

Invitation for Bid



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

IFB931CR18096

Ice Cream, Ice Cream Novelties
For Resale in the Offender Canteen

FOR

Department of Corrections
Crossroads Correctional Center

Contract Period: July 26, 2018 through
July 25, 2019

Date of Issue: March 20, 2018
Page 1 of 34

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

Target Date and Time for Bid Submission:

Tuesday April 17, 2018 at 2:00 p.m.

Bids may be submitted electronically through MissouriBUYS only or a hard-copy bid may be submitted. Hard-copy bids must be **SEALED** and 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.

The undersigned hereby declares understanding, agreement, and certification of compliance to provide the items and/or services at the prices stated, pursuant to the requirements and specifications contained herein. The undersigned further agrees that when an authorized official of the Missouri Department of Corrections countersigns this document, a binding contract, as defined herein, shall exist between the contractor and the Department of Corrections. The authorized signer of this document certifies the contractor (named below) and each of its principles are not suspended or debarred by the federal government.

Company Name: Performance Food Group, Inc. dba VISTAR dba Jenny Service

Mailing Address: 150 E Greg St Suite 101

City, State, Zip: Sparks, NV 89431

Telephone: 775-358-8585

Fax: 775-358-6767

MissouriBUYS System ID 86019

Email: bids@jennyservice.co

Authorized Signer's Printed Name and Title: Sean Mahoney, VP of Sales

Authorized Signature: *Sean C. Mahoney*

Date: 4/16/18

NOTICE OF AWARD: This bid is accepted by the Missouri Department of Corrections as follows.
Contract No.

In its entirety.
CR1809601

Susan Pulliam

Susan D. Pulliam, Chief Financial Officer, Division of Human Services

Date: 4-23-18

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

EXHIBIT A, Pricing Page

The bidder must state only one firm fixed price for all line items delivered FOB Destination Prepaid and Allowed to the CRCC. Prices quoted shall be considered firm and fixed throughout each contract period.

LINE ITEMS 001-005 - BID ALL OR NONE

LINE ITEM	ESTIMATED ANNUAL QUANTITY	DESCRIPTION	PINTS PER CASE		FIRM FIXED CASE PRICE
001	312 Cases (Estimated quantity based on 8 pints per case)	Chocolate Ice Cream Pint Size Only Brand: <u>Blue Bunny</u> Name of Chocolate Flavor Bid: <u>Chocolate</u> UPC: <u>10070640002945</u> Kosher, Halal or Both? _____ (K, H, B)	8	Original Contract Period Price	\$ 13.29
				1 st Renewal Period Price	\$ 13.56
				2 nd Renewal Period Price	\$ 13.83
				3 rd Renewal Period Price	\$ 14.11
002	375 Cases (Estimated quantity based on 8 pints per case)	Vanilla Ice Cream Pint Size Only Brand: <u>Blue Bunny</u> Name of Vanilla Flavor Bid: <u>Vanilla Bean</u> UPC: <u>10070640002941</u> Kosher, Halal or Both? _____ (K, H, B)	8	Original Contract Period Price	\$ 13.29
				1 st Renewal Period Price	\$ 13.56
				2 nd Renewal Period Price	\$ 13.83
				3 rd Renewal Period Price	\$ 14.11
003	288 Cases (Estimated quantity based on 8 pints per case)	Strawberry Ice Cream Pint Size Only Brand: <u>Blue Bunny</u> Name of Strawberry Flavor Bid: <u>Double Strawberry</u> UPC: <u>10070640040756</u> Kosher, Halal or Both? _____ (K, H, B)	8	Original Contract Period Price	\$ 13.29
				1 st Renewal Period Price	\$ 13.56
				2 nd Renewal Period Price	\$ 13.83
				3 rd Renewal Period Price	\$ 14.11

EXHIBIT A, Pricing Page continued on next page.

EXHIBIT A, Pricing Page (Continued)

LINE ITEM	ANNUAL ESTIMATED QUANTITY	DESCRIPTION	BOXES PER CASE	INDIVIDUAL SANDWICHES PER BOX	OUNCES PER SANDWICH	FIRM FIXED CASE PRICE
004	208 Cases (Estimated quantity based on 2 boxes per case at 12 items per box, estimated oz. per item = 4 oz.)	Vanilla Ice Cream Sandwiches Brand: <u>Blue Bunny</u>	2	12	4.25	
		State Expiration Date Format: <u>Julian</u>	Original Contract Period Price			\$ 13.18
		UPC: <u>10070640008596</u>	First Renewal Period Price			\$ 13.44
		Kosher, Halal or Both? _____ (K, H, B)	Second Renewal Period Price			\$ 13.71
			Third Renewal Period Price			\$ 13.98
LINE ITEM	ANNUAL ESTIMATED QUANTITY	DESCRIPTION	BOXES PER CASE	INDIVIDUAL CONES PER BOX	OUNCES PER CONE	FIRM FIXED CASE PRICE
005	63 Cases (Estimated quantity based on 1 box of 24 per case, estimated oz. per item = 4 oz.)	Vanilla Sundae Cones Brand: <u>Blue Bunny</u>	1	24	4.3	
		State Expiration Date Format: <u>Julian</u>	Original Contract Period Price			\$ 13.15
		UPC: <u>10070640014122</u>	First Renewal Period Price			\$ 13.41
		Kosher, Halal or Both? _____ (K, H, B)	Second Renewal Period Price			\$ 13.68
			Third Renewal Period Price			\$ 13.96

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

The bidder should indicate agreement/disagreement to allow the Department to make purchases using the Canteen 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 X

Terms:

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

0 % if paid within 30 days of receipt of invoice

Web Site:

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

END OF EXHIBIT A

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/Contract Number for Which the SDV Documents Were Submitted: _____
(if known)

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

FOR STATE USE ONLY

SDV's Documents - Verification Completed By:

Procurement Officer

Date

END OF EXHIBIT B

EXHIBIT C
Miscellaneous Information

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:		_____ %

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 <u>2.8</u> (List section and paragraph number) Stated in section 351.572.1 RSMo, <u>Performance Food Group, Inc.</u> (State Legal Business Name)

END OF EXHIBIT C

EXHIBIT D
Manufacturers' Information

The bidder must state the manufacturer code and manufacturer product code (10 or 12 digits) for each brand and flavor bid. It is requested bidders make a copy of **EXHIBIT D** to use for additional item number manufacturers' information. For each alternate bid, clearly mark the pages "alternate bid #1, alternate bid #2," etc.



EXAMPLE (see above): Manufacturer Code = 12345 or 012345;

Manufacturer Five Digit Product Code: 67890 or 678900

Item# 001

Manufacturer Code: 10070640 Manufacturer Five Digit Product Code: 002945

Item# 002

Manufacturer Code: 10070640 Manufacturer Five Digit Product Code: 002941

Item# 003

Manufacturer Code: 10070640 Manufacturer Five Digit Product Code: 040756

Item# 004

Manufacturer Code: 10070640 Manufacturer Five Digit Product Code: 008596

Item# 005

Manufacturer Code: 10070640 Manufacturer Five Digit Product Code: 014122

END OF EXHIBIT D

Invitation for Bid



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

IFB931CR18096

**Ice Cream, Ice Cream Novelties
For Resale in the Offender Canteen**

FOR

**Department of Corrections
Crossroads Correctional Center**

**Contract Period: July 26, 2018 through
July 25, 2019**

**Date of Issue: March 20, 2018
Page 1 of 34**

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

Target Date and Time for Bid Submission:

Tuesday April 17, 2018 at 2:00 p.m.

Bids may be submitted electronically through MissouriBUYS only or a hard-copy bid may be submitted. Hard-copy bids must be **SEALED** and 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.

The undersigned hereby declares understanding, agreement, and certification of compliance to provide the items and/or services at the prices stated, pursuant to the requirements and specifications contained herein. The undersigned further agrees that when an authorized official of the Missouri Department of Corrections countersigns this document, a binding contract, as defined herein, shall exist between the contractor and the Department of Corrections. The authorized signer of this document certifies the contractor (named below) and each of its principles are not suspended or debarred by the federal government.

Company Name: _____

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Fax: _____

MissouriBUYS System ID _____

Email: _____

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. _____

Susan D. Pulliam, Chief Financial Officer, Division of Human Services

Date

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

Instructions for Submitting a Solicitation Response

The Department of Corrections is now posting some of its bid solicitation documents on the new MissouriBUYS Bid Board (<https://www.missouribuyss.mo.gov>). MissouriBUYS is the State of Missouri's web-based statewide eProcurement system which is powered by WebProcure, through our partner, Perfect Commerce.

For all bid solicitations, bidders now have the option of submitting their solicitation response either as an electronic response or as a hard copy response. As a means to save bidders the expense of submitting a hard copy response and to provide bidders both the ease and the timeliness of responding from a computer, bidders are encouraged to submit an electronic response. Both methods of submission are explained briefly below and in more detail in the step-by-step instructions provided at:

https://missouribuyss.mo.gov/pdfs/how_to_respond_to_a_solicitation.pdf.

(This document is also on the Bid Board referenced above.).

Notice: The bidder is solely responsible for ensuring timely submission of their solicitation response, whether submitting an online response or a hard copy response. Failure to allow adequate time prior to the solicitation end date to complete and submit a response to a solicitation, particularly in the event technical support assistance is required, places the bidder and their response at risk of not being accepted on time.

ELECTRONIC RESPONSES: To respond electronically to a solicitation, the bidder must first register as a vendor with MissouriBUYS by going to the MissouriBUYS Home Page (<https://missouribuyss.mo.gov>), clicking the "Register" button at the top of the page, and completing the Vendor Registration. Once registered the bidder should log back into MissouriBUYS and edit their profile by selecting the organizational contact(s) that should receive an automated confirmation of the bidder's electronic bid responses successfully submitted to the state.

To respond electronically to a solicitation, the bidder must login to MissouriBUYS, locate the desired solicitation on the Bid Board, and, at a minimum, the bidder must read and accept the Original Solicitation Documents and complete pricing and any other identified requirements. In addition, the bidder should download and save all of the Original Solicitation Documents on their computer so that they can prepare their response to these documents. Bidders should upload their completed response to these downloaded documents (including exhibits, forms, and other information concerning the solicitation) as an attachment to the electronic solicitation response. Step-by-step instructions for how a registered bidder responds to a solicitation electronically are available on the MissouriBUYS system at:

https://missouribuyss.mo.gov/pdfs/how_to_respond_to_a_solicitation.pdf.

Bidders are encouraged to submit their entire bid electronically; however in lieu of attaching exhibits, forms, pricing, etc. to the electronic solicitation response, a bidder may submit the exhibits, forms, pricing, etc. through mail or courier service. However, any such submission must be received prior to the solicitation's specified end date and time. Be sure to include the solicitation/opportunity (OPP) number, company name, and a contact name on any hard copy solicitation response documents submitted through mail or courier service.

In the event a registered bidder electronically submits a solicitation response and also mails hard copy documents that are not identical, the bidder should explain which response is valid for the state's

consideration. In the absence of such explanation, the state reserves the right to evaluate and award the response which serves its best interest.

Addendum Document: If an addendum document has been issued, please follow these steps to accept the addendum document(s).

1. If you have not accepted the original solicitation document go to the **Overview** page, find the section titled, **Original Solicitation Documents**, review the solicitation document(s) then click on the box under **Select, and** then click on the **Accept** button.
2. To accept the addendum document, on the **Overview** page find the section titled **Addendum Document**, review the addendum document(s) then click on the box under **Select, and** then click on the **Accept** button.

Note: If you submitted an electronic response prior to the addendum date and time, you should review your solicitation response to ensure that it is still valid by taking into consideration the revisions addressed in the addendum document. If a revision is needed to your solicitation response and/or to indicate your acceptance of the addendum document, you will need to retract your response and re-submit your response by following these steps:

1. Log into **MissouriBUYS**.
2. Select the **Solicitations** tab.
3. Select **View Current Solicitations**.
4. Select **My List**.
5. Select the correct **Opportunity Number (Opportunity No)**; the **Overview** page will display.
6. Click on **Review Response** from the navigation bar.
7. Click on **Retract** if your response needs to be revised.
8. A message will come up asking, "Are you sure you want to retract the Bid". Click on **Continue** to confirm.
9. Click on **Respond** and revise as applicable.
10. Click on **Review Response** from the navigation bar and then click on **Submit** to submit your response.

HARD COPY RESPONSES: Be sure to include the solicitation/opportunity (OPP) number, company name, and a contact name on any hard copy solicitation response documents.

END OF INSTRUCTIONS FOR SUBMITTING SOLICITATION RESPONSE

TABLE OF CONTENTS

This document, referred to as an Invitation for Bid (IFB), is divided into 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 Veteran Business Enterprise Preference
EXHIBIT C	Miscellaneous Information
EXHIBIT D	Manufacturer's Information

Terms and Conditions

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 This document constitutes an invitation for competitive, sealed bids from prospective bidders to establish a contract for the purchase of ice cream and ice cream novelties for the Missouri Department of Corrections (hereinafter referred to as the "Department") Crossroads Correctional Center (hereinafter referred to as CRCC) for resale in the offender canteen in accordance with the requirements and provisions stated herein.

1.2 Vendor Information:

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

1.3 General Information:

- 1.3.1 **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

- 1.3.2 **Background Information** – The Department operates offender canteens within the correctional institutions for offenders to purchase approved food, clothing, appliances, and other items. By departmental policy, the selection of items approved and available for purchase in the canteens is decided upon by committee. The committee is tasked with standardizing an approved list in order to provide uniformity in product and pricing in the canteens. Items on the approved list are competitively bid in order to obtain the best possible pricing for the Department. Once contracted, only contracted items are allowed to be sold in the canteens.

- 1.3.3 The estimated population for this correctional institution is 1,440 male offenders.

- 1.3.4 The estimated annual gross sales for all line items are \$16,731.00.

- 1.3.5 The estimated quantities are as follows:

Chocolate Ice Cream - 1185 Pints
Vanilla Ice Cream - 1423 Pints
Strawberry Ice Cream - 909 Pints

Vanilla Ice Cream Sandwiches - 1121 Sandwiches
Vanilla Sundae Cones - 1142 Cones

- 1.3.6 Expenditures from general revenue funds are not included in this contract.

1.4 Questions Regarding the IFB:

- 1.4.1 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 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.

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 items provided under the contract shall conform to all mandatory specifications, terms, conditions and requirements as stated herein. Any item not conforming to the requirements stated herein, including approved substitutions shall not be accepted and shall be returned to the contractor at the contractor's expense.
- 2.1.2 Specifications including flavor, type and size are listed on **EXHIBIT A, Pricing Page**. Each product bid must meet or exceed all of the minimum specifications required.

2.2 Required Ice Cream Specifications:

- 2.2.1 All ice cream must contain a minimum of 10% butterfat.
- 2.2.2 Flavors and Varieties – The contractor must be able to provide all of the required flavors of ice cream, and all of the required varieties of novelties at all times.
 - a. The required flavors of ice cream shall be chocolate, vanilla, and strawberry.
 - 1) The required flavors of ice cream shall contain no nuts, marshmallows, toffee, or any other additional ingredients. Strawberry flavor may contain real strawberries.
 - b. The required novelties shall be sundae cones and vanilla ice cream sandwiches.
- 2.2.3 Size of Novelties – The Department desires that novelties provided be standard vending sizes in the range of four (4) to six (6) ounces and individually packaged for resale; however, the Department is willing to accept other packaging and sizes with the minimum size being three and one-half (3.5) ounces.
- 2.2.4 All items must be fresh and quality must be equivalent to what is currently delivered to retail outlets. Outdated or short dated products will not be accepted.

2.3 Item Labeling, Shelf Life, Size and Packaging Requirements:

- 2.3.1 Labeling – The Department desires individually bar-coded items.
 - a. Line items 001-003 must be commercially packaged for resale and the label or package must bear an identifying barcode.
 - b. The Department recognizes that line items 004 and 005 are typically packaged without an individual label that bears an identifying barcode; however, if available, individually bar-coded items are desired.
 - c. Each item's label/box must bear the name of the item, nutrition facts, ingredients, net weight, date of expiration/freshness date, and lot number.
 - 1) The Department prefers expiration/freshness dating to be in month and year format; however, Julian date codes will be acceptable. If an item expresses a Julian date code, the

supplier/manufacturer must provide the formula to decode the Julian date. In addition, if the Julian date code is not an expiration/freshness date, the supplier/manufacturer must provide the manufacturer's recommended shelf life in order to determine the expiration/freshness date from the Julian date code.

- d. Package labeling, including trademarks, logos, graphics, etc., shall not depict violence, weapons, full or partial nudity, or illegal substances.
- e. All line items shall not be pre-priced.
- f. Item labels must bear the Kosher or Halal symbol on all items that are indicated as Kosher and/or Halal certified on **EXHIBIT A, Pricing Page**.

2.3.2 Shelf Life - All items must have a maximum shelf life upon delivery. Freshness dating shall be legible on each individual pint/box. All items shall have a freshness date at least two (2) months beyond the date of delivery to the institution. Any items received with a shelf life of less than two (2) months will be refused or returned at the contractor's expense.

2.3.3 Packaging - All pints must be packaged in a round or "scround" paper or plastic container. Novelties must be individually wrapped.

2.4 Kosher and Halal Items

2.4.1 The bidder should indicate on **EXHIBIT A, Pricing Page** if the item bidding qualifies as Kosher or Halal. This is for informational purposes only and will not be a criterion for evaluation and award.

- a. In order to qualify as Kosher, items must be certified by a reliable rabbinical authority.
- b. In order to qualify as Halal, items must be certified by the Islamic Food and Nutrition Council of America.

2.4.2 Documentation certifying the items as Kosher or Halal must be submitted to the Department upon request.

2.5 Delivery Performance:

2.5.1 Orders shall be placed by the CRCC. Historically, the CRCC places orders one (1) to two (2) times per month. The contractor must begin accepting orders upon notice of award. Initial delivery and all subsequent deliveries must be made within three (3) business days upon receipt of an authorized purchase order or canteen purchasing card transaction notice. All orders received on the last day of the contract must be shipped at the contract price.

- a. Outdated or short dated products will not be accepted.

2.5.2 **The contractor must coordinate its delivery schedule with the CRCC Business Manager or designee.** Delivery shall include unloading shipments at the CRCC dock or other designated unloading site(s) as requested by the CRCC. All orders must be shipped FOB Destination, Freight Prepaid and Allowed.

- a. Delivery Address: Missouri Department of Corrections
Crossroads Correctional Center
1115 East Pence Road
Cameron, MO 64429
Phone: 816-632-2727 extension 1235

2.5.3 Deliveries shall only be accepted between 8:30 a.m. and 3:00 p.m. (Tuesday – Friday). 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>.

2.5.4 All products must be maintained at a temperature not to exceed -18°C or -0.4°F. Full cases of products showing evidence of deterioration from fluctuation in temperature will be returned at the contractor's expense.

2.6 Invoicing Requirements:

2.6.1 The contractor shall accurately invoice per the price indicated on **EXHIBIT A, Pricing Page** and shall issue one invoice per order.

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

Offender Financial Services
Accounts Payable/CRCC
Missouri Department of Corrections
PO Box 1609
Jefferson City, MO 65102

2.6.3 Each invoice submitted must be specific to one purchase order number, referenced on the invoice, 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. Emailed invoices should contain the purchase order number in the subject line.

2.6.4 If the Canteen purchasing card (Visa) is to be used for payment, an itemized invoice reflecting the charged amount must be faxed or emailed to the institution within one business day.

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

2.6.6 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.

2.6.7 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 the items.

2.6.8 The Department may choose to use the Canteen 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 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. **The Canteen purchasing card shall not be charged until the items are received and accepted.**

- 2.6.9 The Department does not pay state or federal sales tax. The Department shall not make additional payments or pay add-on charges.
- 2.6.10 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, lodging, per diem costs, 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 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 Contract:

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 and Attachments 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 supplies or a directive to proceed with services. Before providing 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 herein.
- 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 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 four (3) 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 Period - If the option for renewal is exercised by the Department, the contractor shall agree that the prices for the renewal period shall not exceed the maximum price for the applicable renewal period stated on the Pricing Page of the contract.

- a. If renewal prices are not provided, then the prices during the renewal period shall be the same as during the original contract period.
- b. In addition, the contractor shall understand and agree that renewal period price increases specified in the contract are not automatic. At the time of contract renewal, if the Department 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 Prices** - The prices shall be as indicated on **EXHIBIT A, Pricing Page**. The Department shall neither pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.
- a. Prices 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 **Item Selection and Sales Performance** - The selection of allowable items to be sold in the offender canteens is decided upon by a committee. If at any time during the contract period the committee decides to remove an awarded item(s) from the allowable list, the Department shall have the right to cancel that item(s) from the contract. All other specifications, terms and conditions of the contract, including the pricing on all non-affected awarded items shall remain the same.
- a. Additional item choices shall not be added without the Department's approval.
- b. The purpose of items selected for resale is to maximize sales potential for the benefit of the offender Canteen Fund. Therefore, if an item shows an overall trend of a decrease in sales volume, the Department reserves the right to discontinue that item without penalty.
- 3.1.6 **Orders** - CRCC will determine which of the offered flavors and novelties will be ordered, and may choose not to order or stock all flavors or all novelties at one time.
- a. There shall be no minimum order requirements for all line items except for the smallest unit of order (case).
- 3.1.7 **Termination** - The Department reserves the right to terminate the contract at any time, for the convenience of the Department, 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.
- 3.1.8 **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 Department, including its divisions, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.
- a. The contractor also agrees to hold the Department, including its divisions, 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 Department, including its divisions, employees, and assignees.
- 3.1.9 **Insurance** - The contractor shall understand and agree that the Department 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 Department, including its divisions, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract.

- 3.1.10 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.
- 3.1.11 Contractor Status - The contractor is an independent contractor and shall not represent the contractor or the contractor's employees to be employees of the State of Missouri or a 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.
- 3.1.12 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 Purchasing Section throughout the effective period of the contract.
- 3.1.13 Order Quantities - The quantities indicated in this Invitation for Bid are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. The estimates do not indicate single order amounts unless otherwise stated. The Department makes no guarantees about single order quantities or total aggregate order quantities.
- 3.1.14 Substitution of Products - The contractor shall not substitute any item that has been awarded to the contractor without 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 item 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 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 a substitution would be deemed unreasonable in the sole opinion of the Department. The contractor shall not be relieved of substituting an item in the event of manufacturer discontinuation, other reason, or simply for reasons of unprofitability to the contractor.
- 3.1.15 Item Changes - The contractor must immediately notify the Department prior to the discontinuation of any item, change in packaging, size, ingredients, nutrition facts, or labeling (i.e. UPC) of an awarded item. Whenever possible, the contractor must accept orders for items which are to be discontinued for a full thirty (30) days following notice to the Department of such discontinuation.

- 3.1.16 Replacement of Defective/Damaged Product - The contractor shall be responsible for replacing any item purchased that is defective or in damaged condition at no cost to the Department. This includes all shipping costs for returning damaged or defective items for replacement.
- 3.1.17 Delivery Performance - If at any time the contractor should encounter conditions impeding delivery of an awarded item(s), the contractor shall immediately notify the Department's Purchasing Section in writing of the fact of the delay, the likely duration, and the 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.
- a. 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 3.1.16.
- 3.1.18 Confidentiality:
- a. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the Department.
- b. If required by the Department, the contractor and any required contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.

END OF SECTION THREE: GENERAL CONTRACTUAL REQUIREMENTS

4. BID SUBMISSION, EVALUATION AND AWARD INFORMATION

4.1 Submission of Bids:

4.1.1 On-line Bid - If a bidder is responding electronically through the MissouriBUYS System website, in addition to completing the on-line pricing, the bidder should submit completed exhibits, forms, and other information concerning the bid as an attachment to the electronic bid. The bidder is instructed to review the IFB submission provisions carefully to ensure they are providing all required pricing, including applicable renewal pricing. Instructions on how a bidder responds to a bid on-line are available on the MissouriBUYS System website at: <https://missouribuys.mo.gov/bidboard.html>.

- a. The exhibits, forms, and Pricing Page(s) provided herein may be saved into a word processing document, completed by the bidder(s), and then sent as an attachment to the electronic submission. Other information requested or required may be sent as an attachment. Additional instructions for submitting electronic attachments are on the MissouriBUYS System website. Be sure to include the solicitation/opportunity (OPP) number, company name, and a contact name on any electronic attachments.
- b. In addition, a bidder may submit the exhibits, forms, Pricing Page(s), etc., through mail or courier service. However, any such submission must be received prior to the end date and time specified on page 1.
- c. If a bidder submits an electronic and hard copy bid response and if such responses are not identical, the vendor should explain which response is valid. In the absence of an explanation, the Department shall consider the response which serves its best interest.

4.1.2 Hard Copy Bid - If the bidder is submitting a bid via the mail or a courier service or is hand delivering the bid, the bidder should include completed exhibits, forms, and other information concerning the bid (including completed Pricing Page(s) with the bid. The bidder is instructed to review the IFB submission provisions carefully to ensure they are providing all required pricing, including applicable renewal pricing.

- a. The bid should be page numbered.
- b. Recycled Products - The Department recognizes the limited nature of our resources and the leadership role of government agencies in regard to the environment. If the bidder is not responding electronically, the bidder is requested to print the bid 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.

4.1.3 **EXHIBIT A – Pricing Page** - The bidder must submit a **firm fixed price** on **EXHIBIT A, Pricing Page** for all line items.

- a. The prices quoted 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.
- b. The quantities listed on **EXHIBIT A, Pricing Page**, are an estimated cumulative total based on historical sales data of the same or similar product. The Department makes no guarantees of single order quantities or total aggregate order quantities.
- c. The bidder should complete the "Terms" and the "Bidder's Acceptance of the State Purchasing Card" sections on **EXHIBIT A, Pricing Page**.
- d. One award shall be made for all line items.
 - 1) A bid price must be stated for each line item.

- 2) If any one item is deemed non-responsive or unacceptable, or if a bidder is not able to supply or bid on all items, the entire bid will not be considered for award to that bidder.
- 4.1.4 Open Records – Pursuant to section 610.021, RSMo, the bid shall be considered an open record after the bid is opened. Therefore, the bidder is advised not to include any information that the bidder does not want to be viewed by the public, including personal identifying information such as social security numbers.
 - 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(s) 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>.
 - 4.1.5 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.
 - 4.1.6 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 non-responsive and remove it from consideration for award.
 - 4.1.7 Bid Detail Requirements and Deviations – 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 IFB. Any deviation from a mandatory requirement may render the bid non-responsive. Any deviation from a desirable specification may be reviewed by the Department as to its acceptability and impact on competition.
- 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.
- 4.3 Evaluation of Cost:**
- 4.3.1 Cost Evaluation - The objective evaluation of cost shall be based on the firm fixed pricing stated on **EXHIBIT A, Pricing Page**. The evaluation shall include the original contract period plus the renewal periods. The estimated quantities shall be taken into consideration to compute the total price for the original contract period and renewal period for each line item.
 - a. For line items 001-003, and for evaluation purposes only, the cost per pint will be calculated by dividing the firm fixed case price for each line item stated on **EXHIBIT A, Pricing Page**, by the number of pints per case to arrive at the cost per pint. The initial contract period cost for each item will be calculated by multiplying the cost per pint by the estimated quantity for the line item.
 - b. For line items 004-005, and for evaluation purposes only, the individual item cost for each line item will be calculated by dividing the firm fixed case price for the item stated on **EXHIBIT A, Pricing Page** by the number of boxes per case, then dividing that number by the number of items

per box to come up with the individual cost per item. The cost per ounce for the line item will be calculated by dividing the individual item cost by the total ounces of the item bid to arrive at the total cost per ounce. At minimum, the cost per ounce will be calculated using three decimal points. The initial contract period cost will be calculated by multiplying the individual item cost per ounce by the multiplier four (4) for each line item, and then multiplied by the estimated quantity for the line item.

- c. A cost for each renewal period will be calculated in the same manner as indicated in 4.3.1 a. for line items 001-003 and 4.3.1 b. for line items 004-005. The total cost of the initial contract period and each renewal period for each line item will be added together to arrive at the total bid price.
- d. Assigned cost points shall be determined from the result of the calculation stated above using the following formula:

$$\frac{\text{Lowest Responsive Bidder's Price}}{\text{Compared Bidder's Price}} \times \frac{\text{Maximum Cost}}{\text{Evaluation Points (100)}} = \text{Assigned Cost Points}$$

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

- 4.3.2 Missouri Service-Disabled Veteran Business Enterprise 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 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.

4.4 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 items.
- 4.4.2 Only one award shall be made to the bidder whose items meet specifications and who has the lowest responsive bid. Other factors that affect the determination of the lowest price responsive bidder include consideration of the preference explained in paragraph 4.3.2.
- 4.4.3 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 based on the total evaluated bid price as follows:

$$\text{Assigned Cost Points} + \text{Earned Preference Points} = \text{Total Points}$$

- 4.4.4 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 Other Bid Submission Requirements:

- 4.5.1 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)
- 4.5.2 Miscellaneous Information – The bidder should complete and submit **EXHIBIT C, Miscellaneous Information**.
- 4.5.3 Manufacturer's Information - The bidder shall complete and submit **EXHIBIT D, Manufacturers' Information** on all line items bid. This information is necessary for each item to be entered into the Department POS system if awarded and in the case of a recall by lot number. **EXHIBIT D** should be submitted with the bidder's bid response, and must be received prior to an award of a contract.
- 4.5.4 Local or Territorial Distributors - The Department recognizes that all of the items listed on **EXHIBIT A, Pricing Page** may be sold through local or territorial distributorships. The bidder shall submit the distributor name, address and telephone number for the distributor that will be servicing CRCC, along with the contact name and contact phone number of the person who will receive orders from the institution. This information should be submitted with the bidder's response, and must be submitted upon award of a contract.

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

EXHIBIT A, Pricing Page

The bidder must state only one firm fixed price for all line items delivered FOB Destination Prepaid and Allowed to the CRCC. Prices quoted shall be considered firm and fixed throughout each contract period.

LINE ITEMS 001-005 - BID ALL OR NONE

LINE ITEM	ESTIMATED ANNUAL QUANTITY	DESCRIPTION	PINTS PER CASE		FIRM FIXED CASE PRICE
001	312 Cases	Chocolate Ice Cream Pint Size Only <i>(Estimated quantity based on 8 pints per case)</i> Brand: _____ Name of Chocolate Flavor Bid: _____ Expiration Date Format: _____ Kosher, Halal or Both? _____ (K, H, B)		Original Contract Period Price	\$
				1 st Renewal Period Price	\$
				2 nd Renewal Period Price	\$
				3 rd Renewal Period Price	\$
002	375 Cases	Vanilla Ice Cream Pint Size Only <i>(Estimated quantity based on 8 pints per case)</i> Brand: _____ Name of Vanilla Flavor Bid: _____ Expiration Date Format: _____ Kosher, Halal or Both? _____ (K, H, B)		Original Contract Period Price	\$
				1 st Renewal Period Price	\$
				2 nd Renewal Period Price	\$
				3 rd Renewal Period Price	\$
003	288 Cases	Strawberry Ice Cream Pint Size Only <i>(Estimated quantity based on 8 pints per case)</i> Brand: _____ Name of Strawberry Flavor Bid: _____ Expiration Date Format: _____ Kosher, Halal or Both? _____ (K, H, B)		Original Contract Period Price	\$
				1 st Renewal Period Price	\$
				2 nd Renewal Period Price	\$
				3 rd Renewal Period Price	\$

EXHIBIT A, Pricing Page continued on next page.

EXHIBIT A, Pricing Page (Continued)

LINE ITEM	ANNUAL ESTIMATED QUANTITY	DESCRIPTION	BOXES PER CASE	INDIVIDUAL SANDWICHES PER BOX	OUNCES PER SANDWICH	FIRM FIXED CASE PRICE
004	208 Cases	Vanilla Ice Cream Sandwiches (Estimated quantity based on 2 boxes per case at 12 items per box)				
		Brand: _____				Original Contract Period Price \$
		State Expiration Date Format: _____				First Renewal Period Price \$
		Kosher, Halal or Both? _____ (K, H, B)				Second Renewal Period Price \$
						Third Renewal Period Price \$
LINE ITEM	ANNUAL ESTIMATED QUANTITY	DESCRIPTION	BOXES PER CASE	INDIVIDUAL CONES PER BOX	OUNCES PER CONE	FIRM FIXED CASE PRICE
005	63 Cases	Vanilla Sundae Cones (Estimated quantity based on 1 box of 24 per case)				
		Brand: _____				Original Contract Period Price \$
		State Expiration Date Format: _____				First Renewal Period Price \$
		Kosher, Halal or Both? _____ (K, H, B)				Second Renewal Period Price \$
						Third Renewal Period Price \$

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

The bidder should indicate agreement/disagreement to allow the Department to make purchases using the Canteen 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

Web Site:

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

END OF EXHIBIT A

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/Contract Number for Which the SDV Documents Were Submitted: _____
(if known)

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

FOR STATE USE ONLY

SDV's Documents - Verification Completed By:

Procurement Officer

Date

END OF EXHIBIT B

EXHIBIT C
Miscellaneous Information

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:		_____ %

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)

END OF EXHIBIT C

EXHIBIT D
Manufacturers' Information

The bidder must state the manufacturer code and manufacturer product code (10 or 12 digits) for each brand and flavor bid. It is requested bidders make a copy of **EXHIBIT D** to use for additional item number manufacturers' information. For each alternate bid, clearly mark the pages "alternate bid #1, alternate bid #2," etc.



EXAMPLE (see above): Manufacturer Code = 12345 or 012345;

Manufacturer Five Digit Product Code: 67890 or 678900

Item# _____

Manufacturer Code: _____

Manufacturer Five Digit Product Code: _____

Item# _____

Manufacturer Code: _____

Manufacturer Five Digit Product Code: _____

Item# _____

Manufacturer Code: _____

Manufacturer Five Digit Product Code: _____

Item# _____

Manufacturer Code: _____

Manufacturer Five Digit Product Code: _____

Item# _____

Manufacturer Code: _____

Manufacturer Five Digit Product Code: _____

END OF EXHIBIT D

**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 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.