BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
830 MoDOT DRIVE – P.O. BOX 270
JEFFERSON CITY, MO 65101

REQUEST NO.	2-070123		
DATE	January 10, 2007		
PAGE NO.	1	NO. OF PAGES	22

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

10:00 a.m., Local Time, January 23, 2007

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

BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION
Submit net bid as cash discount stipulations will not be considered

Various Locations

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

BUYER: Brenda Tyree
BUYER EMAIL: Brenda.Tyree@modot.mo.gov
BUYER TELEPHONE: 573- 751-7482

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
001	To establish a contract to furnish "**Aggregate**" with an effective date of Date of Award and ending **July 31, 2007** (revised per Addendum 003) in accordance with the following pages.					

Components of Agreement: The Agreement between MHTC and the successful Bidder shall consist of: the RFB and any written amendments thereto, the "Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions" that are attached to this RFB, the bid submitted by the Bidder in response to the RFB and the post-award contract agreement signed between the parties. However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFB or the Bidder's bid. The Bidder is cautioned that its bid shall be subject to acceptance by MHTC without further clarification.

Return sealed bid to the address shown at the top of this page.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above Request For Bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within the timeframe specified herein, after receipt of formal purchase order.

Date: _____
Telephone No.: _____
Fax No.: _____
Federal I.D. No. _____
Email Address: _____

Firm Name: _____
Address: _____
_____
By (Signature): _____
Type/Print Name _____
Title: _____

Form E-103 (Rev. 11-04)

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

1.1.1 This Request For Bid seeks bids from qualified organizations to provide aggregate located throughout the State of Missouri with an effective contract period of Date of Award through July 31, 2007, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), (hereinafter referred to as MoDOT). Each bid must be mailed in a sealed envelope to Ms. Brenda Tyree, General Services Procurement Unit, 830 MoDOT Drive, P.O. Box 270, Jefferson City, Mo 65109, or hand-delivered in a sealed envelope to the General Services Procurement Office in the Highway and Transportation Building at 830 MoDOT Drive, Jefferson City, Missouri. All questions regarding the RFB shall be submitted to Ms. Brenda Tyree. Bids must be returned to the office of Ms. Brenda Tyree no later than **10:00 a.m., CST, January 23, 2007**.

RFB Coordinator:
Ms. Brenda Tyree, Procurement Agent
Missouri Department of Transportation
830 MoDOT Drive
P.O. Box 270
Jefferson City, MO 65102
PHONE: 573-751-7482
FAX: 573-526-1218

MHTC reserves the right to reject any and all bids for any reason whatsoever.

BID

(1) The bidder shall provide firm, fixed prices to MHTC as stated on the PRICING PAGES in accordance with the terms of this Request for Bid.

(2) The bidder agrees to provide the services specified herein at the firm, fixed price stated on the Pricing Pages, under the terms of this Request for Bid.

1.2 General Information:

1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of aggregate as set forth herein.

1.2.2 Organization - This document, referred to as a Request for Bid (RFB), is divided into the following parts:

1) Introduction and General Information
2) Scope of Work
3) Bid Submission
4) Pricing Page(s)
5) Terms and Conditions

1.2.3 ***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 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.

2. SCOPE OF WORK

2.1 General Requirements:

2.1.1 The contractor shall provide aggregate on an as needed, if needed basis for the Missouri Highway and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), hereinafter referred to as "MoDOT", in accordance with the provisions and requirements stated herein.

2.1.2 The contractor shall provide all deliverables/services to the sole satisfaction of MoDOT.

2.1.3 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.

2.2 Specific Requirements:

2.2.1 The contractor shall provide MoDOT with aggregate, in accordance with the following.

a. All materials shall conform to Missouri Standard Specifications for Highway Construction, 2004 Edition, and any revisions thereto, except as revised herein:

b. Section 1001.14 Aggregate Quality Control/Quality Assurance. Aggregate produced under an approved

c. MoDOT QC/QA program will be accepted on that basis. All other aggregates are subject to the department's conventional inspection and acceptance procedures. All mine tailings shall meet the requirements of Section 1001.12 Mining By-Product Aggregates.

2.3 Delivery Requirements:

2.3.1 If requested by MoDOT, the contractor(s) shall provide the services specified herein to the applicable MoDOT location(s) as specified in accordance with the pricing pages.

2.4 Pick-up Requirements:

2.4.1 In the event MoDOT utilizes the Pick-up Option, the contractor shall supply MoDOT with all equipment and labor necessary to load the material onto MoDOT trucks or those trucks designated to haul the material.

a. MoDOT will provide the contractor with a one (1) week notice before picking up the material.

b. The contractor shall issue a ticket to all trucks hauling material.

c. Intermittently throughout the day during working hours, the contractor shall load MoDOT trucks or those trucks designated to haul the material.

d. The contractor shall agree to supply MoDOT with the lesser of the following: 650 tons of material per day, or the total quantity remaining on the order.

e. The contractor shall understand and agree that the time for pick-up shall be between 6:30 a.m. and 4:00 p.m., Monday through Friday.

f. The contractor shall understand and agree that MoDOT may pick-up material between May 15, 2007 and October 15, 2007.

g. The contractor shall not charge MoDOT for equipment and/or labor necessary to load the material onto

MoDOT trucks or those trucks designated to haul the material.

2.5 Ticket Requirements:

2.5.1 The contractor's printer must be capable of keeping and printing cumulative totals for each item number in the contract. The contractor's printer shall produce a ticket in triplicate to accompany each truckload and shall be furnished to MoDOT. The ticket shall include the following information:

a. Gross, tare and net weights (masses).

b. Identification of the vehicle.

c. Current date and time.

d. MoDOT's Purchase Order Number.

e. Unique ticket number (may be preprinted on the ticket).

f. Item, Specification Designation and Location

2.5.2 In the event the contractor lacks the ability to print a ticket, a manual ticket may be furnished, with the approval of the engineer.

2.5.3 In the event of automatic ticket printer failure, the contractor may be permitted, without approval from the engineer, to furnish manually written tickets to complete that day's operation.

2.5.4 The contractor shall understand and agree that vehicle scales shall adhere to section 310.4 of the Missouri Standard Specifications for Highway Construction, 2004 Edition.

2.5.5 The contractor shall issue a ticket to all trucks hauling material adhering to Section 404.2.13 of the Missouri Standard Specifications for Highway Construction, 2004 Edition.

2.6 Liquidated Damage Requirements:

2.6.1 The contractor shall agree and understand that providing the aggregate in accordance with the requirements stated herein is considered critical to the efficient operations of the MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.

a. In the event the contractor fails to provide the specified services for the aggregate in accordance with the contractual requirements specified herein, the contractor shall be assessed liquidated damages in the amount of $500.00 per day for each such delinquent day.

b. The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to the MoDOT, at the sole discretion of the MoDOT.

c. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.

d. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.

e. The contractor shall agree and understand Saturdays, Sundays, holidays and days whereas the MoDOT has suspended work shall not be assessable days.

2.7 Invoicing and Payment Requirements:

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

2.7.2 The contractor shall be paid in accordance with the firm, fixed prices stated on the applicable pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.

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

2.8 Other Contractual Requirements:

2.8.1 Contract Period - The contract shall commence from the date of award until October 15, 2007.

2.8.2 Compliance with Regulations - The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the MoDOT, 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 the contract.

2.8.3 Incorporation of Provisions - The contractor shall include the provisions specified herein in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or Directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the MoDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, 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 State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. BID SUBMISSION

3.1 Bid Submission Information:

3.1.1 All bids must be received in a sealed envelope clearly marked "**Spring Aggregate**".

3.1.2 All bids must be received at the following address no later than **January 23, 2007** at **10:00 a.m., CST**.

The Missouri Department of Transportation
General Services – Procurement Division
Attn: Brenda Tyree
830 MoDOT Drive
Jefferson City, MO 65109

3.1.3 *Bid Guaranty/Contract Bond*:

a. Each bid shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.

b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.

c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

3.1.4 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.

3.1.5 *Cost Determination* - The low bid shall be determined by reviewing each line item separately.

3.1.6 *Contract Award* - The contract will be awarded to the lowest responsive bidder determined as specified above.

a. Award of this bid will be made on an "Item-By-Item" basis after reviewing all options, and by using the "lowest and best" principle of award, providing the prices are acceptable to the Commission. In the event of tie low bids, the Commission reserves the right to establish the method to be used in determining the award.

3.1.7 *Open Competition / Request For Bid Document:*

a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the 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 the 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 State of Missouri is that which is issued by the 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. The 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.

3.1.8 ***NOTE*:** The bidder must be in compliance with the laws regarding conducting business in the State of Missouri. Within ten (10) business days of notification, the bidder will need to provide a copy of his/her Missouri Secretary of State's "Certificate of Good Standing" prior to the issuance of any contract or initial purchase order by the MoDOT.

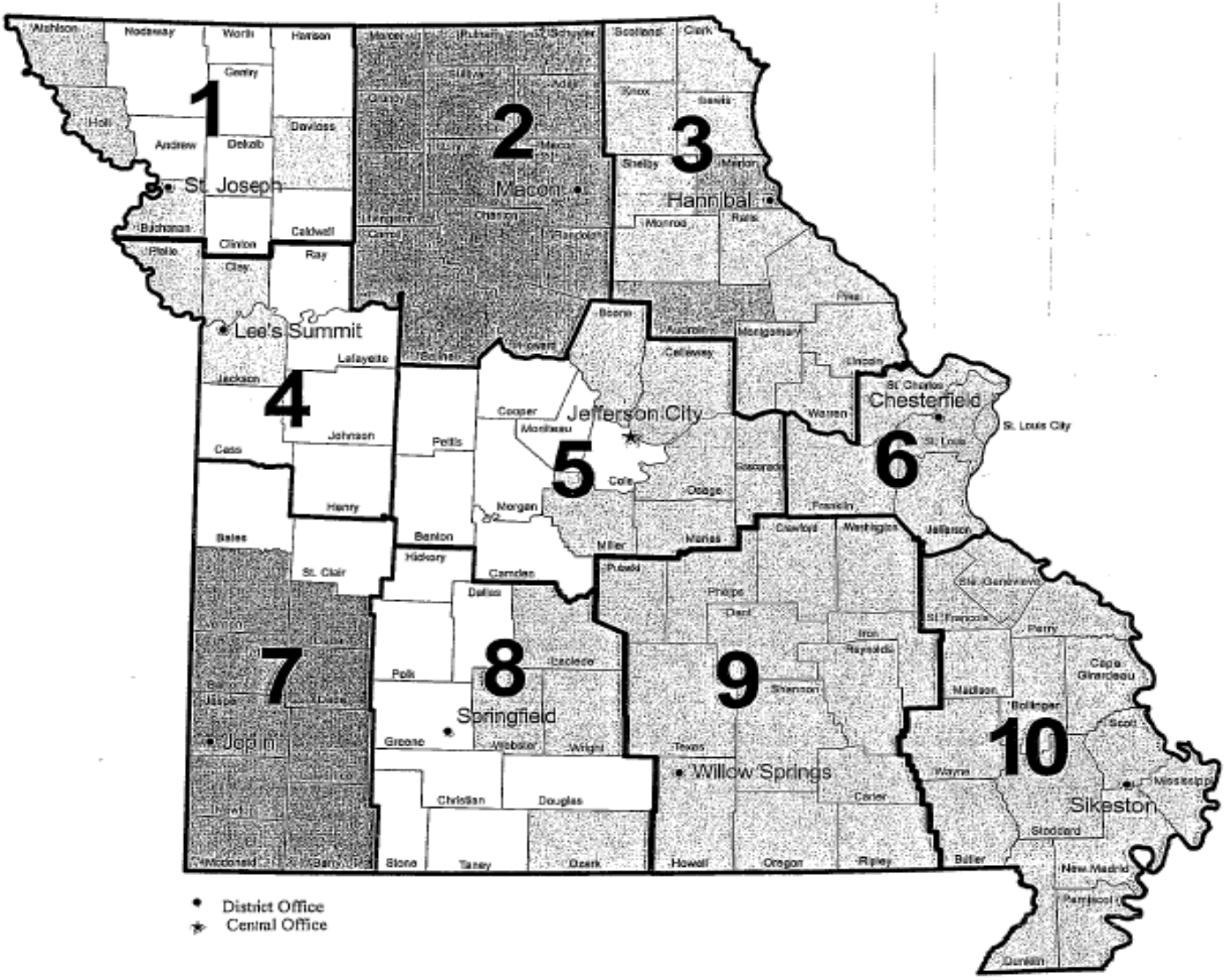
4. PRICING PAGE

Aggregate – For each district being bid by the bidder, the bidder shall provide firm, fixed prices in the tables on each districts separate links for the original contract period for providing the deliverables /services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables/services shall be included in the prices stated in the tables.

CLICK ON THE SEPARATE LINKS ON THE

MoDOT WEBSITE PAGE FOR EACH DISTRICT

Missouri Department of Transportation
District Outline Map



COUNTY	DIST.
Adair	2
Andrew	1
Atchison	1
Audrain	3
Barry	7
Barton	7
Bates	7
Benton	5
Bollinger	10
Boone	5
Buchanan	1
Butler	10
Caldwell	1
Callaway	5
Camden	5
Cape Girardeau	10
Carroll	2
Carter	9
Cass	4

COUNTY	DIST.
Cedar	7
Chariton	2
Christian	8
Clark	3
Clay	4
Clinton	1
Cole	5
Cooper	5
Crawford	9
Dade	7
Dallas	8
Daviess	1
DeKalb	1
Dent	9
Douglas	8
Dunklin	10
Franklin	6
Gasconade	5
Gentry	1

COUNTY	DIST.
Greene	8
Grundy	2
Harrison	1
Henry	4
Hickory	8
Holt	1
Howard	2
Howell	9
Iron	9
Jackson	4
Jasper	7
Jefferson	6
Johnson	4
Knox	3
Laclede	8
Lafayette	4
Lawrence	7
Lewis	3
Lincoln	3

COUNTY	DIST.
Linn	2
Livingston	2
McDonald	7
Macon	2
Madison	10
Maries	5
Marion	3
Mercer	2
Miller	5
Mississippi	10
Moniteau	5
Monroe	3
Montgomery	3
Morgan	5
New Madrid	10
Newton	7
Nodaway	1
Oregon	9
Osage	5

COUNTY	DIST.
Ozark	8
Pemiscot	10
Perry	10
Pettis	5
Phelps	9
Pike	3
Platte	4
Polk	8
Pulaski	9
Putnam	2
Ralls	3
Randolph	2
Ray	4
Reynolds	9
Ripley	9
St. Charles	6
St. Clair	7
St. Francois	10
Ste. Genevieve	10

COUNTY	DIST.
St. Louis	6
Saline	2
Schuyler	2
Scotland	3
Scott	10
Shannon	9
Shelby	3
Stoddard	10
Stone	8
Sullivan	2
Taney	8
Texas	9
Vernon	7
Warren	3
Washington	9
Wayne	10
Webster	8
Worth	1
Wright	8

Company _____

Item No.	List Plant Location for Material to be Picked Up	# of miles from Plant Location to MoDOT Destination – Round Trip

The **Bidder** represents he has a plant available for use in this work which is capable of producing the grade of material specified and guarantees that deliveries will be made at no less than the daily rate shown under **"Rate of Delivery"** in this bid and will, if necessary to maintain this delivery rate, immediately install any additional equipment needed to increase the rate of production or delivery.

Quantity of material under contract, agreement or order still to be produced on this date:

	Tons
On Highway and Transportation Orders	_____
For Highway and Transportation Contractors	_____
For Others	_____

Kind and condition of producing and hauling equipment _____
_____
_____

REMARKS_____
_____

Bidders may limit the quantity of materials which they will accept under this bid by so specifying herein. The Commission reserves the right to award contracts in such a manner as is most advantageous to the Commission.

IF THE BIDDER DESIRES TO LIMIT THE AMOUNT WHICH HE WILL ACCEPT UNDER THIS BID, COMPLETE THE FOLLOWING:

The maximum amount of materials which I will accept award of under this bid is_____
_____

Company _____

Address _____

_____
Zip Code

PLEASE SHOW TELEPHONE NUMBER

Business _____

Resident _____

Fax _____

By _____
Signature

Title _____

Federal I.D. No. _____

Date _____

NOTE: IT IS ESSENTIAL THAT THIS SHEET BE SIGNED AND FILLED OUT IN EVERY DETAIL THAT PERTAINS IN ANY WAY TO THE PRODUCTION AND DELIVERY OF THIS MATERIAL.

(Any further information desired regarding this work may be obtained from the **District Office of the District** in which the material is to be used or from **General Services** at Jefferson City, Missouri.)

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 _____

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venturer (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the bid of a

( ) sole individual ( ) partnership ( ) joint venture

( ) corporation, incorporated under laws of state of _____

Dated _____, _____.

Name of individual, all partners, or joint venturers:	Address of each:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

_____ _____

(If using a fictitious name, show this name above in addition to legal names)

_____ _____

(If a corporation, show its name above)

ATTEST: (SEAL)

_____ _____

Secretary Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Bid shall be executed in the legal name of the individual, partners, joint venturers, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highway and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

AGGREGATE MATERIAL

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we_____
_____,
as Principal and_____, as Surety are held and firmly bound unto the **STATE OF MISSOURI** (acting by and through the **Missouri Highways and Transportation Commission)** in the penal sum of:
_____ **Dollars ($_____)** to be paid to the **State of Missouri or to the Missouri Highways and Transportation Commission,** to be credited to the State Road Fund, the Principal and Surety binding themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this _____

THE CONDITION OF THIS OBLIGATION is such that:

WHEREAS, the Principal is submitting herewith a bid to the Missouri Highways and Transportation Commission for furnishing **Aggregate Material** as set out in the bid to which this bond is attached.

NOW THEREFORE, if the Missouri Highways and Transportation Commission shall accept the bid of the Principal and if said Principal shall properly execute and deliver to the Missouri Highways and Transportation Commission the contract and contract bond in compliance with the requirements of the proposal, the specifications and the provisions of law, to the satisfaction of the Highways and Transportation Commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said Principal shall, in the judgment of the Missouri Highways and Transportation Commission, fail to comply with any requirement as set forth in the preceding paragraph, then the State of Missouri acting through the Missouri Highways and Transportation Commission shall immediately and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees and any other expense of recovery.

(SEAL) _____
Principal

By _____
Signature

(SEAL) _____
Surety

By _____
Attorney-in-Fact

NOTE: This bond must be executed by the PRINCIPAL and by a CORPORATE SURETY authorized to conduct surety business in the State of Missouri.

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:

_____

_____

_____

_____

_____

_____

_____

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.

Item (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.

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.

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.

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 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.

SPECIAL TERMS AND CONDITIONS

Insurance

a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.

b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:

1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained **if** required by law.

2) Public Liability (includes property damage and personal injury):

i. Not less than $400,000 for any one person in a single accident or occurrence.

ii. Not less than $2,500,000 for all claims arising out of a single occurrence.

~~3) Special Hazard Insurance: As required.~~ (Removed per Addendum 003)

~~4) Builder's Risk: Not less than the full Contract amount.~~ (Removed per Addendum 003)

Proposal/Bid Guaranty/Contract Bond

d. Each proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.

e. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.

f. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

Information and Reports

a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Permits, Licenses and Safety Issues

a. 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.

b. The Contractor will comply with local laws involving safety in the prosecution of the work.

Failure to Execute Contract

a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

Notice to Proceed

a. Within **30 days** after the execution of the contract, a **"Notice to Proceed"** will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

Delivery – Additional Requirements

a. The Contractor shall furnish the Missouri Department of Transportation with a planned delivery schedule at least 16 hours before starting delivery.

1) Notification should be during the normal workday preceding the day on which the Contractor desires to initiate delivery.

2) It will be necessary for a representative of the Missouri Department of Transportation to be present when the material is delivered.

3) No material will be accepted that has been dumped in the absence of the department's aggregate materials checker.

Incentive for Accelerated Delivery

a. If, prior to the delivery deadline, the Contractor's average daily delivery rate **exceed 1,250 tons** for the total award, the Contractor will be paid an incentive for accelerated delivery in the amount of **2%** of the weighted average bid price per ton for the total tons delivered exceeding **1,250 tons per day.**

EXAMPLE:

Total Tons of Award	20,000 tons
Total Value of Award	$107,200
Number of Days for Delivery from 2 sources at same time	5 days
Total number of delivery days	2 x 5 = 10 days
Average bid price per ton = $107,200	20,000 tons = $5.36 per ton
Average daily delivery rate = 20,000 tons	10 days = 2,000 tons per day

Daily tonnage Supplier due Incentive Pay = 2,000 tons - 1,250 tons = 750 tons per day

Total tons delivered exceeding daily min. rate = 750 tons x 10 = 7,500 tons

INCENTIVE PAY = 0.02 x $5.36/Ton x 7,500 Tons = $ 804.00

b. Delivery from two sources on the same day to one or more maintenance sites will be counted as two days of delivery. Delivery from three sources on the same day to one or more maintenance sites will be counted as three days of delivery, etc.

c. The average daily delivery rate is the total tons per award to a supplier divided by the number of days used to deliver the material. The weighted average bid price per ton is the total value of the award divided by the total tons per award.

d. No incentive for accelerated delivery will be paid to a Contractor who is being charged liquidated damages on any item in the same award.

Legal Weights

a. Provisions of the Missouri Statues relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in **Sections 304.180** and **304.190 RSMo** are understood and will be abided by. The Department will not accept loads, which exceed legal weights.

b. It is understood and agreed that the Missouri Department of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.

Increase or Decrease Quantities

a. The Highways and Transportation Commission reserves the right to increase or decrease the quantity of material twenty-five percent (25%), subject to the maximum quantity specified by the bidder in his proposal.

b. The quantity finally ordered by the Commission will be furnished by the bidder at the same unit price per ton.

Basis of Measurement for Payment

a. For truck delivery, the quantities for basis of payment are to be determined as provided in **Section 310.4** of the **Missouri Standard Specifications for Highway Construction, Edition of 2004,** and any revisions thereto.

   1) Measurement will be to the nearest **100 lbs.** for each load when the measurement is by weight.

   2) Moisture tests will be rounded off to the nearest **0.5 percent** for purposes of computing the deduction for excess moisture.

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 the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract.

b. If the Department 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. The Department 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.

Cancellation of Contract

a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.

b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the

Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

Environmental Issues

a. Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.

b. The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.

c. The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004,** and any revisions thereto, unless modified by these specifications.