



**STATE OF MISSOURI
OFFICE OF STATE COURTS ADMINISTRATOR
REQUEST FOR PROPOSAL**

REQUEST FOR PROPOSAL NO.

ISSUE DATE:

CONTACT: Trish Adamson

PHONE NO: 573-526-8818

E-MAIL: osca.contracts@courts.mo.gov

TITLE: Transcription Services

CONTRACT PERIOD: DATE OF AWARD THROUGH March 31.

PROPOSAL SUBMITTAL INSTRUCTIONS:

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

Office of State Courts Administrator
Attn: Contracts Unit
PO Box 104480
2112 Industrial Drive
Jefferson City, MO 65110-4480
osca.contracts@courts.mo.gov

The offeror 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 of the Request for Proposal (RFP). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees when this RFP is countersigned by an authorized official of OSCA, a binding contract shall exist between the offeror and OSCA. An electronic document requiring a signature shall be signed by an original signature, stamped signature or an electronic graphic representation of a signature, or in the following manner: /s/ John or Jane Person.
IMPORTANT: Download and save PDF before filling in the form.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE
PRINTED NAME		TITLE
COMPANY NAME		
MAILING ADDRESS		
CITY, STATE, ZIP		
E-MAIL ADDRESS		
PHONE NO.	FAX NO.	

NOTICE OF AWARD (OSCA USE ONLY)

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

1.0 INTRODUCTION AND BACKGROUND INFORMATION

- 1.1 Purpose:** This document constitutes a request for sealed proposals from prospective contractors for the development of a Qualified Vendor List for the Missouri Office of State Courts Administrator (OSCA) for the transcription of sound recorded court proceedings. Contracts established as a result of this request for proposal (RFP) shall be used on an as needed, if needed basis, in accordance with the requirements and provisions stated herein.
- 1.1.1 The resulting contract shall be construed as a non-exclusive agreement. OSCA reserves the right to secure identical and/or similar services from other sources at any time in conjunction with or in replacement of the services acquired hereunder.
- 1.1.2 This RFP document is divided into the following parts:
- 1) Introduction and Background Information
 - 2) Performance Requirements
 - 3) Contractual Requirements
 - 4) Proposal Submission Information
 - 5) General Requirements
 - 6) Exhibit A - Pricing Page
 - 7) Exhibit B - Transcription Service Provider Information
 - 8) Exhibit C - Prior Experience of Offerors
 - 9) Exhibit D - Affidavit of Work Authorization
 - 10) Exhibit E - Employee Contractors/Conflict of Interest
 - 11) Exhibit F - Confidentiality/Non-Disclosure Agreement
 - 12) Exhibit G - Performance Outside United States - Disclosure and Exemption Declaration
 - 13) Terms and Conditions
- 1.2 Background Information:**
- 1.2.1 OSCA Central Transcribing Service (CTS) is developing a list of qualified vendors for transcribing sound recorded court proceedings. This list will be utilized by OSCA in selecting service providers for the transcription of these court proceedings.
- 1.2.2 This is not an exclusive arrangement. On a case-by-case basis, the selection of a transcriber shall be determined by OSCA CTS. Award of a contract does not guarantee you will be selected to provide these services.
- 1.2.3 Current media is FTR Gold. FTR Gold digital recording requires a PC, FTR Gold's transcription software and compatible foot pedal for audio playback.
- 1.2.4 Although an attempt has been made to provide accurate and up-to-date information, OSCA does not warrant or represent that the background information provided herein reflects all relationships or existing conditions related to this RFP.
- 1.3 Proposal Contact:**
- Prospective offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding this RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. Prospective offerors and their agents may not contact any other OSCA employee regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements.

2.0 PERFORMANCE REQUIREMENTS

2.1 Format Requirements:

- 2.1.1 All transcripts must be prepared in accordance with the requirements herein and Supreme Court Rule 81.12.

Supreme Court Rule 81.12 may be found at:

[https://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/](https://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/6b183b2086ca756486256ca6005215b1?OpenDocument)

[c0c6ffa99df4993f86256ba50057dcb8/6b183b2086ca756486256ca6005215b1?OpenDocument](https://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/6b183b2086ca756486256ca6005215b1?OpenDocument)

2.2 Delivery Requirements:

- 2.2.1 OSCA CTS will provide the contractor with a password to a protected link to the recorded proceedings via encrypted e-mail. The contractor shall download the audio file from the File Transfer Protocol (FTP) site.
- 2.2.2 The contractor shall be provided a copy of the order form on the FTP site containing documentation of the type of transcript is being assigned and the rate to be charged.
- 2.2.3 The contractor shall deliver the transcripts using the timelines below once selected as a transcriber and receipt of the e-mail containing the password to a protected link to the audio file of the sound recorded court proceedings, unless prior arrangements for a shorter turnaround time have been agreed to in writing. If the due date falls on a weekend or holiday, the transcript shall be due the next working day. The work week is defined as Monday through Friday.
- 50 pages or less 14 calendar days
 - 51 pages or more 21 calendar days
- 2.2.4 The contractor shall return transcripts requiring corrections to OSCA transcript within 5 days of receiving the returned transcript. See section 2.5.7 for costs of the corrected transcript.
- 2.2.5 The transcripts shall be delivered electronically using the Microsoft® Word 2010 or newer format.
- 2.2.6 The contractor shall direct requests for extension of time to complete transcription to OSCA CTS within 10 days of receipt of the e-mail containing the password to a protected link to the proceedings. In the event the contractor fails to deliver a completed and acceptable transcript by the date or within the time frame specified by OSCA, the contractor shall be assessed liquidated damages in the amount of \$25.00 for each working day thereafter until delivery of the completed transcript. The liquidated damages may be waived solely at OSCA's discretion.
- 2.2.7 The contractor shall return the final transcript in electronic format via encrypted e-mail. OSCA CTS shall acknowledge the receipt of the transcript via e-mail reply. A paper copy of the transcript is not acceptable.
- 2.2.8 All downloaded media/proceedings and/or audio, etc. shall be destroyed and/or deleted from all locations upon return of the final transcript to OSCA CTS.
- 2.2.9 The contractor shall include with the final transcript a list of all proper nouns and indicate whether or not the spelling has been verified and from where.

2.3 Quality Control:

- 2.3.1 The contractor shall certify the transcript as a true and accurate transcript of the recording. Payment for services shall not be processed without a signed certificate.
- 2.3.2 The contractor shall proofread all transcripts. The contractor should compare the original media to the transcript before submission to OSCA CTS.
- 2.3.3 The margin of error shall not be greater than six substantive errors per 300 consecutive words. Substantive errors include, but are not limited to each wrong word(s), each missing word(s), each added word; each misspelled word; transposed words; each omitted, added, or misplaced Q and A; each omitted comma in a series; each omitted comma in a direct address; and punctuation errors that change the meaning. Transcripts returned to OSCA with a margin of error greater than six substantive errors per 300 consecutive words may be subject to probation, pay reduction, or termination of the contract.
- 2.3.4 Submission of a transcript exceeding the margin of error outlined in Section 2.3.3 shall result in a written warning. After receipt of one written warning, if a subsequent transcript is submitted which exceeds the margin of error in Section 2.3.3, the contractor will be placed on probation for the next three transcripts submitted, and the page rate will be reduced by \$1.00 per page for each of those transcripts. Submission of a third transcript exceeding the margin of error outlined in Section 2.3.3 will result in termination of the contract. The contractor may reapply for a contract after six months of the termination.

2.4 Other Requirements:

- 2.4.1 The contractor must have access to the necessary playback equipment in order to provide the required transcription services. The equipment requirements are outlined in Section 1.2.3.
- 2.4.2 The contractor may reject transcript requests assigned to them only for good cause shown. Receiving a transcript with poor audio does not constitute good cause. The OSCA transcribers will determine if the rejection is approved. The rejection must be in writing and must be received by OSCA CTS within seven (7) calendar days of receipt of the assignment. Only 3 rejections will be allowed in a calendar year unless additional rejections are approved by OSCA transcribers.
- 2.4.3 The contractor shall perform all services to the sole satisfaction of OSCA. The contractor shall understand and agree that OSCA shall be the final judge of the quality of services provided under the contract.
- 2.4.4 If it is determined by OSCA that any completed material(s) are unacceptable, the contractor shall provide replacement material(s) at no additional cost to OSCA in a time frame determined by OSCA.
- 2.4.5 The contractor must maintain the confidentiality and security of all notes, records, tapes, transcripts, and correspondence. A Confidentiality/Non-Disclosure Agreement, Exhibit F, must be completed, signed and submitted prior to award of a contract.
- 2.4.6 Unless otherwise specified herein, the contractor must provide all material(s), labor, facilities, equipment, and supplies necessary to perform transcription services.
- 2.4.7 The contractor may provide transcripts prepared by a certified court reporter, a certified transcriber, or a transcriber with a minimum of six (6) years of satisfactory transcribing experience, as determined solely by OSCA.

- 2.4.8 **Offerors are required to prepare a sample transcript which must be submitted with the proposal.** The audio files, test case documentation, transcript template, and a transcript example can be accessed at:

(Click on the link below to to access the shared file.)

Shared File	
Download link & File Name:	Transcription RFP Test.zip

- a. The sample transcript shall be prepared in accordance with the formatting requirements at section 2.1 of this RFP. The sample transcript shall be no longer than 25 pages in length. If the offeror chooses to not submit a sample transcript, their proposal shall be removed from consideration for award.
- 2.4.9 OSCA reserves the right not to award a contract to an offeror based on prior experience with the transcriber at the sole discretion of OSCA. OSCA will provide the offeror with the reason for such decision. The decision by OSCA not to award a contract to such offeror shall be final and without recourse.
- 2.4.10 If any services offered under this RFP are being performed at sites outside the United States, the offeror MUST disclose such fact and provide details with the proposal by completing, signing and returning Exhibit G, Performance Outside United States - Disclosure and Exemption Declaration, with your proposal.
- a. OSCA cannot award a contract to an offeror who contemplates performing work (or having a subcontractor perform work) pursuant to the contract at a site outside the United States unless they meet one of the exception criteria in Executive Order 04-09 located at:
http://sos.mo.gov/library/reference/orders/2004/eo04_009.asp

2.5 Invoicing and Payment Requirements:

- 2.5.1 Immediately upon award of the contract, the contractor must register in, or have already registered as a vendor in MissouriBUYS, the statewide eProcurement system. All contract payments shall be through the use of Electronic Funds Transfer through the MissouriBUYS system. To register, please go to The new <https://missouribuyss.mo.gov/supplier-registration> Self-Service Supplier Registration Portal for MissouriBUYS, powered by MOVERS (Missouri Vital Enterprise Resource System) and start your registration process. It is the contractor's responsibility to ensure the information is current and updated as needed.
- 2.5.2 The contractor must submit a separate invoice to OSCA for each transcript provided in accordance with the requirements specified herein. Upon completion of such service, including delivery of the transcript, the contractor must submit a detailed invoice that includes (1) the contract number; (2) the name of the transcriber providing services; (3) the date(s) services were provided and the completion date, (4) all itemized charges including but not limited to the number of pages invoiced, the case number and style of the case, and (5) the total invoice amount. All charges must be in accordance with the firm, fixed prices stated on the Pricing Page of this document.

- 2.5.3 The contractor shall submit all invoices electronically to OSCA.Transcripts@courts.mo.gov.
- 2.5.4 An invoice shall accompany each completed transcript. The price per page shall not exceed the applicable firm, fixed total price proposed on the pricing page of this RFP.
- 2.5.5 The contractor's invoice shall be processed, after the acceptance of the transcript, in accordance with the applicable firm, fixed prices stated on the pricing page less any penalties described herein.
- 2.5.6 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor.
- 2.5.7 When a transcript is returned for corrections due to quality assurance review by OSCA transcribers, a new invoice shall only be submitted for any additional fees over or under \$25 will not be processed. If additional pages are added or pages eliminated that exceeds \$25, a new invoice will be submitted with the original case number and CT (corrected transcript). For example, XXXXX-CT.

3.0 CONTRACTUAL REQUIREMENTS

3.1 Contract Period:

The original contract period shall be as stated on the front page of the RFP. The contract shall not bind, nor purport to bind, the State of Missouri for any contractual commitment in excess of the original contract period. OSCA shall have the right, at its sole option, to renew the contract for five (5) additional one-year periods, or any portion thereof. In the event OSCA exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during renewal periods. Prices shall be as stated on the Pricing Page and mutually agreed to by both contractor and OSCA.

3.2 Termination:

OSCA 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. In the event of termination pursuant to this paragraph, the following shall apply:

- a. All documents, data, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of OSCA. The contractor shall be entitled to receive just and equitable compensation for that work completed pursuant to the contract prior to the effective date of termination.

3.3 Contractor Liability:

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.

3.4 Insurance:

The contractor shall understand and agree the state of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against 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.

3.5 Contractor Status:

The contractor must represent themselves to be an independent contractor offering such services to the general public and shall not represent himself/herself or their 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.

3.6 Coordination:

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

3.7 Property of State:

- 3.7.1 All reports, documentation and material developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the state of Missouri. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of OSCA.
- 3.7.2 All employees, officers, subcontractors, and representatives of the contractor shall maintain and preserve the confidentiality of information and documentation as required pursuant to Sections 210.150 and 211.321, Revised Statutes of Missouri (RSMo), and OSCA regulations. OSCA reserves the right to require that all of the contractor's employees, officers, subcontractors and representatives execute a separate detailed confidentiality agreement. A signed Confidentiality/ Non- Disclosure Agreement, Exhibit F, shall be signed and returned with proposal. Any confidential court data the contractor has access to shall not be disclosed. The contractor shall provide a current criminal background report issued by the Missouri State Highway Patrol.

3.8 Subcontractors:

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

3.9 Business Provisions:

- 3.9.1 Business Compliance - The offeror must be in compliance with the laws regarding conducting business in the state of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that the offeror and any proposed subcontractors either are presently in compliance with such laws or shall be in compliance with such laws prior to any resulting contract award. The offeror shall provide documentation of compliance upon request by OSCA. The compliance to conduct business in the state of Missouri shall include but not necessarily be limited to:
- a. Registration of business name (if applicable)
 - b. Certificate of authority to transact business/certificate of good standing (if applicable)
 - c. Taxes (e.g., city/county/state/federal)
 - d. State and local certifications (e.g., professions/occupations/activities)
 - e. Licenses and permits (e.g., city/county license, sales permits)
 - f. Insurance (e.g., worker's compensation/unemployment compensation)
- 3.9.2 Debarment Certification – The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that the offeror is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation, or otherwise excluded from or ineligible for participation in this transaction by any federal department or agency.
- 3.9.3 Final Determination - Any proposal which does not comply with the mandatory requirements of the RFP shall not be considered for an award. In addition, OSCA reserves the right to reject any proposal for reasons which may include, but not necessarily be limited to: (1) receipt of any information, from any source, regarding unsatisfactory performance of similar services by the offeror within the past three years, and/or (2) inability of the offeror to document responsible and reliable past performances similar to the services required, and/or (3) failure of the offeror to provide a reference(s).
- 3.9.4 Pursuant to Section 285.530 (1), RSMo, no contractor nor subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with Section 285.525 to Section 285.550, RSMo, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates Section 285.530 (1), RSMo, if the contract binding the contractor and subcontractor affirmatively states that:
- a. the direct subcontractor is not knowingly in violation of Section 285.530 (1), RSMo, and
 - b. shall not henceforth be in such violation and
 - c. the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.
- 3.9.5 Authorized Personnel - The offeror understands and agrees that by signing the RFP, the offeror certifies the following:
- a. The offeror 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.

- b. If the offeror is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the offeror has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the offeror from doing business with the state. The state may also withhold up to twenty-five percent of the total amount due to the offeror.
- c. The offeror agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
- d. In addition, the offeror shall maintain enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services included herein.

4.0 PROPOSAL SUBMISSION INFORMATION

4.1 Preparation and Submission of Proposals:

- 4.1.1 Organization: In order to provide optimal readability of their proposal by evaluators, offerors are strongly encouraged to organize their proposal as follows:

Signed RFP and RFP Amendment Cover Page(s), if any

Table of Contents

Exhibit A - Cost (Pricing Pages)

Exhibit B - Transcription Service Provider Information i.e. certifications

Exhibit C - Prior Experience of Offerors

Exhibit D - Affidavit of Work Authorization

Exhibit E - Employee Contractors/Conflict of Interest

Exhibit F - Confidentiality/Non-Disclosure Agreement

Exhibit G - Performance Outside United States - Disclosure and Exemption Declaration, if applicable

Attach the sample transcript prepared from materials provided in the download link in Section 2.4.8.

- 4.1.2 Conciseness/Completeness of Proposal: It is highly desirable that offerors respond in a complete, but concise manner. It is the offeror's sole responsibility to submit information in their proposals as it relates to the evaluation categories. OSCA is under no obligation to solicit such information if it is not included in the offeror's response. The offeror's failure to submit such information may cause an adverse impact on the evaluation of their proposal. Unnecessary information should be excluded from the offeror's proposal.
- 4.1.3 The offeror's proposal must be submitted electronically and must include the required documents listed in Section 4.1.1. The sample transcript must be formatted in Microsoft® Word 2010 or newer. Proposals shall be submitted to osca.contracts@courts.mo.gov.
- 4.1.4 Open Records: The offeror's proposal shall be considered open record upon award of the RFP pursuant to Section 610.021, RSMo. The offeror shall not submit their entire proposal as proprietary or confidential. Also, the offeror shall not submit any part of their proposal as confidential unless the proprietary or confidential nature of the material is provided for in the above reference statute. Proprietary or confidential portions of the offeror's proposal allowed by the statute shall be separated, sealed and clearly marked as confidential within the offeror's proposal.

Additionally, the offeror shall provide adequate explanation of what qualifies the material as being held confidential under the provisions of the statute.

- 4.1.5 Compliance with Terms and Conditions: The offeror is cautioned when submitting pre-printed terms and conditions regarding proprietary information, copyright, usage restrictions, etc., to make sure such documents do not contain other terms and conditions which conflict with those of the RFP and its contractual requirements. The offeror agrees that in the event of conflict between any of the offeror's terms and conditions and those contained in the RFP that the RFP shall govern. Taking exception to OSCA's terms and conditions may render an offeror's proposal non-responsive and remove it from consideration for award.
- 4.1.6 Offerors are cautioned that OSCA will not award a non-compliant proposal and, as a result, any offeror indicating non-compliance with any requirements, terms, conditions and provisions of the RFP will be eliminated from further consideration for award unless OSCA exercises its sole option to competitively negotiate the respective proposal(s) and the offeror resolves the noncompliant issues.
- 4.1.7 Affidavit of Work Authorization and Documentation - Pursuant to Section 285.530, RSMo, the offeror must affirm the offeror's enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by:
- a. Submitting a completed, notarized copy of Exhibit D, Affidavit of Work Authorization and
 - b. Providing documentation affirming the offeror's enrollment and participation in a federal work authorization program (see below) with respect to the employees proposed to work in connection with the services requested herein. E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of the following two pages of the E-Verify.
 - 1) A valid, completed copy of the first page identifying the offeror and
 - 2) A valid copy of the signature page completed and signed by the offeror, the Social Security Administration, and the Department of Homeland Security – Verification Division.

4.2 Proposal Evaluation and Award:

- 4.2.1 OSCA anticipates making multiple contract awards, i.e., more than one award, as a result of this RFP to all offerors submitting acceptable proposals.
- 4.2.2 OSCA will maintain a list of all qualified providers for transcription work. Transcribers will be assigned at the sole discretion of OSCA.
- 4.2.3 OSCA reserves the right to reject any offer which is determined unacceptable for reasons which may include but are not necessarily limited to: 1) failure of the offeror to meet mandatory general performance specifications; and/or 2) failure of the offeror to meet mandatory technical specifications; and/or, 3) receipt of any information, from any source, regarding delivery of unsatisfactory product or service by the offeror within the past three years. As deemed in its best interests, OSCA reserves the right to clarify any and all portions of any offer.
- 4.2.4 Evaluative Criteria: After determining that proposals satisfy the mandatory requirements, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposals in accordance with the evaluation criteria stated below.
- 4.2.5 OSCA reserves the right to make multiple contract awards. The offeror shall understand and agree that the contract shall not be construed as an exclusive agreement and further agrees that OSCA

may secure identical and/or similar services from other sources at any time in conjunction with or in replacement of the offeror's services.

4.2.6 Objective Evaluation:

- a. Cost: The offeror must respond to the Pricing Page, Exhibit A, with firm, fixed pricing for all applicable costs necessary to satisfy the requirements of the RFP. All prices quoted shall be firm and fixed for the contract period stated on page one. Unless stated herein, the state shall assume absolutely no other costs exist to satisfy the RFP's requirements. Therefore, the successful offerors shall be responsible for any additional costs.
- b. Sample Transcript: The offeror must submit a sample transcript prepared from materials provided in the download link in Section 2.4.8. The sample transcript will be reviewed for accuracy and completeness and must be submitted with the proposal in order to be considered for contract award.

4.2.7 Subjective Evaluation: The evaluation of the offeror's prior experience shall be subjective based on fact. Information provided by the offeror in response to the exhibits of this RFP, as well as information gained from any other source during the evaluation process, may be used in the subjective evaluation.

- a. Experience, Expertise and Reliability: Experience, expertise and reliability of the offeror's organization are considered subjectively in 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 the requirements of this RFP. The offeror should provide the following information related to previous and current services/contracts performed by the offeror's organization and any proposed subcontractors, which are similar to the requirements of this RFP:
 1. Name, address, and telephone number of client/contracting agency and a representative of that client/agency who may be contacted for verification of all information submitted.
 2. Dates of the service/contract; and
 3. A brief, written description of the specific prior services performed and requirements thereof.
- b. The above information may be shown on the Prior Experience of Offerors form, Exhibit C, or in a similar manner.

4.2.8 **NOTE: FAILURE TO PROVIDE ADEQUATE INFORMATION TO COMPLETELY ADDRESS THE SPECIFIED EVALUATION CRITERIA WILL RESULT IN MINIMAL SUBJECTIVE CONSIDERATION AND MAY RESULT IN REJECTION OF THE POTENTIAL OFFEROR'S PROPOSAL.**

EXHIBIT A**PRICING PAGE****GENERAL PRICING REQUIREMENTS:**

- 1) The offeror shall complete the following pricing table for Transcription Services for the Office of State Courts Administrator (OSCA).
- 2) The offeror must provide one firm, fixed price-per-page per transcript type to cover all contractor supplies and any other costs or requirements.
- 3) OSCA requests offerors submit a firm, fixed price per page that is equal to or below the maximum fee of \$3.50 per page for a standard transcript and \$2.60 for Indigent, Judge ordered, Guilty Plea or Sentencing transcripts. These prices are established pursuant to Section 488.2250, RSMo.

TRANSCRIPTION PER PAGE PRICING

	Firm Fixed Fee per Page
Indigent, Judge Ordered, Guilty Plea or Sentencing Transcripts	\$ _____ (not to exceed \$2.60)
All other Transcripts	\$ _____ (not to exceed \$3.50)

RENEWAL OPTIONS FOR ALL PRICING

OSCA shall have the sole option to renew the contract for five (5) additional one-year periods, or any portion thereof.

Prices for the renewal period will be requested no later than 30 days prior to the expiration of the current contract period.

EXHIBIT B

OFFICE OF THE STATE COURTS ADMINISTRATOR

Central Transcribing Service
Transcription Service Provider Information

Name: _____

Address: _____

Vendor Number (if known): _____

E-Mail: _____

Phone: _____

Date of initial certification: _____

Certification: _____
(Attach copies of all certifications)

Number of years of transcribing experience: _____

EXHIBIT C**PRIOR EXPERIENCE OF OFFERORS**

The offeror should copy and complete this form for each reference being submitted as demonstration of the offeror's prior experience. In addition, the offeror is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

Offeror's Name:	
Reference Information (Prior Services Performed For:)	
Name of Reference Company:	
Address of Reference Company:	
Reference Contact Person Name:	
Contact Person Phone #:	
Contact Person e-mail address:	
Dates of Prior Services:	
Dollar Value of Prior Services:	
Description of Prior Services Performed:	

AFFIDAVIT OF WORK AUTHORIZATION

I swear/affirm under penalty of perjury that these facts are true according to my best knowledge and belief.

Printed Name _____

Date _____

EXHIBIT E

EMPLOYEE CONTRACTORS/CONFLICT OF INTEREST

Complete this form if the court is utilizing any contractor for use as a tracker, case manager, urine analysis collector or other approved service who is currently an employee of the state of Missouri, a member of the General Assembly or a statewide elected official; or if any owner of any of the contractor's organization used for trackers, case managers, urine analysis collectors or other approved services, is currently an employee of the state of Missouri, a member of the General Assembly or a statewide elected official.

Contractors who are employees of the state of Missouri, a member of the General Assembly or a statewide elected official must comply with sections 105.450 to 105.458, RSMo, regarding conflict of interest. If the contractor or any owner of the owner's organization is currently an employee of the state of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information:

Name and title: _____

Name of state agency where employed: _____

Percentage of ownership interest in contractor's organization held by state employee, General

Assembly member or statewide elected official: _____%

EXHIBIT F

CONFIDENTIALITY / NON-DISCLOSURE AGREEMENT

CONTRACT # _____

It is my understanding that information related to the above referenced contract will be provided to me on a need-to-know basis and that in accordance with the contract, all information, materials, and files reviewed in the performance of this contract shall be privileged and held confidential.

Therefore, I hereby agree not to share or discuss said information with any persons outside of the Missouri Supreme Court without the express written consent of the Missouri Supreme Court.

In the event that I should have reason to believe that the confidentiality of this information has been breached, I will notify the Office of State Courts Administrator immediately.

SIGNATURE

DATE

PRINTED NAME

COMPANY NAME

Finger Print Background Criminal Report

The contractor shall provide a current background criminal background report issued by the Missouri State Highway Patrol. Any confidential court data the contractor has access to for the duration of the project shall not be disclosed.

The contractor shall conduct such criminal history record searches with the Missouri State Highway Patrol. The contractor shall be responsible for all costs associated with conducting the criminal history record searches. Criminal history checks must be no more than one (1) year old and must be made available to OSCA prior to the start date of the temporary consultant. Any individual convicted of a felony shall not be considered.

Information on how to submit finger prints to Missouri is contained in the link.

[Missouri State Highway Patrol Applicant Fingerprint Services of Missouri Form](#)

You will need to enter the following fields when you complete the form.

Agency 4-Digit MACHS Registration Number: **8965**

Agency Name: **Office of State Court Administrator**

Agency ORI: **MO920430Z**

Agency OCA: **TRANSCRIB**

NOTE: The individual is responsible for, and must pay for, the screening. OSCA shall not pay for fingerprint services.

https://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/documents/SHP-984_MACHS_Fingerprint_Instruction_Form.pdf

Fingerprint Submission for those who residing outside of Missouri:

<https://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html#outstate>

EXHIBIT G

PERFORMANCE OUTSIDE UNITED STATES - DISCLOSURE AND EXEMPTION DECLARATION

If any of the proposed services satisfy the conditions described in 4a, b, c, or d of Executive Order 04-09, mark the appropriate exemption below, and provide the requested details:

1. ____ Unique good or service.

* EXPLAIN _____

2. ____ Foreign firm hired to market Missouri services/products to a foreign country.

* Identify foreign country: _____

3. ____ Economic cost factor exists

* EXPLAIN _____

4. ____ Vendor/subcontractor maintains significant business presence in the United States and only performs trivial portion of contract work outside US.

* Identify maximum percentage of the overall value of the contract, for any contract period, attributed to the value of the products and/or services being manufactured or performed at sites outside the United States:

%

Specify what contract work would be performed outside the United States:

STATE OF MISSOURI
OFFICE OF STATE COURTS ADMINISTRATOR
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. **Agency and/or State Agency** means the statutory unit of state government in Missouri for which the equipment, supplies and/or services are being purchased by the **Office of State Courts Administrator (OSCA)**.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **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.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **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.
- f. **Buyer** means the contract staff member of the Office of State Courts Administrator. The **Contact Person** as referenced herein is usually the Buyer.
- g. **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.
- h. **Contractor** means a person or organization who is a successful Contractor as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the Contractor to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the Office of State Courts Administrator to potential Contractors 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.
- k. **May** means that a certain feature, component or action is permissible, but not required.
- l. **Must** means that a certain feature, component or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the Contractor 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 Contractor with the sealed proposal prior to the specified proposal opening date and time.
- n. **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.
- o. **Shall** has the same meaning as the word **must**.
- p. **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 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 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 OSCA.
- c. The Contractor must be registered and maintain good standing with the Secretary of 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 RFP or resulting 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.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the Contractor's responsibility to ask questions, request changes or clarification or otherwise advise OSCA 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 Contractors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from OSCA, unless the RFP specifically refers the Contractor to another contact. Such e-mail or phone communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the Contractor receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all Contractors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, Contractors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Contractors are cautioned that the only official position is that which is issued by OSCA in 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. OSCA monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among Contractors, price-fixing by Contractors or any other anticompetitive conduct by Contractors 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. OSCA reserves the right to officially amend or cancel an RFP after issuance.

4. PREPARATION OF PROPOSALS

- a. Contractors **must** examine the entire RFP carefully. Failure to do so shall be at the Contractor'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 Contractor 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 Contractor 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. In the event the Contractor 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 RFP, such Contractor may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses. The Contractor should include a complete list of statutory references and citations for each provision of the RFP, which is affected by this paragraph. The statutory

limitations and prohibitive clauses may (1) be requested to be clarified in writing by OSCA (2) be accepted without further clarification if the statutory limitations and prohibitive clauses are deemed acceptable by OSCA. If OSCA determines clarification of the statutory limitations and prohibitive clauses is necessary, the clarification will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP.

- f. 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.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Proposals, including all prices therein, shall remain valid for 90 days from proposal opening or Best and Final Offer (BAFO) submission unless otherwise indicated. If the proposal is accepted, the entire proposal, including all prices, shall be firm for the specified contract period.
- i. Any foreign Contractor 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. Proposals may be submitted either by a hard copy delivered, faxed or e-mailed to OSCA contract office. All proposals must (1) be submitted by a duly authorized representative of the Contractor's organization, (2) contain all information required by the RFP, and (3) be priced as required. Delivered, faxed or e-mailed proposals should be received in OSCA office prior to the target time and date specified in the RFP.
- b. The envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official target 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 OSCA may be modified by signed, written notice which has been received by OSCA prior to the official target date and time specified. A proposal may also be modified in person by the Contractor or its authorized representative, provided proper identification is presented before the official target date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal which has been delivered to OSCA may only be withdrawn by a signed, written document on company letterhead transmitted via mail, e-mail or facsimile which has been received by OSCA prior to the official target date and time specified. A proposal may also be withdrawn in person by the Contractor or its authorized representative, provided proper identification is presented before the official target date and time. Telephone or telegraphic requests to withdraw a proposal shall not be honored.
- e. A proposal may also be withdrawn after the proposal opening through submission of a written request by an authorized representative of the Contractor. Justification of withdrawal decision may include a significant error or exposure of proposal information that may cause irreparable harm to the Contractor.
- f. Contractors delivering or faxing a hard copy bid to OSCA 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 Contractor of all RFP terms and conditions. Proposals submitted electronically may be scanned and submitted. Failure to do so may result in rejection of the proposal unless the Contractor's full compliance with those documents is indicated elsewhere within the Contractor's response.
- g. Faxed and e-mail 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 this time.
- b. Proposals which are not received in OSCA office prior to the official opening date and time shall be considered late, regardless of the degree of lateness and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the Contractor 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 a Contractor shall be subject to evaluation if deemed by OSCA to be in the best interest of the judiciary.
- c. The Contractor is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit OSCA. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to OSCA.
- d. Awards shall be made to the Contractor whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the Contractor and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with chapter 34, RSMo, other applicable Missouri statutes and all applicable Executive Orders.
- e. In the event all Contractors fail to meet the same mandatory requirement in an RFP, OSCA reserves the right, at its sole discretion, to waive that requirement for all Contractors and to proceed with the evaluation. In addition, OSCA reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. OSCA reserves the right to reject any and all proposals.
- g. When evaluating a proposal, OSCA reserves the right to consider relevant information and fact, whether gained from a proposal, from a Contractor, from Contractor'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 Contractors 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 Contractors.
- j. Any award of a contract shall be made by notification from OSCA to the successful Contractor. OSCA 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 OSCA based upon factors such as item similarity, location, administrative efficiency or other considerations in the best interest of the judiciary.
- 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. Contractors who include an e-mail address with their proposal will be notified of the award results via e-mail.
- m. OSCA reserves the right to request clarification of any portion of the Contractor's response in order to verify the intent of the Contractor. The Contractor is cautioned, however, that its response may be subject to acceptance or rejection without further clarification. Any proposal award protest must be received within ten (10) business days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (9).
- n. The final determination of contract(s) award shall be made by OSCA.

8. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the Contractor 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) OSCA's acceptance of the proposal by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- c. A notice of award issued by OSCA 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 OSCA, the Contractor must receive a properly authorized purchase order or other form of authorization given to the Contractor.

- 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 OSCA 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.

9. INVOICING AND PAYMENT

- a. OSCA 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. 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 OSCA.
- d. Payment for all equipment, supplies and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. OSCA 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 OSCA shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. OSCA reserves the right to purchase goods and services using the state purchasing card.

10. 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.

11. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies and/or services received by OSCA pursuant to a contract shall be deemed accepted until OSCA 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. OSCA 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. OSCA'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.

12. 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 OSCA, (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 state's acceptance of or payment for said equipment, supplies and/or services.

13. CONFLICT OF INTEREST

- a. Elected or appointed officials or employees of the state of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
- b. The Contractor hereby covenants that at the time of the submission of the 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.

14. REMEDIES AND RIGHTS

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

15. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the Contractor, OSCA may cancel the contract. At its sole discretion, OSCA 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 OSCA 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, OSCA will issue a notice of cancellation terminating the contract immediately. If it is determined OSCA improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If OSCA cancels the contract for breach, OSCA 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 OSCA 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 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.

16. 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.

17. 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 OSCA immediately.
- b. Upon learning of any such actions, OSCA reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

18. INVENTIONS, PATENTS AND COPYRIGHTS

The Contractor shall defend, protect and hold harmless OSCA, 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.

19. 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, OSCA shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension or debarment by OSCA 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.

20. 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).

21. FILING AND PAYMENT OF TAXES

OSCA and other agencies to which the state purchasing law applies shall not contract for goods or services with a Contractor if the Contractor or an affiliate of the Contractor 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 Contractor" shall mean any person or entity that is controlled by or is under common control with the Contractor, whether through stock ownership or otherwise. Therefore Contractor's failure to maintain compliance with chapter 144, RSMo, may eliminate their proposal from consideration for award.

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.

Revised 03-11-2015