

Article - State Finance and Procurement

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§3.5–311.

(a) (1) The Secretary or the Secretary's designee, in consultation with other units of State government, and after public comment, shall develop a nonvisual access clause for use in the procurement of information technology and information technology services that specifies that the technology and services:

(i) must provide equivalent access for effective use by both visual and nonvisual means;

(ii) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use;

(iii) can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and

(iv) shall be obtained, whenever possible, without modification for compatibility with software and hardware for nonvisual access.

(2) On or after January 1, 2020, the nonvisual access clause developed in accordance with paragraph (1) of this subsection shall include a statement that:

(i) within 18 months after the award of the procurement, the Secretary, or the Secretary's designee, will determine whether the information technology meets the nonvisual access standards adopted in accordance with § 3.5–303(b) of this subtitle;

(ii) if the information technology does not meet the nonvisual access standards, the Secretary, or the Secretary's designee, will notify the vendor in writing that the vendor, at the vendor's own expense, has 12 months after the date of the notification to modify the information technology in order to meet the nonvisual access standards; and

(iii) if the vendor fails to modify the information technology to meet the nonvisual access standards within 12 months after the date of the notification, the vendor:

1. may be subject to a civil penalty of:

- A. for a first offense, a fine not exceeding \$5,000; and
- B. for a subsequent offense, a fine not exceeding \$10,000; and

2. shall indemnify the State for liability resulting from the use of information technology that does not meet the nonvisual access standards.

(b) (1) Except as provided in paragraph (2) of this subsection, the nonvisual access clause required under subsection (a) of this section shall be included in each invitation for bids or request for proposals and in each procurement contract or modification or renewal of a contract issued under Title 13 of this article, without regard to the method chosen under Title 13, Subtitle 1 of this article for the purchase of new or upgraded information technology and information technology services.

(2) Except as provided in subsection (a)(4) of this section, the nonvisual access clause required under paragraph (1) of this subsection is not required if:

(i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and nonvisual equivalence cannot be developed; or

(ii) the cost of modifying the information technology for compatibility with software and hardware for nonvisual access would increase the price of the procurement by more than 15%.

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