BID FORM

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

REQUEST NO.	1-080328FR		
DATE	March 18, 2008		
PAGE NO.	1	NO. OF PAGES	7

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

2:00 PM, LOCAL TIME, MARCH 28, 2008

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, MO 65109

ALL BIDS SHOULD BE EXTENDED AND TOTALED.

BUYER: FRANKIE J. RYAN **BUYER TELEPHONE:** 573-522-9481

SUPPLIES OR SERVICES

Contract for furnishing **"CHAIN & RATCHET LOAD BINDERS"** for a contract period beginning April 1, 2008 through March 31, 2009.

PLEASE SEE ATTACHED PRICING PAGES

Note to Respondent: A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors MUST submit a bid/proposal that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement MUST submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with MoDOT legal contract approval.

VENDOR MUST SIGN AND SUBMIT THIS FORM WITH THE PRICING PAGES

(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 on which prices were quoted within THIRTY (30) calendar days after receipt of formal purchase order.

Date: _____ **Firm Name:** _____

Telephone No.: _____ **Address:** _____

Fax No.: _____ _____

Federal I.D. No. _____ **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 the outmost wrapping should be clearly marked **"Bid for Chain & Ratchet Load Binders".**

PRICES:

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

DELIVERY:

Bids shall be quoted with delivery F.O.B Missouri Department of Transportation at Jefferson City, MO 65109. Bidder agrees to furnish and deliver any or all the items on which prices were quoted within THIRTY (30) calendar days after receipt of formal purchase order.

COMPLIANCE WITH BID REQUIREMENTS:

Failure to comply with the requirements published in this bid may result in the bid being subject to rejection. Product that does not meet specifications will cause all of the shipments to be returned at the bidders expense.

CONTRACT PRICE ESCALATION:

In the event the contractor requests a price increase during the contract 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 for a price increase, 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.

NON-EXCLUSIVITY:

The Missouri Department of Transportation reserves the right to obtain like or similar products of this or other manufacturers when use of such products is deemed in the best interest of MoDOT.

VENDOR NAME REGISTRATION:

On all bid documents, the bidder must use the firm name under which he/she is registered to do business in the state of Missouri. The bidder must ensure that his/her firm name is registered with the office of the Secretary of State.

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.

PRICING PAGES

Pricing Page 1 of 3

(Three (3) pages, 3 categories with a total of 8 items)

Contract for furnishing "Chain and Ratchet Load Binders" for a **contract period beginning April 1, 2008 through March 31, 2009**. COMPLETE, *SIGN WHERE INDICATED ON THE LAST PRICING PAGE*, AND SUBMIT WITH YOUR SIGNED BID FORM AND OTHER REQUIRED DOCUMENTATION.

CHAIN – CATEGORY 1 (3 items)							
Item #:	**Description:**	**Mfg. No. or Brand**	**Grade**	**QTY:**	**Unit of Issue:**	**Unit Price:**	**Extended Total:**
#1	#4502113020 Chain, ¼", Grade 30 (Proof Coil), working load limit of 1,300 lbs., **pails shall not exceed 75 pounds in weight.** _____ *feet in the pail.*			1,500	FOOT		
#2	#4502113030 Chain, 5/16", Grade 30 (Proof Coil), working load limit of 1,900 lbs., **pails shall not exceed 75 pounds in weight.** _____ *feet in the pail.*			3,000	FOOT		
#3	#4502196152 Chain, 3/8", Grade 70 (Binding Chain), working load limit of 6,600 lbs., **pails shall not exceed 75 pounds in weight.** _____ *feet in the pail.*			12,000	FOOT		
						TOTAL FOR CATEGORY 1	**$**

<u>NOTE ON LABELS</u>: Items 1 – 3; pails shall be labeled with chain size and number of feet per pail.

<u>NOTE ON PAIL SIZE</u>: During the contract period, the weight and number of feet in the pail shall not change, but will remain the same as bid.

<u>NOTE ON EMBOSSING</u>: All chain must be embossed with appropriate "Grade" as specified above.

<u>NOTE ON METAL FINISHES:</u> All chain, mid-links and grab hooks shall have either a zinc plated coating, gold-color finished coating, or other finished coating as appropriate. All un-coated chain, mid-links and grab hooks will not be considered for award.

MID-LINKS AND GRAB HOOKS – CATEGORY 2 (4 items)							
Item #:	**Description:**	**Mfg. No. or Brand**	**Grade**	**QTY:**	**Unit of Issue:**	**Unit Price:**	**Extended Total:**
#4	#4501948055 Mid-Links, chain, 5/16”, Minimum Grade 30, approximately 10 per box.			50	EACH		
#5	#4501948082 Mid-Links, chain, 3/8”, Minimum Grade 70, approximately 10 per box.			700	EACH		
#6	#4501926040 Grab Hooks, chain, 5/16”, shackle type, Minimum Grade 43, approximately 10 per box.			150	EACH		
#7	#4501926052 Grab Hooks, chain, 3/8”, Minimum Grade 70, approximately 10 per box.			2,000	EACH		
TOTAL FOR CATEGORY 2							**$**

<u>NOTE ON EMBOSSING</u>: Items 4-7; all mid-links and grab hooks *shall be embossed with the appropriate “Grade” as specified above.*

<u>NOTE ON METAL FINISHES:</u> All chain, mid-links and grab hooks shall have either a zinc plated coating, gold-color finished coating, or other finished coating as appropriate. All un-coated chain, mid-links and grab hooks will not be considered for award.

~ This section intentionally left blank. ~

RATCHET-TYPE LOAD BINDERS – CATEGORY 3 (1 item)							
Item #:	**Description:**	**Mfg. No. or Brand**	**Grade**	**QTY:**	**Unit of Issue:**	**Unit Price:**	**Extended Total:**
#8	4450105017 Ratchet-type load binders; Turnbuckle style. For use with 3/8" G-70 and ½" G-43 chain. Working load limit of 9200 lbs. *Working load limit must be clearly embossed on the handle*. Minimum take-up of 8". Full 360° swivel hooks. Handle must be a minimum of 14" in length.			200	EACH		
					TOTAL FOR CATEGORY 3	**$**	

NOTE ON AWARD: Award will be **"CATEGORY BY CATEGORY". *Bidder must bid on all items in the category*** in order to be considered for award of that category.

NOTE ON SAMPLES: MoDOT reserves the right to request a sample of the product from the bidders if deemed necessary before award of bid. *Bidder will have five (5) working days, from date of request, to provide sample*. Unless otherwise stated herein, samples shall be furnished to MoDOT at no charge, will become the property of MoDOT and will not be returned. **DO NOT** SUBMIT SAMPLES WITH YOUR BID.

NOTE ON QUANTITIES: The quantities shown *are estimated* for the period specified. MoDOT reserves the right to increase or decrease the quantity as needed. *All bids should indicate the Brand, Part Number, and "Grade" to be considered.*

NOTE ON DESCRIPTIVE LITERATURE: *Please submit descriptive literature for each product bid.*

Name of the Bidder's Firm	**Signature of Authorized Representative**	**Date Signed**

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 <u>ALL</u> 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:

_____

_____

_____

_____

_____

<u>THIS SECTION MUST BE COMPLETED AND SIGNED:</u>

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 me 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 if 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: _____

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.

g. 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.

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.

Executive Order

a. 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/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. 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.

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 Offeror shall defend, indemnify and hold harmless the Commission, 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 Offeror's performance of its obligations under this Agreement.