MISSOURI STATE HIGHWAY PATROL
REQUEST FOR QUOTATION (RFQ)

AMENDMENT NO.: 1
RFQ NO.: HP1300007 (Amendment 1)
TITLE: MUSTANG SURVIVAL GEAR
ISSUE DATE: SEPTEMBER 19, 2012

BUYER: PAM HASLAG
PHONE NO.: (573)526-6228
FAX: (573) 526-6238
E-MAIL: pamela.haslag@mshp.dps.mo.gov

TARGET DATE AND TIME: OCTOBER 2, 2012 AT 2:00 PM CENTRAL TIME

MAILING INSTRUCTIONS: Print or type **RFQ Number** and **Return Target Date** on the lower left hand corner of the envelope or package. Quotations shall be in MSHP office (1510 E Elm Street) by the target date and time.

RETURN QUOTATION TO:

(U.S. Mail)
MO STATE HIGHWAY PATROL
Attn: PAM HASLAG
PO BOX 568
JEFFERSON CITY MO 65102-0568

or

(Courier Service)
MO STATE HIGHWAY PATROL
Attn: PAM HASLAG
1510 E ELM STREET
JEFFERSON CITY MO 65101-4118

OR FAX TO: (573) 526-6238 OR EMAIL TO: pamela.haslag@mshp.dps.mo.gov
(only one method of submission is necessary)

CONTRACT PERIOD: ONE YEAR FROM DATE OF ISSUE

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

MO STATE HIGHWAY PATROL
SHIPPING & RECEIVING
1510 E ELM STREET
JEFFERSON CITY, MO 65101

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 Request for Quotation (Revised 06/28/12). The bidder further agrees that the language of this RFQ 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 Missouri State Highway Patrol or when a Notice of Award is signed and issued by an authorized official of the Highway Patrol, a binding contract shall exist between the bidder and the Missouri State Highway Patrol.

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 ___Other _____		(NOTE: LLC IS NOT A VALID TAX FILING TYPE.)
AUTHORIZED SIGNATURE		DATE
PRINTED NAME		TITLE

Amendment No. 1

MUSTANG SURVIVAL GEAR
Missouri State Highway Patrol

Amendment 1

- revised paragraph numbering beginning Page 5.
- Pricing Page: added sentence pertaining to sizing at end of paragraph between quoted Discount % and catalog pricing example

I. INTRODUCTION

This document is a Request for Quotation (RFQ) for bids in order to establish a contract for Mustang Survival gear for the Missouri State Highway Patrol in Jefferson City, Missouri, on an as needed if needed basis.

a. Only Mustang Survival brand gear will be accepted for this bid and resulting contract. Substitutions will not be accepted.

b. If the bidder doesn't carry, or doesn't have access to certain Mustang Survival gear those exceptions must be noted on the Pricing Page.

c. Submission of quotes must include the first page of this document completed with authorized signature, Page 4 with delivery ARO, and the Pricing Page.

d. No prepay allowed.

e. Vendor must comply with regulations for registering as a vendor with the State of Missouri. Further instructions to follow with award decision.

f. There are a total of 9 pages, including the cover page; not all are numbered. It is the bidder's responsibility to assure all pages are included with this receipt.

g. See attached Terms and Conditions -- Request for Quotation for further information.

II. CONTRACT:

A notice of award does not constitute an authorization for shipment of items, or a directive to proceed with services. Before providing items or services, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the Highway Patrol.

III. CONTRACT PERIOD:

The original contract period shall be as stated on page 1 of the Request for Quotation (RFQ). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Missouri State Highway Patrol shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Missouri State Highway Patrol exercises such right, all terms and conditions, requirements and specifications of the contract, including discounts, 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.

IV. CONTRACT PRICING:

a. All firm, fixed percentage discount(s) shall be as indicated on the Pricing Page. The state shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

b. The contractor's prices must be the lowest offered to any governmental or commercial consumer, under the same terms and conditions.

c. Pricing for catalog items shall be determined by applying the quoted discount for the item to the current price for the item listed in the contractor's comprehensive current proprietary product pricing catalog.

d. The firm fixed discount off current catalog list price or a published "GSA" pricing catalog shall apply throughout the life of the contract, including renewal periods.

e. The contractor shall understand and agree that the price list/catalog pricing may change during the contract period and each renewal period, although such pricing shall not change with a frequency greater than every six (6) months. It is preferred that the price list/catalog pricing change only on an annual basis.

f. In the event that the product catalog lists more than one price for the same product, the applicable quoted firm fixed discount shall be applied to the lowest listed price. The State of Missouri shall always receive the contractor's lowest price for the product/service.

g. The contractor shall furnish product catalog (with products clearly identified) to the Highway Patrol upon request. Product catalogs shall also be promptly provided to the Highway Patrol as the catalogs change and/or pricing is updated.

V. IMPRINT PRICING:

Occasionally the Missouri Highway Patrol will require an item to be customized with printing. Lettering will be in simple block letter format in a contrasting color to the item being printed. Exact details will require being determined at the time an order is placed. Most commonly required identification will be MSHP or STATE TROOPER. Other options may occur throughout the term of the contract. Pricing for these services shall be explained as thoroughly as possible in **Line 002 C/S Code 96299 Miscellaneous Services, General** on the Pricing Page.

VI. NON-EXCLUSIVE:

The contractor shall agree and understand that the contract shall not be construed as an exclusive contract and the State of Missouri may obtain similar or identical products, items from other sources as deemed appropriate and in the best interest of the state of Missouri.

VII. COORDINATION:

The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the Buyer throughout the effective period of the contract.

VIII. FEDERAL FUNDS REQUIREMENT:

The contractor shall understand and agree that this procurement may involve the expenditure of federal funds. Therefore, in accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, "Steven's Amendment", the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money unless the prior approval of the state agency is obtained and unless they clearly state the following as provided by the state agency:

a. the percentage of the total costs of the program or project which will be financed with Federal money;

b. the dollar amount of Federal funds for the project or program; and

c. percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

IX. DELIVERY:

The desired delivery is 45 calendar days after the receipt of a properly executed order. If bidder's delivery is different, the bidder should state delivery in days after receipt of order (ARO): _____ calendar days ARO.

X. DELIVERY PERFORMANCE:

The contractor and/or the contractor's subcontractor(s) shall deliver products in accordance with the contracted delivery times stated herein to the state agency upon receipt of an authorized purchase order or P-card transaction notice. Delivery shall include unloading shipments at the state agency's dock or other designated unloading site as requested by the state agency. All orders must be shipped F.O.B. Destination, Freight Prepaid and Allowed. All orders received on the last day of the contract, must be shipped at the contract price. All deliveries must be coordinated with the state agency.

XI. CONTACT

Any questions pertaining to this quote must be addressed to Buyer indicated on first page.

PRICING PAGE

LINE ITEMS

001 C/S Code 57800
Miscellaneous Products

The bidder shall quote a firm fixed discount off current catalog list price or a published "GSA" pricing for Mustang Survival gear. This discount is to apply for all purchases made under the contract for the life of the contract.

Discount: _____ %

Below is a list of items the Highway Patrol is currently interested in. As an example to demonstrate how the quoted discount will apply to purchases, complete the blanks as shown. If pricing varies depending on size of garment, quote as if a size Large.

ITEM	CATALOG PRICE	DISCOUNT	FINAL PRICE
MJ6214 T1 Bomber Jacket	_____	_____	_____
MJ6224 GS Integrity Flotation Bomber Jacket	_____	_____	_____
MP4212 Classic Flotation Pant	_____	_____	_____
MRD075 Throw Bag	_____	_____	_____
MV3104 T1 Universal Fit PFD	_____	_____	_____
MRV200 SR SWR Instructor's Vest	_____	_____	_____
MD3196 Compact Tactical Life Preserver	_____	_____	_____

Items not carried/unavailable from this bidder: _____

_____

_____

002 C/S Code 96299
Miscellaneous Services, General

The Highway Patrol will occasionally require customizing items with imprinting. The print may be spaced in one or two lines of block lettering depending on the size of the area available for printing. The bidder shall explain below how pricing for such requests is calculated.

_____

_____

_____

_____

_____

_____

_____

STATE OF MISSOURI
MISSOURI STATE HIGHWAY PATROL

TERMS AND CONDITIONS -- REQUEST FOR QUOTATION

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Quotation (RFQ) 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 **Missouri State Highway Patrol (MSHP)**. The agency is also responsible for payment.
b. **Amendment** means a written, official modification to an RFQ or to a contract.
c. **Attachment** applies to all forms which are included with an RFQ to incorporate any informational data or requirements related to the performance requirements and/or specifications.
d. **Bid Target Date and Time** and similar expressions mean the deadline required by the RFQ for the receipt of bids.
e. **Bidder** means the person or organization that responds to an RFQ by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the RFQ document.
f. **Buyer** means the procurement staff member of the MSHP. 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 RFQ and who enters into a contract.
i. **Exhibit** applies to forms which are included with an RFQ for the bidder to complete and submit with the bid prior to the specified target date and time.
j. **Request for Quotation (RFQ)** means the solicitation document issued by the MSHP 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 RFQ. The pricing pages must be completed and submitted by the bidder with the bid prior to the specified bid target 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 MSHP.
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 MSHP.
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 RFQ or resulting contract shall be in the Circuit Court of Cole County, Missouri.
f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. OPEN COMPETITION/REQUEST FOR QUOTATION DOCUMENT

a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the MSHP if any language, specifications or requirements of an RFQ appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFQ 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 MSHP, unless the RFQ specifically refers the bidder to another contact. Such communication should be received at least five calendar days prior to the official bid target 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 RFQ, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFQ, any questions received less than five calendar days prior to the RFQ target 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 MSHP in the RFQ 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 MSHP 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 MSHP reserves the right to officially amend or cancel an RFQ after issuance.

4. PREPARATION OF BIDS

a. Bidders **must** examine the entire RFQ carefully. Failure to do so shall be at bidder's risk.
b. Unless otherwise specifically stated in the RFQ, 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 RFQ, 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. 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 RFQ.

e. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer.
f. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFQ.
g. Bids, including all prices therein, shall remain valid for 90 days from bid target date unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
h. 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. Bids may be submitted by a hard copy delivered; faxed to the MSHP office (573-526-6238); or emailed to Buyer (pamela.haslag@mshp.dps.mo.gov). All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the RFQ, and (3) be priced as required. Bids shall be received in the MSHP office prior to the target time and date specified in the RFQ.
b. The envelope or container containing a bid should be clearly marked on the outside with (1) the official RFQ number and (2) the official target 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 which has been delivered to the MSHP office may be modified by signed, written notice which has been received by the MSHP prior to the official target 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 target date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
d. A bid which has been delivered to the MSHP office may only be withdrawn by a signed, written notice or facsimile which has been received by the MSHP prior to the official target 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 target date and time. Telephone, e-mail, or telegraphic requests to withdraw a bid shall not be honored.
e. Bidders delivering or faxing a hard copy bid to MSHP must sign and return the RFQ cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all RFQ 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.
f. Faxed and e-mail no-bid notifications shall be accepted.

6. PREFERENCES

a. In the evaluation of bids, preferences shall be applied in accordance with chapter 34, RSMo. Contractors should apply the same preferences in selecting subcontractors.
b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.
d. In the evaluation of bids, a service-disabled veteran business preference shall be applied in accordance with section 34.074, RSMo.

7. 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 MSHP 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 RFQ, 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 RFQ and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the RFQ and (3) complies with sections 34.010 and 34.070, RSMo, and Executive Order 04-09.
e. In the event all bidders fail to meet the same mandatory requirement in an RFQ, MSHP reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the MSHP reserves the right to waive any minor irregularity or technicality found in any individual bid.
f. The MSHP 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, MSHP 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 MSHP to the successful bidder. The MSHP 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 MSHP 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 will be considered open records pursuant to section 610.021, RSMo.
k. The MSHP 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 MSHP 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) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
n. The final determination of contract award(s) shall be made by MSHP.

8. CONTRACT/PURCHASE ORDER

a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the RFQ, at the prices quoted, pursuant to all requirements and specifications contained therein.
b. A binding contract shall consist of: (1) the RFQ and any amendments thereto, (2) the contractor's response (bid) to the RFQ, (3) clarification of the bid, if any, and (4) MSHP's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFQ 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 MSHP 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.

9. 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 MSHP.
d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFQ.
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.

10. 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.

11. 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.

12. 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 MSHP, (2) be fit and sufficient for the purpose expressed in the RFQ, (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.

13. CONFLICT OF INTEREST

a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
b. The contractor hereby covenants that at the time of the submission of the 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.

14. 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.

15. CANCELLATION OF CONTRACT

a. In the event of material breach of the contractual obligations by the contractor, the MSHP may cancel the contract. At its sole discretion, the MSHP 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 MSHP within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
c. If the MSHP cancels the contract for breach, the MSHP 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 MSHP 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.

16. 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.

17. 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 MSHP immediately.
b. Upon learning of any such actions, the MSHP reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

18. 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.

19. 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 MSHP shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the MSHP 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.

20. 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).

21. 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.

22. 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.

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