

RECEIVED

MAY 04 2011

SECRETARY OF STATE  
ADMINISTRATIVE RULES

Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation Commission  
Chapter 11—Procurement of Supplies

PROPOSED AMENDMENT

COPY

**7 CSR 10-11.030 Vendor [Registration, Notification of Competitive Bidding Opportunities,] Suspension[,] and Debarment.** The Missouri Highways and Transportation Commission is amending the title, purpose statement, sections (3), (4), (5); subsections (3)(A) through (3)(C), (4)(A), (4)(B); deleting sections (1) and (2); and renumbering as necessary.

*PURPOSE: This proposed amendment removes procedures no longer applicable for vendor registration and vendor notification of bidding opportunities and removes unnecessary restrictive wording.*

*PURPOSE: This rule describes [procedures for vendor registration, vendor notification of bidding opportunities, and] procedures for suspension and debarment of vendors.*

*[(1) Any individual, business, or organization may complete a commission vendor registration in order to be added to the commission's vendor database. It is the vendor's sole responsibility to update their vendor registration information with the commission.*

*(2) A person, business, or corporation contracting with the commission shall be considered as an independent contractor and shall not be considered nor represent him/herself as an employee or agency of the commission or department. A corporation must be authorized to do business in Missouri by registering with the Office of the Secretary of State before proceeding with work under a contract unless specifically exempt pursuant to section 351.572, RSMo.]*

**[(3)1] Suspension.** The director, or director's designee, may suspend a vendor for cause. *[The vendor shall be mailed a] A formal notice of suspension outlining the reasons for, the specific conditions of, and the effective period of the suspension, shall be mailed to the vendor. The director or designee may suspend a vendor whenever, in their sole discretion, it is in the best interest of the commission to do so. It is the responsibility of the vendor, [U]pon completion of the suspension period, [it shall be the responsibility of the vendor] to request, in writing, reinstatement if desired. [A request for reinstatement should be made in writing.]*

(A) *[Any] During suspension, bids/proposals submitted by a suspended vendor shall not be considered.*

(B) The suspension of a vendor may be for a period of up to one hundred eighty (180) days for a first violation, and *[for not more than] up to a year for subsequent violation(s).*

(C) The vendor may appeal its suspension, **in writing, within fourteen (14) calendar days after receiving the formal notice.** *[by submitting a] The written request to the director or director's designee may include specific evidence and reasons why suspension is not warranted [within fourteen (14) calendar days after receipt of the formal notice. The vendor must provide specific evidence and reasons why suspension is not warranted].* On the basis of *[this] the information in the appeal, the suspension may be modified, rescinded, or affirmed by the director.* The director's **final** decision on the vendor's appeal shall be *[final and] mailed to*

JOINT COMMITTEE ON

MAY 04 2011

ADMINISTRATIVE RULES

all parties.

**([4]2) Debarment. The director, or director's designee, may debar a vendor for cause. A formal notice of debarment outlining the reasons for, the specific conditions of, and the actions necessary for the vendor to be eligible to contract again, shall be mailed to the vendor.** The director may debar a vendor whenever, in the director's sole discretion, it is in the best interest of the commission to do so. A vendor may be debarred for a single incident of serious misconduct or after multiple less serious incidents. *[The director shall notify the vendor of the reason for debarment and any action the vendor must take in order to be found eligible to contract again.]*

(A) *[Any]* **During debarment**, bids/proposals submitted by a debarred vendor shall not be considered.

(B) *[The vendor may appeal the debarment by requesting that the determination be reviewed by the director or designee. Any request for review must be in writing and filed within fourteen (14) calendar days after the date of receipt of the notice of debarment. The request must set forth specific evidence and reasons why debarment should be reversed. The director's determination on the vendor's appeal shall be final and mailed to all parties.]* **The vendor may appeal its debarment, in writing, within fourteen (14) calendar days after receiving the formal notice. The written request to the director may include specific evidence and reasons why debarment is not warranted and is addressed to the director. On the basis of this information, the debarment may be modified, rescinded, or affirmed. The director's decision on the vendor's appeal will be mailed to all parties and is considered the final decision.**

**([5]3)** The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but *[shall serve as]* is a guideline for vendor discipline and business ethics.

(A) Failure to perform in accordance with the terms and conditions and requirements of any contract/purchase order;

(B) Violating any federal, state, or local law, ordinance, or regulation in the performance of any contract/purchase order;

(C) Providing false or misleading information on an application, in a bid/proposal, or in correspondence to the department or a state agency;

(D) Failing to honor a bid/proposal for the length of time specified;

(E) Colluding with others to restrain competition;

(F) Obtaining information, by whatever means, related to a proposal submitted by a competitor in response to a *[request for proposal (RFP)]* **solicitation** in order to obtain an unfair advantage during the negotiation process; or

(G) Contacting proposal/bid evaluators or any other person who may have influence over the award, without authorization from the division, for the purpose of influencing the award of a contract.

*AUTHORITY: sections 226.020, 226.130, 227.030, and 227.210, RSMo 2000.\* Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed June 5, 2009, effective Jan. 30, 2010. Amended: Filed May 4, 2018.*

*\*Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030,*

*RSMo 1939; and 227.210, RSMo 1939.*

*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, Missouri 65102 or [Pamela.Harlan@modot.mo.gov](mailto: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.*