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# MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

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CCO Form: GS14  
Approved: 02/06 (AR)  
Revised:  
Modified:

## REQUEST FOR PROPOSALS

### EDUCATIONAL TOOLS TO PROMOTE ROADWAY SAFETY RFP D8X2-7029

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**LIST OF ACRONYMS**

<b>MHTC</b>	Missouri Highways and Transportation Commission
<b>MoDOT</b>	Missouri Department of Transportation
<b>RFP</b>	Request for Proposals

## INTRODUCTION

This Request For Proposals (**RFP**) seeks proposals from qualified organizations (**Offeror**) to furnish the described services to the Missouri Highways and Transportation Commission (**MHTC**). One (1) original and seven (7) copies of each proposal must be mailed in a sealed package to General Services Procurement – Attn: Ryan Turner, Missouri Department of Transportation, Post Office Box 868, Springfield, Missouri 65803, or hand-delivered in a sealed package to the Procurement Office in the General Services Building at 3025 E. Kearney, Springfield, Missouri. Proposals must be returned to the offices of General Services - Procurement no later than 10:00 a.m., February 26, 2007.

**NOTE:** The vendor must be in compliance with the laws regarding conducting business in the state of Missouri. Within ten (10) business days of notification, the Offeror 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 Missouri Department of Transportation (MoDOT).

MHTC reserves the right to reject any and all bids for any reason whatsoever. Time is of the essence for responding to the RFP within the submission deadlines.

## PROPOSAL

- (1) The Offeror shall provide a fee proposal to MHTC on the **PRICE PAGE** in accordance with the terms of this RFP.
  
- (2) The Offeror agrees to provide the services at the fees quoted, under the terms of this RFP.

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Authorized Signature of Offeror: \_\_\_\_\_

Date of Proposal: \_\_\_\_\_

Printed or Typed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Electronic Mail Address: \_\_\_\_\_

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**SECTION (1):  
GENERAL DESCRIPTION AND BACKGROUND**

**(A) Request for Proposal:** This document constitutes a RFP from qualified organizations to provide educational tools to promote roadway safety.

**(B) Background:** Thousands of people are injured and killed on Missouri's roadways each year. Collectively, almost 75,000 persons are killed or injured in traffic crashes. This translates into one death or injury every 7 minutes. Individually, the toll is devastating; collectively, the economic cost is more than 3.3 billion dollars per year or a daily loss of over 9 million dollars.

More than 100 organizations in Missouri have partnered to create a Blueprint for Safer Roadways, and together, they have a goal of less than 1000 fatalities on our roads by the end of 2008. These organizations have formed the Missouri Coalition for Roadway Safety and have launched statewide efforts to reduce fatalities. Law enforcement, educators, emergency responders, and engineers are creating safer roads in Missouri.

The Springfield region of the Missouri Coalition for Roadway Safety has formulated eight essential strategies to help reduce injuries and fatalities. Increasing public education and information on traffic safety issues is the strategy addressed by this RFP. The Coalition will follow this strategy by distributing a set of educational tools through a public awareness campaign.

The educational tools to promote roadway safety should address the following campaign objectives while tying in with the current statewide "Arrive Alive! Theme":

1. Educate roadway users and employers on the dangers of distracted and fatigued driving.
2. Educate roadway users on the dangers of aggressive driving and the rules of the road.
3. Educate general public, business owners, alcohol servers on the dangers of impaired driving.
4. Educate young and novice roadway users on all aspects of driving safety.

**(C) Fiscal Year:** The fiscal year runs from July 1-June 30.

**(D) Contract Period:** April 5, 2007 – June 15, 2007

**(E) Pre-Proposal Conference Call:** A conference call has been set up for February 2, 2007 from 9:00 a.m. – 11:00 a.m. Dial phone number 866-324-7550 to access the conference.

(F) **RFP Schedule of Events:** The following RFP Schedule of Events represents MoDOT's best estimate of the schedule that shall be followed.

MoDOT reserves the right at its sole discretion to expand this schedule, as it deems necessary, without any notification except for the deadline date for submitting a bid.

<b>Event</b>	<b>Date</b>	<b>Time</b>
MoDOT Issues RFP	January 25, 2007	4:00 pm
Pre-Proposal Conference Call	February 2, 2007	9:00 am-11:00 am
Deadline for Written Comments	February 6, 2007	10:00 am
Deadline for MoDOT's Issuing Responses to Written Comments	February 9, 2007	4:30 pm
Deadline for Submitting a Proposal	February 26, 2007	10:00 am
Recommendation of Award	March 15, 2007	4:00 pm
Notice to Non-Awarded Vendors	March 29, 2007	4:00 pm
Contract Effective Date	April 5, 2007	8:00 am

**SECTION (2):  
SCOPE OF WORK**

(A) **Services:** The Offeror shall provide professional services relating to the development of Educational Tools to Promote Roadway Safety.

(B) **Specific Requirements:** The Offeror will provide to the General Services Procurement Unit one (1) original and seven (7) copies of a program proposal which will include the following:

1. **Interactive Toolkit:** The contractor shall create an educational, interactive CD-Rom set of tools to be distributed to prosecutors, educators, news media, and general public. The CD-Rom would be promoted through a public awareness campaign. Materials would visually tie to the current Arrive Alive! Theme. A total of 1000 CD-ROMs shall be produced for immediate distribution. The interactive CD-ROM will include the following chapters. Script for each chapter will be provided to vendor.

a. **Top 10 Poor Driving Behaviors:** Chapter shall demonstrate each of the following incorrect behaviors and present possible solutions for each situation

- i. Passing to the take the exit ramp
- ii. Accelerating through yellow lights
- iii. Failure to use turn signals
- iv. Following too closely
- v. Multi-task driving
- vi. Speeding
- vii. Failure to yield at red lights
- viii. Merging incorrectly on access ramps, cloverleaf interchanges, etc.
- ix. Using the center lane inappropriately
- x. Failure to obey work zone driving laws

b. **Driver's Test Preparation**

- i. Practice Test covering topics on Driver's Exam.
- ii. Motion graphics with education.

c. **What Would You Do?:** Each of the following situations will be addressed and several solutions should be presented with one best choice. The format shall be video scenes with interactive choices.

- i. Crash scene
- ii. Emergency vehicle is quickly approaching you from the rear
- iii. Persistent tailgater
- iv. Car breaks down/run out of gas/need to pull over on the highway
- v. Anti-lock brake system - What to do when you are sliding and your ABS kicks in – don't pump brakes
- vi. Bad weather conditions
- vii. Nighttime driving

- d. **Resources:** The following informational tools shall be included.
    - i. Web links to pertinent information
    - ii. Self-contained presentations for teachers or other audiences
    - iii. PDF files of curriculum materials
  - e. **Inattentive Driving:** Chapter shall contain information presented in a unique, reality-show themed interview style with various groups.
  - f. **Speed:** Chapter shall contain information presented in a unique, reality-show themed interview style with various groups.
2. **PSA campaign:** A PSA campaign including four .30-second TV spots; four .30-second radio spots; four billboard designs and four print ads would promote the distribution of the CD-ROM toolkit to parents, young drivers and educators. Offeror would be responsible for editing TV and radio spots from existing footage and for providing graphics / still photos for static artwork.
3. **Additional Considerations:** There is a “Not to Exceed” (NTE) budget of \$90,000 for the total project, therefore, innovative and cost efficient strategies are recommended. It is also imperative that the project be completed and invoiced prior to June 15, 2007.
4. **Invoicing Requirements:** The Contractor shall submit only one invoice for the entire project upon completion per the provisions and requirements stated elsewhere herein.
- (C) **Administration of Program:** The Offeror will consult MHTC's representative regarding any problems involved with the administration of the services provided pursuant to this RFP.

### **SECTION (3): AGREEMENT REQUIREMENTS**

The following contract provisions shall govern this RFP. The award of this RFP is subject to a post-award negotiated contract. These same contract provisions will appear in the post-award negotiated contract. If the parties are unable to agree to terms in the post-award contract, MHTC shall reserve the right to cancel the award of the RFP and contract and select a different offeror.

- (A) **MHTC's Representative:** MoDOT's Assistant District Engineer is designated as MHTC's representative for the purpose of administering the provisions of the Agreement as defined in Paragraph (E) of this section. MHTC's representative may designate by written notice other persons having the authority to act on behalf of MHTC in furtherance of the performance of the Agreement. The Offeror shall fully coordinate its activities for MHTC with those of the General Services Division. As the work of the Offeror progresses, the Offeror shall make advice and information on matters covered by the Agreement available to the General Services Division throughout the effective period of the Agreement.
- (B) **Release to Public:** No material or reports prepared by the Offeror shall be released to the public without the prior consent of MHTC's representative.
- (C) **Assignment:** The Offeror shall not assign or delegate any interest, and shall not transfer any interest in the services to be provided (whether by assignment, delegation, or novation) without the prior written consent of MHTC's representative.
- (D) **Status as Independent Contractor:** The Offeror 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 MHTC or MoDOT. Therefore, the Offeror shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, or other such benefits or obligations.
- (E) **Components of Agreement:** The Agreement between MHTC and the Offeror shall consist of: the RFP and any written amendments thereto, the Standard Solicitation Provisions and General Terms and Conditions that are attached to this RFP, the proposal submitted by the Offeror in the response to the RFP 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 RFP or the Offeror's proposal. The Offeror is cautioned that its proposal shall be subject to acceptance by MHTC without further clarification.
- (F) **Amendments:** Any change in the Agreement, whether by modification or supplementation, must be accompanied by a formal contract amendment signed and approved by the duly authorized representative of the Offeror and MHTC.

**(G) DBE/WBE Participation Encouraged:**

1. Bidders are encouraged to submit copies of existing affirmative action programs, if any. Bidders are also encouraged to directly hire minorities and women as direct employees of the bidder. MHTC reserves the right to consider the use of minority and female employee when making the award of the Agreement.
2. Regardless of which persons or firms, if any, that the Offeror may use as subcontractors, subconsultants, or suppliers of goods or services for the services to be provided, the Offeror ultimately remains responsible and liable to MHTC for the complete, accurate and professional quality/performance of these services.

**(H) Nondiscrimination:** The Offeror shall comply with all state and federal statutes applicable to the Offeror relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the “Americans with Disabilities Act” (42 U.S.C. Section 12101, *et seq.*).

**(I) Bankruptcy:** Upon filing for any bankruptcy or insolvency proceeding by or against the Offeror, whether voluntarily, or upon the appointment of a receiver, Offeror, or assignee, for the benefit of creditors, MHTC reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Offeror responsible for damages.

**(J) Law of Missouri to Govern:** The Agreement shall be construed according to the laws of the state of Missouri. The Offeror shall comply with all local, state and federal laws and regulations relating to the performance of the Agreement.

**(K) Cancellation:** MHTC may cancel the Agreement at any time by providing the Offeror with written notice of cancellation. Should MHTC exercise its right to cancel the Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Offeror.

**(L) Venue:** No action may be brought by either party concerning any matter, thing or dispute arising out of or relating to the terms, performance, nonperformance or otherwise of the Agreement except in the Circuit Court of Cole County, Missouri. The parties agree that the Agreement is entered into at Jefferson City, Missouri, and substantial elements of its performance will take place at or be delivered to Jefferson City, Missouri, by reason of which the Offeror consents to venue of any action against it in Cole County, Missouri.

**(M) Ownership of Reports / Masters and finished work:** All documents, reports, exhibits, masters, including audio and video; scripts; graphic design elements and other materials creating as a result of the project and produced by the Offeror at the direction of MHTC’s representative and information supplied by MHTC’s representative shall remain the property of MHTC.

**(N) Confidentiality:** The Offeror shall not disclose to third parties confidential factual matters provided by MHTC’s representative except as may be required by statute,

ordinance, or order of court, or as authorized by MHTC's representative. The Offeror shall notify MHTC immediately of any request for such information.

- (O) Nonsolicitation:** The Offeror warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Offeror, to solicit or secure the Agreement, and that it has not paid or agreed to pay any percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MHTC shall have the right to annul the Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- (P) Conflict of Interest:** The Offeror covenants that it presently has no actual conflict of interest or appearance of conflict of interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services under this Agreement. The Offeror further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in this Agreement.
- (Q) Maintain Papers:** The Offeror must maintain all working papers and records relating to the Agreement. These records must be made available at all reasonable times at no charge to MHTC and/or the Missouri State Auditor during the term of the Agreement and any extension thereof, and for three (3) years from the date of final payment made under the Agreement.

  1. MHTC's representative shall have the right to reproduce and/or use any products derived from the Offeror's work without payment of any royalties, fees, etc.
  2. MHTC's representative shall at all times have the right to audit any and all records pertaining to the services.
- (R) Indemnification:** 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.

**SECTION (4):  
PROPOSAL SUBMISSION INFORMATION**

**(A) SUBMISSION OF PROPOSALS**

1. **Pricing and Signature:** Proposals should be priced, signed and returned (with necessary attachments) to Ryan Turner as provided in this RFP. Specifically, any form containing a signature line in this RFP and any amendments, pricing pages, etc., must be manually signed and returned as part of the proposal.
2. **Submission of All Data Required:** The Offeror must respond to this RFP by submitting all data required in paragraph (B) below for its proposal to be evaluated and considered for award. Failure to submit such data shall be deemed sufficient cause for disqualification of a proposal from further consideration.
3. **Public Inspection:** The Offeror is hereby advised that all proposals and the information contained in or related thereto shall be open to public inspection and that MHTC does not guarantee nor assume any responsibility whatsoever in the event that such information is used or copied by individual person(s) or organization. Therefore, the Offeror must submit its proposal based on such conditions without reservations.
4. **Clarification of Requirements:** Any and all questions regarding specifications, requirements, competitive procurement process, or other questions must be directed to Ryan Turner, Missouri Department of Transportation, P. O. Box 868, Springfield, Missouri, 65803, (417) 895-7654 (phone), or ryan.turner@modot.mo.gov (e-mail). All written questions must be directed to Ryan Turner no later than 10:00 a.m., local time, February 6, 2007. Once all questions are gathered, MoDOT will issue an addendum and post the responses to all questions on-line for vendors to retrieve.

**(B) EVALUATION CRITERIA AND PROCESS**

1. **Evaluation Factors:** Any agreement for services resulting from this RFP shall be awarded to the Offeror providing the best proposal to MHTC. After determining responsiveness, proposals will be evaluated in accordance with the following criteria:
  - A. Proposed method of performance (40 points possible)
  - B. Experience, expertise, and reliability (30 points possible)
  - C. Budget / quality balance (20 points possible)
  - D. Overall clarity and quality of proposal (10 points possible)
2. **Historic Information:** MHTC reserves the right to consider historic information and facts, whether gained from the Offeror's proposal, question and answer conferences, references, or other sources, in the evaluation process.

3. **Responsibility to Submit Information:** The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that MHTC's representative is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.

**(C) REQUIRED ELEMENTS OF PROPOSAL**

1. **Proposed Method of Performance:** Proposals will be evaluated based on the distinctive and creative plan for performing the requirements of this RFP. The Offeror should present a written narrative that demonstrates the method or manner proposed to satisfy the scope of work.
  
2. **Experience, Expertise, and Reliability:** Experience, expertise, and reliability of the Offeror's organization are considered in the evaluation process. Therefore, the Offeror is advised to submit any information that documents successful and reliable experience in past performances.
  - A. The proposal must clearly identify the Offeror's experience in offering the services requested in the RFP during the past three (3) years. The description should include a list of the agencies your institution has served or currently serves.
  - B. Please indicate the name, location, telephone number, fax number and email address of the primary contact person for the Offeror. Information presented in this section should highlight the previous Offeror experience, as well as any work with other state agencies or local governments in Missouri. Offeror must furnish a complete listing of each subconsultant, if any, and complete contact information for that subconsultant.
  
3. **Budget/Quality Balance:** The evaluation of budget/quality balance will use a combination of total project cost and the perceived finished product quality.
  - A. Cost factor – This is an objective number that will be derived from the following calculation:  
$$\text{Lowest Responsive Project Cost among all vendors} / \text{Project Cost for vendor being evaluated}$$
  - B. Quality factor – This is a subjective number taking into account perceived quality of products and services that will be rated on a scale of zero (0) to twenty (20).
  - C. Total Budget/Quality Balance score will be based on the following calculation:

$$\text{Cost Factor} \times \text{Quality Factor} = \text{Budget Quality Balance}$$

4. **Overall Clarity and Quality of Proposal:** Proposals should be complete, easy to follow and read. We expect some background information, however, marketing materials shall be limited. Proposals shall clearly identify processes and procedures that directly relate to this specific RFP and its scope of service.

**SECTION (5):  
PRICE PAGE**

**FEE SCHEDULE:** The Offeror shall indicate below all fees for providing services in accordance with the provisions and requirements stated. **Keep in mind this proposal has a “Not to Exceed” (NTE) budget of \$90,000 and must be completed and invoiced prior to June 15, 2007.**

**Project Total Cost** \$ \_\_\_\_\_

**Unit Cost for Additional CD-ROMs** \$ \_\_\_\_\_

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**(Signature /Title)**

**(Date)**

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

**STANDARD SOLICITATION PROVISIONS**

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

**GENERAL TERMS AND CONDITIONS**

**General Performance**

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

**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

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

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.

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**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.

**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**

**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.

**Award**

- a. Award of this bid/quote/proposal will be made on an "All Or Nothing" basis using the "lowest and best" principle of award.

**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.

# 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.