

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

830 MoDOT DRIVE – P.O. BOX 270

JEFFERSON CITY, MO 65102

REQUEST NO.	2-080701AS		
DATE	June 17, 2008		
PAGE NO.	1	NO. OF PAGES	15

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

10:00 AM, CDT, July 1, 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
F.O.B. Destinations
 Per District Purchase Orders

BUYER:	Angela Sutton, Procurement Agent	BUYER TELEPHONE:	(573) 526-7929
BUYER EMAIL:	Angela.Sutton@modot.mo.gov		

SUPPLIES OR SERVICES

MoDOT is seeking bids from qualified bidders whom can provide **Guardrail and Barrier Wall Delineators**

Must comply with attached **Specifications MGS-06-02A and MGS-06-03A.**

Note to Respondent: 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. Failure to use the correct firm name on all bid documents will result in delaying the contract award.

(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 bid within 30 days after receipt of formal purchase order.

Date: _____	Firm Name: _____
Telephone No.: _____	Address: _____
Fax No.: _____	_____
Federal I.D. No. _____	By (Signature): _____
Email Address: _____	Type/Print Name _____
	Title: _____

Is your firm MBE certified? Yes No

Is your firm WBE certified? Yes No

**MISSOURI DEPARTMENT OF TRANSPORTATION
JEFFERSON CITY, MISSOURI
Guardrail and Barrier Wall Delineators**

Request No. 2-080701AS

1. Introduction

- 1.1 This solicitation seeks bids from qualified organizations to provide Guardrail and Barrier Wall Delineators throughout the state of Missouri with an effective contract period of Notice to Proceed through June 30, 2009 with one (1) one-year renewal option period to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT).
- a. **Renewal Period** - If the option for renewal is exercised by MoDOT, the contractor shall agree to all terms and conditions of the RFB and all subsequent amendments. Additionally, in the event MoDOT exercises its option(s) to renew the contract, the requirements for future months shall remain the same. The contractor shall understand and agree MHTC does not automatically grant a price increase at the time of renewing the contract. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.
 - b. **Escalation Clause** - In the event the contractor requests a price increase during the original or renewal period, the contractor must provide a written request and documentation justifying the need for a price increase, and the amount of such price increase. MoDOT will review the contractor's written request and documentation 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.

2. Quantities

- 2.1 The quantities identified in the Pricing Pages are estimates only. The successful bidder may be requested to furnish more or less than the estimated quantity.
- 2.2 MoDOT does not guarantee any specific quantities that may be required to be provided by the contractor.
- 2.3 Purchase orders may be issued on an as needed basis or in full quantities.

3. Delivery

- 3.1 The contractor shall deliver Guardrail and Barrier Wall Delineators, as specified herein, to all MoDOT districts located throughout the state as identified by each purchase order.
- 3.2 The District Engineer or the engineer's representative may issue delivery orders by phone, fax, email, or mail. Orders placed via phone will be confirmed on hard copy.
- 3.3 Deliveries must be within thirty (30) days after receipt of purchase order.
- 3.4 In the event the vendor does not expect to meet the contract delivery date and time requirements, the ordering district should be notified of the delay.

4. Specifications and Samples

- 4.1 The material shall conform to the enclosed MoDOT specification designated as MGS-06-02A and MGS-06-03A and any other provisions outlined in the solicitation document.
- 4.2 For the purposes of this solicitation, bidders that are recommended for award must provide samples to MoDOT for review and/or test for adherence to the specifications and requirements of this bid. Bidders will have five (5)

MISSOURI DEPARTMENT OF TRANSPORTATION
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Guardrail and Barrier Wall Delineators

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working days, from date of request, to provide samples. Samples must be provided to MoDOT at no charge, will become the property of MoDOT, and will not be returned.

- 4.3 Material certification sheets indicating the manufacturer, color and series number of the reflective sheeting are required prior to award. One of each delineator color combination listed on the Pricing Page must be submitted for review. Furnished samples must fully comply with the requirements of the specification prior to award. Failure to comply will remove the supplier from the bid process.

5. Award

- 5.1 For the purpose of this bid, items will be awarded on a “**Category by Category**” basis of the lowest price product meeting the specifications and requirements of this bid.
- 5.2 In the event of tie low bids, the Commission reserves the right to establish the method to be used in determining the award.

6. Bid Submission

- 6.1 Each bid must be mailed in a sealed package to Ms. Angela Sutton, General Services Procurement Unit, 830 MoDOT Drive, P.O. Box 270, Jefferson City, Mo 65102, or hand-delivered in a sealed package to the General Services Procurement Office located at 830 MoDOT Drive, Jefferson City, Missouri 65109. All questions regarding the RFB shall be submitted to the RFB Coordinator. All bids must be received at the General Services Procurement Office located at 830 MoDOT Drive, no later than **10:00 a.m., CDT, July 1, 2008**.

RFB Coordinator:

Ms. Angela Sutton, Procurement Agent
Missouri Department of Transportation
830 MoDOT Drive; P.O. Box 270
Jefferson City, MO 65102
PHONE: (573) 526-7929; FAX: (573) 526-1218

- 6.2 All bids must be received in a sealed package clearly marked “**Guardrail and Barrier Wall Delineators**”.
- 6.3 **MHTC reserves the right to reject any and all bids for any reason whatsoever.**
- 6.4 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and responsive bid.
- 6.5 **Open Competition/Request for Bid Document**
- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least five (5) working days prior to the official bid opening date.



BARRIER WALL DELINEATORS MGS 06-02A

1.0 DESCRIPTION. This specification covers barrier wall delineators

2.0 MATERIALS.

2.1 Delineator Body. The delineator shall be manufactured from a white, high impact, weather-resistant plastic, extruded as a single piece.

2.2 Dimensions. The thickness of the body of the delineators shall be minimum of 0.08 inches. The length and width of the delineator shall be in accordance with the drawing. Two one-quarter inch holes shall be provided in accordance with the attached drawing.

2.3 Sheeting. Retro-reflective sheeting meeting MoDOT Type 7 sign standards, in accordance with section 1042, Highway Sign Material, of the Missouri Standard Specifications for Highway Construction manual, shall be used. The sheeting shall nominally be 4 inches wide by 3 inches tall and placed on the delineator body as shown in the attached drawing. Sheeting may be placed on one or both sides of the delineator body per the following table. Reflective sheeting having a datum mark on the surface shall be orientated vertically.

Delineator Description	Sheeting Color	
	Front Side	Back Side
Single White	White	NA
Single Yellow	Yellow	NA
White/ Red	White	Red
Yellow/ Red	Yellow	Red
White/ White	White	White
Yellow/ Yellow	Yellow	Yellow

3.0 ORDERING INFORMATION

3.1 The quantity and color of delineators is to be as shown in the order.

4.0 CERTIFICATION

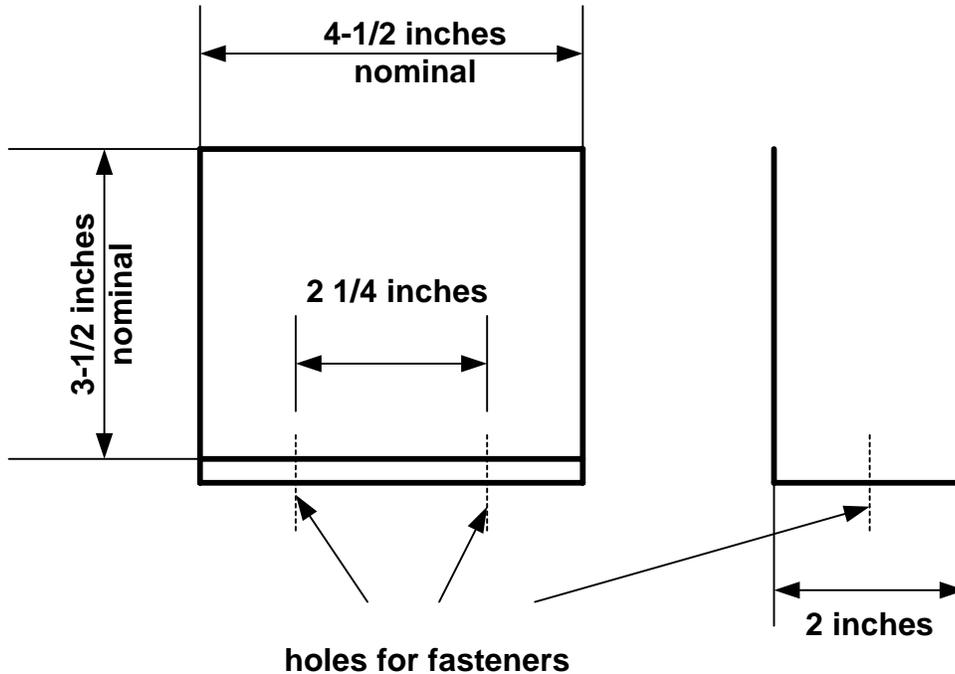
4.1 The bidder must supply sample delineators and certifications during the bidding process. Material certification sheets indicating the manufacturer, color and series number of the reflective sheeting are required prior to award. One of each delineator color combination listed on the bid request must be submitted for review. Furnished samples must fully comply with the requirements of the specification prior to award. Failure to provide any of the requested information will remove the supplier from the bid process.

5.0 ACCEPTANCE.

5.1 Acceptance will be based on acceptable certifications and results of tests performed on the samples taken by the department at destination. The department may sample and test delineators at any time.

6.0 REJECTION.

6.1 If tests performed by the department indicate non-compliance with the requirements of this specification, the entire shipment will be rejected.



Delineator to have a minimum of 2 primary holes spaced as shown above. If additional holes are provided they shall be "in line" parallel to the face of the delineator

4 inch by 3 inch MoDOT Type 7 sign sheeting
applied to either or both faces

MoDOT Barrier Wall Delineators



GUARDRAIL DELINEATORS MGS 06-03A

1.0 DESCRIPTION. This specification covers guardrail delineators

2.0 MATERIALS.

2.1 Delineator Body. The delineator shall have a flat, non-curved surface manufactured from a white, high impact, weather-resistant plastic.

2.2 Dimensions. The thickness of the body of the delineators shall be minimum of 0.08 inches. The length and width of the delineator shall be in accordance with the drawing. Two three-eighth inch holes shall be provided in accordance with the drawing.

2.3 Sheeting. Retro-reflective sheeting meeting MoDOT Type 7 sign standards, in accordance with section 1042, Highway Sign Material, of the Missouri Standard Specifications for Highway Construction manual, shall be used. The sheeting shall nominally be 4 inches wide by 6 inches tall and placed on the top half of the delineator body as shown in the attached drawing. Sheeting may be placed on one or both sides of the delineator body per the following table. Reflective sheeting having a datum mark on the surface shall be orientated vertically.

Delineator Description	Sheeting Color	
	Front Side	Back Side
Single White	White	NA
Single Yellow	Yellow	NA
White/ Red	White	Red
Yellow/ Red	Yellow	Red
White/ White	White	White
Yellow/ Yellow	Yellow	Yellow

3.0 ORDERING INFORMATION.

3.1 The quantity and color of delineators is to be as shown in the order.

4.0 CERTIFICATION.

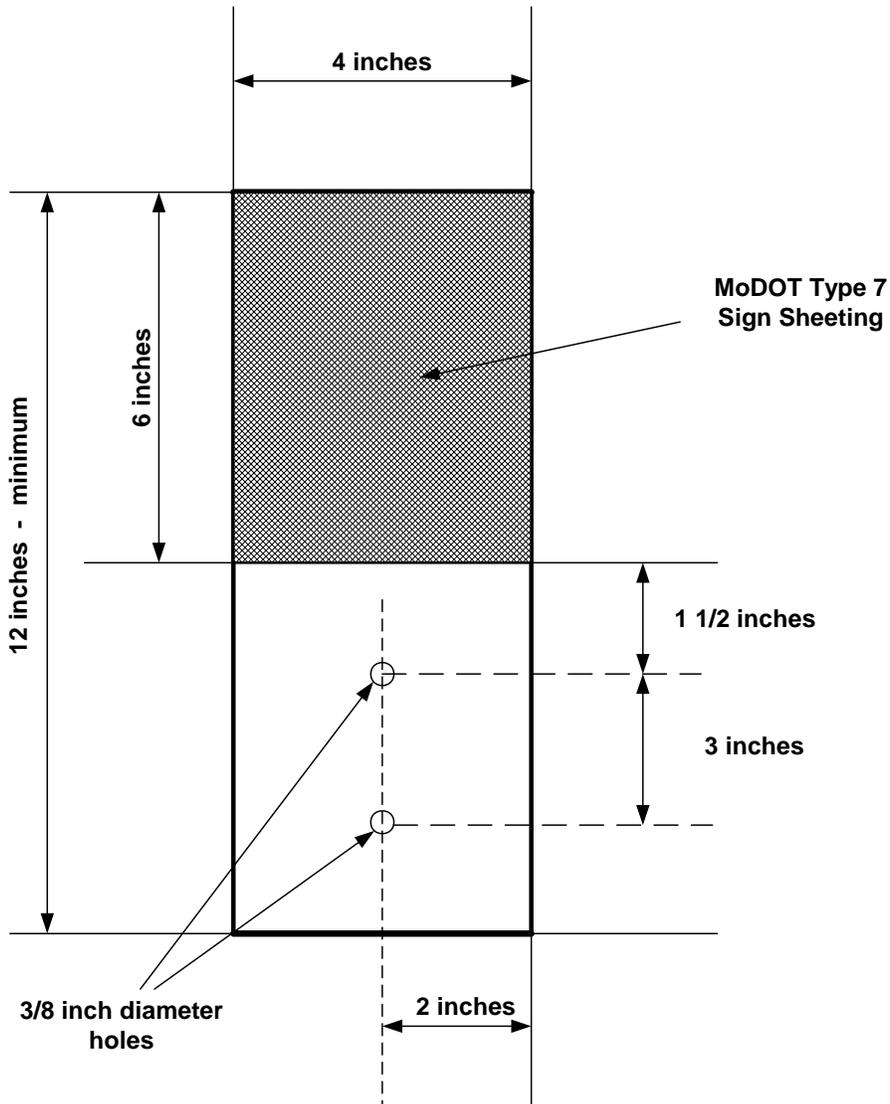
4.1 The bidder must supply sample delineators and certifications during the bidding process. Material certification sheets indicating the manufacturer, color and series number of the reflective sheeting are required prior to award. One of each delineator color combination listed on the bid request must be submitted for review. Furnished samples must fully comply with the requirements of the specification prior to award. Failure to comply will remove the supplier from the bid process.

5.0 ACCEPTANCE.

5.1 Acceptance will be based on acceptable certifications and results of tests performed on the samples taken by the department at destination. The department may sample and test delineators at any time.

6.0 REJECTION.

6.1 If tests performed by the department indicate non-compliance with the requirements of this specification, the entire shipment will be rejected.



MoDOT Guardrail Delineator

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PRICING PAGE

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. **An award will be made on a “Category by Category” basis.**

CATEGORY 1 GUARDRAIL DELINEATORS					
Item #	Description:	Qty:	Unit of Issue:	Unit Price:	Extended Total:
#1	Single White		EACH		
#2	Single Yellow		EACH		
#3	White/Red		EACH		
#4	Yellow/Red		EACH		
#5	White/White		EACH		
#6	Yellow/Yellow		EACH		
TOTAL FOR CATEGORY 1:					\$
CATEGORY 2 BARRIER WALL DELINEATORS					
Item #	Description:	Qty:	Unit of Issue:	Unit Price:	Extended Total:
#1	Single White		EACH		
#2	Single Yellow		EACH		
#3	White/Red		EACH		
#4	Yellow/Red		EACH		
#5	White/White		EACH		
#6	Yellow/Yellow		EACH		
TOTAL FOR CATEGORY 2:					\$

Signature: _____

Title: _____

**MISSOURI DEPARTMENT OF TRANSPORTATION
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ESTIMATED QUANTITIES PER DISTRICT

Guardrail Delineators

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	Totals
Single White	620	0	500	0	500	1275	225	0	0	0	3120
Single Yellow	80	0	0	0	500	1225	125	0	0	0	1930
White/Red	0	0	0	0	200	175	25	0	0	0	400
Yellow/Red	0	0	0	0	200	175	25	0	0	0	400
White/White	0	0	0	0	50	75	25	0	0	0	150
Yellow/Yellow	0	0	0	0	50	175	0	0	0	0	225

Barrier Wall Delineators

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	Totals
Single White	0	0	500	0	50	150	95	0	0	0	795
Single Yellow	0	0	100	0	125	25	95	0	0	0	345
White/Red	0	0	0	0	75	25	25	0	0	0	125
Yellow/Red	0	0	0	0	0	50	50	0	0	0	100
White/White	0	0	0	0	25	25	75	0	0	0	125
Yellow/Yellow	0	0	0	0	300	50	75	0	0	0	425

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.

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 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.

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.
- 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.

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

- 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

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

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.

SPECIAL TERMS AND CONDITIONS

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.

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

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 following days shall be construed as **official holidays** under the terms of the contract:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

- b. When any of the above **holidays falls** on a **Sunday**, the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday**.

Legal Weights

- a. Provisions of the Missouri Statutes 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.

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.

Liquidated Damages

- a. In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of one-hundred dollars (\$100.00) per day, per item**, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.
- b. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.