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# MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

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**LIST OF ACRONYMS/TERMS**

<b>MHTC</b>	Missouri Highways and Transportation Commission
<b>MoDOT</b>	Missouri Department of Transportation
<b>Offeror</b>	The Training/Professional Development Company responding to this RFP
<b>RFP</b>	Request for Proposal
<b>Team</b>	A select group of MoDOT employees that will be working with the Offeror

## INTRODUCTION

### **Summary**

This Request For Proposals (**RFP**) seeks proposals from qualified Offerors to furnish the described training programs to the Missouri Highways and Transportation Commission.

### **Proposal Submission Information**

One original and five (5) copies of each proposal must be mailed in a sealed envelope or box, or else delivered by hand or courier service (UPS, Federal Express, etc.) to:

General Services Procurement  
Attention: Ms. Leann Kottwitz  
Missouri Department of Transportation  
830 MoDOT Drive, P.O. Box 270  
Jefferson City, Missouri 65102-0270

Ms. Kottwitz must receive all proposals no later than **2:00 p.m., May 19, 2005**.

The sealed envelope or box in which each proposal is submitted must be clearly marked **“Basic Supervision Training”**.

### **Pre-Submission Information on the RFP and Proposal Requirements**

Any pre-submission question(s), comment(s), concern(s) or request(s) for clarification regarding the RFP or proposal requirements should be submitted by facsimile transmission (fax), electronic mail (e-mail), telephone, or in writing, to:

Ms. Leann Kottwitz, CPPB  
General Services Procurement  
Missouri Department of Transportation  
830 MoDOT, P.O. Box 270  
Jefferson City, MO 65102-0270  
Telephone No.: (573) 751-3685  
Facsimile No.: (573) 526-1218  
E-mail address: leann.kottwitz@modot.mo.gov

### **Reservation of Rights by Missouri Highways and Transportation Commission**

As specified in the RFP, MHTC reserves the right to negotiate clarifications and modifications of any or all proposals through MoDOT staff, prior to making any contract award. MHTC also reserves the right to reject any and all proposals for any reason whatsoever, and then either reissue another RFP, or discontinue the project.

## PROPOSAL

- (1) The Offeror shall provide a fee proposal to **MHTC** on the **PRICE PAGE** in accordance with the terms of this RFP.
- (2) The Offeror agrees to provide the services at the fees quoted, under the terms of this RFP.

**NOTE: This page must be signed and returned with your proposal.**

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**Authorized Signature of Offeror:** \_\_\_\_\_

**Date of Proposal:** \_\_\_\_\_

**Printed or Typed Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Electronic Mail Address:** \_\_\_\_\_

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## ACCEPTANCE

**This proposal is accepted by MHTC.**

\_\_\_\_\_  
**(Name and Title)**

\_\_\_\_\_  
**(Date)**

**SECTION (1):  
GENERAL DESCRIPTION AND BACKGROUND**

- (A) **Request for Proposal:** This document constitutes a RFP from qualified Offerors to provide the Missouri Department of Transportation (MoDOT), **Basic Supervision Program**, for the Commission and Department managers.

Proposals are being solicited from training companies who have experience in the training of employees similar to an organization such as MoDOT. The Human Resources Director will coordinate the review of the proposals to select an Offeror to be awarded a contract to work with the department. Details of the scope of work, proposal format and Offeror selection process are contained in this announcement.

- (B) **Background:** MoDOT operates under a decentralized organization with Central Office in Jefferson City. This Central Office provides staff assistance and functional control for the various departmental tasks in 10 geographical districts. Each district contains about 10 percent of the total road mileage in the state highway system.

MoDOT employs approximately 6400 full-time employees. About 80% of those employees work in the 10 districts with the remainder working in the various functional units of the Central Office. Approximately 1,300 of these employees are supervisors.

- (C) **Purpose:** The purpose of this RFP is to solicit competitive proposals from qualified Offerors to provide training programs for the Commission and Department managers.
- (D) **Fiscal Year:** The fiscal year runs from July 1 – June 30.
- (E) **Contract Dates:** MHTC intends to enter a one-year contract. The MHTC shall have the right, at its sole option, to extend the contract for two (2) one-year periods, or a portion thereof.

## **SECTION (2): SCOPE OF WORK**

- (A) **Required Services:** The Offeror shall be required to provide a proposal including evidence and/or examples of work for the following programs or products for which MoDOT reserves the right to select any or all of these products:
- (B) **Specific Services:** The Offeror shall provide MoDOT Basic Supervision Program for Commission and Department managers. This training shall be offered at a location to be specified by the Commission. The Commission will have twenty-five (25) participants at a five (5) day training class, four (4) times a year. This five (5) day intensive curriculum shall be customized to meet the business goals of MoDOT. The curriculum will address these specific areas:
- **Communication Skills**
  - **Interpersonal Skills**
  - **Self Management Skills**
  - **Leadership Skills**
  - **Managing For Results**

The curriculum will include transportation industry current best practices. The curriculum must employ the most effective instructional designs (e.g., anticipatory set, self assessment, instruction, behavior modeling, checking for understanding, practice with prompts, practice without prompts, evaluation of learning, course evaluation, action plans and closure). The training will be very interactive and team based. The training will include an action plan to apply learning and new skills in the workplace. The Offeror will provide learning reinforcement and follow up with participants for one year following the completion of training. At the end of each week of training the Offeror will conduct a knowledge/skill check. At the end of the training the Offeror will conduct a training evaluation. Training will be held on specified dates to be determined by the Commission and the Offeror.

**Instructors:** Must have at least five years of experience in teaching graduate level management classes. Must have a graduate degree in an appropriate field (Organizational Leadership, Management, Business, or Public Management)

**Cost:** Both a total cost and cost per participant will be submitted. The Commission will have a minimum of twenty-five (25) participants at this five (5) day training class, four times a year for a total of 100 participants. The per participant cost shall include all participant materials, instructional materials, and all travel related expenses for the instructor(s), including hotel, meals, and airfare.

The Commission will be responsible for providing the training facility and instructional equipment in addition to the participants' travel, meals, and lodging expenses.

**Offeror shall include:**

- Learning objectives
  - Agenda
  - Lesson plan
  - Copy of skills/knowledge check
- Copy of evaluation instrument
  - Cost of proposal
  - Copy of instructors' credentials

**(C) Specific Requirements:** The Offeror will provide to the RFP coordinator an original and five (5) copies of the program proposal which will include the following:

- a. Documentation of a minimum of two (2) years experience providing similar services as those outlined in the RFP, to state government agencies. In the absence of the two years experience with state government agencies, the Offeror shall provide documentation of experience providing similar services as those outlined in the RFP, to federal government and other public/private agencies.
- b. A list of customers, including the name and telephone number of a contact, who can provide information on their prior working experiences with the Offeror.

**(D) Administration of Program:** The Offeror will consult with MHTC's representative, as designated in this RFP on any problems pertaining to the administration of the training program (without additional fees).

**SECTION (3):  
AGREEMENT REQUIREMENTS**

This RFP shall be governed by the following contract provisions. The award of this RFP is subject to a post-award negotiated contract. These same contract provisions will appear in the post-award negotiated contract. If the parties are unable to agree to terms in the post-award contract, MHTC shall reserve the right to cancel the award of the RFP and contract and select a different offeror.

- (A) **MHTC's Representative:** MoDOT's Human Resources Director is designated as MHTC's representative for the purpose of administering the provisions of the Agreement as defined in Paragraph (D) of this section. MHTC's representative may designate by written notice other persons having the authority to act on behalf of MHTC in furtherance of the performance of the Agreement. The Offeror shall fully coordinate its activities for MHTC with those of the Human Resources/Employment Development Unit. As the work of the Offeror progresses, advice and information on matters covered by the Agreement shall be made available by the Offeror to the Human Resources/Employment Development Unit, throughout the effective period of the Agreement.
- (B) **Release to Public:** No data or information obtained from MHTC or MoDOT, or material, information or reports developed or prepared by the Offeror for MHTC or MoDOT, or developed or prepared in the course of or as a result of its consultant work for MHTC or MoDOT, shall be released to the public without the prior consent of MHTC's Representative.
- (C) **Assignment:** The Offeror shall not assign or delegate any interest, and shall not transfer any interest in the services to be provided (whether by assignment, delegation, or novation) without the prior written consent of the MHTC Representative.
- (D) **Components of Agreement:** The Agreement between MHTC and the Offeror shall consist of: the RFP, including the Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Condition, and any written amendments thereto, the proposal submitted by the Offeror in the response to the RFP and the post-award contract agreement signed between the parties. However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Offeror's proposal. The Offeror is cautioned that its proposal shall be subject to acceptance by MHTC without further clarification.
- (E) **Amendments:** Any change in the Agreement, whether by modification or supplementation, must be accompanied by a formal contract amendment signed and approved by the duly authorized representative of the Offeror and MHTC.

**(F) Participation by Minorities and Women Encouraged:**

1. No contracting quotas or “set-asides” apply to this contract. However, each Offeror is encouraged to use race and gender neutral methods to encourage more interest and potential participation in this contract work by minorities and women, both as employees of the contracting Offeror, and as the owners of Offerors that are subcontractors or suppliers to the selected Offeror.
2. Each Offeror may be required to specify in its proposal the Offeror’s anticipated employment of minority and women employees as a percentage of its overall employee population. The Offeror may provide other information on its employment of women and minorities as well, relating to this particular contract work. And further, each Offeror may be required to specify in its proposal those minority-owned and women-owned Offerors that the Offeror intends to use as subcontractors or supplies in the performance of this contract work, and the approximate percentage (by dollar value) of the total contract work that these minority-owned and women-owned Offerors will receive, if the Offeror is awarded this contract. This data may be used by MoDOT to evaluate the proposals and determine the ranking of each Offeror.

**(G) Law of Missouri to Govern:** The Agreement shall be construed according to the laws of the state of Missouri. The Offeror shall comply with all local, state and federal laws and regulations relating to the performance of the Agreement.

**(H) Venue:** No action may be brought by either party concerning any matter, thing or dispute arising out of or relating to the terms, performance, nonperformance or otherwise of the Agreement except in the Circuit Court of Cole County, Missouri. The parties agree that the Agreement is entered into at Jefferson City, Missouri, and substantial elements of its performance will take place at or be delivered to Jefferson City, Missouri, by reason of which the Offeror consents to venue of any action against it in Cole County, Missouri.

**(I) Ownership of Reports:** All documents, reports, exhibits, etc. produced by the Offeror at the direction of MHTC’s representative and information supplied by MHTC’s representative or the Chief Counsel shall remain the property of MHTC.

**(J) Confidentiality:** The Offeror shall not disclose to third parties confidential factual matters provided by MHTC or its representative except as may be required by statute, ordinance, or order of court, or as authorized by MHTC’s representative. The Offeror shall notify MHTC immediately of any request for such information.

**(K) Nonsolicitation:** The Offeror warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Offeror, to solicit or secure the Agreement, and that it has not paid or agreed to pay any percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MHTC shall have the right to

annul the Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

- (L) **Conflict of Interest:** The Offeror covenants that it presently has no actual conflict of interest or appearance of conflict of interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services under this Agreement. The Offeror further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in this Agreement.
- (M) **Maintain Papers:** The Offeror must maintain all working papers and records relating to the Agreement. These records must be made available for inspection and copying at all reasonable times at no charge to MHTC, its designees and/or the Missouri State Auditor during the term of the Agreement and any extension thereof, and for three (3) years from the date of final payment made under the Agreement. Upon request, MHTC and/or MoDOT shall have the right to reproduce and/or use any work papers, documents obtained or prepared by the Offeror, or products derived from the Offeror's work, without payment of any royalties, fees, or other charges.
- (N) **Termination:** MHTC reserves the right to terminate the contract for the convenience of MHTC without penalty or recourse by giving the Offeror a written notice of such termination at least 60 days prior to termination.
- (O) **Extension:** The contract shall not bind, not purport to bind, MHTC for any contractual commitment in excess of the original contract period. The MHTC shall have the right, at its sole option, to extend the contract for two (2) one-year periods, or a portion thereof. In the event that MHTC exercises its options, all terms, conditions, and provisions of the original contract shall remain the same and apply during the extension period. If the options are exercised, the Offeror shall agree that the prices stated in the original contract shall not be increased in excess of the maximum percentage of increases, if any, stated on the pricing page of the contract. Any percentages of increase shall be computed against the original contact price for each extension period. If the pricing page does not include such percentages or if applicable spaces are left blank, or not completed, prices during extension periods shall be the same as during the original contract period. The MTHC does not automatically exercise its options based upon the maximum percentage of increase without documented justification supporting an increase and reserves the right to offer or to request an extension of the contract at a price less than that price derived from the Offeror's extension percentages, if any.

**SECTION (4):  
PROPOSAL SUBMISSION INFORMATION**

**(A) SUBMISSION OF PROPOSALS**

- 1. Pricing and Signature:** Offerors **must** use forms provided by the Agency. If additional space is necessary, Offerors should attach additional sheets referencing the appropriate response page. Proposals should be priced, signed and returned (with necessary attachments) to Administrative Unit – General Services, Procurement Unit as provided in this RFP. Specifically, **any** form containing a signature line in this RFP and any amendments, pricing pages, etc., **must** be manually signed and returned as part of the proposal.
- 2. Submission of All Data Required:** The Offeror must respond to this RFP by submitting all data required in paragraph (B) below for its proposal to be evaluated and considered for award. Failure to submit such data shall be deemed sufficient cause for disqualification of a proposal from further consideration.
- 3. Clarification of Requirements:** Any and all questions regarding specifications, requirements, competitive procurement process, or other questions must be directed to Ms. Leann Kottwitz, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri, 65102, (573) 751-3685 or leann.kottwitz@modot.mo.gov.
- 4. Evaluation Categories:** To facilitate the evaluation process, the Offeror is encouraged to organize its proposal into distinctive sections that correspond with the individual evaluation factors described in Section C entitled “Evaluation Criteria and Process”.
- 5. Pricing:** The Offeror must provide prices on Section 5, Price Page.
- 6. Additional Information:** MoDOT shall be authorized to contact a Offeror who has submitted a proposal to request additional or clarifying information relating to the Offeror’s proposal and its terms. Any proposal which requires MHTC or MoDOT to indemnify/save harmless the Offeror will be rejected as nonresponsive.
- 7. Public Inspection:** The Offeror is hereby advised that all proposals and the information contained in or related thereto shall be open to public inspection and that MHTC does not guarantee nor assume any responsibility whatsoever in the event that such information is used or copied by individual person(s) or organization. Therefore, the Offeror must submit its proposal based on such conditions without reservations.

**(B) REQUIRED ELEMENTS OF PROPOSAL**

**1. Experience:** Experience and reliability of the Offeror's organization is considered in the evaluation process. Specific and demonstrated experience in the area of training services and the provision of training materials will be weighed in the evaluation. Therefore, the Offeror is advised to describe and submit any information that documents successful and reliable experience in the past two (2) years related to basic supervision training. Briefly indicate your Offeror's related experience with other public and private business entities, if any. The Offeror should provide the following information related to previous and current contracts that are considered identical or similar to the requirements in this RFP.

- 1.1 Name, address, and telephone number of contracting agency and a contact person who may be contacted for verification of all data submitted.
- 1.2 A brief, written description of specific prior services performed.
- 1.3 The above information may be shown on the form attached as **EXHIBIT A** to the RFP, or prepared and organized in a similar manner in the proposal.
- 1.4 Please list clients of your responding office in the following groupings:
  - a. other states departments of transportation
  - b. other state agencies
  - c. other local government agencies
  - d. public/private companies

**2. Personnel:** Please indicate the name, location, telephone number, fax number and e-mail address of the primary contact person for the Offeror, who will serve as the Offeror's representative.

- 1.1 Information for key professional and administrative personnel may be shown on the form attached as **EXHIBIT B**.

**3. Pending Legal Actions:** The Offeror shall list any significant pending legal action(s) involving the Offeror's Offeror that could directly or indirectly impact on services provided to MHTC.

**4. Proposed Method of Performance:** Proposals will be evaluated based on the Offeror's distinctive plan for performing the requirements of the RFP.

**5. Credentials:** The Offeror must provide all professional licenses, certifications or other similar documentation related to the services to be provided to the Department as per this RFP.

**(C) EVALUATION CRITERIA AND PROCESS**

**Evaluation Factors:** Any agreement for services resulting from this RFP shall be awarded to the Offeror providing the best proposal to MHTC. After determining responsiveness, proposals will be evaluated in accordance with the following criteria:

1. **Experience**
  - 1A. Documentation of a minimum of two (2) years experience providing similar services as those outlined in the RFP, to state government agencies.
  - 1B. In the absence of the two years experience with state government agencies, the Offeror experience providing similar services as those outlined in the RFP, to federal government and other public/private agencies.
  - 1C. Customer list

**2. Instructors**

- 2A. Must have at least five years of experience in teaching graduate level management classes.
- 2B. Must have a graduate degree in an appropriate field (Organizational Leadership, Management, Business, or Public Management)

**3. Cost**

**4. Learning outcomes match Supervisory Competency Model**

**5. Instructional Design**

- 5A. Anticipatory set
- 5B. Self assessment
- 5C. Instruction
- 5D. Behavior modeling
- 5E. Checking for understanding
- 5F. Practice with prompts
- 5G. Practice without prompts
- 5H. Feedback
- 5I. Evaluation of learning
- 5J. Course evaluation
- 5K. Action plans
- 5L. Closure
- 5M. Training will be very interactive and team based.
- 5N. Knowledge test
- 5O. Workbook

**6. Follow Up Plan**

- 6A. Online
- 6B. Refresher training
- 6C. Phone

**7. Historic Information.** MHTC reserves the right to consider historic information and fact, whether gained from the Offeror's proposal, question and answer conferences, references, or other sources, in the evaluation process.

**8. Responsibility to Submit Information.** The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that MHTC's representative is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.

<b>Competency</b>
<b>Communication Skills</b>
A. Listening
B. Speaking
C. Writing
D. Delivering Presentations
<b>Interpersonal Skills</b>
A. Managing Conflict
B. Exhibiting empathy
C. Negotiating
D. Networking, Org. Savvy
<b>Self-Management Skills</b>
A. Working with integrity
B. Managing emotions
C. Adapting to change
D. Managing time
<b>Leadership Skills</b>
A. Influencing, Leading
B. Coaching, developing, delegating
C. Building Teamwork, Collaboration
D. Motivating employees
E. Leading and championing change
F. Encouraging creative solutions
<b>Managing for Results</b>
A. Managing Projects
B. Applying Performance Management
C. Developing a business plan
D. Managing finances
E. Managing policy compliance issues
F. Using process improvement tools

9. **Joint Proposals.** Offerors may submit joint proposals. However, MHTC reserves the right to make the final selection of all Offerors, regardless of the nature of any joint proposals submitted. MHTC also reserves the right to negotiate clarifications or modifications to the final compensation terms with the successful Offeror or Offerors.

**(D) PRICING**

1. **Fee Schedule.** The Offeror must submit a proposed fee for each curriculum/module defined in the Scope of Work. This fee information must be shown on Section (5), Price Page, of this proposal, which must be completed, signed and returned with the Offeror's proposal.
2. **Term.** It is anticipated the notice to proceed will be issued on or before **August 1, 2005.**

**SECTION (5)  
PRICE PAGE**

The Offeror shall indicate below all fees for providing services in accordance with the provisions and requirements stated herein: Any applicable cap on out-of-pocket expense also should be noted. Please refer to **page 6, (Cost)**, for definition of cost.

Total Cost: \_\_\_\_\_

Cost Per Participant: \_\_\_\_\_

---

**Signature of Offeror's Authorized Representative**

**Date Signed**

**SECTION (5)**  
**PRICE PAGE**

In the event that MTHC exercises its options to renew the contract for two (2) additional one-year periods pursuant to the applicable provisions in Section 3 of this document, the Offeror should provide below the maximum percentage of increase or minimum percentages of decrease for each renewal period. The Offeror is cautioned that the percentages shall be computed against the ORIGINAL contract price for each renewal period. If the following blanks are not complete, prices during renewal periods shall be the same as during the original contract period. Furthermore, the Offeror is advised that MTHC does not automatically grant increases at the time of renewing the contract and that if an increase is requested, documentation of need must be provided at the time of renewal.

First Renewal Period \_\_\_\_\_ % of maximum increase and/or  
(Total Cost) \_\_\_\_\_ % of minimum decrease

(Cost Per Participant) \_\_\_\_\_ % of maximum increase and/or  
\_\_\_\_\_ % of minimum decrease

Second Renewal Period \_\_\_\_\_ % of maximum increase and/or  
(Total Cost) \_\_\_\_\_ % of minimum decrease

(Cost Per Participant) \_\_\_\_\_ % of maximum increase and/or  
\_\_\_\_\_ % of minimum decrease

\_\_\_\_\_  
**Signature of Offeror's Authorized Representative**

\_\_\_\_\_  
**Date Signed**

**EXHIBIT A**  
**OFFEROR'S PRIOR EXPERIENCE**

*(Duplicate this page, or supply the information it requests, for each Agency and contract listed.)*

**PRIOR SERVICES PERFORMED FOR:**

AGENCY NAME: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

TELEPHONE: (\_\_\_\_) \_\_\_\_\_ FAX NUMBER: (\_\_\_\_) \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

DESCRIPTION OF PROFESSIONAL SERVICES CONTRACTED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACT PERIOD: FROM \_\_\_\_\_ TO \_\_\_\_\_

**SUMMARY OF SERVICES PERFORMED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**  
**PROFESSIONAL AND ADMINISTRATIVE STAFF**  
**BACKGROUND AND EXPERTISE**

*(Duplicate this page, or supply the information it requests, for each professional and administrative staff member who will be assigned to perform or supervise work under the Agreement.)*

STAFF MEMBER

\_\_\_\_\_ (Name) \_\_\_\_\_ (Title or Position)

Specific Role in this Contract Work: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Experience/Previous Related Work Assignments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Educational Qualifications: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Previous Government Experience: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

References:

Name	Title	Address	Telephone
1.			
2.			
3.			

Missouri Highways and Transportation Commission  
Standard Bid/Proposal Provisions, General Terms and Conditions

**STANDARD SOLICITATION PROVISIONS**

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the Offeror name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. For bids/proposals of \$25,000 or more, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFO/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a Offeror deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

**GENERAL TERMS AND CONDITIONS**

**General Performance**

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

**Deliveries**

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as

FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.

- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

d.

**Nondiscrimination**

- a. The Bidder/Offeror understands that this project involves state funds and the Bidder/Offeror awarded the contract will be required to comply with the Executive Order 94-03 of the Governor of the State of Missouri dated January 14, 1994. This order stipulates that there shall be no discriminatory employment practices by the Contractor or his subcontractors, if any, based on race, sex, religion, national origin, age, color, disability, or veteran status. The undersigned Contractor or his subcontractors, if any, shall give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.
- b. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- c. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

- 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
- ii. cancellation, termination or suspension of the contract, in whole or in part.

**Contract/Purchase Order**

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a

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formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

**Subcontracting**

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

**Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.

**Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their

current Authority Certificate from the Secretary of State of the State of Missouri.

- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

**Preferences**

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
  - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
  - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more**
- c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

**Remedies and Rights**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Cancellation of Contract**

- a. MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

**Bankruptcy or Insolvency**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon

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learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

**Inventions, Patents, and Copyrights**

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

**Inspection and Acceptance**

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

**Warranty**

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

**Status of Independent Contractor**

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

**Indemnification**

- a. The Contractor shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this Agreement.
- b. In addition to the liability imposed upon the Contractor on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the Contractor's performance under this Agreement, the Contractor assumes the obligation to save harmless the Commission, including its agents, employees and assigns, and to

indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees.

- c. The Contractor also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Contractor for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.