

BID FORM

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

REQUEST NO.	2-0801015AS
DATE	September 19, 2008
PAGE NO.	1 NO. OF PAGES 12

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

**October 15, 2008 at 2:00 PM CST**

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

Jefferson City, Missouri

**SIGN AND RETURN BEFORE TIME SET FOR OPENING.**

<b>BUYER:</b>	Angela Sutton Procurement Agent	<b>BUYER TELEPHONE:</b>	573.526.7929
		<b>BUYER EMAIL:</b>	Angela.Sutton@modot.mo.gov

**SUPPLIES OR SERVICES**

The Missouri Department of Transportation (MoDOT) is seeking bids from qualified bidders whom can provide economy, light-duty **Adopt-A-Highway Safety Vest**. Sealed bids will be accepted as described in this bid.

This document constitutes a RFB, and solicits competitive sealed bids from qualified bidders to provide economy, light-duty Adopt-A-Highway Safety Vests. The issuance of this RFB in no way constitutes a commitment to award a contract or to pay any costs incurred in preparation of a response to this request.

**\*\*\*NOTE: It is the responsibility of the Bidder to access MoDOT's website in order to obtain any and all addenda(s) issued during the course of this RFB Process.**

\*\*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.

**All questions regarding this RFB shall be submitted to the RFB Coordinator/Contact.**

**(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.*

<b>Date:</b> _____	<b>Firm Name:</b> _____
<b>Telephone No.:</b> _____	<b>Address:</b> _____
<b>Fax No.:</b> _____	_____
<b>Federal I.D. No.</b> _____	<b>By (Signature):</b> _____
<b>Email Address:</b> _____	<b>Type/Print Name</b> _____
Is your firm MBE certified? <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Title:</b> _____
Is your firm WBE certified? <input type="checkbox"/> Yes <input type="checkbox"/> No	

MISSOURI DEPARTMENT OF TRANSPORTATION  
LIGHT-DUTY ADOPT-A-HIGHWAY VESTS

RFB 2-081015AS

**1. Introduction:**

1.1 This solicitation seeks bids from qualified organizations to provide light-duty Adopt-A-Highway (AAH) Safety Vests to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT).

**2. Term of Contract:**

2.1 This contract shall commence from the date of award through June 30, 2009 with the option to renew for two (2) one-year periods. Renewal options are at the sole discretion of MoDOT. If the options for renewal are exercised by MoDOT, the contractor shall agree to all terms and conditions of the RFB and all subsequent amendments.

2.2 Renewal Periods – In the event that MHTC exercises its option to renew the contractor for two (2) one-year periods pursuant to the applicable provisions outlined in this document, the contractor shall understand and agree that the MHTC does not automatically grant a price increase at the time of renewing the contract.

**3. Quantities:**

3.1 MoDOT currently has 3,900 AAH volunteer groups eligible to wear the light-duty AAH Safety Vests. Our initial order may be approximately 40,000 vests. After the initial order, MoDOT will be purchasing vests on an as needed basis in order to keep adequate stock levels for our volunteers.

**4. Delivery:**

4.1 All deliveries shall be F.O.B. Missouri Department of Transportation, Jefferson City, Missouri, within 30-days upon receipt of order.

**5. Specifications and PreApproval of Products:**

5.1 All bidders shall carefully review the light-duty AAH Safety Vest specifications and requirements detailed in this solicitation. Also, all bidders need to carefully review the information regarding the pre-approval of the light-duty AAH Safety Vests on Page 5.

**6. RFB Timeline:**

Issue Bid Documents:	September 19, 2008
Request For Pre-Approval Products Submission Deadline:	October 3, 2008
Anticipated Addendum Issued:	October 8, 2008
Date Bids are Due to MoDOT:	October 15, 2008

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

**7. Non-Exclusivity:**

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

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LIGHT-DUTY ADOPT-A-HIGHWAY VESTS

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**8. Invoicing and Payment Requirements:**

- 8.1 The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.
- 8.2 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.
- 8.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

**9. Bid Submission:**

- 9.1 Each bid must be mailed 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 **2:00 p.m., CDT, October 15, 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**

- 9.2 All bids must be received in a sealed package clearly marked “**2-081015AS – AAH Safety Vests**”
- 9.3 **MHTC reserves the right to reject any and all bids for any reason whatsoever.**
- 9.4 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and responsive bid.
- 9.5 **Cost Determination** – The low bid shall be determined by reviewing each bidder’s firm, fixed prices listed on the pricing page for Item #1. Item #2 will only be considered as an optional item.
- 9.6 **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 “ALL or NONE” 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.
- 9.7 **Open Competition/Request for Bid Document**
  - a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise 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.

**MoDOT LIGHT-DUTY ADOPT-A-HIGHWAY VESTS SPECIFICATIONS**

The following specifications outlined below are to establish a term contract for light-duty AAH Vests.

**GENERAL REQUIREMENTS**

1. The light-duty AAH Vests must have side adjustment with horizontal hook and loop closure and front closure with horizontal hook and loop.
2. The light-duty AAH Vests must be fluorescent orange in color and meet the ANSI/ISEA 107-2004 Class 2 Standards. The reflective striping may vary in color as long as it meets the ANSI/ISEA 107-2004 Class 2 Standards.
3. The light-duty AAH Vests *shall show careful workmanship* and shall be free from ragged edges, surface blemishes, loose stitches, uneven seams or other defects, which could make them unsuitable for the intended use.
4. The light-duty AAH Vests must be ONE SIZE FITS MOSTS, with adjustable straps.

**OPTIONAL PRINTING REQUIREMENTS**

MoDOT may request printing on the back of each vest to read, "Adopt-A-Highway Volunteer". The cost for printing may or may not be a factor in determining award, as this is an optional item.

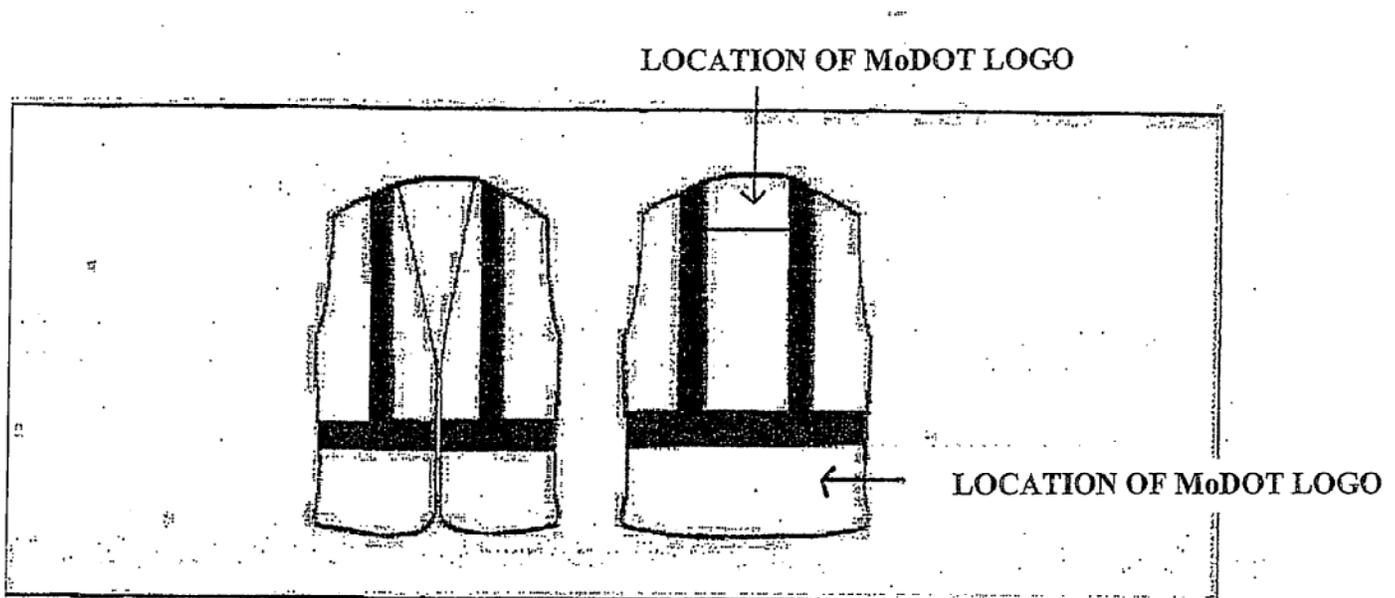
The logo will be provided by MoDOT, in the form of camera-ready art. The logo shall be imprinted in black. The logo must be permanent and not transfer, peel, or fade during storage or use of the vest. The approximate sizes are provided below. The logo size may vary depending on the vest selected for award. MoDOT will provide exact sizes at the time of award. At the discretion of MoDOT, either of the printing options, provided below, will be accepted.

The logo shall include a screen-printed (*no embroidery will be accepted*). Such logo shall be:

**Option 1**

"Adopt-A-Highway" centered on the mid to lower back above the reflective striping and "Volunteer" centered on the bottom of the vest, below the reflective striping. The sizes of these logos are:

- "Adopt-A-Highway" approximate size: 8 1/2" x 4 1/2"
- "Volunteer" approximate size: 12" x 2"



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LIGHT-DUTY ADOPT-A-HIGHWAY VESTS

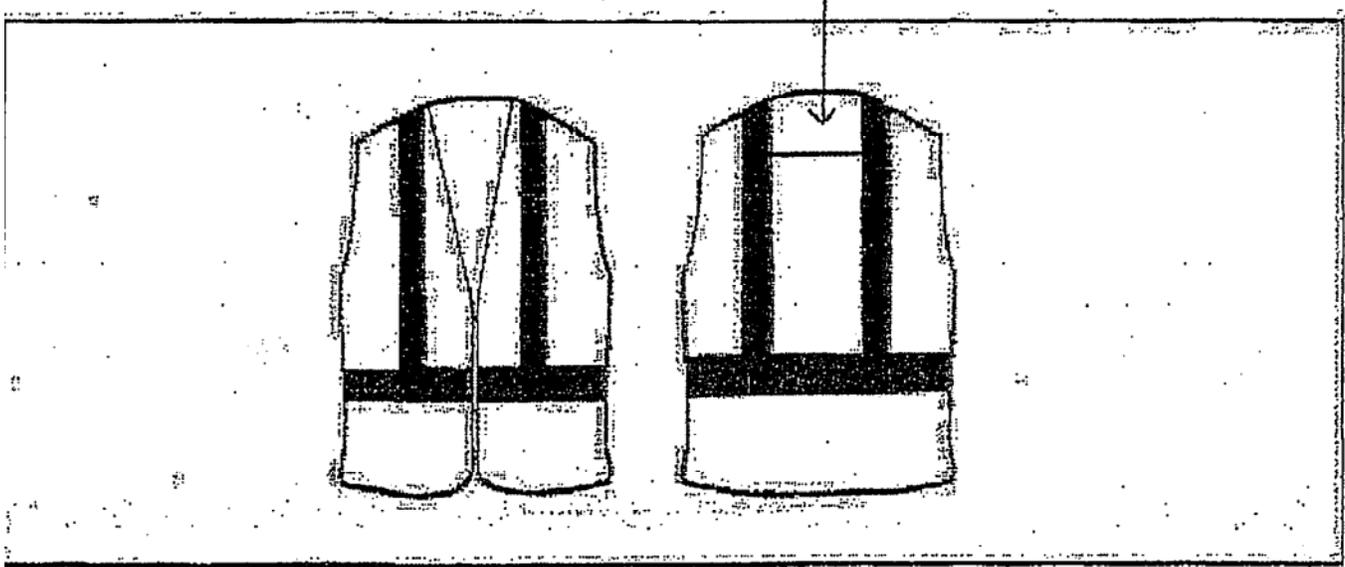
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Option 2

“Adopt-A-Highway Volunteer” centered on the mid to lower back above the reflective striping. The sizes of these logos are:

- “Adopt-A-Highway Volunteer” approximate size: 8 ½” x 6 ½”

**LOCATION OF M<sub>o</sub>DOT LOGO**



**PACKAGING:**

The light-duty AAH Vests shall be packaged either as individually wrapped items or flat packing as noted below. In either case, each box shall contain no more than 25 items, with only one size per box, with no mixing of the sizes of the light-duty AAH Vests.

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

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

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**PRE-APPROVAL OF LIGHT-DUTY ADOPT-A-HIGHWAY VESTS**

For the purposes of this solicitation, all bidders shall provide the following samples to MoDOT to review and test for adherence to the specified light-duty AAH Vest specifications listed in this solicitation. Samples shall be provided to MoDOT at no charge, will become the property of MoDOT, and will not be returned.

Upon the completion of MoDOT's review of the submitted specifications, an addendum will be issued notifying all interested parties of the light-duty AAH Vests that are qualified, and will thereafter be considered as pre-approved. MoDOT will only accept bids for the pre-approved light-duty AAH Vests as noted in the addendum.

**Timeline for Submittal of Samples**

The bidders shall submit their samples to the MoDOT buyer of record, at the same address as noted above for receipt of bids, **on or before the end of business October 3, 2008**. MoDOT will not extend the date for submittal of the samples.

**Number of Samples to Submit**

Submit (1) Adult (One Size Fits Most) Vest. Vest must be equal to or better than (as determined by MoDOT) the specifications noted above. Failure to provide the requested sample will result in the bidder being unable to submit a bid for offering the vests to MoDOT.

**Independent Lab Testing**

For the purpose of this solicitation, MoDOT requires that each bidder provide a copy of the following independent lab tests/certification performed to certify that the materials used to produce the light-duty AAH Vests truly meet the ANSI/ISEA 107-2004 Class 2 safety standards. Cost(s) of such tests will be the responsibility of the bidder. Lab reports shall be submitted for the following areas:

1. Certification of the light-duty AAH Vest background material.
2. Certification of reflective material, if applicable.

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

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**LIGHT-DUTY ADOPT-A-HIGHWAY SAFETY VESTS PRICING PAGE**

The bidder shall provide a firm, fixed price in the table below for providing the deliverables/services in accordance with the provisions and requirements specified herein. All costs associated with providing the required deliverables/services shall be included in the prices stated below.

ITEM	SIZE:	MANUFACTURER /MODEL #	UNIT OF ISSUE:	EST QTY	UNIT COST:	EXT. COST:
1	Adult (One Size Fits Most)		EACH	40000		
					<b>TOTAL:</b>	\$
<b>OPTIONAL ITEMS</b>					UNIT OF ISSUE:	UNIT COST:
2	Printing for Each Vest				EACH	

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

**1<sup>st</sup> Renewal Period** \_\_\_\_\_% of maximum increase and/or \_\_\_\_\_% of maximum decrease.

**2<sup>nd</sup> Renewal Period** \_\_\_\_\_% of maximum increase and/or \_\_\_\_\_% of maximum decrease.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

# 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:

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**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:  


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- [ ] 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): \_\_\_\_\_  


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- [ ] 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): \_\_\_\_\_  


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### 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.**

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**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

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Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

**Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

**Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

**Executive Order**

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6<sup>th</sup>) 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.**

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

- 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.
- c. 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.
- d. 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.