



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

**INVITATION FOR BID # 12555
AMENDMENT # 1
FOR WETLAND MITIGATION CREDITS**

DATE: 11/10/2022

ITB # 12555 IS AMENDED AS FOLLOWS:

1. State responses to questions and comments in the table below amend and clarify this ITB.

Any restatement of ITB text in the Question/Comment column shall NOT be construed as a change in the actual wording of the ITB document.

ITB SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
		<p>1 Paragraph 6 of the Mitigation ITB Specifications Wetland Credits FINAL document states, "If the Vendor determines that it will not proceed with the establishment of the Mitigation Bank, the Vendor may make a written request to terminate the contract, which will result in the State canceling the contract for convenience." However, Paragraph 3.15 of the Terms and Conditions Final 10.26.2022 document states that a response to the ITB "constitutes a firm offer that is irrevocable . . . [and] an award of a contract shall . . . be binding on the respondent without any further action."</p> <p>The Specifications imply that failure to establish a bank (and deliver credits) requires the State to terminate for convenience. However, the language in the Terms and Conditions implies that termination for convenience is discretionary, so the State could consider failure to establish a bank as a breach of contract and terminate the contract for cause (paragraph 7.9).</p> <ol style="list-style-type: none"> 1. How will the State respond to a contracted provider that fails to deliver the requested mitigation? 2. Will the State consider contract provisions that encourage bank establishment and limit a provider's liability should the provider fail to 	<ol style="list-style-type: none"> 1. If a vendor fails to deliver the requested mitigation credits and is not progressing toward IRT approval, the contract may be terminated for cause. In the case of a terminated contract, no exchange of funds will occur because the State will only pay for credits that have been released and approved by the IRT. 2. No. The Contract T&Cs are attached to the solicitation.

ITB SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
		<p>fulfill the contractual obligations associated with credit delivery?</p>	
		<p>2 TDOT states in Item 4 of the Specification for the Purchase of Wetland Compensatory Mitigation Credits: “The State “intends” to buy at least 5 credits on or before December 31, 2025, with an option to purchase up to 25 credits at this time”.</p> <p>If a contract is awarded to a Vendor, is the minimum 5 credits reference a “guarantee” or “ not guarantee” from TDOT to be purchase by or before December 31, 2025?</p>	<p>There is no guarantee of any minimum quantity.</p>
		<p>3 Will the State set a maximum liability dollar amount? Section 6.1 states “written dollar amount.”</p>	<p>The maximum liability will be calculated based the awardee’s bid response for each line.</p>
		<p>4 Is there a maximum amount of credits the State will purchase from one mitigation provider? Is there a minimum amount of credits the State will purchase in a single transaction?</p>	<p>The State will purchase a maximum of 25 credits per service area, and we are awarding one contract per service area. A Vendor could be awarded contracts in multiple service areas.</p> <p>There is no minimum amount of credits the State will purchase in a single transaction. There is also no guarantee of any minimum quantity.</p>
		<p>5 If Mitigation Bank A has a cheaper credit price than Mitigation Bank B in the same watershed, but Mitigation Bank B has credits become available before Mitigation Bank A, will the State go ahead and buy the available credits from Mitigation Bank B? Or will the State wait until Mitigation Bank A has available credits?</p>	<p>For this Invitation to Bid, contracts will be awarded based on lowest per credit cost. Credit availability is not a factor.</p>
		<p>6 Will the State provide progress reports throughout the contract term to let mitigation providers know how much of their credit need has already been satisfied?</p>	<p>TDOT may consider advertising credit balances on our Mitigation Office website.</p>
		<p>7 The primary service area of the Hiwassee has a required secondary service area of the Little Tennessee, unless, a sponsor already has a bank approved or in the prospectus stage. Our bank that could supply credits has not been noticed yet and will not have the Little Tennessee as a secondary service area. Does this</p>	<p>No, this does not disqualify you from bidding, as long as the Prospectus for your bank has been submitted. The Specifications state that a bank that is pending does not have to utilize the required secondary service areas, and a bank is</p>

ITB SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
		disqualify us from bidding? Unfortunately, we can't change service areas at this time.	considered pending when the Prospectus has been submitted.
		8 TDOT is asking for 25 wetland credits per watershed awarded to one vendor. Our bank will not produce 25 credits and we are not certain if we will have projects in the future that meet the 25 credit request. Does this disqualify us from bidding?	No, this does not disqualify you from bidding. The credit target is not intended to limit bidders. If TDOT has credit needs not met by this solicitation, the State will evaluate best options to meet that remaining credit need, which could include another solicitation for wetland credits in the future.

2. **ITB Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this ITB not expressly amended herein shall remain in full force and effect.