



**STATE OF MISSOURI**  
**Missouri Charter Public School Commission (MCPSC)**  
**INVITATION FOR BID (IFB)**

**IFB NO.:** n/a  
**TITLE:** MCPSC Performance Contract Key Measures

**REQ NO.:** n/a  
**BUYER:** Robbyn Wahby

**ISSUE DATE:** August 7, 2017

**PHONE NO.:** (314) 236-2810  
**E-MAIL:** robbyn.wahby@mcpsc.mo.gov

**RETURN BID NO LATER THAN:** August 25, 2017 AT 2:00 PM CENTRAL TIME

**MAILING INSTRUCTIONS:** Print or type **TITLE** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed bids must be MCPSC's office, 20 South Sarah Street, St. Louis, MO 63108 by the return date and time.

(U.S. Mail)

(Courier Service)

**RETURN BID TO:**  
 Missouri Charter Public School Commission  
 c/o Robbyn Wahby  
 Executive Director  
 20 South Sarah Street  
 St. Louis, MO 63108

or

Missouri Charter Public School Commission  
 c/o Robbyn Wahby  
 Executive Director  
 CIC@CET  
 20 South Sarah Street  
 St. Louis, MO 63108

**CONTRACT PERIOD:** Six (6) months from the date of contract execution

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

Missouri Charter Public School Commission  
 20 South Sarah Street  
 St. Louis, MO 63108

The bidder 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 Invitation for Bid (Revised 12/27/12). The bidder further agrees that the language of this IFB shall govern in the event of a conflict with his/her bid. The bidder further agrees that upon receipt of an authorized purchase order from the MCPSC 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 bidder 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) ___ Corporation ___ Individual ___ State/Local Government ___ Partnership ___ Sole Proprietor ___ IRS Tax-Exempt			
AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	

**TABLE OF CONTENTS**

This document, referred to as an Invitation for Bid (IFB), is divided into the following parts:

Part One:	Introduction and General Information
Part Two:	Scope of Work
Part Three:	General Contractual Requirements
Part Four:	Bid Submission, Evaluation, and Award Information
Exhibit A	Pricing Page
Exhibit B	Bidder Information
Exhibit C	Current/Prior Experience
Exhibit D	Expertise of Key Personnel
Exhibit E	Expertise of Personnel – Other
Exhibit F	Participation Commitment
Exhibit G	Documentation of Intent to Participate
Exhibit H	Business Entity Certification, Enrollment Documents and Affidavit of Work Authorization
Terms and Conditions	– Invitation For Bid

**END OF TABLE OF CONTENTS**

## 1. INTRODUCTION AND GENERAL INFORMATION

*This section of the IFB includes a brief introduction and background information about the intended acquisitions and/or services for which the requirements herein are written. The contents of this section are intended for informational purposes and do not require a response.*

1.1 **Purpose:** Missouri Charter Public School Commission sponsors quality charter public schools throughout Missouri, where allowed by statute. The Commission seeks contract service to develop a menu of variables, and their corresponding source data set, to be included in its performance contract with sponsored charter schools, to measure the organizational quality and performance of sponsored charter schools. Charter school applicants will use these key measures when completing their application. The Commission will post these variables on their website to provide access to applicants, other Missouri charter school sponsors and school districts.

1.1.1 This document constitutes a request for competitive, sealed bids for the provision of consulting and research services for the development of key indicators for the Commission's performance contract with sponsored charter schools as set forth herein.

### 1.2 Questions Regarding the IFB:

1.2.1 **IFB Questions** - It is the bidder's responsibility to ask questions, request changes or clarifications, or otherwise advise the MCPSC if the bidder believes that any language, specifications, or requirements are: (1) ambiguous, (2) contradictory or arbitrary, or both, (3) violate any state or federal law or regulation, (4) restrict or limit the requirements to a single source, or (5) restrict or limit the bidder's ability to submit a bid.

a. Except as may be otherwise stated herein, the bidder and the bidder's agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the IFB, the solicitation process, the evaluation, etc., to the buyer of record indicated on the first page of this IFB. Inappropriate contacts to other personnel are grounds for suspension and/or exclusion from specific procurements. Bidders and their agents who have questions regarding this matter should contact the buyer.

1) The bidder may contact the Office of Equal Opportunity (OEO) regarding MBE/WBE certification or subcontracting with MBE/WBE companies.

b. All questions and issues should be submitted at least ten (10) working days prior to the due date of the bid. If not received prior to ten (10) working days before the bid due date, the MCPSC may not be able to fully research and consider the respective questions or issues. Questions and issues relating to the IFB, including questions related to the competitive procurement process, must be directed to the buyer. It is preferred that questions be e-mailed to the buyer at [info@mcpssc.mo.gov](mailto:info@mcpssc.mo.gov).

c. The MCPSC will attempt to ensure that a bidder receives an adequate and prompt response to questions, if applicable. Upon MCPSC consideration of questions and issues, if MCPSC determines that changes are necessary, the resulting changes will be included in a subsequently issued IFB amendment(s); absence of such response indicates that the questions and issues were considered but deemed unnecessary for IFB amendment as the questions and issues did not provide further clarity to the IFB. All bidders will be advised of any change to the IFB's language, specifications, or requirements by a formal amendment to the IFB.

NOTE: The only official position of the State of Missouri shall be that which is contained in the IFB and any amendments thereto.

### **1.3 Background and Historical Usage Information:**

1.3.1 The Missouri Charter Public School Commission, Missouri's only sole-purpose, statewide sponsor of charter public schools, became operational in 2015. Founded as an agency that is fiercely independent, intentionally lean and passionately public, MCPSC's mission is to actively increase the number of high-quality charter public schools in Missouri. MCPSC holds sponsored charter public schools accountable for their operational, governance, financial and academic performance through a contract.

MCPSC enters into a contract with sponsored charter schools authorized by the Missouri State Board of Education. The performance contract includes academic, financial, operational and governing conditions and performance outcomes the charter school is held accountable to reach over the duration of the contract. The current performance contract was revised in 2009 and adopted by MCPSC in 2015.

Goals/outcomes of the school are first outlined in the charter school application. Many applicants are unfamiliar with the variety of data available. In the era of "big data", the public sector has generated new measuring tools, data sets and reliable performance measures. MCPSC wants to provide a wider array of variables charter schools can use when establishing their goals in their application.

MCPSC is committed to the dissemination of best and promising practices found in the charter school sector in Missouri. Variables, data set sources and the Commission's performance contract will be "open sourced" (posted on MCPSC's website) and will be available to anyone who wishes to use them in opening, evaluating, monitoring and understanding charter public schools.

1.3.2 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 Bid.

**END OF PART ONE: INTRODUCTION AND GENERAL INFORMATION**

## **2. SCOPE OF WORK**

*This section of the IFB includes requirements and provisions relating specifically to the performance requirements of the Commission. The contents of this section include mandatory requirements that will be required of the successful bidder and subsequent contractor. Response to this section by the bidder is requested in the Exhibit section of this IFB. The bidder's response, whether responding to a mandatory requirement or a desired attribute will be binding upon the bidder in the event the bid is accepted by the State.*

### **2.1 General Requirements:**

2.1.1 The contractor shall provide the provision of a set of valid and reliable measures, with identified source data for the Missouri Charter Public School Commission (hereinafter referred to as the Commission), in accordance with the provisions and requirements stated herein and to the sole satisfaction of the Commission.

### **2.2 Performance Requirements:**

- I. Shall compile and categorize desired outcomes, performance measures and data embodied in existing global, national, state and local K-12 education charter school accountability systems and Missouri law;
- II. Shall facilitate discussions, informed by the information in item "I." above, among stakeholders identified by the Commission, of potential desired performance outcomes and measures of charter school performance;
- III. Shall conduct a literature review of research describing the impact of independent variables affecting performance of charter schools;
- IV. Shall recommend for Commission review a list of priority outcomes and measures of K-12 education performance, providing data sources as available, on the quality of charter school operation, governance, finance and education performance.
- V. Shall identify, analyze and recommend a system built upon existing performance management models, whether in the charter school space or beyond, to improve planning support and effective authorization review for charter school applicants and ongoing performance monitoring of existing schools;
- VI. Shall identify potential innovations and opportunities for improvement to the recommended system of charter school authorization and monitoring; and
- VII. Shall present to and discuss recommended performance management system with key stakeholder groups; and
- VIII. Shall propose legislative or policy provisions as required to implement the recommendations.

2.2.1 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.

**2.3 Delivery Requirements:**

2.3.1 Final report, one print copy and electronic copy, to be delivered to the Commission no later than six (6) months after contract is awarded.

**2.4 Payment Requirements:**

2.4.1 The contractor shall understand and agree the state reserves the right to make contract payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the contractor must update their vendor registration with their ACH-EFT payment information at <https://MissouriBUYS.mo.gov>. Each contractor invoice must be on the contractor's original descriptive business invoice form and must contain a unique invoice number. The invoice number will be listed on the state's EFT addendum record to enable the contractor to properly apply state payments to invoices. The contractor must comply with all other invoicing requirements stated in the IFB.

2.4.2 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>.

2.4.3 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever, including, but not limited to taxes, travel expenses, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

**END OF PART TWO: SCOPE OF WORK**

### **3. GENERAL CONTRACTUAL REQUIREMENTS:**

*This section of the IFB includes the general contractual requirements and provisions that shall govern the contract after IFB award. The contents of this section include mandatory provisions that must be adhered to by the state and the contractor unless changed by a contract amendment. Response to this section by the bidder is not necessary as all provisions are mandatory.*

#### **3.1 Contractual Requirements:**

- 3.1.1 Contract - A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) the Commission's acceptance of the response (bid) by "notice of award". All Exhibits and Attachments included in the IFB 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 or other form of authorization given to the contractor at the discretion of the Commission.
  - 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 Commission 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.
- 3.1.2 Contract Period - The original contract period shall be as stated on page 1 of the Invitation for Bid (IFB). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Commission shall have the right, at its sole option, to renew the contract for two (2) additional one-year periods, or any portion thereof. In the event the Commission exercises such right, all terms and conditions, requirements and specifications of the contract, including prices, shall remain the same and apply during renewal periods. However, the contractor shall 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.
- 3.1.3 Termination - The Commission 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. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the contractor pursuant to the terms of the contract shall, at the option of the Commission, become the property of the State of Missouri. 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.

- 3.1.4 Transition - Upon award of the contract, the contractor shall work with the Commission and any other organizations designated by the Commission to ensure an orderly transition of services and responsibilities under the contract and to ensure the continuity of those services required by the Commission.
- a. Upon expiration, termination, or cancellation of the contract, the contractor shall assist the Commission 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 Commission.
- 3.1.5 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); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.
- 3.1.6 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. General and other non-professional liability insurance shall include an endorsement that adds the State of Missouri as an additional insured. Self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and the State of Missouri is protected as an additional insured.
- a. In the event the insurance coverage is canceled, the Commission must be notified within thirty (30) calendar days.
- 3.1.7 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 shall not henceforth be in such violation.
    - 2) 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.
- 3.1.8 No later than 30 days after the contract's expiration date the contractor must submit an affidavit to the Commission. The affidavit must be signed by the director or manager of the participating Organizations for the Blind/Sheltered Workshop verifying provision of products and/or services and compliance of all contractor payments made to the Organizations for the Blind/Sheltered Workshops. The contractor may use the affidavit available on the Office of Administration/Division of Purchasing and Materials Management's website at [http:// oa.mo.gov/sites/default/files/bswaffidavit.doc](http://oa.mo.gov/sites/default/files/bswaffidavit.doc) or another affidavit providing the same information.
- 3.1.9 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 bid. 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 Commission. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the Commission'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.
- 3.1.10 Authorized Personnel: The contractor shall only employ 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.
- a. 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.
  - b. The contractor shall agree to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.
  - c. If the contractor meets the definition of a business entity as defined in section 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 Commission 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 Commission a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

d. In accordance with subsection 2 of section 285.530, RSMo, the contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

3.1.11 Contractor Status - The contractor is an independent contractor and shall not represent the contractor or the contractor's employees to be employees of the State of Missouri or a Commission of the State of Missouri. The contractor shall assume all legal and financial responsibility for salaries, 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.

3.1.12 Coordination - The contractor shall fully coordinate all contract activities with those activities of the Commission. 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 Commission or the Commission throughout the effective period of the contract.

3.1.13 Property of State – The contractor shall agree and understand that 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, which shall include all rights and interests for present and future use or sale as deemed appropriate by the Commission.

- a. The State of Missouri understands and agrees that any ancillary software tools or pre-printed materials (e.g., project management software tools or training software tools, etc.) developed or acquired by the contractor that may be necessary to perform a particular service required hereunder but not required as a specific deliverable of the contract, shall remain the property of the contractor; however, the contractor shall be responsible for ensuring such tools and materials are being used in accordance with applicable intellectual property rights and copyrights.

3.1.14 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 Commission.
- b. If required by the Commission, 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.

3.1.15 Inventions, Patents, and Copyrights - If any copyrighted material is developed as a result of the contract, the Commission shall have a royalty-free, nonexclusive and irrevocable right to publish or use, and to authorize others to use, the work for Commission purposes or the purpose of the State of Missouri.

**3.2 Business Associate Provisions:**

3.2.1 Health Insurance Portability and Accountability Act of 1996, as amended - The state agency and the contractor are both subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) (collectively, and hereinafter, HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a “Business Associate” of the state agency. Therefore, the term, “contractor” as used in this section shall mean “Business Associate.”

a. The contractor agrees that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR Parts 160 and 164 and 42 U.S.C. §§ 17921 *et. seq.* including, but not limited to the following:

- 1) “Access”, “administrative safeguards”, “confidentiality”, “covered entity”, “data aggregation”, “designated record set”, “disclosure”, “hybrid entity”, “information system”, “physical safeguards”, “required by law”, “technical safeguards”, “use” and “workforce” shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.
- 2) “Breach” shall mean the unauthorized acquisition, access, use, or disclosure of Protected Health Information which compromises the security or privacy of such information, except as provided in 42 U.S.C. § 17921. This definition shall not apply to the term “breach of contract” as used within the contract.
- 3) “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the contractor.
- 4) “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the state agency.
- 5) “Electronic Protected Health Information” shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of Protected Health Information as specified below.
- 6) “Enforcement Rule” shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR Parts 160 and 164.
- 7) “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- 8) “Individual” shall have the same meaning as the term “individual” in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
- 9) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- 10) “Protected Health Information” as defined in 45 CFR 160.103, shall mean individually identifiable health information:

- (a) Except as provided in paragraph (b) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.

- (b) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity (state agency) in its role as employer.

11) "Security Incident" shall be defined as set forth in the "Obligations of the Contractor" section of the Business Associate Provisions.

12) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C.

13) "Unsecured Protected Health Information" shall mean Protected Health Information that is not secured through the use of a technology or methodology determined in accordance with 42 U.S.C. § 17932 or as otherwise specified by the secretary of Health and Human Services.

- b. The contractor agrees and understands that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
- c. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein, as well as the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) and all regulations promulgated pursuant to authority granted therein.
- d. The state agency and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, Enforcement Rule, and other rules as later promulgated (hereinafter referenced as the regulations promulgated thereunder). Any ambiguity in the contract shall be interpreted to permit compliance with the HIPAA Rules.

### 3.2.2 Permitted Uses and Disclosures of Protected Health Information by the Contractor:

- a. The contractor may not use or disclose Protected Health Information in any manner that would violate Subpart E of 45 CFR Part 164 if done by the state agency, except for the specific uses and disclosures in the contract.
- b. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- c. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- d. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- e. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.

- f. If applicable, the contractor may use Protected Health Information to provide Data Aggregation services to the state agency as permitted by 45 CFR 164.504(e)(2)(i)(B).
- g. The contractor may not use Protected Health Information to de-identify or re-identify the information in accordance with 45 CFR 164.514(a)-(c) without specific written permission from the state agency to do so.
- h. The contractor agrees to make uses and disclosures and requests for Protected Health Information consistent with the state agency's minimum necessary policies and procedures.

### 3.2.3 Obligations and Activities of the Contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law, and shall comply with the minimum necessary disclosure requirements set forth in 45 CFR § 164.502(b).
- b. The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards shall include, but not be limited to:
  - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract;
  - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce and subcontractors, if applicable;
  - 3) Encryption of any portable device used to access or maintain Protected Health Information or use of equivalent safeguard;
  - 4) Encryption of any transmission of electronic communication containing Protected Health Information or use of equivalent safeguard; and
  - 5) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. With respect to Electronic Protected Health Information, the contractor shall use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the state agency and comply with Subpart C of 45 CFR Part 164, to prevent use or disclosure of Protected Health Information other than as provided for by the contract.
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), the contractor shall require that any agent or subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of the contractor agrees to the same restrictions, conditions, and requirements that apply to the contractor with respect to such information.
- e. By no later than ten (10) calendar days after receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Commission

of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules and the contract.

- f. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 42 USCA §17932 and 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency. If requested by the state agency or the individual, the contractor shall provide an accounting of disclosures directly to the individual. The contractor shall maintain a record of any accounting made directly to an individual at the individual's request and shall provide such record to the state agency upon request.
- g. In order to meet the requirements under 45 CFR 164.524, regarding an individual's right of access, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.
- h. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- i. The contractor shall report to the state agency's Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.
- j. The contractor shall report to the state agency's Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of any such use or disclosure, the contractor shall provide the state agency's Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.
- k. The contractor shall report to the state agency's Security Officer any breach immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of the breach, the information compromised by the breach, and any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan for approval that describes plans for preventing any such future incidents.

1. The contractor's reports required in the preceding paragraphs shall include the following information regarding the security incident, improper disclosure/use, or breach, (hereinafter "incident"):
  - 1) The name, address, and telephone number of each individual whose information was involved if such information is maintained by the contractor;
  - 2) The electronic address of any individual who has specified a preference of contact by electronic mail;
  - 3) A brief description of what happened, including the date(s) of the incident and the date(s) of the discovery of the incident;
  - 4) A description of the types of Protected Health Information involved in the incident (such as full name, Social Security Number, date of birth, home address, account number, or disability code) and whether the incident involved Unsecured Protected Health Information; and
  - 5) The recommended steps individuals should take to protect themselves from potential harm resulting from the incident.
- m. Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR Part 164.
- n. Contractor shall not directly or indirectly receive remuneration in exchange for any Protected Health Information without a valid authorization.
- o. If the contractor becomes aware of a pattern of activity or practice of the state agency that constitutes a material breach of contract regarding the state agency's obligations under the Business Associate Provisions of the contract, the contractor shall notify the state agency's Security Officer of the activity or practice and work with the state agency to correct the breach of contract.
- p. The contractor shall indemnify the state agency from any liability resulting from any violation of the Privacy Rule or Security Rule or Breach arising from the conduct or omission of the contractor or its employee(s), agent(s) or subcontractor(s). The contractor shall reimburse the state agency for any and all actual and direct costs and/or losses, including those incurred under the civil penalties implemented by legal requirements, including but not limited to HIPAA as amended by the Health Information Technology for Economic and Clinical Health Act, and including reasonable attorney's fees, which may be imposed upon the state agency under legal requirements, including but not limited to HIPAA's Administrative Simplification Rules, arising from or in connection with the contractor's negligent or wrongful actions or inactions or violations of this Agreement.

#### 3.2.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the state agency's notice of privacy practices in accordance with 45 CFR 164.520.
- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.

- d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.

3.2.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractor or agents of the contractor.

- a. In the event the state agency determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.

3.2.6 Breach of Contract – In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the breach of contract to the Secretary of the Commission of Health and Human Services.

END OF BUSINESS ASSOCIATE PROVISIONS



## **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. If it is determined the DPMM improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- 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.

**END OF PART THREE: GENERAL CONTRACTUAL REQUIREMENTS**

**4. BID SUBMISSION, EVALUATION, AND AWARD INFORMATION**

**4.1 Submission of Bids:**

- 4.1.1 The bidder should include no additional copies along with the original bid. The bidder should include completed exhibits, forms, and other information concerning the bid, including completed Pricing Page(s), with the bid.
  - a. The bid should be page numbered.
  - b. 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 bidder is requested to print the bid 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 bids may be submitted in a notebook or binder.
  - c. The front cover of the original bid should be labeled “original” and the front cover of all copies should be labeled “copy”.
- 4.1.2 Open Records – Pursuant to section 610.021, RSMo, the bid shall be considered an open record after the bids are opened. Therefore, the bidder is advised not to include any information that the bidder does not want to be viewed by the public, including personal identifying information such as social security numbers.
- 4.1.3 Submission of Information – To facilitate the evaluation process, the bidder is encouraged to submit bid information by sections that correspond with the individual evaluation categories described herein. The bidder is cautioned that it is the bidder’s sole responsibility to submit necessary information. The State of Missouri is under no obligation to solicit any information if it is not included with the bid. The bidder’s failure to submit information with the bid, including pricing and renewal information, may cause an adverse impact on the evaluation of the bid.
- 4.1.4 Contact – Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc. related to the bid document must be referred to the Buyer of Record identified on the first page of this document. Such communication should be received at least ten calendar days prior to the official bid opening date.
- 4.1.5 Compliance with Terms and Conditions – The bidder is cautioned when submitting pre-printed terms and conditions or other type material to make sure such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements. The bidder agrees that in the event of conflict between any of the bidder's terms and conditions and those contained in the IFB, that the IFB shall govern. Taking exception to the State's terms and conditions may render a bidder's bid non-responsive and remove it from consideration for award.

**4.2 Evaluation and Award Process:**

- 4.2.1 After determining that a bid satisfies the mandatory requirements stated in the Invitation for Bid, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the bid in accordance with the evaluation criteria stated below. The contract/contracts shall be awarded to the lowest and best bid/bids.

Evaluation Criteria Scoring Category	Maximum Points
Cost	100
Bidder’s Experience, Reliability, and Expertise of Personnel	100
<b>TOTAL</b>	<b>200</b>

- 4.2.2 After an initial screening process, a question and answer conference or interview may be conducted with the bidder, if deemed necessary by the Commission. In addition, the bidder may be asked to make an oral presentation of their bid during the conference. Attendance cost at the conference shall be at the bidder's expense. All arrangements and scheduling shall be coordinated by the Commission.
- 4.2.3 Open Competition – Any manufacturer's name, 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.
  - a. The bidder may offer any brand of product that meets or exceeds the specifications. In addition to identifying the manufacturer's name and model number, the bidder must explain in detail how their product meets or exceed the specifications. Bids, which do not comply with the requirement and the specifications, are subject to rejection without clarification.

**4.3 Evaluation of Cost:**

- 4.3.1 Pricing – The bidder shall submit firm, fixed pricing for each line item OR for all line items on the Pricing Page, Exhibit A, including pricing for all renewal periods. All pricing shall be quoted FOB Destination, Freight Prepaid and Allowed.
- 4.3.2 Cost Evaluation – The cost evaluation shall be based on the firm fixed price stated on the Pricing Page for each potential contract period.

**4.4 Evaluation of Bidder's Experience, Reliability, and Expertise of Personnel:**

- 4.4.1 Experience and reliability of the bidder's organization will be considered subjectively in the evaluation process. Therefore, the bidder is advised to submit information concerning the bidder's organization and information documenting the bidder's experience in past performances, especially those performances related to the requirements of this IFB. If the bidder is proposing an entity other than the bidder to perform the required services, the bidder should also submit the information requested for such proposed subcontractor.
  - a. Bidder Information - The bidder should provide information about the bidder's organization on Exhibit B.
  - b. Experience - The bidder should provide information related to previous and current services/contracts of the bidder or bidder's proposed subcontractor where performance was similar to the required services of this IFB. The information may be shown on Exhibit C or in a similar manner.
    - 1) As part of the evaluation process, the State of Missouri may contact the bidder's references, including references not listed or identified within the bidder's bid but who have current or previous experiences with the bidder.
    - 2) The bidder shall agree and understand that the State of Missouri is not obligated to contact the bidder's references.
- 4.4.2 The qualifications of the personnel proposed by the bidder to perform the requirements of this IFB, whether from the bidder's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the bidder should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
  - a. Personnel Expertise - The bidder should provide the information requested on Exhibit D for each key person proposed to provide the services required herein. If additional personnel resources are available, the bidder may provide information for such personnel by completing Exhibit E.

- 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 IFB.
  - 2) The 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.
- b. Personnel Qualifications - If personnel are not yet hired, the bidder 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.

#### **4.5 Missouri Service-Disabled Veteran Business Enterprise (SDVE) Preference:**

4.5.1 Pursuant to section 34.074, RSMo, and 1 CSR 40-1.050, the Commission has a goal of awarding three (3) percent of all contracts for the performance of any job or service to qualified service-disabled veteran business enterprises (SDVEs). A three (3) point bonus preference shall be granted to bidders including products and/or services manufactured, produced or assembled by a qualified SDVE.

- a. In order to qualify for the three bonus points, the following conditions must be met and the following evidence must be provided:
  - 1) The bidder must either be an SDVE or must be proposing to utilize an SDVE as a subcontractor and/or supplier that provides at least three percent (3%) of the total contract value.
  - 2) The services performed or the products provided by the SDVE 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 SDVE are utilized, to any extent, in the bidder'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) In order to receive evaluation consideration for participation by the SDVE, the bidder must provide the following information with the bid:
    - ✓ Participation Commitment - The bidder must complete Exhibit G. Participation Commitment, by identifying each proposed SDVE, the committed percentage of participation for each SDVE, and the commercially useful products/services to be provided by the listed SDVE. If the bidder submitting the bid is a qualified SDVE, the bidder must be listed in the appropriate table on the Participation Commitment Form.
    - ✓ Documentation of Intent to Participate – The bidder must either provide a properly completed Exhibit H. Documentation of Intent to Participate Form, signed and dated no earlier than the IFB issuance date by each SDVE or must provide a recently dated letter of intent signed and dated no earlier than the IFB issuance date by the SDVE which: (1) must describe the products/services the SDVE will provide and (2) must include the SDV Documents described below as evidence that the SDVE is qualified, as defined herein.
    - ✓ Service-Disabled Veteran (SDV) Documents - If a participating organization is an SDVE, unless previously submitted within the past five (5) years to the COMMISSION or to the Office of Administration, Division of Purchasing and Materials Management, the bidder must provide the following Service-Disabled Veteran (SDV) documents:

- a copy of the SDV's award letter from the Commission of Veterans Affairs or a copy of the SDV's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty); and
- a copy of the SDV's documentation certifying disability by the appropriate federal agency responsible for the administration of veterans' affairs.

NOTE: If the bidder submitting the bid is a qualified SDVE, the bidder must include the SDV Documents as evidence that the bidder qualifies as an SDVE. However, the bidder is not required to complete Exhibit H, Documentation of Intent to Participate Form or provide a recently dated letter of intent.

- b. Commitment – If awarded a contract, the SDVE participation committed to by the bidder on Exhibit G, Participation Commitment, shall be interpreted as a contractual requirement.
- c. Definition - Qualified SDVE:
  - 1) SDVE is doing business as a Missouri firm, corporation, or individual or maintaining a Missouri office or place of business, not including an office of a registered agent;
  - 2) SDVE has not less than fifty-one percent (51%) of the business owned by one (1) or more service-disabled veterans (SDVs) or, in the case of any publicly-owned business, not less than fifty-one percent (51%) of the stock of which is owned by one (1) or more SDVs;
  - 3) SDVE has the management and daily business operations controlled by one (1) or more SDVs;
  - 4) SDVE has a copy of the SDV's award letter from the Commission of Veterans Affairs or a copy of the SDV's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty), and a copy of the SDV's documentation certifying disability by the appropriate federal agency responsible for the administration of veterans' affairs; and
  - 5) SDVE possesses the power to make day-to-day as well as major decisions on matters of management, policy, and operation.

#### **4.6 Other Bid Submission Requirements:**

- 4.6.1 Affidavit of Work Authorization and Documentation - Pursuant to section 285.530, RSMo, if the bidder meets the section 285.525, RSMo, definition of a "business entity" ([Section: 285.0525 Definitions. RSMO 285.525](#)), the bidder must affirm the bidder'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 bidder should complete applicable portions of Exhibit I, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of Exhibit I must be submitted prior to an award of a contract.
- 4.6.2 Annual Wage Orders – The bidder is advised that prior to submitting a bid, the bidder must review the annual wage order for each county. The wage order(s) is available as a CD and may be obtained by contacting the buyer of record as indicated on the front page of this document.
- 4.6.3 Business Compliance - The bidder must be in compliance with the laws regarding conducting business in the State of Missouri. The bidder certifies by signing the signature page of this original document and any amendment signature page(s) or by submitting an on-line bid that the bidder 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 bidder shall provide documentation of compliance upon request by the Commission. The compliance to conduct business in the state shall include, but not necessarily be limited to:

- a. Registration of business name (if applicable) with the Secretary of State at <http://sos.mo.gov/business/startBusiness.asp>
- 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)

The bidder should refer to the Missouri Business Portal at <http://business.mo.gov> for additional information.

**EXHIBIT A**

**PRICING PAGE**

The bidder shall provide firm, fixed pricing for completing the report, engaging stakeholders and presenting to the Commission (as outlined in Section 2.2) and pursuant to all mandatory requirements herein. The bidder must clearly describe any one-time required firm, fixed costs and all annual costs necessary to meet the IFB requirements herein. The bidder must indicate any other relevant information related to the pricing of their proposed products/services. Pricing must include all start-up costs, technical support, and training.

**A.1 REQUIRED COSTS:**

The bidder shall provide firm, fixed pricing for the specified items listed in the table below. Pricing shall include all applicable costs necessary for the planning, delivery and installation of the systems.

DESCRIPTION	UNITS	FIRM, FIXED UNIT PRICE
<b>TOTAL COST OF PROJECT</b>	<b>1</b>	

**Renewal Option Pricing – No Renewals**

**EXHIBIT B**

**BIDDER INFORMATION**

The bidder should provide the following information about the bidder's organization:

- a. Provide a brief company history, including the founding date and number of years in business as currently constituted.
- b. Describe the nature of the bidder's business, type of services performed, etc. Identify the bidder's website address, if any.
- c. Provide a list of and a short summary of information regarding the bidder's current contracts/clients. List, identify, and provide reasons for each contract/client gained and lost in the past 2 years.
- d. Describe the structure of the organization including any board of directors, partners, top departmental management, corporate organization, corporate trade affiliations, any parent/subsidiary affiliations with other firms, etc.



**EXHIBIT C**

**CURRENT/PRIOR EXPERIENCE**

The bidder should copy and complete this form documenting the bidder and subcontractor's current/prior experience considered relevant to the services required herein. In addition, the bidder is advised that if the contact person listed for verification of services is unable to be reached during the evaluation, the listed experience may not be considered.

<b>Bidder Name or Subcontractor Name:</b> _____	
<b>Reference Information (Current/Prior Services Performed For:)</b>	
Name of Reference Company/Organization:	
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:	
Description of Services Performed	

**EXHIBIT D**

**EXPERTISE OF KEY PERSONNEL**

(Copy and complete this table for each key person proposed)

<b>Title of Position:</b> _____	
<b>Name of Person:</b>	
Educational Degree (s): include college or university, major, and dates	
License(s)/Certification(s), #(s), expiration date(s), if applicable:	
Specialized Training Completed. Include dates and documentation of completion:	
# of years experience in area of service proposed to provide:	
Describe person's relationship to bidder. If employee, # of years. If subcontractor, describe other/past working relationships	
Describe this person's responsibilities over the past 12 months.	
Previous employer(s), positions, and dates	
Identify specific information about experience in:	Clearly identify the experience, provide dates, describe the person's role and extent of involvement in the experience
✓ Knowledge of Missouri statute and regulations pertaining to charter schools	
✓ Knowledge of best practices in measuring government	
✓ Knowledge of best practices in performance contract	
✓ Knowledge of existing federal and state governmental data bases and how the data can be accessed by other governmental agencies	
✓ Experience in designing government and/or non-profit performance contracts	

**If there are additional staff, outline Staffing Methodology**

Describe the person's planned duties/role proposed herein:	
Specify the approximate number of hours per month this person is proposed for services	

**EXHIBIT E**

**EXPERTISE OF PERSONNEL**

<b>Personnel</b>	<b>Background and Expertise of Personnel and Planned Duties</b>
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 F**

**PARTICIPATION COMMITMENT**

**Organization for the Blind/Sheltered Workshop and/or Service-Disabled Veteran Business Enterprise (SDVE) Participation Commitment** – If the bidder is committing to participation by or if the bidder is a qualified organization for the blind/sheltered workshop and/or a qualified SDVE, the bidder must provide the required information in the appropriate table(s) below for the organization proposed and must submit the completed exhibit with the bid.

<b>Organization for the Blind/Sheltered Workshop Commitment Table</b>	
By completing this table, the bidder commits to the use of the organization at the greater of \$5,000 or 2% of the actual total dollar value of contract.	
(The services performed or the products provided by the listed Organization for the Blind/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.)	
<b>Name of Organization for the Blind or Sheltered Workshop Proposed</b>	<b>Description of Products/Services to be Provided by Listed Organization for the Blind/Sheltered Workshop</b>
	<i>The bidder should also include the paragraph number(s) from the IFB which requires the product/service the organization for the blind/sheltered workshop is proposed to perform and describe how the proposed product/service constitutes added value and will be exclusive to the contract.</i>
1.	Product/Service(s) proposed: ----- IFB Paragraph References:
2.	Product/Service(s) proposed: ----- IFB Paragraph References:

<b>SDVE Participation Commitment Table</b>		
(The services performed or the products provided by the listed SDVE 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.)		
<b>Name of Each Qualified Service-Disabled Veteran Business Enterprise (SDVE) Proposed</b>	<b>Committed Percentage of Participation for Each SDVE</b> (% of the Actual Total Contract Value)	<b>Description of Products/Services to be Provided by Listed SDVE</b>
		<i>The bidder should also include the paragraph number(s) from the IFB which requires the product/service the SDVE is proposed to perform and describe how the proposed product/service constitutes added value and will be exclusive to the contract.</i>
1.	%	Product/Service(s) proposed: ----- IFB Paragraph References:
2.	%	Product/Service(s) proposed: ----- IFB Paragraph References:
<b>Total SDVE Percentage:</b>	%	

**EXHIBIT G**

**DOCUMENTATION OF INTENT TO PARTICIPATE**

If the bidder is proposing to include the participation of an Organization for the Blind/Sheltered Workshop and/or qualified Service-Disabled Veteran Business Enterprise (SDVE) in the provision of the products/services required in the IFB, the bidder must either provide a recently dated letter of intent, signed and dated no earlier than the IFB issuance date, from each organization documenting the following information, or complete and provide this Exhibit with the bidder's bid.

*~ Copy This Form For Each Organization Proposed ~*

Bidder 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 bidder identified above.*

Indicate appropriate business classification(s):

\_\_\_\_\_ Organization for the Blind    \_\_\_\_\_ Sheltered Workshop    \_\_\_\_\_ SDVE

Name of Organization: \_\_\_\_\_

(Name of Organization for the Blind, Sheltered Workshop, or SDVE)

Contact Name: \_\_\_\_\_ Email: \_\_\_\_\_

Address (If SDVE, provide Phone #: \_\_\_\_\_  
MO Address): \_\_\_\_\_

City: \_\_\_\_\_ Fax #: \_\_\_\_\_

State/Zip: \_\_\_\_\_ Certification # \_\_\_\_\_

SDVE's Website Certification (or attach copy of certification)  
Address: \_\_\_\_\_ Expiration \_\_\_\_\_

Date: \_\_\_\_\_

Service-Disabled SDV's  
Veteran's (SDV) Name: \_\_\_\_\_ Signature: \_\_\_\_\_

(Please Print)

**PRODUCTS/SERVICES PARTICIPATING ORGANIZATION AGREED TO PROVIDE**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Authorized Signature:**

\_\_\_\_\_  
*Authorized Signature of Participating Organization  
(Organization for the Blind, Sheltered Workshop, or SDVE)*

\_\_\_\_\_  
*Date  
(Dated no earlier than  
the IFB issuance date)*

**EXHIBIT G**

**DOCUMENTATION OF INTENT TO PARTICIPATE**

**SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE (SDVE)**

If a participating organization is an SDVE, unless the Service-Disabled Veteran's (SDV) documents were previously submitted within the past five (5) years to the state agency or to the Office of Administration, Division of Purchasing and Materials Management (DPMM), the bidder **must** provide the following SDV documents:

- a copy of the SDV's award letter from the Commission of Veterans Affairs or a copy of the SDV's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty); and
- a copy of the SDV's documentation certifying disability by the appropriate federal agency responsible for the administration of veterans' affairs.

(NOTE: The SDV's award letter, the SDV's discharge paper, and the SDV's documentation certifying disability shall be considered confidential pursuant to subsection 14 of section 610.021, RSMo.)

The bidder should check the appropriate statement below and, if applicable, provide the requested information.

- No, I have not previously submitted the SDV documents specified above to the state agency or to the Office of Administration, Division of Purchasing and Materials Management (DPMM) and therefore have enclosed the SDV documents.
- Yes, I previously submitted the SDV documents specified above within the past five (5) years to the state agency.
- Yes, I previously submitted the SDV documents specified above within the past five (5) years to the Office of Administration, Division of Purchasing and Materials Management (DPMM).

**Date** SDV Documents were Submitted: \_\_\_\_\_

Previous **Bid/Contract Number** for Which the SDV Documents were Submitted: \_\_\_\_\_  
(if known)

(NOTE: If the SDVE and SDV are listed on the DPMM SDVE database located at <http://oa.mo.gov/sites/default/files/sdvelisting.pdf>, then the SDV documents have been submitted to the DPMM within the past five [5] years. However, if it has been determined that an SDVE at any time no longer meets the requirements stated above, the DPMM will remove the SDVE and associated SDV from the database.)

<b>FOR STATE USE ONLY</b>	
SDV's Documents - Verification Completed By:	
_____	_____
Procurement Officer	Date

**EXHIBIT H**

**BUSINESS ENTITY CERTIFICATION, ENROLLMENT DOCUMENTATION,  
AND AFFIDAVIT OF WORK AUTHORIZATION**

**BUSINESS ENTITY CERTIFICATION:**

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

- |                      |   |
|----------------------|---|
| <b><u>BOX A:</u></b> | To be completed by a non-business entity as defined below.  |
| <b><u>BOX B:</u></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 <a href="http://www.dhs.gov/files/programs/gc_1185221678150.shtm">http://www.dhs.gov/files/programs/gc_1185221678150.shtm</a> . |
| <b><u>BOX C:</u></b> | To be completed by a business entity who has current work authorization documentation on file with a Missouri Commission including Commission.  |

**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 employs 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 \_\_\_\_\_ (IFB 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 Commission with all documentation required in Box B of this exhibit.

_____	_____
Authorized Representative’s Name (Please Print)	<i>Authorized Representative’s Signature</i>
_____	_____
Company Name (if applicable)	Date

**EXHIBIT H continued**

***(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)***

**BOX B – CURRENT BUSINESS ENTITY STATUS**

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 bidder must perform/provide each of the following. The bidder should check each to verify completion/submission of all of the following:

- Enroll and participate in the E-Verify federal work authorization program (Website: [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm); Phone: 888-464-4218; Email: [e-verify@dhs.gov](mailto: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 listing the bidder's name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's name and the MOU signature page completed and signed, at minimum, by the bidder and the Commission of Homeland Security – Verification Division. If the signature page of the MOU lists the bidder'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 H, continued**

**AFFIDAVIT OF WORK AUTHORIZATION:**

The bidder 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 of Missouri 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

\_\_\_\_\_  
E-Verify Company ID Number

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 H, continued**

**(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)**

**BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS**

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 Commission 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 bidder’s name and the MOU signature page completed and signed by the bidder and the Commission of Homeland Security – Verification Division
- ✓ A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).

Name of **Missouri Commission** 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*

\_\_\_\_\_  
Business Entity Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
E-Verify MOU Company ID Number

**FOR STATE OF MISSOURI USE ONLY**

Documentation Verification Completed By:

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

**STATE OF MISSOURI**  
**Missouri Charter Public School Commission**

**TERMS AND CONDITIONS -- INVITATION FOR BID**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in an Invitation for Bid (IFB) 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 **Commission (COMMISSION)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an IFB or to a contract.
- c. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the IFB for the receipt of sealed bids.
- e. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
- f. **Buyer** means the procurement staff member of the COMMISSION. 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 bidder as a result of an IFB and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an IFB for the bidder to complete and submit with the sealed bid prior to the specified opening date and time.
- j. **Invitation for Bid (IFB)** means the solicitation document issued by the COMMISSION to potential bidders 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. Failure to provide or comply will result in a bid being considered non-responsive.
- m. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the IFB. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid 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 COMMISSION.
- 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 COMMISSION.
- 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 IFB or resulting contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only employ 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/INVITATION FOR BID DOCUMENT**

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the COMMISSION if any language, specifications or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the COMMISSION, unless the IFB specifically refers the bidder to another contact. Such e-mail, fax, or phone communication should be received at least ten calendar days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than ten calendar days prior to the IFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the COMMISSION in the IFB 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 COMMISSION monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders 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 IFB is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Registered bidders are electronically notified of the bid opportunity based on the information maintained in the State of Missouri's vendor database. If a registered bidder's e-mail address is incorrect, the bidder must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The COMMISSION reserves the right to officially amend or cancel an IFB after issuance. It shall be the sole responsibility of the bidder 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). Registered bidders who received e-mail notification of the bid opportunity when the IFB was established and registered bidders who have responded to

the IFB on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Registered bidders who received e-mail notification of the bid opportunity when the IFB was established and registered bidders who have responded to the bid 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 IFB.

#### 4. PREPARATION OF BIDS

- a. Bidders **must** examine the entire IFB carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the IFB, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the IFB, 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 bidder 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 bid. In addition, the bidder 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. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to bid 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 IFB.
- e. In the event that the bidder 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 IFB, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses. The bidder should include a complete list of statutory references and citations for each provision of the IFB, which is affected by this paragraph. The statutory limitations and prohibitive clauses may (1) be requested to be clarified in writing by COMMISSION or (2) be accepted without further clarification if the statutory limitations and prohibitive clauses are deemed acceptable by COMMISSION. If COMMISSION determines clarification of the statutory limitations and prohibitive clauses is necessary, the clarification will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the IFB.
- f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the IFB 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 IFB.
- h. Bids, including all pricing therein, shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
- i. Any foreign bidder 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 bid in order to be considered for award.

#### 5. SUBMISSION OF BIDS

- a. Registered bidders may submit bids electronically as permitted by the IFB through the State of Missouri's On-Line Bidding/Vendor Registration System website or hard copy delivered to the COMMISSION office. Bidders that have not registered on the On-Line Bidding/Vendor Registration System website may submit bids hard copy delivered to the COMMISSION office. Delivered bids must be sealed in an envelope or container, and received in the COMMISSION 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 IFB. All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the IFB, and (3) be priced as required. Hard copy bids may be mailed to the COMMISSION post office box address. However, it shall be the responsibility of the bidder to ensure their bid is in the COMMISSION office (address listed above) no later than the exact opening time and date specified in the IFB.
- b. The sealed envelope or container containing a bid should be clearly marked on the outside with (1) the official IFB number and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid submitted electronically by a registered bidder may be modified on-line prior to the official opening date and time. A bid which has been delivered to the COMMISSION office may be modified by signed, written notice which has been received by the COMMISSION prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
- d. A bid submitted electronically by a registered bidder may be canceled on-line prior to the official opening date and time. A bid which has been delivered to the COMMISSION office may only be withdrawn by a signed, written document on company letterhead transmitted via mail, e-mail, or facsimile which has been received by the COMMISSION prior to the official opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a bid shall not be honored.
- e. A bid may also be withdrawn after the bid opening through submission of a written request by an authorized representative of the bidder. Justification of withdrawal decision may include a significant error or exposure of bid information that may cause irreparable harm to the bidder.
- f. When submitting a bid electronically, the registered bidder indicates acceptance of all IFB terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Bidders delivering a hard copy bid to COMMISSION must sign and return the IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all IFB terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.
- g. Faxed bids shall not be accepted. However, faxed and e-mail no-bid notifications shall be accepted.

#### 6. BID OPENING

- a. Bid openings are public on the opening date and at the opening time specified on the IFB document. Names, locations, and prices of respondents shall be read at the bid opening. All vendors may view the names and prices of the respondents on the state's On-Line Bidding/Vendor Registration System website after the official opening date and time. The COMMISSION will not provide prices or other bid information via the telephone.
- b. Bids which are not received in the COMMISSION 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 bids may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

#### 7. PREFERENCES

- a. In the evaluation of bids, preferences shall be applied in accordance with chapter 34, RSMo, other applicable Missouri statutes, and applicable Executive Orders. 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, mined, processed 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.

## 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 bidder and request clarification of the intended bid. 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 a bidder shall be subject to evaluation if deemed by the COMMISSION to be in the best interest of the State of Missouri.
- c. The bidder 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 IFB, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the IFB and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB and (3) complies with chapter 34, RSMo, other applicable Missouri statutes, and all applicable Executive Orders.
- e. In the event all bidders fail to meet the same mandatory requirement in an IFB, COMMISSION reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the COMMISSION reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The COMMISSION reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, COMMISSION may negotiate for the required supplies.
- g. When evaluating a bid, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
- i. Any award of a contract shall be made by notification from the COMMISSION to the successful bidder. The COMMISSION 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 COMMISSION based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- j. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to section 610.021, RSMo, following the official opening of bids.
- k. The COMMISSION posts all bid results on the On-line Bidding/Vendor Registration System website for all vendors to view for a reasonable period after bid award. The COMMISSION maintains images of all bid file material for review. Bidders who include an e-mail address with their bid will be notified of the award results via e-mail.
- l. The COMMISSION reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- m. Any bid award protest must be received within ten (10) business days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (9).
- n. The final determination of contract award(s) shall be made by COMMISSION.

## 9. CONTRACT/PURCHASE ORDER

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the IFB, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) COMMISSION's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the IFB 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 COMMISSION 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 COMMISSION.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the IFB.
- 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 COMMISSION, (2) be fit and sufficient for the purpose expressed in the IFB, (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. Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, 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 bid 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 COMMISSION may cancel the contract. At its sole discretion, the COMMISSION 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 COMMISSION 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 COMMISSION will issue a notice of cancellation terminating the contract immediately. If it is determined the COMMISSION improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the COMMISSION cancels the contract for breach, the COMMISSION 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 COMMISSION 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 bidder/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 bidder/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 COMMISSION immediately.
- b. Upon learning of any such actions, the COMMISSION 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 COMMISSION shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the COMMISSION 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 bidder's failure to maintain compliance with chapter 144, RSMo, may eliminate their bid 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.