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CCO Form: GS
Approved: 03/16 (AR)

**REQUEST FOR PROPOSALS
FOR
TRANSIT DRUG AND ALCOHOL PROGRAM SERVICES**

**RFP # 6-160614LK
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LIST OF ACRONYMS

MHTC	Missouri Highways and Transportation Commission
MoDOT	Missouri Department of Transportation
RFP	Request for Proposals

INTRODUCTION

This Request For Proposals (**RFP**) seeks proposals from qualified firms (**Offerors**) to furnish the described services to the Missouri Highways and Transportation Commission (“**MHTC**” or “**Commission**”) and its operating arm, the Missouri Department of Transportation (“**MoDOT**”). Proposals in the required format provided for in this RFP must be mailed in a sealed envelope or box, or else delivered by hand or courier service (UPS, Federal Express, DHL, etc.) to be **received on or before 2:00 p.m., June 14, 2016,** at the office of the Ms. Leann Kottwitz:

Leann Kottwitz, CPPB
Senior General Services Specialist
Missouri Department of Transportation
Central Office General Services
830 MoDOT Drive; P.O. Box 270
Jefferson City, MO 65109
Email:

All documents must be sealed and should be clearly marked “**Transit Drug and Alcohol Program Services**”.

This RFP is being issued under, and governed by, the provisions of Title 7 – Missouri Department of Transportation, Division 10 – Missouri Highways and Transportation Commission, Chapter 11 – Procurement of Supplies, of the Code of State Regulations (7 CSR 10-11).

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

PROPOSAL SUBMITTAL CERTIFICATION BY OFFEROR

- (1) The Offeror shall provide a fee proposal to MHTC 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.
- (3) By submission of this proposal, each Offeror and each person signing on behalf of any Offeror, and in the case of a joint proposal, each party thereto as to its own organization, under penalty of perjury, certifies to the best of its knowledge and belief:
 - (A) The prices in this proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or any competitor; and
 - (B) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Offeror prior to the opening, directly or indirectly, to any other Offeror or to any competitor; and
 - (C) No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.
 - (D) The Offeror certifies that this proposal is made without any connection with any other person/firm/organization/business entity making a proposal for the same purpose, and is in all respects fair and without collusion or fraud, and that no elected official or other member, officer or employee or person whose salary is payable in whole or in part from the MHTC/MoDOT is directly or indirectly interested therein, or in any portion of the profits thereof.

Authorized Signature of Offeror: _____

Date of Proposal:_____

Printed or Typed Name:_____

Mailing Address:_____

City:_____State:_____Zip:_____

Telephone:_____Fax:_____

Electronic Mail Address:_____

SECTION 1: GENERAL DESCRIPTION AND BACKGROUND

- (A) **Request for Proposal:** This document constitutes a RFP from prospective qualified Offerors to provide Transit Drug and Alcohol Program Services to the Commission and MoDOT, as set forth in this RFP.
- (B) **Background:** The Transit Section, Multimodal Operations Division, of the Missouri Department of Transportation (MoDOT) provides financial and technical assistance for Missouri's rural and urban public transportation providers. Transit grantees and human service mobility providers receiving funding through federal financial assistance under the following programs are required to comply with the Federal Transit Administration's (FTA) drug and alcohol program requirements as found in 49 CFR Part 40 and Part 655:

49 USC 5307 – Urban Transit Assistance Program,
49 USC 5309 – Discretionary Transit Capital Investment Program,
49 USC 5311 – Nonurban Transit Assistance Program,

Additionally, transit grantees and service providers receiving funding through federal financial assistance under the following programs are required to comply with the federal Drug-Free Work Place Act:

49 USC 5307 – Urban Transit Assistance Program,
49 USC 5309 – Discretionary Transit Capital Investment Program,

Since the inception of FTA's 1995 revised drug and alcohol program requirements (formerly found in 49 CFR Parts 653 and 654), MoDOT's Transit Section has worked with local transit providers and human service mobility providers to lend them technical assistance in meeting their requirements under FTA's drug and alcohol program rules. Due to a lack of uniformity in compliance, transit providers need a statewide consortium-based program that assures they meet all of the federal drug and alcohol program requirements.

The consortium in this proposal would be voluntary for Missouri's 27 rural, two (2) university and seven (7) urban transit providers. MoDOT would expect most of the 29 rural providers would participate which would involve approximately 750 safety sensitive employees. Approximately five (5) of the urban transit providers would likely participate adding another 125 safety sensitive employees to the pool. All testing and training related services performed under this contract would be billed directly to the transit agencies participating in this consortium. Oversight services, such as on-site inspections of collection sites and transit agencies, as required, would be billed directly to MoDOT.

- (C) **Contract Period:** The Contract Period for the performance of the services described in this RFP is from the date of the fully executed Resulting Agreement through June 30, 2017. The successful Offeror shall perform any and all the services listed herein as often as

requested by MHTC for the entire duration of the Contract Period as defined herein at the Guaranteed-Not-To-Exceed Prices submitted by the successful Offeror in response to **SECTION 7: PRICING PAGE** of this RFP.

(D) Renewal Information: The contract shall not bind, not purport to bind, the Commission for any contractual commitment in excess of the original contract period. The Commission shall have the right, at its sole option, to extend the contract for four (4) additional one-year periods, or any portion thereof. In the event that the Commission exercises its options to extend the contract, such extension must be accomplished by a formal contract amendment approved and signed by representatives of the Contractor and Commission, respectively, each of whom being duly authorized to execute the contract amendment on behalf of the Contractor and Commission, respectively.

(E) Schedule of Events: Below is the schedule that will be followed. Unless otherwise specified, the time of day will be 7:00 a.m. to 4:00 p.m. Central Time. MHTC reserves the right at its sole discretion to expand this schedule, as deemed necessary, without any notification except for the deadline date for submitting a proposal.

DATE	EVENT
May 27, 2016	Issue RFP and Advertise intent to solicit proposals.
June 6, 2016	Deadline for Offerors to submit written questions and requests for clarification to the RFP Buyer of Record.
June 8, 2016	Issuance of Amendment with resolution of any questions submitted. http://www.modot.org/business/contractor_resources/g_s_bidding/CO/COcommodities.htm
June 20, 2016 @ 2:00 p.m.	Deadline for submission of proposals and scheduled public reading of the names of Offerors submitting timely received proposals.
July 1, 2016	Contract Effective Date

SECTION 2: SCOPE OF WORK AND SPECIFIC SERVICES

(A) (A) Services: The Offeror shall provide the following professional services:

The Missouri Department of Transportation (MoDOT) seeks a third party administrator to provide turnkey drug and alcohol program services for a state-wide voluntary consortium of Missouri's small urban and rural transit providers. Such a program would need to be in place and operational no later than by July 1, 2016. The administration of the consortium would extend to the acquisition and coordination of all components of a fully regulatory compliant transit drug and alcohol program to include:

Administration of transit random testing consortium pool

Alcohol testing
 Drug testing specimen collection
 Shipping of urine drug specimens
 Laboratory analysis of specimens by Department of Health and Human Services (DHHS) certified labs
 Medical Review Officer (MRO) services
 Substance Abuse Professional (SAP) services
 Training and training resources for transit agencies and human service mobility providers
 Interface with laboratories, MROs, SAPs, transit agencies and transit agency employees
 Oversight of all components of the drug and alcohol program for regulatory compliance
 Interface with MoDOT representatives with respect to contract performance

- (B) **Specific Requirements:** The Offeror will provide to the General Services Procurement Unit, one (1) original and five (5) copies of a program proposal which will include the following:

Third Party Management of FTA Compliant Drug and Alcohol Consortium Program

- I. Specimen Collection - Drugs:
 - a. Urine specimen collection kits provided for USDOT drug testing (5 panel)
 - b. Identify at least one collection site in each of Missouri's 114 counties
 - c. Where no viable collection site exists within a rural Missouri county, indicate for that county the location of the nearest collection site
 - d. Sites must be accessible during days and hours of transit agency operations as well as available for after-hours collections for post-accident and reasonable suspicion tests
 - e. Sites use standard USDOT custody and control forms
 - f. Collection site personnel trained in accordance with Part 40 requirements
 - g. Sites to notify MoDOT when a Notice of Proposed Exclusion from USDOT as well as public interest exclusion (PIE) issued to collection site or individual collection site personnel
 - h. Copies made available of collectors' training and re-training documentation
- II. Specimen Collection – Alcohol:
 - a. Breath alcohol testing conducted with National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing (EBT)s
 - b. Identified sites that do drug testing must also provide USDOT alcohol testing
 - c. Sites must be accessible during days and hours of transit agency operations as well as available for after-hours collections for post-accident and reasonable suspicion tests
 - d. Sites must use standard USDOT alcohol testing forms
 - e. Copies made available that document breath alcohol technician (BAT)s trained in operation and calibration of EBTs
 - f. Copies of EBT maintenance and calibration records immediately available, upon request

- g. Sites to notify MoDOT when a Notice of Proposed Exclusion from USDOT issued as well as PIE to collection site or individual collection site personnel
- III. Alternative Methods of Pre-Employment, Follow-up and Return-to-Duty Testing: In cases where the donor/employee has a medical condition that precludes them from providing a sufficient specimen for pre-employment, follow-up or return-to-duty testing, propose the processes, alternative testing methods and cost for compliance with 49 CFR 40.195.
- IV. Shipping of Urine Drug Specimens to DHHS Laboratory for Analysis
- V. Laboratory Testing – Urine Specimen USDOT Drug Testing
 - a. Only Department of Health and Human Services (DHHS) approved laboratories used for USDOT required drug tests
 - b. Laboratory compliant in all aspects with 49 CFR Part 40
 - c. Notify MoDOT when a Notice of Proposed Exclusion from USDOT issued as well as PIE to the DHHS lab used to fulfill the requirements of this contract
 - d. Copy provided of DHHS approval and Federal Register listing of approved labs
- VI. Medical Review Officer (MRO) Services
 - a. Reviews and reports test results as conducted by the DHHS approved laboratory
 - b. MRO activities compliant in all aspects with 49 CFR Part 40
 - c. Notify MoDOT when a Notice of Proposed Exclusion from USDOT issued as well as PIE to MRO or MRO staff
 - d. Copies provided of MROs current qualifications and training, and re-training
- VII. Third Party Manager Interface with MROs, Transit Agencies and Employees
 - a. Interface with MROs
 - b. Interface with Transit Agency Designated Employer Reps (DERs)
 - c. Interface with Transit Agency Employees
 - d. Interface with MoDOT representatives with respect to contract performance
 - e. All third party manager interactions compliant with 49 CFR 40, Subpart Q
 - f. Notify MoDOT when a Notice of Proposed Exclusion from USDOT issued as well as PIE to Third Party Administrator/Manager
- VIII. Substance Abuse Professional (SAP) Services
 - a. SAPs meet required qualifications as stated in 49 CFR Part 40 – Subpart O, as well as 49 CFR Part 655.52
 - b. Identify by name of individual, address and telephone number, the primary and back-up SAP in each of Missouri's 114 counties
 - c. Where no qualified SAPs practice in a rural county, indicate the location of the closest qualified primary SAPs and back-up SAPs to that Missouri county
 - d. Notify MoDOT when a Notice of Proposed Exclusion as well as PIE issued by USDOT to any SAP fulfilling responsibilities under this contract
 - e. Copies made available of current SAPs qualification credentials and training

- IX. Training and Training Resources for Transit Agency Staff including (49 CFR Parts 40 & 655)
 - a. Newly hired transit safety sensitive employees training on drug abuse and testing requirements
 - b. Transit supervisors conducting reasonable suspicion and post-accident testing determinations
 - c. Designated Employer Representatives (DER) responsibilities
 - d. Employer record keeping and record retention responsibilities
- X. Third Party Manager Administers Transit Random Testing Consortia (49 CFR Part 655.45)
 - a. Quarterly draws for drug testing and alcohol testing
 - i. 25% random rate for drugs, or required FTA percentage
 - ii. 10% random rate for alcohol, or required FTA percentage
 - b. Use of unique identifying employee numbers, not necessarily just social security numbers
 - c. Provides documentation on methodology of random selection process used
 - d. Notifies, preferably via the Internet, each transit system DER of draws at the beginning of each quarter
 - e. Updates random pool listing with info provided by DERs
 - f. Performs interim draws when tests cannot be performed (employee resigns or is not at work for entire quarter)
 - g. Provides to DERs the results of tests, preferably through a secure Internet site
 - h. Promptly pays all program services sub-contractors within 30 days of invoice
 - i. Maintains statistics and prepare reports on transit consortium pool
- XI. Third Party Manager Oversight of Components of Drug and Alcohol Program
 - a. Compliance inspections (on-site) of drug and alcohol program collection sites and personnel
 - b. Compliance inspections of DHHS laboratories used in contract
 - c. Blind sample testing when consortia has at least 2,000 safety-sensitive employees in the consortium pool
 - d. Compliance inspection of Medical Review Officer requirements
 - e. Compliance inspection of Substance Abuse Professional requirements
 - f. Compliance inspection of individual Transit Agency responsibilities:
 - i. All 49 CFR Part 40 and Part 655 required employer record keeping and records retention
 - ii. Employee hiring (test results from prior employers)
 - iii. Employee training (new hire and supervisor)
 - iv. Transit agency substance abuse program policy – 49 CFR Part 655, Subpart B
 - v. Documentation for employer actions listed in 49 CFR 40.29
 - vi. Employer monitoring of cancelled tests
 - vii. Maintenance of confidentiality
 - viii. Annual submission to FTA of drug and alcohol Management Information System report

SECTION 3: REQUIRED ELEMENTS OF PROPOSAL AND SUBMISSION

(A) Required Elements of Proposal: Each Offeror shall provide a cover letter signed by an authorized firm representative stating he/she has read and understands all of the terms and conditions of doing business with MHTC in response to this request for proposal. Each Offeror's proposal must be divided into sections corresponding to the list of elements described below.

1. Conformance to Requirements – Conformance to technical and regulatory requirements set forth in the RFP documents. Detail how your organization will comply with the specifications listed in the Scope of Work, along with relationships and working partnerships with subcontractors.

2. Overall Quality and Clarity 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 which directly relate to this specific RFP and its scope of service.

3. Experience, Expertise and Reliability - Experience and reliability of the Offeror's organization is considered in the evaluation process. Therefore, the Offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to previous with coordinating and administering FTA compliant drug and alcohol programs.

(a) The Offeror should provide the following information related to previous and current contracts which are considered identical or similar to the requirements of this RFP.

1. Name, address and telephone number of contracting agency and a contact person who may be contacted for verification of all data submitted.
2. Dates of the Contract.
3. A brief, written description of the specific prior services performed and requirements thereof.

(b) The qualifications (expertise) of the personnel proposed by the Offeror to perform the requirements of the RFP will be considered in the evaluation. Therefore, the Offeror should submit detailed information related to the expertise and qualification of the staff proposed.

- (c) The Offeror should provide a resume including referenced detailing educational qualifications and previous work assignments as they may relate to this RFP for key personnel to be assigned to the project.
- (d) If the staff is not yet hired, the Offeror should provide:
 - 1. Detailed descriptions of the required employment qualifications, and
 - 2. Detailed job descriptions of the positions to be filled, including the type of individuals proposed to be hired

4. Proposed Method of Performance to Acquire - Proposed methods to acquire state-wide: alcohol and drug testing collection sites, shippers for urine drug specimens, DHHS laboratories, MRO services, third-party administration services, SAP services as well as training for consortium employees.

5. Proposed Method of Performance to Oversee - Proposed methods to oversee training, collections, shipping, laboratory testing, on-site compliance inspection, medical review officer (MRO) services, substance abuse professional (SAP) services as well as administrative record keeping and reporting by consortium members.

6. Cost, Fees & Expenses - The objective evaluation of cost shall be conducted based upon a total annual amount for all services. The cost will be calculated by using items A, B and C on the Fee Schedule of the Pricing Page.

- (a) Cost points shall be determined using a scale of 15 possible points and the following formula:

$$\frac{\text{Lowest Responsive Price}}{\text{Compared Price}} \times 15 = \text{Cost score points}$$

(B) Submission of Proposals: Offerors are responsible for submission of accurate, adequate and clear descriptions of the information requested. Omissions, vagueness or inaccurate descriptions or responses shall not be interpreted in favor of the Offeror and shall be grounds for rejection. This document is not an offer to contract, but is an RFP. Neither the issuance of the RFP, preparation and submission of a response, nor the subsequent receipt and evaluation of any response by the MHTC, will commit the MHTC to award a contract to any Offeror even if all of the requirements in the RFP are met. The MHTC may modify these requirements in whole or in part and/or seek additional Offerors to submit proposals. Only the execution of the Resulting Agreement will obligate the MHTC in accordance with the terms and conditions contained therein.

1. Proposal Format: The Offeror's submittal must include one (1) original hardcopy document. Three (3) electronic copies of the proposal are desired in addition to the hardcopy document. Electronic copies of the proposal must be in Microsoft compatible format

or in “.pdf” and stored on CD(s) or flash drive(s). The Offeror shall ensure the electronic copy of the proposal document stored in all media is identical to the original hardcopy response document. In case of a discrepancy, the original hardcopy proposal document language shall govern.

2. Signatures: 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.

3. Pricing: The Offeror is required to specify the pricing associated with this RFP as a firm fixed price. The successful Offeror will be responsible for performing all services listed in this RFP at the prices listed on **SECTION 7: PRICING PAGE** of the RFP. MHTC will not be liable for any charges beyond those detailed in the proposal.

A. MHTC shall not make any payment to the successful Offeror in advance of the services rendered by the successful Offeror.

B. Each Offeror is responsible for its own expense in preparing, delivering or presenting a proposal, and for subsequent interviews or negotiations with MHTC, if any, as provided for in this RFP.

4. Proposal Life: The Offerors must include a statement in the proposal that indicates the length of time during which MHTC may rely on all proposal commitments. All proposals made in response to this RFP and quoted pricing must remain in effect for a period of not less than 90 days after the date for proposal submission. Any proposal accepted by MHTC for the purpose of contract negotiations shall remain valid until superseded by a contract or until rejected by MHTC.

5. Submission of All Information Required: The Offerors must respond to this RFP by submitting all the information required herein for its proposal to be evaluated and considered for award. Failure to submit all the required information shall be deemed sufficient cause for disqualification of a proposal from consideration.

6. Public Inspection: The Offerors are hereby advised that all proposals and the information contained in or related thereto are subject to Missouri Open Records Act and after contract award and execution of the Resulting Agreement shall be open to public inspection and may be viewed and copied by any member of the public; therefore, MHTC does not assume any responsibility whatsoever in the event that such information is used or copied by individual persons or organizations.

A. Offerors claiming a statutory exception to the Missouri Open Records Act must place all confidential documents (including the requisite number of copies) in a sealed envelope clearly marked “Confidential” and must indicate in the proposal and on the outside of that envelope that confidential materials are included. The Offeror must also specify which statutory exception provision applies. MHTC reserves the right to make determinations of confidentiality. If MHTC does not agree that the information designated is confidential under one of the disclosure exceptions to the Missouri Open Records Act, it may either reject the proposal or discuss its interpretation of the allowable exceptions with the Offeror. If agreement

can be reached, the proposal will be considered. If agreement cannot be reached, MHTC will remove the proposal from consideration for award and return the proposal to the Offeror.

B. MHTC will not consider prices to be confidential information.

C. The Offeror must submit its proposal based on the conditions contained in this paragraph without reservations.

7. Clarification of Requirements: It shall be the Offerors' responsibility to ask questions, request changes or clarification, or otherwise advise MHTC/MoDOT if any language, specifications or requirements of the RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source.

A. Any and all communication from Offerors regarding specifications, requirements, competitive proposal, etc., must be directed to the RFP Buyer of Record listed herein, unless the RFP specifically refers the Offerors to another contact. Such communication shall be received by the date noted in **SECTION 1: GENERAL DESCRIPTION AND BACKGROUND, (E) Schedule of Events.**

B. Every attempt will be made to ensure that the Offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable proposal process, all Offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, Offerors are advised that unless specified elsewhere in the RFP, any questions received after the listed date may not be answered.

8. Interview Conference: After an initial screening of the written proposals, any, or all of the Offerors submitting a proposal in response to this RFP may be required to give an oral presentation of their proposal. Additional technical information may be requested for clarification purposes, but in no way to change the original written proposal submitted. MHTC reserves the right, in its sole discretion, to decide to conduct interviews with any or all of the Offerors. If an interview is conducted, it is preferred that the interviewed Offeror's personnel to be assigned to the work, as well as key representatives, be present at and participate in the interview.

9. Official Position of MHTC: Offerors are cautioned that the only official position of the MHTC and MoDOT is that which is issued by MHTC in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

SECTION 4: EVALUATION FACTORS AND PROCESS:

(A) Evaluation Factors: The following factors shall be considered in the evaluation of the proposals:

1. Evaluation Criteria: 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 and maximum points per each criterion:

Evaluation Criterion Description	Maximum Points
Conformance to Requirements	20 pts.
Overall Quality & Clarity of Proposal	5 pts.
Experience, Expertise & Reliability	20 pts.
Proposed Method of Performance to Acquire	20 pts.
Proposed Method of Performance to Oversee	20 pts.
Cost, Fees & Expenses	15 pts.

2. Historic Information: MHTC reserves the right to consider historic information and facts, whether gained from the Offeror's proposal, presentations or interviews as applicable, references, or other sources, including but not limited to the listed subcontractors, in the evaluation process.

3. Responsibility to Submit Information: Each Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation criteria and MHTC 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.

(B) Proposal Review/Evaluation: MHTC will select a group of individuals to comprise the proposal review team. MHTC may, in its sole discretion, form a subgroup of the proposal review team, consisting of one or more team members, to comprise a separate proposal evaluation team that would be responsible for evaluating proposals with regard to compliance with RFP requirements. All evaluation team members will use the evaluation criteria stated above and present the evaluations to the review team for further action in the proposal evaluation and contract award process. If MHTC opts to not create a separate subgroup proposal evaluation team, the proposal review team shall also act as the proposal evaluation team.

SECTION 5: TERMS AND CONDITIONS

(A) Agreement Components: The Resulting Agreement between MHTC and the successful Offeror shall incorporate by reference as its components the following: the RFP and any written amendments thereto and the proposal submitted by the successful Offeror in response to the RFP. In case of a conflict between or inconsistency in the terms contained in the RFP and the proposal submitted by the Offeror in response to the RFP, the terms of the RFP shall govern. In the event of a conflict between or inconsistency in the terms of the RFP and the

Resulting Agreement, the terms of the Resulting Agreement shall govern. MHTC reserves the right, in its sole discretion, to clarify any relationship in writing and such written clarification shall govern in case of any conflict with or inconsistency in the applicable requirements stated in the RFP and the successful Offeror's proposal.

(B) MHTC's Representative: Multimodal Operations Director is designated as MHTC's representative with authority to act on behalf of MHTC for the purpose of administering the Resulting Agreement. 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 Resulting Agreement. Each Offeror shall fully coordinate its activities with the designated representative and shall consult the MHTC representative regarding any problem arising out of the provision of the services to the MHTC pursuant to this RFP and the Resulting Agreement. As the work of the successful Offeror progresses, advice and information on matters covered by the Resulting Agreement shall be made available by the successful Offeror to the designated representative throughout the effective period of the Agreement. MHTC reserves the right to limit the authority of Buyer of Record and MHTC's representative provided herein as it deems necessary in its sole discretion at any time and from time to time throughout the duration of the RFP process and the Contract Period.

(C) Assignment: The successful Offeror shall not assign, transfer, or delegate any interest in the services to be provided under this RFP and the Resulting Agreement without the prior written consent of the MHTC representative. The successful Offeror may at its own expense employ clerical or technical assistance in the performance of the services under this RFP and the Resulting Agreement, such clerical and technical assistance provider being as fully bound as the Offeror to all confidentiality and work product provisions of this RFP and the Resulting Agreement.

(D) Amendments: Any change in the Resulting Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment approved and signed by representatives of the Successful Offeror and Commission, respectively, each of whom being duly authorized to execute the contract amendment on behalf of the Successful Offeror and Commission, respectively.

(E) Disputes Under the RFP and Resulting Agreement: The MHTC representative and/or Buyer of Record, as applicable, will decide all questions which may arise as to the quality, quantity, and acceptability of any Offeror's proposals submitted in response to this RFP, and of the services under this RFP and the Resulting Agreement performed by the successful Offeror and as to the rate of progress of the services; all questions which may arise as to the interpretation of the services to be performed under this RFP and the Resulting Agreement; all questions as to the acceptable fulfillment of the Resulting Agreement on the part of the successful Offeror; the proper compensation for performance or breach of the Resulting Agreement; and all claims of any character whatsoever in connection with or growing out of the services to be performed or performed by the successful Offeror, whether claims under this RFP and the Resulting Agreement or otherwise. The decision of the MHTC representative and/or Buyer of Record, as applicable, shall be conclusive, binding, and incontestable.

(F) Successors and Assigns: The Commission and the Offerors agree that this RFP and, as applicable, the Resulting Agreement as well as all agreements entered into under the provisions of this RFP, shall be binding upon the parties thereto and their successors and assigns.

(G) Sole Beneficiary: The Resulting Agreement will be made for the sole benefit of the parties thereto and nothing in this RFP or the Resulting Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the successful Offeror.

(H) Cancellation of Resulting Agreement: MHTC may cancel the Resulting Agreement at any time by providing the successful Offeror with a written notice of cancellation. Should the Commission exercise its right to cancel the Resulting Agreement, cancellation will become effective upon the date specified in the notice of cancellation.

(I) Bankruptcy: Upon filing for any bankruptcy or insolvency proceeding by or against any Offeror or assignee, whether voluntarily, or upon the appointment of a receiver for the benefit of creditors, Commission reserves the right and sole discretion to reject the Offeror's proposal, or, as applicable, either cancel the Resulting Agreement or affirm the Resulting Agreement and hold the successful Offeror responsible for damages.

(J) Status as Independent Contractor: The successful 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 successful 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.

(K) Subcontractor: Any Offeror's proposal must identify all subcontractors, if any, and outline the contractual relationship between the Offeror and each subcontractor. Either a copy of the executed subcontract or a letter of agreement over the official signature of the firms involved must accompany each proposal. MHTC must approve the successful Offeror's subcontracting any portion of the services to be provided under the Agreement. The successful Offeror is responsible for the performance of any obligations that may result from this RFP and the Agreement and shall not be relieved by the non-performance of any subcontractor.

(L) MBE/WBE Participation Encouraged:

1. Affirmative Action Program: Offerors are encouraged to submit copies of their existing affirmative action programs, if any. Offerors are also encouraged to directly hire minorities and women as direct employees of the Offerors.

2. Minority Participation Encouraged: Offerors are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs (i.e. 10% MBE and 5% WBE participation).

3. Offeror's Responsibility Unconditional: Regardless of which persons or firms, if any, that the successful Offeror may use as subcontractors or suppliers of goods or services for the services to be provided, the successful Offeror ultimately remains responsible and liable to MHTC for the complete, accurate, and professional quality/performance of these services.

(M) Nondiscrimination: The Offerors shall comply with all state and federal statutes applicable to the Offerors 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.*).

(N) Executive Order: The Offerors 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. Offeror's Certification: By signing the proposal to this RFP, the Offeror hereby certifies that any employee of the Offeror assigned to perform services herein is eligible and authorized to work in the United States in compliance with federal law.

2. Failure to Comply: In the event the Offeror 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 Offeror 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 reject the Offeror's proposal or, as applicable, 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. Incorporation of Provisions: The successful Offeror shall include the provisions of this paragraph in every subcontract. The successful Offeror 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.

(O) Non-employment of Unauthorized Aliens: Pursuant to Section 285.530, RSMo., no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the State or by any political subdivision of the State to any Offeror, or for any Offeror receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the Offeror shall:

1. Enrollment in Federal Work Authorization Program: By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the

contracted services. E-Verify is an example of a federal work authorization program. The Offeror must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of completed copy of the E-Verify Memorandum of Understanding (MOU). For Offerors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

2. Annual Worker Eligibility Affidavit: By sworn affidavit, affirm that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Offerors are required to complete and submit with their proposal the affidavit referenced herein, which is provided within this document and attached as **Exhibit 1**.

(P) Proof of Lawful Presence For Sole Proprietorships and Partnerships: If the Offeror is a sole proprietorship or partnership, pursuant to Section 208.009, RSMo., each sole proprietor and each general partner shall provide affirmative proof of lawful presence in the United States. Such sole proprietorship or partnership is eligible for temporary public benefits upon submission by each sole proprietor and general partner of a sworn affidavit of his/her lawful presence on the United States until such lawful presence is affirmatively determined, or as otherwise provided by Section 208.009, RSMo. As applicable, Offerors are required to complete and submit with their proposals the copy of the affidavit referenced herein, which is provided within this document and attached as **Exhibit 2**.

(Q) Requirements to do Business in Missouri: Out-of-state Offerors must comply with the following requirements to do business in Missouri:

1. Registration with Secretary of State: The Offerors must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, and other regulatory agencies, as may be required by law or regulations. Prior to execution of the Resulting Agreement, the successful Offeror shall submit to MHTC a copy of its current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of its Certificate of No Tax Due from the Missouri Department of Revenue.

2. Transient Employer Certificate: All out-of-state Offerors providing services within the State of Missouri must provide a copy of their current Transient Employer Certificate issued from the Missouri Department of Revenue. For assistance with obtaining a Transient Employer Certificate, please call the Missouri Department of Revenue at (573) 751-0459.

(R) Law of Missouri to Govern: This RFP and the Resulting 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 this RFP and, if applicable, the performance of the Agreement.

(S) Venue: It is agreed by the parties that any action at law, suit in equity, or other

judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(T) Ownership of Records: All documents, reports, exhibits, etc., produced by the Offerors at the direction of MHTC's representative and information supplied by MHTC's representative shall remain the property of MHTC.

(U) Release to Public/Confidentiality: No material or reports prepared by the successful Offeror shall be released to the public without the prior consent of MHTC's representative. The Offerors 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 Offerors shall notify MHTC immediately of any request for such information.

(V) Prohibition Against Kickbacks and Gratuities/Nonsolicitation: Any kickback, gratuity, or other payment by the Offeror to any person employed by or on behalf of the Commission is prohibited except when such payment is made pursuant to the express terms of this RFP and, as applicable, the Resulting Agreement. Each Offeror warrants that it has not employed or retained any company or person, other than a bonafide employee working for the Offeror, to solicit or secure this RFP and as applicable the Resulting Agreement, and that the Offeror has not paid or agreed to pay any company or person, other than a bonafide employee, a fee, commission, percentage, brokerage fee, gift, or other consideration, which is contingent upon or Resulting from the award of this RFP and, as applicable, the Resulting Agreement. For breach or violation of this warranty, the Commission shall have the right to reject the Offeror's proposal and, as applicable, annul the Resulting Agreement without liability, or in its discretion, to withhold or recover said amounts from the compensation due or paid under the Resulting Agreement.

(W) Conflict of Interest: Each 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 RFP and the Resulting Agreement.

(X) Audit of Records: The successful 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. MHTC's representative shall have the right to reproduce and/or use any products derived from the successful Offeror's work without payment of any royalties, fees, etc. MHTC's representative shall at all times have the right to audit any and all records pertaining to the services.

(Y) Indemnification: Each 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 submittal of its proposal in response to the RFP, performance of its obligations under this RFP and, as applicable, the Agreement.

(Z) Insurance: For proposal purposes, Offerors must submit copies of certificates of insurance for general and automobile liability and workers' compensation in the following coverage limits. The successful Offeror must provide original certificates prior to commencing services.

1. General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;

2. Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;

3. Missouri State Workmen's Compensation: Policy or equivalent coverage in accordance with state law.

(AA) Section Headings: All section headings contained in this RFP and the Resulting Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this RFP and the Resulting Agreement.

(BB) Severability: If any clause or provision of this RFP and/or the Resulting Agreement is found to be void or unenforceable by a court or agency of proper jurisdiction, then the remaining provisions not void or unenforceable shall remain in full force and effect.

(CC) No Adverse Inference: This RFP and/or the Resulting Agreement shall not be construed more strongly against one party or the other. No rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this RFP and/or the Resulting Agreement.

[The remainder of page intentionally left blank.]

Section 6

Applicable FTA Procurement Terms & Conditions

No Federal Government Obligations to Third Parties: The Offeror agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any sub-recipient, any third party Offeror, or any other person not a party to the or Cooperative Agreement in connection with the performance of the contract. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub-agreement, or third party contract, the Federal Government has no obligations or liabilities to any party, including any grant sub-recipient or any third party Offeror.

False or Fraudulent Statements or Claims: The Offeror acknowledges and agrees that: (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the grant funded project and this procurement. Accordingly, by executing the contract, the Offeror certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with this procurement. In addition to other penalties that may apply, the Offeror also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to MoDOT and/or the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Offeror to the extent the Federal Government deems appropriate.

(2). If the Offeror makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes such a statement in any agreement with the Federal Government in connection with a project authorized under 49 U.S.C. Chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Offeror the penalties of 49 U.S.C. Section 5323, 18 U.S.C. Section 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

Access to Third Party Contract Records: The Offeror agrees to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, access to all records as requested to conduct audits and inspections related to any contracts that have not been awarded on the basis of competitive bidding for a capital or improvement Project, as required by 49 U.S.C. section 5325 (a). The Offeror further agrees to provide sufficient access to procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by FTA.

Federal Laws and Regulations: Federal law or laws authorizing project grant approval control federally funded projects. The Offeror acknowledges that Federal laws, regulations, policies, and related administrative practices applicable to the grant funded project on the date the authorized FTA official signs the agreement may be modified from time to time. In particular, new Federal laws, regulations, policies, and administrative practices may be promulgated after the date the Offeror executes the Agreement and might apply to that Agreement. The Offeror agrees that the most recent of such Federal requirements will govern the administration of the grant funded Project at any particular time, unless FTA issues a written determination otherwise. FTA's

written determination may be issued as a Special Condition, Requirement, or Provision or Condition of Award within the Agreement, a change to an FTA directive, or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a specific provision to the grant Master Agreement. To accommodate changing federal requirements, the Offeror is notified that Federal requirements may change and the changed requirements will apply to the grant funded project and procurement as required, unless the Federal Government determines otherwise.

Civil Rights: The Offeror agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

Nondiscrimination in Federal Transit Programs. The Offeror agrees to comply, and assures the compliance of each sub-Offeror at any tier under this grant funded procurement, with the provisions of 49 U.S.C. section 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age and prohibits discrimination in employment or business opportunity.

Nondiscrimination - - Title VI of the Civil Rights Act. The Offeror agrees to comply with the requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 2000d et seq., and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - - Effectuation of Title VI of the Civil Rights Act, "49 C.F.R. Part 21, and any implementing requirements the FTA may issue.

Equal Employment Opportunity. The Offeror agrees to comply with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 2000e, and 49 U.S.C. sections 5332 and any implementing requirements FTA may issue. Those equal employment opportunity (EEO) requirements include by are not limited to, the following:

General Requirements. The Offeror agrees as follows:

The Offeror agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Offeror agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment, or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Offeror also agrees to comply with any implementing requirements FTA may issue.

Nondiscrimination on the Basis of Sex. The Offeror agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. sections 1681 et seq., with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, and with any implementing directives that U.S. DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.

Nondiscrimination on Basis of Age. The Offeror agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. sections 6101 et seq., and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.

Access Requirements for Persons with Disabilities. The Offeror agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. section 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. sections 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that ACT. In addition, the Offeror agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance", 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Part 101-19;
- (7) U.S. Equal Employment Opportunity Commission. "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

- (9) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194;
- (10) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and
- (11) Any implementing requirements FTA may issue.

Drug or Alcohol Abuse -- Confidentiality and Other Civil Rights Protections. The Offeror agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Prevention, Treatment and Rehabilitation Act, as amended, 21 U.S.C. Sections 1101 et seq., to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. Sections 4541 et seq., and to the Public Health Service Act, as amended, 42 U.S.C. sections 290dd-1 and 290dd-2.

Access to Services for Persons with Limited English Proficiency. The Offeror agrees to comply with Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 42 U.S.C. section 2000d-1 note, and U.S. DOT Notice, “DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries,” 66 Federal Register 6733 et seq., January 22, 2001.

Environmental Justice. The Offeror agrees to comply with the policies of Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 42 U.S.C. section 4321 note.

Other Nondiscrimination Statutes. The Offeror agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to this contract.

Cargo Preference - - Use of United States – Flag Vessels. The Offeror agrees to comply with U.S. Maritime Administration regulations, “Cargo Preference - - U.S.-Flag Vessels,” 46 C.F.R. Part 381, to the extent those regulations apply to the contract.

Fly America. The Offeror understands and agrees that MoDOT and the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the contract unless that air transportation is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. section 40118, and with U.S. GSA regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. sections 301-10.121 through 301-10.143.

Employee Protections - Non-construction. The Contractor agrees to comply with the employee protection requirements for non-construction employees of the Contract Work Hours and Safety Standards Act, as amended, in particular with the wage and hour requirements of Section 102 of the Act at 40 USC Section 3702, and with implementing US DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federal Financed and Assisted Construction (also

Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work House and Safety Standards Act)," 29 CFR Part 5.

Energy Conservation. The Offeror agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C sections 6321 et seq.

Preference for Recycled Products. To the extent applicable, the Offeror agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, implementing section 6062 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. section 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) (49 CFR Part 26):

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as MoDOT deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from MoDOT.

d. The contractor must promptly notify MoDOT, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MoDOT.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS (FTA Circular 4220.1F): The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any MoDOT requests which would cause MoDOT to be in violation of the FTA terms and conditions.

SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 2 CFR Part 1200 and 2 CFR Part 180.

The contractor is required to comply with 2 CFR Part 1200 in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Missouri Department of Transportation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Missouri Department of Transportation, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient, Missouri Department of Transportation.

CLEAN WATER

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CLEAN AIR

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

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Bryd Anti-Lobbying Certification Form

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000) The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SOURCE: 55 FR 6737, 6756, Feb. 26, 1990, unless otherwise noted.

AUTHORITY: Section 319, Public Law 101–121 (31 U.S.C. 1352); 49 U.S.C. 322(a).

Current through May 19, 2016; 81 FR 31531.

49 C.F.R. § Pt. 20, App. A

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

**SECTION 7:
PRICE PAGE**

- (A) **FEE SCHEDULE:** The Offeror shall indicate below all fees for providing services in accordance with the provisions and requirements stated herein. Any applicable cap on out-of-pocket expense also should be noted. Prices must be per unit of measure listed below.

	<u>Original Contract</u>	<u>1st Renewal</u>	<u>2nd Renewal</u>
A. 5-panel USDOT drug test including collection kits, collection, shipment, DHHS lab analysis, MRO review, reporting and third-party administration	\$ _____	\$ _____	\$ _____
B. USDOT Alcohol test and reporting	\$ _____	\$ _____	\$ _____
C. Quarterly draws for random drug and alcohol testing	\$ _____	\$ _____	\$ _____
D. Substance Abuse Professional (SAP) services, per visit	\$ _____	\$ _____	\$ _____

- (B) **EXPENSES:** List the nature of expenses for which reimbursement would be sought and the estimated amount of such expenses.

Expenses	<u>Estimated Amount</u>		
	Original Contract	1 st Renewal	2 nd Renewal
Split sample drug testing	\$ _____	\$ _____	\$ _____
Blind sample testing	\$ _____	\$ _____	\$ _____
Transit employee training	\$ _____	\$ _____	\$ _____
MRO testimony at proceedings	\$ _____	\$ _____	\$ _____
On-site compliance inspections	\$ _____	\$ _____	\$ _____
Copies of certifications, training records and other credentials to transit systems	\$ _____	\$ _____	\$ _____
Alternative Testing Methods	\$ _____	\$ _____	\$ _____
Miscellaneous (list-attach additional sheet if needed)	\$ _____	\$ _____	\$ _____

Offeror Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

PRICE PAGE CONTINUED

	<u>3rd Renewal</u>	<u>4th Renewal</u>
A. 5-panel USDOT drug test including collection kits, collection, shipment, DHHS lab analysis, MRO review, reporting and third-party administration	\$ _____	\$ _____
B. USDOT Alcohol test and reporting	\$ _____	\$ _____
C. Quarterly draws for random drug and alcohol testing	\$ _____	\$ _____
D. Substance Abuse Professional (SAP) services, per visit	\$ _____	\$ _____

(B) **EXPENSES:** List the nature of expenses for which reimbursement would be sought and the estimated amount of such expenses.

Expenses	<u>Estimated Amount</u>	
	3rd Renewal	4th Renewal
Split sample drug testing	\$	\$
Blind sample testing	\$	\$
Transit employee training	\$	\$
MRO testimony at proceedings	\$	\$
On-site compliance inspections	\$	\$
Copies of certifications, training records and other credentials to transit systems	\$	\$
Alternative Testing Methods	\$	\$
Miscellaneous (list-attach additional sheet if needed)	\$	\$

Offeror Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

APPENDIX B

ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT (for joint ventures, a separate affidavit is required for each business entity)

STATE OF _____)
) ss
COUNTY OF _____)

On the _____ day of _____, 20____, before me appeared
_____, personally known to me or proved to me on the basis of satisfactory
Affiant name
evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, stated as follows:

- I, the Affiant, am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

- I, the Affiant, am the _____ of _____, and I am duly
title business name
authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.

- I, the Affiant, hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security, and the aforementioned business entity shall participate in said program to verify the employment eligibility of newly hired employees working in connection with any services contracted by the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

- I, the Affiant, also hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection with any services contracted by MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

- I, the Affiant, am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

- I, the Affiant, acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

Subscribed and sworn to before me in _____, _____, the day and year first above-
written. state

Affiant Signature

Notary Public

My commission expires:

[attach documentation of enrollment/participation in a federal work authorization program]

APPENDIX C
APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP

(a separate affidavit is required for each owner and general partner)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 208.009, RSMo, for failure to provide affirmative proof of lawful presence in the United States of America:

I am the _____ of _____, which is applying for a public benefit (grant, contract, and/or loan) administered/provided by the Missouri Highways and Transportation Commission (MHTC), acting by and through the Missouri Department of Transportation (MoDOT).

I am classified by the United States of America as: (check the applicable box)

- ☐ a United States citizen.
- ☐ an alien lawfully admitted for permanent residence. I am aware that Missouri law provides that any person who obtains any public benefit by means of a willfully false statement or representation, or by willful concealment or failure to report any fact or event required to be reported, or by other fraudulent device, shall be guilty of the crime of stealing pursuant to Section 570.030, RSMo, which is a Class C felony for stolen public benefits valued between \$500 and \$25,000 (punishable by a term of imprisonment not to exceed 7 years and/or a fine not more than \$5,000 – Sections 558.011 and 560.011, RSMo), and is a Class B felony for stolen public benefits valued at \$25,000 or more (punishable by a term of imprisonment not less than 5 years and not to exceed 15 years – Section 558.011, RSMo).

I recognize that, upon proper submission of this sworn affidavit, I will only be eligible for temporary public benefits until such time as my lawful presence in the United States is determined, or as otherwise provided by Section 208.009, RSMo.

I understand that Missouri law requires MHTC/MoDOT to provide assistance in obtaining appropriate documentation to prove citizenship or lawful presence in the United States, and I agree to submit any requests for such assistance to MHTC/MoDOT in writing.

I acknowledge that I am signing this affidavit as a free act and deed and not under duress.

Affiant Signature

Affiant's Social Security Number or
Applicable Federal Identification Number

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires: