



**Office of State Courts Administrator
P.O. Box 104480
2112 Industrial Drive
Jefferson City, Missouri 65110**

RFQ NO. OSCA 10-020-01
TITLE: AUDIENCE RESPONSE SYSTEM
ISSUE DATE: October 7, 2009

CONTACT: Herb Conner
PHONE NO.: (573)522-2617
E-MAIL: herb.conner@courts.mo.gov

TARGET DATE: October 21, 2009

MAILING INSTRUCTIONS: Print or type **RFQ Number** on the lower left hand corner of the envelope or package.

RETURN QUOTATION TO: OFFICE OF STATE COURTS ADMINISTRATOR
ATTN: HERB CONNER
2112 INDUSTRIAL DRIVE
JEFFERSON CITY MO 65109

CONTRACT PERIOD: DATE OF AWARD THROUGH ONE YEAR

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

OFFICE OF STATE COURTS ADMINISTRATOR
Attn: Contracts Unit
2112 INDUSTRIAL DRIVE
JEFFERSON CITY, MO 65109

The bidder hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Quotation. The bidder further agrees that the language of this RFQ shall govern in the event of a conflict with his/her bid. The bidder further agrees that upon receipt of an authorized purchase order or when this RFQ is countersigned by an authorized official of the Office of State Courts Administrator, a binding contract shall exist between the bidder and the Office of State Courts Administrator.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE
PRINTED NAME		TITLE
COMPANY NAME		
MAILING ADDRESS		
CITY, STATE, ZIP		
VENDOR NO. (IF KNOWN)		FEDERAL EMPLOYER ID NO.
PHONE NO.	FAX NO.	E-MAIL ADDRESS

NOTICE OF AWARD (OSCA USE ONLY)

ACCEPTED BY OFFICE OF STATE COURTS ADMINISTRATOR AS FOLLOWS:		
CONTRACT NO.		CONTRACT PERIOD
CONTRACT COORDINATOR	DATE	DEPUTY STATE COURTS ADMINISTRATOR

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

1.1.1 This document constitutes a request for competitive quotations for the purchase of Audience Response System as set forth herein.

1.2 Background Information:

1.2.1 The Office of State Courts Administrator, hereafter referred to as "OSCA" desires to purchase an Audience Response System for use during Judicial Education training seminars and conferences for the Missouri Judiciary.

1.2.2 The response system should have the ability to show poll results immediately after the audience has been questioned. This creates an interesting discussion throughout the class that is useful to the instructor. Use of the response system has shown effective participation results when polling large groups for evaluations. The response system may also save valuable time and resources when conducting evaluations electronically rather than hand counting hundreds of paper evaluations.

1.2.3 Although an attempt has been made to provide accurate and up-to-date information, the Office of State Courts Administrator does not warrant or represent that the background information provided herein reflects all relationships or existing conditions related to this Request for Quotation.

2. PERFORMANCE REQUIREMENTS

2.1 General Requirements:

2.1.1 The Audience Response System will be used as an additional training tool for use during judicial training seminars and conferences. The system will allow for judges and other judicial staff to provide instant feedback and data.

2.2 General Specifications.

2.2.1 Audience Response System must be native to Microsoft PowerPoint presentation software version 2003-2007.

2.2.2 Audience Response System must be able to transmit responses from up to 200 feet.

2.2.3 Audience Response System must have the ability to use multiple receivers/channels at once.

2.2.4 Audience Response System should be lightweight and contain compact keypads with durable transportation case.

2.2.5 Vendor must provide a minimum of a one (1) year parts and labor warranty.

2.2.6 Audience Response System Keypads must contain at least 12 easy to read buttons that also transmit the response automatically after key press.

2.2.7 Audience Response System Keypads only use power when key button is pressed.

- 2.2.8 Participants must receive keypad feedback when transmissions are successfully received.
- 2.2.9 The Audience Response System keypads and base station must use RF Technology.
- 2.2.10 The Audience Response System must have open source architecture for future integration with Learning Management System (LMS).
- 2.2.11 The Audience Response System must have technical support available between the hours of 8am and 5pm CST.
- 2.2.12 It is desirable that a receiver can handle up to 500 response keypads without additional equipment.
- 2.2.14 OSCA will require 100 of the audience response keypads to be set on channel 1 and 100 set to channel 2.

2.3 Pricing:

- 2.3.1 All prices shall be as indicated on the Pricing Page. OSCA shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

2.4 Invoicing and Payment Requirements:

- 2.4.1 The contractor shall submit an invoice for the applicable firm, fixed total price stated on the Pricing Page.
- 2.4.1 The contractor shall submit invoices to the following address:

Office of State Courts Administrator
Attn: Procurement Unit
2112 Industrial Drive
P.O. Box 104480
Jefferson City, MO 65110

- 2.4.2 The contractor shall be paid in accordance with the applicable firm, fixed prices stated on the Pricing Page.
- 2.4.3 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor.

3. CONTRACTUAL REQUIREMENTS

3.1 Contract Period:

- 3.1.1 The original contract period shall be as stated in the Request for Quotation (RFQ). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period.

3.2 Submission of Bids

- 3.2.1 Contractor should submit completed pricing page and other information concerning the bid.
- 3.2.2 The bid should be printed on recycled paper. The contractor should minimize or eliminate the use of non-recyclable materials such as plastic report covers, plastic dividers, vinyl sleeves, and binding.
- 3.2.3 The contractor should include any documentation that explains the product(s) with the mailed response. In addition, the bid should be page numbered.

3.3 Evaluation Process

- 3.3.1 Evaluation Process – Bids will be reviewed by an OSCA evaluation team to determine if the bid complies with the mandatory requirements and to determine the lowest and best responsible and reliable bidders.
- 3.3.2 **After confirming that a proposal satisfies the mandatory requirements stated in the Request for Quote, an award will be made to the lowest and best proposal.**

3.4 Termination:

- 3.4.1 The Office of State Courts Administrator reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination.

3.5 Contractor Liability:

- 3.5.1 The contractor shall be responsible for any and all injury or damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition to the liability imposed upon the contractor on account of personal injury, bodily injury (including death), or property damage suffered as a result of the contractor's negligence, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
 - a. However, the contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.

3.6 Insurance:

- 3.6.1 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.

3.7 Contractor Status:

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

3.8 Coordination:

- 3.8.1 The contractor shall fully coordinate all contract activities with those activities of the OSCA.

3.9 Subcontractors:

- 3.9.1 Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the Office of State Courts Administrator and to ensure that the Office of State Courts Administrator is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the Office of State Courts Administrator and the contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein. The contractor must obtain the approval of the Office of State Courts Administrator prior to establishing any new subcontracting arrangements and before changing any subcontractors.

**FIRM FIXED PURCHASE PRICING
FOR
REQUIRED AUDIENCE RESPONSE HARDWARE, SOFTWARE AND SERVICES**

OSCA desires to purchase a complete audience response system with up to 200 keypads. If there is a discount by purchasing more keypads at the same time, please indicate on the pricing page

ITEM NUMBER	ITEM DESCRIPTION	QTY	Purchase Price	
			Unit Price	Total
GRAND TOTAL				

Pursuant to the terms, conditions and specifications set forth in this Request for Proposal, I hereby quote the price(s) for items and services indicated above at a firm, fixed purchase price for the contract period and hereby grant the State of Missouri the right to add or delete the quoted items and services at the same price(s) indicated above at any time during the contract period. In the event that the State of Missouri exercises its options to extend the contract period, the prices for such extension period shall be determined pursuant to Renewal Option Tables. Unless quoted above, the contractor agrees that the State of Missouri shall not pay for any maintenance or installation costs. Such cost shall be considered to be included in the firm, fixed purchase price

**STATE OF MISSOURI
OFFICE OF STATE COURTS ADMINISTRATOR**

**TERMS AND CONDITIONS -- REQUEST FOR
QUOTATION**

1. TERMINOLOGY/DEFINITIONS

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

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFQ or to a contract.
- c. **Attachment** applies to all forms which are included with an RFQ to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Target Date** means the date at which time the Office of State Courts Administrator may open bids and consider them for contract award.
- e. **Bidder** means the person or organization that responds to an RFQ by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the RFQ document.
- f. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- g. **Contractor** means a person or organization who is a successful bidder as a result of an RFQ and who enters into a contract.
- h. **Exhibit** applies to forms which are included with an RFQ for the bidder to complete and submit with the sealed bid prior to the specified opening date and time.
- i. **Request for Quotation (RFQ)** means the solicitation document issued to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- j. **May** means that a certain feature, component, or action is permissible, but not required.
- k. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
- l. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the RFQ. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid opening date and time.
- 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.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the Office of State Courts Administrator.
- 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.
The exclusive venue for any legal proceeding relating to or arising out of the RFQ or resulting contract shall be in the Circuit Court of Cole County, Missouri.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the Office of State Courts Administrator if any

language, specifications or requirements of an RFQ appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFQ to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the Contract and Grant Coordinator, unless the RFQ specifically refers the bidder to another contact. Such communication should be received at least ten calendar days prior to the official bid opening date.

- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all bidders will be advised, via the issuance of an amendment to the RFQ, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFQ, any questions received less than ten calendar days prior to the RFQ opening date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued in the RFQ or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The Office of State Courts Administrator monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The Office of State Courts Administrator reserves the right to officially amend or cancel an RFQ after issuance.

4. PREPARATION OF BIDS

- a. Bidders **must** examine the entire RFQ carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the RFQ, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFQ, any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to 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 RFQ.
- e. In the event that the bidder is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFQ, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the Office of State Courts Administrator and the bidder, if such bidder is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFQ. Any such bidder needs to include in the bid, a complete list of statutory references and citations for each provision of the RFQ which is affected by this paragraph.
- f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the RFQ clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFQ.
- h. Prices offered shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, prices shall be firm for the specified contract period.

5. SUBMISSION OF BIDS

- a. Bids must be submitted hard copy, delivered to the Office of State Courts Administrator, Contract and Grant Coordinator. All bids must (1) be submitted by a duly authorized representative of the bidder's organization, (2) contain all information required by the RFQ, and (3) be priced as required. Bids may be sealed in an envelope or container or Faxed with signature and received in the Office of State Courts Administrator and subject to acceptance until a contract is awarded.

- b. A bid which has been delivered to the Office of State Courts Administrator, may be modified by signed, written notice which has been received by the Contract and Grant Coordinator prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
- c. A bid which has been delivered to the Office of State Courts Administrator, may only be withdrawn by a signed, written notice or facsimile which has been received by the Contract and Grant Coordinator prior to the official opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a bid shall not be honored.
- d. Bidders delivering a hard copy bid to Office of State Courts Administrator must sign and return the RFQ cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all RFQ terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.

6. BID OPENING

- a. Bid openings are public and occur at a time set after the Target Date specified on the RFQ document.
- b. It is the bidder's responsibility to ensure that the bid is received by Office of State Courts Administrator by the target date.
- c. Bids which are not received by the Office of State Courts Administrator prior to the target date may not be opened.

7. PREFERENCES

- a. 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. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- b. In accordance with Executive Order 98-21, contractors are encouraged and may be required per the RFQ to utilize certified minority and women-owned businesses in selecting subcontractors.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the Contract and Grant Coordinator before contract award. Upon discovering an apparent clerical error, the Contract and Grant Coordinator shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed by the Office of State Courts Administrator to be in the best interest of the State of Missouri.
- c. Unless otherwise stated in the RFQ, cash discounts for prompt payment of invoices shall not be considered in the evaluation of prices. However, such discounts are encouraged to motivate prompt payment.
- d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the RFQ and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the RFQ.
- e. In the event all bidders fail to meet the same mandatory requirement in an RFQ, the Office of State Courts Administrator reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the Office of State Courts Administrator reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The Office of State Courts Administrator reserves the right to reject any and all bids.
- g. When evaluating a bid, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
- i. Any award of a contract shall be made by notification from the Office of State Courts Administrator to the successful bidder. The Office of State Courts Administrator 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 Office of State Courts Administrator based upon factors such as item similarity,

location, administrative efficiency, or other considerations in the best interest of the State of Missouri.

- j. The Office of State Courts Administrator reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the RFQ, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFQ, amendments thereto, (2) the contractor's bid, and (3) Office of State Courts Administrator's acceptance of the bid by "notice of award" or by "purchase order."
- c. A notice of award 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, the contractor must receive a properly authorized purchase order.
- 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, 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 Contract and Grant Coordinator 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.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference 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 Office of State Courts Administrator.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears. The State of Missouri shall not make any advance deposits.
- 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.

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 pursuant to a contract shall be deemed accepted until the Office of State Courts Administrator 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.

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

14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, 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 bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. 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.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the Office of State Courts Administrator may cancel the contract. At its sole discretion, the Office of State Courts Administrator 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 Office of State Courts Administrator 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 Office of State Courts Administrator will issue a notice of cancellation terminating the contract immediately.
- c. If the Office Of State Courts Administrator cancels the contract for breach, the Office of State Courts Administrator 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 Office of State Courts Administrator 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.

17. 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.

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 Office of State Courts Administrator immediately.

- b. Upon learning of any such actions, the Office of State Courts Administrator 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 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.

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, color, religion, national origin, sex, age, disability, or veteran status. 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 Office of State Courts Administrator shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the Office of State Courts Administrator 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. 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.