

# Public-Private Sector Study of Cost of Collecting State and Local Sales and Use Taxes

## 1.0 Introduction.

**1.1 General.** State and local governments are currently working through the Streamlined Sales Tax Project (SSTP) to develop a simpler and more uniform sales and use tax system. As part of this effort, a joint public/private sector group, the Joint Collection Cost Study, has proposed undertaking a study to determine what costs retailers incur for the collection of sales and use taxes. This study would be a comprehensive multi-year study to measure collection costs under the current sales and use tax system and the effect on those costs—including costs shifted from vendors to state governments—of changes to the system proposed by the Streamlined Sales Tax Project.

**1.2 Current Sales and Use Tax Collection System.** Currently, forty-five states and the District of Columbia impose sales and use taxes on purchases of tangible goods. In addition, 4,696 cities, 1,602 counties, and 1,113 other tax jurisdictions also impose sales taxes. For a variety of reasons, state and local governments that impose sales tax require an outside third party (i.e. retailers) to collect them at the point of sale from consumers. Retailers must then remit these taxes back to the state or local governments.

In an effort to offset a portion of the collection burden on retailers, some states provide vendors with a collection “allowance.” Twenty-seven states currently provide some type of compensation to retailers. Typically, this allowance is a small percentage of the sales tax collected by a vendor. Eighteen states do not compensate retailers directly for any associated compliance costs.

**1.3 Background on Streamlined Sales Tax Project.** The SSTP is an effort by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The SSTP’s proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The Streamlined Sales Tax System is focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce. Thirty-eight states are currently involved in this project. Thirty-three are voting participants in the SSTP because their legislatures have enacted enabling legislation or their governors have issued executive orders or similar authorization. Businesses—including national retailers, trade associations, manufacturers, technology companies, and others—have actively participated in the SSTP meetings by reviewing proposals and providing feedback to the states on key elements of the new system.

## 2.0 Study Description.

**2.1 General Description.** The purpose of this Request for Proposal is to commission an examination and analysis of the costs borne by retailers of collecting and remitting state and local sales and use taxes within the United States. More specifically, the study will

determine the costs under the current sales and use tax system and the effect on those costs—including costs shifted from vendors to state governments—of changes to the system proposed by the SSTP. The study will also seek to identify clearly the factors that generate the costs under various relevant conditions, including various types of retailers, different state and local sales tax regimes, different technological circumstances and different states of implementation of a collection process.

The study is intended to be a definitive one that will be widely recognized as objective and reliable, meeting the highest standards of research practicable and avoiding any issues of conflict of interest.

The study will exclude any tax other than generally applicable sales and use taxes collected on sales to unaffiliated parties. It will not include costs borne by a retailer of complying with use taxes on their own purchases or by states and localities in administering such taxes.

**2.2 Detailed Description.** It is anticipated that the study will enable a comparison of the costs of collecting and administering sales and use taxes across a variety of factors. It will include an identification and analysis of those factors in the operations of a retailer and in the structure and administration of the sales and use tax that affect the costs of collecting, remitting and administering sales and use taxes. The study will identify and analyze the factors contributing to the cost of collecting, remitting and administering sales and use taxes in sufficient detail so as to allow the impact of changes in various features of the tax administration process (e.g., those proposed by the SSTP) to be estimated.

The study should develop a model that will, when provided with data, measure the cost of collecting and administering sales and use tax. The model must be capable of modification so that it measures not only the current costs but also, when SSTP is implemented, the costs borne under the changed system.

The study will also include gathering the data for use with the model, populating the model with data and presenting a final report with conclusions as to the cost of collection under the current system. The study will provide appropriately detailed descriptions of methodology used to gather data and build the model as well as instructions and other inputs concerning methodology so that the modified model can be used with available data or with additional data to measure the costs of collection under the changed system (the system changed as a result of the SSTP) and compare them with the costs under the current system.

The following lists an initial set of factors to be tested in terms of the impact on generating costs for collecting sales and use taxes. Bidders are encouraged to identify and include any other factors they believe may generate costs for retailers when collecting sales and use taxes:

### **2.2.1 Types of Retail Activity.**

- Size of Retail Organization
- Geographic Scope of Retailer (i.e., number of states in which taxes are collected)
- Diversity of Product Line
- Types of Operations: Stores, Catalog, Electronic, Combination
- Purchaser Payment: Cash, Check, Credit Card, Other
- Use of Available Compliance Software and Technology
- Other

### **2.2.2 Sales and Use Tax System.**

- Basis of Tax Levy (e.g. Ill ROT)
- Breadth of Tax Base -- Goods Tax vs. Goods and Services Tax
- State Tax Only
- State Tax plus Local Taxes of Varying Complexity
  - ◇ State Administration, Limited Variability of Local Rates, Unified Base
  - ◇ State Administration, Major Variability of Local Rates, Unified Base
  - ◇ State Administration, Major Variability of Local Rates, Base Variation
  - ◇ Local Administration, Major Variability of Local Rates, Base Variations
- Other

### **2.2.3 Exemption Administration.**

- Product Exemptions
- Entity Exemption
- Use Exemption

### **2.2.4 General Caps and Thresholds.**

Caps can be classified as either dollar caps or rate caps. Dollar caps are limits on the amount of tax charged on a purchase. Rate caps are limits on the rate that can be applied when determining the tax amount. A threshold is an exclusion from taxation or the application of a different tax rate for amounts above or below the set threshold level.

### **2.2.5 Sales Tax Holidays.**

Sales tax holidays are temporary exemptions on certain items for a specified period of time. The exemption is generally limited to certain merchandise. Most states have placed caps on the eligibility of certain merchandise.

- 2.3 Types of Costs and Benefits.** The study should examine all incremental and identifiable costs of collecting and administering sales and use taxes from unaffiliated parties through the audit administrative process. The study will exclude consideration of retailers' unrelated overhead costs and the compliance and administrative costs related to use taxes on a company's own consumption. In agreement with the Steering Committee, the study will separately identify and measure post-transactional costs about which policymakers may reasonably

disagree as to the assignment of responsibility for such costs. Examples of such costs include, but are not limited to, costs of defending class actions where a retailer over-collects, interest and penalties on “human errors” where the retailer has a reasonable error rate, costs of appeals and litigation and other items. Existing vendor compensation and benefits provided by states and localities to retailers and the time value to retailers of the use of sales tax collections will be measured.

### **3.0 Timeframe.**

**3.1 Report on Current System Costs.** The report on current system costs and the factors giving rise to those costs shall be delivered to the Steering Committee within one hundred eighty (180) days of the award of the contract. The final report will also include a description of the model and procedures necessary to estimate the costs of collection and administration after the recommendations of the SSTProject are implemented.

**3.2 Preliminary Report.** A preliminary report shall be delivered to the Steering Committee for review and comment at least one hundred fifty (150) days prior to the due date of the Final Report.

**3.3 Interim Reports.** The contractor shall provide written and/or oral progress reports to the Steering Committee at the request of the Committee.

**3.4 Future Reports.** The JCCS and the contractor shall agree on a timetable for future reports on the costs of collection and administration following the implementation of the recommendations of the SSTP.

### **4.0 Contents of the Proposal.**

**4.1 Methodology.** Bidders should describe thoroughly the methodology they intend to use in conducting the study, including but not limited to the items listed below.

**4.1.1. Data.** Bidders should (a) describe the data they propose to use and (b) the methods of ensuring the quality or integrity of the data. The description should include an identification of the source of the data, the methodology for collection of the data, and the criteria for data selection. Sampling methods—including sample size and the use and size of separate data cells or categories—should be described. Data cells would include, for example, different types of retailers and states with different sales and use tax systems. The description should also address the age of the data (how recent) and methods of controlling the quality and ensuring the integrity of the data.

**4.1.2 Statistical Reliability.** Bidders should outline their methods of statistical analysis and their procedures to test the statistical reliability of the results of their analysis.

**4.2 Project Timetable.** Each proposal shall contain a project timetable showing the proposed start and end dates, as well as important intermediate milestones, for each major phase of the project. The timetable shall demonstrate that the bidder is capable of completing the project within the time allotted under paragraph 3.0 above.

### **4.3 Qualifications.**

**4.3.1 Firm/Entity performing work.** Each proposal shall discuss the qualifications of the bidder that is proposing to undertake the work. The statement of qualifications should describe similar work (either as to subject matter or methodology) completed by the bidder. The proposal should also provide contact information for references on at least two other engagements in which the bidder has performed similar work. Where two or more bidders are proposing to undertake the work in a cooperative or joint basis, qualification statements for each such co-bidder shall be provided.

**4.3.2 Key Personnel Assigned.** The proposal should provide a description of the background and qualifications of the key personnel to be assigned to the work. The description should highlight similar work in which the individuals have been engaged. The curriculum vitae for these personnel should also be included.

**4.3.3 Use of Subcontractors.** The proposal should provide information on any subcontractors the bidder proposes to use. The information should describe the capacity of the subcontractor and the proposed services such subcontractor is to supply.

### **4.4 Financial Information.**

**4.4.1 Total Proposed Cost.** The proposal should include a proposed total cost and any necessary description of such costs.

**4.4.2 Cost by Major Project Phase.** The proposal should include a schedule of costs by major project phase and any necessary description of such costs.

## **5.0 Selection/Eligibility Criteria.**

**5.1 General.** Study bidders must have an ability to conduct a study that is accurate, objective and free of the perception of bias. Among other criteria, bidders will be evaluated on their ability to gather accurate, objective data and to ensure the integrity of that data, and on their ability to interpret data of public policy significance in an effective and objective manner. Although not a prerequisite for consideration, the Steering Committee welcomes and encourages proposals made jointly by multiple entities, including proposals made jointly by public and private entities.

**5.2 Conflict of Interest Provisions.** The opportunity to submit a proposal to conduct the study is open to any and all entities interested in the subject matter. The primary goal is

to produce a study of the highest quality that is considered accurate, objective and free of the perception of bias in the conduct of the study. Accordingly, bidders that have a relationship relating to any of the following activities must disclose that relationship in their proposals:

- representation of or contractual relationships with state or local tax agencies,
- representation of or contractual relationships with retail businesses in matters involving state and local taxation, or
- any equity ownership of or joint partnership with retail businesses.

The parties undertaking the study reserve the right to reject any proposal on the grounds of the appearance or existence of a conflict of interest.

## **6.0 Procedural Matters.**

**6.1 General.** Proposals submitted to JCCS must be postmarked, placed into express delivery, or hand delivered no later than November 13, 2001. Respondents to this request will be publicly identified by noon on November 19, 2001. JCCS reserves the right in its sole and absolute discretion to negotiate with any bidders submitting a proposal which appears to be eligible for contract award pursuant to the selection criteria set forth in this Request for Proposal. Pricing of submitted proposals will not be divulged at the time of opening.

The proposal shall be signed by an official authorized to bind the bidder and it shall contain a statement to the effect that the proposal is firm for a period of at least 180 days from the closing date for submission of proposals. JCCS assumes no responsibility for unmarked or incorrectly marked envelopes being considered for award.

This solicitation does not commit JCCS to award a contract, to pay any costs incurred in the preparation of a proposal, or to procure or contract for the services requested. JCCS reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with all qualified bidders, and to cancel in part or in its entirety this solicitation if it is in the best interest of JCCS to do so. Neither JCCS nor any agent, employee, or other representative of JCCS will be obligated in any way by any bidder response to this RFP.

Bidders mailing proposals should allow a sufficient mail delivery period to ensure timely receipt of their proposals by the issuing office. Any proposals received after the scheduled opening date and time may at the sole and absolute discretion of JCCS be immediately disqualified.

One copy of the Proposal should be mailed or delivered to EACH of the following JCCS representatives:

1. Joint Cost of Collection Study  
c/o Harley Duncan, Executive Director  
Federation of Tax Administrators  
444 N. Capitol Street NW, Suite 348  
Washington, DC 20001
  
2. Joint Cost of Collection Study  
c/o Scott Cahill, Vice President, Government and Industry  
Affairs  
National Retail Federation  
325 7th Street, NW, Suite 1100  
Washington, DC 20004

**6.2 Responses.** Proposals are to be prepared simply and in a manner designed to provide JCCS with a straightforward presentation of the bidder's capability to satisfy the requirements of this RFP. Elaborate brochures and other promotional materials are not desired. The following is a suggested format for the bidder's proposal:

- Letter of Transmittal
- Executive Summary
- Statement of Methodology
- Statement of Qualifications
- Standard Agreements
- Costs

**6.3 Pre-bid Conference.** A pre-bid conference will be held for all interested parties to request additional information and clarification regarding the proposed Request for Proposal and the Joint Collection Cost Study. This pre-bid conference will be held on Monday, October 22, 2001 at 3:00 pm in conjunction with the SSTP at the Seelbach Hilton, 500 Fourth Avenue, Louisville, Kentucky.

**6.4 Written Questions and Responses.** Every effort has been made to ensure that all information needed by the bidder is included herein. If a bidder finds that s/he cannot complete a proposal without additional information, s/he may submit written questions to the persons herein designated in Section 6.1. All replies to questions will be in writing. When a question received by JCCS is found to be already sufficiently answered in the RFP, that question will be returned to the bidder with a reference to the part of the RFP containing the answer. All questions and written replies will be distributed to all bidders and will be regarded as a part hereof.

**6.5 Confidentiality of Proposals until Award.** By submission of a response to this RFP, the bidder agrees that during the period following issuance of the

proposal and prior to the statement of award, the bidder shall not discuss this procurement with any party except JCCS, or other parties designated in this solicitation.

**6.6 Contract Negotiations.** JCCS may conduct negotiations with any bidders submitting a proposal which appears to be eligible for award pursuant to the selection criteria set forth in the request for proposals. There will be no disclosure of any information derived from proposals submitted by competing bidders.

**6.7 Expected Award Date January 11, 2002.**

## **7.0 Contractual Matters.**

**7.1 Copyright Liability.** If notified promptly in writing by JCCS of any actions (and all prior claims relating to such action) brought against JCCS or its customers, based on a claim that JCCS's use of services or any product offered, including software, infringes a United States patent, copyright, or other protected intellectual property rights, the bidder will defend such action at its expense and will pay the costs and damages awarded in any such action, provided that the bidder shall have sole control of the defense of any such action and all negotiations for its settlement or compromise. JCCS shall give the bidder prompt written notice of such claim and full right and opportunity to conduct the defense thereof, together with full information and reasonable cooperation. No cost or expenses shall be incurred for the account of the bidder without its written consent. If principles of government or public law are involved, JCCS may participate in the defense of any action. If, in the opinion of the bidder, the product produced hereunder is likely to, or does become, the subject of a claim of infringement of a United States patent, copyright, or other protected intellectual property rights, then, without diminishing its obligation to satisfy a final award, the bidder may, at its option and expense, (a) obtain the right for JCCS to continue to use such product; or (b) substitute for the alleged infringing product an equally suitable product that is satisfactory to JCCS; or (c) take back such product, provided however, that the bidder will not exercise option (c) until the bidder and JCCS have evaluated options (a) and (b). In such event, the bidder will reimburse JCCS for the purchase price of any goods removed pursuant to option (c).

**7.2 Tax obligations.** Prices quoted are to be exclusive of all sales, use and like taxes. Any tax the contractor may be required or permitted to collect from JCCS or to pay upon the sale, use or delivery of the services or products shall be paid by JCCS and such sums shall be due and payable to the contractor upon acceptance. It shall be solely JCCS's obligation, after payment to the contractor to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. The contractor agrees



to refund any tax collected which is subsequently determined not to be proper and for which a refund has been paid to the contractor by the taxing authority.

**7.2.1 Failure to Pay Taxes.** In the event that the contractor fails to pay or delays in paying to any taxing authorities sums paid by JCCS to the contractor, the contractor shall be liable to JCCS for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay.

**7.2.2 Responsibility for Taxes.** Taxes based on the contractor's gross receipts, net income or assets shall be the sole responsibility of the bidder.

**7.3 Termination for cause.** In the case of termination by JCCS for cause, default, or negligence on the part of the contractor, there shall be no obligation to pay termination costs, if any. In the event of termination for cause, there is no requirement of advance notice and the default provisions shall apply. In case of default by the contractor, JCCS reserves the right to purchase any or all items in default on the open market, charging the contractor with any excessive costs.

**7.4 Confidentiality of data.** All data and other records and information provided by retailers and/or state tax administration agencies in the performance of work under this proposal shall be considered proprietary and confidential. No data shall be used in a manner that will enable a reader to identify any individual retailer or respondent to questionnaires, surveys, etc. The contractor shall not, without JCCS's written consent, copy or use such information or data except to carry out contracted work, and will not transfer such records to any other party not involved in the performance of this Agreement.

**7.5 Use and Publication of Results.** It is intended that the report produced under this contract be an objective evaluation of the costs of collecting the sales and use tax and that it will be made widely available to relevant persons in the private and public sector. The JCCS will undertake a program to widely disseminate the report and its findings once approved by the group. Those persons conducting the study may publish other works based on the data gathered under this contract; the report including the data, models and methodology will not, however, be considered proprietary to them.

**7.6 Proposal as Offer.** By submitting a proposal, the bidder agrees to be governed by the terms and conditions of this RFP. The bidder must state clearly if the bidder is unwilling or unable to comply with any term or condition of this RFP; such statement may, at the sole discretion of JCCS, render the bidder's proposal non-responsive. The terms and conditions of this RFP will govern any subsequent contract between JCCS and the bidder

resulting from this RFP, except where such contract explicitly states that a provision of the contract is to supercede a specified provision of this RFP, and such statement is agreed to in writing by both JCCS and the bidder.

**7.7 Payment Schedule.** The payment schedule will be negotiated as part of the contract negotiations. A significant portion of the payment will be retained until acceptance of the final report.