Request for Quotation

Missouri Department of Corrections
Fiscal Management Unit
Purchasing Section
2729 Plaza Drive, P.O. Box 236
Jefferson City, MO 65102

RFQ 16709145

Hot Water Storage Tank
For
Department of Corrections
Division of Probation and Parole
District 25 - Poplar Bluff
Community Supervision Center

Date of Issue: April 13, 2016

Contract Period:
Date of Award through 90 Days

Buyer of Record:
Lisa Graham
Procurement Officer II
Telephone: (573) 526–6611
Lisa.Graham@doc.mo.gov

Target Date and Time for Bid Submission:

Thursday, May 5, 2016, at 2:00 p.m.

Bids may be delivered to the address stated above, faxed to (573) 522-1562 or scanned and emailed to bids@doc.mo.gov. The bidder should clearly identify the RFQ number on the lower right or left-handed corner of the container or in the subject line of the fax or email in which the bid is submitted to the Department. This number is essential for identification purposes.

We hereby agree to provide the services and/or items, at the price quoted, pursuant to the requirements of this document. The authorized signer of this document certifies that the contractor (named below) and each of its principals are not suspended or debarred by the federal government.

Company Name: _____

Mailing Address: _____

City, State Zip: _____

Telephone: _____ Fax: _____

Federal EIN#: _____ State Vendor # _____

Email Address: _____

_____
Authorized Signer's Printed Name and Title

Authorized Signature: _____ _____
Date

NOTICE OF AWARD:
This bid is accepted by the Missouri Department of Corrections as follows:

Contract No.

_____
Ellis McSwain, Board Chairman, Probation and Parole Date

The original cover page, including amendments, should be signed and returned with the bid.

1. INTRODUCTION AND GENERAL INFORMATION

This section of the RFQ 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:

1.1.1 This document constitutes a request for quotation from prospective bidders for the purchase of a hot water storage tank for the Missouri Department of Corrections (hereinafter referred to as "Department") District 25 Poplar Bluff Community Supervision Center (hereinafter referred to as D25CSC) in accordance with the requirements and provisions stated herein.

1.1.2 Pursuant to paragraph 4.a. of the terms and conditions of this RFQ, written questions, request for changes, clarifications or otherwise, advise the Department if any language, specifications or requirements of this RFQ appear to be ambiguous, contradictory, and/or arbitrary are due no later than five (5) calendar days prior to the official bid target date.

a. Any questions, requests, advice by a bidder must be submitted in writing to the Buyer of Record and clearly marked RFQ 16709145, Hot Water Storage Tank. It is preferred that communications be sent via e-mail to Lisa.Graham@doc.mo.gov.

1.1.3 Organization – This document, referred to as a Request for Quotation (RFQ), is divided in to the following parts:

Section 1. – Introduction and General Information	Exhibits A-C
Section 2. – Performance Requirements	Terms and Conditions
Section 3. – General Contractual Requirements	
Section 4. – Bid Submission, Evaluation, and Award Information	

1.2 General Information:

1.2.1 Terms and Conditions – It is recommended that all bidders review the Terms and Conditions governing this solicitation in its entirety, giving particular emphasis to examining those sections related to:

- Open Competition
- Preparation of Bids
- Submission of Bids
- Preferences
- Evaluation and Award

1.2.2 The Department is transitioning to the MissouriBUYS eProcurement system and recommends all potential vendors to visit https://missouribuys.mo.gov/ to register as a vendor for all bidding opportunities.

END OF SECTION 1: INTRODUCTION AND GENERAL INFORMATION

2. PERFORMANCE REQUIREMENTS

This section of the RFQ includes requirements and provisions relating specifically to the performance requirements of the Department. 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 RFQ. 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 Department.

2.1 General Requirements:

2.1.1 Upon receipt of an authorized order from the D25CSC, the contractor shall provide a 200 gallon hot water storage tank in accordance with the provisions and requirements stated herein and to the sole satisfaction of the Department.

2.1.2 This RFQ is for purchase and delivery only, no installation is required.

2.2 Equipment Specification Requirements:

2.2.1 Detailed specifications for the hot water storage tank are stated on **EXHIBIT A,** Pricing Page.

2.3 Delivery Requirements:

2.3.1 The order shall be placed by the D25CSC. The contractor and/or the contractor's subcontractor(s) shall deliver the item in accordance with the contracted delivery time stated herein to the Supervision Center upon receipt of an authorized purchase order or state purchasing card transaction notice. Delivery shall include unloading the shipment at the Department dock or other designated unloading site as requested by the Supervision Center. The order must be shipped FOB Destination, Freight Prepaid and Allowed. Any order received on the last day of the contract, must be shipped at the contract price.

a. Delivery must be completed within thirty (30) calendar days..

2.3.2 The contractor must coordinate its delivery schedule with the D25CSC at least three (3) days prior to delivery. Any change in delivery schedule must be approved by the D25CSC a minimum of twenty-four (24) hours in advance prior to the implementation date of such change. Supervision Centers have specific times that deliveries can be accepted. A delivery arriving during a time the Supervision Center does not accept deliveries will be delayed or refused. Any additional cost for delay or redelivery shall be the responsibility of the contractor.

a. Delivery must not be made on official state holidays. A list of official state holidays may be found on the State of Missouri web site at: http://oa.mo.gov/commissioner/state-holidays

b. Delivery Addresses: **Probation and Parole**
District 25 Poplar Bluff Community Supervision Center
1441 Black River Industrial Park Drive
Poplar Bluff, MO 63901
Attn: James Berry
573-840-9555

2.3.3 Delays in Delivery Performance:

a. If at any time the contractor should encounter conditions impeding delivery of an awarded item, the contractor shall immediately notify the Department's Purchasing Section in writing of the fact of delay, its likely duration and its cause(s). As soon as practical after the receipt of the

contractor's notice, the Department shall evaluate the situation and may, at its sole discretion, extend the contractor's time for delivery.

b. A delay by the contractor in the performance of its delivery obligations shall render the contractor liable for additional costs incurred by the Department to obtain product from other sources unless an extension of time is agreed upon pursuant to 2.3.3 a.

2.4 Warranty Requirements:

2.4.1 The contractor must warrant to the Department that the item furnished under this contract will be first line quality and in new condition. The contractor shall also guarantee that all materials used in the manufacturing of the item shall meet all applicable industry standards.

a. The contractor shall provide, at a minimum. The standard manufacturer's warranty for the item awarded.

2.5 Invoicing and Payment Requirements:

2.5.1 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 RFQ.

2.5.2 All payment terms shall be as stated in the terms and conditions of this contract. Payments will be processed based on final delivery, inspection, and acceptance of services rendered.

2.5.3 The contractor shall accurately invoice per the price indicated on **EXHIBIT A**, Pricing Page.

2.5.4 The Department may choose to use the state purchasing card (Visa) in place of a purchase order to make purchases under this contract. Unless exception to this condition is indicated on **EXHIBIT A**, Pricing Page, the contractor agrees to accept the state purchasing card as an acceptable form of payment and may not charge any additional fees related to the use of a purchasing card such as service fees, merchant fees, and/or handling charges.

a. If the Department issues a purchase order, an itemized invoice shall be emailed to DOC.Payables@doc.mo.gov or mailed to:

Accounts Payable
Missouri Department of Corrections
Fiscal Management Unit
P.O. Box 236
Jefferson City MO 65102

2.5.5 Each invoice submitted must be specific to one purchase order number. The purchase order number must be referenced on the invoice and the invoice must be itemized in accordance with the item listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment. Emailed invoices should contain the purchase order number in the subject line.

a. If the state purchasing card (Visa) is used for payment, an itemized invoice reflecting the charged amount must be faxed or emailed to the institution within one business day. The state purchasing card shall not be charged until all goods/services have been received and accepted.

2.5.6 The contractor's invoice should include any discount for prompt payment as indicated on **EXHIBIT A**, Pricing Page.

2.5.7 If the contractor maintains an e-commerce web application that enables Department staff to view and print invoices and invoice history, the contractor shall indicate on **EXHIBIT A**, Pricing Page the web site address where the Department staff may access invoices. Upon award of a contract, the contractor shall provide the Department with a customer number in order for Department staff to access invoices and invoice history.

2.5.8 The Department does not pay state or federal sales tax. The Department shall not make additional payments or pay add-on charges.

2.5.9 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, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

END OF SECTION 2: PERFORMANCE REQUIREMENTS

3. GENERAL CONTRACTUAL REQUIREMENTS:

This section of the RFQ includes the general contractual requirements and provisions that shall govern the contract after RFQ award. The contents of this section include mandatory provisions that must be adhered to by the Department 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 RFQ and any amendments thereto, (2) the contractor's response (bid) to the RFQ, (3) clarification of the response (bid), if any, and (4) the Department's acceptance of the response (bid) by "notice of award". All exhibits included in the RFQ shall be incorporated into the contract by reference.

a. A notice of award issued by the Department 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 Department, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the Department.

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 Department 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 Price - The price shall be as indicated on **EXHIBIT A,** Pricing Page. The Department shall not pay, nor be liable, for any other costs including, but not limited to, taxes, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

a. The price shall include all packing, handling, shipping and freight charges FOB Destination, Freight Prepaid and Allowed. The Department shall not make additional payments or pay add-on charges for freight or shipping unless specifically described and priced in the bid, or as otherwise specifically stated and allowed by the RFQ.

3.1.3 Termination - The Department reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the Department pursuant to the contract prior to the effective date of termination.

3.1.4 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.

3.1.5 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 its performance under the contract.

3.1.6 Contractor’s Employees - The contractor and all of the contractor’s employees and agents providing services in any Department of Corrections institution must be at least eighteen (18) years of age. A Missouri Uniform Law Enforcement System (MULES) check or other background investigation shall be required on the contractor, the contractor’s employees and agents before they are allowed entry into the institution. The contractor, its employees and agents understand and agree that the Department may complete criminal background records checks annually for the contractor and the contractor’s employees and agents that have the potential to have contact with offenders.

a. The Supervision Center shall have the right to deny access into the Supervision Center for the contractor and any of the contractor’s employees and agents for any reason, at the discretion of the institution.

b. The contractor, its employees and agents under active federal or state felony or misdemeanor supervision must receive written division director approval prior to providing services pursuant to a Department contract. Similarly, contractors/employees/agents with prior felony convictions and not under active supervision must receive written division director approval in advance.

c. The contractor, its employees and agents shall at all times observe and comply with all applicable state statutes, Department rules, regulations, guidelines, internal management policies and procedures, and general orders of the Department that are applicable, regarding operations and activities in and about all Department property. Furthermore, the contractor, its employees and agents, shall not obstruct the Department or any of its designated officials from performing their duties in response to court orders or in the maintenance of a secure and safe correctional environment. The contractor shall comply with the Department's policies and procedures relating to employee conduct.

d. The Department has a zero tolerance policy for any form of sexual misconduct to include staff/contractor/volunteer on offender, or offender on offender, sexual harassment, sexual assault, sexual abuse and consensual sex.

1) Any contractor or contractor's employee or agent who witnesses any form of sexual misconduct must immediately report it to the District Supervisor of the Supervision Center. If a contractor or contractor's employee or agent fails to report or knowingly condones sexual harassment or sexual contact with or between offenders, the Department may cancel the contract, or at the Department's sole discretion, require the contractor to remove the employee/agent from providing services under the contract.

2) Any contractor or contractor's employee or agent who engages in sexual abuse shall be prohibited from entering the Supervision Center and shall be reported to law enforcement agencies and licensing bodies, as appropriate.

e. The contractor, its employees and agents shall not interact with the offenders except as is necessary to perform the requirements of the contract. The contractor, its employees and agents shall not give anything to nor accept anything from the offenders except in the normal performance of the contract.

f. If any contractor or contractor's employee or agent is denied access into the Supervision Center for any reason or is denied approval to provide service to the Department for any reason stated herein, it shall not relieve the contractor of any requirements of the contract. If the contractor is unable to perform the requirements of the contract for any reason, the contractor shall be considered in breach.

3.1.7 Subcontractors - Any subcontract for the items/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 Department and to ensure that the Department 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 Department and the contractor. 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. The contractor shall agree and understand that utilization of a subcontractor to provide any of the items/services in the contract shall in no way relieve the contractor of the responsibility for providing the items/services as described and set forth herein. The contractor must obtain the approval of the Department prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.

3.1.8 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 Department 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.

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

3.1.10 Substitution of Products - The contractor shall not substitute any item(s) that has been awarded to the contractor without the prior written approval of the Department.

a. In the event an item becomes unavailable, the contractor shall be responsible for providing a suitable substitute item. The contractor's failure to provide an acceptable substitute may result in cancellation or termination of the contract.

b. Any item substitution must be a replacement of the contracted item with a product of equal or better capabilities and quality, and with equal or lower pricing. The contractor shall understand that the state reserves the right to allow the substitution of any new or different product offered by the contractor. The Department shall be the final authority as to acceptability of any proposed substitution.

c. Any item substitution shall require a formal contract amendment authorized by the Department prior to the state acquiring the substitute item under the contract.

d. The state may choose not to compel an item substitution in the event requiring a substitution would be deemed unreasonable in the sole opinion of the State of Missouri. The contractor shall not be relieved of substituting a product in the event of manufacturer discontinuation or other reason simply for reasons of unprofitability to the contractor.

3.1.11 Replacement of Defective/Damaged Product - The contractor shall be responsible for replacing any item received that is defective or in damaged condition at no cost to the Department. This includes all shipping costs for returning damaged or defective items to the contractor for replacement.

3.1.12 Point of Contact - The contractor shall function as the single point of contact for all contract activities regardless of any subcontract arrangement for any product or service. This shall include assuming responsibilities and liabilities for any and all problems relating to all materials, equipment and services provided.

3.1.13 Participation by Other Organizations: The contractor must comply with any Organization for the Blind/Sheltered Workshop participation levels committed to in the contractor's awarded bid.

a. The contractor shall prepare and submit to the Department a report detailing all payments made by the contractor to Organizations for the Blind/Sheltered Workshops participating in the contract for the reporting period. The contractor must submit the report upon completion of delivery.

b. The Department will monitor the contractor's compliance in meeting the Organizations for the Blind/Sheltered Workshops participation levels committed to in the contractor's awarded bid. If the contractor's payments to the participating entities are less than the amount committed, the Department may cancel the contract and/or suspend or debar the contractor from participating in future Department procurements, or retain payments to the contractor in an amount equal to the value of the participation commitment less actual payments made by the contractor to the participating entity. If the Department determines that the contractor becomes compliant with the commitment, any funds retained as stated above, will be released.

c. If a participating entity fails to retain the required certification or is unable to satisfactorily perform, the contractor must obtain other organizations for the blind/sheltered workshops to fulfill the participation requirements committed to in the contractor's awarded bid.

1) The contractor must obtain the written approval of the Department for any new entities. This approval shall not be arbitrarily withheld.

2) If the contractor cannot obtain a replacement entity, the contractor must submit documentation to the Department detailing all efforts made to secure a replacement. The Department shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the required participation and whether the contract will be amended to change the contractor's participation commitment.

END OF SECTION THREE: GENERAL CONTRACTUAL REQUIREMENTS

4. BID SUBMISSION, EVALUATION, AND AWARD INFORMATION

4.1 Contact:

4.1.1 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 target date.

4.2 Open Records:

4.2.1 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 the bidder does not want to be viewed by the public, including personal identifying information such as social security numbers.

4.3 Compliance with Terms and Conditions:

4.3.1 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 RFQ and its contractual requirements. The bidder agrees in the event of conflict between any of the bidder's terms and conditions and those contained in the RFQ the RFQ 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.

4.4 Preprinted Marketing Materials:

4.4.1 The bidder may submit preprinted marketing materials with the bid. However, the bidder is advised that such brochures normally do not address the needs of the evaluators with respect to the technical evaluation process and the specific responses which have been requested of the bidder. The bidder is strongly discouraged from relying on such materials in presenting products and services for consideration by the state.

a. It is the bidder's responsibility to provide detailed information about how the item bid meets the specifications presented herein. If preprinted marketing materials do not specifically address each specification, the bidder should provide detailed information to assure the product meets the state's mandatory requirements. In the event this information is not submitted with the bid, the

buyer may, but is not required to, seek written clarification from the bidder to provide assurance that the product bid meets specifications.

4.5 Bid Detail Requirements and Deviations:

4.5.1 It is the bidder's responsibility to submit a bid that meets all mandatory specifications stated herein. The bidder should clearly identify any and all deviations from both the mandatory and desirable specifications stated in the RFQ. Any deviation from a mandatory requirement may render the bid non-responsive. Any deviation from a desirable specification may be reviewed by the state as to its acceptability and impact on competition.

a. Bidders should note: A descriptive brochure of the model bid may not be acceptable as clear identification of deviations from the written specification.

4.6 Description of Product:

4.6.1 The bidder should present a detailed description of the product proposed in the response to this Request for Quotation. It is the bidder's responsibility to make sure the product proposed is adequately described in order to conduct an evaluation of the bid to insure its compliance with mandatory technical specifications. It should not be assumed that the evaluator has specific knowledge of the product proposed; however, the evaluator does have sufficient technical background to conduct an evaluation when presented complete information.

4.7 Evaluation and Award Process:

4.7.1 After determining that a bid satisfies the mandatory requirements stated in the Request for Quotation, a cost analysis shall be conducted.

4.7.2 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.

4.8 EXHIBIT A, <u>Pricing Page:</u>

4.8.1 Prices shall be considered firm for the duration of the contract period indicated on the Notice of Award of a contract.

4.8.2 The bidder must submit a firm fixed price on **EXHIBIT A**, <u>Pricing Page</u> for the line item.

a. The price quoted shall include all shipping and freight charges FOB destination freight prepaid and allowed. The Department shall not make additional payments or pay add-on charges for freight or shipping.

4.8.3 Quantity **–** Upon award, the quantity ordered shall be as stated on **EXHIBIT A**, <u>Pricing Page</u>.

4.8.4 The bidder should complete the "Terms" and the "Bidder's Acceptance of the State Purchasing Card" sections on **EXHIBIT A,** <u>Pricing Page</u>.

4.9 Evaluation of Cost:

4.9.1 For evaluation purposes only, the cost will be calculated by multiplying the firm fixed price of the line item stated on **EXHIBIT A**, Pricing Page, by the quantity for that line item. The cost evaluation shall include all mandatory requirements.

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

Lowest Responsive Bidder's Price / Compared Bidder's Price	X	Maximum Cost Evaluation Points (100)	=	Assigned Cost Points

NOTE: The prompt payment discount terms on contracts will not be used in any cost calculation.

4.10 Determination for Award:

4.10.1 The Department reserves the right to award to the bidder whose bid complies with all mandatory specifications and requirements and is the lowest and best bidder for the item.

4.10.2 Award for the line item shall be made to the bidder whose item meets specifications and who is the lowest responsive bidder for the item.

4.10.3 Other factors that affect the determination of the lowest priced responsive bidder include consideration of the Missouri Service-Disabled Veteran Business Preference explained in the paragraphs that follow.

4.10.4 Determination of Lowest Priced Bidder including Consideration of Preferences - After completing the cost evaluation and determining preference bonus points, the bidder with the most points is considered the lowest bidder. Total points shall be computed for the total evaluated bid price as follows:

Total Assigned Cost Points + Earned Preference Points = Total Points

4.10.5 The Department reserves the right to reject any bid which is determined unacceptable for reasons which may include but are not necessarily limited to: 1) failure of the bidder to meet mandatory general performance specifications; and/or 2) failure of the bidder to meet mandatory technical specifications; and/or, 3) receipt of any information, from any source, regarding delivery of unsatisfactory product or service by the bidder within the past three years. As deemed in its best interests, the Department reserves the right to clarify any and all portions of any bidder's offer.

4.11 Missouri Service-Disabled Veteran Business Enterprise Preference:

4.11.1 Pursuant to section 34.074 RSMo, and 1 CSR 40-1.050, a three (3) bonus point preference shall be granted to bidders who qualify as Missouri service-disabled veteran business enterprise and who complete and submit **EXHIBIT B,** Missouri Service-Disabled Veteran Business Enterprise Preference with the bid. If the bid does not include the completed **EXHIBIT B** and the documentation specified on **EXHIBIT B** in accordance with the instructions provided therein, no preference points will be applied.

a. If the lowest priced bid qualifies for the preference, or in the event no bidders qualify for the preference, no further calculation is necessary.

4.12 Other Bid Submission Requirements:

4.12.1 Miscellaneous Information – The bidder should complete and submit **EXHIBIT C**, Miscellaneous Information.

4.12.2 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) 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 Department. The compliance to conduct business in the state shall include but may not be limited to:

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

END OF SECTION FOUR: BID SUBMISSION, EVALUATION, AND AWARD INFORMATION

EXHIBIT A, Pricing Page

The bidder must state only one firm fixed price for the line item delivered FOB Destination Prepaid and Allowed to the D25CSC. **If bidding multiple brands** for the item, it is requested bidders make a copy of **EXHIBIT A**, Pricing Page to use for each alternate bid and clearly mark the pages "alternate bid #1, alternate bid #2", etc. Prices quoted shall be considered firm and fixed throughout the contract period. The bidder shall conform to the specifications contained herein.

LINE ITEM	QUANTITY	UNIT	FIRM, FIXED PRICE
001 – Commercial 200 Gallon Hot Water Storage Tank **Niles model JS-32-200-2 1/2" or** **Bradford White model M-3-ST-200RSA** **(or functional equivalent)**	1	Each	$
Please state brand and model being bid:			
	Please state that product bid meets each specification below:		
Mandatory Specifications: • **ASME Code Construction** • **200 Gallon Verticle Steel Tank** • **Glass Lined and Jacketed** • **Needs to include Temperature Pressure Safety Valve** • **Brass Drain Valve** • **Two Protective Magnesium Anode Rods installed in separate head couplings** • **Bolted Hand Hold Cleanout**			

Delivery:

Delivery must be completed within thirty (30) calendar days after the receipt of a properly executed order. The bidder should state the number of calendar days for delivery after receipt of order: _____.

Warranty:

The bidder should state if a warranty is provided. The warranty shall commence upon delivery and acceptance of the equipment/supplies by the Department.

Warranty type and length:_____

Bidder's Acceptance of the State Purchasing Card (Visa):

The bidder should indicate agreement/disagreement to allow the Department to make purchases using the state purchasing card (Visa). If the bidder agrees, the bidder shall be responsible for all service fees, merchant fees and/or handling fees. Furthermore, the bidder shall agree to provide the items/services at the prices stated herein:

Agreement _____ Disagreement _____

EXHIBIT A, Pricing Page continued on next page

EXHIBIT A Pricing Page (Continued)

Terms:

The bidder should state below its discount terms offered for the prompt payment of invoices:

_____% if paid within _____days of receipt of invoice

Web Site:

The bidder should state web site address if online invoicing is available: _____

By signing below, the bidder hereby declares understanding, agreement and certification of compliance to provide the item(s) at the prices quoted, in accordance with all requirements and specifications contained herein and in accordance with the Terms and Conditions. The bidder further agrees that the language of this RFQ shall govern in the event of a conflict with his/her bid.

Company Name: _____

Printed Name: _____ Email: _____

Authorized Signature: _____ Date: _____

EXHIBIT B

Missouri Service-Disabled Veteran Business Enterprise Preference

Pursuant to section 34.074, RSMo, and 1 CSR 40-1.050, the Missouri Department of Corrections 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).

STANDARDS:

The following standards shall be used by the Missouri Department of Corrections in determining whether an individual, business, or organization qualifies as an SDVE:

- 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;

- Having 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. (An SDV is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.);

- Having the management and daily business operations controlled by one (1) or more SDVs;

- Having a copy of the SDV's award letter from the Department 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

- Possessing the power to make day-to-day as well as major decisions on matters of management, policy, and operation.

If a bidder meets the standards of a qualified SDVE as stated above, and unless previously submitted within the past five (5) years to the Missouri Department of Corrections or to the Office of Administration, Division of Purchasing and Materials Management (DPMM), the bidder **must** provide the following SDV documents to receive the Missouri SDVE three (3) bonus point preference.

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

(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.)

EXHIBIT B continued on next page.

EXHIBIT B (continued)

Missouri Service-Disabled Veteran Business Enterprise Preference

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business enterprise as defined in section 34.074, RSMo. I further certify that I meet the standards of a qualifying SDVE as listed herein pursuant to 1 CSR 40-1.050.

Service-Disabled Veteran's Name (Please Print)	Service-Disabled Veteran Business Enterprise Name
Service-Disabled Veteran's Signature	Missouri Address of Service-Disabled Veteran Business Enterprise
Phone Number	Website Address
Date	E-Mail Address

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

❒ No, I have not previously submitted the SDV documents specified herein 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 herein 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/C**ontract 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/purchasing/vendor-information/missouri-service-disabled-veteran-business-enterprise-sdve-information , 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.)

FOR STATE USE ONLY

SDV's Documents - Verification Completed By:

Procurement Officer	Date

EXHIBIT C
Miscellaneous Information

Employee Bidding/Conflict of Interest

Bidders who are elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, service in an executive or administrative capacity, must comply with sections 105.450 to 105.458, RSMo, regarding conflict of interest. If the bidder or any owner of the bidder's organization is curently an elected or appointed offical or an employee of the State of Missouri or any political subdivision thereof, please provide the following information	
Name and title of elected or appointed official or employee of the state of Missouri or any political subdivision thereof:	
If employee of the State of Missouri or political subdivision thereof, provide name of Department or political sibdivision where employed:	
Percentage of owndership interest in bidder's organization held by elected or appointed official or employee of the State of Missouri or political subdivision thereof:	_____%

Missouri Secretary of State/Authorization to Transact Business

In accordance with section 351.572.1, RSMo, the Department is precluded from contracting with a vendor or its affiliate who is not authorized to transact business in the State of Missouri. Bidders must either be registered with the Missouri Secretary of State, or exempt per a specific exemption stated in section 351.572.1, RSMo. (http://www.moga.mo.gov/mostatutes/stathtml/35100005721.html)	
If the bidder is registered with the Missouri Secretary of State, the bidder shall state legal name or charter number assigned to business entity	Legal Name: _____ Missouri State Charter # _____
If the bidder is not required to be registered with the Missouri Secretary of State, the bidder shall state the specific exemption stated per section 351.572.1, RSMo.	State specific exemption _____ (List section and paragraph number) Stated in section 351.572.1 RSMo, _____ (State Legal Business Name)

STATE OF MISSOURI
DEPARTMENT OF CORRECTIONS

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. **1 CSR 40-1 (Code of State Regulations)** refers to the rule that provides the public with a description of the Division of Purchasing and Materials Management within the Office of Administration. This rule fulfills the statutory requirement of section 536.023(3), RSMo.
b. **Agency and/or Department** means the Missouri Department of Corrections.
c. **Amendment** means a written, official modification to a RFQ or to a contract.
d. **Attachment** applies to all forms which are included with a RFQ to incorporate any informational data or requirements related to the performance requirements and/or specifications.
e. **Bid Target Date and Time** and similar expressions mean the deadline required by the RFQ for the receipt of bids.
f. **Bidder** means the person or organization that responds to a RFQ by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the RFQ document.
g. **Buyer or Buyer of Record** means the procurement staff member of the Department. The **Contact Person** as referenced herein is usually the Buyer of Record.
h. **Contract** means a legal and binding agreement between two or more competent parties for consideration for the procurement of equipment, supplies, and/or services.
i. **Contractor** means a person or organization who is a successful bidder as a result of a RFQ and who enters into a contract.
j. **Exhibit** applies to forms which are included with a RFQ for the bidder to complete and submit with the bid prior to the specified target date and time.
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 Exhibit 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. **Request for Quotation (RFQ)** means the solicitation document issued by the Department 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 Exhibits, Attachments, and Amendments.
o. **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 procurement operations of the Department.
p. **Shall** has the same meaning as the word **must**.
q. **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 Department.
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. CONTRACT ADMINISTRATION

a. All contractual administration will be carried out by the Buyer of Record or authorized Department Purchasing Section Designee. Communications pertaining to contract administration matters will be addressed to: Department of Corrections, Purchasing Section, PO Box 236, Jefferson City, MO 65102.
b. The Buyer of Record/authorized designee is the only person authorized to approve changes to any of the requirements of the contract.

4. 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 Department if any language, specifications, requirements or evaluation process of a 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 of Record of the Department, 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 (5) 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 Department 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 Department 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. Some RFQ's are available for viewing and downloading on the Department's website.
f. The Department reserves the right to officially amend or cancel a RFQ after issuance.

5. 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. 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 RFQ.
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 a RFQ, 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 RFQ which is affected by this paragraph. The statutory limitations and prohibitive clauses may be requested to be clarified in writing by the Department or be accepted without further clarification if statutory limitations and prohibitive clauses are deemed acceptable by the Department. If the Department 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 RFQ.
f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the RFQ clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
g. Prices shall include all packing, handling and shipping charges and shall be delivered to the Department's designated destination FOB destination, freight prepaid and allowed unless otherwise specified in the RFQ.

h. Bids, including all pricing 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.
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.

6. SUBMISSION OF BIDS

a. Bids may be submitted by a delivered hard copy, by fax to the Department's Purchasing office or by scanning, attaching as a document, and emailing to the email address provided on the RFQ. All bids must be submitted by a duly authorized representative of the bidder's organization, contain all information required by the RFQ, and be priced as required. Bidders are cautioned that bids submitted via the USPS, including first class mail, certified mail, Priority Mail and Priority Mail Express, are routed through the Office of Administration Central Mail Services and the tracking delivery time and date may not be the time and date received by the Department's Purchasing office. Regardless of delivery method, it shall be the responsibility of the bidder to ensure their bid is in the Department's Purchasing office prior to the target date and time specified in the RFQ. Bids with electronic signatures will not be accepted.
b. The envelope or container containing a bid should be clearly marked on the outside with the official RFQ number ***and*** the official target date and time. Scanned and emailed bids should clearly mark the RFQ number and target date and time in the subject line of the email. Different bids should not be placed in the same envelope, fax or scanned email; however, copies of the same bid may be placed in the same envelope, fax or scanned email.
c. A bid which has been delivered to the Department's Purchasing office may be modified by a signed, written notice which has been received by the Department's Purchasing officer 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 Department's Purchasing 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 Department's Purchasing office 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 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. Bidders 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 the RFQ terms and conditions. Failure to do so may result in the rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.

7. 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.

8. EVALUATION/AWARD

a. Any clerical error, apparent on its face, may be corrected by the Buyer of Record before contract award. Upon discovering an apparent clerical error, the Buyer of Record 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 Department 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 Department. However, unless otherwise specified in the RFQ, pricing shall be evaluated at the maximum potential financial liability to the Department.
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 a RFQ, the Department reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the Department reserves the right to waive any minor irregularity or technicality found in any individual bid.
f. The Department reserves the right to reject any and all bids.
g. When evaluating a bid, the Department reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from a 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 Department to the successful bidder. The Department 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 the Department based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the Department.
j. All bids and associated documentation submitted will be considered open records pursuant to section 610.021 RSMo.
k. The Department 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 if requested.
l. The Department 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 (10).
n. The final determination of contract award(s) shall be made by the Department.

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 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) the Department'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 Department 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 Department, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the Department.
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 Department, 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. 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. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFQ.
d. The Department 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 Department's rejection and shall be returned to the contractor at the contractor's expense.
e. All invoices for equipment, supplies, and/or services purchased by the Department shall be subject to late payment charges as provided in section 34.055 RSMo.
f. The Department reserves the right to purchase goods and services using the State purchasing card.

11. DELIVERY

a. 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.
b. A Missouri Uniformed law Enforcement System (MULES) background check may be required on the contractor's delivery driver prior to allowing a delivery vehicle entrance to certain institutions. A valid Missouri driver's license is required from the driver to perform the MULES background check. If the driver does not have a valid Missouri driver's license, their social security number and date of birth are required. If a driver or carrier refuses to provide the appropriate information to conduct a MULES background check, or if information received from the background check prohibits the driver from entering the institution, the delivery will be refused. Additional delivery costs associated with re-deliveries or contracting with another carrier for delivery shall be the responsibility of the contractor.
c. Unless a pallet exchange is requested at the time of delivery, all pallets used in the delivery of equipment and supplies shall become property of the Department.

12. INSPECTION AND ACCEPTANCE

a. No equipment, supplies, and/or services received by the Department pursuant to a contract shall be deemed accepted until the Department 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 Department 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 Department'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 Department, (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 Department'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 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. CONTRACTOR STATUS

a. The contractor represents itself to be an independent contractor offering such services to the general public and shall not represent itself to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss, costs (including attorney fees), and damage of any kind related to such matters.

16. REMEDIES AND RIGHTS

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the Department of any existing or future right and/or remedy available by law in the event of any claim by the Department 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 Department 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 Department.

17. SEVERABILITY

a. If any provision of this contract or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this contract which can be given effect without the invalid provisions or application, and to this end the provisions of this contract are declared to be severable.

18. CANCELLATION OF CONTRACT

a. In the event of material breach of the contractual obligations by the contractor, the Department may cancel the contract. At its sole discretion, the Department 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 Department 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 Department will issue a notice of cancellation terminating the contract immediately. If it is determined the Department improperly cancelled the contract, such cancellation shall serve as notice of termination for convenience in accordance with the contract.
c. If the Department cancels the contract for breach, the Department 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 Department deems appropriate and charge the contractor for any additional costs incurred thereby.
d. The contractor understands and agrees that if the funds required to fund the contract are appropriated by the General Assembly of the State of Missouri, the contract shall not be binding upon the Department for any contract period in which funds have not been appropriated, and the Department shall not be liable for any costs associated with termination caused by lack of appropriations
e. If the Department has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Department shall declare a breach and cancel the contract immediately without incurring any penalty.

19. TERMINATION OF CONTRACT

a. The Department reserves the right to terminate the contract at any time for the convenience of the Department, without penalty or recourse, by giving notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the Department pursuant to the contract prior to the effective date of termination.

20. ASSIGNMENT OF CONTRACT

a. The contractor shall neither assign nor transfer any of the rights, interests, or obligations of the contract without the prior written consent of the Department.

21. COMMUNICATIONS AND NOTICES

a. Any notice to the contractor shall be deemed sufficient when e-mailed to the contractor at the e-mail address indicated in the contract, or transmitted by facsimile to the facsimile number indicated in the contract, or deposited in the United States mail, postage prepaid, and addressed to the contractor at the address indicated in the contract, or hand-carried and presented to an authorized employee of the contractor.
b. If the contractor desires to receive written notices at a different e-mail address, facsimile number, or USPS address than what is indicated in the contract, the contractor must submit this request in writing upon notice of award.

22. FORCE MAJEURE

a. The contractor shall not be liable for any excess costs for delayed delivery of goods or services to the Department if the failure to perform the contract arises out of causes beyond the control of, and without the fault or negligence of, the

contractor. Such causes may include, however are not restricted to: acts of God, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes. In all cases, the failure to perform must be beyond the control of, and without the fault or negligence of, either the contractor or any subcontractor(s). The contractor shall take all possible steps to recover from any such occurrences.

23. CONTRACT EXTENSION

a. In the event of an extended re-procurement effort and the contract's available renewal options have been exhausted, the Department reserves the right to extend the contract. If exercised, the extension shall be for a period of time as mutually agreed to by the Department and the contractor at the same terms, conditions, provisions, and pricing in order to complete the procurement process and transition to a new contract.

24. INSURANCE

a. The State of Missouri cannot save and hold harmless and/or indemnify the contractor or its employees against any liability incurred or arising as a result of any activity of the contractor or 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 his contract.

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

26. INVENTIONS, PATENTS AND COPYRIGHTS

a. The contractor shall defend, protect, and hold harmless the Department, 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.

27. CONTRACTOR PROPERTY

a. Upon expiration, termination or cancellation of a contract, any contractor property left in the possession of the Department after forty-five (45) calendar days shall become property of the Department.

28. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

a. 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:
   1. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
   2. The identification of a person designated to handle affirmative action;
   3. 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;
   4. The exclusion of discrimination from all collective bargaining agreements; and
   5. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.
b. If discrimination by a contractor is found to exist, the Department shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the Department 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.

29. AMERICANS WITH DISABILITIES ACT

a. 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).

30. FILING AND PAYMENT OF TAXES

a. 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, bidders' failure to maintain compliance with chapter 144 RSMo may eliminate their bid(s) from consideration for award.

31. TITLES

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

Revised 08/07/2014