

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 24—Design-Build Project Contracts

PROPOSED AMENDMENT

7 CSR 10-24.030 Procedures for Solicitations and Receipt of Proposals. The Missouri Highways and Transportation Commission is amending sections (1) through (4).

PURPOSE: This amendment incorporates federal statutes, and deletes unnecessary and restrictive language.

(1) *[The commission will give public notice of a Request for Qualifications in at least two (2) public newspapers that are distributed wholly or in part in this state and at least one (1) construction industry trade publication that is distributed nationally.]* In addition to the public notice set forth in section 227.107.18 RSMo, the commission may use additional procedures deemed appropriate for the solicitation and receipt of proposals and information, including the following:

- (A) Exchanges with industry before receipt of proposals;
- (B) Request for Qualification (RFQ), Request for Proposal (RFP) and contract format;
- (C) Solicitation schedules;
- (D) Lists of forms, documents, exhibits, and other attachments;
- (E) Representations and instructions;
- (F) Handling proposals and information; and
- (G) Submission, modification, revisions and withdrawal of proposals.

(2) All responses to the *[Request for Qualifications]* RFQ will be evaluated by the pre-qualification review/short listing team*[. This team will be]*, which is comprised of the following Missouri Department of Transportation (MoDOT) staff or their designated representative: chief engineer, chief financial *[and administrative]* officer, assistant chief engineer, *[controller]* financial services director, *[director of program deliver]* one (1) or more district engineer(s), project manager for the given project, state construction and materials engineer, state bridge engineer and the state design engineer. An external partner(s) may be asked to act as an observer to the pre-qualification/short listing process.

(3) Use of Oral Presentations During the Procurement Process.

(A) Oral presentations as a substitute for portions of a written proposal may be used in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process*[, however, the commission must]* and comply with any appropriate federal *[and state]* procurement integrity standards contained in 23 CFR 636.111. Title 23 CFR section 636.111 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: <http://bookstore.gpo.gov> on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the Code of Federal Regulations in 23 CFR 636.111.

(B) Oral presentations may augment written information. The commission or MoDOT will

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maintain a record of oral presentations to document what information was relied upon in making the source selection decision. The commission will decide the appropriate method and level of detail for the record (e.g., videotaping, audio tape recording, written record, contracting agency notes, copies of proposer briefing slides or presentation notes). A copy of the record will be placed in the contract file and may be provided to proposers upon request.

(4) Restrictions on a **proposer's** team changes after **the proposer's** response to an RFQ where the proposer's qualifications are a major factor in the selection of the successful design-builder, **such as** team member switching (adding or switching team members), is discouraged after submission of response to an RFQ. However, the commission may use its discretion in reviewing team changes or team enhancement requests on a case-by-case basis. Any specific project rules related to changes in team members or changes in personnel within teams will be explicitly stated in a project solicitation.

*AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. *Emergency rule filed Oct. 17, 2005, effective Oct. 27, 2005, expired April 25, 2006. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed December 5, 2017.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*