City of Columbia

701 East Broadway, Columbia, Missouri 65201

Department Source: Public Health and Human Services
To: City Council
From: City Manager & Staff
Council Meeting Date: May 2, 2016
Re: Missouri Department of Health and Senior Services Summer Food Service Program Inspections Participation Agreement

Executive Summary

An ordinance authorizing the City Manager to sign contract #ERS2191626I for Summer Food Service Program Inspections between the City of Columbia and the Missouri Department of Health and Senior Services. The contract period begins May 15, 2016 and ends September 15, 2016.

Discussion

The Missouri Department of Health and Senior Services (MDHSS) contracts annually with the Columbia/Boone County Department of Public Health & Human Services to conduct sanitation inspections for food safety at sites involved in the Summer Food Program in Boone County. The MDHSS will reimburse the City at a rate of $125.00 per inspection conducted within the first half of MDHSS operation dates, $75.00 per inspection conducted in the second half of the MDHSS operation dates and $30.00 for each attempted inspection conducted. There are six (6) sites in Columbia/Boone County.
The Summer Food Program is a supplemental meal program sponsored by the United States Department of Agriculture (USDA). The program serves meals at various feeding sites throughout the summer months when school is not in session.

Fiscal Impact

Short-Term Impact: This is grant funding. There is no impact on the general fund.
Long-Term Impact: None.

Vision & Strategic Plan Impact

Vision Impacts:
Primary Impact: Health, Social Services & Affordable Housing, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Strategic Plan Impacts:
Primary Impact: Not Applicable, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:
Primary Impact: Not Applicable, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

Legislative History

Date	Action
Annual	The Columbia/Boone County Department of Public Health and Human Services has participated in this program with MODHSS since at least 2004.

Suggested Council Action

Should the Council agree with staff recommendations, an affirmative vote is in order.

Introduced by _____

First Reading _____ Second Reading _____

Ordinance No. _____ Council Bill No. B 120-16

AN ORDINANCE

authorizing an inspections participation agreement with the Missouri Department of Health and Senior Services for the summer food service program for children; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute an inspections participation agreement with the Missouri Department of Health and Senior Services for the summer food service program for children for the period of May 15, 2016 through September 15, 2016. The form and content of the agreement shall be substantially in the same form as set forth in "Exhibit A" attached hereto. Any actions taken by or on behalf of the City in connection with such agreement prior to the date of this ordinance are hereby approved and ratified.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2016.

ATTEST:

_____ _____

City Clerk Mayor and Presiding Officer

APPROVED AS TO FORM:

_____

City Counselor

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES

SUMMER FOOD SERVICE PROGRAM
INSPECTIONS PARTICIPATION AGREEMENT

CONTRACT NO.	VENDOR NO.
ERS2191626I	4360008100D

FUNDING SOURCE

STATE	FEDERAL
0%	100%

CONTRACT START DATE	CONTRACT END DATE	RESEARCH AND DEVELOPMENT	SUBJECT TO SINGLE AUDIT REQUIREMENTS
May 15, 2016	September 15, 2016	YES ☐ NO ☒	YES ☐ NO ☒

FEDERAL AGENCY NAME	FEDERAL AWARD YEAR	CFDA NO.	CFDA TITLE
Department of Agriculture/ Food and Nutrition Service	2016	10.559	Summer Food Service Program for Children

FEDERAL AWARD NO.	FEDERAL AWARD NAME
3MO300305-2016	Child Nutrition

1. This Agreement is entered into by and between the State of Missouri, Department of Health and Senior Services (hereinafter referred to as the Department) and the below named Provider, for the purpose of conducting food safety inspections and enforcing expeditious correction of priority violations in food preparation and service at Summer Food Service Program (SFSP) meal production and meal service sites.

2. This Agreement shall consist of: (1) this form, (2) Attachment A - Certification, (3) the Terms and Conditions, the latter two of which are attached hereto and incorporated by reference as if fully set forth herein.

3. To the extent that this Agreement involves the use, in whole or in part, federal funds, the signature of the Provider's authorized representative on this Agreement signature page indicates compliance with the Certifications contained in Attachment A.

4. **Training:**
   - 4.1 The Department will provide regional training in each District prior to the start of the SFSP. The training will present the Agreement and its deliverables, inspection requirements and reimbursement requirements.
   - 4.2 The Provider shall ensure that their staff responsible for conducting inspections attend one of the training opportunities.

5. **Inspection sites**:
   - 5.1 The Provider shall perform sanitation and food safety inspections at all SFSP sites and associated food service management companies, including schools that prepare food for off-site service locations, as designated by the Department.
   - 5.2 The Provider shall not perform sanitation and food safety inspections at schools that do not prepare food for off-site service locations.
   - 5.3 The Provider, if informed of changes to SFSP sites by the SFSP site or by others, must verify with the Department prior to inspecting these sites. The Department will not reimburse the Provider for inspections conducted that do not match the date, day of the week, or time on the SFSP Site Listing. Provider must obtain written approval from the Department prior to conducting an inspection that deviates from the SFSP Site Listing.

6. **SFSP Site Listing**:
   - 6.1 To ensure up to date site information, the Provider must print the SFSP Site Listing no more than seven (7) days prior to the date of inspection.
   - 6.2 The Provider can obtain a copy of the SFSP Site Listing at: http://health.mo.gov/living/wellness/nutrition/foodprograms/sfsp/inspectors.php.

7. **Inspection requirements**:
   - 7.1 The Provider shall conduct sanitation and food safety inspections as outlined in Section 2.0 Food Safety, subsections: 2.1 through 2.3, of the Environmental Health Operational Guidelines (EHOG), available at: http://health.mo.gov/atoz/ehog/index.php;
   - 7.2 The Provider shall conduct sanitation and food safety inspections that comply as follows:
     - 7.2.1 Within the first half of each SFSP site's dates of operation, as listed in the SFSP Site Listing;
     - 7.2.2 The start time of the inspection, for a central kitchen site or a self-prep site must be within 1 hour prior to service or during service hours;

7.2.3 The start time of the inspection for a vended site must not exceed 30 minutes prior to the start of service;

7.2.4 The inspection of central kitchens and self-prep sites must be a minimum of 30 minutes and there is no minimum time requirement for service sites.

1. **Inspection Reports**:

8.1 The Provider shall use the Inspection Report Form, provided by the Department for inspections, follow-up inspections, and attempted inspections. The Provider must submit a completed Inspection Report Form and SFSP Site Listing to the Department within two (2) weeks following the date of inspection.

8.1.1 The Provider shall complete the Inspection Report.

8.1.2 The Provider shall enter the inspection date, "Time In", and "Time Out" on form.

8.1.3 A completed report includes information provided in all fields on the form, the evaluation of all food safety measures, the review of any Time as a Public Health Control plans and records, and shall list the menu items and the temperatures of these foods; incomplete inspection reports may not be payable.

8.2 The Provider can obtain the Inspection Report Form at: http://health.mo.gov/warehouse.

2. **Follow-up Inspections**:

9.1 The Provider shall conduct follow-up inspections, to verify correction of priority violations that were not corrected during the initial inspection. The Provider must submit a completed Inspection Report Form and SFSP Site Listing to the Department within two (2) weeks following the date of inspection.

9.2 The Provider shall conduct the follow-up inspections according to the EHOG or to the local public health agency's written plan.

9.3 The Department will reimburse Providers for follow-up inspections, provided they meet the criteria within this Agreement.

3. **Attempted Inspections**:

10.1 If the Provider attempts to inspect facilities or service sites that are either no longer operating or have changed their hours of operation. The Provider must submit to the Department within two (2) weeks following the date of attempted inspection:

10.1.1 A Sanitation Observation Form E6.07, in which the Provider must clearly note the time of the site visit; or

10.2.2 An Inspection Report form completed with the information readily available to the inspector; and

10.2.3 A copy of the applicable SFSP Site Listing.

10.2 The Provider can obtain the Inspection Report form and/or Sanitation Observation Form E6.07 at: http://health.mo.gov/warehouse.

4. **Approval of Inspections/Submission of Forms**:

11.1 For initial inspections, the Provider must submit the complete and legible Inspection Report for each SFSP site within two (2) weeks following the date of inspection.

11.2 For follow-up inspections, the Provider must submit the complete and legible Inspection Report for each SFSP site within two (2) weeks following the date of inspection.

11.3 For attempted inspections, the Provider must submit the complete and legible Sanitation Observation Form or Inspection Report form for each SFSP site within two (2) weeks following the date of inspection.

11.4 For all inspections, the Provider must submit the SFSP Site Listing for each SFSP site inspected or attempted to inspect that the Provider printed no more than 7 days prior to the date of inspection.

11.5 If the inspections and forms do not comply with the requirements set out in this Agreement, the Department will not approve the inspections for reimbursement.

11.6 The Provider shall remit all forms to:

Department of Health and Senior Services
Bureau of Environmental Health Services
Attention: SFSP Inspections
930 Wildwood Drive
P.O. Box 570
Jefferson City, MO 65102

5. **Reimbursement Requirements**:

12.1 The Department will not reimburse the Provider for more than 6 initial inspection(s) if the Provider does not obtain prior written approval from the Bureau of Environmental Health Services, Department of Health and Senior Services via email to BEHS.SUMMERFOOD@health.mo.gov.

12.2 The Department will not reimburse the Provider for any inspections or attempted inspections:

12.2.1 If the Provider fails to submit the Inspection Report Forms or the Sanitation Observation Form E6.07 by the deadline set out in paragraph 11; or

12.2.2 If either the Provider's Inspection Report Form or the Sanitation Observation Form E6.07 do not meet the criteria for approval by the Department set out in this Agreement.

12.3 Initial Inspections:

12.3.1 Central Kitchens and Self-Prep Sites:

a. The Department will reimburse the Provider at a fixed rate of **$125** for each approved initial inspection conducted for central kitchens and self-prep sites that the Provider conducts within the first half of the site's operation dates.

b. The Department will reimburse the Provider at a fixed rate of **$75** for each approved initial inspection conducted for central kitchens and self-prep sites that the Provider conducts after the first half of the site's operation dates but before the last date(s) of the site's operation.

12.3.2 Vended Sites:

a. The Department will reimburse the Provider at a fixed rate of **$80** for each approved initial inspection conducted for vended sites that the Provider conducts within the first half of the site's operation dates.

b. The Department will reimburse the Provider at a fixed rate of **$50** for each approved I initial inspection conducted for vended sites that the Provider conducts after the first half of the site's operation dates but before the last date(s) of the site's operation

12.4 Follow-up inspections:

12.4.1 The Department will reimburse the Provider at a fixed rate of **$60** for each approved follow-up inspection conducted for central kitchens and self-prep site that the Provider conducts.

12.4.2 The Department will reimburse the Provider at a fixed rate of **$40** for each approved follow-up inspection conducted for vended sites that the Provider conducts.

12.5 Attempted Inspections:

12.5.1 The Department will reimburse the Provider at a fixed rate of **$30** for each approved attempted inspection the provider conducts.

12.5.2 The Department will not reimburse the Provider for more than two attempted inspections per facility.

12.6 Providers that agree to conduct inspections outside their agency's normal jurisdiction will be reimbursed an additional $10 per inspection conducted. Inspections conducted outside the Provider's jurisdiction will apply toward the limit on the total number of inspections the Provider can conduct set out in 12.1, above.

6. **Invoices**:
   - 13.1 The Provider shall submit a single invoice for all work performed and reported during the contract period by October 15, 2016.
     - 13.1.1 The Provider may not submit more than one invoice, or submit an invoice later than October 15, 2016, unless the Provider obtained prior written approval from the Department.
     - 13.1.2 The Provider may submit its request for an exception to BEHS.SUMMERFOOD@health.mo.gov.
   - 13.2 The Provider shall submit the invoice to the Department on the standard DH-38 billing form and shall include the agreement number and invoice number of "SFSP16ALL".
   - 13.3 If the Department denies a Provider's request for payment, the Department shall provide the Provider with written notice of the reason(s) for the denial.
   - 13.4 The Department shall not reimburse the Provider based on any invoice that the Provider does not submit in accordance with the requirements set out in this Agreement.

7. **Termination:**
   - 14.1 The Department, in its sole discretion, may terminate the obligations of each party under this contract, in whole or in part, effectively immediately upon providing written notification to the Provider if:
     - 14.1.1 State and/or federal funds are not appropriated, continued, or available at a sufficient level to fund this contract; or
     - 14.1.2 A change in federal or state law relevant to this contract occurs; or
     - 14.1.3 A material change of the parties to the contract occurs; or
     - 14.1.4 By request of the Provider.
   - 14.2 Each party under this contract may terminate the contract, in whole or in part, at any time, for its convenience without penalty or recourse by providing the following written notice:
     - 14.2.1 The Department will provide written notice to the Provider at least thirty (30) calendar days prior to the effective date of such termination.
     - 14.2.2 The Provider shall provide written notice to the Department at least sixty (60) calendar days prior to the effective date of such termination.
   - 14.3 In the event of termination, the Department may exercise the rights set forth in 2 CFR § 200.315(b) to reproduce, publish, or otherwise use copyrighted material prepared, furnished or completed by the Contractor pursuant to the terms of the contract, and may authorize others to do the same. The Department may also exercise the rights set forth in 2 CFR § 200.315(d) to obtain, reproduce, or otherwise use the data prepared, furnished, or produced by the Contractor pursuant to the terms of the contract, and may authorize others to do the same. The Contractor shall be entitled to receive compensation for services and/or supplies performed in accordance with the contract prior to the effective date of the termination and for all non-cancelable obligations incurred pursuant to the contract prior to the effective date of the termination.

15. This agreement expresses the complete agreement of the parties and shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties. Performance shall be governed solely by the terms and conditions contained in this agreement. By signing below, the Provider and Department agree to all terms and conditions set forth in this agreement.

PROVIDER AGENCY NAME: Columbia-Boone County Health Department		
AUTHORIZED PROVIDER SIGNATURE: ▶	PRINTED NAME/TITLE:	DATE:
DIVISION OF ADMINISTRATION DIRECTOR/DESIGNEE: ▶	PRINTED NAME/TITLE: Director or Designee, Division of Administration	DATE:

CERTIFICATIONS AND SPECIAL PROVISIONS

1. GENERAL

1.1 To the extent that this contract involves the use, in whole or in part, federal funds, the signature of the Contractor's authorized representative on the contract signature page indicates compliance with the following Certifications and special provisions.

2. CONTRACTOR'S CERTIFICATION REGARDING SUSPENSION AND DEBARMENT

2.1 The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency pursuant to 2 CFR Part 180.

2.2 The Contractor shall include these certification requirements regarding debarment, suspension, ineligibility, and voluntary exclusion in all lower tier covered transactions.

2.3 If the Contractor enters into a covered transaction with another person at the next lower tier, the Contractor must verify that the person with whom it intends to do business is not excluded or disqualified by:

2.3.1 Checking the System of Award Management (SAM) https://www.sam.gov; or

2.3.2 Collecting a certification from that person; or

2.3.3 Adding a clause or condition to the covered transaction with that person.

3. CONTRACTOR'S CERTIFICATION REGARDING LOBBYING

3.1 The Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

3.2 The Contractor certifies that no funds under this contract shall be used to pay for any activity to support or defeat the enactment of legislation before the Congress, or any State

or local legislature or legislative body. The Contractor shall not use any funds under this contract to pay for any activity to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.

3.3 The Contractor certifies that no funds under this contract shall be used to pay the salary or expenses of the Contractor, or an agent acting for the Contractor who engages in any activity designed to influence the enactment of legislation or appropriations proposed or pending before the Congress, or any State, local legislature or legislative body, or any regulation, administrative action, or Executive Order issued by the executive branch of any State or local government.

3.4 The above prohibitions include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

3.5 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3.6 The Contractor shall require that the language of this section be included in the award documents for all subawards at all levels (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

3.7 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

4. CONTRACTOR'S CERTIFICATION REGARDING A DRUG FREE WORKPLACE

4.1 The Contractor certifies it shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988, 41 U.S.C. Chapter 81, and all applicable regulations.

CERTIFICATIONS AND SPECIAL PROVISIONS

The Contractor is required to report any conviction of employees under a criminal drug statute for violations occurring on the Contractor's premises or off the Contractor's premises while conducting official business. The Contractor shall report any conviction to the Department within five (5) working days after the conviction. Submit reports to:

Missouri Department of Health and Senior Services
Division of Administration, Grants Accounting Unit
P.O. Box 570
920 Wildwood Drive
Jefferson City, Missouri 65102-0570

5. CONTRACTOR'S CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

5.1 The Pro-Children Act of 1994, (Public Law 103-227, 20 U.S.C. §§ 6081-6084), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The Pro-Children Act also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The Pro-Children Act does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the Pro-Children Act may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

5.2 The Contractor certifies that it will comply with the requirements of the Pro-Children Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act.

5.3 The Contractor agrees that it will require that the language of this certification be included in any subcontract or subaward that contains provisions for children's services and that all subrecipients shall certify accordingly. Failure to comply with the provisions of the Pro-Children Act law may result in the imposition of a civil monetary penalty of up to $1,000 per day.

6. CONTRACTOR'S CERTIFICATION REGARDING NON-DISCRIMINATION

CERTIFICATIONS AND SPECIAL PROVISIONS

6.1 The contractor shall comply with all federal and state statutes, regulations and executive orders relating to nondiscrimination and equal employment opportunity to the extent applicable to the contract. These include but are not limited to:

6.1.1 Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. § 2000d *et seq.*) which prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act which prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;

6.1.2 Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. § 206 (d));

6.1.3 Title IX of the Education Amendments of 1972, as amended (20 U.S.C §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;

6.1.4 Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) which prohibit discrimination on the basis of disabilities;

6.1.5 The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;

6.1.6 Equal Employment Opportunity – E.O. 11246, as amended;

6.1.7 Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Compliance Requirements;

6.1.8 Missouri Governor's E.O. #05-30 (excluding paragraph 1, which was superseded by E.O. #10-24);

6.1.9 Missouri Governor's E.O. #10-24; and

6.1.10 The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

7. CONTRACTOR'S CERTIFICATION REGARDING EMPLOYEE WHISTLEBLOWER PROTECTIONS

7.1 The contractor shall comply with the provisions of 41 U.S.C. 4712 that states an employee of a contractor, subcontractor, grantee, or subgrantee may not be discharged,

demoted or otherwise discriminated against as a reprisal for "whistleblowing". In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

7.2 The contractor's employees are encouraged to report fraud, waste, and abuse. The contractor shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce.

7.3 The contractor shall include this requirement in any agreement made with a subcontractor or subgrantee.

8. CLEAN AIR ACT AND WATER POLLUTION CONTROL ACT

8.1 The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*).

STATE OF MISSOURI
DEPARMENT OF HEALTH AND SENIOR SERVICES

TERMS AND CONDITIONS

This contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained herein. Any change must be accomplished by a formal signed amendment prior to the effective date of such change.

1. APPLICABLE LAWS AND REGULATIONS

a. The contract shall be construed according to the laws of the State of Missouri (state). 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 state.
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 contract shall be in the Circuit Court of Cole County, Missouri.
f. The contractor shall only employ 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.

2. INVOICING AND PAYMENT

a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified herein.
b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the state.
d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the specific contract terms.
e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

3. 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.

4. INSPECTION AND ACCEPTANCE

a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

5. CONFLICT OF INTEREST

Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.

6. WARRANTY

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 state, (2) be fit and sufficient for the purpose intended, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

7. REMEDIES AND RIGHTS

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

8. CANCELLATION OF CONTRACT

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

9. BANKRUPTCY OR INSOLVENCY

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

10. INVENTIONS, PATENTS AND COPYRIGHTS

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

11. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

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

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

If discrimination by a contractor is found to exist, the state shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the state 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.

12. 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).

13. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise.

14. COMMUNICATIONS AND NOTICES

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