



MISSOURI
HIGHWAYS and TRANSPORTATION
COMMISSION
JEFFERSON CITY, MISSOURI
SPECIFICATIONS
FOR
CONSTRUCTING OR IMPROVING

IFB 9 – 081202C

DISTRICT-9
TIME AND MATERIAL PROJECT AND
SERVICE CALL BUILDING SERVICES
VARIOUS SOUTH CENTRAL MISSOURI LOCATIONS

INVITATION FOR BID (IFB) FORM

**MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
1320 CREEK TRAIL DRIVE – P.O. BOX 270
JEFFERSON CITY, MO 65102**

| | |
|-------------|-------------------|
| REQUEST NO. | 9-081202C |
| DATE | November 12, 2008 |
| PAGE NO. | 1 NO. OF PAGES 1 |

SEALED BIDS, SUBJECT TO THE CONDITIONS ON ALL PAGES OF THIS IFB WILL BE RECEIVED AT THIS OFFICE UNTIL

1:00 PM LOCAL TIME; December 2, 2008

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

**BIDS TO BE BASED F.O.B.
MISSOURI DEPARTMENT OF TRANSPORTATION**

F.O.B. Destinations

Various South Central Missouri Locations

SIGN AND RETURN BEFORE TIME SET FOR OPENING.

BUYER: Clayton Hanks Clayton.Hanks@modot.mo.gov **BUYER TELEPHONE:** 573-522-9565

The purpose of this solicitation is to establish a term time and materials price agreement for minor building Maintenance Repair. Renovation. and Construction Services as described herein.

The bidder must provide regular time and overtime firm fixed prices for providing minor building Maintenance, Repair, Renovation, and Construction services. **Prices shall remain in effect through December 31, 2009.**

Hourly Labor Rates; Pulaski, Phelps, Crawford, Washington, Texas, Iron and Dent Counties

| | |
|------------------------------|-------------------------------|
| Regular Time \$ _____ | Overtime Rate \$ _____ |
|------------------------------|-------------------------------|

Hourly Labor Rates; Carter, Howell, Oregon, Reynolds, Ripley, and Shannon Counties.

| | |
|------------------------------|-------------------------------|
| Regular Time \$ _____ | Overtime Rate \$ _____ |
|------------------------------|-------------------------------|

Parts and Materials - The Bidder shall provide a single firm fixed percentage over the actual net cost for any parts and materials required for service calls and projects.

| | |
|---------------------------------------------------|---------|
| % Over actual net cost for parts/materials | _____ % |
|---------------------------------------------------|---------|

Award of this bid/quote/proposal may be made on an "All Or Nothing" or "Line by Line" basis County Groupings" - (1) Pulaski, Phelps, Crawford, Washington, Texas, Iron and Dent Counties and (2) Carter, Howell, Iron, Oregon, Reynolds, Ripley, and Shannon Counties - using the "lowest and best" principle of award.

MHTC Standard Solicitation Provisions, General and Special Terms and Conditions (6-pages).

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

Notice to Contractors

Bids for establishing a term Time & Material Minor building Maintenance Repair, Renovation, and Construction Services Price Agreement for the MoDOT South Central District will be received by the Missouri Department of Transportation at its Office Complex located at 1320 Creek Trail Drive, P.O. Box 270, Jefferson City, MO 65102, until 1:00 p.m. **December 2, 2008.** Bid forms and information may be obtained by contacting Clayton Hanks by at 573-522-9565 Clayton.Hanks@modot.mo.gov, or electronically download them at no charge from http://www.modot.org/business/contractor_resources/FacilitiesConstructionandMaintenance.htm. Prevailing wage as established by the Missouri Department of Labor and Industrial Relations, for Missouri counties of Carter, Crawford, Dent, Howell, Iron, Oregon, Phelps, Pulaski, Reynolds, Ripley, Shannon, Texas, and Washington shall apply.

I. REQUIREMENTS

1. Provide minor building maintenance, repair, renovations, and construction services for (1) service calls and (2) projects. All services shall be performed in accordance with the terms and conditions contained herein.
2. The contractor will receive payment in arrears for satisfactory services and supplies based on actual labors hours worked and supplies installed or consumed.
3. All services shall be performed on an as needed, if needed basis if requested by the Owner to the sole satisfaction of the Owner.
4. The contractor shall understand and agree that MoDOT cannot guarantee any amount of minor building maintenance, repair, renovations, and construction services that may be required.
5. Services will be provided at owner's locations within MoDOT's South Central District #9 which includes the 13-Missouri counties of Carter, Crawford, Dent, Howell, Iron, Oregon, Phelps, Pulaski, Reynolds, Ripley, Shannon, Texas, and Washington.
6. The contractor must provide qualified personnel to provide requested services in a manner satisfactory to and acceptable by MoDOT.
7. The Contractor shall provide services for planned projects and service calls on an hourly work basis as requested by the Facilities Operations Supervisor as defined herein:
 - 7.1 Service Calls: Occasionally the Owner may need the Contractor to provide one or more building trade workers to assist the Owner's staff on a temporary, hourly basis; however, the Contractor shall understand and agree that the Owner does not guarantee any specific usage of the Contractor's services.
 - 7.2 Projects: The Facilities Operations Supervisor may request the Contractor to complete several projects. It is believed that periodic work throughout the entire year will be necessary; however, the Contractor shall understand and agree that the Owner does not guarantee any specific usage of the Contractor's services.
 - 7.2.1 Some projects may require "shop time". Shop Time shall be defined as any work performed off site, and shall be clearly identified for each project in the written work plan submitted by the Contractor. All shop time should be kept to an absolute minimum, and will be approved only when necessary and essential to the completion of a project.
 - 7.3 The Contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the Owner may secure identical and/or similar services from other sources at anytime in conjunction with or in replacement of the Contractor's service.
 - 7.4 The Contractor services may include but may not be limited to: drywall, glazier, painting, roofing, mason, tile setting, caulking, flooring, pouring concrete, wood and metal framing, and finish carpentry.
8. The intent of any price agreement resulting from this Invitation For Bid (IFB) it will be for Minor Building Services projects that are estimated to be less than \$25,000.

II. SERVICE CALLS

1. Service calls are typically spontaneous due to unexpected building failure or newly discovered building deficiencies.
2. Occasionally the Owner may need the Contractor to provide one or more persons to assist the Owner's staff on a temporary, hourly basis; however, the Contractor shall understand and agree that the Owner does not guarantee any specific usage of the Contractor's services.

3. In cases that are identified as an emergency by the Facilities Operations Supervisor or his/her representative, Electrical service response must be within one calendar-day after receiving notification. This response time is required around the clock every day of every year.

III. PROJECTS

1. Projects under this agreement are typically valued at \$25,000 or less.
2. Within ten-days after the Facilities Operations Supervisor notifies the Contractor of a project, the Contractor must inspect the job site and present to the Facilities Operations Supervisor a written work plan which contains the following information:
 - 2.1 The type of services necessary to accomplish the proposed project, including any work required off site.
 - 2.2 The estimated number of labor-hours necessary to complete the project.
 - 2.3 A complete list of building materials, supplies and/or tools and equipment, including specialty tools and equipment owned by the Contractor that will be required to complete the project.
 - 2.4 The contractor must provide firm, fixed price for all materials, supplies and/or tools and equipment.
 - 2.5 The list must be presented whether or not the contractor is required to provide some or all of the materials, supplies and/or tools and equipment for the project. Each item(s) supplied costing over one hundred dollars (\$100.00) each shall be itemized as a single line item on the contractor's material list.
 - 2.6 A guaranteed not-to-exceed total price for completing the specific project based on the number of hours required to complete the project for each type of service, plus the cost of materials and supplies and/or owned, rented or leased tools and equipment provided based on the Rental Equipment Register or the percentage added to net cost as indicated on the Proposal Form. If shop time (as defined in Section I, 7.2.1) is required, it must be clearly identified in the work plan.
 - 2.7 A firm completion date for the project.
3. Project Estimates: The Owner recognizes that estimates (work Plans) must be considered reimbursable if a project is not carried out. Therefore, the Owner may pay for the cost to prepare estimates at the rate of \$100.00 for each project estimate that is not started within sixty days from the date of the Contractor's written work plan. For project started within sixty days, the Contractor agrees and understands that costs to prepare estimates will not be paid but will be considered part of the overhead and profit of the Contractor.
4. The Facilities Operations Supervisor reserves the right to accept or reject all or any portion of the Contractor's written work plan. If the Facilities Operations Supervisor accepts the Contractor's written work plan, the Facilities Operations Supervisor will communicate its acceptance by sending to the Contractor written notice to proceed with the project within the time frames mutually agreed upon.
5. After receiving written approval to proceed from the Facilities Operations Supervisor, the Contractor shall provide the qualified personnel, tools, and equipment necessary for completing the project and any or all materials and supplies required. Allowance will be made for materials and supplies, lead times, shipping schedules, etc., if needed.
6. The Owner may or may not provide some or all building materials, supplies and/or tools and equipment required to complete the projects. The Contractor shall be required to provide all building materials, supplies and/or tools and equipment required for the projects which the Owner does not provide.
7. The Contractor must guarantee all parts furnished and labor for their installation for a period of one year.
8. Any damage to the building or equipment as a result of defective parts and/or prosecution of the project shall be the responsibility of the Contractor.

9. Each day when coming to work on a project, the contractor must notify the Facilities Operations Supervisor's office or the Project Coordinator's office. Likewise when leaving for the day the contractor must notify the Facilities Operations Supervisor's office or the Project Coordinator's office to notify the Owner of his departure.
10. The contractor will only be compensated for hours actually worked as evidenced by the arrival and departure notification and may be paid for one-way travel to the job site.
11. Building supplies that are provided by the contractor shall be invoiced on a cost plus markup basis as bid on the pricing page herein.
12. The Contractor shall agree and understand that the Facilities Operations Supervisor may make changes in the scope of a project (size, configuration, etc.) prior to and during the Contractor's work on the project. When the Facilities Operations Supervisor notifies the Contractor of such changes, the Contractor must submit a written change order request to the Facilities Operations Supervisor if there are any changes (in the types of services, the number of man-hours of each type of service, the building materials and supplies, the guaranteed not-to-exceed price, and/or the time frames for completion of the service project) from the Contractor's approved work plan as a result of the Facilities Operations Supervisor's changes in the scope of the project. The Contractor must again receive the Facilities Operations Supervisor's written approval to proceed with the changes specified in the change order before deviations from the Contractor's approved work plan on that particular project shall be allowed.
13. The Owner reserves the right to require the Contractor to provide operations manuals, as built drawings, equipment warranties, etc., upon completion of each project.

IV. AGREEMENT - GENERAL

1. A binding agreement shall consist of: (1) this IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) MoDOT's acceptance of the bid by letter. All Exhibits and Attachments included in this IFB shall be incorporated into the final price agreement by reference.
2. The notice of award does not constitute a directive to proceed. Before providing equipment, supplies, and/or services, the contractor must receive authorization from the MoDOT Building Manager or his/her designated representative prior to any services being performed.
3. The agreement expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
4. Any change to the agreement, whether by modification and/or supplementation, must be accomplished by a formal change order signed and approved by and between the duly authorized representative of the contractor and MoDOT or by a field work-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 from MoDOT, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the agreement.
5. The price agreement shall remain in effect through **December 31, 2009** and may be renewed for up to two, one-year periods if agreed upon by MoDOT and the contractor. If extended, all terms and conditions, requirements, and pricing, of the contract shall remain the same and apply during the renewal period.

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.
- c. 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.
- d. Modifications/Change Orders cost shall not allow overhead and profit for the contractor or subcontractor actually performing the work shall not exceed 15%. When one or more tiers of subcontractors are used, in no event shall any contractor or subcontractor receive as overhead and profit more than 7% of the cost of the work performed by any of his subcontractors. In no case shall the total overhead and profit paid by the owner on any change order exceed twenty five percent (25%) of the cost of materials, labor and equipment necessary to accomplish any approved modification.

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

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

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

Applicable Laws and Regulations

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

Executive Order

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
 - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
 - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
 - 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
 - 4) If attached, the document entitled "**PREFERENCE IN PURCHASING PRODUCTS**" should be completed and returned with the solicitation documents.
 - 5) 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.

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

SPECIAL TERMS AND CONDITIONS

Insurance

- a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.
- b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:
 - 1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained if required by law.
 - 2) Public Liability (includes property damage and personal injury):
 - i. Not less than \$400,000 for any one person in a single accident or occurrence.
 - ii. Not less than \$1,000,000 for all claims arising out of a single occurrence.
 - 3) Special Hazard Insurance: As required.

PRODUCT OPTIONS

- a. All specifications that specify manufacture's brand name and/or model number are for reference purposes only. Contractors are encouraged to bid functional equivalents. MHTC evaluation of "functional equivalents" shall be final.

SUBSTITUTIONS

- a. Architect/Engineer will consider requests for Substitutions only within 15 days after date established in Notice to Proceed. Substitutions may be considered when a Product becomes unavailable through no fault of the Contractor. Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.
- b. A request constitutes a representation that the Contractor:
 - 1) Has investigated proposed Product and determined that it meets or exceeds the quality level of the specified Product.
 - 2) Will provide the same warranty for the Substitution as for the specified Product.
 - 3) Will coordinate installation and make changes to other Work that may be required for the Work to be complete with no additional cost to Owner.
 - 4) Waives claims for additional costs or time extension that may subsequently become apparent.
 - 5) Will reimburse Owner for review or redesign services associated with re-approval by authorities.
- c. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals, without separate written request or when acceptance will require revision to the Contract Documents.
- d. Substitution Submittal Procedure:
 - 1) Submit three copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
 - 2) Submit shop drawings, product data and certified test results attesting to the proposed Product equivalence. Burden of proof is on proposer.
 - 3) The Architect/Engineer will notify Contractor in writing of decision to accept or reject request.

Proposal/Bid Guaranty/Contract Bond

- a. Each proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.
- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

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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.

Prevailing Wage

- a. If the bid/quote/proposal is accepted, the vendor will be required to comply with the prevailing wages as fixed by the Missouri Department of Labor and Industrial Relations, in effect as of the date of the issuance of the solicitation, for each affected craft and type of workmen in the following counties): Carter, Crawford, Dent, Howell, Iron, Oregon, Phelps, Pulaski, Reynolds, Ripley, Shannon, Texas, and Washington. The Annual Wage Order #15 may be inspected at any District Office or at the Central Office in Jefferson City, MO.
- b. The Contractor shall submit notarized weekly payroll affidavit documentation included with the project request for payment. The successful vendor must provide a lien waiver from all material suppliers.

Permits, Licenses and Safety Issues

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

Award

- a. **Award of this bid/quote/proposal may be made on an "All Or Nothing" or "Line by Line County Groupings" (Pulaski, Phelps, Crawford, Washington, Texas, and Dent Counties and Carter, Howell, Iron, Oregon, Reynolds, Ripley, and Shannon Counties) basis using the "lowest and best" principle of award.**

Failure to Execute Contract

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

Notice to Proceed

- a. Within **30 days** after the execution of the contract, a "**Notice to Proceed**" will be issued by the Department.

Delivery – Additional Requirements

- a. The Contractor shall furnish the Missouri Department of Transportation with a planned delivery schedule at least 16 hours before starting delivery.
 - 1) Notification should be during the normal workday preceding the day on which the Contractor desires to initiate delivery.
 - 2) It will be necessary for a representative of the Missouri Department of Transportation to be present when the material is delivered.
- b. 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 |

- c. 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**.

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

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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.

Environmental Issues

- a. Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.
- b. The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.
- c. The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto, unless modified by these specifications.