



TECHNICAL BULLETIN No. 047

TITLE: **Conformance to Solicitation Terms and Conditions**

REVISION: **Number 3**

DATE(s): Current Version: **August 9, 2023** Previous Version: February 2, 2015

I. Authority

A. Applicable Statute

<u>A.R.S. § 41-2511</u>	Authority of the director
<u>A.R.S. § 41-2512</u>	Delegation of authority or functions by the director
<u>A.R.S. § 41-2534</u>	Competitive sealed proposals
<u>A.R.S. § 41-2585</u>	Contract clauses

B. Applicable Administrative Code

<u>A.A.C. R2-7-201</u>	State Procurement Administrator; Duties and Qualifications
<u>A.A.C. R2-7-202</u>	Delegation of Procurement Authority to State Governmental Units
<u>A.A.C. R2-7-C301</u>	Solicitation
<u>A.A.C. R2-7-C311</u>	Determination of Not Susceptible for Award
<u>A.A.C. R2-7-C313</u>	Clarification of Offers
<u>A.A.C. R2-7-C314</u>	Negotiations with Responsible Offerors and Revisions of Offers
<u>A.A.C. R2-7-C315</u>	Offer Revisions and Best and Final Offers
<u>A.A.C. R2-7-601</u>	Contract Clauses
<u>A.A.C. R2-7-606</u>	Terms and Conditions

II. Definitions

- A. Agency Chief Procurement Officer. The person within a state governmental unit, who is acting under specific, written authority from the state procurement administrator in accordance with R2-7-202 or any person delegated that authority, in writing, under R2-7-203. The term does not include any other person within a state governmental unit who does not have this written delegation of authority. [Source: A.AC. R2-7-101]
- B. State Procurement Office. An office that acts under the authority delegated to the state procurement administrator. [Source: A.AC. R2-7-101]
- C. State Governmental Unit. Any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this state. [Source: A.R.S. § 41-2503]
- D. Terms and Conditions. The agency chief procurement officer shall include in

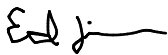
solicitations and contracts all contract clauses necessary to ensure the state's interests are addressed. [Source: A.A.C. R2-7-601]

III. Policy

- A. Purpose. The purpose of this policy is to ensure the standardized review of Offerors' conformance to those terms and conditions contained in a request for proposal solicitation for which the offer was submitted.
- B. Background. In accordance with A.R.S. §41-2585, A.AC. R2-7-601, and A.AC. R2-7-C301, state governmental units are required to include contractual terms and conditions in the solicitation to ensure the State's interests are addressed. These terms and conditions or contract clauses will govern a resultant contract. Offerors are expected to comply with included terms and conditions; however, they may take exception to the terms and conditions contained in a solicitation as provided in the Uniform Instructions to Offerors. Additionally, in accordance with A.AC. R2-7- C301, the State is also required to include any specific criteria for determining responsibility or susceptibility of an offer. These criteria may also have an impact on an offer containing exceptions to included terms and conditions.
- C. Conformance Review. State governmental units may consider an Offeror's exceptions to terms and conditions. This review shall be conducted in accordance with susceptibility criteria contained in the solicitation and identified in A.AC. R2-7- C311. The State may address an Offeror's exceptions through negotiation and best and final offer opportunities as permitted by the Arizona Procurement Code. If the State and the Offeror fail to agree upon term and condition language that ensures the State's interests are met or causes the offer to be less advantageous to the State, the Offeror may be determined not susceptible for award. It is recommended that state governmental units use the Instructions to Offeror (RFP) template available on the SPO website to ensure compliance with this technical bulletin.

IV. Effective

This Technical Bulletin is hereby authorized and effective this 9th day of August 2023, unless otherwise revised or repealed.



[ED Jimenez \(Aug 8, 2023 16:07 PDT\)](#)

Ed Jimenez
State Procurement Administrator