INVITATION FOR BID

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

IFB 16709204

Sabre Red Cell Buster Pepper Spray

FOR

Department of Corrections
Division of Adult Institutions
Various Locations

Contract Period:
Date of Award through One Year

Date of Issue: May 3, 2016

Buyer of Record:
Steven W. Beeson
Procurement Officer I
Telephone: (573) 526-6590
steven.beeson@doc.mo.gov

Bids Must Be Received No Later Than:

2:00 p.m., Thursday, June 2, 2016

SEALED bids must be delivered to the Missouri Department of Corrections, Purchasing Section, 2729 Plaza Drive, Jefferson City, MO 65109, or P.O. Box 236, Jefferson City, Missouri 65102. The bidder should clearly identify the IFB number on the lower right or left-handed corner of the container 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 and further agree that when this document is countersigned by an authorized official of the Missouri Department of Corrections, a binding contract, as defined herein, shall exist. 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: _____

Authorized Signer's Printed Name and Title: _____

Authorized Signature: _____ Bid Date: _____

NOTICE OF AWARD:

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

Contract No.

_____ _____
Dave Dormire, Division Director, Division of Adult Institutions Date

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

TABLE OF CONTENTS

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

Section 1. Introduction and General Information
Section 2. Performance Requirements
Section 3. General Contractual Requirements
Section 4. Bid Submission, Evaluation, and Award Information
Exhibit A: Pricing Page
Exhibit B: Missouri Service-Disabled Veterans Business Enterprise Preference
Exhibit C: Miscellaneous Information
Terms and Conditions
Attachment 1 Listing of Delivery Locations

END OF TABLE OF CONTENTS

1. INTRODUCTION AND GENERAL INFORMATION

This section of the IFB includes a brief introduction and background information about the intended 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 The Missouri Department of Corrections (hereinafter referred to as the Department) is accepting competitive, sealed bids to establish a contract for the purchase of Sabre Red Cell Buster Pepper Spray on an as needed basis for the Division of Adult Institutions in accordance with the requirements and provisions stated herein.

1.2 Vendor Information:

1.2.1 The Missouri Department of Corrections, Purchasing Section, is transitioning to the new MissouriBUYS eProcurement system. All vendors that sell products or services to the state, new or existing, will be required to register or re-register on the MissouriBUYS website at https://missouribuys.mo.gov. Please note that there are written instructions located on the "Register" tab as well as a Vendor Training Video.

1.3 Questions Regarding the IFB:

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

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

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

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

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

1.4 General Information:

1.4.1 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
- Submission of Bids
- Preparation of Bids
- Evaluation and Award

1.5 Background Information:

1.5.1 The Division of Adult Institutions is responsible for management of the state's 22 correctional centers.

1.5.2 Although an attempt has been made to provide accurate and up-to-date information, the Department does not warrant or represent that the background information provided herein reflects all relationships or existing conditions related to the IFB.

END OF SECTION ONE: INTRODUCTION AND GENERAL INFORMATION

2. PERFORMANCE REQUIREMENTS

This section of the IFB 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 IFB. The bidder's response, whether responding to a mandatory requirement or a desired attribute will be binding upon the bidder in the event the bid is accepted by the Department.

2.1 General Requirements:

2.1.1 The contractor shall provide Sabre Red Cell Buster Pepper Spray on an as needed basis as specified herein and as ordered by the Department. The contractor must comply with all mandatory requirements and specifications presented herein pertaining to the provision of Sabre Red Cell Buster Pepper Spray.

2.2 Performance Requirements:

2.2.1 The required specifications are listed on **EXHIBIT A,** Pricing Page. The item bid must meet or exceed all of the minimum required specifications.

2.3 Delivery Requirements:

2.3.1 The item awarded under this IFB must be available for delivery to all institutions listed on **ATTACHMENT 1**.

2.3.2 Orders shall be placed by the institution. The contractor must begin accepting orders upon notice of award. Orders must be delivered to the ordering institutions within **twenty (20) business days** upon receipt of an authorized purchase order or state purchasing card transaction notice. All orders received on the last day of the contract must be shipped at the contract price.

2.3.3 Delivery shall include unloading shipments at the Department dock or other designated unloading site(s) as requested by the Department. **All orders must be shipped FOB Destination, Freight Prepaid and Allowed.**

2.3.4 Deliveries shall be made as requested by the ordering institution. **The contractor must coordinate its delivery schedule with the ordering institution.** Any change in delivery schedule must be approved by the ordering institution a minimum of twenty-four (24) hours in advance prior to the implementation date of such change. Institutions have specific times that deliveries can be accepted. A delivery arriving during a time the institution 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://content.oa.mo.gov/personnel/state-employees/hours-work-overtime-and-holidays.

2.4 Invoicing and Payment Terms:

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

2.4.2 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.

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

2.4.4 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

2.4.5 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.

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

2.4.7 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.

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

2.4.9 Other than the payments and reimbursements 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.

2.5 Brand

2.5.1 Only the brand listed on **EXHIBIT A,** Pricing Page will be accepted.

2.6 Minimum Orders:

2.6.1 There shall be no minimum order requirements for the item.

END OF SECTION 2: PERFORMANCE REQUIREMENTS

3. GENERAL CONTRACTUAL REQUIREMENTS

This section of the IFB includes the general contractual requirements and provisions that shall govern the contract after IFB award. The contents of this section include mandatory provisions that must be adhered to by the 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 IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (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 IFB 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.

d. Expenditures from this contract shall not exceed $24,999.99.

3.1.2 Contract Period - The original contract period shall be as stated on page one (1) of the IFB. The contract shall not bind, nor purport to bind, the Department for any contractual commitment in excess of the original contract period. The Department shall have the right, at its sole option, to renew the contract for two (2) additional twelve (12) month periods or any portion thereof. In the event the Department exercises such right, all terms and conditions, requirements, and specifications of the contract shall remain the same and apply during the renewal period pursuant to applicable option clauses of this document.

3.1.3 Renewal Periods - If the Department exercises its option for renewal, the contractor shall agree that the prices for the renewal period shall not exceed the maximum percentage increase or be less than the minimum percentage decrease quoted for the applicable renewal period as stated on **EXHIBIT A**, Pricing Page, of the contract.

a. As stated on **EXHIBIT A**, Pricing Page, all increases or decreases shall be calculated against the **ORIGINAL** contract price and **NOT** against the previous year's price.

b. If renewal percentages are not provided, the price during the renewal period shall be the same as during the original contract period.

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

renewal period(s). If such action is necessary and the contractor rejects the decrease, the contract may be terminated, and a new procurement process may be conducted.

3.1.4 Contract Price – The price shall be as stated 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. 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 IFB.

3.1.5 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.

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

a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.

3.1.7 Insurance - The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. General and other non-professional liability insurance shall include an endorsement that adds the State of Missouri as an additional insured. Self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and the State of Missouri is protected as an additional insured.

a. In the event the insurance coverage is canceled, the Department must be notified within thirty (30) calendar days.

3.1.8 Contractor’s Employees - The contractor and all of the contractor’s employees and agents providing service 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 institution shall have the right to deny access into the institution 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/or 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.

(1) 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/or consensual sex.

a. Any contractor or contractor’s employee or agent who witnesses any form of sexual misconduct must immediately report it to the warden of the institution. 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 institution and shall be reported to law enforcement agencies and licensing bodies, as appropriate.

d. 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.

e. If any contractor or contractor’s employee or agent is denied access into the institution 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.

3.1.9 Subcontractors - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the 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.

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

b. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.

3.1.10 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.

3.1.11 Order Quantity - The quantity indicated in this IFB is an estimate that pertains to the total aggregate quantity that may be ordered throughout the stated contract period. This estimate does not indicate single order amounts unless otherwise stated. The Department makes no guarantees about single order quantities or the total aggregate order quantity.

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

a. In the event the 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 Department 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 Department acquiring the substitute item under the contract.

d. The Department may choose not to compel an item substitution in the event requiring a substitution would be deemed unreasonable in the sole opinion of the Department. 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.

3.1.13 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.

3.1.14 Delivery Performance -The contractor and/or the contractor's subcontractor(s) shall deliver products in accordance with the contracted delivery requirements stated herein to the Department.

a. Delays in Delivery Performance - If at any time the contractor should encounter conditions impeding delivery of the 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 3.1.14 a.

3.1.15 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.

3.1.16 Participation by Other Organizations: The contractor must comply with any Service-Disabled Veteran Business Enterprise (SDVE) 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 SDVEs participating in the contract for the reporting period. The contractor must submit the report on a monthly basis, unless otherwise determined by the Department.

b. The Department will monitor the contractor's compliance in meeting the SDVE 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 state may cancel the contract and/or suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the participation commitment less actual payments made by the contractor to the participating entity. If the 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 SDVEs 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 Submission of Bids:

4.1.1 The bidder should include the original bid, completed exhibits, forms, and other information concerning the bid, including completed Pricing Page(s), with the bid.

a. Bids must be signed and returned with all necessary attachments to the Purchasing Section by the bid date and time as stated on the first page of this IFB. Specifically, **any** form containing a signature line such as page 1 of the original IFB and any amendments thereafter, **EXHIBIT A,** Pricing Page, etc., shall be manually signed and returned as part of the bid.

b. Recycled Products - The Department recognizes the limited nature of our resources and the leadership role of government agencies in regard to the environment. Accordingly, the bidder is requested to print the bid double-sided using recycled paper, if possible, and minimize or eliminate the use of non-recyclable materials such as plastic report covers, plastic dividers, vinyl sleeves, and binding. Lengthy bids may be submitted in a notebook or binder.

4.1.2 Open Records – Pursuant to section 610.021, RSMo, the bid shall be considered an open record after the contract is awarded. Therefore, the bidder is advised not to include any information that the bidder does not want to be viewed by the public, including personal identifying information such as social security numbers.

a. In preparing a bid, the bidder should be mindful of document preparation efforts for imaging purposes and storage capacity that will be required to image the bids and should limit bid content to items that provide substance, quality of content, and clarity of information.

b. Additionally, after a contract is executed, the contract is scanned into the Department's imaging system. The scanned information will be available for viewing through the Internet at http://doc.mo.gov/DHS/Contracts.php .

4.1.3 Contact – Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc. related to the bid document must be referred to the Buyer of Record identified on the first page of this document. Such communication should be received at least ten calendar days prior to the official bid opening date.

4.1.4 Compliance with Terms and Conditions – The bidder is cautioned when submitting pre-printed terms and conditions or other type material to make sure such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements. The bidder agrees that in the event of conflict between any of the bidder's terms and conditions and those contained in the IFB that the IFB shall govern. Taking exception to the Department's terms and conditions may render a bidder's bid nonresponsive and remove it from consideration for award.

4.1.5 Bid Detail Requirements and Deviations - The bidder is cautioned when submitting pre-printed terms and conditions or other type material to make sure such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements. The bidder agrees that in the event of conflict between any of the bidder's terms and conditions and those contained in the IFB the IFB shall govern. Taking exception to the Department's terms and conditions may render a bidder's bid nonresponsive and remove it from consideration for award.

4.1.6 Preprinted Marketing Materials - 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 Department.

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 that the product meets the Department's mandatory requirements. In the event this information is not submitted with the bid, the Buyer of Record may, but is not required to, seek written clarification from the bidder to provide assurance that the product bid meets specifications.

4.2 Evaluation and Award Process:

4.2.1 After determining that a bid satisfies the mandatory requirements stated in the IFB, the evaluator shall use objective analysis in conducting a comparative assessment of the bid(s). The contract shall be awarded to the lowest and best bidder.

4.2.2 The evaluation shall include the original contract period plus the renewal periods. The estimated quantity shall be taken into consideration to compute the total price for the original contract period and renewal periods for the line item.

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

4.3 Evaluation of Cost:

4.3.1 The bidder must submit a firm fixed price on **EXHIBIT A**, Pricing Page. Price shall be quoted FOB Destination Freight Prepaid and Allowed.

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

4.3.2 The objective evaluation of cost shall be based on the firm fixed price stated on **EXHIBIT A,** Pricing Page.

a. For evaluation purposes only, the initial contract period cost for the line item will be calculated by multiplying the individual cost by the estimated quantity.

b. A cost for each renewal period will be calculated in the same manner as indicated in paragraph 4.3.2 a. The total cost of the initial contract period and each renewal period will be added together to arrive at the total bid price.

c. The bidder shall agree and understand that the quantity used in the evaluation of cost is provided solely to document how cost will be evaluated. The Department makes no guarantee regarding the accuracy of the quantity stated, nor does the Department intend to imply that the figure used for the cost evaluation in any way reflects either actual or anticipated usage.

d. 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

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

4.4 Determination for Award:

4.4.1 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.

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

4.4.3 Another factor that affects the determination of the lowest priced responsive bidder includes consideration of the Missouri Service-Disabled Veteran Business Preference explained in the paragraph that follows.

4.4.4 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

4.4.5 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.

4.5 Missouri Service-Disabled Veteran Business Enterprise Preference:

4.5.1 Missouri Service-Disabled Veteran Business Preference - 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 enterprises 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.

4.6 Other Bid Submission Requirements:

4.6.1 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)

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

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

EXHIBIT A, Pricing Page

The bidder must state **only one** firm fixed price delivered FOB Destination Freight Prepaid and Allowed to all institutions listed on **ATTACHMENT 1** for the line items bidding. Prices quoted shall be considered firm and fixed throughout the contract period. The bidder shall conform to the specifications contained herein.

LINE ITEM	**ESTIMATED QUANTITY**	UNIT	FIRM, FIXED PRICE
001 – Sabre Red 1.33% MC 18.5 oz Cell Buster w/Hose & Wand Attachment (MK-9) SKU: 920060-W	65	EA	$

Renewal Option Pricing - The bidder must indicate below the maximum allowable percentage of price increase or guaranteed minimum percentage of price decrease applicable to the above pricing for the renewal option years. If a percentage is not stated (e.g. left blank, page not returned, etc.), the Department shall have the right to execute the option at the same price(s) stated for the original contract period. Statements such as "a percentage of the then-current price" or "consumer price index" are NOT ACCEPTABLE.

All increases or decreases shall be calculated against the ***original*** contract price, **not** against the previous year's price. A cumulative calculation shall not be utilized.

Potential Renewal Period	**Maximum Increase**		**Minimum Decrease**
First Renewal Period	Original Price + _____%	or	Original Price - _____%
Second Renewal Period	Original Price + _____%	or	Original Price - _____%

~ Do not complete both a maximum increase and a minimum decrease for the same renewal period. ~

Delivery: The required delivery is twenty (20) business days after receipt of a properly executed order. If bidder's delivery is different, the bidder should state delivery in days after receipt of order: _____days ARO.

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 _____

Terms:

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

_____% if paid within _____days of receipt of invoice

EXHIBIT **A**, Pricing Page continued on the next page

EXHIBIT **A**, Pricing Page continued

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 at the price 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 IFB shall govern in the event of a conflict with his/her bid.

Company Name: _____

Printed Name: _____ Email: _____

Authorized Signature: _____ Date: _____

END OF EXHIBITA, Pricing Page

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.);

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

b. 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

c. 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 (DP), 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 (DP) 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 (DP).

Date SDV Documents were Submitted: _____

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

(NOTE: If the SDVE and SDV are listed on the DP SDVE database located at http://oa.mo.gov/sites/default/files/sdvelisting.pdf , then the SDV documents have been submitted to the DP 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 DP will remove the SDVE and associated SDV from the database.)

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

END OF EXHIBIT B

EXHIBIT C

Miscellaneous Information

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)

Employee Bidding/Conflict of Interest

If the bidder and/or any of the owners of the bidder's organization are currently an employee of the State of Missouri, a member of the General Assembly, or a statewide elected official, please provide the following information.

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

END OF EXHIBIT C

STATE OF MISSOURI
MISSOURI DEPARTMENT OF CORRECTIONS

TERMS AND CONDITIONS -- INVITATION FOR BID

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in an Invitation for Bid (IFB) document or any amendment thereto, the definition or meaning described below shall apply.

a. **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 an IFB or to a contract.
d. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications.
e. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the IFB for the receipt of sealed bids.
f. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
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 an IFB and who enters into a contract.
j. **Exhibit** applies to forms which are included with an IFB for the bidder to complete and submit with the sealed bid prior to the specified opening date and time.
k. **Invitation for Bid (IFB)** 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.
l. **May** means that a certain feature, component, or action is permissible, but not required.
m. **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.
n. **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 IFB. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid opening date and time.
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 IFB 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/INVITATION FOR BID 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 or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements or evaluation process stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the Buyer of Record of the Department, unless the IFB specifically refers the bidder to another contact. Such communication should be received at least ten (10) calendar days prior to the official bid opening date.
b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than ten (10) calendar days prior to the IFB opening date may not be answered.
c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the Department in the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
d. The 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 IFBs are available for viewing and downloading on the Department’s website.
f. The Department reserves the right to officially amend or cancel an IFB after issuance.

5. PREPARATION OF BIDS

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

6. SUBMISSION OF BIDS

a. Delivered bids must be sealed in an envelope or container, and received in the Department's Purchasing office located at the address indicated on the cover page of the IFB no later than the exact opening time and date specified in the IFB. All bids must be submitted by a duly authorized representative of the bidder's organization, contain all information required by the IFB, 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 no later than the exact opening time and date specified in the IFB.
b. The sealed envelope or container containing a bid should be clearly marked on the outside with the official IFB number ***and*** the official opening date and time. Different bids should not be placed in the same envelope; however, copies of the same bid may be placed in the same envelope.
c. A bid which has been delivered to the Department may be modified by a signed, written notice which has been received by the Department's Purchasing office prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
d. A bid 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 opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a bid shall not be honored.
e. A bid may also be withdrawn after the bid opening through submission of a written request by an authorized representative of the bidder. Justification of a 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 IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all the IFB 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.
g. Faxed and e-mailed bids shall not be accepted; however, faxed and e-mail no-bid notifications shall be accepted.

7. BID OPENING

a. Bid openings are public on the opening date and time specified in the IFB document. Names, locations, and prices of respondents shall be read at the bid opening. The Department will not provide prices or other bid information via the telephone.
b. Bids which are not received in the Department's Purchasing office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late bids may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

8. 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.

9. 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 IFB, 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 IFB and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB and (3) complies with 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 IFB, 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 State of Missouri.
j. All bids and associated documentation submitted on or before the official opening date and time will be considered open records pursuant to section 610.021 RSMo.
k. The Department maintains records 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 (9).
n. The final determination of contract award(s) shall be made by the Department.

10. CONTRACT/PURCHASE ORDER

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

11. 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 IFB.
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.

12. 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 or carrier 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.

13. 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.

14. 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 IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the Department's acceptance of or payment for said equipment, supplies, and/or services.

15. CONFLICT OF INTEREST

a. Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454 RSMo regarding conflict of interest.
b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

16. 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.

17. 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 Department 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.

18. 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.

19. 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 ten (10) working days from notification, or at a minimum, the contractor must provide the Department within ten (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.

20. 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 or equipment delivered to and accepted by the Department pursuant to the contract prior to the effective date of termination.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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 the contract.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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).

31. 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 a bidder’s failure to maintain compliance with chapter 144, RSMo may eliminate their bid from consideration for award.

32. 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.

ATTACHMENT 1

ALGOA CORRECTIONAL CENTER
8501 No More Victims Rd.
Jefferson City, MO 65101
PH: 573-751-3224

BOONVILLE CORRECTIONAL CENTER
1216 East Morgan Street
Boonville, MO 65233
PH: 660-882-6521

CHILLICOTHE CORRECTIONAL CENTER
3151 Litton Road
Chillicothe, MO 64601
PH: 660-646-4032

CREMER THERAPEUTIC CENTER
689 Route O
Fulton, MO 65251
PH: 573-595-4013

CROSSROADS CORRECTIONAL CENTER
1115 E. Pence Road
Cameron, MO 64429
PH: 816-632-2727

EASTERN RECEPTION & DIAGNOSTIC CENTER
2727 Highway K
Bonne Terre, MO 63628
PH: 573-358-5516

FARMINGTON CORRECTIONAL CENTER
1012 W. Columbia
Farmington, MO 63640
PH: 573-218-7100

FULTON RECEPTION & DIAGNOSTIC CENTER
1393 Highway O
Fulton, MO 65251
PH: 573-592-4040

JEFFERSON CITY CORRECTIONAL CENTER
8416 No More Victims Road, Dock B
Jefferson City, MO 65101
PH: 573-751-3224

MOBERLY CORRECTIONAL CENTER
5201 South Morley
Moberly, MO 65270
PH: 660-263-3778

MISSOURI EASTERN CORRECTIONAL CENTER
18701 Old Highway 66
Pacific, MO 63069
PH: 636-257-3322

MARYVILLE TREATMENT CENTER
30227 US Highway 136
Maryville, MO 64468
PH: 660-582-6542

NORTHEAST CORRECTIONAL CENTER
13698 Airport Road
Bowling Green, MO 63334
PH: 573-324-9975

OZARK CORRECTIONAL CENTER
929 Honor Camp Lane
Fordland, MO 65652
PH: 417-767-4494

POTOSI CORRECTIONAL CENTER
11593 State Highway O
Mineral Point, MO 63660
PH: 573-438-6000

SOUTH CENTRAL CORRECTIONAL CENTER
255 W. Highway 32
Licking, MO 65542
PH: 573-674-4470

SOUTHEAST CORRECTIONAL CENTER
300 E. Pedro Simmons Drive
Charleston, MO 63834
PH: 573-683-4409

TIPTON CORRECTIONAL CENTER
619 N. Osage Avenue
Tipton, MO 65081
PH: 660-433-2031

WOMEN'S EASTERN RECEPTION & DIAGNOSTIC CENTER
1011 E. Highway 54, Vandalia, MO 63382
PH: 573-594-6686

WESTERN MISSOURI CORRECTIONAL CENTER
609 E. Pence Road, Cameron, MO 64429
PH: 816-632-1390

WESTERN RECEPTION & DIAGNOSTIC CORRECTIONAL CENTER
3401 Faraon Street, St. Joseph, MO 64506
PH: 816-387-2158

KANSAS CITY RE-ENTRY CENTER
651 Mulberry Street
Kansas City, MO 64106
PH: 816-842-7467