



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL (RFP)**

RFP NO.: B3Z10190
TITLE: Hearing Officer Services, Part B IDEA
ISSUE DATE: 03/23/10

REQ NO.: NR 500 CO000000044
BUYER: John Hall
PHONE NO.: (573) 522-1620
E-MAIL: john.hall@oa.mo.gov

RETURN PROPOSAL NO LATER THAN: 04/20/10 AT 2:00 PM CENTRAL TIME

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in DPMM office (301 W High Street, Room 630) by the return date and time.

(U.S. Mail)	or	(Courier Service)
RETURN PROPOSAL TO: DPMM		DPMM
PO BOX 809		301 WEST HIGH STREET, RM 630
JEFFERSON CITY MO 65102-0809		JEFFERSON CITY MO 65101-1517

CONTRACT PERIOD: September 1, 2010 through August 31, 2011

DELIVER SUPPLIES/SERVICES FOB (Free On Board) DESTINATION TO THE FOLLOWING ADDRESS:

**Department of Elementary and Secondary Education
PO Box 480
Jefferson City, MO 65102**

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 01/20/10). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when a Notice of Award is signed and issued by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

SIGNATURE REQUIRED

DOING BUSINESS AS (DBA) NAME	LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO.
MAILING ADDRESS	IRS FORM 1099 MAILING ADDRESS
CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE

CONTACT PERSON	EMAIL ADDRESS	
PHONE NUMBER	FAX NUMBER	
TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) ___ FEIN ___ SSN	VENDOR NUMBER (IF KNOWN)
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) (NOTE: LLC IS NOT A VALID TAX FILING TYPE.)		
___ Corporation ___ Individual ___ State/Local Government ___ Partnership ___ Sole Proprietor ___ Other _____		
AUTHORIZED SIGNATURE	DATE	
PRINTED NAME	TITLE	

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This document constitutes a request for competitive, sealed proposals for the provision of hearing officer services as set forth herein.
- 1.1.2 Organization - This document, referred to as a Request for Proposal (RFP), is divided into the following parts:
- 1) Introduction and General Information
 - 2) Contractual Requirements
 - 3) Proposal Submission Information
 - 4) Pricing Page
 - 5) Exhibits A - H
 - 6) Terms and Conditions

1.2 Background Information:

- 1.2.1 The Department of Elementary and Secondary Education desires to establish a contract for hearing officers for special education due process hearings concerning Part B of the Individuals with Disabilities Education Act (IDEA). In accordance with sections 162.961-162.963 RSMo., a parent, guardian, or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child.
- 1.2.2 The figures below are based on past fiscal year totals of actual hearing decisions and the due process hearing requests filed. Occasionally, a hearing officer may dismiss a case prior to the hearing, due to finding insufficient merit to let it go to hearing. In addition, a settlement is sometimes reached by the parties (called a Settlement Order) and is identified as a hearing decision. Therefore, actual hearings held were a lesser amount than hearing decisions. Hearing decisions can be viewed at the following link:

http://www.dese.mo.gov/divspeced/Complaint_System/DPDecisions.html

Fiscal Year	Requests for Due Process Hearing	Hearing Decisions
2008-09	109	28
2007-08	112	34
2006-07	89	15
2005-06	58	19
2004-05	88	28
2003-04	96	21

- 1.2.3 A previous contract has existed for the services being obtained via this RFP. A copy of the contract can be viewed and printed from the Division of Purchasing and Materials Management's Awarded Bid & Contract Document Search System located on the Internet at: <http://www.oa.mo.gov/purch>. In addition, all proposal and evaluation documentation leading to the award of that contract may also be viewed and printed from the Division of Purchasing and Materials Management's Awarded Bid & Contract Document Search System. Please reference the Bid number B3Z06223 or the series of contract numbers C306223001 through C306223008 when searching for these documents.
- 1.2.4 Although an attempt has been made to provide accurate and up-to-date information, the State of Missouri does not warrant or represent that the background information provided herein reflects all relationships or existing conditions related to this Request for Proposal.

2. CONTRACTUAL REQUIREMENTS

2.1 General Requirements:

- 2.1.1 The contractor shall provide hearing officer services for the Department of Elementary and Secondary Education (hereinafter referred to as the state agency), in accordance with the provisions and requirements stated herein.
- a. The contractor shall either provide the services directly or shall provide a person who was identified in the contractor's awarded proposal who must comply with the requirements stated herein. Therefore, references to "the contractor" throughout this document shall also be deemed to include the person/personnel provided by the contractor.
- 2.1.2 The contractor shall perform all services to the sole satisfaction of the state agency.
- 2.1.3 The contractor shall provide services on an as needed, if needed basis.
- a. The contractor shall agree and understand that the contract shall not be construed as an exclusive arrangement.
 - b. In the event of multiple contracts, the state agency shall refer the due process hearing cases to the contractors on a rotational basis. In the event the state agency is unable to contact the contractor or in the event the contractor is unable to provide services for the specific case, the state agency shall document such and shall contact the next contractor in the rotation.
- 2.1.4 The state agency reserves the right to remove a contractor from a case prior to the due process hearing date, if the state agency determines such removal to be necessary (e.g. scheduling difficulties and need for expediency).

2.2 Performance Requirements:

- 2.2.1 The contractor shall provide services in compliance with, but not limited to, the following provisions of state and federal law:
- a. Sections 162.961 - 162.963 RSMo.;
 - b. Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sections 1400-1485, and any amendments thereto; <http://www.law.cornell.edu/uscode/201use> - sec - 20 - 00001400---000-.html;
 - c. 34 C.F.R. Part 300; <http://www.ed.gov/legislation/FedRegister/finrule/2006 - 3/081406A.pdf>;
 - d. Current State Plan for compliance with Part B of the Individuals with Disabilities Education Act (which are the state regulations implementing the Act); <http://www.dese.mo.gov/divspeced/stateplan/index.html>;
 - e. Section 504 of the Rehabilitation Act of 1973; and
 - f. Americans with Disabilities Act of 1990 and all amendments thereto.
- 2.2.2 The contractor must conduct due process hearings, and render and write decisions, in accordance with appropriate standard legal practices.
- 2.2.3 The contractor shall follow state and federal laws and regulations for implementing IDEA as well as court interpretation of IDEA.

- 2.2.4 The contractor shall serve in the chairperson role of a three-member hearing panel empowered at the state-level, with duties before, during, and after the due process hearing.
- a. The contractor shall set a date, time, and location for the due process hearing. The location must be arranged by the contractor and must be convenient to the parent(s) and within the school district boundaries unless the parties mutually agree on a different location. The contractor must notify all parties and their attorneys in writing of the date, time, and location. The contractor shall not require the school district to use its premises.
 - b. On behalf of the state agency, the contractor shall arrange for a court reporter at the due process hearing using the State of Missouri's statewide contract for court reporting services as required by the state agency. In an emergency, if a court reporter is unavailable from the statewide contract, the contractor shall arrange for a court reporter in accordance with the state agency's instructions.
 - 1) The current court reporting contract can be found at the following web address and by searching for contract numbers C309103001 through C309103008.
<http://www.oa.mo.gov/purch/contracts/index.htm>
 - 2) The state agency shall be responsible for payment to the court reporter.
 - c. The contractor shall ensure the parent(s) are notified in writing of their rights at the due process hearing. Provision of the "Procedural Safeguards for Parents and Children" statement approved by the state agency, will meet this requirement. The "Procedural Safeguards for Parents and Children" statement can be found at the following web address:
http://www.dese.mo.gov/divspeced/Compliance/Proc_Safe/index.html
 - d. The contractor will determine if a parent or guardian participating in a due process hearing has limited English proficiency and needs language assistance. If so, the contractor will obtain qualified language assistance, including interpreting and translation services, for the parent or guardian. On behalf of the state agency the contractor shall arrange for qualified language assistance by utilizing the State of Missouri's statewide contract for Language Interpreter- Verbal.
 - 1) The current court reporting contract can be found at the following web address and by searching for contract numbers C309118001 through C309118014.
<http://www.oa.mo.gov/purch/contracts/index.htm>
 - 2) The state agency shall be responsible for payment to the interpreter or translator.
- 2.2.5 The contractor shall ensure that the due process hearing, including the rendering, writing, and mailing of the decision order, are completed within the statutory timeline allowed unless an extension to such timeline is granted. The contractor shall have the discretion to grant or deny timeline extension requests received from a participating party. In the event the contractor grants an extension of the timeline, the contractor shall document the party's request for such extension and shall either grant the extension for a specific time period or for a date-certain. The contractor shall only permit extensions upon the request of a party and shall not grant an extension without a request from a party. The contractor shall notify the state agency each time an extension is granted. The contractor shall complete the timeline form including indicating the dates resolution meetings were conducted by the school district.
- 2.2.6 The contractor shall control the hearing process and presentation of evidence. In general, a hearing should last no longer than the limit set forth in the state plan. The contractor shall document good cause in the record and decision if the hearing exceeds the limit set forth in the state plan.
- 2.2.7 The contractor shall write the decision for the hearing panel, but the decision shall reflect the hearing panel majority view. The written decision shall be formatted as follows:

- a. Separate Cover Sheets containing personally identifiable information, listing the parties' names and addresses, attorneys names and addresses, listing the date of the request for the due process hearing, the date of completion of resolution session process, the date of the due process hearing, a listing of each extension of the timeline, the party requesting the extension, and a notation of which extensions were joint requests;
 - b. Statement of Issue(s);
 - c. Findings of Fact, not using the student's or parent's name or using student's or parent's initials, but shall refer instead to "student" or "parent" or an equivalent;
 - d. Decision(s) and rationale(s) which specifically address each issue identified, not using the student's or parent's names, but shall refer instead to "student" or "parent" or an equivalent;
 - e. No personal subjective commentary;
 - f. Timeline Section: An explanation of any deviation from the timeline, including reference to any specific extensions in response to a party request.
- 2.2.8 The contractor shall mail the written decision order to each participating party certified mail with a return receipt requested.
- a. The decision order and the timeline form shall be mailed to the state agency via regular mail and via e-mail, diskette, flash drive, or CD-ROM, preferably in Microsoft Word or Word Perfect format.
- 2.2.9 Liquidated Damages: The contractor shall understand and agree that conducting due process hearings in accordance with the timelines set forth herein is considered critical to the efficient operations of the state agency. However, since the amount of actual damage would be difficult to establish in the event the contractor fails to comply with the timeline, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
- a. In the event the contractor fails to complete the due process hearing, including the rendering, writing, and mailing of the decision order, within the timeline allowed by statute, or the extended timeline if such has been approved by the contractor, the state agency shall assess liquidated damages in the amount of \$100.00 per day against the contractor for each working day beyond the statutory timeline or the approved extended timeline until the completion of the due processing hearing.
 - b. The contractor shall agree and understand that such liquidated damages shall either be deducted from the total amount due to the contractor or paid by the contractor as a direct payment to the state agency at the sole discretion of the state agency.
 - c. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.
 - d. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.
- 2.2.10 The contractor shall agree and understand that failure to meet either the statutory timeline or the requirement for documentation of the specific extension of the timeline, which must be at the request of either party, may result in the cancellation of the contract.
- 2.2.11 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.

2.3 Contractor Qualifications:

- 2.3.1 The contractor, or the person designated by the contractor to provide services, shall be licensed to practice law in the State of Missouri and be in good standing with The Missouri Bar for the duration of the contract.
- 2.3.2 The contractor must have knowledge of children with disabilities. The contractor shall be familiar with the provisions of Part-B of the IDEA. The contractor shall also have knowledge of and the ability to understand the provisions of state and federal law and regulations implementing IDEA as well as court interpretation of IDEA. The knowledge can be via personal experience, self-study, workshop/conference attendance and/or attendance at state agency in-services.
- 2.3.3 The contractor must be impartial and free of any conflicts of interest.
- 2.3.4 The contractor must possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice.
- 2.3.5 The contractor must possess the knowledge and ability to render and write decisions in accordance with appropriate standard legal practice.
- 2.3.6 The contractor must be available and participate in hearing officer training sessions as requested and provided by the state agency.

2.4 Invoicing and Payment Requirements:

- 2.4.1 Prior to any payments becoming due per the contract, the contractor must submit or must have already submitted a properly completed State Vendor ACH/EFT Application, since the State of Missouri reserves the right to make contract payments through electronic funds transfer (EFT).
 - a. If not already submitted, the contractor needs to obtain a copy of the State Vendor ACH/EFT Application and completion instructions from the Internet from the Vendor Services Portal at: <https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>.
 - b. The contractor must submit invoices on the contractor's original descriptive business invoice form and must use a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted. The contractor may obtain detailed information for payments issued for the past 24 months from the State of Missouri's central accounting system (SAM II) on the Vendor Services Portal at:
<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>
- 2.4.2 Invoicing – The contractor shall submit an itemized invoice for each due process hearing which services are provided for to the following address;

Department of Elementary and Secondary Education
Legal Services Section, Special Education Division
Post Office Box 480
Jefferson City, Missouri 65102
 - a. The contractor's invoice must separately itemize actual hours worked, travel time to and from due process hearing, and necessary and reasonable expenses. Invoices must be submitted in quarter-hour increments or less.
 - b. Receipts for expenses for phone services, postage, delivery service, and legal research must accompany the invoice.

- c. The contractor shall not invoice the state agency for more than the maximum amount of time per activity as listed below. The following shall be invoiced by itemizing and by rounding up to the nearest quarter-hour.

Phone call from the state agency to offer case/opening file/review of due process hearing request and review of initial correspondence received from the state agency.	Fifteen (15) minutes or less
Review and response/order to uncomplicated extension of timeline.	Thirty (30) minutes or less
Phone call/letters for scheduling hearing date, time, location, and court reporter.	Thirty (30) minutes or less
Closing of file/order accepting withdrawal/correspondence in connection to it.	Fifteen (15) minutes or less

2.4.3 Payments - The contractor shall be paid for actual hours worked and travel time based on the firm, fixed hourly prices stated on the Pricing Page, and prorated to the nearest quarter-hour, or less. The contractor shall only be paid time traveling within the State of Missouri.

- a. Travel and Related Expenses - The contractor shall invoice and be reimbursed for actual and reasonable travel and travel related expenses incurred while traveling within the State of Missouri, pursuant to the Office of Administration Travel Regulations and Contiguous US Per Diem Rates (CONUS). Travel expenses will be reimbursed using the state agency’s expense account limits on meals and hotel costs. There shall be no reimbursement for alcoholic beverages.
 - 1) The contractor must have the prior approval of the state agency for any travel related expenses which may exceed the CONUS rates.
 - 2) The Office of Administration Travel Regulations can be found on the Internet at the following address: <http://oa.mo.gov/acct/10-11.010.pdf>. Although the actual mileage rate usually changes each July 1, the mileage reimbursement rate effective 07/01/09 is \$0.47 per mile. Current mileage allowance can be found at: <http://www.oa.mo.gov/acct/>.
 - 3) The Contiguous US Per Diem Rates (CONUS) can be found by clicking on the link for “Per Diem Rates” at the following Internet address: <http://www.gsa.gov>
- b. The contractor shall be reimbursed for necessary and reasonable miscellaneous expenses (e.g. long distance phone charges, facsimile charges, postage, and photocopies). The contractor shall submit copies of itemized invoices for miscellaneous expenses to the state agency. Invoices for postage, mailing, delivery and long distance phone service should include a receipt showing the amount paid to the third party vendor.

2.4.4 Other than the payments and reimbursements specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

2.5 Other Contractual Requirements:

2.5.1 Contract - A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor’s proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management’s acceptance of the proposal by “notice of award”. All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.

- a. A notice of award issued by the State of Missouri 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 for the State of Missouri, the contractor must receive a properly authorized purchase order, an appointment letter, or other form of authorization given to the contractor at the discretion of the state agency.
- b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.

- c. Any change to the contract, 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 Division of Purchasing and Materials Management 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 to the contract.

2.5.2 Contract Period - The original contract period shall be as stated on page 1 of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.

2.5.3 Renewal Periods - If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum price for the applicable renewal period stated on the Pricing Page of the contract.

- a. If renewal prices are not provided, then prices during renewal periods shall be the same as during the original contract period.
- b. In addition, the contractor shall understand and agree that renewal period price increases specified in the contract are not automatic. At the time of contract renewal, if the state determines funding does not permit the specified renewal pricing increase or even a portion thereof, the renewal pricing shall remain the same as during the previous contract period. If such action is rejected by the contractor, the contract may be terminated, and a new procurement process may be conducted. The contractor shall also understand and agree the state may determine funding limitations necessitate a decrease in the contractor's pricing for the renewal period(s). If such action is necessary and the contractor rejects the decrease, the contract may be terminated, and a new procurement process may be conducted.

2.5.4 Termination - The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination. Upon termination, the contractor shall return all files of pending cases to the state agency.

2.5.5 Transition:

- a. Upon award of the contract, the contractor shall work with the state agency and any other organizations designated by the state agency to ensure an orderly transition of services and responsibilities under the contract and to ensure the continuity of those services required by the state agency.
- b. Upon expiration, termination, or cancellation of the contract, the contractor shall assist the state agency to ensure an orderly and smooth transfer of responsibility and continuity of those services required under the terms of the contract to an organization designated by the state agency. If requested by the state agency, the contractor shall provide and/or perform any or all of the following responsibilities:

- 1) The contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were required to be produced under the terms of the contract to the state agency and/or to the state agency's designee within seven (7) days after receipt of the written request in a format and condition that are acceptable to the state agency.
- 2) The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the state agency, in order to ensure the completion of such service prior to the expiration of the contract.
- 3) If requested in writing via formal contract amendment, the contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed forty-five (45) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.

2.5.6 Contractor Liability - The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
- b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); or (2) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

2.5.7 Insurance - The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance shall include an endorsement that adds the State of Missouri as an additional insured. The state agency will represent the hearing officer in all writ proceedings arising out of a pending due process case.

2.5.8 Subcontractors - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor.

- a. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.

- b. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.
- c. The contractor must obtain the approval of the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.
- d. Pursuant to subsection 1 of section, 285.530 RSMo no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with sections 285.525 to 285.550, RSMo a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section, 285.530 RSMo) if the contract binding the contractor and subcontractor affirmatively states that:
 - 1) the direct subcontractor is not knowingly in violation of subsection 1 of section, 285.530 RSMo and
 - 2) shall not henceforth be in such violation and
 - 3) the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

2.5.9 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

2.5.10 Authorized Personnel:

- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state. The state may also withhold up to twenty-five percent of the total amount due to the contractor.
- c. The contractor shall agree to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.
- d. If the contractor meets the definition of a business entity as defined in 285.525, RSMo pertaining to section 285.530, RSMo the contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then the contractor shall, prior to the performance of any services as a business entity under the contract:

- 1) Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- 2) Provide to the Division of Purchasing and Materials Management the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
- 3) Submit to the Division of Purchasing and Materials Management a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

2.5.11 Contractor Status - The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. 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 State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

2.5.12 Coordination - The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.

2.5.13 Property of State - All documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of the State of Missouri. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the State of Missouri.

2.5.14 Confidentiality:

- a. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.
- b. If required by the state agency, the contractor and any required contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.

2.5.15 Participation by Other Organizations - The contractor must comply with any Organization for the Blind/Sheltered Workshop and/or Minority Business Enterprise/Women Business Enterprise (MBE/WBE) participation levels committed to in the contractor's awarded proposal.

- a. The contractor shall prepare and submit to the Division of Purchasing and Materials Management a report detailing all payments made by the contractor to Organizations for the Blind/Sheltered Workshops and/or MBE/WBEs participating in the contract for the reporting period. The contractor must submit the report on a monthly basis, unless otherwise determined by the Division of Purchasing and Materials Management.
- b. The Division of Purchasing and Materials Management and the Office of Supplier and Workforce Diversity (OSWD) will monitor the contractor's compliance in meeting the participation levels committed to in the contractor's awarded proposal. If the contractor's payments to the participating entities are less than the amount committed, the state may cancel the contract and/or suspend or

debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the participation commitment less actual payments made by the contractor to the participating entity. If the Division of Purchasing and Materials Management determines that the contractor becomes compliant with the commitment, any funds retained as stated above, will be released.

- c. If a participating entity fails to retain the required certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs or other organizations for the blind/sheltered workshops to fulfill the participation requirements committed to in the contractor's awarded proposal.
 - 1) The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new entities. This approval shall not be arbitrarily withheld.
 - 2) If the contractor cannot obtain a replacement entity, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure a replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the required participation and whether the contract will be amended to change the contractor's participation commitment.

3. PROPOSAL SUBMISSION INFORMATION

3.1 Submission of Proposals:

- 3.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING/VENDOR REGISTRATION SYSTEM WEB SITE IS NOT AVAILABLE FOR THIS RFP.
- 3.1.2 When submitting a proposal, the offeror should include two (2) additional copies along with their original proposal. The front cover of the original proposal should be labeled “original” and the front cover of all copies should be labeled “copy”.
- a. Recycled Products - The State of Missouri recognizes the limited nature of our resources and the leadership role of government agencies in regard to the environment. Accordingly, the offeror is requested, but not required, to print the proposal double sided using recycled paper, if possible, and minimize or eliminate the use of non-recyclable materials such as plastic report covers, plastic dividers, vinyl sleeves, and binding. Lengthy proposals may be submitted using printer or other loose leaf paper in a notebook or binder.
 - b. Open Records - Pursuant to section 610.021 RSMo, the offeror’s proposal shall be considered an open record after a contract is executed or all proposals are rejected. At that time, all proposals are scanned into the Division of Purchasing and Materials Management imaging system.
 - 1) The scanned information will be available for viewing through the Internet from the Division of Purchasing and Materials Management Awarded Bid & Contract Document Search system. Therefore, the offeror is advised not to include any information in the proposal that the offeror does not want to be viewed by the public, including personal identifying information such as social security numbers.
 - 2) In preparing a proposal, the offeror should be mindful of document preparation efforts for imaging purposes and storage capacity that will be required to image the proposals and should limit proposal content to items that provide substance, quality of content, and clarity of information.
- 3.1.3 To facilitate the evaluation process, the offeror is encouraged to organize their proposal into sections that correspond with the individual evaluation categories described herein. The offeror is cautioned that it is the offeror’s sole responsibility to submit information related to the evaluation categories and that the State of Missouri is under no obligation to solicit such information if it is not included with the proposal. The offeror’s failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- a. Each section should be titled with each individual evaluation category and all material related to that category should be included therein.
 - b. The proposal should be page numbered.
 - c. The signed page one from the original RFP and all signed amendments should be placed at the beginning of the proposal.
- 3.1.4 Questions Regarding the RFP – Except as may be otherwise stated herein, the offeror and the offeror’s agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the solicitation process, the evaluation, etc., to the buyer of record indicated on the first page of this RFP. Inappropriate contacts to other personnel are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer.
- a. The buyer may be contacted via e-mail or phone as shown on the first page, or via facsimile to 573-526-9817.

- b. Only those questions which necessitate a change to the RFP will be addressed via an amendment to the RFP. Written records of the questions and answers will not be maintained. Offerors are advised that any questions received less than ten calendar days prior to the RFP opening date may not be addressed.
- c. The offeror may contact the Office of Supplier and Workforce Diversity (OSWD) regarding MBE/WBE certification or subcontracting with MBE/WBE companies.

3.2 Competitive Negotiation of Proposals - The offeror is advised that under the provisions of this Request for Proposal, the Division of Purchasing and Materials Management reserves the right to conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:

- 3.2.1 Negotiations may be conducted in person, in writing, or by telephone.
- 3.2.2 Negotiations will only be conducted with potentially acceptable proposals. The Division of Purchasing and Materials Management reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All offerors involved in the negotiation process will be invited to submit a best and final offer.
- 3.2.3 Terms, conditions, prices, methodology, or other features of the offeror’s proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
- 3.2.4 The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management determines that a change in such requirements is in the best interest of the State of Missouri.

3.3 Evaluation and Award Process:

3.3.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the proposal in accordance with the evaluation criteria stated below:

- a. Cost..... 90 points
- b. Experience, Reliability, Expertise of Personnel, and Method of Performance100 points
- c. MBE/WBE Participation 10 points

3.3.2 After an initial screening process, a question and answer conference or interview may be conducted with the offeror, if deemed necessary by the Division of Purchasing and Materials Management. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's expense. All arrangements and scheduling shall be coordinated by the Division of Purchasing and Materials Management.

3.3.3 The State of Missouri anticipates making multiple awards.

3.4 Evaluation of Cost:

3.4.1 Objective Evaluation of Cost – The cost evaluation shall be based on the sum of fifty (50) hours of hearing officer services and one (1) hour of travel time using the hourly prices stated on the Pricing Page for the original contract period and each potential renewal period.

- a. Cost evaluation points shall be determined from the result of the calculation stated above using the following formula:

$$\frac{\text{Lowest Responsive Offeror's Price}}{\text{Compared Offeror's Price}} \times \frac{\text{Maximum Cost Evaluation points (90)}}{\text{Evaluation points (90)}} = \text{Assigned Cost Points}$$

- b. The offeror shall agree and understand that the quantities used in the evaluation of cost are provided solely to document how cost will be evaluated. The State of Missouri makes no guarantee regarding the accuracy of the quantities stated nor does the State of Missouri intend to imply that the figures used for the cost evaluation in any way reflect actual nor anticipated usage.

3.5 Evaluation of Offeror's Experience, Reliability, Expertise, and Method of Performance:

3.5.1 Experience and reliability of the offeror and expertise of the offeror's personnel will be considered subjectively in the evaluation process. Therefore, the offeror is advised to submit information concerning the offeror's organization, information documenting the offeror's experience in past performances related to the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, and information documenting the qualifications of the personnel proposed by the offeror to perform the requirements of this RFP.

- a. Experience - The offeror should provide information related to previous and current services/contracts of the offeror or offeror's proposed subcontractor where performance was similar to the required services of this RFP. The information may be shown on Exhibit A or in a similar manner.
- b. Personnel Expertise - The offeror should utilize Exhibit B for summarizing the personnel information for proposed key personnel and may also include submit resumes with additional information.
- 1) The information provided should be structured to emphasize relevant qualifications and experience of the personnel in completing contracts/performing services of a similar size and scope to the requirements of this document.
 - 2) Information submitted should clearly identify previous experience of the person in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and whether the person is proposed for the same services for the State of Missouri.
- c. Personnel Qualifications - If personnel are not yet hired, the offeror should provide detailed descriptions of the required employment qualifications; and detailed job descriptions of the position to be filled, including the type of person proposed to be hired.
- d. Licenses - The offeror should submit a copy of all licenses and/or certifications related to the performance of the services required herein that are held by the personnel proposed to provide such services. If not submitted with the proposal, the State of Missouri reserves the right to request and obtain a copy of any license or certification required to perform the defined services prior to contract award.

3.5.2 Proposals will be subjectively evaluated based on the offeror's plan for performing the requirements of the RFP. Exhibit C is provided for the offeror's use in providing information about the proposed method of performance. In addition, the offeror should provide the following:

- a. Staffing Plan/Organizational Chart - The offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used. The organizational chart should include (1) The relationship of service personnel to management and support personnel, (2) The

names of the personnel and the working titles of each, and (3) Any proposed subcontractors including management, supervisory, and other key personnel.

- b. Economic Advantage to Missouri - The offeror should address the following:
 - 1) Provide a description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians and/or Missouri products.
 - 2) Provide a description of the economic impact returned to the State of Missouri through tax revenue obligations.
 - 3) Provide a description of the company's economic presence within the State of Missouri (e.g., type of facilities: sales offices; sales outlets; divisions; manufacturing; warehouse; other), including Missouri employee statistics.

3.6 Evaluation of Offeror's Minority Business Enterprise (MBE)/ Women Business Enterprise (WBE) Participation:

3.6.1 In order for the Division of Purchasing and Materials Management (DPMM) to meet the provisions of Executive Order 05-30, the offeror should secure participation of certified MBEs and WBEs in providing the products/services required in this RFP. The targets of participation recommended by the State of Missouri are 10% MBE and 5% WBE of the total dollar value of the contract.

- a. These targets can be met by a qualified MBE/WBE offeror themselves and/or through the use of qualified subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE/WBE participation.
- b. The services performed or the products provided by MBE/WBEs must provide a commercially useful function related to the delivery of the contractually-required service/product in a manner that will constitute an added value to the contract and shall be performed/provided exclusive to the performance of the contract. Therefore, if the services performed or the products provided by MBE/WBEs is utilized, to any extent, in the offeror's obligations outside of the contract, it shall not be considered a valid added value to the contract and shall not qualify as participation in accordance with this clause.
- c. In order to be considered as meeting these targets, the MBE/WBEs must be "qualified" at the time the proposal is submitted. (See below for a definition of a qualified MBE/WBE.)

3.6.2 The offeror's proposed participation of MBE/WBE firms in meeting the targets of the RFP will be considered in the evaluation process as specified below:

- a. If Participation Meets Target: Offerors proposing MBE and WBE participation percentages that meet the State of Missouri's target participation percentage of 10% for MBE and 5% for WBE shall be assigned the maximum stated MBE/WBE Participation evaluation points.
- b. If Participation Exceeds Target: Offerors proposing MBE and WBE participation percentages that exceed the State of Missouri's target participation shall be assigned the same MBE/WBE Participation evaluation points as those meeting the State of Missouri's target participation percentages stated above.
- c. If Participation Below Target: Offerors proposing MBE and WBE participation percentages that are lower than the State of Missouri's target participation percentages of 10% for MBE and 5% for WBE shall be assigned a proportionately lower number of the MBE/WBE Participation evaluation points than the maximum MBE/WBE Participation evaluation points.
- d. If No Participation: Offerors failing to propose any commercially useful MBE/WBE participation shall be assigned a score of 0 in this evaluation category.

3.6.3 MBE/WBE Participation evaluation points shall be assigned using the following formula:

$$\frac{\text{Offeror's Proposed MBE \%} \leq 10\% + \text{WBE \%} \leq 5\%}{\text{State's Target MBE \% (10) + WBE \% (5)}} \times \begin{matrix} \text{Maximum} \\ \text{MBE/WBE} \\ \text{Participation} \\ \text{Evaluation points} \\ \text{(10)} \end{matrix} = \begin{matrix} \text{Assigned} \\ \text{MBE/WBE} \\ \text{Participation} \\ \text{points} \end{matrix}$$

3.6.4 If the offeror is proposing MBE/WBE participation, in order to receive evaluation consideration for MBE/WBE participation, the offeror must provide the following information with the proposal.

- a. Participation Commitment - If the offeror is proposing MBE/WBE participation, the offeror must complete Exhibit D, Participation Commitment, by listing each proposed MBE and WBE, the committed percentage of participation for each MBE and WBE, and the commercially useful products/services to be provided by the listed MBE and WBE. If the offeror submitting the proposal is a qualified MBE and/or WBE, the offeror must include the offeror in the appropriate table on the Participation Commitment Form.
- b. Documentation of Intent to Participate – The offeror must either provide a properly completed Exhibit E, Documentation of Intent to Participate Form, signed by each MBE and WBE proposed or must provide a recently dated letter of intent signed by each MBE and WBE proposed which: (1) must describe the products/services the MBE/WBE will provide; (2) must indicate the MBE/WBE’s commitment to aid the offeror in the performance of the required services and/or provision of the required products (identified by the Request for Proposal (RFP) number or other identifier) in an amount that must equal the percentage specified on the offeror’s Participation Commitment Form, Exhibit D; and (3) should include evidence that the MBE/WBE is qualified, as defined herein. (i.e. the MBE/WBE Certification Number or a copy of MBE/WBE certificate issued by the Missouri OSWD.)

3.6.5 Commitment – If the offeror’s proposal is awarded, the percentage level of MBE/WBE participation committed to by the offeror on Exhibit D, Participation Commitment, as verified by the MBE/WBE’s documentation of intent to participate, shall be interpreted as a contractual requirement.

3.6.6 Definition -- Qualified MBE/WBE:

- a. In order to be considered a qualified MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Supplier and Workforce Diversity (OSWD) at the time of submission of the proposal.
- b. MBE or WBE means a business that is a sole proprietorship, partnership, joint venture, or corporation in which at least fifty-one percent (51%) of the ownership interest is held by minorities or women and the management and daily business operations of which are controlled by one or more minorities or women who own it.
- c. Minority is defined as belonging to one of the following racial minority groups: African Americans, Native Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos, Aleuts, and other groups that may be recognized by the Office of Advocacy, United States Small Business Administration, Washington, D.C.

- 3.6.7 Resources - A listing of several resources that are available to assist offerors in their efforts to identify and secure the participation of qualified MBEs and WBEs is available at the website shown below or by contacting the Office of Supplier and Workforce Diversity (OSWD) at:

Office of Administration, Office of Supplier and Workforce Diversity
Harry S Truman Bldg., Room 630
P.O. Box 809
Jefferson City, MO 65102-0809
Phone: (877) 259-2963 or (573) 751-8130
Fax: (573) 522-8078
Web site: <http://www.oswd.mo.gov>

3.7 Miscellaneous Submittal Information:

- 3.7.1 Preference for Organizations for the Blind and Sheltered Workshops - Pursuant to 34.165 RSMo, a ten (10) bonus point preference shall be granted to offerors including products and/or services manufactured, produced or assembled by a qualified nonprofit organization for the blind established pursuant to 41 U.S.C. sections 46 to 48c or a sheltered workshop holding a certificate of approval from the Department of Elementary and Secondary Education pursuant to section 178.920 RSMo.

- a. In order to qualify for the ten bonus points, the offeror must meet the following conditions and provide the following evidence:

- 1) The offeror must either be an organization for the blind or sheltered workshop or must be proposing to utilize an organization for the blind/sheltered workshop as a subcontractor and/or supplier in an amount that must equal the greater of \$5,000 or 2% of the total dollar value of the contract for purchases not exceeding \$10 million.
- 2) The services performed or the products provided by an organization for the blind or sheltered workshop must provide a commercially useful function related to the delivery of the contractually-required service/product in a manner that will constitute an added value to the contract and shall be performed/provided exclusive to the performance of the contract. Therefore, if the services performed or the products provided by the organization for the blind or sheltered workshop is utilized, to any extent, in the offeror's obligations outside of the contract, it shall not be considered a valid added value to the contract and shall not qualify as participation in accordance with this clause.
- 3) The offeror must provide the following information with the proposal:
 - ✓ Participation Commitment - The offeror must complete Exhibit D, Participation Commitment, by identifying the organization for the blind or sheltered workshop, the amount of participation committed, and the commercially useful products/services to be provided by the listed organization for the blind or sheltered workshop. If the offeror submitting the proposal is an organization for the blind or sheltered workshop, the offeror must be listed in the appropriate table on the Participation Commitment Form.
 - ✓ Documentation of Intent to Participate – The offeror must either provide a properly completed Exhibit E, Documentation of Intent to Participate Form, signed by the organization for the blind or sheltered workshop proposed or must provide a recently dated letter of intent signed by the organization for the blind or sheltered workshop which: (1) must describe the products/services the organization for the blind/sheltered workshop will provide; (2) must indicate the organization for the blind/sheltered workshop's commitment to aid the offeror in the performance of the required services and/or provision of the required products (identified by the Request for Proposal (RFP) number or other identifier) in an amount that must equal the amount specified on the offeror's Participation Commitment Form, Exhibit D; and (3) should include evidence of the organization for the

blind/sheltered workshop qualifications (e.g. copy of certificate or Certificate Number for Missouri Sheltered Workshop).

- b. A list of Missouri sheltered workshops can be found at the following internet address:
<http://www.dese.mo.gov/divspeced/shelteredworkshops/index.html>.
- c. The websites for the Missouri Lighthouse for the Blind and the Alphapointe Association for the Blind can be found at the following internet addresses:
<http://www.lhbindustries.com> and <http://www.alphapointe.org>
- d. Commitment – If the offeror’s proposal is awarded, the participation committed to by the offeror on Exhibit D, Participation Commitment, as verified by the organization for the blind/sheltered workshop’s documentation of intent to participate, shall be interpreted as a contractual requirement.

3.7.2 Missouri Service-Disabled Veteran Business Preference - Any offeror eligible to receive the Missouri service-disabled veteran business preference pursuant to section 34.074 RSMo must review and complete Exhibit F, Missouri Service-Disabled Veteran Business Preference, and provide the specified documentation in accordance with the instructions provided therein.

3.7.3 Affidavit of Work Authorization and Documentation - Pursuant to section 285.530, RSMo, if the offeror meets the section 285.525, RSMo definition of a “business entity” (<http://www.moga.mo.gov/statutes/C200-299/2850000525.HTM>), the offeror must affirm the offeror’s enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein. The offeror should complete applicable portions of Exhibit G, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of Exhibit G must be submitted prior to an award of a contract.

3.7.4 The offeror should complete and submit Exhibit H, Miscellaneous Information.

3.7.5 Business Compliance - The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that the offeror and any proposed subcontractors either are presently in compliance with such laws or shall be in compliance with such laws prior to any resulting contract award. The offeror shall provide documentation of compliance upon request by the Division of Purchasing and Materials Management. The compliance to conduct business in the state shall include, but not necessarily be limited to:

- a. Registration of business name (if applicable)
- b. Certificate of authority to transact business/certificate of good standing (if applicable)
- c. Taxes (e.g., city/county/state/federal)
- d. State and local certifications (e.g., professions/occupations/activities)
- e. Licenses and permits (e.g., city/county license, sales permits)
- f. Insurance (e.g., worker’s compensation/unemployment compensation)

4. PRICING PAGE

4.1 Hearing Officer Services - The offeror shall provide a firm, fixed price for each of the following for the original contract period and a maximum price for each potential renewal period for providing the services in accordance with the provisions and requirements of this RFP. *c/s code: 95520*

Item #	Description	Original Contract Period (Firm, Fixed Price)	First Renewal Period (Maximum Price)	Second Renewal Period (Maximum Price)	Third Renewal Period (Maximum Price)
001	Hearing Officer Services	\$ _____ (per hour)	\$ _____ (per hour)	\$ _____ (per hour)	\$ _____ (per hour)
002	Travel Time	\$ _____ (per hour)	\$ _____ (per hour)	\$ _____ (per hour)	\$ _____ (per hour)

EXHIBIT A

CURRENT/PRIOR EXPERIENCE

The offeror should copy and complete this form for each reference being submitted as demonstration of the offeror and subcontractor’s current/prior experience. In addition, the offeror is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

Offeror Name or Subcontractor Name: _____	
Reference Information (Current/Prior Services Performed For:)	
Name of Reference Company:	
Address of Reference Company <input checked="" type="checkbox"/> Street Address <input checked="" type="checkbox"/> City, State, Zip	
Reference Contact Person Information: <input checked="" type="checkbox"/> Name <input checked="" type="checkbox"/> Phone # <input checked="" type="checkbox"/> E-mail Address	
Dates of Services:	
If service/contract has terminated, specify reason:	
Dollar Value of Services	
Description of Services Performed	

As the contact person for the reference provided above, my signature below verifies that the information presented on this form is accurate. I am available for contact by the State of Missouri for additional discussions regarding my/my company’s association with the offeror referenced above:

Signature of Reference Contact Person

Date of Signature

EXHIBIT B

PERSONNEL EXPERTISE SUMMARY

(Complete this Exhibit for personnel proposed. Resumes for key personnel may also be provided)

Personnel	Background and Expertise of Personnel and Planned Duties
1. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
2. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
3. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
4. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
5. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
6. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	

EXHIBIT C**METHOD OF PERFORMANCE**

The offeror should use this Exhibit, or any format desired, to present a written plan for performing the requirements specified in this Request for Proposal. The written plan should include provide specific details on the method of performance.

EXHIBIT D
PARTICIPATION COMMITMENT

Organization for the Blind/Sheltered Workshop and/or Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation Commitment – If the offeror is committing to participation by or if the offeror is a qualified organization for the blind/sheltered workshop and/or MBE/WBE, the offeror must provide the required information in the appropriate table(s) below for the organization proposed and must submit the completed exhibit with the offeror’s proposal.

Organization for the Blind/Sheltered Workshop Commitment Table		
Name of Organization for the Blind or Sheltered Workshop Proposed	By completing this table, the offeror commits to use of the organization at the greater of either \$5,000 or 2% of the total dollar value of contract	Description of Products/Services to be Provided by Listed Organization for the Blind/Sheltered Workshop

For Minority Business Enterprise (MBE) and/or Woman Business Enterprise (WBE) Participation, if proposing an entity certified as both MBE and WBE, the offeror must either (1) enter the participation percentage under MBE or WBE, **or** must (2) split the participation between both MBE and WBE. If splitting the participation between both MBE and WBE, do **not double count** the participation.

MBE Participation Commitment Table		
Name of Each Qualified Minority Business Enterprise (MBE) Proposed	Committed Percentage of Participation for Each MBE (% of the Total Contract Value)	Description of Products/Services to be Provided by Listed MBE
1.	%	
2.	%	
3.	%	
4.	%	
Total MBE Percentage:	%	

WBE Participation Commitment Table		
Name of Each Qualified Women Business Enterprise (WBE) proposed	Committed Percentage of Participation for Each WBE (% of the Total Contract Value)	Description of Products/Services to be Provided by Listed WBE
1.	%	
2.	%	
3.	%	
4.	%	
Total WBE Percentage:	%	

EXHIBIT E

DOCUMENTATION OF INTENT TO PARTICIPATE

If the offeror is proposing to include the participation of an Organization for the Blind/Sheltered Workshop and/or Minority Business Enterprise/Women Business Enterprise (MBE/WBE) in the provision of the products/services required in the RFP, the offeror must either provide a recently dated letter of intent from each organization documenting the following information, or complete and provide this Exhibit with the offeror's proposal.

~ Copy This Form For Each Organization Proposed ~

Offeror Name: _____

This Section To Be Completed by Participating Organization:

By completing and signing this form, the undersigned hereby confirms the intent of the named participating organization to provide the products/services identified herein for the offeror identified above.

Indicate appropriate business classification(s):

_____ MBE _____ WBE _____ Organization for the Blind _____ Sheltered Workshop

Name of Organization _____

Contact Name: _____ Email: _____

Address: _____ Phone #: _____

City: _____ Fax #: _____

State/Zip: _____ Certification # _____

(or attach copy of certification)

Describe the products/services you (*as the participating organization*) have agreed to provide:

Document the amount of participation the offeror has committed to you (*as the participating organization*) for the products/services you are providing:

If MBE/WBE: _____ % of Total Value of Contract

If Organization for Blind / _____ % of Total Value of Contract
Sheltered Workshop: _____ or _____
Total Dollar Amount

Authorized Signature:

Authorized Signature of Participating Organization

Date

EXHIBIT F

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

Pursuant to section 34.074 RSMo, the Division of Purchasing and Materials Management has a goal of awarding three (3) percent of all contracts for the performance of any job or service to service-disabled veteran businesses (see below for definitions included in section 34.074 RSMo) either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in section 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

- a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
- b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in section 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information

Business Information

Service-Disabled Veteran's Name, (Please Print)

Service-Disabled Veteran Business Name

Service-Disabled Veteran's Signature

Missouri Address of Service-Disabled Veteran Business

EXHIBIT G
BUSINESS ENTITY CERTIFICATION, ENROLLMENT DOCUMENTATION,
AND AFFIDAVIT OF WORK AUTHORIZATION

BUSINESS ENTITY CERTIFICATION:

The offeror must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.

BOX A: To be completed by a non-business entity as defined below.

BOX B: To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

BOX C: To be completed by a business entity who has already submitted documentation with a notarized date on or after **September 1, 2009**, to a Missouri state agency including Division of Purchasing and Materials Management.

Business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

BOX A – CURRENTLY NOT A BUSINESS ENTITY

I certify that _____ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo as stated above, because: (check the applicable business status that applies below)

I am a self-employed individual with no employees; **OR**
 The company that I represent utilizes the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if _____ (Company/Individual Name) is awarded a contract for the services requested herein under _____ (Bid Number) and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then, prior to the performance of any services as a business entity, _____ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the Division of Purchasing and Materials Management with all documentation required in Box B of this exhibit.

_____ Authorized Representative’s Name (Please Print)	_____ Authorized Representative’s Signature
_____ Company Name (if applicable)	_____ Date

EXHIBIT G, continued

BOX B – CURRENT BUSINESS ENTITY STATUS

(Complete the following if you DO NOT have the E-Verify documentation and an Affidavit of Work Authorization, dated and signed September 1, 2009 or after, already on file with the State of Missouri. If completing Box B, do not complete Box C.)

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530.

Authorized Business Entity
Representative's Name
(Please Print)

Authorized Business Entity
Representative's Signature

Business Entity Name

Date

E-Mail Address

As a business entity, the offeror must perform/provide the following. The offeror should check each to verify completion/submission:

- Enroll and participate in the E-Verify federal work authorization program (Website: http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm; Phone: 888-464-4218; Email: e-verify@dhs.gov) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the offeror's name and the MOU signature page completed and signed, at minimum, by the offeror and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the offeror's name and company ID, then no additional pages of the MOU must be submitted; AND
- Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

EXHIBIT G, continued

AFFIDAVIT OF WORK AUTHORIZATION:

The offeror who meets the section 285.525, RSMo definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now _____ (Name of Business Entity Authorized Representative) as _____ (Position/Title) first being duly sworn on my oath, affirm _____ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that _____ (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Authorized Representative's Signature

Printed Name

Title

Date

E-Mail Address

Subscribed and sworn to before me this _____ of _____. I am
(DAY) (MONTH, YEAR)
commissioned as a notary public within the County of _____, State of
(NAME OF COUNTY)
_____, and my commission expires on _____.
(NAME OF STATE) (DATE)

Signature of Notary

Date

EXHIBIT G, continued

BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS

(Complete the following if you have the E-Verify documentation and an Affidavit of Work Authorization, dated and signed September 1, 2009 or after, already on file with the State of Missouri. If completing Box C, do not complete Box B.)

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo and have enrolled and currently participates in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.

- ✓ The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the offeror’s name and the MOU signature page completed and signed by the offeror and the Department of Homeland Security – Verification Division.
- ✓ A completed, notarized Affidavit of Work Authorization signed and dated on or after **September 1, 2009.**

Name of **Missouri State Agency** or **Public University*** to Which Previous E-Verify Documentation Submitted: _____

(*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.)

Date of Previous E-Verify Documentation Submission: _____

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted:

(if known)

_____	_____
Authorized Business Entity Representative’s Name (Please Print)	Authorized Business Entity Representative’s Signature
_____	_____
E-Verify MOU Company ID Number	E-Mail Address
_____	_____
Business Entity Name	Date

FOR STATE USE ONLY:

Documentation Verification Completed By:

Buyer

Date

EXHIBIT H

MISCELLANEOUS INFORMATION

Outside United States

If any products and/or services offered under this RFP are being manufactured or performed at sites outside the United States, the offeror MUST disclose such fact and provide details in the space below or on an attached page.

Are products and/or services being manufactured or performed at sites outside the United States?	Yes _____	No _____
Describe and provide details:		

Employee Bidding/Conflict of Interest

Offerors who are employees of the State of Missouri, a member of the General Assembly or a statewide elected official must comply with Sections 105.450 to 105.458 RSMo regarding conflict of interest. If the offeror and/or any of the owners of the offeror’s organization are currently an employee of the State of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information.

Name of State Employee, General Assembly Member, or Statewide Elected Official:	
In what office/agency are they employed?	
Employment Title:	
Percentage of ownership interest in offeror’s organization:	_____ %

**STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL**

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the offeror to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the DPMM to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word must.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. 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 to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. 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.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an 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. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the offeror to another contact. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement 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 less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM 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.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Premium registered offerors are electronically notified of the proposal opportunity based on the information maintained in the State of Missouri's vendor database. If a Premium registered offeror's e-mail address is incorrect, the offeror must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The DPMM reserves the right to officially amend or cancel an RFP after issuance. It shall be the sole responsibility of the offeror to monitor the State of Missouri On-Line Bidding/Vendor Registration System website at: <https://www.moolb.mo.gov> to obtain a copy of the amendment(s). Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the RFP on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the proposal on-line prior to a cancellation being issued will receive e-mail notification of a cancellation issued prior to the exact closing time and date specified in the RFP.

4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.

- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. In the event that the offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such a offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DPMM and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.
- f. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Proposals, including all prices therein, shall remain valid for 90 days from proposal opening or Best and Final Offer (BAFO) submission unless otherwise indicated. If the proposal is accepted, the entire proposal, including all prices, shall be firm for the specified contract period.
- i. Any foreign offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office. Electronic submission of proposals by Premium registered offerors through the State of Missouri's On-Line Bidding/Vendor Registration System website is not available unless stipulated in the RFP. Delivered proposals must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the RFP. All proposals must (1) be submitted by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, and (3) be priced as required. Hard copy proposals may be mailed to the DPMM post office box address. However, it shall be the responsibility of the offeror to ensure their proposal is in the DPMM office (address listed above) no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal submitted electronically by a Premium registered offeror may be modified on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal submitted electronically by a Premium registered offeror may be canceled on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, e-mail, or telegraphic requests to withdraw a proposal shall not be honored.
- e. When submitting a proposal electronically, the Premium registered offeror indicates acceptance of all RFP terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Offerors delivering a hard copy proposal to DPMM must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.
- f. Faxed proposals shall not be accepted. However, faxed and e-mail no-bid notifications shall be accepted.

6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening. Premium registered vendors may view the same proposal response information on the state's On-Line Bidding/Vendor Registration System website. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. PREFERENCES

- a. In the evaluation of 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, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.
- d. In the evaluation of proposals, a service-disabled veteran business preference shall be applied in accordance with section 34.074, RSMo.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by an offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with sections 34.010 and 34.070, RSMo, and Executive Order 04-09.

- e. In the event all offerors fail to meet the same mandatory requirement in an RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. The DPMM reserves the right to reject any and all proposals.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from an offeror, from offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- j. Any award of a contract shall be made by notification from the DPMM to the successful offeror. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to section 610.021, RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding/Vendor Registration System website for Premium registered offerors to view for a reasonable period after proposal award and maintains images of all proposal file material for review. Offerors who include an e-mail address with their proposal will be notified of the award results via e-mail.
- m. The DPMM reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- n. Any proposal award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- o. The final determination of contract(s) award shall be made by DPMM.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) DPMM's acceptance of the proposal by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri 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 for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, 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 DPMM or 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 to the contract.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references 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. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency 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 State of Missouri 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 State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

13. 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 the DPMM, (2) be fit and sufficient for the purpose expressed in the RFP, (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 state's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri 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 State of Missouri 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 the 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 procured by the contractor in the fulfillment of the contract with the State of Missouri.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
- c. If the DPMM cancels the contract for breach, the DPMM 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 DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any notice to the offeror/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the offeror/contractor.

18. 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 assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, 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.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore offeror's failure to maintain compliance with chapter 144, RSMo, may eliminate their proposal from consideration for award.

23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

Revised 01-20-10