



**SOUTHEAST MISSOURI**  
STATE UNIVERSITY · 1873

**REQUEST FOR PROPOSAL 5901**

**TITLE: LEASE OF MUSICAL INSTRUMENTS**

**DATE: JUNE 4, 2018**

**BUYER: HEATHER LESCH**

**EMAIL: hmlesch@semo.edu**

**PHONE: (573) 651-2425**

**BID MUST BE RECEIVED NO LATER THAN:**

**DATE: JUNE 25, 2018**

**TIME: 3:30 P.M.**

**DELIVERY INSTRUCTIONS**

For USPS/FedEx/UPS, etc.

Bids must be mailed to:

Purchasing Department  
Southeast Missouri State University  
One University Plaza, Mail Stop 3280  
Cape Girardeau, MO 63701

OR delivered by bidder to:

Purchasing Department  
Academic Hall Room 200F  
Normal Avenue  
Cape Girardeau, MO 63701

The notice of award is made subject to availability and appropriation of funds, and the selection of the lowest and best bidder is made in accordance with all applicable public procurement laws.

**MUST BE SIGNED TO BE VALID**

The bidder hereby agrees to furnish items and/or services, at the firm, fixed prices quoted, pursuant to all requirements and specifications contained herein, upon either the receipt of an authorized purchase order from the Purchasing Department or when this document is countersigned by the Purchasing Department as a binding contract, and further agrees that the language of this document shall govern in the event of a conflict with his or her bid.

AUTHORIZED SIGNATURE		PRINTED NAME/TITLE	
COMPANY NAME			CURRENT DATE
MAILING ADDRESS			TELEPHONE NUMBER/EXT.
CITY	STATE	ZIP CODE	
CONTACT PERSON	CONTACT PERSON EMAIL ADDRESS	FACSIMILE NUMBER	
DELIVERY DATE: _____ DAYS ARO, FOB DESTINATION		PROMPT PAYMENT TERMS: _____% _____ DAYS NET _____ DAYS	
NOTICE OF AWARD (SOUTHEAST MISSOURI STATE UNIVERSITY USE ONLY)			
AUTHORIZED SIGNATURE FOR SOUTHEAST MISSOURI STATE UNIVERSITY			DATE

SOUTHEAST MISSOURI STATE UNIVERSITY  
LEASE OF MUSICAL INSTRUMENTS  
REQUEST FOR PROPOSAL 5901

SCOPE OF WORK/TECHNICAL SPECIFICATIONS

Southeast Missouri State University (hereinafter referred to as “Southeast or University”) is requesting proposals from qualified vendors for the lease, with option to buy, of musical instruments and accessories listed below in accordance with all terms and conditions contained herein. Each item is further defined in subsequent paragraphs.

- Provide instruments as specified below.
  - Provide maintenance and repair during the lease term.
  - If the offeror requires the University execute some type of contract and/or agreement, in addition to this Request for Proposal, the offeror must submit an exact replica of such with the original proposal. However, such agreements must not amend, contradict, or delete any terms, conditions, and/or requirements set forth in or referenced in this RFP and any amendment or attachment thereto. Failure to submit such agreements with the original proposal, but requiring the execution of such at a later date, may result in the rejection of the offeror’s proposal.
1. General Requirements: Each item must include and meet or exceed the specifications listed below. Brand names, if listed, are references only. Any brand equal or better shall be acceptable. All numerical specifications are approximate unless otherwise stated.

1.1 Silver Marching Baritone (anticipated quantity of 2)

- Yamaha YBH301MS
- Key: Bb
- Body Material: Yellow brass
- Bell Diameter: 254 mm (10”)
- Bore: 14.5 mm (.571”)
- Height: 501 mm (19 ¾ “) length
- Valves: 3 pistons
- Finish: Silver-plated
- Weight: 2.5 kg
- Mouthpiece: BH-48L
- Must include a case specifically designed to fit proposed instrument

1.2 Snare Drum (anticipated quantity of 8)

- Yamaha MS-9300 SFZ Series Custom
- Level: Professional
- Dimensions: 14” by 12”
- Hardware: Chrome

- Color: Silver Sparkle
- Shell: Maple 6-ply
- Head Batter: Remo White Max
- Head Bottom: Remo Falams Snare Side
- Hoop: High Tension Hoop
- Lug: Aluminum Tube Lug
- Must include a Tuning Key
- Must include a Carrier
- Must include a hard case specifically designed to fit proposed instrument

1.3 Multi-toms (anticipated quantity of 4)

- Yamaha MQ-8300 Field-Corps Series
- 6 sizes of tom
- Shell: Maple 6-ply
- Color: Silver Sparkle
- Head: Remo Clear Pinstripe Climlock
- Hoop: Ultra Hoop
- Must include a Tuning Key
- Must include a Carrier
- Must include a hard case specifically designed to fit proposed instrument

1.4 Bass Drum (anticipated quantity of 5 -- 1 in each size)

- Yamaha
  - Sizes: MB-8320 = 20" x 14"
  - MB-8324 = 24" x 14"
  - MB-8326 = 26" x 14"
  - MB-8328 = 28" x 14"
  - MB-8330 = 30" x 14"
- Shell: Maple 7-ply
- Color: Silver Sparkle
- Heads: Remo White Ambassador w/Black Yamaha Logo Installed
- Hoop: Maple
- Lug: Aluminum Die-cast
- 10x2 bolt
- Must include a Tuning Key
- Must include a Carrier
- Must include a hard case specifically designed to fit proposed instrument

1.5 Crash Symbols (anticipated quantity of 8 pair)

- Zildjian S Orchestral – 18" Family Band, Pair
- Size: 18"
- With straps and pads

1.6 Concert Tuba (anticipated quantity of 2)

- Yamaha YBB621
- Keys: Bb
- Body: Yellow Brass
- Bell Diameter: 443 mm (17 ½ ”)
- Bore Size: 18.5 – 19.5 mm (.728 - .768”)
- Height – 1018 mm
- Valves: 4 top pistons
- Finish: Clear Lacquer
- Mouthpiece: BB-67C4
- Must include a hard shell case specifically designed to fit proposed instrument

1.7 Concert French Horn (anticipated quantity of 8)

- Yamaha YHR671
- Key: F/Bb
- Body: Yellow Brass
- Bell Size: M
- Bell Type: Fixed
- Bore Size: 12 mm (.472”)
- Number of Valves: 4
- Valve Rotors: Solid
- Lever Action: String
- Finish: Clear Lacquer
- Mouthpiece: HR-324
- Must include a hard shell case specifically designed to fit proposed instrument

1.8 Piccolo (anticipated quantity of 6)

- Yamaha YPC32
- Key: C
- Body Style: Standard
- Body Material: ABS Resin
- Headjoint: Nickel Silver; Conical Bore
- Key material: Nickel Silver
- Plating: Silver (Headjoint and keys)
- Tone Holes: Undercut
- Key Types: Concave contoured with ribbed key post
- Key Mechanism: Split E
- Spring Type: Stainless Steel
- Screw Type: Straight

- Bumper Type: Neoprene
- Must include a hard shell case specifically designed to fit proposed instrument

1.9 Mellophone (anticipated quantity of 3)

- King 1121SP
- Key: F
- Bore: .468"
- 10 ½" yellow brass bell
- Mouthpiece: dynamically angled
- Pistons: Nickel Plated
- 1<sup>st</sup> Slide Handle: Soldered-on
- 3<sup>rd</sup> Slide Finger Ring, 3<sup>rd</sup> Slide Stop Screw
- Finish: Silver plated
- Mouthpiece: King 6
- Must include a case specifically designed to fit proposed instrument

1.10 Sousaphone (anticipated quantity of 4)

- Conn 20KSP
- Key: BBb
- Bore: .734"
- Pistons: 3 Offset Short Action
- Bell: 26"
- Construction: All Brass
- Finish: Satin Silver-plate
- Mouthpiece: C.G. Conn 18

1.11 Sousaphone Cases (anticipated quantity of 4)

- Anvil ATA Music Case for Sousaphone
- Outside Dimensions: 36.75" x 36.25" x 19.25"
- Inside Dimensions to fit Conn 20KSP or equal (Tracing may be required)
- Exterior Color: Red
- Interior Color: Black
- Casters: XHD 4" (2 locking; 2 non-locking)
- Stacking Feet and Cups
- Tie down rings (set of 2)

2. Each instrument must be new. The University will not accept used, reconditioned, or demonstrator instruments.
3. Manuals: The contractor must provide one each of the following manuals (as applicable): operator, service, repair, and parts. All manuals must be written in American English.

4. The contractor must provide maintenance and repair during the lease term. The lease will commence upon the written acceptance of the equipment from the University's Purchasing Department or payment of such, whichever occurs first.
  - 4.1 Contractor must be able to provide all parts, equipment, and personnel necessary to accomplish lease repairs. The University prefers that the contractor be able to complete the repairs within one (1) week.
  - 4.2 Contractor is responsible for all transportation, shipping and handling charges, and parts necessary to perform all lease repairs. Transport of equipment between University and repair site is also the responsibility of the contractor.
5. For each brand listed, the contractor should be an authorized manufacturer dealer with an authorized manufacturer repair and maintenance service center.
6. All prices shall be as indicated on the Pricing Page of this document, or as specifically provided for by this document. The University shall not pay nor be liable for any other costs. The contractor shall not be allowed any additional compensation for any matter of which the contractor might have fully informed itself of prior to the opening date of the Request for Proposal.
7. If deemed necessary, Southeast Missouri State University reserves the right to lease/purchase additional items at the prices quoted, at the time of contract award. However, the University reserves the right to not lease/purchase all items, dependent upon prices quoted or changed needs.

SOUTHEAST MISSOURI STATE UNIVERSITY  
REQUEST FOR PROPOSAL 5901  
LEASE OF MUSICAL INSTRUMENTS

GENERAL CONTRACTUAL REQUIREMENTS

This portion of the RFP pertains to the offeror(s) selected for final contract award (“contractor”).

1. The contract shall not bind, nor purport to bind, the University for any contractual commitment in excess of the original contract period, which shall be mutually determined with the contractor.
2. All lease prices and percentages shall be as specifically provided for by this document. In the event the scope of work is revised by the University, additional compensation shall be considered and negotiated at that time.
3. The contractor shall represent itself to be an independent contractor offering such services to the general public and shall not represent itself or its employees to be employed by the University. The sole relationship between the University and the contractor is as established by this contract. The contractor is responsible for filing all returns and paying all taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., associated with the performance of the contractual requirements herein, and agrees to indemnify, save and hold the University, its officers, agents, and employees, harmless from and against, any and all losses, costs, attorney fees, and damage of any kind related to such matters. Upon request, the contractor will provide to the University evidence of compliance with these requirements.
4. In accordance with all applicable provisions of the Revised Statutes of the State of Missouri, no official or employee of the University or its governing body and no other public official of the University who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the scope of work covered by the contract shall voluntarily acquire any personal interest, directly or indirectly, in the contract.
5. The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance shall include an endorsement that adds the State of Missouri as an additional insured.
6. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the University, including its Board, agencies, employees, and assigns.

7. Inasmuch as under the contract the contractor may acquire confidential information, the contractor agrees to use such information only for the sole benefit of the University and to keep confidential such information, as well as all information developed in the conduct of the work contracted for including information disclosed by the University to the contractor or any other person engaged in the contracted work.
8. In connection with services provided under the contract, the contractor agrees to comply with the Fair Labor Standards Act, Fair Employment Practices, Equal Employment Opportunity Act, and all other applicable federal and state laws, regulations, and executive orders to the extent that the same may be applicable.



SOUTHEAST MISSOURI STATE UNIVERSITY  
LEASE OF MUSICAL INSTRUMENTS  
REQUEST FOR PROPOSAL 5901

OFFEROR'S INFORMATION

This portion of the RFP pertains to any interested party which wishes to be provided an opportunity to submit a proposal.

1. Southeast currently issues all solicitations via the University's website at <http://www.semo.edu/purchasing/bids/5901>. Offerors are encouraged to check such frequently for updates, amendments, etc. In addition, the Offeror can complete and submit a Vendor Registration Application using the website referenced above. The University will update the website upon award.
2. Any Offeror with questions should contact Heather Lesch, Buyer, via email at [hmlesch@semo.edu](mailto:hmlesch@semo.edu). Offerors may not contact other University employees regarding any of these matters while the RFP and evaluation are in process. The offeror must submit all questions no later than seven (7) calendar days prior to the RFP closing date; questions received after that time may not be addressed.
3. The offeror must sign, seal, and deliver the proposal by the RFP closing date and time as indicated on the RFP cover sheet. The University only requests copies of any pages completed by the offeror and any additional pages added by the offeror. By signature on the Request for Proposal cover sheet, the offeror affirms that all prices and percentages are stated in accordance with all terms and conditions of Request for Proposal 5901.
4. Proposal openings are held in public on the opening date and at the opening time specified on the RFP cover sheet. However, only the names of the respondents shall be read at the proposal opening. Contents of the responses, including prices, shall not be disclosed at the public opening.
5. Evaluation Process: Any award accomplished as a result of this Request for Proposal shall be based on the lowest and best proposal received in accordance with the following evaluation criteria. Failure to provide adequate information for the evaluation of the criteria listed below may result in minimal subjective consideration and/or in rejection of the proposal.

5.1 Cost.....	60%
5.2 Experience/Reliability of Offeror's Organization.....	10%
5.2 Proposed Equipment/Lease Options/Contractor Support.....	30%
6. COST: Cost shall be evaluated based upon the proposed lease and buyout amounts indicated by the Offeror based on terms at 36, 48 and 60-month options. The monthly lease amount should include all amounts, including the use of the items, repair and service to the items,

shipping/delivery of the items, taxes, etc. The Offeror shall not be entitled to any other form of payment or reimbursement not specifically provided for by this document.

7. EXPERIENCE AND RELIABILITY OF OFFEROR'S ORGANIZATION: Experience and reliability of the offeror's organization will be considered as part of the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to activities similar to the requirements of this RFP.
  - 7.1 The offeror should submit at least three (3) references of higher education institutions comparable in size to the University for which the offeror is currently providing a lease program. Each reference should include organization name, contact person with respective email address, title, telephone number, and address. The offeror may use Attachment 1 to submit references.
  - 7.2 The offeror is advised to submit any information which documents successful and reliable experience in past performances similar in nature to the requirements specified in this document.
8. PROPOSED EQUIPMENT/LEASE PROGRAM/SERVICES: The proposal response should include a description of the following:
  - 8.1 Each proposed instrument.
  - 8.2 Applicable lease program.
  - 8.3 End of lease purchase options and costs.
  - 8.4 Service and support of leased items.
  - 8.5 Process/costs for lost/damaged items.
  - 8.6 Process/costs for extending the lease.
  - 8.7 Process/costs for early termination of the lease.
9. W-9 Form: Vendors doing business with Southeast Missouri State University must ensure W-9 form is on file prior to contract award. Vendors may access the current W-9 form at <http://www.semo.edu/accountspayable>. The completed W-9 form may be submitted with the proposal response.
10. Attachment 2: The Offerors are advised that, in accordance with RSMo 34.350-34.359, the attached certification form for the State of Missouri Domestic Products Procurement Act (Buy American) must be completed, signed and returned in order to be considered for preference. Completion of Attachment 2 does not affect contract award.
11. Business Information: As a state entity, the University is required to report minority-business and women-business enterprise information to the Office of Administration, Division of Purchasing. Therefore, the Offeror is requested to complete and return Attachment 3 with the proposal response.
12. Missouri Service-Disabled Veteran Business Preference: Pursuant to section 34.074, RSMo, a three (3) bonus point preference shall be granted to Offerors who qualify as Missouri

service-disabled veteran businesses and who complete and submit Attachment 4, Missouri Service-Disabled Veteran Business Preference with the proposal response. If the response does not include the completed Attachment 4 and the documentation specified on Attachment 4 in accordance with the instructions provided therein, no preference points will be applied.

13. The attached Terms and Conditions, Request for Proposal (revised 05/27/2017), are hereby incorporated. Offeror's terms and conditions which conflict with this Request for Proposal and/or the attached Terms and Conditions could result in rejection of the Offeror's response.

SOUTHEAST MISSOURI STATE UNIVERSITY  
 LEASE OF MUSICAL INSTRUMENTS  
 REQUEST FOR PROPOSAL 5901

PRICING PAGE

The Offeror must complete, sign, and return the Pricing Pages in addition to all other information requested herein.

Lease options or “no-bid” must be provided for each item listed below. As the University only accepts items shipped FOB destination, each unit price must include all applicable charges (such as shipping, delivery, lease, repair, service, taxes, etc).

The Offeror must state the manufacturer and model number of the proposed item and the number of days required for delivery of the items after receipt of a purchase order.

1. 36 Month Lease Term (per each):

	Item	Monthly Lease Amount	Buyout Amount/Terms	Manufacturer & Model	Delivery Days ARO
1.1	Silver Marching Baritone	\$			
1.2	Snare Drum	\$			
1.3	Multi-tom	\$			
1.4a	Bass Drum 20" x 14"	\$			
1.4b	Bass Drum 24" x 14"	\$			
1.4c	Bass Drum 26" x 14"	\$			
1.4d	Bass Drum 28" x 14"	\$			
1.4e	Bass Drum 30" x 14"	\$			
1.5	Crash Symbols pair	\$			

1.6	Concert Tuba	\$			
1.7	Concert French Horn	\$			
1.8	Piccolo	\$			
1.9	Mellophone	\$			
1.10	Sousaphone	\$			
1.11	Sousaphone Case	\$			

2. 48 Month Lease Term (per each):

	Item	Monthly Lease Amount	Buyout Amount/Terms	Manufacturer & Model	Delivery Days ARO
2.1	Silver Marching Baritone	\$			
2.2	Snare Drum	\$			
2.3	Multi-tom	\$			
2.4a	Bass Drum 20" x 14"	\$			
2.4b	Bass Drum 24" x 14"	\$			
2.4c	Bass Drum 26" x 14"	\$			
2.4d	Bass Drum 28" x 14"	\$			
2.4e	Bass Drum 30" x 14"	\$			
2.5	Crash Symbols pair	\$			

2.6	Concert Tuba	\$			
2.7	Concert French Horn	\$			
2.8	Piccolo	\$			
2.9	Mellophone	\$			
2.10	Sousaphone	\$			
2.11	Sousaphone Case	\$			

3. 60 Month Lease Term (per each):

	Item	Monthly Lease Amount	Buyout Amount/Terms	Manufacturer & Model	Delivery Days ARO
3.1	Silver Marching Baritone	\$			
3.2	Snare Drum	\$			
3.3	Multi-tom	\$			
3.4a	Bass Drum 20" x 14"	\$			
3.4b	Bass Drum 24" x 14"	\$			
3.4c	Bass Drum 26" x 14"	\$			
3.4d	Bass Drum 28 x 14"	\$			
3.4e	Bass Drum 30" x 14"	\$			
3.5	Crash Symbols pair	\$			

3.6	Concert Tuba	\$			
3.7	Concert French Horn	\$			
3.8	Piccolo	\$			
3.9	Mellophone	\$			
3.10	Sousaphone	\$			
3.11	Sousaphone Case	\$			

By signature below, the Offeror affirms that all prices are quoted pursuant to the terms and conditions of Request for Proposal 5901. In addition, the Offeror understands and certifies the following:

- The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- If the contractor is found to be in violation of this requirement or the applicable laws of the state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the University shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the University.
- The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

---

Company Name

---

Signature/Date

ATTACHMENT 1  
OFFEROR'S EXPERIENCE

The offeror should provide three (3) references as requested.

Organization Name \_\_\_\_\_

Contact Person \_\_\_\_\_

E-mail Address \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Brief Description \_\_\_\_\_

\_\_\_\_\_

Organization Name \_\_\_\_\_

Contact Person \_\_\_\_\_

E-mail Address \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Brief Description \_\_\_\_\_

\_\_\_\_\_

Organization Name \_\_\_\_\_

Contact Person \_\_\_\_\_

E-mail Address \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Brief Description \_\_\_\_\_

\_\_\_\_\_



**ATTACHMENT 2  
DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN) PREFERENCE**

In accordance with sections 34.350-34.359, RSMo, the bidder is instructed to provide information regarding the point of manufacture for each of the products being bid so that the product's eligibility for the Domestic Products Procurement Act (Buy American) Preference can be determined. This information is requested for the finished product only, not for components of the finished product. The bidder may be required to provide supporting documentation indicating proof of compliance.

**Qualifying for the Domestic Products Preference:**

A product qualifies for the preference if one of the following circumstances exist:

- if manufactured or produced in the U.S.; or
- if the product is imported into the U.S. but is covered by an existing international trade treaty that affords the specific product the same status as a product manufactured or produced in the U.S.; or
- if only one line of products is manufactured or produced in the U.S.

**Non-Domestic Product:**

If the product is not manufactured or produced in the U.S. and does not otherwise qualify as domestic, then it will be considered non-domestic and not eligible for the preference.

**THE BIDDER MUST COMPLETE THE FOLLOWING APPLICABLE TABLES TO CERTIFY WHETHER:**

- (Table 1) ALL products bid are manufactured or produced in the U.S. and qualify for the Domestic Products Procurement Act Preference; OR
- (Table 2) ALL products bid are manufactured or produced outside the U.S. and do not otherwise qualify for the Domestic Products Procurement Act Preference; OR
- (Tables 3-6) Not all products bid fall into the prior two categories so an item-by-item certification is necessary.

**The bidder is responsible for certifying the information provided on the exhibit is accurate by signing where indicated at the end of the exhibit.**

**TABLE 1 – ALL PRODUCTS MANUFACTURED OR PRODUCED IN U.S. (eligible for preference)**

Check the box to the right if ALL products bid are MANUFACTURED OR PRODUCED IN THE U.S.:	<input type="checkbox"/>
--	--------------------------

**TABLE 2 – ALL PRODUCTS MANUFACTURED OR PRODUCED OUTSIDE U.S. AND DON'T QUALIFY FOR PREFERENCE (ineligible for preference)**

Check the box to the right if ALL products bid are MANUFACTURED OR PRODUCED OUTSIDE THE U.S. and DO NOT OTHERWISE QUALIFY for the Domestic Products Procurement Act Preference:	<input type="checkbox"/>
---	--------------------------

**TABLES 3 THROUGH 6 – ITEM BY ITEM CERTIFICATION (NOT ALL PRODUCTS BID FALL INTO PRIOR TWO TABLES)**

- For those line items for which a U.S.-manufactured or produced product is bid, complete **Table 3**.
- For those line items which are manufactured or produced outside the U.S. that do not qualify for the Domestic Products Procurement Act Preference, complete **Table 4**.
- For those line items which are not manufactured or produced in the U.S., but for which there is a U.S. trade treaty, law, agreement, or regulation in compliance with section 34.359, RSMo, complete **Table 5**.
- For those line items which are not manufactured or produced in the U.S., but for which there is only one U.S. Manufacturer of that product or line of products, complete **Table 6**.

<b>TABLE 3 – U.S.-MANUFACTURED OR PRODUCED PRODUCTS (Eligible for Preference)</b>			
<ul style="list-style-type: none"> <li>• List item numbers of products bid that are U.S.-manufactured or produced and therefore qualify for the Domestic Products Procurement Act Preference.</li> <li>• List U.S. city and state where products bid are manufactured or produced.</li> </ul>			
<b>Item #</b>	<b>U.S. City/State Where Manufactured/Produced</b>	<b>Item #</b>	<b>U.S. City/State Where Manufactured/Produced</b>

<b>TABLE 4 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS (Not Eligible for Preference)</b>			
<ul style="list-style-type: none"> <li>• List item numbers of products bid that are foreign manufactured or produced and do not otherwise qualify for the Domestic Products Procurement Act Preference.</li> <li>• List country where product bid is manufactured or produced.</li> </ul>			
<b>Item #</b>	<b>Country Where Manufactured/Produced</b>	<b>Item #</b>	<b>Country Where Manufactured/Produced</b>

(Exhibit continues on next page)

**EXHIBIT \_\_, continued: DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN) PREFERENCE**

**TABLE 5 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS BUT U.S. TRADE TREATY, LAW, AGREEMENT, OR REGULATION APPLIES (Eligible for Preference)**

- List item numbers of products bid that are foreign manufactured or produced but qualify for the Domestic Products Procurement Act Preference because a U.S. Trade Treaty, Law, Agreement, or Regulation applies.
- Identify country where proposed foreign-made product is manufactured or produced.
- Identify name of applicable U.S. Trade Treaty, Law, Agreement, or Regulation that allows product to be brought into the U.S. duty/tariff-free.
- Identify website URL for the U.S. Trade Treaty, Law, Agreement, or Regulation.
- NOTE: As an imported product, if an import tariff is applied to the item, it does not qualify for the preference. In addition, “Most Favored Nation” status does not allow application of the preference unless the product enters the U.S. duty/tariff-free.

Item #	Country Where Proposed Foreign-Made Product is Manufactured/Produced	Name of Applicable U.S. Trade Treaty, Law, Agreement, or Regulation	Official Website URL for the U.S. Treaty, Law, Agreement, or Regulation

**TABLE 6 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS BUT ONLY ONE US MANUFACTURER PRODUCES PRODUCT OR LINE OF PARTICULAR GOOD (Eligible for Preference)**

- List item numbers of products bid that are foreign manufactured or produced but qualify for the Domestic Products Procurement Act Preference because only one US Manufacturer produces the product or line of a particular good.
- Identify country where proposed foreign-made product is manufactured or produced.
- Identify sole US manufacturer name.
- Identify name of sole US manufactured product/line of particular good.

Item #	Country Where Proposed Foreign-Made Product is Manufactured/Produced	Sole US Manufacturer Name	Name of Sole US Manufactured Product or Line of Particular Good

**The bidder is responsible for certifying the information provided on this exhibit is accurate by signing below:**

I hereby certify that the information provided herein is true and correct, and complies with all provisions of sections 34.350 to 34.359, RSMo. I understand that any misrepresentation herein constitutes the commission of a class A misdemeanor.

**SIGNATURE** (If submitting bid electronically, scanned or typed signature is acceptable)

**COMPANY NAME**

**ATTACHMENT 3  
MINORITY VENDOR INFORMATION**

In order to identify information requested by the Office of Administration, Division of Purchasing, please complete the following by placing a check mark in the appropriate box next to the classification which best represents your business. Completion of the following information does not affect purchase order/contract award.

**BUSINESS TYPE**

- |   |   |
|---|---|
| <input type="checkbox"/> A. Small, Minority, Missouri         | <input type="checkbox"/> F. Large, Non-Minority, Missouri     |
| <input type="checkbox"/> B. Small, Non-Minority, Missouri     | <input type="checkbox"/> G. Large, Minority, Non-Missouri     |
| <input type="checkbox"/> C. Small, Minority, Non-Missouri     | <input type="checkbox"/> H. Large, Non-Minority, Non-Missouri |
| <input type="checkbox"/> D. Small, Non-Minority, Non-Missouri | <input type="checkbox"/> I. Female-Owned Business             |
| <input type="checkbox"/> E. Large, Minority Missouri          | <input type="checkbox"/> J. Unable to Classify                |

**SMALL:** An organization with less than 500 employees.

**LARGE:** An organization with greater than 500 employees.

**MINORITY:**

An organization that has been (1) certified socially and economically disadvantaged by the Small Business Administration, (2) certified as a minority business enterprise by a state or federal agency, or (3) is an independent business concern that is 51% owned and controlled by a minority group member including:

- a. Black American
- b. Hispanic American with origins from Puerto Rico, Mexico, Cuba, South or Central America
- c. Native Indian, Eskimo, or Native Hawaiian
- d. Asian Pacific American with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, northern Marianas, Laos, Cambodia, Taiwan, or the Indian Subcontinent

**NON-MINORITY:**

An organization that does not satisfy the criteria listed above for Minority.

**MISSOURI:**

An organization whose state of incorporation is in Missouri, or if not incorporated whose principal place of business is in Missouri.

**NON-MISSOURI:**

An organization whose state of incorporation is not in Missouri, or if not incorporated whose principal place of business is located outside Missouri.

*For example:* An organization having 50 employees, owned by a Black American, and whose General Mailing Address is Tampa, Florida would be classified as follows: Small, Minority, Non-Missouri.

**ATTACHMENT 4**  
**MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE**

Pursuant to 34.074 RSMo, Southeast Missouri State University has a goal of awarding three (3) percent of all contracts for the performance of any job or service to service-disabled veteran businesses (see below for definitions included in 34.074 RSMo) either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

**Service-Disabled Veteran** is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

**Service-Disabled Veteran Business** is defined as a business concern:

- a. not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. the management and daily business operations of which are controlled by one or more service-disabled veterans.

If a bidder meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the bidder **must** provide the following with the bid in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable:

- a. a copy of a letter from the Department of Veterans Affairs (VA), or a copy of the bidder's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the bidder was in, stating that the bidder has a service-connected disability rating ranging from 0 to 100% disability; and
- b. a completed copy of this attachment

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the bidder's discharge paper to this Attachment.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

\_\_\_\_\_  
Service-Disabled Veteran's Name  
(Please Print)

\_\_\_\_\_  
Service-Disabled Veteran Business Name

\_\_\_\_\_  
Service-Disabled Veteran's Signature

\_\_\_\_\_  
Missouri Address of Service-Disabled Veteran Business

**SOUTHEAST MISSOURI STATE UNIVERSITY  
TERMS AND CONDITIONS  
REQUEST FOR PROPOSAL**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Amendment** means a written, official modification to an RFP or to a contract.
- b. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications and which the offeror should complete and submit with the sealed proposal prior to the specified opening date and time.
- c. **Buyer** means the procurement staff member of the Purchasing Department. The **Contact Person** as referenced herein is usually the Buyer.
- d. **Contract** means a legal and binding agreement between two or more competent parties, in exchange for consideration, for the procurement of equipment, supplies, and/or services.
- e. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- f. **May** means that a certain feature, component, or action is permissible, but not required.
- g. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a proposal being considered non-responsive and not evaluated nor considered for contract award.
- h. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- i. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- j. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required for the physical receipt of sealed proposals in the Purchasing Department.
- k. **Request for Proposal (RFP)** means the solicitation document issued by the Purchasing Department to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Attachments, and Amendments thereto.
- l. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of the University's Purchasing Department.
- m. **Shall** has the same meaning as the word must.
- n. **Should** means that a certain feature, component and/or action is desirable but not mandatory.
- o. **University and/or Southeast** means Southeast Missouri State University.

**2. APPLICABLE LAWS, REGULATIONS, AND POLICIES**

- 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 provision 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 University.
- 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 file and pay, in a timely fashion, 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 RFP or resulting contract shall be in the Circuit Court of Cape Girardeau 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.
- g. The contractor shall comply with the University's Tobacco Usage in the Workplace Policy. Through July 31, 2017, the University is a tobacco-free campus except in designated areas. Therefore, smoking (both indoors and outdoors) is prohibited on University property and in University vehicles except in designated areas. The use of smokeless tobacco is prohibited inside all University buildings. Beginning August 1, 2017, the University is a smoke-free, tobacco-free campus. Therefore, smoking and using tobacco products (both indoors and outdoors) is prohibited on University property and in University vehicles.
- h. The contractor shall never have been terminated from a contract under section 432 of the HEA for a reason involving the acquisition, use, or expenditure of Federal, State, or local government funds, or have been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds; or contract with or employ

any individual, agency, or organization that has been, or whose officers or employees have been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds; or Administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds.

### **3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT**

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the Purchasing Department if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the Purchasing Department. Such communication should be received at least seven (7) calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received less than seven (7) calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the University is that which is issued by the Purchasing Department in the form of the RFP 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. Southeast monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP and any Amendments are available for viewing and printing from the University's website. Registered offerors may be electronically notified of the proposal opportunity based on the information maintained in the University's vendor database.
- f. The University reserves the right to officially amend or cancel an RFP after issuance. E-mail notification of the amendment or cancellation will not be issued.

### **4. PREPARATION OF PROPOSALS**

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, 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 offeror 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 proposal. In addition, the offeror 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. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Proposals lacking any indication of intent to offer 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 RFP.
- e. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- f. Prices shall include all packing, handling and shipping charges and must be stated FOB destination, unless otherwise specified in the RFP.
- g. Proposals, including all prices therein, shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, the entire proposal, including all prices, shall be firm for the specified contract period.
- h. Any foreign offeror 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 proposal in order to be considered for award.

### **5. SUBMISSION OF PROPOSALS**

- a. All proposals must (1) be signed by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, (3) be priced as required, (4) be sealed in an envelope or container, and (5) be mailed or hand-delivered to the Purchasing Department and officially clocked in no later than the exact opening time and date specified in the RFP.
- b. Mailed proposals should be clearly marked on the outermost envelope with (1) the official RFP number, and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal which has been delivered to the Purchasing Department may be modified by signed, written notice which has been received by the Purchasing Department prior to the official opening date and time specified. A proposal may also be modified in person

by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, telegraphic, email, or faxed requests to modify a proposal shall not be honored.

d. A proposal which has been delivered to the Purchasing Department may only be withdrawn by a signed, written notice or facsimile which has been received by the Purchasing Department prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or e-mail requests to withdraw a proposal shall not be honored.

e. Offerors must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto, in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.

f. Faxed proposals shall not be accepted. However, faxed and e-mailed no-bid notifications shall be accepted.

## **6. PROPOSAL OPENING**

a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening. The contents of the responses shall not be disclosed at that time.

b. Proposals which are not received in the Purchasing Department prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Under extraordinary circumstances, the Purchasing Department may authorize the opening of a late proposal. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance: (1) University offices were closed due to inclement weather conditions or other unforeseen reasons, and (2) postal or courier services were delayed due to labor strikes or unforeseen "Acts of God".

## **7. PREFERENCES**

a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.

c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority- and women-owned businesses in selecting subcontractors.

d. In the evaluation of proposals, a service-disabled veteran business preference shall be applied in accordance with Section 34.074 RSMo.

## **8. EVALUATION/AWARD**

a. Any clerical error, apparent on its face, may be corrected by the Purchasing Department before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. 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 an offeror shall be subject to evaluation if deemed to be in the best interest of the University.

c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the University. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the University.

d. Award shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP, (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations, and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.

e. In the event all offerors fail to meet the same mandatory requirement in the RFP, the University reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the University reserves the right to waive any minor irregularity or technicality found in any individual proposal.

f. The University reserves the right to reject any and all proposals. When all proposals are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, the University may negotiate for the required supplies.

g. When evaluating a proposal, the University reserves the right to consider relevant information and fact, whether gained from a proposal, from an offeror, from offeror's references, or from any other source.

h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.

i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.

j. Any award of a contract shall be made by notification from the Purchasing Department to the successful offeror. The Purchasing 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 Purchasing Department based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the University.

k. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.

l. The Purchasing Department reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.

m. The final determination of contract award shall be made by the Purchasing Department.

n. The Purchasing Department's website will be updated upon contract award for offerors to view for a reasonable period of time.

o. Any proposal award protest must be submitted in writing and must be received within ten (10) business days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (9). A protest submitted after the ten (10) business day period shall not be considered.

## **9. CONTRACT/PURCHASE ORDER**

a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.

b. A binding contract shall consist of (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) University's acceptance of the proposal by "notice of award" or by "purchase order." All Attachments included in the RFP shall be incorporated into the contract by reference.

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

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 Purchasing 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 University does not pay state or federal taxes unless otherwise required under law or regulation. The University's Missouri sales tax exemption number is 10124128.

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. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the University.

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

e. The University 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 University's rejection and shall be returned at the contractor's expense.

f. All invoices for equipment, supplies, and/or services purchased by the University shall be subject to late payment charges as provided in Section 34.055 RSMo.

## **11. DELIVERY**

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

## **12. INSPECTION AND ACCEPTANCE**

a. No equipment, supplies, and/or services received by the University pursuant to a contract shall be deemed accepted until the University 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 University 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 University's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the University 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 University, (2) be fit and sufficient for the purpose expressed in the RFP, (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 University's acceptance of or payment for said equipment, supplies, and/or services.

### **14. CONFLICT OF INTEREST**

- a. Officials and employees of the University, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

### **15. REMEDIES AND RIGHTS**

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

### **16. CANCELLATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the University may cancel the contract. At its sole discretion, the University 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 the University, 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 University will issue a notice of cancellation terminating the contract immediately.
- c. If the University cancels the contract for breach, the University 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 University deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the University for any period in which funds have not been appropriated, and the University shall not be liable for any costs associated with termination caused by lack of appropriations.

### **17. COMMUNICATIONS AND NOTICES**

Any notice to the offeror/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, posted to the University's website, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the offeror/contractor.

### **18. BANKRUPTCY OR INSOLVENCY**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the Purchasing Department immediately.
- b. Upon learning of any such actions, the Purchasing Department reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

## **19. INVENTIONS, PATENTS AND COPYRIGHTS**

The contractor shall defend, protect, and hold harmless the University, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

## **20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, ethnicity, religion, national origin, sex, sexual orientation, gender identity, age, genetic information, disability, or protected veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the University shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the University until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## **21. AMERICANS WITH DISABILITIES ACT**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## **22. FILING AND PAYMENT OF TAXES**

The University 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 offeror's failure to maintain compliance with Chapter 144, RSMo may eliminate their proposal from consideration for award.

## **23. EMERGENCIES**

In the event a catastrophic situation occurs at the University, the University may request the contractor's assistance with the emergency procurement or transportation of equipment, supplies, and/or services.

## **24. TITLES**

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

Revised 05/25/2017