

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

830 MoDOT DRIVE – P.O. BOX 270

JEFFERSON CITY, MO 65102

REQUEST NO.	1-070302		
DATE	February 7, 2007		
PAGE NO.	1	NO. OF PAGES	10

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

2:00 P.M. LOCAL TIME, MARCH 2, 2007

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

QUOTATIONS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION

Submit net bid as cash discount stipulations will not be considered

JEFFERSON CITY, MISSOURI

DEFINITE DELIVERY DATE MUST BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING. **ALL BIDS SHOULD BE EXTENDED AND TOTALED.**

BUYER: Frankie J. Ryan

BUYER TELEPHONE: 573-522-9481

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<p>Contract for furnishing “Safety Vests and Trousers” for a contract period beginning date of award through February 29, 2008.</p> <p>PLEASE SEE ATTACHED SPECIFICATIONS AND PRICING PAGE</p> <p>NOTE: The quantity shown is an estimated requirement for the period specified. The Missouri Department of Transportation reserves the right to increase or decrease quantities as needed. Orders will be placed as needed.</p> <p>VENDOR NOTE: Prior to any contract issuance, the Bidder must be in compliance with the laws regarding conducting business in the State of Missouri.</p>					

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were quoted within THIRTY (30) days after receipt of formal purchase order.

Date: _____

Telephone No.: _____

Fax No.: _____

Federal I.D. No. _____

Firm Name: _____

Address: _____

By (Signature): _____

Type/Print Name _____

Title: _____

Is your firm MBE certified? Yes No

Is your firm WBE certified? Yes No

List all agencies your firm is currently certified with. _____

Form E-103 (Rev. 11-04)

BID SUBMITTAL:

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

Ms. Frankie Ryan
Missouri Department of Transportation
General Services - Procurement
830 MoDOT Drive; P.O. Box 270
Jefferson City, MO 65102

All documents must be sealed and should be clearly marked "Bid for Safety Vests and Trousers".

PRICES:

Prices must remain firm for the entire contract period stated herein.

SPECIFICATIONS AND PREAPPROVAL OF PRODUCTS:

All bidders should carefully review the safety vest/trouser specifications detailed in this solicitation. Also, all bidders need to carefully review the information regarding the preapproval of vests and trousers.

AWARD:

For the purpose of this bid, items will be awarded on an "ALL or NONE" basis.

DELIVERY:

All deliveries shall be F.O.B. Missouri Department of Transportation, Jefferson City, Missouri, within 30-days upon receipt of order. ***For special orders***, the purchase order will indicate the shipping address. Please refer to the Pricing Page for anticipated special order sizes.

IFB TIME LINE:

Issue Bid Documents:	Wednesday, February 7, 2007
Samples Submittal Date:	Friday, February 23, 2007.
Anticipated Addendum Listing Approved Vests/Trousers:	Monday, February 26, 2007, 3:00 pm.
Date Bids are Due to MoDOT:	Friday, March 2, 2007

NOTE: The bidders may choose to submit their prices, in a sealed envelope as noted above, at the same time they are submitting samples for MoDOT's review. If submitting the pricing with the samples, please ensure the pricing envelope is sealed separately from the samples.

INVOICING AND PAYMENT REQUIREMENTS:

The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.

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.

Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

NON-EXCLUSIVITY:

The Missouri Department of Transportation (MoDOT) reserves the right to obtain “like or similar” products of this or other manufacturers, exclusive of this contract, when use of such products is deemed in the best interest of MoDOT.

AWARD:

For the purposes of this bid, items will be awarded on an “ALL OR NONE” basis.

CONTRACT PERIOD:

This contract shall commence from the date of award through February 29, 2008 and include up to two (2) one-year renewal option periods. If the option for renewal is exercised by the Missouri Highway and Transportation Commission (MHTC), the successful bidder shall agree to all terms and conditions of this IFB and all subsequent amendments. Renewal options are at the sole discretion of the MHTC. Furthermore, the bidder is advised that the MHTC 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.

ADDITIONAL DOCUMENT SUBMITTAL REQUIREMENTS:

For the bid to be considered the two (2) attachments “Preference in Purchasing Products” and “Missouri Domestic Product Procurement Act” must be submitted to this office prior to any contract being awarded for this bid.

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MoDOT Safety Vest/Trouser Specifications

The following specifications outlined below are to establish a term contract for “Safety Vests & Trousers”.

GENERAL REQUIREMENTS FOR VESTS AND TROUSERS:

1. **VESTS:** For the purposes of this bid, MoDOT has determined that the following product meets the requirements for safety and fit for vests. This product will be used as minimum specifications for any vests deemed acceptable by MoDOT:
 - a. **Vest:** Ergodyne GloWear 8240 HL, Class 2 Expandable Vest, Hi-Vis Lime Green.
2. **TROUSERS: Materials used to construct trousers shall comply with all ANSI 107 - 2004** (i.e. high visibility background material and retro-reflective material/performance). **When vest and trousers are worn together, the ensemble shall meet ANSI 107 - 2004 Standards for a Class 3 ensemble. See specifications below for additional trouser details.**
3. The safety vest/trousers *shall show careful workmanship* and shall be free from ragged edges, surface blemishes, loose stitches, uneven seams or other defects, which could make them unsuitable for the intended use.
4. The safety vest offered by the bidder shall be equal to or better than (as determined by MoDOT) in color, material type, reflective material usage, construction, configuration and garment labeling as the Ergodyne vest product noted above.
5. The safety vests shall be available in the following sizes: Medium/Large, X-Large/2X-Large, and 3X-Large and larger, and meet the required size measurements noted for the Ergodyne vest specified in this bid and allow for adequate adjustments so as to provide a proper fit. **NOTE ON SIZING CHART:** All bids submitted on non-Ergodyne vests should include the proposed sizing chart for the proposed vests.
6. The safety trousers shall be available in the following sizes: *Small, Medium, Large, X-Large, 2X-Large, 3X-Large, 4X-Large and 5X-Large.* **Note:** **For the purposes of this bid, MoDOT will accept trousers in the individual sizes as stated above or trousers that have sizes combined (i.e. S/M, L/XL, etc) so long as the trousers meet the required size measurements noted in this bid and allows for adequate adjustments so as to provide a proper fit.** **NOTE ON SIZING CHART:** All bids submitted should include the proposed sizing chart for the proposed trousers.
7. As per ANSI 107-2004, safety trouser labels shall include, but not limited to, the following information: manufacturer identification, size, washing and drying instruction, and where applicable, the garment class, and level of retro reflective material (i.e. Class 2, Level 2).

TROUSER SPECIFICATIONS:

Trousers shall be Class E garments made using the same fluorescent (high visibility) yellow (lime) mesh material and Fluorescent Silver 3M Scotchlite™ tape. When trousers are worn with the specified Class 2 vest, the ensemble (both vest and trousers) shall create an ANSI 107 – 2004 Class 3 approved suit.

Trousers shall have the following features:

- One (1) right hip back pocket approximately 7-1/2” x 6-1/2” placed on the back of the trousers.

- Front fly closure will consist of two (2) high visibility yellow (lime) hook and loop closures and two (2) non-conductive plastic take up snaps on the front waist band that will allow an adjustable waist band. Snaps on the waistband shall be placed approximately 2” apart so as to allow adjustments as defined by the trouser-sizing chart listed below.
- Two (2) eight inch (8”) slash pockets for easy access to work clothing.
- Leg openings/cuffs will be produced using high quality elastic or a hook and loop tab closure for easy on and off. **NOTE:** The elastic used in the leg openings shall have enough elasticity to allow end users to slide work boots easily through leg openings and then draw back so as to allow a snug fit around the lower leg.
- Retro reflective vinyl tape as specified above shall consist of two (2) 2 inch X 24 inch horizontal stripes placed around each lower leg in a manner so as to allow no less than 2” between each stripe.

Trouser Sizes:

SIZES:	WAIST SIZE (in inches)	LENGTH (in inches)
SM – MED	24” – 30”	42”
LG – XL	32” – 40”	43”
2XL – 3XL	42” – 50”	45”
4XL – 5XL	52” – 60”	46”

NOTE: The waist size is taken from the two snap positions of the closures. The lengths shown are from the top of the waistband to the elastic leg openings.

PACKAGING:

Safety vests and trousers shall be packaged either as individually wrapped items or flat packing as noted below. In either case, each box shall contain no more than 25 items, with only one size per box, with no mixing of vests and trousers in the box, or mixing of packaging techniques in the box. **Special order items** will also be packaged as noted in this section. There may be less than 25 items in a special order box, but not more than 25 items in a special order box.

Flat Packing: Vest and trousers shall be packaged flat with no folds or bends to avoid damage to product. Proper packing material shall be used between vests and trousers to avoid the potential for material being stuck together. Safety vests and trousers to be shipped in sturdy cardboard boxes and labeled as to the contents, size and quantity. Quantity per case will be no more than 25 items for vests or pants.

Individually Wrapped: Vest and trousers shall be individually wrapped in clear bags/wrapping, folded as to minimize bends to avoid damage to product. Proper packing material shall be used between the folds of the items to avoid the potential for safety vests and trousers material being stuck together. Safety vests and trousers to be shipped in sturdy cardboard boxes and labeled as to the contents, size and quantity. Quantity per case will be no more than 25 items per case.

PRE-APPROVAL OF VEST/TROUSER PRODUCTS

For the purposes of this solicitation, all bidders shall provide the following samples to MoDOT to review and/or test for adherence to the specified vest product or trouser specifications listed in this solicitation. Samples shall be provided to MoDOT at no charge, will become the property of MoDOT, and will not be returned. ***NOTE:*** If the bidder intends to offer MoDOT the Ergodyne vest, the bidder ***will not*** need to submit a vest sample for review.

Upon the completion of MoDOT's review and/or testing of the submitted samples, an addendum will be issued notifying all interested parties of the vest/trousers submitted that have passed the review and/or testing, and will thereafter be considered as pre-approved. MoDOT will only accept bids for the pre-approved vests/trousers as noted in the addendum.

Timeline for Submittal of Samples.

The bidders shall submit their samples to the MoDOT buyer of record, at the same address as noted above for receipt of bids, **on or before the end of business FEBRUARY 23, 2007**. MoDOT will not extend the date for submittal of the samples.

Number of Samples to Submit:

Vests: Submit one (1) vest in each of the sizes a) Medium/Large and b) X-Large/2X-Large, for a total of two (2) vests. Vests must be equal to or better than (as determined by MoDOT) the Ergodyne vest product specified above. *Also to be submitted by the bidder is a **technical specification sheet*** for constructing vests in the 3XL and larger sizes. Failure to provide the requested samples and technical specification sheet will result in the bidder being unable to submit a bid for offering these products to MoDOT.

Trousers: Submit one (1) pair of trousers in each of the sizes a) Small, b) Large, and c) X-Large, for a total of three (3) pairs of trousers. Trousers must be equal to or better than (as determined by MoDOT) the specifications noted in these solicitation documents for safety trousers. *Also to be submitted by the bidder is a **technical specification sheet*** for constructing trousers in sizes larger than 5-XL. Failure to provide the requested samples and technical specification sheet will result in the bidder being unable to submit a bid for offering these products to MoDOT.

INDEPENDENT LAB TESTING

For the purposes of this bid, MoDOT requires that each bidder provide a copy of the following independent lab tests/certification (3rd party) performed to certify that the materials used to produce the safety vest and trouser truly meet the ANSI 107 – 2004 safety standards. Cost(s) of such tests will be the responsibility of the vendor. Lab reports shall be submitted for the following areas:

1. Certification of the Hi-Vis lime green background material.
2. Certification of the 2" wide silver 3M Scotchlite™ tape.

NOTE: The above testing results shall include all test results/data that prove the materials used in construction meet the ANSI 107 – 2004 safety standard. Result data should include but not limited to the following: Color fastness, tensile strength, bursting strength, etc.)

For the purposes of this bid, MoDOT reserves the right to request additional testing, in accordance with the ANSI 107 – 2004, of any bidder submitting a bid or during the contract term of the successful bidder. Any subsequent testing will be at the successful bidder's expense.

ESTIMATED QUANTITIES:

The quantities shown on the pricing page are estimated requirements for the period specified. MoDOT reserves the right to increase or decrease quantities as needed.

LIQUIDATED DAMAGES:

The bidder represents he/she has the resources and capacity to produce the safety vests and trousers as outlined in this IFB and *guarantees that deliveries will be made within 30 days upon receipt of order.*

In the event the successful contractor fails to deliver the product(s) within the specified delivery window, MoDOT reserves the right to collect liquidated damages. In order to determine the amount of liquidated damages, the following “Deduction Rate Table” will be used to access damages:

# of Calendar Days Order Is Delayed (Beyond the 30 Day Delivery Window):	% Reduction of Unit Cost Per Vest/Trouser:
1 –10	5%
11-20	10%
21 – 30	20%
31 Days Plus	25%

It is therefore agreed that said amounts/percentage reductions will be withheld from payments due the contractor or otherwise collected from the contractor as liquidated damages. NOTE: The following holidays will not be included in the accessed days:

- | | |
|------------------------------------|------------------------------------|
| <i>New Year’s Day</i> | <i>Independence Day (Observed)</i> |
| <i>Martin Luther King, Jr. Day</i> | <i>Labor Day</i> |
| <i>Lincoln Day</i> | <i>Columbus Day</i> |
| <i>Washington’s Birthday</i> | <i>Veterans Day</i> |
| <i>Truman Day (Observed)</i> | <i>Thanksgiving Day</i> |
| <i>Memorial Day</i> | <i>Christmas Day (Observed)</i> |

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SAFETY VEST & TROUSER PRICING PAGE

(1 page with 12 items)

Please quote the following items according to the specifications outlined herein:

SAFETY VESTS

ITEM #	SIZE:	MANUFACTURER /MODEL #	UNIT OF ISSUE:	EST QTY	UNIT COST:	EXT. COST:
1	M / L 40" – 48" chest size		EACH	14,000		
2	XL / 2XL 48" – 56" chest size		EACH	5,500		
3	3XL & up		EACH	SPECIAL ORDER		
					TOTAL:	\$

Number of safety vests per case: _____ (no more than 25 per case)

SAFETY TROUSERS

ITEM #	SIZE	MANUFACTURER /MODEL #	UNIT OF ISSUE	EST QTY	UNIT COST	EXT. COST
4	SM		EACH	Special Order		
5	MED		EACH	Special Order		
6	LG		EACH	40	40	
7	XL		EACH	50	50	
8	2-XL		EACH	25	25	
9	3-XL		EACH	Special Order		
10	4-XL		EACH	Special Order		
11	5-XL		EACH	Special Order		
12	6-XL & up		EACH	Special Order		
					TOTAL:	\$

NOTE: For the purposes of this bid, *the minimum order* for trousers will be one (1) pair (EACH).

RENEWAL PERIOD: The bidder shall provide below the maximum percentage of increase or minimum percentage of decrease for the renewal period. The percentage shall be computed against the **current contract price** during the renewal period. **If renewal percentage is not provided,** the prices during renewal period shall be the same as during the current contract period.

1st Renewal Period _____% of maximum increase and/or _____% of maximum decrease.

2nd Renewal Period _____% of maximum increase and/or _____% of maximum decrease.

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated:

FOR OTHERS:

State of domicile:

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34/359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:

If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

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

(attach an additional sheet if necessary)

The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): _____

The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

Vendor Name: _____

Vendor Address: _____

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special 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 firm 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/RFQ/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a firm 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.

Nondiscrimination

- a. 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.
- b. 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.

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

- 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 or post-award contract.
- 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 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.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

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 of 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.

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

- 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. The 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 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.

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

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.