discretion, or exceeded the authority of the CPO, or that it was contrary to applicable law, regulations, or the terms of the ITB.

Upon proper motion and second, the Committee unanimously voted to deny the protest and uphold the previous decision of the Chief Procurement Officer.