

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
830 MoDOT DRIVE – P.O. BOX 270
JEFFERSON CITY, MO 65102

REQUEST NO.	5-120330FR		
DATE	March 19, 2012		
PAGE NO.	1	NO. OF PAGES	12

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

2:00 PM CDST, MARCH 30, 2012

AND THEN PUBLICLY OPENED AND READ.

BUYER: FRANKIE J. RYAN

BUYER TELEPHONE: 573-522-9481

SUPPLIES OR SERVICES

This document solicits competitive sealed bids from qualified firms to provide the Missouri Department of Transportation (MoDOT) with ***Flood Bag Protection Systems.***

The issuance of this RFB in no way constitutes a commitment to award a contract or to pay any costs incurred in preparation of a response to this request.

NOTE: Bidder should carefully review the bid document for information to submit in response to this RFB.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above request for bids, and subject to all conditions thereof, the undersigned Bidder agrees to furnish and deliver any or all the items or services outlined herein.

Date:	_____	Firm Name:	_____
Telephone No.:	_____	Address:	_____
Fax No.:	_____		_____
Email:	_____	By (Signature):	_____
		Type or Print Name	_____
		Title:	_____

Form E-103 (Rev. 11-04)

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

1.1.1 This Request for Bid (RFB) seeks bids from qualified organizations to provide **Flood Bag Protection Systems** in various locations throughout the state of Missouri, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT). This bid is being issued to establish pricing for each system offered by the Bidders, for each District wherein the Bidders note they can provide these bags. *The effective contract period is from the date of the Notice to Proceed through April 30, 2013.*

1.1.2 Bid Submittal:

- a. Your written bid must be mailed in a sealed envelope or box, or else delivered by hand or courier service (UPS, Federal Express, etc.) to be received on or before the date and time specified on the front page of this bid document, at the office of the **Buyer of Record**:

Ms. Frankie Ryan, Senior Procurement Agent
Missouri Department of Transportation
General Services – Procurement and Inventory Management
830 MoDOT Drive (physical address; zip 65109)
P.O. Box 270 (mailing address; zip 65102)
Jefferson City, MO

- b. All documents **must be sealed** and the outermost wrapping should be clearly marked " ***Flood Bag Protection Systems***". Also, please put the name of the **Buyer of Record** on the outermost, sealed envelope/package.
- c. The Bidder may withdraw, modify or correct his/her bid after it has been deposited with MoDOT provided such request is submitted in writing and received at the location designated for the bid opening prior to the date and time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly.
- d. No bid may be modified after the date and time specified for the opening of bids.

1.2 General Information:

1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of ***Flood Bag Protection Systems*** as set forth herein.

1.2.2 Organization: This RFB is divided into the following parts:

- 1) Introduction and General Information
- 2) Scope of Work
- 3) Bid Submission
- 4) Pricing Page(s) (*complete and return with bid*)
- 5) Vendor Information and Preference Certification Form (*complete and return with bid*)
- 6) Notice of Cooperative Purchasing (*complete and return with bid*)
- 7) Anti-Collusion Statement (*complete and return with bid*)
- 8) Standard Bid/Proposal Provisions, General Terms & Conditions, Special Terms & Conditions

2. SCOPE OF WORK

2.1 General Requirements:

2.1.1 The vendor shall provide flood protection systems on an as needed, if needed basis for the MHTC and MoDOT, in accordance with the provisions and requirements stated herein.

- 2.1.2 The vendor shall provide all deliverables/services to the sole satisfaction of MoDOT.
- 2.1.3 MoDOT estimates, but does not guarantee, the purchase of the estimated quantities stated herein.
- 2.1.4 MoDOT reserves the right to obtain “like or similar” products as specified herein from other manufacturers, exclusive of the contract, when use of such products is deemed in the best interest of MoDOT.
- 2.1.5 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.
- 2.1.6 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.
- 2.1.7 This work is to be performed under the general supervision and direction of MoDOT and, if awarded any portion of the work, the Vendor agrees to furnish at his own expense all labor, equipment, deployment, setup, breakdown, insurance, travel expenses, and all other necessary services and products, 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 vendor in performance of the work.

2.2 Specific Requirements:

- 2.2.1 The systems will be comprised of cellular sections with a floor and sides, that can be connected to form a water resistant barrier to control flood waters, to a minimum, approximate height of 3 feet and minimum, approximate base width of 3 feet. The system’s bag/fabric must be of sufficient strength to contain various types of fill material (sand, stone, gravel, soil, etc.) to appropriately fill the bags as noted herein to allow for proper function of the system.

ACCEPTABILITY OF OFFERED SYSTEMS: MoDOT will make the sole determination on whether or not the offered system(s) meet the needs of MoDOT as noted herein. MoDOT’s decision is final and without recourse to dispute.

- 2.2.2 **Set Up Demonstration:** The awarded vendors shall provide a set up demonstration, if required by MoDOT, for the system prior to orders being issued by MoDOT for the system. Any required demonstrations **will be provided by the vendor at the request of the MHTC’s representative.** Demonstrations will be on a MoDOT non-highway or non-highway right of way site as noted in the purchase order issued to the Contractor. The Bidder **shall include all costs** associated with the set up and demobilization of the demonstration in his/her unit prices as noted on the Pricing Pages.

2.3 Delivery Requirements:

- 2.3.1 The bidder will note on the Pricing Pages the number of calendar days required for delivery of the system from the date the purchase order is received by the bidder. Bidder is to also indicate expedited delivery as also noted on the Pricing Pages.
- 2.3.2 The following delivery requirements shall apply:
 - a. Unless otherwise specified herein these solicitation documents, on the purchase orders, or by the MHTC’s designated representative, **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, unless so ordered by the MHTC’s designated representative.

- b. Pricing submitted by the Bidder must include all associated shipping, handling and delivery costs of the system. The Contractor agrees to pay all transportation charges on the material as FOB - Destination. **All costs, including but not limited to, freight, insurance, labor, etc., must be included in the unit price and not listed as a separate line item.**
 - c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.
- 2.3.3 Delivery locations will be identified on all purchase orders issued for the systems. The following is a list of the District locations but does not identify all possible locations for system delivery throughout the state:
- a. Northwest District (NW) St. Joseph, Missouri 64502
 - b. Northeast District (NE) Hannibal, Missouri 63401
 - c. Kansas City District (KC) Lee’s Summit, Missouri 64064-8002
 - d. Central District (CD) Jefferson City, Missouri 65102
 - e. Saint Louis District (StL) Chesterfield, Missouri 63017-5712
 - f. Southwest District (SW) Springfield, Missouri 65801
 - g. Southeast District (SE) Sikeston, Missouri 63801

2.4 Liquidated Damage Requirements:

- 2.4.1 The bidder is directed to the “*Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions*” attached to the bid documents, regarding the amount and enforcement of liquidated damages.

2.5 Contract/Purchase Order:

- 2.5.1 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 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.

2.6 Invoicing and Payment Requirements:

- 2.6.1 The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.
- 2.6.2 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.
- 2.6.3 The contractor shall understand and agree MoDOT reserves the right to make contract payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the contractor must return a completed state Vendor Input ACH/EFT Application, which is downloadable from the Vendor Services Portal at: <https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>. Each contractor invoice must be on the contractor’s original descriptive business invoice form and must contain a unique invoice number. The invoice number will be listed on the state’s Vendor Payment Website to enable the contractor to properly apply state payments to invoices. The contractor must comply with all other invoicing requirements stated in the RFB.

- 2.6.4 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.
- 2.6.5 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 2.6.6 Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The MHTC shall not make any advance deposits.
- 2.6.7 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.
- 2.6.8 The MHTC reserves the right to purchase goods and services using the state-purchasing card.

2.7 Other Contractual Requirements:

- 2.7.1 Contract Period - The contract shall commence from the date of Notice to Proceed through April 30, 2013.
- 2.7.2 Escalation Clause - In the event the contractor requests a price increase during the contract period, either the original contract period or any contract renewal period, the contractor must provide a written request and documentation justifying the need for a price increase, and the amount of such price increase. MoDOT will review the contractor's written request and documentation, and decide if a price increase is to be granted at that particular time. The contractor shall understand and agree that MoDOT's decision shall be final and without recourse.
- a. No price increase shall be granted during the first three (3) months of the original contract period, or if applicable, first three (3) months of a contract renewal period.
 - b. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.
- 2.7.3 Inspection and Acceptance: MoDOT reserves the right to inspect the material at the point of manufacture, intermediate storage point, or at a destination which shall be at the discretion of MoDOT.
- 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.
- 2.7.4 MHTC Representative: The MHTC's Central Office Maintenance Liaison Engineer is designated as

the MHTC's representative for the purpose of administering the provisions of this contract. The MHTC's representative may designate by written notice other persons having the authority to act on behalf of the MHTC in furtherance of the performance of this agreement.

3. BID SUBMISSION

3.1 Bid Submission Information:

3.1.1 All bids must be received in a sealed envelope/package and should be clearly marked "***Flood Bag Protection Systems***".

3.1.2 All bids must be received at the office of the Buyer of Record as outlined in Section 1. "INTRODUCTION AND GENERAL INFORMATION".

3.1.3 Additional Required Document Submittals and Qualification Requirements. The awarded bidder must provide the below listed documents and/or information as part of the bidding and/or award process.

- a. Authority Certificate from the Secretary of the State of Missouri (as applicable)
- b. Certificate of No Tax Due from the Missouri Department of Revenue
- c. Vendor Input/ACH-EFT Application Form (as applicable)

3.1.4 Open Competition / Request For Bid Document:

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the MoDOT is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

3.1.5 Bid Review: Bids will be reviewed to determine if the bid complies with the mandatory requirements and that the product offered meets the needs of MoDOT as indicated herein.

3.1.6 Contract Award and Ordering Information: Contracts will be awarded to each Bidder providing MoDOT-approved system(s) for each District listed, for each manufacturer/model type bid. This bid is being issued to establish pricing for each system offered by the Bidders, for each District wherein the Bidder notes they can provide these systems.

The Districts will determine on an as needed, when needed basis, which manufacturer/model of the Flood Bag Protection Systems will meet the needs of the District. Information used by the Districts to determine the purchase of a particular bag system shall include, at a minimum, the price and delivery terms of the system.

3.1.7 Notification of Award: Award notification shall be at the time the tabulation is posted to the Internet. It is the sole responsibility for all bidders to check the website for bid results.

4.0 PRICING PAGE: 1 of 3

4.1 The bidder shall provide a firm, fixed price in the table below for the original contract period for providing the deliverables in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables shall be included in the prices stated below. Sign where indicated on the bottom of Pricing Page 3 of 3 and return with all required solicitation documents.

4.2 AWARD INFORMATION: This bid will be a 'Multiple Award' bid where no one Bidder is the apparent low bid for a District. This bid is issued to establish pricing, by District, for each product offered. MoDOT personnel will use these prices and/or delivery timelines, on an "as needed, when needed" basis, in their selection to determine the best price based on their location and needs. Listed prices **SHALL INCLUDE ALL COSTS, including any requested demonstrations**, of providing the products/equipment as noted herein. Shipping price of **F.O.B. Destination(s) Statewide is required and must be included in the unit price** for each of the Districts as noted.

NOTE: BIDDER MAY USE SEPARATE PRICING PAGES FOR EACH MANUFACTURER/MODEL OF ANY BAGS FOR WHICH THEY ARE BIDDING.

<i>Description</i>	<i>Manuf & Model #</i>	<i>District</i>	<i>Unit of measure</i>	<i>Firm, Fixed Price 1-1,000 LF ordered</i>	<i>Firm, Fixed Price 1,001-5,000 LF ordered</i>	<i>Firm, Fixed Price 5,001 + LF ordered</i>	<i>Standard Delivery: # of calendar days from ARO to site delivery</i>	<i>Expedited Delivery: % of increase on firm, fixed price per unit of measure</i>	<i>Expedited Delivery: # of calendar days from ARO to site delivery</i>
Flood bag protection systems		<u>NW</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>NW</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: NORTHWEST DISTRICT				\$ _____	\$ _____	\$ _____			
Flood bag protection systems.		<u>NE</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>NE</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: NORTHEAST DISTRICT				\$ _____	\$ _____	\$ _____			

4.0 PRICING PAGE: 2 of 3

<i>Description</i>	<i>Manuf & Model #</i>	<i>District</i>	<i>Unit of measure</i>	<i>Firm, Fixed Price 1-1,000 LF ordered</i>	<i>Firm, Fixed Price 1,001-5,000 LF ordered</i>	<i>Firm, Fixed Price 5,001 and more LF ordered</i>	<i>Standard Delivery: # of calendar days from ARO to site delivery</i>	<i>Expedited Delivery: % of increase on firm, fixed price per unit of measure</i>	<i>Expedited Delivery: # of calendar days from ARO to site delivery</i>
Flood bag systems.		<u>KC</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>KC</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: KANSAS CITY DISTRICT				\$ _____	\$ _____	\$ _____			
Flood bag systems.		<u>Central</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>Central</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: CENTRAL DISTRICT				\$ _____	\$ _____	\$ _____			
Flood bag systems .		<u>St.L</u>	Per Linear Foot						
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>St.L</u>	Lump Sum						
GRAND TOTAL: ST. LOUIS DISTRICT				\$ _____	\$ _____	\$ _____			

4.0 PRICING PAGE: Page 3 of 3

<i>Description</i>	<i>Manuf & Model #</i>	<i>District</i>	<i>Unit of measure</i>	<i>Firm, Fixed Price 1-1,000 LF ordered</i>	<i>Firm, Fixed Price 1,001-5,000 LF ordered</i>	<i>Firm, Fixed Price 5,001 and more LF ordered</i>	<i><u>Standard Delivery:</u> Enter number of calendar days from receipt of order through delivery to the site</i>	<i><u>Expedited Delivery:</u> Percentage of increase on firm, fixed price per unit of measure</i>	<i><u>Expedited Delivery:</u> # of calendar days from ARO</i>
Flood bag protection systems .		<u>SW</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>SW</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: SOUTHWEST DISTRICT				\$ _____	\$ _____	\$ _____			
Flood bag protection systems .		<u>SE</u>	Per Linear Foot	\$ _____	\$ _____	\$ _____			
All equipment (cages, racks, trailers, sleds, etc.) required to deploy, fill the system, and demobilize.		<u>SE</u>	Lump Sum	\$ _____	\$ _____	\$ _____			
GRAND TOTAL: SOUTHEAST DISTRICT				\$ _____	\$ _____	\$ _____			

Name of the Bidders Firm: _____

Name & Signature of Contractor's Authorized Representative

Date Signed

VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM

Vendor Information

All bidders must furnish ALL applicable information requested below

Vendor Name/Mailing Address: Email Address:	Vendor Contact Information (including area codes): Phone #: Cellular #: Fax #:
Printed Name of Responsible Officer or Employee:	Signature:
For Corporations - State in which incorporated:	For Others - State of domicile:

If the address listed in the Vendor Name/Mailing Address block above is not located in the State of Missouri, list the address of Missouri offices or places of business:

*If additional space is required, please attach an additional sheet and identify it as **Addresses of Missouri Offices or Places of Business.***

M/WBE INFORMATION: List all certified Minority or Women Business Enterprises (**M/WBE**) utilized in the fulfillment of this bid. Include percentages for subcontractors and identify the M/WBE certifying agency:

<u>M/WBE Name</u>	<u>Percentage of Contract</u>	<u>M/WBE Certifying Agency</u>

*If additional space is required, please attach an additional sheet and identify it as **M/WBE Information***

Preference Certification

All bidders must furnish ALL applicable information requested below

GOODS/PRODUCTS MANUFACTURED OR PRODUCED IN USA: If any or all of the goods or products offered in the attached bid which the bidder proposes to supply to the MHTC are **not** manufactured or produced in the "United States", or imported in accordance with a qualifying treaty, law, agreement, or regulation, list below, by item or item number, the country other than the United States where each good or product is manufactured or produced.

Item (or item number)	Location Where Item is Manufactured or Produced

*If additional space is required, please attach an additional sheet and identify it as **Location Products are Manufactured or Produced.***

MISSOURI SERVICE-DISABLED VETERAN BUSINESS: Please complete the following if applicable. Additional information may be requested if preference is applicable. See below definitions for qualification criteria:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

Veteran Information

Business Information

Service-Disabled Veteran's Name (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service Disabled Veteran Business

ANTI-COLLUSION STATEMENT

STATE OF _____)

) SS.

COUNTY OF _____)

_____ being
first duly sworn, deposes and says that he is _____

Title of Person Signing

of _____

Name of Bidder

that all statements made and facts set out in the bid for the above project are true and correct; and that the Bidder (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance.

Affiant further certifies that Bidder is not financially interested in, or financially affiliated with, any other Bidder for the above project.

By _____

By _____

By _____

Sworn to before me this _____ day of _____, 20_____.

Notary Public

My Commission Expires _____

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

STANDARD SOLICITATION PROVISIONS

- a. The solicitation for the procurement of the supplies referenced therein, to which these "Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions" are attached, is being issued under, and governed by, the provisions of Title 7 – Missouri Department of Transportation, Division 10 – Missouri Highways and Transportation Commission, Chapter 11 – Procurement of Supplies, of the Code of State Regulations. The Missouri Highways and Transportation Commission (**MHTC**), acting by and through its operating arm, the Missouri Department of Transportation (**MoDOT**), draws the Bidder's attention to said 7 CSR 10-11 for all the provisions governing solicitation and receipt of bids/quotes and the award of the contract pursuant to this solicitation.
- b. All bids/quotes must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

GENERAL TERMS AND CONDITIONS

Definitions

Capitalized terms as well as other terms used but not defined herein shall have the meaning assigned to them in section 7 CSR 10-11.010 Definition of Terms.

Nondiscrimination

- a. The Contractor shall comply with all state and federal statutes applicable to the Contractor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*)
- b. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MHTC 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, the Bidder 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 bid response, and (3) the MHTC's acceptance of the bid by post-award contract or 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 notice to proceed and/or purchase order.

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. 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.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, 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 MHTC a copy of their current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of their Certificate of No Tax Due from the Missouri Department of Revenue.
- c. 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 MHTC a copy of their current Transient Employer Certificate from the Missouri Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

Executive Order:

The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

- 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
- 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

- a. In the evaluation of bids/quotes, preferences shall be applied in accordance with 7 CSR 10-11.020(7). Contractors should apply the same preferences in selecting subcontractors. The attached document entitled "**VENDOR INFORMATION AND PREFERENCE CERTIFICATION FORM**" must be completed and returned with the solicitation documents.
- b. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBES. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

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

Cancellation of Contract

The MHTC may cancel the Contract at any time for a material breach of contractual obligations or for convenience by providing 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.

Bankruptcy or Insolvency

Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Contractor responsible for damages.

Warranty

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 the MHTC, (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.

Status of Independent Contractor

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.

Non-Waiver

If one of the parties agrees to waive its right to enforce any term of this Contract, that party does not waive its right to enforce such term at any other time or to enforce any or all other terms of this Contract.

Indemnification

The Contractor shall defend, indemnify and hold harmless MHTC, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Contractor's performance of its obligations under the contract awarded pursuant to this solicitation.

SPECIAL TERMS AND CONDITIONS

Tax Exempt Status:

MHTC 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.

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 MHTC. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MHTC 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.

Permits, Licenses and Safety Issues

The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.

Delivery – Additional Requirements

- a. The following days shall be construed as **official holidays** under the terms of the contract:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day
- b. When any of the above **holidays falls** on a **Sunday**, the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday**.

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

Temporary Suspension of Work

- a. The **District Engineer** shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to MoDOT or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If MoDOT suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. MoDOT may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within **30 Days** after the claimed cause for the delay has ceased to exist.

Liquidated Damages

- a. In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of Five Hundred Dollars and zero cents (\$500.00) per day, per District**, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.
- b. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.